

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 53574 / March 30, 2006

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2406 / March 30, 2006

ADMINISTRATIVE PROCEEDING
File No. 3-12252

In the Matter of

CLETE D. MADDEN, CPA, and
DAVID L. HUFFMAN, CPA,

Respondents.

ORDER INSTITUTING PUBLIC
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 that public administrative proceedings be, and hereby are, instituted against Clete D. Madden, CPA ("Madden"), and David L. Huffman, CPA ("Huffman") (collectively, "Respondents"), pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.¹

II.

In anticipation of the institution of these proceedings, Respondents have each submitted Offers of Settlement (the "Offers") 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 them and the subject matter of these proceedings, Respondents consent to the entry of this Order Instituting Public 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.

¹ Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

III.

On the basis of this Order and Respondents' Offers, the Commission finds² that:

A. SUMMARY

These proceedings arise out of the failed audit of Tenet Healthcare Corporation's ("Tenet") fiscal year ("FY") 2002 financial statements and the auditors' after-the-fact modifications to the working papers creating the false impression that the audit had been adequately performed. Clete Madden, who was the KPMG partner in charge of the Tenet audit engagement, failed to complete the audit and then participated in and directed the after-the-fact modifications. David Huffman, the senior manager on the Tenet audit engagement, shares responsibility for the audit failure and also participated in and directed the after-the-fact modifications.

In August 2002, Madden released an audit report containing an unqualified opinion stating that KPMG had performed an audit in accordance with Generally Accepted Auditing Standards ("GAAS"). When the audit report was released, however, Madden and Huffman knew, or reasonably should have known, that several procedures in critical audit areas had not been completed. Tenet included the audit report in its FY 2002 Form 10-K, which failed to disclose that Tenet's substantial earnings growth was driven by an aggressive pricing strategy designed to trigger an increase in outlier payments, a component of Medicare revenue. Many of the unfinished audit procedures concerned outlier revenue even though Madden had identified Tenet's disclosure deficiency in this area.

In October 2002, an industry analyst discovered that Tenet was exploiting the Medicare program through its aggressive pricing strategy. The publication of the analyst's reports in late October 2002 contributed to a 47% loss (more than \$11 billion) in Tenet's market capitalization. Government investigators, including the Commission's staff, then began looking at Tenet, its strategy, and its Medicare outlier revenue. In November 2002, the Tenet audit team, led by Madden and Huffman, began modifying the working papers from the FY 2002 audit, despite public knowledge of the analyst's report, the dramatic decrease in Tenet's market value, and the pending government investigations. More than 350 working papers were modified and nine of the ten references to outlier payments in the working papers were added in November and December of 2002. Almost none of these improper modifications provide any indication that they had been made more than three months after the issuance of the FY 2002 audit report. Huffman went even further by signing off on audit evidence for the FY 2001 audit that he knew, or should have known, was improperly created in November 2002. After spending more than 500 hours modifying the working papers in late 2002, the audit team went on to make further improper changes to the FY 2002 working papers after receiving a Commission subpoena in July 2003. The net effect of the improper, after-the-fact modifications is that the working papers inaccurately reflect (1) that the Tenet audit was complete when the audit report was issued, and (2) that Madden had sufficiently considered Tenet's outlier revenue growth and determined that Tenet did not need to disclose that trend.

² The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

The failure to timely complete the FY 2002 Tenet audit and the after-the-fact modification of the working papers violated GAAS. As such, Madden and Huffman engaged in improper professional conduct pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

B. RESPONDENTS

1. Cleve D. Madden, age 45, was formerly a partner at KPMG. From 1995 through 2003, Madden worked on KPMG's audit of Tenet Healthcare Corporation and was the KPMG engagement partner in charge of the FY 2002 audit. Madden is, and at all relevant times was, a certified public accountant licensed in the state of Texas and was licensed by California from 2002 through 2004.

2. David L. Huffman, age 39, was formerly a senior manager at KPMG. From 1998 through 2003, he was the senior manager on KPMG's audit of Tenet Healthcare Corporation. Huffman is, and at all relevant times was, a certified public accountant licensed in the State of Texas.

