

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 57490 / March 13, 2008

ACCOUNTING AND AUDITING ENFORCEMENT

Release No. 2797 / March 13, 2008

ADMINISTRATIVE PROCEEDING

File No. 3-12989

In the Matter of

GARY THOMAS SCHERPING, CPA

Respondent.

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**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO RULE
102(e) OF THE COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

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 Gary Thomas Scherping, CPA (“Respondent” or “Scherping”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.¹

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

¹ 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.

these proceedings, and the findings contained in paragraph 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 (the "Order"), as set forth below.

III.

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

1. Scherping, CPA, age 48, was a certified public accountant licensed to practice in the State of Colorado from June 29, 1988 to May 31, 1998, when his license lapsed. He was Executive Vice President of Finance and Chief Financial Officer of Quovadx, Inc. ("Quovadx" or the "Company") from approximately September 2000 until April 2004.

2. Quovadx, a Delaware corporation headquartered in Englewood, Colorado, was a software company that licensed software and sold related services to the healthcare industry. At all relevant times, Quovadx's common stock was registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 (the "Exchange Act") and traded on the NASDAQ.

3. On February 29, 2008, a final judgment was entered against Scherping, permanently enjoining him from violating, directly or indirectly, Section 17(a) of the Securities Act of 1933 (the "Securities Act"), Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1 and 13b2-2 thereunder, and from aiding and abetting any violation of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Gary Thomas Scherping, Civil Action No. 1:07-cv-01511-WYD-MEH, in the United States District Court for the District of Colorado. Scherping was also ordered to pay a \$70,000 civil money penalty and prohibited from acting as an officer or director for five years.

4. The Commission's Complaint alleged, among other things, that between the second and fourth quarters of 2003, Quovadx fraudulently recognized over \$12 million in software licensing revenue from transactions with three different third parties, overstating its software licensing revenue by proportions ranging from approximately 9 percent to nearly 180 percent. The Complaint alleged that Scherping knew or was reckless in not knowing that Quovadx could not recognize the revenue from these transactions. The Complaint also alleged that Quovadx prematurely recognized \$250,000 in revenue into the third quarter of 2002, overstating its software licensing revenue by 10 percent for that quarter. The Complaint alleged that Scherping knowingly provided substantial assistance to Quovadx in improperly accelerating this revenue. The Complaint further alleged that Scherping made false representations in letters to Quovadx's auditors about these transactions and that he signed false disclosure certifications in connection with the Company's reports on Form 10-Q for the pertinent quarters and its annual report on Form 10-K for 2003. Finally, the Complaint alleged that Scherping circumvented internal accounting controls and falsified books and records in connection with these transactions.

IV.

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

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

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

B. After five years from the date of this order, Scherping 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 (the "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 the Respondent's or the firm's quality control system that would indicate that the 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.

Nancy M. Morris
Secretary