UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 52538 / September 30, 2005

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2326 / September 30, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-12065

In the Matter of **WILLIAM E. CASWELL, CPA,** **Respondent.**	**ORDER INSTITUTING PUBLIC ADMINISTRATIVE PROCEEDINGS PURSUANT TO RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative proceedings be, and hereby are, instituted against William E. Caswell, CPA ("Caswell" or "Respondent") pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.[1]

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 him and the subject

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[1] Rule 102(e)(1)(ii) provides, in pertinent part, that the "Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct."

matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and the Respondent's Offer, the Commission finds[2] that:

A. SUMMARY

1. This matter concerns improper professional conduct within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice by the Respondent in connection with the audit of the financial statements of Adelphia Communications Corporation ("Adelphia") for the year ended December 31, 2000 (the "2000 Financial Statements").

2. Adelphia's 2000 Financial Statements were materially false and misleading and failed to comply with Generally Accepted Accounting Principles ("GAAP"). In its Form 10-K for the year-ended December 31, 2000 (the "2000 Form 10-K"), Adelphia understated its co-borrowing debt by $1.6 billion, and improperly netted related party receivables and payables between Adelphia and the entities owned or controlled by Adelphia's controlling shareholders, the Rigases (as defined below). Adelphia also failed to disclose the nature and extent of thousands of related party transactions between Adelphia and the Rigases.

3. Respondent reasonably should have known that Adelphia's 2000 Financial Statements had not been prepared in conformity with GAAP. Respondent nonetheless failed to object to the issuance by Deloitte & Touche LLP ("Deloitte") of its audit report containing an unqualified opinion on Adelphia's 2000 Financial Statements.

4. Respondent did not adhere to Generally Accepted Auditing Standards ("GAAS") when he participated in the audit of the 2000 Financial Statements ("2000 Audit") and engaged in improper professional conduct as described herein within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice through repeated instances of unreasonable conduct.

B. RESPONDENT AND OTHER RELEVANT ENTITIES

5. <u>William E. Caswell</u>, 48, of Pittsburgh, Pennsylvania, is licensed as a certified public accountant in Pennsylvania and joined Deloitte's engagement team at Adelphia in 1994 as a Senior Manager. Caswell was promoted the next year to Director—the most senior, non-partner position on Deloitte's Adelphia engagement—and held that

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[2] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

position through Deloitte's dismissal by Adelphia in June 2002. Caswell did not serve as the audit partner on the Adelphia engagement.

6. Deloitte & Touche LLP is a Delaware limited liability partnership that is headquartered in New York City. Deloitte served as the independent auditor for Adelphia from at least 1986, the year when Adelphia's securities became publicly traded, until May 14, 2002, when Deloitte suspended its work on the audit for the year–ended December 31, 2001, citing, among other concerns, that Adelphia's books and records had been falsified. On April 26, 2005, the Commission issued its Order Instituting Public Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions against Deloitte, and the staff filed a settled action, entitled *SEC v. Deloitte & Touche LLP*, 05 Civ. 4119 (S.D.N.Y.). In these actions, the Commission alleged that Deloitte failed to conduct its audit of Adelphia in accordance with GAAS. Without admitting or denying the Commission's allegations, Deloitte agreed to pay a total of $50 million and undertake certain remedial actions designed to strengthen its fraud detection program when auditing public companies.

7. The "Audit Partner" had been a partner of Deloitte since June 1996. He was assigned to the Adelphia engagement in the summer of 1999 and served as the audit partner responsible for Deloitte's planning and performance of its audit of the 2000 Financial Statements. In late March 2001, the Audit Partner approved the 2000 Audit and signed Deloitte's audit report containing an unqualified opinion. Thereafter, in September 2001, the Audit Partner resigned from Deloitte and, since that time, has served as the Chief Financial Officer and Vice President of Finance of a public company. The Audit Partner is a certified public accountant, licensed in New York.

