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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

No. 3:22-cv-5150

Plaintiff,

v.

COMPLAINT

S-RAY INCORPORATED and
STEPHEN ALEXANDER BAIRD,

Defendants.

Plaintiff Securities and Exchange Commission (the “Commission”) alleges:

SUMMARY OF THE ACTION

1. Defendant S-Ray Incorporated (“S-Ray”), a privately held start-up company founded to develop ultrasound technology for use in dentistry, and its Chairman and Chief Executive Officer, Defendant Stephen Alexander Baird (“Baird”), (together, “Defendants”) have raised at least \$2 million from dozens of investors since at least 2018 by making false claims about customers, orders for its products and revenue potential. The Defendants raised the money largely from existing S-Ray shareholders, many of whom were dentists and/or

1 employed in the dental industry and had been attracted to S-Ray because of its potential to
2 revolutionize dentistry.

3 2. The Defendants touted fictitious orders for S-Ray's products from customers,
4 claiming that the orders would result in millions of dollars in revenue. In fact, S-Ray had no
5 such orders or customers and therefore, the Defendants did not have a reasonable basis for
6 making the claims about revenue. The Defendants also told investors that additional
7 investments in S-Ray would be used for revenue-generating purposes and that Defendant
8 Baird would forgo his salary and bonus, giving the false impression that he was not benefiting
9 from S-Ray's securities offering. However, from May 2019 through May 2021, Defendant
10 Baird used almost half of the proceeds from S-Ray's securities offering to pay himself and his
11 wife back for loans that Defendant Baird purportedly had made to S-Ray.

12 3. By their actions, Defendants violated the antifraud provisions of the federal
13 securities laws. Specifically, Defendants violated 17(a) of the Securities Act of 1933
14 ("Securities Act") [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of
15 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
16 § 240.10b-5].

17 4. The Commission requests, among other things, that the Court: (i) permanently
18 enjoin Defendants from further violating the federal securities laws as alleged in this
19 complaint; (ii) permanently enjoin Defendant Baird from participating in the issuance,
20 purchase, offer, or sale of any security; (iii) prohibit Defendant Baird from acting as an officer
21 or director of a publicly traded company; (iv) order Defendants to pay disgorgement with
22 prejudice interest; and (v) order Defendants to pay civil monetary penalties.

23 **JURISDICTION AND VENUE**

24 5. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a)
25 of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d), 21(e), and
26 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].
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1 6. This Court has jurisdiction over this action pursuant to Sections 20(b),
2 20(d)(1), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a)] and
3 Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

4 7. Defendants, directly or indirectly, made use of the means and instruments of
5 interstate commerce or of the mails in connection with the acts, transactions, practices, and
6 courses of business alleged in this complaint.

7 8. Venue is proper in this District pursuant to Section 22(a) of the Securities Act
8 [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)]. Certain of
9 the acts, practices, courses of business, and transactions constituting the violations alleged
10 herein occurred within the Western District of Washington. Pursuant to LCR 3(e)(1),
11 assignment to the Tacoma Division is appropriate because a substantial part of the relevant
12 conduct occurred in Clark County, where S-Ray's principal place of business was located.

DEFENDANTS

14 9. **S-Ray Incorporated** ("S-Ray") is a Delaware corporation formed by
15 Defendant Stephen Alexander Baird ("Baird") that previously had an office in Vancouver,
16 Washington. Baird formed S-Ray in 2015 and, five years earlier in 2010, its corporate
17 predecessor, S-Ray Incorporated as a Nevada corporation. Baird founded S-Ray with the goal
18 of developing ultrasound devices for use in dentistry. Since 2012, S-Ray raised at least
19 \$6 million from approximately 180 individual investors, many of whom were dentists and/or
20 employed in the dental industry.

21 10. **Stephen Alexander Baird**, 66 years old, resides in Terrebonne, Oregon.
22 Since 2010, he has been the sole board member of S-Ray and from 2010 to December 2017
23 and since September 2018, Baird has been the Chief Executive Officer of S-Ray.

FACTUAL ALLEGATIONS

A. Company Background

26 11. Defendant Baird founded S-Ray to develop technology for using ultrasound in
27 dentistry. Prior to April 2019, S-Ray had several employees, including a dentist and a chief
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1 technology officer with ultrasound experience, and it developed one or more prototypes
2 related to the use of ultrasound in dentistry. To fund its operations, S-Ray raised money from
3 individual investors who were largely introduced to the company by friends and colleagues.
4 Many of S-Ray's investors are dentists or orthodontists who were attracted to the company
5 because of its potential to revolutionize the dental profession. Through email updates, S-Ray
6 and Baird kept investors apprised of the company's supposed progress in product
7 development and business prospects.

