

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

**SECURITIES ACT OF 1933**  
**Release No. 8827 / July 31, 2007**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 56170 / July 31, 2007**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2660 / July 31, 2007**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12718**

**In the Matter of**

**ASPEN TECHNOLOGY, INC.,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-DESIST  
PROCEEDINGS, MAKING FINDINGS, AND  
IMPOSING A CEASE-AND-DESIST ORDER  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933 AND SECTION  
21C OF THE SECURITIES EXCHANGE ACT  
OF 1934**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Aspen Technology, Inc. (“Aspen” or “Respondent”).

**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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-

and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

#### A. SUMMARY

1. From at least 1999 through 2002, Aspen -- often acting through its Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer (COO) -- engaged in a scheme to fraudulently inflate revenues by improperly recognizing revenue on at least nineteen different software license transactions involving at least fifteen different customers world-wide. Motivated by a desire to boost revenues and meet securities analyst earnings expectations, Aspen’s CEO, CFO and COO were directly involved in negotiating and improperly recognizing revenue on certain of these transactions. The scheme involved premature recognition of revenue where revenue was not recognizable under generally accepted accounting principles (“GAAP”) in the quarters claimed by Aspen either because contracts were not signed within the appropriate quarter or because the earnings process was incomplete due to side letters or other contingency arrangements. In several reporting periods, Aspen would not have met analysts’ earnings expectations without the improperly recognized revenue.<sup>2</sup>

2. On March 15, 2005, Aspen restated its financial statements for fiscal years ended June 30, 2000 through June 30, 2004. Among other things, the restatement revealed that Aspen had overstated previously reported license revenue for the fiscal year ended June 30, 2000 by 5.5% and for the fiscal year ended June 30, 2001 by 9.3%, resulting in net income dropping from \$5.4 million to a loss of \$3.2 million for fiscal 2000 and increasing the previously reported loss for fiscal 2001 by \$16 million.

#### B. RESPONDENT

3. Aspen, a Delaware corporation based in Cambridge, Massachusetts, sells computer software used in chemical, petroleum and other industrial operations. Aspen’s stock is registered with the Commission under Section 12(g) of the Exchange Act and trades on the NASDAQ National Market System. Aspen reports its results of operations on a fiscal year basis ending on June 30.

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<sup>1</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> From June 1, 2000 through May 9, 2002, Aspen financed six acquisitions through private placements of common stock exempt from registration under Section 4(2) of the Securities Act. In addition, Aspen filed Forms S-8 with the Commission to register shares in each of the years 2000, 2001 and 2004; those registration statements incorporated by reference the periodic reports discussed herein.

## C. **BACKGROUND**

### **License Revenue Fraudulently Recognized in the Fiscal Year Ended June 30, 1999**

4. On September 28, 1999, Aspen filed with the Commission its Form 10-K for the year ended June 30, 1999. The financial statements in the Form 10-K overstated Aspen's software license revenue for the quarter ended June 30, 1999 by 25% due to fraudulent accounting on two software license transactions. As described below, Aspen's CFO was directly involved in at least one of the transactions and was aware that recognition of revenue from that transaction was improper.

5. In or about late June or early July 1999, Aspen's outside auditor expressed concern that the terms of a \$9.9 million software license agreement with a Texas-based oil company ("the Texas oil company"), would prevent Aspen from recognizing the revenue up front because the agreement included a requirement that Aspen provide additional, as yet undetermined, software products at no additional cost. Under GAAP, revenue may not be recognized up-front where there is a future obligation to provide as yet undetermined products. Aspen's CFO, motivated by a desire to recognize the revenue up-front and thereby meet consensus analyst earnings expectations, evaded the auditor's concerns by causing the sales documents to be revised to remove that provision and by putting the obligation to provide additional products into a separate side agreement, which she signed on August 20, 1999. Aspen then improperly accounted for the license revenue up front: approximately \$4.5 million was recorded in Aspen's books and records and improperly recognized as revenue in the quarter ended June 30, 1999 (18% of total license revenue) and approximately \$5.4 million was recorded in Aspen's books and records and recognized as revenue in the quarter ended September 30, 2000 (25 % of total license revenue). For the quarter and year ended June 30, 1999 and for the quarter ended September 30, 1999, Aspen exceeded the consensus analyst earnings estimates. Had the revenue from the Texas oil company not been recorded in those periods, Aspen would have significantly missed analyst earnings expectations for each of those periods.