8. Adelphia Communications Corporation, a Delaware corporation that was headquartered in Coudersport, Pennsylvania, is the sixth largest cable television operator in the United States. Prior to June 3, 2002, Adelphia's Class A shares were listed on the NASDAQ's National Market, while the Company's Class B shares were never publicly traded. Citing public interest concerns and Adelphia's failure to comply with NASDAQ Rule 431(c)(14), which requires an issuer, among other things, to timely file its Form 10-K, a NASDAQ Listing Qualifications Panel de-listed Adelphia stock, effective June 3, 2002. Adelphia shares are now quoted by Pink Sheets, LLC. Since June 25, 2002, Adelphia and its subsidiaries have operated under the protection of Chapter 11 of the U.S. Bankruptcy Code. In April 2005, the Commission and the United States Attorney's Office for the Southern District of New York ("USAO") reached an agreement to settle the civil enforcement action and resolve criminal charges against Adelphia and Adelphia's founder, John Rigas ("J. Rigas"), and his three sons, Timothy J. Rigas ("T. Rigas"), Michael J. Rigas ("M. Rigas") and James P. Rigas ("J.P. Rigas") (the "Rigas Defendants"). The settlement agreements with the Rigas Defendants, each dated April 24, 2005, were approved by the District Court for the Southern District of New York on May 31, 2005, and the settlement agreement with Adelphia, dated April 25, 2005, was approved by the Bankruptcy Court on May 20, 2005. Pursuant to the settlement agreements, Adelphia will obtain title to certain cable properties forfeited by the Rigas family members, and will deposit $715 million into a victims' fund to be established in the District Court in

accordance with the Non-Prosecution Agreement. Adelphia will make such payment at or about the time of its emergence from Chapter 11.

9. The Rigases include J. Rigas, his sons, T. Rigas, M. Rigas and J.P. Rigas, his daughter, Ellen Rigas Venetis ("E. Rigas") and his spouse, Doris Nielsen Rigas ("D. Rigas"). At all relevant times, J. Rigas and members of his immediate family held five of Adelphia's nine Board of Directors positions, and exercised voting control of Adelphia stock. Specifically, J. Rigas was Adelphia's Chief Executive Officer and Chairman of its Board of Directors. T. Rigas, M. Rigas, and J.P. Rigas each were directors of Adelphia and held the positions, respectively, of Chief Financial and Accounting Officer, Executive Vice President for Operations, and Executive Vice President for Strategic Planning. J. Rigas and T. Rigas were found guilty, in *US v. John J. Rigas, et al.*, 02 Crim. 1236 (S.D.N.Y.)(LBS), of a total of eighteen counts of securities fraud, bank fraud and conspiracy to commit securities fraud, bank fraud, and making or causing to be made false statements in Commission filings. Pursuant to the settlement agreements resolving the Adelphia and Rigas civil enforcement action and the criminal charges, the Rigas Defendants will forfeit in excess of $1.5 billion in assets that they derived from the fraud. The Rigas Defendants have also agreed to entry of permanent injunctions enjoining them from the antifraud, periodic reporting, and record keeping and internal control provisions of the securities laws. The Rigas Defendants further agreed to entry of an order barring them from acting as officers or directors of any public company.

10. Rigas Entities consist of approximately 63 various partnerships, corporations, or limited liability companies exclusively owned or controlled by members of the Rigas family. While approximately fourteen of the Rigas Entities were engaged in the ownership and operation of cable television systems and other related ventures (the "Rigas Cable Entities"), the balance, or approximately forty-nine of the Rigas Entities, were involved in businesses completely unrelated to cable television (the "Rigas Non-Cable Entities"). Adelphia managed and maintained virtually every aspect of the Rigas Cable Entities, including maintaining their books and records on a general ledger system (the "Millennium general ledger") shared with Adelphia and its subsidiaries. Adelphia and the Rigas Entities participated jointly in a cash management system ("CMS") operated by Adelphia. This resulted in the commingling of funds among the Adelphia CMS participants, including Adelphia subsidiaries and the Rigas Entities. As detailed below, the sharing by Adelphia and the Rigas Entities of the same management, general ledger system, and cash management system greatly facilitated the fraud at Adelphia.

