UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 53566 / March 29, 2006

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2403 / March 29, 2006

ADMINISTRATIVE PROCEEDING
File No. 3-12249

In the Matter of **NETOPIA, INC.,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Netopia, Inc. ("Netopia" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent 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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 21C of the Securities Exchange Act of 1934 ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

A. Summary

1. This matter involves false financial reporting by Netopia, an Emeryville, California corporation providing broadband and wireless products and services. On two separate occasions in 2002 and 2003, Netopia sales personnel entered into improper side arrangements with a customer making the customer's payment obligation contingent on future events. As a result, Netopia reported significantly inflated revenue to the Commission and investors. The first such transaction allowed Netopia to report one of the largest software sales in the Company's history, while the second transaction allowed Netopia to falsely report its first profitable quarter since the quarter ended June 30, 2000.

2 Even after senior Netopia executives learned information suggesting that revenue had been improperly recognized, the company failed to take appropriate action. In a July 6, 2004, press release, Netopia falsely stated that one of the deals was being written off simply because the customer had failed to pay, when in fact the customer had no obligation to pay and the revenue should never have been recorded in the first place.

B. Respondent

3. Netopia, Inc. is a Delaware corporation headquartered in Emeryville, California that develops, markets and supports broadband and wireless products and services including both computer hardware and software. Netopia's common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act. Netopia was delisted from the NASDAQ Stock Market on October 20, 2004 as a result of its failure to file a 10-Q for the period ended June 30, 2004. Netopia stock is currently listed for quotation on the OTC Bulletin Board System.

C. Netopia's Improper Revenue Recognition

Netopia's Third Quarter 2002 Software Revenue Is Inflated By Nearly 14% Due To An Improper Side Agreement With A Thinly-Capitalized Reseller.

4. In 2002, Netopia's sales force began negotiating the company's first sale to Interface Computer Communications ("ICC"), a computer reseller which developed databases and information technology infrastructure for the education sector. On May 23, 2002, Netopia obtained a purchase order from ICC for approximately $1.6 million in software and related maintenance, one of the largest software sales in Netopia's history. Before placing the order, Netopia personnel and ICC agreed that payment to Netopia was contingent upon ICC receiving its payment from the school district it anticipated buying the software. ICC's purchase order provided that ICC would make two payments, and that the second payment would be made upon receipt of a purchase order from the end user.

5. Under Generally Accepted Accounting Principles ("GAAP"), revenue cannot be recognized if the customer is not obligated to pay. Upon realizing that Netopia could not recognize revenue on the sale because payment was contingent upon the end user paying for the software from ICC, personnel in Netopia's sales department "whited out" the contingency language on the purchase order and forwarded the altered purchase order to Netopia's finance department. While the sales personnel altered the purchase order, they orally re-affirmed the contingency with ICC. Netopia recognized approximately $1.6 million in revenue for the sale in the fiscal quarter ended June 30, 2002.

6. In addition to the payment contingency in the side agreement, revenue recognition was improper under GAAP because Netopia did not have a reasonable basis to believe that it would collect from ICC. In order to assess collectibility, among other things, Netopia performed a credit check which indicated that ICC qualified for at most $15,000 in credit – far lower that the $1.6 million order. Contrary to the information available regarding collectibility, Netopia recognized revenue on this sale.

7. Although ICC paid Netopia the first installment of approximately $800,000 in June 2002, the remainder was paid only after ICC received payment from the school district the following quarter.

8. On August 14, 2002, Netopia filed with the Commission its Form 10-Q for the quarter ended June 30. The financial statements in the Form 10-Q improperly included approximately $750,000 in software license revenue from the ICC transaction. As a result, Netopia's software revenue was inflated by 13.7% and its operating loss was understated by 13%.

Netopia Enters Into A Second Contingent Transaction With The Reseller, Allowing The Company To Falsely Report Its First-Ever Profitable Quarter.

9. In late 2002, Netopia and ICC began working on a similar project for a different school district. Netopia sales personnel had forecast a $750,000 purchase order from ICC by the end of the fiscal year ending September 30, 2003. As the quarter drew to a close, however, Netopia learned that ICC would not be ready to place the order because the project had increased in scope and was still being negotiated.

