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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of:

BioElectronics Corp.,
IBEX, LLC,
St. John's, LLC
Andrew J. Whelan
Kelly A. Whelan, CPA, and
Robert P. Bedwell, CPA

Respondents.

ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENT BIOELECTRONICS CORPORATION

Administrative Proceeding
File No. 3-17104

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Respondent BioElectronics Corporation ("BioElectronics", "BIEL" or "Respondent"), through the undersigned counsel, respectfully asserts the following answers and affirmative defenses to the allegations contained in the Order Instituting Administrative Proceedings ("OIP"), upon knowledge with respect to itself and its own acts and upon information and belief with to all other matters as follows. As to any allegation not specifically admitted, Respondent denies the allegation.

I. PRELIMINARY STATEMENT

BioElectronics is a medical device company founded 16 years ago in 2000. BioElectronics is the developer, marketer and manufacturer of patented, inexpensive, drug–free, topical, anti-inflammatory medical devices based upon proven therapy. In 2002, the United States Food & Drug Administration ("FDA") awarded BioElectronics a 510K clearance for sale and distribution of its products for a plastic surgery application. .

BioElectronics' products, which have been proven effective in multiple clinical studies, are currently available in the United Sates and over-the-counter in Canada, Austria, Middle East, Africa, South America and the European Union including the United Kingdom, where the product is presently on the shelves of Walgreens/Boots, the largest pharmacy chain in the UK among many others. In total, BioElectronics has sold more than one million units representing about 57 million treatments.

BioElectronics' current Chairman of the Board of Directors, Dr. Richard Staelin, is a Chaired Professor of Business Administration at the Fuqua School of Business at Duke University. Its Board previously included Dr. Brian M. Kinney, Chief of Plastic Surgery at Century City Hospital in California and faculty member at University of Southern California Medical School; Ashton Perry, a former Vice President at Lucent Technologies, Inc.; and Douglas Watson, a former President of

Ciba/Geigy's United States' Pharmaceutical Division, and Chairman and CEO of Novartis Corporation, among others.

The transactions at issue were all approved by the board of directors at BioElectroncs that at the time included independent directors. Some of BioElectronics' significant accomplishments include:

- On May 29, 2013, Export-Import Bank of the United States made a $500,000 working capital loan to BioElectronics. The loan was renewed in May 2014 and again in May 2015.
- United States FDA market clearance - treatment of edema following blepharoplasty.
- Canadian market approval for relief of musculoskeletal and menstrual-pain and post-operative pain and edema in both medical and over-the-counter markets.
- CE Mark (European Common Market) Certification for the medical and retail over-the-counter markets.
- ISO Certification
- More than seven published medical journal studies.
- On-going medical research at Tufts Medical and Dental School; University of Chicago Medical School; University of British Columbia; University Hospital Ghent, Belgium; University Hospital G. Martin, Messina, Italy and University Hospital, Oxford England, Valle Balbo Implant Center, Italy
- Products are included in B. Bruan's hip and knee replacement pre and post surgical kits and protocol. B. Braun has petitioned the UK's National Health System for product reimbursement.

- Chosen as "One of 9 Medical Breakthroughs That May Change Your Life" by MedicalHeadway.com.
- 2009 Wall Street Journal Technology Innovation Medical Devices Runner Up Award.
- CEO Andrew J. Whelan awarded the National Humanitarian Technology Leadership Award by the Chabad at John's Hopkins University in March 2013.
- Cited twice for "Most Innovative New OTC Product" runner up award from the OTC Bulletin, a leading UK-based Healthcare Marketing Publication.
- Wounds UK 2013 chronic wounds Pain & Trauma Category Award Winner.
- Twelve new issued patents, eight patents pending/published applications and five international trademarks.

The Division began its formal investigation of Respondent on May 22, 2012 looking for evidence that Respondent had committed securities fraud, fueled by impermissible access to attorney-client privileged information provided by a disgruntled former contractor, Drew Walker, who claimed to be a lawyer and accountant for Respondent. Unbeknownst to Respondent, Drew Walker was not actually a licensed attorney. However, that fact did not waive Respondent's attorney-client privileged communications to the Division. Respondent reasonably believed Drew Walker was its lawyer, and, accordingly, all communications between Respondent's officers, directors and employees and Drew Walker were protected under the attorney-client privilege. The Division mistakenly contended and maintains that because Drew Walker was not a member of the bar, the communications that Respondent believed to be attorney-client privileged communications with Drew Walker, were not in fact privileged. Because the Division's legal position is wrong, the evidence obtained as the fruit of such intentional invasion of Respondent's attorney-client privilege taints the Division's entire case and should result in the exclusion of the Division's evidence.

Fueled with unlawful access to attorney-client privileged information, the Division overconfidently tried to make a case. However, after almost four-years of rooting around in vain to develop a fraud case, the Division was compelled to abandon its fraud theory. In a desperate attempt to justify its 4-year old investigation, the Division resorted to manufacturing two novel claims that could not pass judicial scrutiny in a federal district court. Seeking to work around judicial scrutiny, the Division hopes that the Commission's Administrative Law Judge in this proceeding will reincarnate the Division's otherwise dead on arrival case.

The Section 5 claim alleged in the OIP is barred, in whole or part, because all of the exchanges and issuances of securities were made in accordance with Section 4 of the 1933 Act, 15 U.S.C. § 77d, and following the extensive guidance the SEC publishes for parties and participants in exempt transactions, including Rule 144. These exemptions include: (1) transactions that do not involve an issuer, underwriter, or dealer under Section 4(1); (2) private offerings under Section 4(2); (3) certain dealer or broker transactions under Sections 4(3) and 4(4); and (4) restricted issuer transactions to accredited investors under Section 4(6). The market participants have a right to rely on what the SEC says about the way the law is to be applied, and the SEC violates due process and sound policy when it attempts to regulate by surprise and announce a new view of the law through an enforcement action that could not have been anticipated from, and is instead contrary to, its past statements about what the law means. Here, all the securities at issue were exempt from registration.

There are two respondents whose securities transactions with BioElectronics appear to be at issue in this proceeding, (1) St. John's, LLC ("St. John's"); and (2) IBEX, LLC ("IBEX"). After being at investment risk and holding the securities in question for at least 13 months, IBEX and St. John's sold unregistered convertible notes, in reliance on the Section 4(a)(1) exemption (for

transactions by persons other than issuers, underwriters or dealers) after confirming with counsel that they were not an underwriter pursuant to the safe harbor provisions of Rule 144.