C. FACTS

Background

11. Adelphia had a long-standing, complex, and intertwined relationship with the Rigases and the entities owned or controlled by the Rigases. Specifically, since at least 1994, pursuant to written agreements, Adelphia managed virtually every aspect of the Rigas Cable Entities, including, but not limited to, conducting their cable operations and

maintaining their books and records on the Millennium general ledger accounting system overseen by Adelphia personnel.

12. As part of Deloitte's annual audit planning process, Caswell and others on the engagement team assessed the level of "audit risk" presented by Adelphia. According to Deloitte's Accounting and Audit Procedures Manual (the "AAPMS"), a client's level of audit risk represents a measure of the possibility that the financial statements as a whole may be subject to material misstatements due to errors or fraud during the period being audited. From at least 1998, Caswell and Deloitte concluded that Adelphia presented "much greater than normal" audit risk, which was the highest level of risk that Deloitte could assign to any client under guidelines set forth in the AAPMS. The specific risks were communicated to Deloitte's National Office.

13. Since at least 1996, Adelphia negotiated and established various commercial loans, credit facilities, and other credit arrangements for its benefit and the benefit of the Rigas Entities. Among these credit facilities were four facilities, dated respectively, March 29, 1996, May 6, 1999, April 14, 2000, and September 28, 2001, in which certain subsidiaries of Adelphia became co-borrowers with certain Rigas Cable Entities (hereafter, the "Rigas Co-Borrowers"). As of December 31, 2000, the total borrowing capacity under the three Co-Borrowing Credit Facilities then in existence was $3.751 billion.

14. Under the terms of the Co-Borrowing Credit Facilities, each co-borrower had the ability to borrow up to the entire amount of the available credit under the applicable Facility. A key feature of the Co-Borrowing Credit Facilities was that each co-borrower was jointly and severally liable for the outstanding balance under that Facility.

15. As of December 31, 2000, the Co-Borrowing Credit Facilities were completely drawn-down, making each co-borrower, including Adelphia, jointly and severally liable for the full $3.7 billion outstanding. However, approximately $1.6 billion of co-borrowing debt was improperly excluded from Adelphia's balance sheet for the year-ended 2000 as an Adelphia liability. Moreover, Adelphia's 2000 Form 10-K included a footnote disclosure that was misleading in that it suggested that all of the debt for which Adelphia was liable, including the $1.6 billion owed by the Rigas Co-Borrowers, was properly reflected on Adelphia's balance sheet when it was not. This amount represented over 28% of Adelphia's reported bank debt and nearly 10% of Adelphia's reported total liabilities.

Caswell Failed to Ensure that Adelphia's Disclosure of Its Liabilities Was Sufficient

16. Caswell reviewed copies of provisions of the loan agreements underlying the 1996 Co-Borrowing Credit Facility, the 1999 Co-Borrowing Credit Facility, and the 2000 Co-Borrowing Credit Facility, and knew that Adelphia's liability under each Facility was described as "joint and several" with the Rigas Co-Borrowers. Deloitte's engagement team failed to take steps to understand the impact of joint and several liability. In addition, Caswell and others on the engagement team knew that there was $1.6 billion of co-

borrowing debt, which was not presented or adequately disclosed in the 2000 Financial Statements, and failed to ensure adequate disclosure of Adelphia's liability.

17. Caswell accepted Adelphia's rationale for omitting Adelphia's true debt obligations without ensuring that Adelphia's rationale conformed to GAAP. Adelphia justified excluding the Co-borrowing debt on the grounds that it was a mere "guarantor" of the Rigas Co-Borrowers, and therefore did not have to reflect such debt as a liability on its balance sheet. Even under Adelphia's characterization of the debt as a "guarantee," Caswell knew or should have known that Adelphia did not perform the assessments required under Statement of Financial Accounting Standards ("FAS") No. 5 to determine if its potential contingency for the amount of co-borrowing debt that it excluded from its balance sheet was "probable" or even "reasonably possible" under FAS 5 and would have had to be disclosed.[3] Other than a cursory calculation, not documented in the work papers, and discussions with others at Deloitte, Caswell did nothing to determine whether the Rigas Entities had the financial wherewithal to repay the debt.

18. During the 2000 Audit, Caswell and others on the engagement team repeatedly proposed to Adelphia that it disclose the full amount of the co-borrowing debt. Caswell and others on the engagement team inserted more explicit disclosure, including the amount of Rigas Co-Borrowing debt, in at least six drafts of Adelphia's 2000 Form 10-K. But when Adelphia's management resisted, and the Audit Partner accepted Adelphia's explanation, Caswell abandoned his attempts to make the disclosure more accurate.

Caswell Knew or Should Have Known That the $1.6 Billion Was Adelphia's Liability and Should Have Been Reflected in its Financial Statements

19. Adelphia's exclusion of co-borrowing debt from its balance sheet was also improper because virtually all of the co-borrowing debt excluded was in fact Adelphia's liability that had been improperly shifted from Adelphia's books to the books of the Rigas Co-Borrowers. Adelphia excluded co-borrowing debt from its balance sheet in a number of ways. It (i) "reclassified" some debt to the books of the Rigas Co-Borrowers through the use of sham journal entries; (ii) improperly transferred debt in connection with direct

[3] FAS 5, Accounting for Contingencies, requires a company to include a contingent amount in its financial statements when that contingency is "probable." Paragraphs 10 and 11 of FAS 5 provide guidance on when a contingency needs only to be disclosed by a company in footnotes to its financial statements. Paragraph 10 provides, in pertinent part, that: "[d]isclosure of the contingency shall be made when there is at least a *reasonable possibility* that a loss or an additional loss may have been incurred." [Emphasis added]. Under these principles, even if a loss contingency does not meet the threshold for inclusion in a company's financial statements, disclosure of the contingency is still required where there is a reasonable possibility of having to incur a liability under the contingency. Paragraph 12 of FAS 5 goes further and states that when a contingency is a guarantee of indebtedness of others—which Adelphia claimed the Rigas Co-Borrowing debt was—a company should disclose the nature and amount of the guarantee even if the guarantee is assessed as "remote."

placements of Adelphia securities to the Rigases (approximately $513 million in 2000); and (iii) recorded debt on the books of the Rigas Co-Borrowers without appropriate extinguishment of Adelphia's liability, even though Adelphia remained ultimately liable for such debt.

20. Adelphia's practice of drawing down co-borrowing funds into CMS bank accounts used by Adelphia and the Rigas Co-Borrowers, but recording debt on the books of the Rigas Co-Borrowers, was improper, and did not conform to GAAP, which requires that certain requirements be met before a liability can be extinguished.[4] Caswell knew or should have known that Adelphia's 2000 Financial Statements did not accurately reflect the obligations of each co-borrower in conformity with GAAP.

Caswell Improperly Failed to Object to Adelphia's Netting of Related Party Payables and Receivables

21. Adelphia was required by Regulation S-X, promulgated under Sections 13 and 15(d) of the Exchange Act, to report related party receivables and payables as gross numbers on its balance sheet. Generally, and except for limited circumstances and in the absence of an explicit and legal right of offset, Regulation S-X (Rule 5-02 of Regulation S-X) requires (1) related party receivables and related party payables be separately stated line items; and (2) indebtedness not current be separately disclosed. GAAP (Accounting Research Bulletin 43, Ch. 1, Para. 5) requires that notes or accounts receivable due from officers, employees, or affiliated companies must be shown separately. Accordingly, Adelphia was required both by GAAP and by Commission regulations to report related party transactions with the Rigas Entities in a gross presentation.

22. Since at least 1986, Adelphia improperly netted, or offset, related party payables and related party receivables as of year-end, and presented only that net balance on its balance sheet in a line item called "Related-party Receivables—Net." This practice conformed to neither Regulation S-X nor GAAP. It also obscured the extent and magnitude of self-dealing and assisted Adelphia in creating the appearance of de-leveraging. Paragraph 7 of Accounting Principles Board Opinion No. 10 ("APB 10") states that "it is a general principle of accounting that the offsetting of assets and liabilities in the balance sheet is improper except where a right of setoff exists." Financial Accounting Standards Board Interpretation No. 39 ("FIN 39"), paragraph 5, in turn, defines a right of setoff as "a debtor's legal right, by contract or otherwise, to discharge all or a portion of the debt owed to another party by applying against the debt an amount that the other party