6. Similarly, for the quarter and fiscal year ended June 30, 1999, Aspen recorded in its books and records and recognized \$1.7 million in license revenue pursuant to a software license agreement dated June 30, 1999 with a large petroleum refining company based in India ("the Indian refining company"). That revenue should also not have been recognized up front because an Aspen salesman had entered into a side letter with the Indian refining company pursuant to which Aspen agreed to provide additional, as yet undetermined, software products. As noted above, under GAAP, the commitment to provide additional future software required that Aspen record and recognize the license revenue for the transaction with the Indian refining company over a longer period of time.

### **License Revenue Fraudulently Recognized in the Fiscal Year Ended June 30, 2000**

7. During the fiscal year ended June 30, 2000, again as a result of side letter agreements, Aspen fraudulently recorded in its books and records and recognized revenue from two software license transactions. The first transaction involved a Korean engineering and

construction firm (“the Korean company”). For the quarter ended March 31, 2000, Aspen recorded in its books and records and recognized \$1.1 million in license revenue pursuant to a software license agreement dated March 31, 2000 with the Korean company. The revenue should not have been recognized because an Aspen salesman entered into two contemporaneous side letter agreements with the Korean company which obligated Aspen to provide \$300,000 in cash and \$800,000 in services to the Korean company. Under GAAP, because the total amount of software license revenue was offset by Aspen’s obligations under the side letters, Aspen should not have recorded or recognized revenue on the transaction. On May 15, 2000, Aspen filed its Form 10-Q for the quarter ended March 31, 2000; the financial statements in the Form 10-Q improperly included approximately \$1.1 million in software license revenue from the transaction.

8. The second transaction involved a software license agreement dated March 31, 2000 with a French company (“the French company”). For the quarter ended June 30, 2000, Aspen fraudulently recorded in its books and records and recognized license revenue of \$1.5 million relating to that agreement. The revenue should not have been recognized because an Aspen salesman entered into a contemporaneous side letter agreement which created contingencies to the French company’s obligations. Under GAAP, the existence of those contingencies prohibited up-front recognition of the license revenue. On September 28, 2000, Aspen filed its Form 10-K for the year ended June 30; the financial statements in the Form 10-K improperly included approximately \$1.5 million in software license revenue from the transaction.

### **License Revenue Fraudulently Recognized in the Fiscal Year Ended June 30, 2001**

#### **Second Quarter 2001 Revenue**

9. On February 14, 2001, Aspen filed its Form 10-Q for the quarter ended December 31, 2000. In the financial statements included in that filing, Aspen’s software license revenue for the quarter was fraudulently inflated by 18.6% as a result of the improper recognition of revenue from five software transactions. As described below, Aspen’s CEO, CFO and COO were all aware that the recognition was improper in at least two of those transactions.

10. Aspen’s CEO, motivated by a desire to increase revenue at the end of a quarter, was the architect of a fraudulent revenue transaction with an information technology company based in New York (“the New York company”). For the quarter ended December 31, 2000, Aspen improperly recorded in its books and records and recognized \$2.8 million in license revenue pursuant to a software license agreement with the New York company. Under GAAP, the revenue from the transaction with the New York company should not have been recognized for two independent reasons: (i) the transaction was still being negotiated after quarter end; and (ii) the New York company’s payment to Aspen was contingent on Aspen finding end users to which the New York company could resell the software.

