

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70561 / September 30, 2013

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3499 / September 30, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15532

In the Matter of

MICHAEL McGRATH, CPA

Respondent.

**ORDER INSTITUTING 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 and in the public interest that public administrative proceedings be, and hereby are, instituted against Michael McGrath (“McGrath” or “Respondent”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.¹

II.

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

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 matter of these proceedings, and the findings contained in Section III.3. below, which are admitted, Respondent consents to the entry of this Order Instituting 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 Respondent’s Offer, the Commission finds that:

1. McGrath, age 59, was a certified public accountant licensed to practice in the State of Illinois, but that license became inactive in 1986. He served as Chief Financial Officer of Mercantile Bancorp (“Mercantile”) from 1986 until his termination in 2012.

2. Mercantile was, at all relevant times, a Delaware corporation and bank holding company with its principal place of business in Quincy, Illinois. Through its subsidiary banks, Mercantile conducted a consumer and commercial banking business and its securities were registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the NYSE Amex under the symbol MBR. In December 2011, Mercantile filed a Form 15 Certification and Notice of Termination of Registration. After the relevant time period, the FDIC closed two of Mercantile’s three subsidiary banks. On June 27, 2013, Mercantile filed a bankruptcy petition.

3. On September 24, 2013, the Commission filed a complaint against McGrath in SEC v. Mercantile Bancorp, et al. (Civil Action No. 3:13-cv-3341). On September 26, 2013, the court entered an order permanently enjoining McGrath, by consent, from future violations of Section 17(a)(3) of the Securities Act and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1 and 13b2-2 thereunder, and aiding and abetting future violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder. McGrath was also ordered to pay a \$100,000 civil penalty and barred from serving as an officer or director of a public company.

4. The Commission’s complaint alleged, among other things, that generally accepted accounting principles (“GAAP”) required Mercantile to disclose a probable, material loss in an amended S-1 filing and to recognize that loss in Mercantile’s Form 10-Q for the third quarter of 2010. Mercantile—through former CEO Ted Averkamp and former CFO McGrath—did neither. Because it did not recognize that loss in its third quarter financial statements, Mercantile was able to (i) falsely state that its main subsidiary bank had met certain capital ratio thresholds required by the FDIC; (ii) understate its net loss for the quarter and the nine months ending September 30th as \$7.5 million and \$11 million (instead of at least \$12.78 million and at least \$16.28 million); and (iii) falsely state that its main subsidiary bank had net income of \$1.8 million for first nine months of 2010 when it actually had a net loss of at least \$3.48 million during that

period. The complaint also alleges that McGrath and Awerkamp misled Mercantile's outside auditor and circumvented the company's internal accounting controls.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent McGrath's Offer.

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

A. McGrath is suspended from appearing or practicing before the Commission as an accountant.

By the Commission.

Elizabeth M. Murphy
Secretary