UNITED STATES OF AMERICA Before the SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934 Release No. 51647 / May 2, 2005

ACCOUNTING AND AUDITING ENFORCEMENT Release No. 2241 / May 2, 2005

ADMINISTRATIVE PROCEEDING File No. 3-8093

In the Matter of ORDER GRANTING APPLICATION FOR

REINSTATEMENT TO APPEAR AND PRACTICE

BEFORE THE COMMISSION AS AN ACCOUNTANT Robert R. Berti, CPA

On July 13, 1993, Robert R. Berti ("Berti") was suspended from appearing or practicing as an accountant before the Commission as a result of settled public administrative proceedings instituted by the Commission against Berti pursuant to then Rule 2(e) of the Commission's Rules of Practice. This order is issued in response to Berti's application for reinstatement to practice before the Commission as an independent accountant.¹

Berti was found to have engaged in improper professional conduct with respect to the annual audit of Convenient Food Mart, Inc.'s ("Convenient") 1987 consolidated financial statements. The Commission's order found that Berti accepted \$2,256,000 in unsubstantiated entries without adequate evidential support. After the audit staff was unable to find justification for these entries, Berti accepted management's representation that documentation for the entries

Rule 102(e)(5)(i) provides:

¹ See Accounting and Auditing Enforcement Release No. 465 dated July 13, 1993. Berti was permitted, pursuant to the order, to apply for reinstatement as an independent accountant after five years upon making certain showings. His suspension from practice as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements required to be filed with the Commission expired automatically five years after the date of the order.

[&]quot;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).

existed but had been misplaced. Some of these unsubstantiated entries were reversed when Convenient restated its 1987 consolidated financial statements on February 1, 1989. The Commission's order also found that Berti accepted management's representations of material amounts by which intercompany accounts were out of balance. He then improperly shifted reserves to make up for the out of balance accounts. This improper accounting had the effect of materially overstating income.

Berti has met all of the conditions set forth in his suspension order and, in his capacity as an independent accountant, has stated that he will comply with all requirements of the Commission and the Public Company Accounting Oversight Board, including, but not limited to all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

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." This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Berti, it appears that he has complied with the terms of the July 13, 1993 order suspending him from practice 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 Berti has shown good cause for reinstatement. Therefore, it is accordingly,

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Robert R. Berti, CPA is hereby reinstated to appear and practice before the Commission as an accountant.

By the Commission.

Jonathan G. Katz Secretary