

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64190 / April 5, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3260 / April 5, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14323

In the Matter of

MICHAEL C. PATTISON,
CPA

Respondent.

ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS AND
IMPOSING TEMPORARY SUSPENSION
PURSUANT TO RULE 102(e)(3) OF THE
COMMISSION'S RULES OF PRACTICE

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Rule 102(e)(3)¹ of the Commission’s Rules of Practice against Michael C. Pattison (“Respondent” or “Pattison”).

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.

II.

The Commission finds that:

A. RESPONDENT

1. Pattison, age 46, is and has been a certified public accountant (“CPA”) licensed to practice in the State of California. From January 2000 to July 2005, Respondent served as the Controller of Embarcadero Technologies, Inc. (“Embarcadero”), a San Francisco software company. Prior to joining Embarcadero, from 1987 until 1998, Respondent worked as an accountant at a series of San Francisco accounting firms.

B. CIVIL INJUNCTION

2. On February 23, 2011, the United States District Court for the Northern District of California entered an amended final judgment against Respondent. *SEC v. Pattison*, C-08-4238 EMC (N.D. Cal.). The final judgment, as amended, followed a jury trial in which the jury found that Respondent violated Section 13(b)(5) of the Securities and Exchange Act of 1934 (“Exchange Act”), and Exchange Act Rule 13b2-1.

3. The final judgment, as amended, among other things, permanently enjoins Respondent from future violations, direct or indirect, of Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1. It also requires Respondent to pay disgorgement, including prejudgment interest thereon, in the total amount of \$74,446, and to pay a civil penalty in the amount of \$50,000.

4. The Commission’s complaint alleged, among other things, that from at least 2000 through 2005, Respondent intentionally falsified numerous books, records, and accounts in connection with the backdating of stock options granted to Embarcadero’s employees. It further alleged that Respondent knowingly circumvented Embarcadero’s internal accounting controls in order to avoid recording compensation expenses related to the backdated, in-the-money stock options, during the same time period.

III.

Based upon the foregoing, the Commission finds that a court of competent jurisdiction has permanently enjoined Respondent, a CPA, from violating the federal securities laws within the meaning of Rule 102(e)(3)(i)(A) of the Commission’s Rules of Practice. In view of these findings, the Commission deems it appropriate and in the public interest that Respondent be temporarily suspended from appearing or practicing before the Commission.

IT IS HEREBY ORDERED that Respondent be, and hereby is, temporarily suspended from appearing or practicing before the Commission. This Order shall be effective upon service on the Respondent.

IT IS FURTHER ORDERED that Respondent may within thirty days after service of this Order file a petition with the Commission to lift the temporary suspension. If the Commission within thirty days after service of the Order receives no petition, the suspension shall become permanent pursuant to Rule 102(e)(3)(ii).

If a petition is received within thirty days after service of this Order, the Commission shall, within thirty days after the filing of the petition, either lift the temporary suspension, or set the matter down for hearing at a time and place to be designated by the Commission, or both. If a hearing is ordered, following the hearing, the Commission may lift the suspension, censure the petitioner, or disqualify the petitioner from appearing or practicing before the Commission for a period of time, or permanently, pursuant to Rule 102(e)(3)(iii).

This Order shall be served upon Respondent personally or by certified mail at his last known address.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Public Administrative Proceedings and Imposing Temporary Suspension Pursuant to Rule 102(e)(3) of the Commission's Rules of Practice (Order) on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
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