11. Just before the close of the second quarter, around December 25, 2000, the CEO asked the New York company to buy approximately \$3 million worth of software. In order to induce the New York company to make the deal, the CEO promised that Aspen would arrange for end-users to purchase the software from the New York company. The CEO further promised that

the New York company would not be required to pay for the licenses until Aspen arranged for those end-users to purchase the software, and that if the New York company was unable to resell all \$3 million in licenses, Aspen would arrange financing for the transaction until the licenses were sold through to end-users. On or about January 6, 2001, an employee of the New York company observed to a coworker in an email that: "AspenTech needs to realize the \$3M sale in Dec. 2000 business, and they are willing to make some extraordinary concessions for this." Aspen's CEO, CFO, and COO all knew that Aspen and the New York company were still negotiating the terms of the license sale through mid-January 2001, and also knew that, in order to legitimately recognize the revenue in the quarter ended December 31, the deal had to have been signed before December 31, 2000. In an attempt to make it appear that the deal was signed before the close of the quarter, an Aspen salesman asked the New York company representative in January 2001 to sign the software license agreement and to back date it December 29, 2000. The CEO, CFO and COO were motivated to prematurely recognize the revenue by a desire to increase revenues in the quarter and to meet analyst earnings expectations. Including the revenue from the New York company allowed Aspen to exceed analyst earnings expectations for the quarter; without that revenue, Aspen would have missed analyst earnings expectations.

12. Similarly, in a transaction with a British software company ("the British company"), Aspen's CEO, CFO and COO all participated in a deal which resulted in Aspen fraudulently recording in its books and records and recognizing \$1.75 million in license revenue for the quarter ended December 31, 2000. Under GAAP, the revenue should not have been recorded or recognized for two independent reasons: (1) the transaction was still being negotiated after quarter end; and (2) the British company's payment for the licenses was contingent on Aspen finding customers who would purchase a minimum amount of software implementation services from the British company. Aspen's CEO was aware that the transaction was being negotiated after quarter end, and both Aspen's CFO and COO knew that the British company's payment was contingent on Aspen finding customers to purchase services from the British company. Despite this, all three caused Aspen to improperly recognize revenue on the transaction in the quarter ended December 31, 2000. Including the revenue from the British company allowed Aspen to exceed analyst earnings expectations for the quarter.

13. In addition, for the quarter ended December 31, 2000, Aspen also fraudulently recorded in its books and records and recognized license revenue of \$1.2 million pursuant to a software license agreement dated December 29, 2000 with a South African construction company that was a reseller of Aspen products in Africa, \$824,000 pursuant to an agreement dated December 29, 2000 with an Indian reseller of Aspen's software, and \$978,000 pursuant to a software license agreement dated December 30, 2000 with a Thailand chemical company. Aspen should not have recognized the revenue up-front on each of these transactions due to the existence of contingencies that, among other reasons, under GAAP made collectibility not probable.

#### **Fourth Quarter 2001 Revenue**

14. On September 26, 2001, Aspen filed with the Commission its Form 10-K for the year ended June 30, 2001. Aspen's quarterly and yearly financial results for fiscal 2001 were also reported in a Form 8-K filed with the Commission on August 8, 2001. As a result of fraudulent

revenue recognition from three software license transactions, Aspen's software license revenue for the fourth quarter of 2001 was inflated by 15.8%. Aspen's CEO, CFO and COO knew that the recognition of revenue from at least one of those transactions was improper.

15. Among the fourth quarter 2001 transactions, Aspen fraudulently recorded in its books and records and recognized \$4.3 million in license revenue pursuant to a software license agreement with a large petroleum company in Russia ("the Russian company"). Aspen's CEO, CFO and COO all participated in the scheme to improperly recognize revenue from the deal. Under GAAP, the revenue from the transaction with the Russian company should not have been recorded or recognized for two independent reasons: (1) the transaction was still being negotiated after quarter end; and (2) a separate side agreement signed by Aspen's COO created significant contingencies to the Russian company's obligations under the license agreement.

