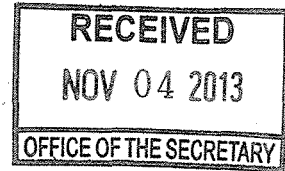


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-15416

In the Matter of

iVoice, Inc., *et al.*,

Respondents.

**DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION AND BRIEF IN SUPPORT**

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MOTION FOR SUMMARY DISPOSITION

The Division of Enforcement (“Division”), by counsel, pursuant to Commission Rules of Practice 154 and 250, respectfully moves for an order of summary disposition against Protectus Medical Devices, Inc. (“Protectus”) on the grounds that there is no genuine issue with regard to any material fact, and that pursuant to Section 12(j) of the Securities Exchange Act of 1934 (“Exchange Act”), the Division is entitled, as a matter of law, to an order revoking each class of securities of Protectus registered with the Commission pursuant to Exchange Act Section 12.

BRIEF IN SUPPORT

I. Statement of Facts

Protectus is a forfeited Delaware corporation located in Minneapolis, Minnesota with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). (OIP at II.A.2; Protectus Answer; Form 8-A registration statement for Protectus (then known as E-18 Corp.) filed February 19, 2008, attached as Exhibit (“Ex.”) 1 to the Declaration of Neil J. Welch, Jr. in Support of the Division’s Motion for Summary Disposition (“Welch Decl.”);¹ Westlaw printout of Protectus status with Delaware Secretary of State, Welch Decl., Ex. 2.)

On December 15, 2011, the Commission’s Division of Corporation Finance (“Corporation Finance”) sent a delinquency letter by certified mail to Protectus, and the letter was received on January 11, 2012. The delinquency letter stated that Protectus appeared to be delinquent in its periodic filings and warned that it could be subject to

¹ The Division asks that pursuant to Rule of Practice 323, the Court take official notice of this and all other information and filings on EDGAR referred to in this brief and/or filed as exhibits with the Welch Decl. In addition, in order to reduce the volume of these pleadings, the Division has provided an excerpt of one large document (Ex. 11). The Division will provide the Commission and the Respondent with a complete copy of Ex. 11 on request.

revocation without further notice if it did not file its required reports within fifteen days of the date of the letter. (Delinquency Letter from Corporation Finance to Protectus dated December 15, 2011, and signed return receipt, Welch Decl., Ex. 3.)

On February 2, 2012, John Salstrom, the Chief Executive Officer of Protectus, sent a faxed letter to the Division of Corporation Finance (“Corporation Finance”), stating that he estimated that the company would catch up on its delinquent filings by approximately August 15, 2012. (Letter from John Salstrom to Corporation Finance dated February 2, 2012, Welch Decl., Ex. 4.)

As of August 6, 2013, Protectus’s stock (symbol “PTMD”) was quoted on OTC Link (previously, “Pink Sheets”) operated by OTC Markets Group Inc. (“OTC Link”), had five market makers, and was eligible for the “piggyback” exception of Exchange Act Rule 15c2-11(f)(3). (Printout from hist.otcquote.com showing the quote activity of Protectus on August 6, 2013, Welch Decl., Ex. 5.)

On August 14, 2013, the same day that the OIP was instituted, the Commission issued a ten-day trading suspension for Protectus stock pursuant to Exchange Act Section 12(k) because Protectus had not filed any of its periodic reports since the period ended September 30, 2010. (Order of Suspension of Trading dated August 14, 2013, Welch Decl., Ex. 6.)

As of October 31, 2013, Protectus’s stock was traded on the over-the-counter markets. (Printout from www.otcm Markets.com showing trading status of Protectus’s stock as of November 4, 2013, Welch Decl., Ex. 7.)

As of October 31, 2013, Protectus had not engaged a new auditor, and remained delinquent in its periodic filings with the Commission, having not filed any reports since

it filed a Form 10-Q for the period ended September 30, 2010. (Printout from the Commission's EDGAR database showing all filings for Protectus as of November 4, 2013, Welch Decl., Ex. 8.)

II. Argument

A. Standards Applicable to the Division's Summary Disposition Motion.

Rule 250(a) of the Commission's Rules of Practice permits a party to move "for summary disposition of any or all allegations of the order instituting proceedings" before hearing with leave of the hearing officer. 17 C.F.R. § 201.250(a). Rule 250(b) provides that a hearing officer may grant a motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. 17 C.F.R. § 201.250(b); *see Michael Puorro*, Initial Decision Rel. No. 253, 2004 SEC LEXIS 1348, at *3 (June 28, 2004) citing 17 C.F.R. § 201.250; *Garcis, U.S.A.*, Securities Exchange Act of 1934 Rel. No. 38495 (Apr. 10, 1997) (granting motion for summary disposition).

As one Administrative Law Judge explained,

By analogy to Rule 56 of the Federal Rules of Civil Procedure, a factual dispute between the parties will not defeat a motion for summary disposition unless it is both genuine and material. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Once the moving party has carried its burden, 'its opponent must do more than simply show that there is some metaphysical doubt as to the material facts.' *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations or denials of its pleadings. At the summary disposition stage, the hearing officer's function is not to weigh the evidence and determine the truth of the matter, but rather to determine whether there is a genuine issue for resolution at a hearing. *See Anderson*, 477 U.S. at 249.

Edward Becker, Initial Decision Rel. No. 252, 2004 SEC LEXIS 1135, at *5 (June 3, 2004).

This administrative proceeding was instituted under Section 12(j) of the Exchange Act. Section 12(j) empowers the Commission to either suspend (for a period not exceeding twelve months) or permanently revoke the registration of a class of securities “if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.” It is appropriate to grant summary disposition and revoke a registrant’s registration in a Section 12(j) proceeding where, as here, there is no dispute that the registrant has failed to comply with Section 13(a) of the Exchange Act. *See California Service Stations, Inc.*, Initial Decision Rel. No. 368, 2009 SEC LEXIS 85 (Jan. 16, 2009); *Ocean Resources, Inc.*, Initial Decision Rel. No. 365, 2008 SEC LEXIS 2851 (Dec. 18, 2008); *Wall Street Deli, Inc.*, Initial Decision Rel. No. 361, 2008 SEC LEXIS 3153 (Nov. 14, 2008); *AIC Int’l, Inc.*, Initial Decision Rel. No. 324, 2006 SEC LEXIS 2996 (Dec. 27, 2006); *Bilogic, Inc.*, Initial Decision Rel. No. 322, 2006 SEC LEXIS 2596, at *12 (Nov. 9, 2006).

**B. The Division is Entitled to Summary Disposition Against
Protectus for Violations of Exchange Act Section 13(a)
and Rules 13a-1 and 13a-13 Thereunder.**

Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Section 13(a) is the cornerstone of the Exchange Act, establishing a system of periodically reporting core information about issuers of securities. The Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are “the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities.” Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

Gateway, 2006 SEC LEXIS 1288 at *26 (quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1stCir. 1977)).

As explained in the initial decision in the *St. George Metals, Inc.* administrative proceeding:

Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Rule 13a-1 requires issuers to submit annual reports, and Exchange Act Rule 13a-13 requires issuers to submit quarterly reports. No showing of scienter is necessary to establish a violation of Section 13(a) or the rules thereunder.

St. George Metals, Inc., Initial Decision Rel. No. 298, 2005 SEC LEXIS 2465, at *26 (Sept. 29, 2005); accord *Gateway*, 2006 SEC LEXIS 1288 at *18, *22 n.28; *Stansbury Holdings Corp.*, Initial Decision Rel. No. 232, 2003 SEC LEXIS 1639, at *15 (July 14, 2003); and *WSF Corp.*, Initial Decision Rel. No. 204, 2002 SEC LEXIS 1242 at *14 (May 8, 2002).

There is no dispute that Protectus has failed to file all of its periodic reports for over three years. There is therefore no genuine issue with regard to any material fact as

to Protectus's violations of Exchange Act Section 13(a) and the rules thereunder, and the Division is entitled to an order of summary disposition as to Protectus as a matter of law. See *Chemfix*, 2009 SEC LEXIS 2056 at *21-*23 (summary disposition granted in Section 12(j) action); *AIC Int'l, Inc.*, 2006 SEC LEXIS 2996 at *25 (same); *Biologic, Inc.*, 2006 SEC LEXIS 2596 at *12 (same); *Investco, Inc.*, Initial Decision Rel. No. 240, 2003 SEC LEXIS 2792, at *7 (Nov. 24, 2003) (same); *Nano World Projects Corp.*, Initial Decision Rel. No. 228, 2003 SEC LEXIS 1968, at *3 (May 20, 2003) (Division's motion for summary disposition in Section 12(j) action granted where certifications on filings and respondent's admission established failure to file annual or quarterly reports); and *Hamilton Bancorp, Inc.*, Initial Decision Rel. No. 223, 2003 SEC LEXIS 431, at *4-*5 (Feb. 24, 2003) (summary disposition in Section 12(j) action).