St. John's, an affiliate of BioElectronics because St. John's is 99% owned by Andrew Whelan's wife, Patricia, was entitled to sell and did sell her shares into the public market through a broker at the rate and at the times permitted by the federal securities laws. Under the so-called "leakage" provisions of Rule 144, St. John's was entitled to sell certain minimal portions of its stock, and did so. There was nothing untoward and no material fact that was not voluntarily disclosed about the St. John's securities transactions.

IBEX, which was never an affiliate of BioElectronics and held all the securities it purchased from BioElectronics for a minimum of 13 months and an average of 38 months, even more clearly complied with Rule 144 because it had no restriction on volume or manner sale. The Rule 144 compliance as applied to IBEX turns on whether or not Kelly Whelan and her company, IBEX, were under the control of Andrew Whelan and BioElectronics. If IBEX was not under the control of Andrew Whelan, then IBEX was not an affiliate of BIEL, and its sales were exempt under Section 4(1) of the Securities Act of 1933. And, it necessarily follows that the sales by non-affiliate IBEX of BioElectronics' stock squarely complied with Rule 144. In that case, the SEC's claims against Respondents based on such transactions fail as a matter of law.

Rule 144 defines an affiliate broadly enough to encompass immediate family members, but **only if the immediate family members share the "same home".** Emphasis added. Rule 14(a)(2)(i). Kelly Whelan and her father, Andrew Whelan, do not live in the same state, much less the same home. See OIP, ¶5, 6. Kelly Whelan, a 48-year-old CPA who owns IBEX, is not controlled by her father. *Id.* In fact, the allegation appears based on an outdated and sexist view.

external communications,documents, and analyses, is lengthy and complex, and the Division's allegations present an incomplete and misleading version of the true facts.

Specifically, the Commission Staff argues that the revenue reported in 2009 regarding two bill and hold transactions among seller, BioElectronics, and buyers, YesDTC and Emarkets, were material to BioElectronics' investors and made with sufficient scienter. The allegations fail scrutiny as to BioElectronics for three reasons: (1) the transactions were fairly reported; (2) Respondent relied on the expertise of consulting accountants who specialized in SEC reporting and an independent auditor to fairly and accurately book and report such transactions; and (3) the timing of the reporting of earnings on such transactions, and the transactions themselves, were immaterial to BioElectronics' investors, as an event study has shown.

BioElectronics recorded transactions in accordance with what it believes to be generally accepted accounting principles. Electing to treat the transactions as "bill & hold" was assumed the preferred accounting treatment. Alternatively, no restatement was necessary since both sales were absolute. Shipment was not required. eMarkets acquired discontinued inventory and YesDTC made its initial purchase of inventory as a condition precedent to acquiring the territorial rights to the Japanese market. Purchasing an initial inventory is a condition precedent in all of BioElectronics distribution agreements.

In its 10Q filed in May 2010, BioElectronics disclosed to investors that "[a]t March 31, 2010, the Company has not yet delivered 43,160 units, totaling approximately $366,000 bill and hold sales recognized for the year ended December 31, 2009. The units will be shipped during 2010 to help meet the distribution 2010 purchase obligation." Similar statements were made in the next two quarterly SEC Form 10-Q's. At the end of 2010, BioElectronics voluntarily and without prodding by the SEC Staff, took remedial action to restate the revenue and disclose the restatement to investors in

its annual report. At no time did BioElectronics ever return any of the $366,000 emarkets had actually paid to BioElectronics. Based on the circumstances of these transactions in mid first quarter of 2010, BioElectronics' engaged accountant, Esther Ko, a former PriceWaterhouse Coopers accountant, and outside auditor agreed that the so-called "bill and hold" sales should be booked to fairly and accurately reflect the financial condition of the company to its investors as of December 31, 2009.

The Division understands that the accounting treatment of such transactions is a matter of some uncertainty among accounting professionals, and that Respondent's qualified accounting personnel and outside auditor approved BioElectronics' recordation and reporting of such transactions. Indeed, the Division has brought this proceeding against the independent auditor, Robert P. Bedwell, CPA, for doing so. Thus, the Division concedes, as it must, that there is no scienter based claim that can be made against BioElectronics.

Even if the Division could prove that the so-called "bill and hold" transactions were not properly recorded and reported by BioElectronics, and even if the Division could establish that BioElectronics' reliance on its outside expert accountant, Ester Ko, and an independent auditor was not reasonable, neither of which it can do, the Division would still lose because the timing and, indeed, the fact of such transactions, were not material. An event study of BioElectronics stock reflects that the reporting of these transactions did not materially affect the trading in BioElectronics' stock in the public market place.

Event studies are used commonly to assess the statistical significance of stock price movements as a result of the introduction of new information into the marketplace regarding a company. *See, e.g. SEC v. Leslie*, 2010 U.S. Dist. LEXIS 76826, at *31-32 (N.D. Cal. July 29, 2010). Statistically significant stock price movements that occur as a result of new information have

long been recognized as an indicia of materiality. *See, e.g., U.S. v. Bilzerian*, 926 F.2d 1285, 1298 (2d Cir. 1991). Conversely, where, as here, there are no significant stock price movements after the facts are publicly disclosed, such facts are a strong indicia of the absence of materiality. Neither the disclosure of the $366,000 in revenue nor the subsequent disclosures of the events associated with the two bill and hold transactions had any material impact on BioElectronics' stock price in the public market place, as evidenced by an event study conducted at Duke University for BioElectronics. That event study determined that there were no market price responses associated with the disclosures of BioElectronics' three 10-Q's or the one 10-K in 2010 (the "Relevant Period").

BioElectronics' Duke University Event Study, conducted by Yue Qin ("Qin"), reports a series of event studies to determine if there were any abnormal movements in BioElectronics' stock price associated with the SEC quarterly and annual statements in question. Qin is a fourth-year Duke University PHD candidate who has conducted more than 200 event studies aimed at determining if new information resulted in abnormal stock price movements. A copy of a report of Qin's event study is attached hereto at **Exhibit 1**. As thoroughly explained in her expert report, Yue Qin employed a rigid methodology based upon proven methods of statistical analysis based on BioElectronics' stock prices between 2009 and 2013 to reach her opinion that BioElectronics' stock price was not impacted in a statistically significant manner by the announcements regarding the bill and hold sales during the relevant period.

Qin analyzed data pertaining to: 1) March 31, 2010, the release of the financial statement for the year 2009 that first listed the two bill and hold transactions; 2) May 12, 2010, the date of the release of the first quarter 10-Q; 3) August 20, 2010, the date of the release of the second quarter 10-Q; 4) November 15, 2010, the date of the release of the third quarter 10-Q, all of which provided

new information on the status of the bill and hold transactions; and 5) April 12, 2011, the date BioElectronics released its 2010 annual report that restated the 2009 earnings to reflect the actual events associated with the bill and hold transactions.

