

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 63167/October 22, 2010

ACCOUNTING AND AUDITING ENFORCEMENT
Rel. No.3200/October 22, 2010

Admin. Proc. File No. 3-13535

In the Matter of the Application of

GATELY & ASSOCIATES, LLC

and

JAMES P. GATELY, CPA

For Review of Disciplinary Action Taken by the

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

ORDER
TERMINATING STAY

On June 26, 2009, Gately & Associates, LLC (the "Firm") and James P. Gately, CPA (together with the Firm, "Applicants") filed an application for Commission review of disciplinary action taken by the by the Public Company Accounting Oversight Board (the "Board"). The Board found that Applicants violated Board Rule 4006 by failing to cooperate with a Board inspection, and barred Gately from associating with any registered public accounting firm and permanently revoked the Firm's registration.

Under the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), the Board's sanctions were automatically stayed upon Applicants' application to the Commission for review. Sarbanes-Oxley Section 105 states that an "[a]pplication to the Commission for review . . . of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders . . . that no such stay shall continue to operate."¹ On August 5,

¹ 15 U.S.C. § 7215(e)(1).

2010, the Commission issued an opinion (the "Commission Opinion") affirming the findings and disciplinary sanctions imposed by the Board.²

The Board has requested clarification as to whether the Sarbanes-Oxley Section 105 stay "continues to operate or was effectively terminated by" the order accompanying the Commission Opinion. Under Rule 401(e)(1) of the Commission's Rules of Practice, the "Commission may, at any time, on its own motion determine whether to lift the automatic stay" of Board action under Section 105(e) of Sarbanes-Oxley.³ Rule 401(e)(2) states that "[t]he Commission may lift a stay summarily, without notice and opportunity for hearing."⁴

The Commission Opinion concluded, after considering the public interest and the protection of investors, that revoking the Firm's registration and barring Gately from association are appropriate remedial sanctions. These same considerations support terminating the stay of these sanctions. As the Commission Opinion concluded, "[g]iven the nature and pattern of violative conduct reflected in this case, the revocation of registration and bar imposed by the Board are appropriate to protect the public interest in securing regulatory oversight over the activities of registered accounting firms."

Accordingly, IT IS ORDERED that the automatic stay of the Board sanctions imposed on Applicants pending the Commission's review be, and it hereby is, terminated.

For the Commission by the Office of the General Counsel, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary

² Securities Exchange Act Rel. No. 62656 (Aug. 5, 2010), __ SEC Docket __.

³ 17 C.F.R. § 201.410(e)(1).

⁴ 17 C.F.R. § 201.410(e)(2); *see also* 15 U.S.C. § 7215(e)(1) (permitting the Commission to order that such stay shall be discontinued "summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments").