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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 _____)
13 SECURITIES AND EXCHANGE COMMISSION,)
14) Plaintiff,)
15 v.)
16 MICHAEL HUMPHRESS,)
17) Defendant.)
18 _____)

97-2288 SI

Civil Action No.
COMPLAINT FOR
PERMANENT INJUNCTION
AND LEGAL AND OTHER
EQUITABLE RELIEF

ENE

19 Plaintiff Securities and Exchange Commission ("Commission")
20 alleges:

21 SUAMMARY OF THE ACTION

22 1. Defendant Michael Humphress ("Humphress") violated the
23 federal securities laws by substantially assisting Media Vision
24 Technology, Inc. ("Media Vision" or the "Company") in the
25 fraudulent overstatement of its financial results for the fiscal
26 year ended December 31, 1993. Humphress was Senior Vice
27 President, Worldwide Sales at Media Vision, a multimedia
28 computing products company located in Fremont, California.

1 2. Humphress participated in the fraud by authorizing
2 and/or directing large shipments of product that had not been
3 ordered, knowing that such shipments would be recognized as
4 revenue; avoiding recognition of product returns, including by
5 directing the falsification of corporate documents;
6 misrepresenting to auditors collectibility of outstanding
7 accounts; and not informing the auditors about the terms of sales
8 to distributors. Humphress's conduct violated the antifraud and
9 internal accounting controls provisions of the federal securities
10 laws.

11 3. The conduct by Humphress and others enabled Media
12 Vision to report financial results that materially overstated the
13 Company's performance. In August 1994, the Company restated its
14 results for fiscal year 1993, restating revenue from \$241.1
15 million to \$149.7 million and income from a profit of \$19.9
16 million to a loss of \$99.2 million. In the restatement, Media
17 Vision acknowledged that the financial results it had originally
18 reported to the public for fiscal year 1993 had overstated
19 revenue by \$91.4 million (61 percent) and income by 119.2
20 million.

21 JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT

22 4. The Commission brings this action pursuant to Section
23 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15
24 U.S.C. § 78u(d)]. This Court has jurisdiction over this action
25 pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C.
26 §§ 78u(e) and 78aa]. Humphress, directly or indirectly, has made
27 use of the means and instrumentalities of interstate commerce or
28 //

1 of the mails in connection with the acts, practices and courses
2 of business alleged in this Complaint.

3 5. Venue in this District is proper pursuant to Section 27
4 of the Exchange Act [15 U.S.C. § 78aa]. Defendant resides and
5 transacts business in, and a substantial part of the alleged
6 conduct occurred in, the Northern District of California.

7 6. Assignment to the San Francisco Division is appropriate
8 pursuant to Civil Local Rule 3-2(c) because a substantial part of
9 the events and omissions which give rise to the claims occurred
10 in Alameda County, California.

11 THE DEFENDANT

12 7. Humphress is a resident of San Jose, California.
13 Humphress was hired as Media Vision's Vice President of Sales and
14 Marketing in October 1990. In 1993, his title was Senior Vice
15 President, Worldwide Sales. From 1990 until his employment was
16 terminated in May 1994, Humphress was the Media Vision officer in
17 charge of the sales department.

18 FACTUAL BACKGROUND

19 Media Vision Fraudulently Overstated
20 1993 Fourth Quarter and Year End Results.

21 8. Media Vision Technology, Inc., a publicly traded
22 Delaware corporation with its principal place of business in
23 Fremont, California, designed and manufactured multimedia
24 products for personal computers.

25 9. Executives at Media Vision began engaging in financial
26 fraud by the third quarter ended September 30, 1993. The
27 fraudulent conduct included recognizing revenue on product that
28 had not been shipped and not recognizing product returns.

1 10. On October 19, 1993, Media Vision released its
2 financial results for the third quarter ended September 30, 1993.
3 The release reported revenues of approximately \$64.3 million and
4 net income of approximately \$.3 million.

5 11. The fraudulent conduct intensified in the fourth
6 quarter ended December 31, 1993, particularly in the last several
7 weeks of the year. During the fourth quarter, Media Vision
8 executives directed shipment of product that had not been
9 ordered, directed shipment of returns to an off-site warehouse
10 where they were not recorded into the official accounting systems
11 of the Company, recognized revenue on product shipped to freight
12 forwarders for a 30-day hold, created a false list of inventory
13 as an asset of the company, and mischaracterized payments to a
14 supplier as a prepayment (and thus an asset) when Media Vision in
15 fact had a significant payable. Subsequently Media Vision
16 executives misrepresented to auditors the terms of fourth quarter
17 sales and the collectibility of outstanding accounts.

18 12. On February 17, 1994, Media Vision released financial
19 statements for the 1993 fiscal year ended December 31, 1993, and
20 further explained the results in a conference call with
21 securities analysts that same day. The February 17 release
22 reported revenue for the 1993 fiscal year of \$241.1 million and
23 income of \$19.9 million.

24 13. Media Vision's financial statements for the third
25 quarter 1993 and fiscal year 1993 were materially false and
26 misleading. They materially overstated revenue and income.

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1 14. During spring 1994, the media reported that fraud at
2 Media Vision was suspected. On May 5, 1994, the management,
3 including Humphress, were terminated.

4 15. Media Vision's overstated financial statements led the
5 market to overvalue Media Vision's stock. Media Vision stock
6 went from a high of 46 1/2 in January 1994, before the fraud was
7 disclosed (representing a market capitalization of approximately
8 \$630 million), to 4 7/8 on May 5, 1994.

9 16. In July 1994, Media Vision sought Chapter 11
10 protection.

11 17. In August 1994, the Company restated its results for
12 fiscal year 1993, reporting revenue of 149.7 million and
13 declaring a loss of \$99.2 million. The restatement showed that
14 the previously reported financial results for fiscal year 1993
15 had overstated revenue by \$91.4 million (61 percent) and income
16 by 119.2 million. In addition, Media Vision had overstated
17 revenue for the third quarter by at least \$9.4 million (17.1
18 percent).

19 18. In December 1994, the stockholders' equity interests
20 were rendered worthless by the bankruptcy court, when it
21 confirmed of a plan of reorganization.

22 19. In May 1996, the Company changed its name to Aureal
23 Semiconductor, Inc.

24 Humphress's Role In The Fraud.

25 A. Humphress Directed The Shipment Of Unordered Goods.

26 20. In late December 1993, Humphress authorized or directed
27 the shipment of \$5.9 million in unordered hardware and software
28 to customers who had previously placed orders for lesser amounts.

1 21. On December 30-31, 1993, Humphress authorized that \$1.5
2 million of additional hardware be sent to one distributor and
3 \$1.4 million of additional hardware be sent to a retailer, and
4 directed that approximately \$2.1 million of additional hardware
5 be sent to a potential reseller, even though none of the
6 customers had ordered the product. Media Vision recognized these
7 shipments as revenue.

8 22. In the last few days of December, Humphress arranged
9 for the shipment to a distributor of \$955,000 more in software
10 than the distributor had ordered. Media Vision recognized this
11 shipment as revenue.

12 23. Humphress knew that the products had not been ordered
13 and that the shipped products would be recorded as revenue
14 pursuant to Media Vision's revenue recognition policy. None of
15 the unordered product was ultimately accepted by the customers.

16 B. Humphress Participated In A Scheme To Delay Recognition
17 Of Returns To Media Vision.

18 24. In December 1993, Humphress engaged in conduct designed
19 to delay the recognition of approximately \$11 million of products
20 returned by two distributors.

21 25. Humphress arranged for the falsification of corporate
22 documents which authorized the distributors to return the product
23 but which Humphress knew would result in the returns not being
24 entered into Media Vision's accounting system.

25 26. Media Vision sales staff were instructed to have the
26 returns shipped to a warehouse company, rather than to Media
27 Vision's warehouse. As a result, the returns were not entered
28 into the inventory and accounting systems.

1 C. Humphress Made Misrepresentations To Auditors In
2 Connection With The 1993 Audit.

3 27. Humphress concealed Media Vision's accounting
4 irregularities from the Company's outside auditors during the
5 audit of Media Vision's 1993 financial statements.

6 28. In a meeting in early February 1994, Humphress did not
7 inform Media Vision's auditors of the reason why Media Vision's
8 returns had been high in the fourth quarter. In the meeting, the
9 audit manager commented on the high level of returns in the
10 fourth quarter. In response, Humphress stated that sales had
11 been particularly high. Humphress omitted to disclose to the
12 auditors the information of which he was aware relating to the
13 shipments of unordered products and the returns not reflected in
14 Media Vision's accounting system.

15 29. In another meeting in February 1994, the auditors
16 specifically asked Humphress whether certain debit memos,
17 totalling approximately \$2.1 million, would be collected. Debit
18 memos are internal documents that show, based on invoices, that
19 money is owed by the customer, such as if Media Vision received
20 less than full payment. Humphress misrepresented to the auditors
21 that the debit memos would be collected.

22 30. Humphress knew that most of the debit memos would not
23 be collected because they accurately reflected discounts and
24 marketing incentives granted to the distributors. These
25 discounts and marketing incentives had not been disclosed to the
26 auditors.

27 31. Humphress's misrepresentation about the debit memos
28 concealed the fact that Media Vision would be unable to collect

1 amounts that Media Vision claimed as revenue. It also helped
2 conceal from auditors the fact that Media Vision had granted
3 discounts and other liberal terms to distributors. Ultimately,
4 Media Vision wrote off approximately \$10.8 million in such
5 discounts and other terms, which Media Vision had previously
6 included in revenue in statements released to the public.

7 FIRST CLAIM FOR RELIEF
8 (Section 10(b) of the Securities Exchange Act
and Rule 10b-5 thereunder)

9 32. Paragraphs 1 through 31 above are realleged and
10 incorporated herein by reference.

11 33. Media Vision directly or indirectly, in connection with
12 the purchase or sale of securities, by the use of means or
13 instrumentalities of interstate commerce, or of the mails, with
14 scienter: (a) employed devices, schemes or artifices to defraud;
15 (b) made untrue statements of material facts or omitted to state
16 material facts necessary in order to make the statements made, in
17 the light of the circumstances under which they were made, not
18 misleading; or, (c) engaged in acts, practices or courses of
19 business which operated or would operate as a fraud or deceit
20 upon other persons, in violation of Section 10(b) of the Exchange
21 Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §
22 240.10b-5].

23 34. Humphress knowingly and substantially assisted Media
24 Vision's violation of Section 10(b) of the Exchange Act and Rule
25 10b-5 thereunder.

26 35. Humphress violated, and unless restrained and enjoined
27 will continue to violate, Section 10(b) of the Exchange Act and
28 Rule 10b-5 thereunder.

1 SECOND CLAIM FOR RELIEF
2 (Section 13(b)(5) of the Exchange Act)

3 36. Paragraphs 1 through 31 above are realleged and
4 incorporated herein by reference.

5 37. Humphress knowingly circumvented or knowingly failed to
6 implement a system of internal accounting controls in violation
7 of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

8 38. Humphress violated, and unless restrained and enjoined
9 will continue to violate 13(b)(5) of the Exchange Act [15 U.S.C.
10 §78m(b)(5)].

11 THIRD CLAIM FOR RELIEF
12 (Rule 13b2-2 under the Exchange Act)

13 39. Paragraphs 1 through 31 above are realleged and
14 incorporated herein by reference.

15 40. Humphress (a) made or caused to be made a materially
16 false or misleading statement, and/or (b) omitted to state or
17 caused another person to omit to state, material facts necessary
18 in order to make statements made, in light of the circumstances
19 under which such statements were made, not misleading to an
20 accountant in connection with (i) the audit or examination of the
21 financial statements of Media Vision and/or (ii) the preparation
22 or filing of reports required to be filed by Media Vision with
23 the Commission.

24 41. Humphress violated, and unless restrained and enjoined
25 will continue to violate, Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

26 PRAYER FOR RELIEF

27 WHEREFORE, the Commission respectfully requests that this
28 Court:

I.

Permanently enjoin Humphress, and his agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of the final judgment of permanent injunction by personal service or otherwise, and each of them, from directly or indirectly violating Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Rules 10b-5 and 13b2-2 thereunder [17 C.F.R. §§ 240.10b-5 and 240.13b2-2].

III.

Impose civil money penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

IV.

Prohibit Humphress, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78l].

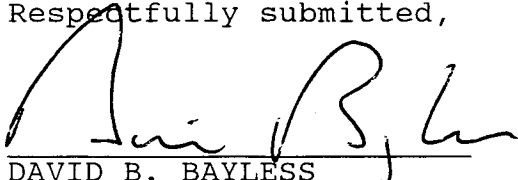
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V.

Granting such other and further relief as this Court may
deem appropriate.

Dated: 6-18-97

Respectfully submitted,



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