

**UNITED STATES OF AMERICA**  
**before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 59785 / April 17, 2009**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2964 / April 17, 2009**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13447**

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<b>In the Matter of</b>	:	
	:	<b>ORDER INSTITUTING</b>
	:	<b>ADMINISTRATIVE PROCEEDINGS</b>
<b>KEVIN E. BROOKS, CPA,</b>	:	<b>PURSUANT TO RULE 102(e) OF THE</b>
	:	<b>COMMISSION'S RULES OF PRACTICE,</b>
<b>Respondent.</b>	:	<b>MAKING FINDINGS, AND IMPOSING</b>
	:	<b>REMEDIAL SANCTIONS</b>
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**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against Kevin E. Brooks (“Respondent” or “Brooks”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.<sup>1</sup>

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<sup>1</sup> Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

## II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings and the findings contained in Section III.3. below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

## III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Brooks, age 39, is a vice-president of sales programs at Quest Software, Inc. ("Quest"). He previously served as Quest's controller and principal accounting officer from 1999 until October 26, 2006. Brooks is a certified public accountant licensed in the State of California whose license was obtained in 1992, but is currently inactive.

2. Quest is a California corporation headquartered in Aliso Viejo, California. Since its initial public offering on August 13, 1999, Quest's common stock has been registered pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and listed on the Nasdaq National Market under the symbol "QSFT." Quest develops and markets, among other things, database management software.

3. On April 1, 2009, a final judgment was entered against Brooks permanently enjoining him from future violations of Section 17(a)(2) and (3) of the Securities Act of 1933 and Sections 13(b)(5) and 16(a) of the Exchange Act and Rules 13b2-1, 13b2-2, and 16a-3 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder, in the civil action entitled SEC v. Quest Software, Inc., et al., Civil Action Number SA CV 09-315 AG (MLGx), in the United States District Court for the Central District of California. The final judgment also ordered Brooks to pay a civil penalty of \$60,000, disgorgement of \$34,775, and prejudgment interest of \$5,808.29. Brooks consented to the entry of the judgment without admitting or denying any of the allegations in the complaint.

4. The Commission's complaint alleged, among other things, that Quest, in part through the misconduct of Brooks, misstated its financial statements by failing to report compensation expense associated with stock options granted in-the-money through undisclosed backdating of grant dates from 1999 through 2001. The complaint also alleged that Brooks failed to ensure that the stock option grants at Quest were properly accounted for and disclosed. The complaint further alleged that Brooks caused misrepresentations to be made to Quest's auditors by stating in management representation letters that all stock options were made with an exercise price equal to the fair market value of Quest stock on the date of grant.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Brooks' Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Brooks is suspended from appearing or practicing before the Commission as an accountant.

B. After five years from the date of this Order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

a) Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

b) Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in Respondent's or the firm's quality control system that would indicate that Respondent will not receive appropriate supervision;

c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

d) Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

C. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is

current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Elizabeth M. Murphy  
Secretary