

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 86125 / June 17, 2019**

**Administrative Proceeding**  
**File No. 3-18408**

**In the Matter of**

**MAXWELL TECHNOLOGIES, INC.,  
VAN M. ANDREWS, DAVID J.  
SCHRAMM, AND JAMES W.  
DeWITT, Jr., CPA,**

**Respondents.**

**ORDER APPROVING APPLICATION OF  
FUND ADMINISTRATOR FOR  
PAYMENT OF FEES AND EXPENSES  
AND APPROVAL OF FUTURE FEES  
AND EXPENSES**

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”)<sup>1</sup> 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 established 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 “Fair Fund”). The Respondents have since 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 Fair Fund (“Epiq” or the “Fund Administrator”) and setting the administrator’s bond at \$2,949,991.<sup>2</sup>

<sup>1</sup> Securities Act Rel. No. 10472 (Mar. 27, 2018).

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

On September 27, 2018, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment,<sup>3</sup> 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”).<sup>4</sup> The Commission received no comments and on November 5, 2018, the Commission issued an Order Approving Plan of Distribution<sup>5</sup> and simultaneously posted the approved Plan of Distribution (the “Plan”).

The Plan contemplates that the Fund Administrator’s fees and expenses will be paid from the Fair Fund.<sup>6</sup> In accordance with Rule 1105(d) of the Commission’s Rules, 17 C.F.R. § 201.1105(d), the Fund Administrator has submitted to the Commission staff three invoices for services rendered from July 31, 2018 through April 30, 2019, totaling \$10,078.90. The Commission staff has reviewed the Fund Administrator’s invoices, confirmed that the services have been provided, and finds the fees and expenses of \$10,078.90 to be reasonable. The Commission staff has requested that the Commission authorize the Office of Financial Management (“OFM”) to pay the Fund Administrator’s current fees and expenses of \$10,078.90 from the Fair Fund.

Additionally, to expedite and streamline the process for future payments, the Commission staff has requested that the Commission authorize OFM, at the direction of the Assistant Director of the Office of Distributions, to pay the Fund Administrator’s future fees and expenses so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

Accordingly, it is hereby ORDERED, pursuant to Rule 1105(d) of the Commission’s Rules, 17 C.F.R. § 201.1105(d), that OFM pay the Fund Administrator’s current fees and expenses of \$10,078.90 from the Fair Fund. Further, OFM is authorized to pay, at the direction of the Assistant Director of the Office of Distributions, any future fees and expenses of the Fund Administrator from the Fair Fund so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

By the Commission.

Vanessa A. Countryman  
Acting Secretary

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<sup>3</sup> Exchange Act Rel. No. 84296 (Sept. 27, 2018).

<sup>4</sup> 17 C.F.R. § 201.1103.

<sup>5</sup> Exchange Act Rel. No. 84531 (Nov. 5, 2018).

<sup>6</sup> Plan, <https://www.sec.gov/litigation/admin/2018/34-84531-dp.pdf>, at ¶ 8.