

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 99587 / February 22, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-18408

In the Matter of	:	ORDER AUTHORIZING THE TRANSFER
	:	TO THE U.S. TREASURY OF ANY FUNDS
	:	RETURNED TO THE FAIR FUND IN THE
Maxwell Technologies, Inc., Van M.	:	FUTURE, DISCHARGING THE FUND
Andrews, David J. Schramm,	:	ADMINISTRATOR, CANCELING THE FUND
James W. DeWitt, Jr,	:	ADMINISTRATOR’S BOND, AND
	:	TERMINATING THE FAIR FUND
Respondents.	:	

On March 27, 2018, the Securities and Exchange Commission (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 Order (the “Order”)¹ against Maxwell Technologies, Inc. (“Maxwell”), Van M. Andrews (“Andrews”), David J. Schramm (“Schramm”), and James W. DeWitt, Jr. (“DeWitt”). In the Order, 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 and 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, the Commission created a Fair Fund so that collected civil money penalties could be distributed with collected disgorgement and prejudgment interest to investors harmed by the Respondents’ conduct described in the Order (the “Maxwell Fair Fund”). The Respondents paid the monetary relief in full.

On July 27, 2018, the Commission issued an order appointing Epiq Systems, Inc. as the fund administrator of the Maxwell Fair Fund (“Epiq” or the “Fund Administrator”) and setting the administrator’s bond at \$2,949,991.²

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

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

On September 27, 2018, the Secretary, pursuant to delegated authority, published a Notice of Proposed Plan of Distribution and Opportunity for Comment,³ and simultaneously posted the Proposed Plan of Distribution (the “Proposed Plan”), pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”).⁴ The Commission received no comments and on November 5, 2018, the Commission issued an Order Approving Plan of Distribution⁵ and simultaneously posted the approved Plan of Distribution (the “Plan”).

The Plan set forth a methodology to distribute the Maxwell Fair Fund, less taxes, fees, and expenses, to investors who purchased shares of Maxwell common stock on the NASDAQ 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. Any remaining funds are to be returned to the Commission for transfer to the U.S. Treasury and the Maxwell Fair Fund terminated, subject to the Commission’s approval of the Fund Administrator’s final accounting.

As ordered by the Commission, the Fund Administrator distributed a total of \$2,929,586.76 from the Fair Fund pursuant to the Plan.⁶ The distribution compensated all investors eligible for a distribution under the Plan for 9.14% of their losses.

The Respondents paid approximately \$2.9 million in disgorgement, prejudgment interest, and civil penalties⁴⁵ into the Maxwell Fair Fund. The Maxwell Fair Fund earned \$62,240.45 in interest and paid federal and local taxes of \$13,959.00, investment fees of \$73.59, tax administration fees of \$28,249.73, and fund administration fees and costs of \$42,234.84. No money remains in the Maxwell Fair Fund.

Paragraph 48 of the Plan provides that the Maxwell Fair Fund is eligible for termination and the Fund Administrator for discharge after all of the following have occurred: (a) a final accounting, in a Commission standard accounting format provided by the Commission staff, has been submitted by the Fund Administrator for approval, and has been approved, by the Commission; (b) all taxes, fees and expenses have been paid; and (c) any amount remaining in the Maxwell Fair Fund has been received by the Commission for transfer to U.S. Treasury.

The Commission staff has confirmed that the Fund Administrator has completed the distribution process in accordance with the Plan; that all taxes, fees, and expenses have been paid; and that no monies remain in the Maxwell Fair Fund. The final accounting, which was submitted to the Commission for approval, as required by Rule 1105(f) of the Commission’s Rules, 17 C.F.R. § 201.1105(f), and as set forth in the Plan, has been approved.

³ Exchange Act Rel. No. 84296 (Sept. 27, 2018).

⁴ 17 C.F.R. § 201.1103.

⁵ Exchange Act Rel. No. 84531 (Nov. 5, 2018).

⁶ Exchange Act Rel. Nos. 93026 (Sept. 16, 2021) and 93704 (Dec. 2, 2021).

Accordingly, it is ORDERED that:

- A. Any funds returned to the Maxwell Fair Fund in the future shall be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u6(g)(3);
- B. The Fund Administrator is discharged;
- C. The Fund Administrator's bond is canceled; and
- D. The Maxwell Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman
Secretary