

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84531 / November 5, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18408

In the Matter of

**MAXWELL TECHNOLOGIES, INC.,
VAN M. ANDREWS, DAVID J.
SCHRAMM, AND JAMES W.
DeWITT, Jr., CPA,**

Respondents.

**ORDER APPROVING
PLAN OF DISTRIBUTION**

On March 27, 2018, the Securities and Exchange Commission (the “Commission”) issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against Maxwell Technologies, Inc. (“Maxwell”), Van M. Andrews (“Andrews”), David J. Schramm (“Schramm”), and James W. DeWitt, Jr., CPA (“DeWitt”) (collectively, the “Respondents”). The Commission found that, from December 2011 through January 2013, Maxwell, a California-based company that develops, manufactures, and markets energy storage and power delivery products, through its former officers Andrews, Schramm, and DeWitt, engaged in an accounting fraud scheme that improperly recognized over \$19 million in revenue from future quarters in violation of U.S. Generally Accepted Accounting Principles.

The Commission ordered Maxwell, Andrews, and DeWitt to pay civil money penalties of \$2.8 million, \$50,000, and \$20,000, respectively; and ordered Schramm to disgorge \$33,878 and pay prejudgment interest of \$6,113 and a civil money penalty of \$40,000. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, the Commission established a Fair Fund so that the civil penalties could be distributed with disgorgement and prejudgment interest. The Respondents have since paid in \$2,937,491 to an interest bearing account at the U.S. Treasury’s Bureau of Fiscal Services, with the remainder to be paid by Andrews by March 19, 2019.

¹ Securities Act Rel. No. 10472 (Mar. 27, 2018).

By Order dated July 27, 2018, the Commission appointed Epiq Systems, Inc. as the Fund Administrator for the Fair Fund.²

On September 27, 2018, the Commission published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”),³ pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Rules”).⁴ The Notice advised all interested persons that they may obtain a copy of the proposed plan of distribution (“Distribution Plan”) from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Catherine E. Pappas, Senior Advisor, United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103.

The Notice also advised that all persons desiring to comment on the Distribution Plan could submit their comments, in writing, no later than thirty (30) days from the date of the Notice: (1) to the Office of the Secretary, United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; (2) by using the Commission’s Internet comment form (<http://www.sec.gov/litigation/admin.shtml>); or, (3) by sending an email to rule-comments@sec.gov. The Commission received no negative comments on the Distribution Plan during the comment period.

The Distribution Plan proposes to distribute the Fair Fund, less taxes, fees, and expenses, to investors who purchased shares of Maxwell common stock at inflated prices during the period from February 26, 2012 through March 19, 2013, inclusive, and who suffered losses in the value of their investment after disclosures by the Respondents and the resignation of Maxwell’s external auditors.

The Division of Enforcement now requests that the Commission approve the Distribution Plan.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Rules,⁵ that the Distribution Plan is approved.

For the Commission, by its Secretary, pursuant to delegated authority.

Brent J. Fields
Secretary

² Order Appointing Fund Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 83727 (Jul. 27, 2018).

³ Exchange Act Rel. No. 84296 (Sept. 27, 2018).

⁴ 17 C.F.R. § 201.1103.

⁵ 17 C.F.R. § 201.1104.