[4] FAS 125, Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities, required that once Adelphia drew down on the Co-Borrowing Credit Facilities, it had to either pay off the debt by the transfer of assets to the creditor or be legally released as primary obligor by the creditor, neither of which occurred. Attempting to "extinguish" debt by "assigning" it to a related party is not sufficient—the creditor must be paid or must legally release the borrower. (Although FAS 125 was superseded by FAS 140, effective March 31, 2001, the provisions discussed herein were carried over into FAS 140.)

owes to the debtor." FIN 39 sets forth four conditions that must be met for the right of set off to be proper:

> (a) Each of *two* parties owes the other determinable amounts;
> (b) The reporting party has the right to set off the amount owed with the amount owed by the other party;
> (c) The reporting party intends to set off; and
> (d) The right to set off is enforceable at law.

(Emphasis in original.)

23. Adelphia's practice of set off (netting) was a fraudulent device used to conceal its liabilities. No agreements, written or otherwise, existed that established any legal right by Adelphia to setoff amounts owed to it by the Rigas Entities or individual Rigases. Adelphia netted non-mutual balances without any attempt to match affiliate receivables with affiliate payables to the appropriate entities.

24. The acceptance by Caswell and others on the engagement team of Adelphia's practice of netting permitted Adelphia to reflect a mere $3 million net receivable in its 2000 Form 10-K. If Caswell and others on the engagement team had taken the appropriate action to require correction by Adelphia of its disclosure, however, Adelphia would have had to report that, as of the year-ended December 31, 2000, Adelphia had gross related party receivables of $1.351 billion and gross related party payables of $1.348 billion, much more relevant numbers.

Caswell Failed to Ensure Adequate Disclosure of Adelphia's CMS

25. Apart from whether the related party transactions should have been netted against each other, Caswell and the Audit Partner should have ensured that the specifics of individual material related party transactions were disclosed. Caswell knew that Adelphia and the Rigases used the CMS as a central "treasury function" for Adelphia, its subsidiaries, and the affiliated Rigas Entities. Caswell knew that thousands of related party transactions went through the CMS. The Millennium general ledger (which the auditors were aware of during their audit, but did not adequately review) was structured into cost centers that flowed into the CMS. The general ledger recorded the thousands of intercompany transactions among and between Adelphia subsidiaries and Rigas Entities. A review of bank statements would have shown that cash receipts for both public and private entities were deposited into Adelphia's First Union CMS account and that disbursements on behalf of public and private entities were paid from that same account.

26. Caswell did not ensure adequate disclosure of Adelphia's related party transactions under FAS 57, Related Party Disclosures. FAS 57 states, among other things, that "[f]inancial statements shall include disclosures of material related party transactions" and specifies that such "disclosures shall include: (a) the nature of the relationship(s) involved; (b) a description of the transactions, including transactions to which no amounts

or nominal amounts were ascribed . . . and such other information deemed necessary to an understanding of the effects of the transactions on the financial statements; (c) the dollar amounts of transactions . . . and the effects of any change in the method of establishing the terms from that used in the preceding period; and (d) amounts due from or to related parties as of the date of each balance sheet presented and, if not otherwise apparent, the terms and manner of settlement." While Adelphia disclosed that it "provide[d] management and consulting services to" Rigas Cable Entities, this disclosure was inadequate.

D. CASWELL ENGAGED IN IMPROPER PROFESSIONAL CONDUCT WITHIN THE MEANING OF RULE 102(e)(1)(ii) OF THE COMMISSION'S RULES OF PRACTICE

27. Rule 102(e)(1)(ii) of the Commission's Rules of Practice provides, in part, that the Commission may censure or deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to any person who is found by the Commission to have engaged in improper professional conduct. Rule 102(e)(1)(iv) defines improper professional conduct with respect to persons licensed to practice as accountants.

28. As applicable here, improper professional conduct means "negligent conduct" consisting of "[r]epeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission." Rule 102(e)(1)(iv)(B)(2). As stated below, Caswell acted unreasonably in failing to require Adelphia to comply with GAAP and in failing to comply with GAAS during the audit of Adelphia's 2000 Financial Statements.

29. GAAS requires that auditors exercise due professional care in performing an audit and in preparing the audit report. AU § 230.01. Due professional care requires that the auditor exercise professional skepticism in performing audit procedures and gathering and analyzing audit evidence. AU § 230.07-.08. "In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest." AU § 230.09. Moreover, GAAS requires that an auditor must obtain "sufficient competent evidential matter" to provide "a reasonable basis for forming an opinion." AU § 326.22.

30. GAAS further requires that "representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of the auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit." AU § 333.02. Heightened skepticism is especially warranted when a client has high audit risk, such as Adelphia. In fact, GAAS requires that both due professional care and professional skepticism increase with the risk assessment. See AU § 312.17.[5]

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5 For instance, AU § 312.17, "Audit Risk and Materiality in Conducting an Audit," makes clear that, "[w]henever the auditor has concluded that there is significant risk of material misstatement of the financial statements, the auditor should consider this conclusion in determining the nature, timing or extent of procedures . . . . Ordinarily,

31. Caswell departed from these GAAS standards in each of the areas set forth above in the 2000 Audit of Adelphia as he knew or should have known that Adelphia: (a) failed to record all co-borrowing debt on its balance sheet or otherwise adequately disclose that a portion had been excluded; and (b) failed to adequately disclose the nature and extent of related party transactions by improperly netting related party payables and receivables.

32. GAAS dictates that after an auditor identifies related party transactions, he "should apply the procedures he considers necessary to obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements." AU § 334.09. "The procedures should be directed toward obtaining and evaluating sufficient competent evidential matter and should extend beyond inquiry of management." Id. The audit risk factors (which included both debt and related party transactions) that the engagement team identified, mandated that the auditors exercise heightened professional skepticism. Instead, the audit testing that Caswell supervised with respect to Adelphia's related party transactions was insufficient and did not fulfill the requirements of GAAS.

E. CONCLUSION AND UNDERTAKING

Based on the foregoing, the Commission finds that Caswell engaged in improper professional conduct within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

Caswell undertakes to continue to provide cooperation to the Commission and its staff in its investigation and litigation related to the Adelphia matters described herein. Specifically, Caswell undertakes to: upon reasonable request by the Commission or its staff, and on reasonable notice, and without service of a subpoena, he will provide

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higher risk requires . . . more extensive supervision by the auditor with final responsibility for the engagement during both the planning and the conduct of the engagement. Higher risk may cause the auditor to expand the extent of procedures applied, apply procedures closer to or as of year end, particularly in critical audit areas, or modify the nature of procedures to obtain more persuasive evidence." GAAS also requires that professional skepticism increase with the risk assessment. As set forth in AU § 316, Fraud in a Financial Statement Audit, at paragraph 27 (AU § 316.27), "examples demonstrating the application of professional skepticism in response to the auditor's assessment of the risk of material misstatement due to fraud include (a) increased sensitivity in the selection of the nature and extent of documentation to be examined in support of material transactions, and (b) increased recognition of the need to corroborate management explanations or representations concerning material matters — such as further analytical procedures, examination of documentation, or discussion with others within or outside the entity." (AU § 316.27 has been superceded by AU § 316.46 which became effective for audits of financial statements for periods beginning on or after December 15, 2002, and requires more extensive fraud audit procedures than did AU § 316.27.)

documents or other information, and accept service and take all reasonable actions to make himself available to testify truthfully at any interview, investigative testimony, deposition, at any judicial proceeding related to this Order, and at any administrative proceeding arising as a result of the Commission's investigation relating to Adelphia and the matters described herein. This provision shall not be construed to waive Caswell's applicable attorney-client, work product or other privileges recognized under federal law, if asserted timely and in good faith. In determining whether to accept Caswell's Offer, the Commission has considered Caswell's undertaking.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Caswell's Offer.

Accordingly, it is hereby Ordered, effective immediately, that:

A. Respondent is denied the privilege of appearing or practicing before the Commission as an accountant.

B. After two years from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews, and quality control standards.

C. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Jonathan G. Katz
Secretary