Qin's study methodology employs a regression statistical analysis, which is consistent with other event studies that have been used in similar cases, and thus consistent with what constitutes an admissible expert opinion under *Daubert*. *See, e.g. In re Imperial Credit Indus. Sec. Litig.*, 252 F. Supp. 2d, 1005, 1014 (C.D. Cal. 2003).

As a last ditch effort, the Division launched a novel unregistered broker-dealer claim. The term dealer does not encompass a person who buys or sells securities "not as a part of a regular business." 15 U.S.C. § 78c(a)(5)(B). This exception recognizes the distinction between a dealer and a trader. 67 Fed. Reg. at 67499. Dealers are required to register with the Commission but traders are not. *Id.* The totality of one's activities determines which side of the dealer/trader line one falls. *Id.* Kelly and IBEX satisfy Rule 144's objective test of holding all the securities for more than one-year. Accordingly, Kelly and IBEX are clearly not underwriters, but instead, based on the objective safe harbor tests set forth in Rule 144, are investors or traders. Neither Kelly Whelan nor IBEX act as a market maker or specialist on an organized exchange or trading system. Neither Kelly nor IBEX act as a de facto market maker whereby market professionals or the public look to the firm for liquidity. Neither Kelly or IBEX hold securities or transact securities for the accounts of others. Finally, neither Kelly nor IBEX conducted any of an assortment of professional market activities such as providing investment advice and/or lending securities.

II. RESPONSE TO SUMMARY ALLEGATIONS:

Part I of the OIP contains legal conclusions to which no answer is required. To the extent an answer is necessary, Respondent denies having sufficient information to address what the Securities and Exchange Commission ("SEC" or "Commission") deemed "appropriate" and in the "public interest," as set forth in Section I, except to state the OIP was not appropriate or in the public interest. By filing and serving this answer, Respondent does not intend to waive, and is not waiving, its rights to pursue a federal court action, and raises all constitutional objections here to preserve them. This Answer is filed without prejudice to and expressly preserves all claims and contentions that may be asserted in any federal court action.

III. RESPONSE TO SPECIFIC ALLEGATIONS:

Respondent Responds to the allegations as follows:

1. This matter involves inaccurate public disclosure and the unlawful distribution of securities by BioElectronics Corp. ("BIEL") and related persons and entities. On March 31, 2010, BIEL filed with the Commission a Form 10-K for the period ending December 31, 2009, falsely recognizing revenue from two "bill and hold" transactions. These transactions overstated BIEL's revenue by $366,000, or 47%. Additionally, from at least August 2009 until at least November 2014 ("the relevant period"), BIEL and respondents IBEX, LLC, St. John's, LLC, Andrew J. Whelan and Kelly A. Whelan engaged in an illegal distribution of purportedly unrestricted securities involving the sale of hundreds of millions of BIEL shares. Affiliates, IBEX, LLC and St. John's, LLC, sold purportedly unrestricted shares in unregistered transactions at a discount to then-current market prices. Andrew J. Whelan, President, CEO and the principal financial officer of BIEL, and Kelly A. Whelan, his daughter and the President of IBEX, LLC, orchestrated the illegal distribution. Approximately half of the proceeds of these sales were then "loaned" to BIEL and the other half was retained by the entities. The offerings were not registered with the Commission. Robert P. Bedwell's failures to detect BIEL's improper accounting, as the auditor responsible for auditing the financial statements included in BIEL's Form 10-K, constitutes improper professional conduct.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 1. Respondent admits that on March 31, 2010, BioElectronics filed with the Commission a Form 10-K for the period ending December 31, 2009 and that such filing speaks for itself. Respondent admits that Andrew J. Whelan was the President, CEO and the

principal financial officer of BioElectronics. Respondent admits that Kelly A. Whelan is the daughter of Andrew J. Whelan and the President of IBEX, LLC. BioElectronics lacks sufficient information regarding the transactions referenced in this paragraph to answer the allegation regarding the proceeds of "these sales" alleged in this paragraph, and on that basis deny such allegations. Respondent admits that the securities issued to IBEX and St. John's were not registered with the Commission.

2. Respondent BioElectronics Corp. is a Maryland corporation with a sole location employing approximately twelve people in Frederick, Maryland. The company is engaged in the business of making inexpensive, drug-free, anti-inflammatory medical devices and patches which use electromagnetic energy. In 2007, BioElectronics entered into a settlement with the State of Maryland related to selling unregistered shares, agreeing to a permanent cease and desist order and the payment of a $2,500 penalty. It has a class of equity securities, previously registered with the Commission pursuant to Exchange Act Section 12(g), with approximately 4 billion shares issued as of November 2013. On April 18, 2011, BIEL voluntarily withdrew its registration. BIEL shares currently trade on OTC Link, operated by OTC Markets Group, Inc. During the relevant period, BIEL shares were a penny stock as that term is defined in Section 3(a)(51) of the Exchange Act and Rule 3a-51-1 thereunder. 15 U.S.C. § 78c(a)(51) and 17 C.F.R. § 240.3a-51-1.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 2. Respondent admits that BioElectronics Corp. is a Maryland corporation with a sole location employing approximately twelve people in Frederick, Maryland. Respondent admits that the company is engaged in the business of making inexpensive, drug-free, anti-inflammatory medical devices and patches, which use electromagnetic energy. Respondent admits that, in 2007, BioElectronics entered into a settlement with the State of Maryland related to selling unregistered shares, and that the terms of such settlement speak for themselves. Respondent admits that its common stock is a class of equity securities, with approximately 4 billion shares issued as of November 2013. Respondent admits that on or around April 18, 2011, it voluntarily withdrew its registration. Respondent admits that its common stock is currently traded on OTC Pink, operated by OTC Markets Group, Inc. Whether BioElectronics' stock was a penny stock as that term

is defined in Section 3(a)(51) of the Exchange Act and Rule 3a-51-1 thereunder; 15 U.S.C. § 78c(a)(51) and 17 C.F.R. § 240.3a-51-1 is a conclusion of law as to which no response is required. If a response is required, the response would be that BioElectronics lacks sufficient information upon which to respond to this allegation and, consequently, denies such allegation.

3. Respondent IBEX, LLC ("IBEX") is a Virginia Limited Liability Company formed in 2005. It has an office in Ashburn, Virginia and is managed by Kelly A. Whelan, who is its sole employee and who has sole ownership of IBEX. IBEX made millions of dollars in loans to BIEL. During the relevant period, IBEX participated in offerings of BIEL stock.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 3. Respondent admits that IBEX is a Virginia Limited Liability Company formed in 2005 by Kelly Whelan and her former husband Robert W. Lorenz; that IBEX has an office in Ashburn, Virginia and is managed by Kelly A. Whelan, and that Kelly A. Whelan is currently its sole employee and sole owner of IBEX. Respondent admits that IBEX made loans to BIEL, the sum of which exceeded one million dollars. Respondent denies that IBEX participated in offerings of BIEL stock.