C. FACTS

1. Tenet Healthcare Corporation

Tenet owns and operates acute care hospitals and related health care services. As of May 31, 2002 (Tenet's fiscal year end), Tenet was the second-largest investor-owned hospital company in the United States, owning or operating 116 hospitals nationwide. Through FY 2002, Tenet's fiscal year ended on May 31. At the end of the fourth quarter of FY 2002, Tenet announced that the fourth quarter was the tenth straight quarter that its earnings growth had exceeded 20%, the seventh in a row in which earnings growth had exceeded 25%, and the fifth in a row in which earnings growth exceeded 30%.

Tenet had achieved these results through the use of an undisclosed aggressive charge strategy that it began using in FY 2000. Pursuant to this strategy, Tenet had aggressively increased its gross charges (that is, its listed retail prices) for the purpose of meeting its management-determined earnings targets. Most hospital revenue typically consists of fixed fee payments determined by government payors or by contracts with managed care companies, which are not affected by increases in gross charges. Gross charges, however, have a direct impact on Medicare outlier payments and managed care stop loss payments.³ Tenet implemented its undisclosed aggressive pricing strategy to trigger substantial increases in revenue from Medicare outlier payments and stop loss payments.

³ Medicare outlier payments are supplemental payments designed to compensate hospitals for treating extraordinarily sick Medicare patients. Calculating outlier payments involves various steps, but the starting point for these calculations is the gross charges set by a hospital. Stop loss payments are analogous to Medicare outlier payments but arise in the managed care context. Stop loss payments typically are a percentage of the gross charges and are triggered after gross charges reach a certain level.

From April 1999 through April 2002, Tenet hospitals raised charges, on average, over 75%. This resulted in a significant growth in outlier revenue for Tenet from \$225 million in FY 1999 to \$758 million in FY 2002, and had a dramatic impact on the company's earnings. Tenet's outlier revenue in 1999 represented about 27% of its earnings per share from operations and jumped to 41% when Tenet's outlier revenue topped \$758 million in FY 2002.

From FY 2000 through FY 2002, Tenet's filings with the Commission contained no reference to Tenet's aggressive pricing strategy of raising gross charges for the purpose of increasing revenue from Medicare outlier payments. No information was disclosed about the growth trend in outlier payments, the impact of gross charges on Tenet's revenue, or the sustainability of its aggressive pricing strategy.

On October 28, 2002, an industry analyst from UBS Warburg published two reports disclosing that Tenet's earnings growth had been driven by dramatically increasing outlier payments (the "UBS Reports"). The industry analyst correctly hypothesized that Tenet fueled the growth in outlier payments by significantly increasing its gross charges. The publication of the UBS Reports and Tenet's subsequent reaction to it resulted in a loss of market capitalization of more than \$11 billion.

2. KPMG's FY 2002 Audit of Tenet's Financial Statements

Tenet's FY 2002 Form 10-K included its FY 2002 financial statements along with KPMG's audit report containing an unqualified opinion stating that KPMG performed an audit in accordance with GAAS. In August 2002, Madden signed and authorized the release of this audit report. Before issuing the audit report, Madden and Huffman specifically verified in KPMG's required "Audit Checklist," which is part of the working papers, that the working papers were complete, when, in fact, they knew, or reasonably should have known, that the working papers and audit were not substantially complete.

a. Failure to Adequately Assess Fraud and Audit Risks

GAAS required Madden and Huffman to assess the risk of material financial statement misstatement due to fraud and design audit procedures accordingly, and to document such work in the working papers. See AU § 316 (2000). Madden and Huffman did not complete this assessment and documentation until November 2002, three months after the issuance of the audit report.

GAAS also required Madden and Huffman to consider audit risk and design audit procedures adequate to address that risk.⁴ See AU § 312. Accordingly, Madden and Huffman needed to assess the risk that Tenet's internal controls would not prevent or timely detect a material misstatement. Madden and Huffman did not adequately assess this risk before the issuance of the audit report.

