

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 65759 / November 16, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3338 / November 16, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14629

<p>In the Matter of</p> <p>PAUL FREE, CPA</p> <p>Respondent.</p>

ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS AND
IMPOSING TEMPORARY SUSPENSION
PURSUANT TO RULE 102(e) 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 Paul Free ("Respondent" or "Free").

II.

The Commission finds that:

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.

A. RESPONDENT

1. Free, age 55, a resident of Oakland, Michigan, is and has been a certified public accountant (“CPA”) licensed to practice in the State of Missouri. Between 1998 and 2002, Free served as Controller and Chief Accounting Officer of Delphi Corporation.

B. CIVIL INJUNCTION

2. On October 31, 2011, the U.S. District Court for the Eastern District of Michigan entered a final judgment against Free, permanently enjoining him from violating and/or aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1 and 13b2-2 thereunder. Securities and Exchange Commission v. Delphi Corporation, et al., Civil Action Number 06-14891-Civ (E.D. Mich.)(Cohn, J.)(Dkt.378).

3. The Commission’s complaint alleged that, while serving as Controller and Chief Accounting Officer of Delphi, Free engaged in conduct, detailed below, that resulted in Delphi materially misstating its financial condition and operating results in filings with the Commission, in offering documents, and in other statements to investors.

4. The Commission’s complaint alleged that in the third quarter of 2000, Delphi improperly accounted for and disclosed a payment that it made to its former parent company, pursuant to a settlement agreement. Delphi treated the payment as if it related primarily to certain pension and other post-employment benefit matters, even though Delphi officers and employees, including Free, knew that the settlement in fact related exclusively to the warranty claims. As a result of these mischaracterizations, Delphi overstated its originally reported earnings per share (“EPS”) for the third quarter 2000. The Commission alleged that several Delphi officers and employees, including Free, were responsible for this conduct.²

5. The Commission’s complaint further alleged that in the fourth quarter of 2000, Delphi sold \$270 million of inventory to two third parties, while simultaneously agreeing to repurchase the inventory in the following quarter for the original sales price, plus approximately \$4 million in interest charges and structuring fees. By improperly accounting for the transactions as sales, rather than financing transactions, Delphi improperly recognized approximately \$200 million in cash flow from operations. The Commission alleged that several Delphi officers and employees, including Free, were responsible for this fraudulent conduct.

6. The Commission’s complaint further alleged that in the fourth quarter of 2001, Delphi solicited a \$20 million lump sum payment from its largest IT service provider (the “IT Provider”) in return for Delphi providing new business to the IT Provider and agreeing to repay the \$20 million, with interest, over a five-year period. Despite knowing that this payment

² The jury did not find that Free’s conduct violated the anti-fraud provisions of the securities laws on this transaction, but found instead that Free had violated the books and records and misrepresentations to auditors provisions of the securities laws.

should have been accounted for by Delphi as a Delphi liability to the IT Provider, Delphi and personnel of the IT Provider misrepresented the nature of the payment so that Delphi could improperly account for the payment as an immediate reduction of information technology expense in the fourth quarter. This resulted in Delphi overstating its originally reported EPS in 2001 for the fourth quarter. The Commission alleged that several Delphi officers and employees, including Free, were responsible for this fraudulent conduct.

III.

Based upon the foregoing, the Commission finds that a court of competent jurisdiction has permanently enjoined Free, 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 Free be temporarily suspended from appearing or practicing before the Commission.

IT IS HEREBY ORDERED that Free 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 Free 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 Free personally or by certified mail at his last known address.

By the Commission.

Elizabeth M. Murphy
Secretary