4. Respondent St. John's, LLC ("St. John's") is a Virginia limited liability company formed in 2010. It has never had a class of securities registered with the Commission. Patricia A. Whelan, wife of Andrew J. Whelan, owns 99% of St. John's, and Kelly A. Whelan, daughter of Patricia A. Whelan and Andrew J. Whelan, owns 1%. St. John's has provided funding for BIEL. Andrew J. Whelan's salary at BIEL has been paid to St. John's. During the relevant period, St. John's participated in offerings of BIEL stock.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 4. Respondent admits that Respondent St. John's, LLC ("St. John's") is a Virginia limited liability company formed in 2010; that St. John's has never had a class of securities registered with the Commission; that Patricia A. Whelan is the wife of Andrew J. Whelan, and that Patricia A. Whelan owns 99% of St. John's. BioElectronics further admits that Kelly A. Whelan, who is 48 years old and lives in a different state than her parents, is the daughter

of Patricia A. Whelan and Andrew J. Whelan, and that Kelly A. Whelan owns 1% of St. John's. Respondent admits that St. John's has made loans to BIEL; and that such loans have included payments to BIEL for purposes of meeting BIEL's operating expenses not covered by cash on hand, including funding payments of Andrew J. Whelan's salary. St. John's did not, however, merely advance funds to BIEL -- it bought convertible notes. BioElectronics expressly denies that St. John's participated in offerings of BIEL stock.

5. Respondent Andrew J. Whelan ("Whelan"), age 74, is a resident of Frederick, Maryland. Whelan is now, and for all relevant periods has been, BIEL's President, CEO, principal financial officer and member of the board of directors. He is also BIEL's founder. During the relevant period, Whelan participated in offerings of BIEL stock.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 5. Respondent admits that Respondent Andrew J. Whelan ("Whelan"), age 74, is a resident of Frederick, Maryland; that Whelan is BIEL's President, CEO, principal financial officer, member of its board of directors and BIEL's founder. Respondent denies that Whelan participated in offerings of BIEL stock.

6. Respondent Kelly A. Whelan, CPA ("Kelly Whelan"), age 48, is a resident of Ashburn, Virginia. Kelly Whelan is the daughter of Whelan. She is licensed as a CPA in the state of Maryland. During the relevant period, Kelly Whelan participated in offerings of BIEL stock.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 6. Respondent admits that Respondent Kelly A. Whelan, CPA , is 48 years old; a resident of Ashburn, Virginia; the daughter of Andrew and Patricia Whelan; and a CPA in the state of Maryland. Respondent denies that Kelly Whelan participated in offerings of BIEL stock.

7. Respondent Robert P. Bedwell, CPA ("Bedwell"), age 57, is a resident of Coral Springs, Florida. Bedwell is currently a partner at an accounting firm in Florida. He was the audit engagement partner for BIEL's 2009 10-K.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 7. Respondent admits that Respondent Robert P. Bedwell, CPA ("Bedwell"), was the audit engagement partner for BIEL's 2009 10-K. BioElectronics lacks sufficient information to admit or deny the remaining portions of paragraph 7 and on that basis denies such allegations.

OTHER RELEVANT ENTITIES

8. eMarkets Group, LLC ("eMarkets") is a Nevada registered limited liability company owned by Whelan's sister, who is its sole employee and shareholder. It has never had a class of securities registered with the Commission. It acts as a distributor of BIEL's veterinary products and is a related entity.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 8. Respondent admits that eMarkets Group, LLC ("eMarkets") is a Nevada registered limited liability company owned by Mary K. Whelan, Andrew Whelan's sister; and that Mary K. Whelan is currently eMarkets' sole employee and shareholder (in 2009, Nicholas Nyary was also a manager and owner); and eMarkets has never had a class of securities registered with the Commission. Respondent admits that eMarkets buys from BIEL certain products, and resells BIEL's veterinary products to third-party purchasers. Prior to her position at eMarkets, Mary Whelan was a Vice President at Lucent Technologies, where she ran global marketing operations, including marketing communications, customer programs, and sales support for the worldwide sales force. Prior to that she worked 23 years at AT&T in various marketing and PR roles.

9. YesDTC Holdings, Inc. ("YesDTC") is a Nevada corporation headquartered in San Francisco, California. YesDTC purports to specialize in direct-to-consumer marketing (e.g., infomercials, advertisements). YesDTC was a reporting company with the Commission pursuant to Section 12(g) of the Exchange Act. YesDTC ceased all business operations on February 23, 2012. On December 15, 2014, YesDTC's securities registration with the Commission was revoked under Section 12(j) of the Exchange Act.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 9. Respondent admits that YesDTC Holdings, Inc. ("YesDTC") is a Nevada corporation headquartered in San Francisco, California; that YesDTC specializes in direct-to-consumer marketing (e.g., infomercials, advertisements); that YesDTC was a reporting company with the Commission pursuant to Section 12(g) of the Exchange Act. Further, YesDTC's books were audited by an outside accountant that opined the transactions in question were recorded consistently in the same manner that BioElectronics reported such transactions. YesDTC actually paid the $150,000 not only for the product, but also to meet one of the contract conditions needed to have the rights to sell the product into Japan. Except as otherwise admitted, BioElectronics lacks sufficient information to admit or deny such allegation and on that basis denies the remainder of the allegations contained in paragraph 9 of the Answer.

10. From at least August 2009 to at least November 2014, BioElectronics, through IBEX and St. John's, and the efforts of Whelan and Kelly Whelan, distributed hundreds of millions of unrestricted shares in a series of unregistered transactions ("the offerings"). BIEL received proceeds of several million dollars from the offerings.

Response: Respondent denies each and every allegation of Paragraph 10.

