

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 55039 / January 3, 2007

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 2531 / January 3, 2007

ADMINISTRATIVE PROCEEDING  
File No. 3-11714

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In the Matter of :  
David A. Hori, CPA : ORDER GRANTING APPLICATION FOR  
: REINSTATEMENT TO APPEAR AND PRACTICE  
: BEFORE THE COMMISSION AS AN ACCOUNTANT  
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On October 20, 2004, David A. Hori ("Hori") was denied the privilege of appearing or practicing as an accountant before the Commission as a result of settled public administrative proceedings instituted by the Commission against him pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.<sup>1</sup> This order is issued in response to Hori's application for reinstatement to appear and practice before the Commission as an accountant.

Hori was found to have engaged in improper professional conduct in connection with performing the reviews and audits of the financial statements filed by Gemstar-TV Guide International, Inc. ("Gemstar") from the quarter ended September 30, 1999 through the fiscal year ended March 31, 2002. During this time, Hori was employed as a senior manager for KPMG, LLP and participated in the audits and reviews of the financial statements of Gemstar. As a senior manager, Hori failed to exercise professional care and skepticism, failed to obtain sufficient competent evidential matter and over-relied on Gemstar's management representations with respect to the audits and reviews of Gemstar's financial statements. In addition, Hori failed to take appropriate action to correct disclosures that did not comply with GAAP and were inconsistent with Gemstar's financial statements. Finally, Hori failed to render accurate audit reports.

Hori has met all of the conditions set forth in his suspension order and, in his capacity as an independent accountant, has stated that he will comply with all requirements of the

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<sup>1</sup> See Accounting and Auditing Enforcement Release No. 2125 dated October 20, 2004. Hori was permitted, pursuant to the order, to apply for reinstatement after eighteen months upon making certain showings.

Commission and the Public Company Accounting Oversight Board, including, but not limited to all requirements relating to registration, inspections, concurring partner reviews and quality control standards. In his capacity as a preparer or reviewer, or as a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, Hori attests that he will undertake 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, while practicing before the Commission in this capacity.

Hori is currently subject to probation under the California Board of Accountancy that is scheduled to end in April, 2008. Failure to abide by the terms of his probation could result in the revocation of Hori's CPA license pending notice and an opportunity to be heard by the California Board of Accountancy. Hori has attested that he will notify the Commission if he is found to have violated the terms of the probation. He also has attested that he understands that the revocation of his CPA license could result in the revocation of the reinstatement of his privilege to appear or practice before the Commission as an accountant.

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.

On the basis of information supplied, representations made, and undertakings agreed to by Hori, it appears that he has complied with the terms of the October 20, 2004 order denying him the privilege of appearing or practicing before the Commission as an accountant, that 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, and that Hori, by undertaking 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, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, and that Hori, by undertaking to comply with all requirements of the Commission and the Public Company Accounting Oversight Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards, in his practice before the Commission as an independent accountant has shown good cause for reinstatement. Therefore, it is accordingly,

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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 section 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).

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that David A. Hori, CPA is hereby reinstated to appear and practice before the Commission as an accountant.

By the Commission.

Nancy M. Morris  
Secretary