8 12. In April 2019, S-Ray's last remaining employee, aside from Baird, left the
9 company, after not having been paid for several months. Since then, Baird has been the only
10 person left at S-Ray, and the company has made no further product development, has not sold
11 any products, and has had no revenue. Despite this, S-Ray and Baird continued to raise
12 money from investors by falsely claiming that the company had booked \$1 million worth of
13 orders from customers and that it would soon be earning tens of millions of dollars in annual
14 revenue.

15 **B. Fraudulent Securities Offerings by S-Ray and Baird**

16 13. Since its founding, S-Ray has funded itself largely by selling to individual
17 investors securities, including S-Ray common and preferred stock, and "targeted investment
18 units," which bundled S-Ray common stock with the right to a portion of S-Ray's future
19 revenue.

20 14. In offering these securities continuously through at least 2020, S-Ray and
21 Baird provided prospective investors with a private placement memorandum ("PPM") that
22 purported to describe S-Ray's business, its securities offering and how the offering proceeds
23 were to be used by the company. Baird and S-Ray additionally emailed updates to investors
24 to apprise them of the company's supposed progress in product development and business
25 prospects, and many investors made additional investments in S-Ray after receiving the
26 updates. In addition, Baird discussed, orally and by email, various aspects of S-Ray's
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1 business and of its securities offerings with individuals who were interested in investing in
2 S-Ray.

3 15. At the same time that S-Ray was offering and selling securities, S-Ray and
4 Baird made false and misleading statements to investors about S-Ray's products, demand for
5 those products by purported customers, revenue anticipated from the sale of S-Ray's products
6 and the use of proceeds raised in the offerings, and engaged in other fraudulent conduct.

7 **1. Defendants Made False and Misleading Statements Regarding Customers**
8 **and Revenue Potential**

9 16. On multiple occasions, from no later than March 2018 and through at least
10 May 2020, S-Ray and Baird touted fictitious orders for S-Ray's products from customers,
11 claiming that the orders would result in millions of dollars in revenue. In fact, S-Ray had no
12 such orders or customers, and therefore any revenue projections were also not reasonably
13 based on having orders.

14 17. For example, in a letter from "the Chairman" emailed to S-Ray shareholders in
15 March 2018, Baird proclaimed that "our new website presents dental innovators with an
16 opportunity to order a ClearView Scan system" (a cart-based ultrasound scanner) and that
17 "[w]e are pleased to report that in the first five days since our product announcement we have
18 booked over \$1 million of orders." In reality, S-Ray had only received preliminary inquiries
19 about the system without any agreement or commitment to actually purchase the system.

20 18. Baird additionally promised that S-Ray would be soon generating revenue. In
21 a September 2018 email update from Baird to S-Ray shareholders, Baird promised that "[w]e
22 will start selling and delivering systems in the next 90 days" referring specifically to "our
23 ultrasound systems." Baird further claimed: "[w]e shareholders will benefit because the
24 company will move out of the 'pre-revenue' phase and use revenue to generate profits –
25 thereby increasing the value of S-Ray." In reality, S-Ray did not have agreements in place to
26 purchase the system. Moreover, though Baird touted the supposed upcoming sales and
27 deliveries of the product he referred to as "our ultrasound system," S-Ray never manufactured
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1 more than one of these systems, never sold the system, and did not generate revenue from the
2 system.

3 19. Baird again repeated his promise that S-Ray would soon receive revenue, this
4 time in the form of royalties. In an email update that Baird wrote and had distributed to
5 S-Ray shareholders in January 2020, Baird announced a licensing agreement with a third
6 party, and that “S-Ray will receive a portion of the sales of this third party as a royalty. The
7 first royalty will be received by S-Ray in 2020.” Although Baird definitively stated that S-
8 Ray “will” receive a royalty payment, he omitted the key fact, which he knew because he
9 signed the licensing agreement on behalf of S-Ray, that S-Ray would not receive any royalties
10 if the third-party licensee did not first find funding for its own project. The licensee did not
11 raise the funds and the royalties never materialized.

12 20. Baird, through S-Ray, continued making these and other false promises of
13 revenue, including when the COVID-19 pandemic forced dental offices to close, affecting the
14 offices of some of S-Ray’s investors. Thus, Baird emailed shareholders an update in May
15 2020 announcing that S-Ray had secured its first customer, which he projected would result in
16 \$85 million in revenue during the first 12 months of the arrangement. Contrary to Baird’s
17 representations, this first “customer” was merely a *potential* customer, with whom Baird had
18 had preliminary discussions but which had not done any actual business with S-Ray.