11. During the relevant period, respondents BIEL, IBEX, St. John's, Whelan and Kelly Whelan effected the offerings as follows: when BIEL needed funds to continue its operations, IBEX sold hundreds of millions of unrestricted BIEL shares in dozens of unregistered transactions, at the request of Whelan, directly to third party purchasers at a discount to then current market prices. IBEX retained a percentage of the money obtained from the sales but funneled the rest to BIEL, and, in return, BIEL provided both a "convertible loan" to IBEX and a new grant of unrestricted shares which, in effect, replaced the shares IBEX sold. When each of these "loans" came due, after one or two years' time, BIEL "renegotiated" them by providing IBEX with additional purportedly unrestricted shares in return for extending the loan's due date. BIEL never repaid any of the "loans" in cash. These transactions were not registered with the Commission.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 11. Respondent admits that IBEX and St. John's made certain loans to BIEL pursuant to convertible notes based on terms at least as favorable to BioElectronics as

the terms of debt otherwise available to BioElectronics. All loan transactions were approved by the Bioelectronics' Board of Directors, including independent directors. Respondent further admits that some of that debt has not yet been repaid, some of that debt has been converted pursuant to the terms of that debt, and none of that debt has been repaid in cash. Respondent further admits that the convertible notes were not registered with the Commission. Respondent denies that here were any grants of unrestricted shares to IBEX. Respondent further avers that all the Note issuance transactions were audited by Berenfeld, Spritzer, Schechter & Sheer from inception through 2010 and in 2011 by Cherry, Bekaert & Holland L.L.P, now Cherry Bekaert LLP; and that Respondent engaged qualified lawyers who opined that the transactions as executed and performed were legal.

12. Starting in mid-2010 and continuing into at least early 2012, BIEL used St. John's to provide financing using the same type of transaction. BIEL raised over a million dollars through these offerings in approximately 17 transactions. These transactions were not registered with the Commission.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 12. Respondent admits that St. John's made certain loans to BIEL pursuant to convertible notes based on terms at least as favorable to BioElectronics as the terms of debt otherwise available to BioElectronics. Respondent further admits that some of that debt has not yet been repaid, some of that debt has been converted pursuant to the terms of that debt, the conversion shares of which were deposited with a broker dealer or donated to the Chabad at John's Hopkins as affiliate shares; and that none of that debt has been repaid in cash. Respondent further admits that the convertible notes were not registered with the Commission.

13. During the relevant period, Whelan was the President, CEO and principal financial officer of BIEL and directed its daily operations. Whelan communicated BIEL's financing needs to IBEX and St. John's. And, as BIEL's President and CEO, he ordered the issuance of BIEL shares to IBEX and St. John's through BIEL's transfer agent. He obtained the approval of the transactions from BIEL's board of directors. Whelan also met with third party purchasers in order to induce their purchase of BIEL shares through IBEX and St. John's.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 13. Respondent admits that Andrew Whelan was the President, CEO and principal financial officer of BIEL and directed its daily operations. BioElectronics also admits that, as BIEL's President and CEO, Andrew Whelan directed BIEL's transfer agent to deliver BIEL share certificates to those entitled to such shares. However, only the Board of Directors of BIEL can authorize the issuance of shares. All of St. John's shares are held by St. John's, were sold through a broker-dealer or donated to charity. Respondent denies that Whelan met with third party purchasers in order to induce their purchase of BIEL shares through IBEX and St. John's.

14. During the relevant period, Kelly Whelan was the sole owner, sole employee and managing member of IBEX. She offered and sold unregistered shares directly to the third party purchasers. She contacted these third parties, negotiated the terms with them and made the sale. And she, through her control of IBEX, funneled the proceeds back to BIEL.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 14. Respondent admits that during the relevant periods, Kelly Whelan and Robert William Lorenz were owners, of IBEX; that after being at investment risk and hold those convertible notes for a minimum of 13 months, IBEX sold unregistered convertible notes, in reliance on the Section 4(a)(1) exemption (for transactions by persons other than issuers, underwriters or dealers) after confirming with counsel she was not an underwriter pursuant to the safe harbor provisions of Rule 144. IBEX is not an affiliate of BioElectronics; it is an investor in BioElectronics and in Chris Kelly, LLC the Canadian distributor of the Company's products. St. John's did not pay BIEL's expenses; as an investor, it acquired BIEL's payables in exchange for Convertible Notes. BioElectronics expressly denies that IBEX "funneled the proceeds" back to BIEL.

15. During the relevant period, IBEX, and St. John's were affiliates of BIEL as each was under the common control of Whelan, or, at the least, the common control of Whelan and Kelly

Whelan. Among other things, Whelan determined when IBEX and St. John's sold shares to the public. In addition, IBEX and St. John's paid BIEL's business expenses, including paying BIEL's contractors for services rendered and paying Whelan's travel expenses incurred while performing BIEL related work.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 15. Respondent admits that during the relevant period, St. John's was an affiliate of BIEL. BioElectronics expressly denies that IBEX and Kelly Whelan were ever affiliates of BIEL or were at any relevant time under the control of BIEL or Andrew Whelan. St. John's shares were sold by a broker dealer pursuant to Rule 144 saferharbor. St. John's did not pay BIEL's expenses; as an investor, it acquired BIEL's payables in exchange for Convertible Notes.

16. IBEX and St. John's offered and sold shares for BIEL or, in the alternative, acquired securities from BIEL with a view to distributing the securities. Each sold BIEL shares, at Whelan's request, for that purpose and Whelan replaced shares sold by IBEX and St. John's so that the process could be repeated.

Response: Respondent denies each and every allegation of Paragraph 16. Neither IBEX nor St. John's have ever sold shares for BIEL during the relevant period or acquired securities from BIEL for distribution. IBEX and St. John's both sold the securities in compliance with Rule 144 safe harbor so as not to be considered an underwriter in compliance with Section 4(1) exemption. All sales were exempt. The only shares ever issued to St. John's were for the conversion of its Notes. IBEX has not purchased shares in BioElectronics. IBEX purchased Convertible Notes that pay interest and has a recorded lien on all the assets of BIEL. The IBEX lien is only subordinated to the Export-Import Bank of the United States loan $500,000.

17. Accurate, current information about BIEL was not available to the public during the relevant period. BIEL was delinquent for large periods of that time: it made none of the required filings under Section 12(g) of the Exchange Act prior to the March 31, 2010 filing of the 2009 Form 10-K, and while BIEL filed unaudited quarterly reports for the second and third quarters of 2010, it was again delinquent from the fourth quarter of 2010 until it withdrew its registration in April 2011. Importantly, the 2009 10-K materially overstated BIEL's revenue, as detailed below.

Response: Respondent denies each and every allegation of Paragraph 17. BioElectronics has published audited financial statements since inception by Berenfeld, Spritzer, Schechter & Sheer, a 225 professional staff regional audit firm. The audited Financial Statements for 2006 through 2009 were filed with SEC. In 2010, the audit firm was dissolved and the SEC rejected the 2006 and 2007 financial statements because the Auditor's submission letter only referred to 2009 statements.

The current public information requirement requires that information set forth in Rule 15c2-11 be publicly available and current. All such information, including information regarding the nature of its business, the identity of its officers and directors, and its financial statements was at all times publicly available on both the OTC Markets' and BIEL's website.

