

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83620 / July 12, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3950 / July 12, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18592

In the Matter of

PATRICK J. GRAY,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

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

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.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.3. below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

1. Gray, age 57, resides in San Diego, California. Gray has served as Chief Financial Officer of Axesstel, Inc. (“Axesstel”) since February 2007.

2. Axesstel was a publicly traded company based in San Diego, California, that develops, manufactures through third-party contractors, and sells wireless broadband, telecommunications and security alert systems to the global markets. Axesstel’s common stock traded over-the-counter under ticker AXST and was registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 (“Exchange Act”) until October 6, 2017, when its registration was revoked for failure to comply with reporting requirements.

3. On June 28, 2018, the Commission filed a complaint against Gray in the civil action entitled SEC v. Axesstel, Inc., et al., Civil Action No. 3:18-cv-01486-L-AGS, in the United States District Court for the Southern District of California. On July 11, 2018, the court entered an order permanently enjoining Gray, by consent, from future violations of Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act and Exchange Act Rules 10b-5, 12b-20, 13a-1, 13a-11, 13a-13, 13a-14, 13b2-1, and 13b2-2. Gray was also barred from serving an officer and director of a public company for a period of five years and ordered to pay a \$40,000 civil money penalty.

4. The Commission’s complaint alleged, among other things, that from at least the fourth quarter of 2012 through the first quarter of 2013, Gray as the Chief Financial Officer of Axesstel, engaged in fraudulent accounting practices and improperly recognized and reported materially false revenue of \$10.5 million (67% of revenue) in the fourth quarter and \$3.8 million (38% of revenue) in the first quarter. The Complaint alleged that in many instances, material terms of purported sales to Axesstel customers – including price, delivery, and payment terms – were not finalized before the end of the period in which Axesstel recognized the revenue and unit prices were inflated to enable Axesstel to hit revenue targets. In addition, the Complaint alleged that Axesstel also entered into undisclosed “consignment” agreements with at least two customers, which relieved the customers of any obligation to pay for the products they

purportedly purchased unless and until the customers were able to resell the items to their own end users. The Complaint alleged that Gray signed quarterly management representation letters to Axesstel's auditors that failed to disclose the true facts and circumstances of these purported sales, and Gray participated in or otherwise authorized the improper revenue recognition.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Gray's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Gray is suspended from appearing or practicing before the Commission as an accountant.

B. After five years from the date of this order, Gray may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as an accountant.

By the Commission.

Brent J. Fields
Secretary