



*United States Attorney  
Southern District of New York*

**FOR IMMEDIATE RELEASE**  
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**CONTACT: U.S. ATTORNEY'S OFFICE**  
**YUSILL SCRIBNER,**  
**REBEKAH CARMICHAEL**  
**PUBLIC INFORMATION OFFICE**  
**(212) 637-2600**

**FBI**  
**NEIL DONOVAN, JAMES MARGOLIN**  
**PUBLIC INFORMATION OFFICE**  
**(212) 384-2715, 2720**

**U.S. CHARGES FORMER CEO OF SOFTWARE COMPANY WITH**  
**ACCOUNTING FRAUD**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York and MARK J. MERSHON, Assistant Director-in-Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), announced that DAVID MCQUILLIN, the former Chief Executive Officer ("CEO") and President of Aspen Technology, Inc. ("Aspen"), surrendered today to face securities fraud charges. MCQUILLIN was charged in connection with a scheme to falsify the revenues that Aspen, a software company the stock of which is traded on the NASDAQ, reported to the investing public. As alleged in the Information filed in Manhattan federal court this morning:

From January 2001 through September 2002, MCQUILLIN was the Co-Chief Operating Officer ("COO") of Aspen, which was in the business of developing and selling computer software to oil refineries and other process industries. During the time that MCQUILLAN was co-COO of Aspen, he was in a competition - or so-called "bake-off" - with his co-COO to become the next CEO of Aspen. In the course of this "bake-off," during which MCQUILLIN's performance was evaluated largely on Aspen's software revenues, MCQUILLIN engaged in a scheme to inflate the software revenues Aspen reported to the investing public. MCQUILLIN became the CEO of Aspen in October of 2002.

MCQUILLIN and his co-conspirators manipulated Aspen's revenues by: (a) entering into side agreements with a customer that made certain revenues Aspen reported to the investing public subject to cancellation and therefore not recognizable; (b) backdating software sales agreements into earlier financial

quarters in order to make it appear that Aspen had met the financial expectations of professional securities analysts when in fact it had not; and c) providing false information to Arthur Anderson, which audited Aspen's financial reports and conducted an investigation of Aspen's revenue recognition procedures.

At the end of December 2000, which was the close of Aspen's second quarter for the fiscal year ending June 30, 2001, MCQUILLIN knew that Aspen was short of its estimates and securities analysts' expectations for software revenues for that quarter. In order to close the gap, MCQUILLIN engaged in a scheme to complete a sale of software to a United States-based computer company (the "Computer Company") in January 2001, but claimed falsely to Aspen's auditors and investors that it had been completed in December 2000. The deal with the Computer Company, ultimately reached in mid-January 2001, was for approximately \$2.75 million in software sales, and was backdated to December 29, 2000 so that revenue from that sale could be included in the financial results for the second fiscal quarter.

On January 24, 2001, MCQUILLIN participated in a conference call that Aspen held with investors and securities analysts. During that call and in a press release issued that same day, Aspen announced its revenue figures for the previous quarter, which included the software license sale to the Computer Company, though MCQUILLIN and others knew that contract had not been completed and signed until the following quarter. Aspen's report for the quarter ending December 31, 2000, filed with the Securities and Exchange Commission ("SEC"), included the revenue from the backdated contract.

At the end of June 2001, the close of Aspen's fourth quarter and fiscal year ending June 30, 2001, MCQUILLIN again knew that Aspen was short of its estimates and analysts' expectations for software revenues that quarter. In order to close the gap, MCQUILLIN engaged in a scheme to deceive Aspen's auditors and investors by signing a software license agreement with a Russian Oil Company ("Oil Company") that was (a) backdated so that the revenue could be recognized in the fiscal year ending June 30, 2001, and (b) subject to side agreements, including one signed by MCQUILLIN himself, that allowed the Oil Company to cancel some or all of the sales contract.

On July 13, 2001, after the close of Aspen's fiscal year ending June 30, 2001, MCQUILLIN signed a software license sales agreement with the Oil Company, which was backdated to June 29, 2001. MCQUILLIN signed a side agreement with the Oil Company granting it "unconditional rights of unilateral withdrawal" if

certain additional conditions were not met. In early August 2001, when those conditions were not met, MCQUILLIN proposed a second side letter to the Oil Company giving it the right to cancel a portion of the sales agreement.

In early August 2001, as part of the scheme, MCQUILLIN drafted a letter to the Oil Company stating: "I need your support on a matter of the most extreme urgency... Aspen will officially report its Fourth Quarter financial results on Tuesday August 7<sup>th</sup>. We need to include the [Oil Company] software license, that you conditionally signed, in our results to meet our targets. That is why I pushed so hard with you and [the Oil Company] in early July. If we are now forced to unbook the [Oil Company] deal from our results it will cause extreme damage to AspenTech, our relationship with [the Oil Company] and me personally. This is a very, very serious issue for us... Bottom line ... I am asking you to do a favor for Aspentech.... In exchange, I want you to do something that will help AspenTech but not cost [the Oil Company] anything."

On August 7, 2001, Aspen signed a second side letter with the Oil Company. On that same date, MCQUILLIN and other senior Aspen officers and employees falsely represented to Arthur Anderson that the Oil Company sales agreement was not subject to any side agreements.

On that same date, August 7, 2001, Aspen issued a press release and conducted a conference call with investors and securities analysts. During that call and in annual reports subsequently filed with the SEC, Aspen reported revenues for the quarter and year ending June 30, 2001, including approximately \$4.3 million from the Oil Company sale, though MCQUILLIN knew that agreement had been backdated and was subject to side agreements. Aspen later received only approximately \$977,750 in payments from the Oil Company in connection with the agreement, and subsequently wrote off the remainder of that revenue in fiscal years 2003 and 2004.

In January 2002, at the direction of the Audit Committee of Aspen's Board of Directors, Arthur Anderson conducted an investigation of backdating of contracts and revenue recognition at Aspen, and the Oil Company and Computer Company transactions were investigated as part of that review. MCQUILLIN provided false information to auditors from Arthur Anderson during that investigation.

MCQUILLIN is charged with one count of conspiracy to commit securities fraud and one count of securities fraud.

MCQUILLIN, 48, who lives in Sudbury, Massachusetts, faces a maximum sentence of 5 years in prison and a fine of \$250,000 or twice the gross gain or gross loss from the offense on the conspiracy count and a maximum of 20 years in prison and a fine of \$5 million or twice the gross gain or gross loss from the offense on the securities fraud count.

Mr. GARCIA commended the FBI and the Securities and Exchange Commission for their assistance in the investigation.

Assistant United States Attorney JONATHAN R. STREETER is in charge of the prosecution.

The charges contained in the Information are merely accusations and the defendant is presumed innocent unless and until proven guilty.

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