BioElectronics' Financial Statements are prepared by independent accountants and accompany disclosure documents include an opinion letter from BIEl's legal counsel.

18. During the relevant period, BIEL did not register any securities offerings with the Commission.

Response: Respondent admits the allegations in Paragraph 18.

19. On a Form 10-K filed with the Commission on March 31, 2010 ("2009 10-K"), BIEL improperly recorded revenue from two transactions in which BIEL retained the goods it claimed to have sold. These transactions, which totaled $366,000, represented 47% of the revenue in 2009 and were material to BIEL.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 19. Respondent admits that on a Form 10-K filed with the Commission on March 31, 2010 ("2009 10-K"), BIEL recorded revenue from two completed final transactions in which BIEL retained custody, but not title, to the goods it had sold. BIEL admits, otherwise, that the Form 10-K statements speak for themselves, and denies any mischaracterizations or misrepresentations contained in paragraph 19 and otherwise denies that the representations made by BIEL regarding goods sold and retained by BIEL were material when taken as a whole in the

context of BIEL's financial condition and its pending market clearance from the US FDA. On December 31, 2009, BioElectronics was a development stage company, which had spent more than $10 million in development. The sale of $216,000 in obsolete inventory and a distributor purchase of $150,000 in inventory were not material transactions.

The sales referenced were final and paid for at the time they were reported and recognized. Neither sale was reversible or cancelable. Proof of payments to BioElectronics from bank records have been provided to the Staff repeatedly starting in August 2012.

20. BIEL disclosed an accounting policy in its 10-K filed on March 31, 2010 that it "recognize[d] revenue when evidence of an arrangement exists, such as the presence of an executed sales agreement, pricing is fixed and determinable, collection is reasonably assured and shipment has occurred or title of the goods has been transferred to our buyers."

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 20. Respondent admits the referenced Form 10-K statement speaks for itself, and denies any mischaracterizations or misrepresentations contained in paragraph 20. Both buyers accepted delivery at the BioElectronics warehouse pending later shipment to customers/other locations. Shipping does not determine delivery. According to the Inco Terms of the International Chamber of Commerce, delivery occurs not at completion of shipment, but when the title transfers to the buyer.

Both eMarkets Group and YES/DTC had paid in full for the product and entered it into their inventory as demonstrated to the staff with check, wire transfers and/or filings. YES/DTC listed the inventory on their books in their filing to the SEC for the fiscal year December 31, 2009, and submitted an Audit Confirmation Letter along with declaration from the CEO of YES/DTC. There was no clause in the distribution agreement that with YES/DTC that allowed YES/DTC to cancel the agreement for any reason. BIEL, its accountant and outside auditor, as well as eMarkets Group and

YES/DTC unanimously and correctly treated the title to such sold inventory as having been transferred in 2009.

21. BIEL further disclosed its policy for bill-and-hold revenue recognition. "We recognize revenue on bill and hold arrangements when the following 7 criteria have been met: 1) the risk of ownership has passed to the buyer; 2) the buyer has made a fixed commitment to purchase the goods, preferably in writing; 3) the buyer, and not the seller, has requested that the transaction is on a bill and hold basis; 4) there is a fixed schedule for delivery of the goods, indicating a delivery date that is reasonable and consistent with the buyer's business purpose; 5) the buyer has not retained any specific performance obligations such that the earnings process is not complete; 6) the ordered goods are segregated from the seller's inventory and is not being used to fill other orders; and 7) the product must be complete and ready for shipment. In addition, payment must be received and/or fixed payment dates be agreed with the customer pursuant to which the risk of collection is reduced to a minimal level."

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 21. Respondent admits the referenced Form 10-K statement speaks for itself, and denies any mischaracterizations or misrepresentations contained in paragraph 21. The HealFast Product was complete and was repackaged in HealFast branded boxes and bubble envelopes and segregated in the warehouse. The Division has been supplied with photographs. Throughout 2009, long before BioElectronics recognized revenue, eMarkets Group had already sold inventory represented in the recognition reported in 2010. They had displayed it at trade shows, and were selling and shipping from BioElectronics warehouse to a number of veterinarians and other customers.

22. Contrary to its disclosures and Generally Accepted Accounting Principles ("GAAP"), BIEL improperly recognized revenue on two bill and hold transactions. As BIEL's President, CEO and principal financial officer, Whelan controlled BIEL and, specifically, its financial statements.

Response: Respondent denies each and every allegation of Paragraph 22.

23. BIEL made the first of the two bill and hold transactions pursuant to a distribution agreement between BIEL and YesDTC. BIEL entered into a distribution agreement with YesDTC on December 31, 2009, the final day of BIEL's fiscal year. This transaction failed to meet the criteria for recognizing revenue for multiple reasons. First, at the time the agreement was entered into and revenue was recognized by BIEL, the sale was not final and no fixed commitment to purchase the

goods existed because YesDTC had a contractual right to cancel the distribution agreement for a period of six months. Second, YesDTC never met the contractual requirement that it obtain regulatory approval to sell BIEL's products and, resultantly, BIEL would not turn over its product to YesDTC without that approval. Third, the agreement contained no fixed schedule for delivery of the goods. Specifically, YesDTC had not agreed to take delivery of any specific quantity of product at any specific date.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 23. Respondent admits that BIEL made the first of the two bill and hold transactions pursuant to a distribution agreement between BIEL and YesDTC; and that BIEL entered into a distribution agreement with YesDTC on December 31, 2009, the final day of BIEL's fiscal year; and that the distribution agreement speaks for itself.

24. The second bill and hold transaction that failed to meet bill and hold revenue recognition criteria involved BIEL and eMarkets, a distributor of BIEL products. The agreement between BIEL and eMarkets contained no fixed schedule for delivery of the goods related to this transaction, either, i.e., eMarkets had not agreed to take delivery of any specific quantity of product at any specific time. Also, at the time BIEL recognized revenue related to this transaction, certain finishing activities called for under the agreement, such as the application of adhesive strips, had not been completed.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 24. Respondent admits that the second bill and hold transaction involved BIEL and eMarkets. The agreement between BIEL and eMarkets speaks for itself. The large inventory purchases made by HealFast Therapy were of product known as the Squares .There was never any delay for finishing HealFast product. Indeed, most of the items purchased were discontinued human product. There has never been an adhesive attached to any HealFast product. Depending on the species and breed, vets use their own material for attachment. Dogs and cats have fur that cannot be taped with "adhesive strips."

25. Whelan, acting in his capacity as BIEL's President, CEO and principal financial officer, oversaw the preparation of BIEL's financial statements. At the time BIEL prepared its 2009 10-K, the company did not have an internal accounting staff, and Whelan had no accounting training or expertise. Despite his lack of expertise, but in consultation with outside accountants, Whelan provided BIEL's auditors with information indicating that both the YesDTC and the

eMarkets transactions satisfied the accounting guidelines for revenue recognition, despite having knowledge to the contrary.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 25. Respondent admits that Andrew Whelan, acting in his capacity as BIEL's President, CEO and principal financial officer, oversaw the preparation of BIEL's financial statements; and that, at the time BIEL prepared its 2009 10-K, the company had accounting staff, an accounting consultant, and independent auditors and accountants, whose job it was and upon whom Andrew Whelan and BIEL reasonably relied to ensure compliance with any and all regulatory financial statements and filings.

Respondent further avers that Andrew Whelan has a degree in accounting, and is a former vice president with financial responsibilities at a number of major companies including Marriott, Beecham Pharmaceuticals, and Brock Hotels. The financial statements and Form 10K at that time were prepared by John Glass, CPA, MBA and Esther Ko, CPA and Certified Internal Auditor (CIA), Certified Fraud Examiner (CFE) and Certified in Forensics (CFF) of Risk Management Service. The fact that the sales were "bill and hold" and the product had not shipped were fully disclosed in annual and quarterly reports. After gaining new information about the status of these two transactions, BIEL subsequently reported with clarity to the shareholders the updated status of the two bill and hold transactions in quarterly reports filed with the Commission, including:

> In the first quarter 10-Q, dated March 31, 2010, BIEL disclosed that it had not yet delivered 43,160 units, totaling approximately $366,000 bill and hold sales recognized for the year ended December 31, 2009. The units will be shipped during 2010 to help meet the distribution 2010 purchase obligation. In its second quarter 10-Q filed on June 30, 2010, BIEL stated Veterinary revenues of $406 and $97,477 were recorded in the three

months ended June 30, 2010 and 2009, respectively, and $1,887 and $113,227 were recorded in the six months ended June 30, 2010 and 2009, respectively. The reduction in veterinary revenues is primarily due to eMarkets requesting shipment of the bill and hold transactions from 2009 in lieu of purchasing additional units. eMarkets is our exclusive distributor of veterinary products to customers in certain countries outside of the United States. At June 30, 2010, the Company has not yet delivered 43,005 units, totaling approximately $365,000 bill and hold sales recognized for the year ended December 31, 2009. The units will be shipped during 2010 to help meet the distribution 2010 purchase obligation.

Then, the third quarter 10-Q stated that in addition to the related party transactions disclosed in Note 7 and Note 8, that BioElectronics signed a distribution agreement on February 9, 2009 with eMarkets Group, LLC, a company owned and controlled by a member of the board of directors and sister of the company's president; that the agreement provides for eMarkets to be the exclusive distributor of the veterinary products of the Company to customers in certain countries outside of the United States for a period of three years; and that the distribution agreement lists the prices to be paid for the company's products by eMarkets and provides for the Company to provide training and customer support at its own cost to support the distributor's sales function.

26. Bedwell was the audit engagement partner responsible for the audit of BIEL's financial statements included in its 2009 10-K.

Response: Respondent admits the allegations in paragraph 26.

27. PCAOB Auditing Standards require an auditor to exercise due professional care in the performance of work. AU § 150.02, Generally Accepted Auditing Standards, states that "due professional care is to be exercised in the performance of the audit and the preparation of the report." Furthermore, "sufficient competent evidential matter is to be obtained ... to afford a

reasonable basis for an opinion regarding the financial statements under audit." AU § 230.06, Due Professional Care in the Performance of Work, states:

> *"Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The auditor with final responsibility for the engagement should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client."*

Response: Paragraph 27 appears to state only contentions of law or legal authority and on that basis no response is required or offered. To the extent a response is required, Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 27.

28. Bedwell did not make himself knowledgeable about the client through his own actions or the actions of those who worked under him. He failed to determine that BIEL was a high risk audit client as was evidenced by the lack of adequate accounting staff, the presence of related party transactions, and the hundreds of millions of shares BIEL had issued to the public despite its size and the share price. He further failed to determine that the two bill and hold transactions themselves exhibited additional red flags over and above being bill and hold transactions: the YesDTC transaction occurred on the final day of the annual reporting period, the two transactions amounted to a significant percentage, i.e., 47%, of BIEL's revenue, and each was with either claimed as a related party in BIEL's 10-K, i.e., eMarkets, or a party that had other dealings with BIEL, i.e., YesDTC through its president, who also provided consulting services to BIEL. Further, he failed to recognize that there was no fixed delivery schedule under either the YesDTC or the eMarkets transactions, he failed to observe the segregation of inventory related to these bill and hold transactions after he became aware of them, and he failed to properly evaluate whether revenue recognition was met given that BIEL's agreement with YesDTC granted YesDTC a contractual right to cancel that agreement.

Response: Respondent denies that BIEL failed to observe the segregation of inventory related to the bill and hold transactions alleged in Paragraph 28. Respondent also denies that BIEL's related party transactions were not fully and property disclosed to its auditor and in its financial statements. Except as expressly denied, Respondent lacks sufficient information to admit or deny the allegations in Paragraph 28 and on that basis denies each and every allegation of Paragraph 28.

29. PCAOB Auditing Standards require an auditor to exercise professional skepticism. AU § 230.07, Due Professional Care in the Performance of Work, defines professional skepticism as

"an attitude that includes a questioning mind and a critical assessment of audit evidence." AU § 230.09, Due Professional Care in the Performance of Work, states that an "auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest."

Response: Paragraph 29 appears to state only contentions of law or legal authority and on that basis no response is required or offered. To the extent a response is required, Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 29.

30. Bedwell's acceptance of the statements in the bill and hold memorandum, particularly the statements concerning the fixed delivery schedules and the completed nature of the goods sold, without establishing sufficient independent audit evidence, demonstrates that Bedwell failed to exercise the required professional skepticism.

Response: Paragraph 30 appears to state only contentions of law or legal authority and on that basis, no response is required or offered. To the extent a response is required, Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 30.

31. PCAOB Auditing Standards also require that an auditor obtain sufficient knowledge of the audited company to competently plan and perform the audit. AU § 311.06, Planning and Supervision, states: "[T]he auditor should obtain a level of knowledge of the entity's business that will enable him to plan and perform his audit in accordance with generally accepted auditing standards. That level of knowledge should enable him to obtain an understanding of the events, transactions, and practices that, in his judgment, may have a significant effect on the financial statements." AU § 311.13, Planning and Supervision, states: "[T]he work performed by each assistant should be reviewed to determine whether it was adequately performed and to evaluate whether the results are consistent with the conclusions to be presented in the auditor's report."

