

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 65600 / October 20, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3329 / October 20, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-10937

	:	
In the Matter of	:	ORDER GRANTING APPLICATION FOR
	:	REINSTATEMENT TO APPEAR AND PRACTICE
Michael G. Horsey, CPA	:	BEFORE THE COMMISSION AS AN ACCOUNTANT
	:	

On November 18, 2002, Michael G. Horsey (“Horsey”) was denied the privilege of appearing or practicing before the Commission as an accountant as a result of settled public administrative proceedings instituted by the Commission against Horsey pursuant to Rule 102(e) of the Commission's Rules of Practice.¹ Horsey consented to the entry of the 2002 Order without admitting or denying the findings therein. This order is issued in response to Horsey’s application for reinstatement to practice before the Commission as an accountant.

At all times relevant to the 2002 Order, Horsey was a certified public accountant who was duly licensed by the Commonwealth of Pennsylvania, and a partner with Mitchell & Titus LLP (“Mitchell & Titus”). Horsey was the engagement partner for his firm’s audits of the financial statements of MERL Holdings Inc.com (“MERL”) for its fiscal years ended December 31, 1997 and December 31, 1998. The Commission alleged that Horsey (in his capacity as the engagement partner), the concurring review partner, and the senior manager failed to conduct their fiscal 1997 and 1998 audits of MERL’s financial statements in accordance with Generally Accepted Auditing Standards (“GAAS”), and issued an audit report which wrongly stated that MERL’s financial statements were prepared in conformity with Generally Accepted Accounting Principles (“GAAP”). Specifically, the Commission alleged that because they failed to exercise due professional care and maintain an attitude of professional skepticism, failed to obtain sufficient competent evidential matter, and failed to staff the audits with accountants who had

¹ See Accounting and Auditing Enforcement Release No. 1667 dated November 18, 2002 (the “2002 Order”). Horsey was permitted, pursuant to the order, to apply for reinstatement after two years upon making certain showings.

adequate technical training and audit proficiency, Horsey, the concurring review partner, and the senior manager engaged in improper professional conduct.

Horsey has met all of the conditions set forth in his suspension order and, in his capacity as an independent accountant, has stated that he will comply with all requirements of the Commission and the Public Company Accounting Oversight Board, including, among others the requirements relating to registration, inspections, concurring partner reviews and quality control standards. In his capacity as a preparer or reviewer, or as a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, Horsey agrees to have his work reviewed by the independent audit committee of the public company for which he works, or in some other manner acceptable to the Commission.

Horsey is currently subject to probation under the Pennsylvania State Board of Accountancy that is scheduled to end in January, 2013. Failure to abide by the terms of his probation could result in the suspension of Horsey's CPA license. Horsey has attested that he will notify the Commission if he is found to have violated the terms of the probation. He also has attested that he understands that the suspension of his CPA license could result in the revocation of the reinstatement of his privilege to appear or practice before the Commission as an accountant.

Rule 102(e)(5) of the Commission's Rules of Practice governs applications for reinstatement, and provides that the Commission may reinstate the privilege to appear and practice before the Commission "for good cause shown."² This "good cause" determination is necessarily highly fact specific.

On the basis of the information supplied, representations made, and undertakings agreed to by Horsey, it appears that he has complied with the terms of the 2002 Order denying him the privilege of appearing or practicing before the Commission as an accountant, that no information has come to the attention of the Commission relating to his character, integrity, professional conduct or qualifications to practice before the Commission that would be a basis for adverse action against him pursuant to Rule 102(e) of the Commission's Rules of Practice, and that Horsey, by undertaking to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, and by undertaking to comply with all requirements of the Commission and the Public Company Accounting Oversight Board, including among others, the requirements relating to requirements relating to registration, inspections, concurring partner reviews and quality control standards, in his practice before the Commission as an independent accountant has shown good cause for reinstatement. Therefore, it is accordingly,

² Rule 102(e)(5)(i) provides:

"An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this section may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown." 17 C.F.R. § 201.102(e)(5)(i).

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Michael G. Horsey, CPA is hereby reinstated to appear and practice before the Commission as an accountant.

By the Commission.

Elizabeth M. Murphy
Secretary