

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84296 / September 27, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18408

In the Matter of	:	
	:	
	:	
MAXWELL TECHNOLOGIES, INC.,	:	NOTICE OF PROPOSED PLAN OF
VAN M. ANDREWS, DAVID J.	:	DISTRIBUTION AND OPPORTUNITY
SCHRAMM, and JAMES W. De WITT,	:	TO COMMENT
Jr., CPA	:	
	:	
	:	
Respondents.	:	

Notice is hereby given, pursuant to Rule 1103 of the United States Securities and Exchange Commission’s (“Commission”) Rules on Fair Fund and Disgorgement Plans, 17 C.F.R. § 201.1103, that the Division of Enforcement has submitted to the Commission a proposed plan of distribution (the “Plan”) for the distribution of monies paid by Maxwell Technologies, Inc. (“Maxwell”), Van M. Andrews (“Andrews”), David J. Schramm (“Schramm”), and James W. DeWitt, Jr., CPA (“DeWitt”) (collectively, the “Respondents”) in settlement of the above-captioned administrative proceeding.

On March 27, 2018, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order¹ against the Respondents. The Commission found that, from December 2011 through January 2013, Maxwell, a California-based company that develops, manufactures, and markets energy storage and power delivery products, through its former officers Andrews, Schramm, and DeWitt, engaged in an accounting fraud scheme that improperly recognized over \$19 million in revenue from future quarters in violation of U.S. Generally Accepted Accounting Principles. The Commission ordered Maxwell, Andrews, and DeWitt to pay civil money penalties of \$2.8 million, \$50,000, and \$20,000, respectively; and ordered Schramm to disgorge \$33,878, pay prejudgment interest of \$6,113 and a civil money penalty of \$40,000. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, the Commission established a Fair Fund so that the civil penalties could be distributed with the disgorgement and prejudgment interest to harmed investors (the “Fair Fund”).

¹ Securities Act Rel. No. 10472 (Mar. 27, 2018).

The Respondents have since paid in \$2,937,491 to an interest bearing account at the U.S. Treasury's Bureau of Fiscal Service, with the remainder to be paid by Andrews by March 19, 2019.

By Order dated July 27, 2018, the Commission appointed Epiq Systems, Inc. as the Fund Administrator of the Fair Fund.²

OPPORTUNITY FOR COMMENT

Pursuant to this Notice, all interested persons are advised that they may obtain a copy of the Plan from the Commission's public website at <http://www.sec.gov/litigation/fairfundlist.htm>. Interested persons may also obtain a written copy of the Plan by submitting a written request to Catherine E. Pappas, Esq., United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103. All persons who desire to comment on the Plan may submit their comments, in writing, no later than thirty (30) days from the date of this Notice:

1. to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090;
2. by using the Commission's Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or
3. by sending an e-mail to rule-comments@sec.gov.

Comments submitted should include "Administrative Proceeding File No. 3-18408" in the subject line. Comments received will be publicly available. Persons should submit only information that they wish to make publicly available.

THE PLAN

The Fair Fund holds approximately \$3 million, comprised of the disgorgement, prejudgment interest, and civil money penalties paid by the Respondents and accrued interest. The Plan proposes to distribute the Fair Fund, less taxes, fees, and expenses, to investors who

² Order Appointing Fund Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 83727 (July 27, 2018).

purchased shares of Maxwell common stock at inflated prices during the period from February 26, 2012 through March 19, 2013, inclusive, and who suffered losses in the value of their investment after disclosures by the Respondents and the resignation of Maxwell's external auditors.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary