

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 64077 / March 11, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Rel. No. 3253 / March 11, 2011

Admin. Proc. File No. 3-14177

In the Matter of

CARL W. JASPER, CPA

ORDER DENYING MOTION
TO LIFT TEMPORARY
SUSPENSION AND
DIRECTING HEARING

On January 7, 2011, we issued an order instituting proceedings ("OIP") against Carl W. Jasper, a certified public accountant ("CPA"), pursuant to Commission Rule of Practice 102(e)(3),¹ that temporarily suspended him from appearing or practicing before the Commission

¹ Commission Rule of Practice 102(e)(3), 17 C.F.R. § 201.102(e)(3), provides in pertinent part that:

(i) The Commission, with due regard to the public interest and without preliminary hearing, may, by order, temporarily suspend from appearing or practicing before it any . . . accountant . . . who has been by name:

(A) 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; or

(B) Found by any court of competent jurisdiction in an action brought by the Commission to which he or she is a party or found by the Commission in any administrative proceeding to which he or she is a party to have violated (unless the violation was found not to have been willful) or aided and abetted the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

as an accountant.² Jasper has filed a petition, pursuant to Rule 102(e)(3)(ii),³ requesting that his temporary suspension be lifted.

Jasper was Vice President, Chief Financial Officer, and Principal Accounting Officer of Maxim Integrated Products, Inc. ("Maxim") during the period from April 1999 through January 2007.⁴ The Commission filed a complaint in the United States District Court for the Northern District of California on December 21, 2007, alleging that Jasper "engaged in a scheme to illegally backdate stock options granted to Maxim employees and directors, concealing millions of dollars in expenses from investors and significantly overstating the Company's income." The complaint also alleged that Jasper "was aware of instances of backdating, and on repeated occasions prepared for the signature of Maxim's then Chief Executive Officer falsely dated option grant approval documents to make it appear as though the options had been granted at the market price on an earlier date." The complaint further alleged that Jasper "also knew, or was reckless in not knowing, that the Company did not properly account for such options or accurately disclose Maxim's option granting practices."

A jury found that Jasper violated the antifraud, books and records, false statements and omissions to accountants and auditors, and false certifications provisions of the federal securities laws. The jury also found that Jasper aided and abetted Maxim's violations of reporting, recordkeeping, and internal controls provisions of the Securities Exchange Act of 1934.⁵ On July 21, 2010, the District Court entered a judgment against Jasper permanently enjoining him from

² *Carl W. Jasper, CPA*, Securities Exchange Act Rel. No. 63674 (Jan. 7, 2011), 100 SEC Docket 36680, 36680.

³ 17 C.F.R. § 201.102(e)(3)(ii).

⁴ *Jasper*, 100 SEC Docket at 36681. The OIP alleged that Jasper "is and has been a CPA licensed to practice in the State of California" and that Jasper's CPA license was inactive during his tenure at Maxim.

⁵ The jury found that Jasper violated the antifraud provisions in Exchange Act Section 10(b), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, and Section 17(a)(1) of the Securities Act of 1933, 15 U.S.C. § 77q(a)(1); the books and records provisions of Exchange Act Rule 13b2-1, 17 C.F.R. § 240.13b2-1; the false statements and omissions to accountants and auditors provisions of Exchange Act Rule 13b2-2, 17 C.F.R. § 240.13b2-2; and the false certifications provisions of Exchange Act Rule 13a-14, 17 C.F.R. § 240.13a-14. The jury further found that Jasper aided and abetted Maxim's violations of the issuer reporting requirements in Exchange Act Section 13(a), 15 U.S.C. § 78m(a), and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13, 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13; the books and records provisions of Exchange Act Section 13(b)(2)(A), 15 U.S.C. § 78m(b)(2)(A), and the internal controls provisions of Exchange Act Section 13(b)(2)(B), 15 U.S.C. § 78m(b)(2)(B).

"any future violations of the securities laws or regulations."⁶ The judgment also barred Jasper from serving as a director or officer of a publicly-traded company for a period of two years, ordered Jasper to pay a civil monetary penalty of \$360,000, and ordered him to reimburse Maxim for bonuses and stock-sale profits in the amount of \$1,869,639.

In issuing the OIP, we found that it was "appropriate and in the public interest" that Jasper be temporarily suspended from appearing or practicing before the Commission, based on the District Court's final judgment. We stated that the temporary suspension would become permanent unless Jasper filed a petition challenging it within thirty days of service of the order, pursuant to Rule of Practice 102(e)(3)(ii). We further advised that, pursuant to Rule of Practice 102(e)(3)(iii), upon receipt of such a petition, we would either lift the temporary suspension, set the matter down for hearing, or both.

In his petition, Jasper requests that the temporary suspension be lifted or modified to a limited period "coterminous with the two-year D&O bar" imposed by the District Court. Jasper argues that the jury did not make findings setting forth the specific Maxim options grants with respect to which Jasper had committed violations. According to Jasper, "[i]t is therefore impossible to discern from the verdict how many backdated grants the jury found Mr. Jasper was aware of, the value of the grants, or the extent of his role in backdating." Jasper states that the jury found him not guilty of three of the eleven charges included in the Commission's complaint, and "that the jury asked about the 'responsibility' of various officer for misstatements, suggest[ing] it did not view Mr. Jasper as a ringleader in whatever improprieties it may have found." Jasper claims that a permanent suspension would serve no remedial purpose because he is unlikely to commit future violations "in the absence of [Maxim's then-CEO] and the culture he created at Maxim." Jasper argues that the violations were "not motivated by self-interest (apart from, at best, keeping his job)" and points out his prior lack of any disciplinary history during his twenty-eight year career as an accountant and auditor.

The Division of Enforcement has not filed an opposition to Jasper's petition.

"Rule 102(e)(3) permits the Commission to suspend any accountant or other professional or expert who has been permanently enjoined from violating or aiding and abetting the violation of the Federal securities laws"⁷ Generally, a respondent in a "follow-on" proceeding is precluded from challenging the basis for, or findings in, the underlying injunctive action.⁸ At this

⁶ *Carl W. Jasper*, Litigation Rel. No. 21598 (July 22, 2010).

⁷ *Daniel S. Lezak*, 57 S.E.C. 997, 1001 (2004).

⁸ *Michael Batterman*, 57 S.E.C. 1031, 1039 n.18 (2004); *see also Lezak*, 57 S.E.C. at 1001 (holding that "[t]he findings of the Court, which [the petitioner] is precluded from contesting in this proceeding, as well as the injunction issued against him justify the continuance (continued...)

stage, it appears that the findings made in the injunctive proceeding and the injunction issued against Jasper "justify the continuance of his suspension until it can be determined what, if any, action may be appropriate to protect the Commission's process."⁹ As provided in Rule 102(e)(3)(iii), therefore, we will set the matter down for public hearing.

Accordingly, IT IS ORDERED that this proceeding be set down for public hearing before an administrative law judge in accordance with Rule of Practice 110. As specified in Rule of Practice 102(e)(3)(iii), the hearing in this matter shall be expedited in accordance with Rule of Practice 500; it is further

ORDERED that the administrative law judge shall issue an initial decision no later than 210 days from the date of service of this Order; and it is further

ORDERED that the temporary suspension of Carl W. Jasper, entered on January 7, 2011, remain in effect pending a hearing and decision in this matter.

By the Commission.

Elizabeth M. Murphy
Secretary

⁸ (...continued)
of his suspension until it can be determined what, if any, action may be appropriate to protect this Commission's processes").

⁹ *William D. Shovers*, Exchange Act Rel. No. 59874 (May 6, 2009), 95 SEC Docket 16512, 16515.