19 21. Baird’s May 2020 email update also reminded shareholders that S-Ray was
20 offering and selling securities called “targeted investment units,” which consisted of S-Ray
21 stock and the right to a portion of S-Ray’s future revenue. Baird acknowledged the hardship
22 that the pandemic was having on shareholders who were dentists and orthodontists, offering a
23 payment plan for additional investments, writing “the majority of you have had your dental
24 practice cash flows challenged by the pandemic closures. With respect to a temporary cash
25 constraint, we can help by having the investment paid as your revenues return. We are all in
26 this together.”

1 22. To further entice investments while alleviating the concern of S-Ray's
2 shareholders who might hesitate to invest more during a time of personal financial
3 uncertainty, Baird made additional false and misleading assurances. He claimed that
4 investors who purchased the targeted investment units, priced at \$10,000 per unit, would
5 directly benefit from the purported \$85 million in revenue. "If you buy a Unit for \$10,000,"
6 Baird promised, "you get a check for \$50,221. Two Units earn \$100,442." S-Ray did not
7 earn any revenue and did not make the promised payments to investors.

8 **2. Baird and S-Ray Made Further False and Misleading Statements and**
9 **Engaged in Deceptive Conduct Regarding the Use of Offering Proceeds**

10 23. By late 2018, S-Ray had been raising money from investors for years but had
11 not sold any products. To lead investors to believe that additional investments in S-Ray
12 would be money well spent, Baird and S-Ray began telling them, in email updates and PPMs,
13 that additional money raised from investors would be used for revenue-generating purposes
14 and that he was not taking a salary or bonus.

15 24. Despite Baird's suggestion that, by foregoing a salary and bonus, he was not
16 benefiting directly from the sale of S-Ray securities, Baird failed to state in his updates to
17 shareholders or in the PPMs that he was remunerated by S-Ray. For instance, just during the
18 period from May 2019 through May 2021, Baird wrote more than two dozen checks totaling
19 over \$731,000 from S-Ray's bank account to himself and his wife. These checks included a
20 reference that they were purportedly to repay loans he had made to the company. The amount
21 he paid himself and his wife was equivalent to nearly half of the money that S-Ray raised
22 from investors over the same period.

23 25. Baird misleadingly addressed the use of proceeds from the sale of S-Ray
24 securities in an email update, which was sent to S-Ray shareholders in December 2018. In it,
25 Baird claimed that he was reducing all company expenses not related to product development
26 and specified: "[I] will forgo my salary and any bonuses until the company is either sold or
27 has gone public."
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1 26. In addition, the PPMs provided to potential investors in connection with
2 S-Ray’s securities offerings from April 2019 onward stated that money raised from investors
3 would be used for such revenue-generating purposes as accelerating product development,
4 expanding in-house manufacturing and product manufacturing to support additional
5 customers, as well as general corporate and working capital purposes. Importantly, the PPMs
6 reiterated Baird’s prior statement that he was “waiving his salary and bonus at this time.”
7 Moreover, the PPMs did not disclose that any of the proceeds were to be used to pay off any
8 “loans” to Baird.

9 27. Baird gave the further, false impression that he was not directly benefiting
10 from the sale of S-Ray securities in a February 2020 “Shareholder Update” that he wrote and
11 distributed to shareholders on behalf of S-Ray. In the update, he announced the opening of a
12 \$1.7 million capital raise and acknowledged that shareholders might have had concerns after
13 years of fundraising, claiming that his strategy was “to raise capital when there is a specific
14 need. It may seem like we are always raising capital, but that is not the case. We raise it
15 when we can use it to increase the value of the company.”

16 28. Baird further wrote in the February 2020 update that S-Ray was working with
17 direct-to-consumer orthodontic companies (i.e., providers of orthodontic treatments to
18 consumers without the involvement of an orthodontist) with an S-Ray product he called the
19 “At Home Ultrasound Digital Impression Scanner.” To rationalize the additional funding that
20 S-Ray was raising, Baird claimed that “[t]he capital will be used to build the systems to
21 generate revenue from the Direct to Consumer providers.” Contrary to Baird’s claim, S-Ray
22 never built more than a few prototypes and, at the time he wrote this, Baird had already
23 written 20 checks totaling \$169,000 from S-Ray’s bank account to himself and his wife.
24 Subsequently, as new money came in from investors, Baird wrote additional checks to himself
25 and his wife totaling over \$600,000.

26 29. When Baird and S-Ray made the misleading statements described above, they
27 knew, or were reckless in not knowing, that the statements were false and misleading because
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1 they were either untrue or because they omitted material facts that rendered them false in light
2 of the statements made.

3 30. Similarly, when Baird and S-Ray engaged in the deceptive conduct described
4 above, they did so knowingly or recklessly, and with the intent to defraud investors or
5 potential investors.

6 **3. Baird's Sale of His Personal S-Ray Shares**

7 31. In addition to participating in the sales of S-Ray securities through S-Ray's
8 securities offerings, Baird also offered and sold to individual investors S-Ray common stock,
9 which he personally owned through a limited partnership, from at least August 2017 to at
10 least October 2018.

11 32. Baird misleadingly described his sales of the S-Ray securities he personally
12 owned. Baird announced to existing investors that he was selling a portion of his personal
13 S-Ray stock in an emailed newsletter with the subject line "August 2017 Letter from CEO
14 Steve Baird – Capital for Going to Market." In the newsletter, Baird wrote that his stock sales
15 were in connection with S-Ray's plan to finance production of its products. Baird wrote that
16 his personal stock sales were meant to reduce his ownership of S-Ray to under 50 percent, to
17 allow S-Ray to obtain a \$25 million line of credit that Baird would personally guarantee. This
18 way, instead of S-Ray selling additional stock and diluting the value of the shares held by
19 existing investors, S-Ray could use the line of credit to finance production. To reinforce his
20 claim that his personal stock sales were for the good of the company's investors, Baird noted
21 that this type of personal guarantee was "a very common scenario for a CEO; it comes with
22 the job."

23 33. While Baird was offering and selling his personal S-Ray stock, he and S-Ray
24 were making false and misleading statements to investors and engaging in the fraudulent
25 conduct discussed above, and at least two dozen investors purchased his personal shares.
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FIRST CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

34. The Commission realleges and incorporates by reference paragraphs 1 through 33, as though fully set forth herein.

35. By engaging in the conduct described above, Defendants Baird and S-Ray, in connection with the purchase or sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, with scienter:

(a) employed devices, schemes, or artifices to defraud;

(b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or

(c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons, including purchasers and sellers of securities.

36. By engaging in the foregoing conduct, Defendants violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

**SECOND CLAIM FOR RELIEF
(Violations of Section 17(a) of the Securities Act)**

37. The Commission realleges and incorporates by reference paragraphs 1 through 33, as though fully set forth herein.

38. Defendants Baird and S-Ray, by engaging in the conduct described above, directly or indirectly, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails,

(a) with scienter, employed devices, schemes, or artifices to defraud;

(b) obtained money or property by means of untrue statements of material fact or

1 by omitting to state a material fact necessary in order to make the statements
2 made, in light of the circumstances under which they were made, not
3 misleading; and

4 (c) engaged in transactions, practices, or courses of business which operated or
5 would operate as a fraud or deceit upon purchasers.

6 39. By reason of the foregoing, Defendants violated, and unless restrained and
7 enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

8 **PRAYER FOR RELIEF**

9 WHEREFORE, the Commission respectfully requests that this Court enter a
10 judgment:

11 I.

12 Finding that the Defendants committed the violations alleged herein;

13 II.

14 Permanently enjoining Defendants from directly or indirectly violating Section 10(b)
15 of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5],
16 and Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

17 III.

18 Ordering Defendants to disgorge all ill-gotten gains or unjust enrichment derived from
19 the activities set forth in this complaint, together with prejudgment interest thereon;

20 IV.

21 Ordering Defendants to pay civil penalties pursuant to Section 21(d)(3) of the
22 Exchange Act [15 U.S.C. § 78u(d)(3)] and Section 20(d) of the Securities Act [15 U.S.C.
23 § 77t(d)];

24 V.

25 Barring Defendant Baird, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C.
26 § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], from acting as an
27 officer or director of any issuer that has a class of securities registered pursuant to Section 12
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1 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section
2 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

3 VI.

4 Permanently enjoining Defendant Baird from directly or indirectly, including, but not
5 limited to, through any entity owned or controlled by Defendant Baird, participating in the
6 issuance, purchase, offer, or sale of any security;

7 VII.

8 Retaining jurisdiction of this action in accordance with the principles of equity and the
9 Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders
10 and decrees that may be entered, or to entertain any suitable application or motion for
11 additional relief within the jurisdiction of this Court; and

12 VIII.

13 Granting such other and further relief as this Court may deem just, equitable, and
14 necessary.

15 Dated: March 15, 2022

16 Respectfully submitted,

17 *s/ Robert J. Durham*

18 Robert J. Durham,

19 Conditionally Admitted Pursuant to LCR
83.1(c)(2)

20 Susan F. LaMarca,

21 Conditionally Admitted Pursuant to LCR
83.1(c)(2)

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