

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 59817 / April 23, 2009

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 2966 / April 23, 2009

ADMINISTRATIVE PROCEEDING  
File No. 3-11714

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| In the Matter of<br><br>Bryan E. Palbaum, CPA | : ORDER GRANTING APPLICATION FOR<br>: REINSTATEMENT TO APPEAR AND PRACTICE<br>: BEFORE THE COMMISSION AS AN ACCOUNTANT<br>: RESPONSIBLE FOR THE PREPARATION OR<br>: REVIEW OF FINANCIAL STATEMENTS REQUIRED<br>: TO BE FILED WITH THE COMMISSION |
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On October 20, 2004, Bryan E. Palbaum (“Palbaum”) 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 Palbaum pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.<sup>1</sup> This order is issued in response to Palbaum’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.

Palbaum was alleged 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 fiscal year ended March 31, 2000 through the fiscal year ended March 31, 2002. During most of this time, Palbaum was employed as the co-engagement partner for KPMG LLP’s audits and reviews of the financial statements of Gemstar. The Commission alleged that Palbaum 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 audit and review of Gemstar’s financial statements. In addition, Palbaum failed to take appropriate action to correct disclosures that did not comply with GAAP and were inconsistent with Gemstar’s financial statements. Finally, Palbaum failed to render accurate audit reports.

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

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, Palbaum 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. Palbaum is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If he 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 that he has complied and will comply with the terms of the original suspension order in this regard. Therefore, Palbaum's suspension from practice before the Commission as an independent accountant continues in effect until the Commission determines that a sufficient showing has been made in this regard in accordance with the terms of the original suspension order.

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 Palbaum, 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 Palbaum, 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, 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 Bryan E. Palbaum, CPA 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.

Elizabeth Murphy  
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 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).