16. Aspen's CEO, COO, and CFO all knew that the deal with the Russian company was not completed within the quarter ended June 30, 2001. The COO, with the knowledge of Aspen's CEO and CFO, had the Russian company sign the software license agreement in July 2001 but back date it June 2001 so that Aspen could fraudulently recognize the revenue in the 2001 fiscal year. On or about July 5, 2001, the COO sent an e-mail, marked "destroy after reading," to the CEO and CFO attaching a draft letter to the Russian company's president. The attached letter to the Russian company's president proposed, in part, that the Russian company sign the contemplated software agreement by July 10, 2001 and stated that "[a]s a quarterly driven software company, our business model requires that we book significant software license revenue. ... By [the Russian company] committing to the software license agreement [by July 10, 2001] ... we can recognize the revenue for our fiscal year ending June 30, 2001 . . . ." In addition, in mid-July 2001, Aspen's COO entered into a side agreement with the Russian company which created significant contingencies. The side agreement gave the Russian company the "unconditional right[]" to withdraw from the software agreement if the parties failed to reach any one of three additional agreements by August 1, 2001. Because the parties failed to enter into any of the additional agreements referenced in the side agreement, the Russian company had no obligation to purchase any software pursuant to the software agreement. Aspen's CEO, CFO and COO were all motivated to prematurely recognize the revenue from the Russian company transaction by a desire to meet consensus analysts' earnings expectations. Without the revenue from the Russian company transaction, Aspen would not have met quarterly analysts' earning expectations.

17. In addition, on or about August 7, 2001, Aspen's CEO, CFO and COO signed a letter to Aspen's outside auditors which falsely represented that "there are no contingencies, amendments or modifications to the original agreement, side agreements (verbal or written) or expected future concessions under [the software agreement] between Aspen and [the Russian company]."

18. Aspen also fraudulently recorded in its books and records and recognized \$1.8 million in license revenue pursuant to software license agreements dated June 8, 2001 with a large petroleum refining company in Asia and \$225,000 pursuant to a software license agreement dated June 30, 2001 with a Canadian systems integrator. Aspen should not have recognized revenue in

the quarter ended June 30, 2001 on either of these transactions due to contingencies that, among other reasons, under GAAP, caused the fees not to be fixed or determinable.

### **License Revenue Fraudulently Recognized in the Fiscal Year Ended June 30, 2002**

19. On September 30, 2002, Aspen filed with the Commission its Form 10-K for the year ended June 30, 2002. The financial statements in the filing overstated revenue as a result of fraudulent revenue recognition from at least three software license transactions. As described below, Aspen's CFO and COO, again motivated by a desire to increase revenues for the quarter, were directly involved in the improper revenue recognition on at least one of the transactions.

20. In a second instance of improper revenue recognition involving the New York company referenced above, Aspen's CFO and COO caused revenue to be recognized despite knowing that the New York company's obligations were contingent and that revenue could not be recognized. As a result, for the quarter ended March 30, 2002, Aspen fraudulently recorded in its books and records and recognized \$1.7 million in license revenue pursuant to a software license agreement with the New York company dated March 28, 2002. This transaction totaled approximately 4.5% of Aspen's license revenue for the quarter and was reported on Aspen's Form 10-Q/A for the quarter ended March 31, 2002, filed with the Commission on September 6, 2002.