The mandatory procedures outlined in the Audit Checklist required that, before releasing the audit report, Madden and Huffman confirm that they had reviewed the working paper

⁴ "Audit Risk" refers to the risk that the auditor may unknowingly fail to appropriately modify his opinion on financial statements that are materially misstated.

documenting the assessment of the risk of material financial statement misstatement due to fraud. The Audit Checklist also required Madden to confirm that he had “reviewed working papers for critical audit objectives.” Madden and Huffman signed the Audit Checklist before the audit report was issued. At the time the report was issued, Madden and Huffman knew, or reasonably should have known, that they had failed to sufficiently assess fraud risk and audit risk during the audit, as required by GAAS.

b. Failure to Complete Analytical Procedures in Critical Audit Areas

GAAS requires auditors to use analytical procedures for planning the audit and ensuring at the end of the audit that the work performed was sufficient. See AU § 329. GAAS provides that analytical procedures can also be used to perform substantive testing of account balances and are an important part of the audit process. See id. Madden and Huffman, however, failed to review and ensure that the audit team had finished the following analytical procedures in critical audit areas before issuing the August 2002 audit report: (1) testing the annual EBIT (“Earnings Before Interest and Taxes”) variances at certain Tenet hospitals and evaluating significant unexplained differences, and (2) reviewing and testing accounts receivable balances at all Tenet hospitals.

GAAS required Madden and Huffman to ensure that the analytical work was performed and reviewed to determine whether it was adequate and the results consistent with the audit report. AU § 311. Because analytical procedures are an important and required part of an audit, KPMG’s Audit Checklist required that Madden and Huffman review the documentation of analytical procedures before the release of the audit report. Madden and Huffman confirmed on the Audit Checklist that they had each reviewed the documentation of analytical procedures when, in fact, they had not done so. As such, Madden and Huffman knew, or reasonably should have known, that required and important analytical procedures were not completed and reviewed before the audit report was issued.

c. Failure to Address Concerns about Tenet’s Disclosures

During the planning and performance of the FY 2002 audit, Madden was aware of Tenet’s aggressive pricing strategy. Further, if Madden and Huffman had substantially completed the audit before the issuance of the audit report and, specifically if they had done the work identified above, they would have more completely understood the importance of and issues concerning outlier payments and Tenet’s aggressive pricing strategy.

In March 2002, Madden learned from the chief financial officers at two Tenet hospitals that some of Tenet’s earnings growth was driven principally by increases in outlier payments that, in turn, were triggered by gross charge increases. Also in March 2002, Madden told Tenet’s Chief Accounting Officer (“CAO”) that Tenet should consider disclosing the amount of stop loss and outlier payments received by Tenet because those lines of revenue were impacted by gross charge increases. The CAO immediately dismissed Madden’s suggestion. Before releasing the audit report, Madden, as required by GAAS, reviewed Tenet’s draft FY 2002 Form 10-K Management’s Discussion and Analysis (“MD&A”). Madden made a note on the MD&A draft to convey the message to the CAO that the reimbursement resulting from the aggressive pricing

strategy might constitute a trend that needed to be disclosed. The CAO made no changes to Tenet's MD&A disclosure after receiving Madden's note.

After sending the marked-up version of the MD&A draft to the CAO, Madden told Tenet senior management that the audit team had reviewed the document and that they did not have any additional matters that needed to be incorporated into the document before filing. After identifying inadequacies in Tenet's MD&A, Madden violated GAAS by accepting the CAO's rebuff and failing to take further action, such as expressing his concerns to a higher level at Tenet. See AU §§ 550, 380.12.

3. The Improper Modification of Working Papers

The working papers of an audit are the principal record of the work done and the conclusions reached during the audit. See AU § 339. Shortly after the publication of the UBS Reports in October 2002, Madden began modifying the working papers by adding comments about outlier payments. He also assembled his audit team, including Huffman, and instructed them to "clean up" the working papers. In all, 18 members of the audit team spent over 500 hours changing the working papers in November and December 2002.

They modified more than 350 working papers, including adding nine references to outlier payments. In addition to creating the substantive comments about outlier revenue, the "clean-up" included preparing new working papers documenting (1) audit procedures that the audit team started prior to August 2002 but did not complete until months after the issuance of the audit report, (2) audit work that the audit team started after October 2002, and (3) audit procedures that were never performed. Almost all of the working paper modifications made by the audit team fail to include any information revealing that the change or addition occurred after the issuance of the audit report. In fact, almost all of the newly created and modified working papers were given a date before the issuance of the audit report.