10. Not wanting to lose the revenue for the quarter, Netopia sales personnel asked the reseller to nonetheless submit a purchase order in the amount forecast. On September 29, 2003, ICC issued a purchase order to Netopia in the amount of $750,400. Netopia sales personnel entered into an oral side agreement providing that ICC would not pay Netopia unless and until it received its payment from the end user school district. At this point the large deal between ICC and the school district was in the preliminary stages.

11. On October 7, 2003, ICC sent a side letter to Netopia's sales personnel confirming the payment contingency and stating that in the event the end user decided not to purchase the Netopia software, ICC would owe no money to Netopia. The letter was not forwarded to

Netopia's finance department nor was it informed of the oral agreement, and, as a result, revenue from the contingent transaction was recognized by Netopia in violation of GAAP.

12. On December 19, 2003, Netopia filed with the Commission its Form 10-K for the fiscal year ended September 30, 2003. The financial statements in the Form 10-K improperly included approximately $750,000 in software license, maintenance and deferred revenue from the second ICC transaction. As a result, Netopia's software revenue for the quarter was overstated by 16%, and the Company falsely reported operating income of $302,000 (rather than operating losses of $433,000) – Netopia's first reported quarterly profit since the quarter ended June 30, 2000.

Netopia Issues a Misleading Press Release After Senior Executives Discover The September Side Agreement.

13. By April 2004, Netopia and ICC had yet to complete the larger school district deal contemplated in September 2003, and ICC had failed to make any payments on the $750,000 order. Sometime thereafter, while attempting to collect the receivable, Netopia senior executives learned of the side agreement making ICC's payment contingent on payment from the school district. Nevertheless, rather than reverse the revenue from the Company's 2003 financial statements, as required by GAAP, on July 6, 2004, the Company issued a misleading press release falsely describing ICC's lack of payment as a "bad debt." The Company also filed the press release with the Commission as an exhibit to a Form 8-K.

D. The Restatement and Subsequent Events

14. On July 12, 2004, Netopia's Audit Committee obtained a copy of the October 7, 2003 side letter. On July 22, 2004, after the close of the market, Netopia announced that it was conducting an internal investigation. The day after the Company made the announcement, its stock price dropped from $4.31 to $3.60 a share (a 16% decline).

15. Following an internal investigation by Netopia's audit committee, on February 1, 2005, Netopia restated its financial statements primarily based on the two software transactions. For the first transaction, recorded as revenue in the quarter ended June 30, 2002, Netopia eliminated $750,000 (of approximately $1.6 million originally recorded) of software license revenue and deferred $632,000 of such revenue to the following quarter. The elimination of the revenue on the first ICC transaction alone resulted in restated revenue for software and services of $4.7 million compared with previously reported revenue of $5.5 million (a 13.7% overstatement), and an increase of operating losses from the previously-reported $4.9 million to $ 5.7 million (a 13% understatement). For the second transaction, recorded as revenue in the quarter ended September 30, 2003, Netopia eliminated software license, maintenance and deferred revenue of $750,400. This restatement of the second ICC transaction alone resulted in restated revenue for software and services of $3.9 million compared with previously-reported revenue of $4.7 million (a 16% overstatement) and restated operating losses of $433,000 compared to previously-reported operating income of $302,000 (a 243% overstatement).

E. <u>Legal Conclusions</u>

16. As a result of the conduct described above, Netopia failed to file with the Commission accurate and complete reports, including Forms 10-K, 10-Q and 8-K, and filed reports that failed to include material information necessary to make its statements not misleading.

17. Because Netopia improperly recorded revenue, its books, records and accounts did not, in reasonable detail, accurately and fairly reflect its transactions, revenues and net income or loss. In addition, Netopia failed to implement internal accounting controls relating to its revenue accounts which were sufficient to provide reasonable assurances that these accounts were accurately stated in accordance with GAAP.

18. As a result of the conduct described above, the Company violated Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.

IV.

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by the Respondent and cooperation afforded the Commission staff.

V.

In view of the foregoing, the Commission deems it appropriate accept the Offer submitted by the Respondent Netopia.

Accordingly, it is hereby ORDERED that**:**

A. Respondent Netopia cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

By the Commission.

Nancy M. Morris
Secretary