21. The revenue from the second New York company deal should not have been recognized up-front because, similar to the prior deal, the New York company's obligation to pay Aspen was contingent upon resale to an end-user, and thus, the license fee did not meet the requirements for up-front revenue recognition. Aspen's CFO and COO were aware of this contingency at the time the revenue was fraudulently recognized. For example, in early March 2002, an Aspen salesman copied Aspen's CFO on an email, stating in part that "We are in the closing stages of completing a deal with [an Italian company]. . . . The deal is most likely to be sold through [the New York company] as they have an existing agreement with [the Italian company] . . . . The timing of [the Italian company] deal will mean we run close to the end of Q3. My question is, if [the New York company] sign [sic] up the deal with us in March but the [Italian company] deal with [the New York company] completes in early April, would we be able to recognize the deal in Q3? [The New York company] would purchase the software on behalf of [the Italian company] as part of the larger project. Let me know asap, as this has a bearing on how much pressure we put on [the Italian company]." Aspen's CFO responded to this email by stating "We have tried this several times with [the New York company] and it hasn't worked as they always want the end customer to be committed before they are committed - SO I am willing to give it a try but don't count on it!!" The CFO then forwarded the email string to, among others, the COO, with a note stating: "THis [sic] is risky!!" Despite the CFO and COO's knowledge that the New York company's commitment was contingent upon resale to a third party, Aspen fraudulently recognized the revenue from the transaction. Recognizing the revenue from the New York deal allowed Aspen to exceed analyst earnings expectations; without the revenue, Aspen would have missed expectations.

22. In a second transaction with the South African company referenced above, for the fiscal quarter ended June 30, 2002, Aspen recorded in its books and records and fraudulently recognized \$440,000 in license revenue pursuant to a software license agreement dated June 30, 2002. In mid-2002, an Aspen salesman offered the South African company a \$45,000 payment to simply sign a software license agreement to buy \$450,000 in software licenses and then transfer the software on to an end-user that Aspen had previously lined-up. The Aspen salesman entered into a letter agreement with the South African company on July 1, 2002 confirming that Aspen, in recognition of the South African company's signing of the license agreement, would sell the software to an end user and pay the South African company a commission of \$45,000. Under GAAP, this transaction was not a bona fide sale and thus the revenue should not have been recognized.

23. Lastly, Aspen's COO, motivated by a desire to partially offset a large revenue shortfall in the final days of the quarter, entered into contemporaneous side agreements with a Kuwait company ("the Kuwait company") which affected delivery and caused the fee under the license agreement not to be fixed or determinable. As a result, for the quarter ended June 30, 2002, Aspen fraudulently recorded in its books and records and recognized \$1.9 million in license revenue pursuant to a software license agreement with the Kuwait company. Had the revenue from the Kuwait company transaction not been recorded in this period, Aspen would have missed consensus analyst expectations by a greater margin.

### **The Restatement**

24. On October 27, 2004, Aspen announced that its board of directors' audit committee began an investigation of accounting for software license and service agreements entered into during fiscal years 2000 through 2002. On November 24, 2004, Aspen announced that it would file a restatement of its financial statements due to certain accounting improprieties. On March 15, 2005, Aspen restated its financial statements for fiscal years 2000 through 2004. The restatement revealed that Aspen had overstated previously reported license revenue for fiscal 2000 by 5.5% and for fiscal 2001 by 9.3%, resulting in net income dropping from \$5.4 million to a loss of \$3.2 million in 2000 and increasing the previously reported loss for fiscal 2001 by \$16 million. License revenue for the years ended June 30, 2002, 2003, and 2004 was understated by 1.8%, 13.9%, and 4.0% respectively. As a result of prematurely recognized revenue from several transactions in fiscal 2001 and prior, the revenue was moved to these later periods.

### **D. VIOLATIONS**

25. As a result of the conduct described above, Aspen violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer or sale or in connection with the purchase or sale of securities.

26. Also as a result of the conduct described above, Aspen violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, and 13a-13 and 12b-20 thereunder.



27. Because Aspen improperly recorded revenue, its books, records and accounts did not, in reasonable detail, accurately and fairly reflect its transactions and dispositions of assets.

28. In addition, Aspen failed to implement internal accounting controls relating to its revenue accounts sufficient to provide reasonable assurances that these accounts were accurately stated in accordance with GAAP.

29. As a result of the conduct described above, Aspen violated Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

30. Lastly, as a result of the conduct described above, Aspen violated Section 13(b)(2)(B) of the Exchange Act, which requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles.

#### **E. ONGOING COOPERATION**

31. In determining to accept the Offer, the Commission has considered the following undertaking by the Respondent – Aspen shall cooperate fully with the Commission in any and all investigations, litigations or other proceedings relating to or arising from the matters described in this Order. Aspen shall: (i) produce, without service of a notice or subpoena, any and all documents and other information requested by the Commission staff; (ii) use its best efforts to cause its employees to be interviewed by the Commission staff at such times as the staff reasonably may direct; and (iii) use its best efforts to cause its employees to appear and testify truthfully and completely without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be reasonably requested by the Commission staff.

#### **F. UNDERTAKINGS**

Respondent undertakes to:

a. Retain, through its Board of Directors, within thirty days after the entry of this Order, an Independent Consultant (“Independent Consultant”), not unacceptable to the staff of the Commission, to review Aspen’s financial and accounting policies and procedures relating to: (i) revenue recognition on software licensing agreements, including the consideration of SOP 97-2 and documentation of that consideration; (ii) the signing and dating of material sales contracts and purchase orders and the retention by Aspen’s corporate finance organization of all such contracts and purchase orders; (iii) written documentation that all sales contingencies have been met in material revenue transactions; (iv) the generation and issuance to customers of sales invoices; and (v) the preparation and review of accounts receivable confirmations. Aspen shall require the Independent Consultant to also consider, based on his/her review, the nature and extent of Aspen’s Board of Directors training required to minimize the possibility of future violations of the federal

securities laws by Aspen, acting through its finance and accounting employees. At the conclusion of the review, which in no event shall be more than 90 days after the Independent Consultant's retention, Aspen shall require the Independent Consultant to submit a Report to Aspen and to the Boston Regional Office of the Commission. The Report shall address the issues described above and shall include a description of the review performed, the conclusions reached and the Independent Consultant's recommendations for changes in or improvements to policies and procedures, including recommendations as to the nature and extent of Board of Directors' training.

b. Respondent shall adopt all of the Independent Consultant's recommendations for changes in or improvements to policies and procedures as set forth below; provided however, that within 45 days from the date of submission of the Independent Consultant's report, Respondent shall in writing advise the Independent Consultant and the staff of the Commission's Boston Regional Office of any recommendation that Respondent considers to be unnecessary, inappropriate, unreasonable, impractical or infeasible. Respondent need not adopt any such recommendation at that time but shall propose in writing an alternative policy or procedure designed to achieve the same objective.

c. As to any recommendation with respect to Respondent's policies and procedures on which Respondent and the Independent Consultant do not agree, they shall make a good faith attempt to reach agreement within 60 days from the date of submission of the Independent Consultant's report. In the event the Respondent and the Independent Consultant are unable to agree on an alternative proposal, Respondent will follow the recommendation of the Independent Consultant. To the extent the Independent Consultant proposes, in his/her report, alternative recommendations, any one of which is intended to address a given matter, Respondent may adopt one of the proposed alternatives and need not notify the Independent Consultant or the staff of the Commission's Boston Regional Office of alternative recommendations not adopted.

d. Aspen (i) shall not have the authority to terminate the Independent Consultant, without the prior written approval of the Commission's Boston Regional Office; (ii) shall compensate the Consultant, and persons engaged to assist the Consultant, for services rendered pursuant to this Order at their reasonable and customary rates; and, (iii) shall not be in and shall not have an attorney-client relationship with the Consultant and shall not seek to invoke the attorney-client or any other doctrine or privilege to prevent the Consultant from transmitting any information, reports, or documents to the staff of the Commission; and

e. Aspen shall require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Aspen, or any of its present or former affiliates, directors, officers, employees, or agents, respectively, acting in their capacity as such. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Commission's Boston Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Aspen, or any of its

present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Aspen's Offer.

Accordingly, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Aspen cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

B. Respondent shall comply with the undertakings enumerated in Section III.F, above.

C. Deadlines: For good cause shown, the Commission staff may extend any of the procedural deadlines set forth herein.

By the Commission.

Nancy M. Morris  
Secretary