**C. Revocation is the Appropriate Sanction for Protectus's
Serial Violations of Exchange Act Section 13(a) and
Rules 13a-1 and 13a-13 Thereunder.**

Exchange Act Section 12(j) provides that the Commission may revoke or suspend a registration of a class of an issuer's securities where it is "necessary or appropriate for the protection of investors." The Commission's determination of which sanction is appropriate "turns on the effect on the investing public, including both current and prospective investors, of the issuer's violations, on the one hand, and the Section 12(j) sanctions on the other hand." *Gateway*, 2006 SEC LEXIS 1288, at *19-*20. In making this determination, the Commission has said it will consider, among other things: (1) the seriousness of the issuer's violations; (2) the isolated or recurrent nature of the violations; (3) the degree of culpability involved; (4) the extent of the issuer's efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer's

assurances against future violations. *Id.*; see also *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979) (setting forth the public interest factors that informed the Commission's *Gateway* decision). Although no one factor is controlling, *Stansbury*, 2003 SEC LEXIS 1639, at *14-*15; and *WSF Corp.*, 2002 SEC LEXIS 1242 at *5, *18, the Commission has stated that it views the "recurrent failure to file periodic reports as so serious that only a strongly compelling showing with respect to the other factors we consider would justify a lesser sanction than revocation." *Impax Laboratories, Inc.*, Exchange Act Rel. No. 57864, 2008 SEC LEXIS 1197 at *27 (May 23, 2008). An analysis of the factors above confirms that revocation of the Protectus's securities is appropriate.

The Commission's decision in *Cobalis Corporation*, Exchange Act Rel. No. 64813, 2011 SEC LEXIS 2313 (July 6, 2011), is instructive. There, the Division sought summary disposition in a Section 12(j) proceeding where the respondent had failed to make any of its delinquent filings despite promising to do so. *Id.*, at *6-7. The respondent in *Cobalis Corporation* argued that it was making efforts to bring its filings current and made assurances that it would comply in the future, yet had not made any actual EDGAR filings. The Commission rejected this argument, found that there was no genuine dispute of any fact material to the application of the *Gateway* factors and, accordingly, ordered that the respondent's registrations be revoked. *Id.* at *25. The Commission noted that revocation will "further the public interest by reinforcing the importance of full and timely compliance with the Exchange Act's reporting requirements." *Id.* at *23 (quoting *Nature's Sunshine Products, Inc.*, Exchange Act Rel. No. 59268, 2009 SEC LEXIS 81, at *37 (Jan. 21, 2009)). The same analysis applies here, and Protectus's securities registration should be revoked.

1. Protectus's violations are serious and egregious.

As established by the record in this proceeding, Protectus's conduct is serious and egregious. Protectus has not filed any periodic reports since it filed a Form 10-Q for the period ended Septemeber 30, 2010. Given the central importance of the reporting requirements imposed by Section 13(a) and the rules thereunder, Administrative Law Judges have found violations of these provisions of less duration to be egregious, and Protectus's violations support an order of revocation for each class of its securities. *See WSF Corp.*, 2002 SEC LEXIS 1242, at *14 (respondent failed to file periodic reports over two-year period); and *Freedom Golf Corp.*, Initial Decision Release No. 227, 2003 SEC LEXIS 1178, at *5 (May 15, 2003) (respondent's failure to file periodic reports for less than one year was egregious violation).

2. Protectus's violations of Section 13(a) have been not just recurrent, but continuous.

Protectus's violations are not unique and singular, but continuous. Protectus has failed to file any of its periodic reports since becoming delinquent. Protectus also failed to file any Forms 12b-25 seeking extensions of time to make its periodic filings for any of its periodic reports for 2011 through 2013. (Welch Decl., Ex. 8.) *See Investco, Inc.*, 2003 SEC LEXIS 2792, at *6 (delinquent issuer's actions were found to be egregious and recurrent where there was no evidence that any extension to make the filings was sought). The serial and continuous nature of Protectus's violations of Exchange Act Section 13(a) further supports the sanction of revocation here.

3. Protectus's degree of culpability, including its officer's and directors' violations of Sections 16(a) and 13(d) of the Exchange Act, supports revocation.

For many of the same reasons that Protectus's violations were long-standing and serious, they suggest a high degree of culpability. In *Gateway*, the Commission stated that, in determining the appropriate sanction in connection with an Exchange Act Section 12(j) proceeding, one of the factors it will consider is "the degree of culpability involved." The Commission found that the delinquent issuer in *Gateway* "evidenced a high degree of culpability," because it "knew of its reporting obligations, yet failed to file" twenty periodic reports and only filed two Forms 12b-25. *Gateway*, at 10, 2006 SEC LEXIS 1288, at *21. Similar to the respondent in *Gateway*, Protectus has not filed any of its required Forms 12b-25 seeking extensions of time to make its periodic filings for the past three years. Because Protectus knew of its reporting obligations and nevertheless failed to file its periodic reports, and failed to file the required Forms 12b-25 informing investors of the reasons for its delinquency and the plan to cure its violations for the past three years, it has shown more than sufficient culpability to support the Division's motion for revocation.

