

II.

In anticipation of the institution of these proceedings, McDonald 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, McDonald 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. McDonald, age 44, is and has been a certified public accountant licensed to practice by the Commonwealth of Massachusetts. McDonald was Vice President and Treasurer of Kmart Corporation at all relevant times through November 9, 2001, when he was promoted to Chief Financial Officer (“CFO”). McDonald remained CFO through March 11, 2002, when he was terminated. McDonald is currently CFO of a private scrap metal company.

2. Kmart Corporation (“Kmart” or the “company”) was a Michigan Corporation headquartered in Troy, Michigan, during the relevant period. On January 22, 2002, Kmart filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy code. The company’s common stock was registered with the Commission pursuant to 12(b) of the Exchange Act [15 U.S.C. § 78l(b)] and traded on the New York Stock Exchange until December 19, 2002, when trading was suspended.

3. On May 1, 2009, a final judgment was entered against McDonald, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and aiding and abetting violations of Sections 13(a) and Rules 12b-20 and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Charles C. Conaway and John T. McDonald, Case No. 2:05-CV-40263 in the United States District Court for the Eastern District of Michigan. McDonald was ordered to pay a \$120,000 civil penalty and barred from serving as an officer or director of a publicly traded company for five years.

4. The Commission’s complaint alleged, among other things, that McDonald was responsible for materially false and misleading disclosure about the financial condition of Kmart in the Management’s Discussion and Analysis section of the company’s Form 10-Q for the quarter and nine months ended October 31, 2001 and in a conference call with analysts and investors on November 27, 2001.

IV.

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

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

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

B. After three (3) years from the date of this order, McDonald 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:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that McDonald's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) McDonald, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) McDonald, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that he will not receive appropriate supervision;

(c) McDonald has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) McDonald acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

C. The Commission will consider an application by McDonald to resume appearing or practicing before the Commission provided that his CPA license is current and he has resolved all other disciplinary issues with the applicable boards of accountancy.

However, if licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to McDonald's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary