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PATRICK E. DUFFY

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UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

VICTOR INDUSTRIES, INC., RONALD
PELLETT, PENNY SPERRY, and
XION, INC.,

Defendants.

Cause No. CV-02-37-M-DWM

**[PROPOSED] AMENDED FINAL
JUDGMENT AGAINST DEFENDANTS
RONALD PELLETT, PENNY SPERRY,
AND XION, INC.**

On February 26, 2002, defendants Victor Industries, Inc., Ronald Pellett (“Pellett”), Penny Sperry (“Sperry”), and Xion, Inc. (“Xion”) consented to judgment (the “Consent Judgment”) enjoining each of them from future conduct that violated the registration provisions of the federal securities laws – 15 U.S.C. §§ 77(e)(a) & (c). The Consent Judgment also directed three of the defendants — Pellett, Sperry, and Xion — to disgorge ill-gotten gains and pay a civil penalty in amounts to be determined later.

This matter has come before the Court on the motion of plaintiff Securities and Exchange Commission for summary judgment against defendants Pellett, Sperry and Xion, pursuant to Rule 56 of the Federal Rules of Civil Procedure. Defendants did not respond to the plaintiff’s motion. The Court has received and considered the moving papers, including the evidence attached thereto, the arguments of the parties and all other matters presented to the Court. Being so informed, the Court finds that there are no genuine issues of material fact and that plaintiff is entitled to judgment as a matter of law. Good cause appearing, the Court directs the Clerk to enter final Judgment (which incorporates the injunction from the Consent Judgment) for plaintiff and against defendants Pellett, Sperry and Xion as follows:

I.

IT IS ORDERED, ADJUDGED, AND DECREED that defendants Pellett, Sperry and Xion and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act of 1933 [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendants Pellett, Sperry and Xion jointly and severally shall disgorge a total of \$132,745.00, plus prejudgment interest in the amount of \$9,580.19.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that defendant Pellett shall pay a civil penalty in the amount of \$50,000.00 pursuant to the provisions of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]; that defendant Sperry shall pay a civil penalty in the amount of \$25,000.00 pursuant to the provisions of Section 20(d) of the Securities Act [15

U.S.C. § 77t(d)]; and that defendant Xion shall pay a civil penalty in the amount of \$25,000.00 pursuant to the provisions of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the amounts in Sections II and III of this order are in addition to the \$5,796.50 defendants are jointly and severally obligated to pay plaintiff as a result of defendants' failure to attend the November 14, 2004 settlement conference.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment. No.

VI.

There being no just reason for delay, the Clerk is ordered to enter this Judgment forthwith and without further notice.

Dated: *June 10, 2005*
15:07 p

[Signature]
UNITED STATES DISTRICT JUDGE

Submitted by:

[Signature]
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