

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83170 / May 4, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3941 / May 4, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-12263

In the Matter of
David T. Leboe, CPA

: 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 April 17, 2006, David T. Leboe, CPA (“Leboe”) was suspended from appearing or practicing before the Commission as an accountant as a result of settled public administrative proceedings instituted by the Commission against Leboe pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.¹ This order is issued in response to Leboe'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.

The Commission found that Leboe had been permanently enjoined by a United States District Court from future violations of Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5 and 13b2-1 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder. In a complaint filed on March 27, 2006 the Commission alleged, among other things, that Leboe engaged in a fraudulent scheme which resulted in Enron Corp. filing materially false and misleading financial statements in the company’s annual report on Form 10-K for the fiscal year ended December 31, 2000, and in the company’s quarterly report on Form 10-Q for the third quarter of fiscal year 2000. The Complaint alleged that Leboe engaged in a number of improper accounting practices that materially increased Enron’s annual and quarterly revenue and net income in a departure from Generally Accepted Accounting Principles. These practices included, among other things, improperly accelerating the recognition of revenue from the sale of a

¹ See Accounting and Auditing Enforcement Release No. 2415 dated April 17, 2006. Leboe was permitted, pursuant to the order, to apply for reinstatement after five years upon making certain showings.

construction contract and concealing undocumented side agreements from Enron's independent auditors. In addition, the complaint alleged that Leboe actively sought to keep others from disclosing information to Enron's independent auditors about these side agreements.

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, Leboe 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. Leboe 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, Leboe'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."² This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Leboe, it appears that he has complied with the terms of the April 17, 2006 order suspending him from 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 Leboe, 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,

² 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 T. Leboe, 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.

Brent J. Fields
Secretary