Protectus's culpability is further demonstrated by its officer's and directors' violations of the individual reporting requirements under Exchange Act Sections 13(d) and 16(a). This conduct, although not alleged in the OIP, provides further evidence of Protectus's culpability that the Court can and should consider when assessing the appropriate sanction for its admitted violations. See *Gateway* at 5, n.30 (Commission may consider other violations "and other matters that fall outside of the OIP in assessing appropriate sanctions"); *Citizens Capital Corp.*, Exchange Act Rel. No. 67313, 2012 SEC

LEXIS 2024 at *32 (June 29, 2012) (management’s failure to comply with Exchange Act Sections 13(d) and 16(a) “further brings into question the likelihood of the Company’s future compliance with Section 13(a)”); *Ocean Resources, Inc.*, 2008 SEC LEXIS 2851 at *15 (ALJ found on summary disposition that respondent’s assurances of future compliance achieved little credibility where its sole officer had ongoing violations of Exchange Act Section 16(a) in both the respondent’s and other companies’ securities).²

Section 16(a) violations

Exchange Act Section 16(a) requires that an individual file a Form 3 within ten days of becoming an officer, director, or ten percent beneficial owner of a company and must file a Form 4 when the individual’s holdings change. Michael Sheppard failed to meet these requirements in connection with his position in Protectus and his ownership of Protectus stock.

On October 12, 2009, Protectus announced that Michael Sheppard was appointed as a Director of the company. (Protectus Newswire announcement dated October 12, 2009, Welch Decl., Ex. 9.) Mr. Sheppard violated Exchange Act Section 16(a) and Rule 16a-1 thereunder by failing to file a Form 3 within ten days of becoming a Protectus Director. On May 12, 2010, July 6, 2010, September 10, 2010, and March 14, 2011, Mr.

² The Commission has applied the same principle in other contexts. *Robert Bruce Lohman*, Exchange Act Rel. No. 48092, 2003 SEC LEXIS 1521 at *17 n.20 (June 26, 2003) (ALJ may properly consider lies told to staff during investigation in assessing sanctions, though they were not charged in the OIP); *Stephen Stout*, Exchange Act Rel. No. 43410, 2000 SEC LEXIS 2119 at *57 & n.64. (Oct. 4, 2000) (respondent’s subsequent conduct in creation of arbitration scheme, which was not charged in OIP, found to be relevant in determining whether bar was appropriate); and *Joseph P. Barbato*, Exchange Act Rel. No. 41034, 1999 SEC LEXIS 276 at *49-*50 (Feb. 10, 1999) (respondent’s conduct in contacting former customers identified as Division witnesses found to be indicative of respondent’s potential for committing future violations). See also *SEC v. Falstaff Brewing Corp.*, 629 F.2d 62, 78 (D.C. Cir. 1980) (district court’s injunction against future securities violations upheld; court found noncompliance with Exchange Act Section 16(a) “does evince a disregard of the securities laws that may manifest itself in noncompliance elsewhere.”).

Shepard received 525,000 shares of Protectus stock, but also violated Exchange Act Section 16(a) and Rules 16a-2 and 16a-3 thereunder on each of those days by failing to file Forms 4 for his increases in his Protectus holdings during his service as a Director of Protectus. (Declaration of Olessia Kritskaia, Operator in Charge of Island Stock Transfer (“Kritskaia Decl.”) and attached Transfer Agent Journal for Protectus, at Bates Nos. SEC-IST-E-46, 49, 54, and 66.)

Mr. Sheppard’s failure to file the Forms 4 also triggered a requirement that he file Forms 5 within forty-five days following each of Protectus’s December 31 fiscal year ends that occurred after the company’s Exchange Act Section 12(g) registration. Mr. Sheppard has never filed a Form 5 for Protectus, in violation of Exchange Act Section 16(a) and the rules thereunder. (Welch Decl., Ex. 8.)