Madden and Huffman continued to modify working papers, and directed the audit team to modify working papers, even after learning in November 2002 that the Department of Health and Human Services ("DHHS") and the Commission's staff were separately investigating Tenet and its outlier payments. Neither Madden nor Huffman raised any questions as to whether they should continue modifying working papers in light of the pending government investigations. Because of the modifications made and directed by Madden and Huffman, it is impossible to determine the actual condition of all of the working papers at the time that the FY 2002 audit report was issued.

a. Improper Changes Concerning Outlier Payments

In August 2002, before Madden released the report for the FY 2002 audit, the working papers only had one indirect reference to outlier payments. Starting in November 2002, after the publication of the UBS Reports, Madden and his audit team added nine comments about outlier payments. Madden added comments documenting (1) the aggressive pricing strategy, (2) Madden's conversations with Tenet personnel concerning outlier payments, and (3) that the growth in outlier payments explained or validated improved financial measurements, such as EBIT, at various hospitals. Huffman also reviewed most of the comments about outlier

payments. Huffman made changes to some of the comments or initialed working papers containing the comments to evidence his review of the working papers.

No one on the audit team dated any of the nine comments added concerning outlier payments. These comments about outlier payments created the false impression that Madden had concluded, during the audit, that Tenet's aggressive pricing strategy and the resulting increase in outlier payments did not need to be disclosed. Huffman did not date any of his review notations.

b. Improper Changes to Complete the FY 2002 Audit

Madden and his team also performed and then documented procedures in November 2002 giving the impression that other work was finished and reviewed before the issuance of the audit report. For example, in November 2002, Madden instructed an audit staff member to create a working paper documenting an assessment of the risk of material financial statement misstatement due to fraud. Madden and Huffman then backdated their signatures on this document, giving the false impression that they had reviewed and signed this document before the issuance of the audit report.

As another example, the audit team also finalized the hospital site visit procedures on or after November 2002. Hospital site visit procedures were an important component in assessing audit and fraud risk by assessing the efficacy of Tenet's internal controls to identify, among other things, significant business risks and significant or unusual accounting or reporting issues. Although field work had been performed at fifteen hospitals before issuance of the audit report, the audit team managers had not completed their review of the field work and follow-up work for twelve of those hospital site visits as of November 2002. But the modified working papers showed that the audit team completed all of the work and that Huffman and other managers finished reviewing all of the site visit working papers, without noting that a substantial portion of the review and some of the follow-up work occurred after the issuance of the audit report.

In November 2002, certain staff members of the audit team finished the analytical review procedures concerning the analysis of the annual EBIT variances at certain Tenet hospitals and the analytical review procedures reviewing and testing accounts receivable balances at all Tenet hospitals. These staff members, however, placed the date of July 2002 on these working papers. Madden and Huffman first reviewed these working papers, and added undated comments, in or after November 2002.

c. After-the-fact Creation of the FY 2001 Audit Compliance Binder

During November 2002, another manager on the Tenet audit engagement team improperly created eight documents that together comprise what the auditors referred to as the Compliance Binder, and that related to the FY 2001 audit. The purpose of the Compliance Binder was to document the procedures that tested Tenet's healthcare compliance function. The audit team purportedly relied on the fact that Tenet was closely monitoring its compliance policies to conclude that the risk of financial statement misstatement due to fraud was mitigated. The other manager created the FY 2001 Compliance Binder by copying certain working papers from either the FY 2000 or the FY 2002 Compliance Binder and placing the copies in the FY

2001 Compliance Binder. The other manager did not do any of the substantive work detailed in the FY 2001 Compliance Binder and did not know what work, if any, was performed. Even though the other manager created the Compliance Binder in November 2002, he placed the date of July 2001 on each working paper that made up the binder. To indicate that he had reviewed the FY 2001 Compliance Binder, Huffman initialed each of the working papers in the binder without dating any of his initials when he knew or should have known that the other manager had recently created the binder.

d. Improper Changes after KPMG’s Receipt of a Commission Subpoena

On June 30, 2003, the Commission staff informed KPMG that the staff was issuing a subpoena for working papers from the Tenet audits. On July 1, 2003, KPMG in-house counsel gave notice by e-mail to certain employees and partners, including Madden and Huffman, that a subpoena was about to be received and to take all steps necessary to “retain and preserve” documents related to Tenet. KPMG’s Audit Manual at the time stated: “We make no modifications to our working papers if such working papers are the subject of a subpoena directed to KPMG.”

