

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 61833 / April 2, 2010

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3124 / April 2, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-13843

In the Matter of

MICHAEL DEGENNARO

Respondent.

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

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Michael DeGennaro (“DeGennaro” 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

1. DeGennaro, age 44, resides in Long Island, New York. DeGennaro at all relevant times was Senior Vice President of Finance of Symbol Technologies, Inc. ("Symbol").
2. Symbol was at all relevant times (a) a Delaware corporation with principal offices in Holtsville, New York; (b) engaged in the design, manufacture, marketing and servicing of mobile information systems using bar code scanners and similar devices; and (c) a public company whose common stock was traded on the New York Stock Exchange and registered with the Commission pursuant to Section 12(b) of the Exchange Act. On January 9, 2007, Symbol was acquired by Motorola, Inc.
3. As described below, Symbol violated the financial recordkeeping and internal control provisions of Section 13(b)(2) of the Exchange Act due to its failure to maintain the requisite accounting records and implement adequate internal accounting controls.²
4. In 2000 and 2001, Symbol created and used certain restructuring charges and related reserves in contravention of GAAP. As a result, Symbol misstated, *inter alia*, its operating expenses and net income on its books and records and in its financial statements.
5. During the relevant period, Symbol recorded non-recurring charges in connection with, *inter alia*, Symbol's: (i) acquisition of Telxon Corporation, which resulted in a \$185.9 million restructuring charge recorded in the fourth quarter of 2000; and (ii) Symbol's relocation of manufacturing operations to new facilities, which resulted in a \$59.7 million restructuring charge recorded in the third quarter of 2001 (collectively the "Charges"). The Charges were later reversed, in part, because they did not comply with GAAP. Symbol also incorrectly used certain reserves created in conjunction with some of the Charges. The Charges and certain associated reserves were not recorded in accordance with GAAP because, *inter alia*, they misclassified certain expenses, included amounts unrelated to the purpose of the Charge and, in some cases, were used in later periods for unrelated purposes.

¹ 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.

² Section 13(b)(2)(A) of the Exchange Act requires registrants to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect transactions and dispositions of assets. Section 13(b)(2)(B) requires registrants 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 ("GAAP") and to maintain accountability for assets.

6. As Senior Vice President of Finance at Symbol, DeGennaro was one of the Symbol executives who determined how Symbol accounted for and recorded transactions on its books and records and in its financial statements. As such, DeGennaro was one of the Symbol executives who had responsibility for implementing internal accounting controls at Symbol, the purpose of which controls was to provide reasonable assurances that relevant transactions were recorded as necessary to permit preparation of financial statements in accordance with GAAP. DeGennaro, together with others, determined how the Charges were recorded and accounted for on Symbol's internal books and records and in its financial statements. DeGennaro failed to take requisite steps to ensure that Symbol's internal books and records and financial statements accurately reflected each element of the Charges and the uses of associated reserves, and that the Charges and the uses of associated reserves were accounted for in accordance with GAAP.

7. By reason of the foregoing, DeGennaro was a cause of Symbol's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

IV.

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

Accordingly, it is hereby ORDERED that pursuant to Section 21C of the Exchange Act, Respondent DeGennaro cease and desist from causing any violations and any future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

By the Commission.

Elizabeth M. Murphy
Secretary