

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 95224 / July 8, 2022**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 4316 / July 8, 2022**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13421**

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**In the Matter of**

**ARCANGELO  
LOBERTO, CPA, CA**

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**ORDER GRANTING APPLICATION FOR  
: REINSTATEMENT TO APPEAR AND PRACTICE  
: BEFORE THE COMMISSION AS AN  
: ACCOUNTANT RESPONSIBLE FOR THE  
: PREPARATION OR REVIEW OF FINANCIAL  
: STATEMENTS REQUIRED TO BE FILED WITH  
: THE COMMISSION**

On March 30, 2009, the Commission issued an Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, Making Findings and Imposing Remedial Sanctions (the “Suspension Order”) against Respondent Arcangelo Loberto.<sup>1</sup> The Suspension Order suspended Loberto from appearing or practicing before the commission as an accountant but permitted Loberto, after five years from the date of the Suspension Order and if certain conditions were met, to request that the Commission consider his reinstatement to resume appearing or practicing before the Commission as (1) a preparer or reviewer, or a person responsible for the preparation or review, of financial statements that are required to be filed with the Commission; or (2) an independent accountant.

This order is issued in response to Loberto’s application for reinstatement to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

In the Suspension Order, the Commission found that Loberto had been permanently enjoined from future violations of certain provisions of the federal securities laws and rules thereunder. In the underlying civil injunctive action before the United States District Court for the District of Columbia, the Commission alleged that Loberto, acting in concert with others, illegally granted undisclosed, in-the-money options to executives and employees of Research in Motion, Inc. by backdating approximately 1,400 stock option grants to coincide with historically

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<sup>1</sup> See Accounting and Auditing Enforcement Release No. 2958, dated March 30, 2009.

low closing prices for the Company's stock. Loberto ignored certain information relating to these grants and failed to record compensation expense for the backdated in-the-money options that were granted between 1999 and the first quarter of 2007.

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."<sup>2</sup> This "good cause" determination is necessarily highly fact specific.

Loberto has shown good cause for reinstatement and has met all of the conditions set forth in the Suspension Order to be reinstated to appear and practice before the Commission as a person responsible for the preparation or review of financial statements required to be filed with the Commission and in this capacity has attested that he will 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, while practicing before the Commission in this capacity. Loberto is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If, in the future, Loberto should wish to resume appearing and practicing before the Commission as an independent accountant, he will be required to submit an application to the Commission showing, among other things, that he has complied and will comply with the terms of the Suspension Order.

On the basis of information supplied, representations made, and undertakings agreed to by Loberto, it appears that he has complied with the terms of the Suspension Order. 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. In addition, Loberto has undertaken 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. As a result, Loberto has shown good cause for reinstatement. Therefore, it is accordingly,

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Arcangelo Loberto, CPA, CA is hereby reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

By the Commission.

Vanessa Countryman  
Secretary

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<sup>2</sup> 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 rule 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).