Madden and Huffman received notice of the expected subpoena at about the same time that they had planned to perform further “clean up” of the working papers. Upon receiving the notice, Madden and Huffman discussed what instruction they should provide to the audit team concerning the clean up efforts. Madden and Huffman informed the audit team that they should not destroy or discard any document relating to the audit. However, in contravention of KPMG’s policy and in disregard of in-house counsel’s instruction, Madden and Huffman decided that the audit team could continue modifying working papers. Huffman then instructed the other members of the audit team accordingly. Several of the audit team members added initials or other comments to the working papers after receiving notice of the subpoena, but did not date these additions. Huffman also asked former team members who had left KPMG to return and add initials to working papers that related to the FY 2002 audit. For example, at Huffman’s request, a former manager, who had left KPMG in October 2002, returned in August 2003 to add undated initials to working papers that Huffman had flagged for him. As part of this “clean up” effort, audit team members modified or added at least 22 documents after the issuance of the subpoena.

D. THE RESPONDENTS ENGAGED IN IMPROPER PROFESSIONAL CONDUCT WITHIN THE MEANING OF RULE 102(e) OF THE COMMISSION’S RULES OF PRACTICE

Rule 102(e)(1)(ii) of the Commission’s Rules of Practice provides, in part, that the Commission may censure or deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found by the Commission to be lacking in character or integrity, or to have engaged in improper professional conduct. Rule 102(e)(1)(iv) defines improper professional conduct with respect to persons licensed as accountants.

As applicable here, improper professional conduct means either (1) a “single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is

warranted,” or (2) “[r]epeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.” Rule 102(e)(1)(iv)(B). As stated below, Madden and Huffman acted unreasonably in failing to comply with GAAS during the FY 2002 audit of Tenet’s financial statements. Further, as stated below, Madden and Huffman also acted highly unreasonably in failing to comply with GAAS by improperly modifying working papers.

1. Failure to Properly Plan the Audit

GAAS requires the auditor to adequately plan the audit work. AU § 311.01. As part of that planning, GAAS requires the auditor to assess both fraud and audit risks in designing and performing the audit. AU §§ 312.01, 316.12 (2000). The auditor must assess the risk of material financial statement misstatement due to fraud and consider that assessment in designing audit procedures. AU § 316.12 (2000). The auditor must also consider audit risk in designing the audit and evaluating audit results. AU §§ 312, 319. In considering audit risk, the auditor must assess the risk that the company’s internal controls will not prevent or timely detect a material financial statement misstatement. AU §312.27.

Prior to the issuance of the FY 2002 audit report, Madden and Huffman failed to fully assess fraud risk and design audit procedures based on that assessment. As to audit risk, Madden and Huffman failed to ensure that hospital site visit procedures were complete and adequate, and to respond to the results of that work by designing adequate audit procedures to address internal controls findings, significant business risks, and significant or unusual accounting or reporting issues. Madden and Huffman’s conduct in this regard did not comply with GAAS.

2. Failure to Exercise Due Professional Care and Obtain Sufficient Competent Evidence

GAAS requires auditors to exercise due professional care in performing an audit and in preparing an audit report. AU § 230.01. GAAS also requires that auditors obtain sufficient competent evidential matter to afford a reasonable basis for an audit opinion. AU § 326.01. Part of obtaining sufficient audit evidence is a requirement to use analytical procedures. AU § 329. As described above, prior to the issuance of the audit report, Madden and Huffman did not finish important analytical procedures to test Tenet’s assertions concerning its earnings and accounts receivable balance. Madden and Huffman violated GAAS by failing to exercise due professional care and to obtain sufficient competent evidence.

3. Failure to Properly Supervise and Review Audit Work

GAAS requires that audit work be properly supervised and reviewed to determine that it was adequate and the results consistent with the audit opinion. AU §§ 311.01 & .13. Madden and Huffman failed to review, until months after the issuance of the audit report: (1) the working paper documenting an assessment of the risk of material financial statement misstatement due to fraud, (2) procedures performed at 12 of the 15 hospital site visits, and (3) the analytical procedures with respect to EBIT and accounts receivable. Madden and Huffman failed to provide adequate supervision as required by GAAS.