Section 13(d) violations

As of July 10, 2009, Jack Dillard was Chief Operating Officer and a 10% owner of Protectus. (Form 3 filed by Dillard on July 10, 2009, Welch Decl., Ex. 10.) Mr. Dillard also owned 25.53% of Square One LP, (Welch Decl., Ex. 10), which owned 69/54% of Protectus’s outstanding shares as of December 31, 2009. (Excerpted Protectus Form 10-K for the period ended December 31, 2009, at 22, Welch Decl, Ex. 11.) Therefore, pursuant to Exchange Act Section 13(d) and Rule 13d-1 thereunder, Mr. Dillard was required to file either a Schedule 13D or 13G with the Commission within ten days of his exceeding five percent beneficial ownership of Protectus’s common stock. Moreover, each time his percentage ownership changed by an aggregate of one percent of Protectus’s outstanding shares, Mr. Dillard was required to promptly file an amendment to his Schedule 13D or 13G to reflect the change in share ownership. Mr. Dillard has

never filed any Schedules 13D or 13G for Protectus or any amendments thereto. (Welch Decl., Ex. 8.) By failing to do so, Mr. Dillard violated Exchange Act Section 13(d) and Rule 13d-1 thereunder.

4. Protectus's efforts to remedy its past violations and ensure future compliance are too little and too late.

Protectus has not made adequate efforts to remedy its past violations. In fact, Protectus has not made any positive steps toward curing its delinquency. Since the September 10, 2013 prehearing conference, Protectus has failed to hire an auditor or make any of its past-due filings, getting it no closer to compliance than when the OIP was issued on August 14, 2013. (Welch Decl., Ex. 8.) In addition, it has missed another filing, its Form 10-Q for the period ended September 30, 2013, and also failed file the required Form 12b-25 seeking an extensions of time to file the Form 10-Q.

Moreover, Protectus's violations have not been limited to its failure to file quarterly and annual reports. It has also failed to comply with Exchange Act Sections 14(a) and/or 14(c) and rules thereunder by failing to file any proxies since July 28, 2009. (Welch Decl., Ex. 8.) Under Delaware law, Protectus is required to elect at least one-third of its directors annually. DEL. CODE. ANN. tit. 8 § 141 (West 2013). If Protectus solicited proxies from shareholders for any matter, it was required to file a proxy statement with the Commission pursuant to Exchange Act Section 14(a) and Rule 14a-3 thereunder. If Protectus instead obtained the consent of shareholders for any matter, it was required to file an information statement with the Commission pursuant to Exchange Act Section 14(c) and Rule 14c-2 thereunder. No such filings have been made by Protectus since July 28, 2009. (Welch Decl., Ex. 8.)

5. Protectus has made no assurances against future violations.

Protectus has made no assurances against future violations.

D. Revocation is the Appropriate Remedy for Protectus.

As discussed above, a full analysis of the *Gateway* factors establishes that revocation is the appropriate remedy for Protectus's long-standing violations of the periodic filings requirements. Protectus's recurrent failures to file its periodic reports have not been outweighed by "a strongly compelling showing with respect to the other factors" which "would justify a lesser sanction than revocation." *Impax Laboratories, Inc.*, 2008 SEC LEXIS 1197 at *27.

Moreover, revocation will not be overly harmful to whatever business operations, finances, or shareholders Protectus may have. The remedy of revocation will not cause Protectus to cease being whatever kind of company it was before its securities registration was revoked. The remedy instead will ensure that until Protectus becomes current and compliant on its past and current filings, its shares cannot trade publicly on the open market (but may be traded privately). *See Eagletech Communications, Inc.* Exchange Act Rel. No. 54095, 2006 SEC LEXIS 1534, at *9 (July 5, 2006) (revocation would lessen, but not eliminate, shareholders' ability to transfer their securities). Revocation will not only protect current and future investors in Protectus, who presently lack the necessary information about Protectus because of the issuer's failure to make Exchange Act filings; it will also deter other similar companies from becoming lax in their reporting obligations.

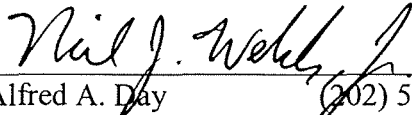
A new registration process will place all investors on an even playing field. All current investors will still own the same amount of shares in Protectus that they did before registration, though their shares will no longer be devalued because of the company's delinquent status. All investors, current and future alike, will also benefit from the legitimacy, reliability, and transparency of a company in compliance. The time-out will protect the status quo, and will give Protectus the opportunity to come into full compliance, to calmly and thoroughly work through all of its remaining issues with its consultants, auditor, and management, and to complete its financial statements in compliance with Regulations S-K and S-X.

III. Conclusion

For the reasons set forth above, the Division respectfully requests that the Commission revoke the registration of each class of Protectus's securities registered under Exchange Act Section 12.

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Respectfully submitted,



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