4. Failure to Render an Accurate Audit Report

GAAS dictates that an auditor may express an unqualified opinion only after conducting an audit in accordance with GAAS from which to base the opinion. AU § 508.07. This is consistent with the common sense notion that an auditor must finish the audit before releasing an audit report. Because Madden had not completed and performed an audit in accordance with GAAS, he further violated GAAS when he issued an audit report containing an unqualified opinion.

5. Failure to Take Appropriate Action to Correct Tenet's Disclosure

GAAS requires an auditor to read the other information in a company's annual reports to confirm that the other information is not materially inconsistent with information in the financial statements. AU § 550.04. If the auditor, while reviewing such other information for material inconsistency, becomes aware of information that he believes is a material misstatement of fact, he should discuss the matter with the client. If the auditor then "concludes he has a valid reason for concern," the auditor should suggest that the client consult an expert such as legal counsel. AU § 550.05. If the auditor continues to conclude that a material misstatement of fact remains, he should take further action, such as notifying his client in writing or consulting with his legal counsel; he must do something. AU § 550.06. GAAS also requires that the auditor discuss his observations with the audit committee. AU § 380.12. Madden told Tenet's CAO that Tenet should consider disclosing the amount of stop loss and outlier payments (revenue); the CAO dismissed the idea. Madden raised the issue again when he reviewed the FY 2002 Form 10-K MD&A disclosure; Tenet made no such disclosure. After identifying inadequacies in Tenet's MD&A, Madden violated GAAS by accepting the CAO's rebuff and failing to express his concerns to a higher level at Tenet such as the audit committee or Tenet's in-house or disclosure counsel.

6. Failure to Maintain Integrity of Working Papers

GAAS states that the working papers are the principal record of the work done and the conclusions reached during an audit. AU § 339. The working papers should document that the auditor has adequately planned and supervised the work, gained a sufficient understanding of internal controls, and obtained sufficient competent evidential matter to afford a reasonable basis for an opinion. AU § 339.05 (2000). It follows from the AU § 339 requirements on working papers "that any addition, deletion, or modification to the working papers after they have been finalized in connection with the completion of the audit may be made only with appropriate supplemental documentation, including an explanation of the justification for the addition, deletion or modification."⁵ The Commission has previously stated, "Working papers prepared or collected by auditors in the course of an audit provide the single most important support for their representation regarding compliance with [GAAS]. They serve as the repository for the competent evidential matter necessary to afford the auditors with a reasonable basis for opining

⁵ In re Fiedelman, SEC Rel. No. 48578 (Oct. 1, 2003).

on an issuer's financial position. ... It is therefore imperative that auditors preserve their working papers in a complete and unaltered form.”⁶

As a result of the conduct described above, Madden and Huffman violated applicable professional standards by inappropriately modifying the working papers months after the issuance of the audit report and, in some cases, after learning of the government investigations of Tenet concerning outlier payments. Madden and Huffman further violated applicable professional standards by allowing the audit team to continue inappropriately modifying working papers after notice of the Commission's subpoena. Huffman also violated applicable professional standards by reviewing and signing off on the improper creation of the FY 2001 Compliance Binder.

E. FINDINGS

Based on the foregoing, the Commission finds that the Respondents engaged in improper professional conduct within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice. Specifically, the Respondents, by failing to complete the FY 2002 audit before the issuance of the audit report and by inappropriately modifying working papers after the issuance of the audit report, engaged in repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

Further, by inappropriately modifying the working papers after the issuance of the audit report, after the publication of the UBS Report, and after learning about the government investigations into Tenet, Respondents engaged in highly unreasonable conduct that resulted in a violation of applicable professional standards in circumstances in which they knew, or should have known, that heightened scrutiny was warranted.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in the Offers made by Respondents Madden and Huffman.

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

- A. Madden is denied the privilege of appearing or practicing before the Commission as an accountant.
- B. Huffman is denied the privilege of appearing or practicing before the Commission as an accountant.
 1. After four years from the date of this Order, Huffman 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:

⁶ In re Leidesdorf & Co., SEC Rel. No. 13268 (Feb. 16, 1977).

a. 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 Huffman'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

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

a. Huffman, 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. Huffman, 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 Huffman's or the firm's quality control system that would indicate that Huffman will not receive appropriate supervision;

c. Huffman 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. Huffman acknowledges his responsibility, as long as Huffman 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.

2. The Commission will consider an application by Huffman 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 Huffman's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Nancy M. Morris
Secretary