Response: Paragraph 31 appears to state only contentions of law or legal authority and on that basis, no response is required or offered. To the extent a response is required, Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 31.

32. As detailed above, Bedwell failed to obtain sufficient knowledge of BIEL, either directly or through his assistants, to recognize that it was a high risk client that entered into high risk transactions. His failure to obtain sufficient knowledge resulted in an audit that was inadequately planned and executed.

Response: Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 32.

33. PCAOB Auditing Standards require that audit conclusions be supported by competent evidence. AU § 326.01, Evidential Matter, states that "[s]ufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit."

Response: Paragraph 33 appears to state only contentions of law or legal authority and on that basis no response is required or offered. To the extent a response is required, Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 33.

34. Examples of Bedwell's failure to obtain sufficient competent evidence include his failure to obtain evidence of a fixed delivery schedule under either bill and hold transaction, his failure to obtain evidence that the inventory related to the two bill and hold transactions was segregated after the transactions came to light and his failure to establish evidence that the YesDTC transaction was final with a fixed commitment to purchase the goods and not cancellable.

Response: Respondent denies that the inventory related to the two bill and hold transactions was not segregated. Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 34.

35. PCAOB Auditing Standards require related party transactions be treated with heightened scrutiny. AU § 334.07, Related Parties, states that an "auditor should be considered when auditing related party transactions including examining "invoices, executes copies of agreements, contracts, and other pertinent documents, such as receiving reports and shipping documents" and "Test for reasonableness the compilation of amounts to be disclosed, or considered for disclosure, in the financial statements."

Response: Paragraph 35 appears to state only contentions of law or legal authority and on that basis no response is required or offered. To the extent a response is required, Respondent lacks

sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 35.

36. Bedwell failed to properly test the eMarkets transaction, a related party transaction. Instead, he relied on the representations of management, through the bill and hold memorandum, and eMarkets, the related party, through customer confirmations that a fixed delivery schedule had been established, when, in fact, none had. Bedwell also failed to consider additional procedures contained in the standards to the eMarkets transaction.

Response: Respondent lacks sufficient information to admit or deny the allegations contained in this paragraph and on that basis denies each and every allegation of Paragraph 36.

37. Section 5(a) of the Securities Act prohibits any person, directly or indirectly, to use the mails or other means of interstate commerce to sell a security unless pursuant to an effective registration statement or an exemption from the registration requirements of the Securities Act. In addition, Section 5(c) makes it unlawful for any person, directly or indirectly, to offer to sell or buy securities, through a prospectus or otherwise, unless a registration statement has been filed as to such security or pursuant to an exemption.

Response: Paragraph 37 appears to state only contentions of law or legal authority and on that basis no response is required. To the extent that any factual allegation is stated or implied, Respondent denies each and every allegation of Paragraph 37.

38. As a result of the conduct described above, BIEL, IBEX, and St. John's violated, and Whelan and Kelly Whelan willfully violated, Sections 5(a) and 5(c) of the Securities Act.

Response: Respondent denies each and every allegation of Paragraph 38.

39. By virtue of the conduct described above, BIEL violated Section 13(a) of the Exchange Act and Rule 13a-1 thereunder, which require issuers of securities registered with the Commission to file with the Commission accurate annual reports. Whelan was a cause of these violations through his actions as President, CEO and principal financial officer of BIEL.

Response: Respondent denies each and every allegation of Paragraph 39.

40. BIEL also violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. It violated Section 13(b)(2)(A) by failing to make and keep books and records which accurately reflected the transactions of the company. It violated Section 13(b)(2)(B) by failing to design and maintain internal accounting controls sufficient to provide reasonable assurances that its revenue was not being overstated. Whelan was a cause of these violations as he knew, or should have known, his conduct or omissions would contribute to BIEL's violations.

Response: Respondent denies each and every allegation of Paragraph 40.

41. Rule 13a-14 of the Exchange Act requires that each report filed on Form 10-K include certifications signed by the principal executive and principal financial officer of the issuer attesting to the accuracy of the filings and adequacy of internal controls. As BIEL's CEO, President and principal financial officer, Whelan signed certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 stating: (1) that BIEL's 2009 10-K fairly presented, in all material respects, BIEL's financial condition and results, (2) that BIEL's 2009 10-K was free of material misstatements and omissions, and (3) that he had designed, or caused to be designed, internal controls over financial reporting to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Whelan willfully violated Rule 13a-14 by signing these false certifications with knowledge that the 2009 10-K did not fairly present BIEL's financial condition and results of operations in all material respects. Also, Whelan had knowledge that BIEL's 2009 10-K was not free of untrue statements of a material fact, or omitted to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not materially misleading. And he knew, or should have known, that he had not designed, or caused to be designed, internal controls over financial reporting that provided reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 41. Respondent admits that Rule 13a-14 of the Exchange Act speaks for itself. Respondent admits further that as BIEL's CEO, President and principal financial officer, Andrew Whelan signed certain certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 and that such certifications speak for themselves. Respondent specifically alleges that BIEL and its executives engaged what it reasonably believed to be competent professionals to assist it in preparing BIEL's 2009 10-K free of untrue statements of material fact and without omitting to state a material fact necessary to make such statements made, in light of the circumstances under which such sttements were made, not misleading; and that BIEL had adequate internal controls over its financial reporting that provided reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance wiith GAAP, and that BIEL and its executives did not know and should not have known, otherwise.

42. Exchange Act Rule 13b2-1 prohibits any person from directly or indirectly falsifying or or causing the falsification of any book, record, or account subject to Section 13(b)(2)(A). Exchange Act Rule 13b2-2 prohibits any director or officer of an issuer from making or causing to be made, directly or indirectly, any materially false or misleading statement to an accountant in connection with the preparation or filing of any required document or report with the Commission. Rule 13b2-2 can be violated by misrepresentations or omissions. Whelan willfully violated Rules 13b2-1 and 13b2-2 by signing the false certification, participating in the misconduct, directing the preparation of the inflated revenue statements, and/or assisting in the creation of a memorandum to BIEL's auditor that misrepresented and omitted facts relevant to the bill and hold transactions.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 42. Respondent admits that Rules 13b2-1 and 13b2-2 of the Exchange Act speak for themselves. Respondent expressly denies that BIEL inflated revenue statements and/or assisted in the creation of a memorandum to BIEL's auditor that misrepresented and omitted facts relevant to bill and hold transactions, and expressly denies that Whelan willfully violated Rules 13b2-1 and 13b2-2 by signing any false certification on behalf of BIEL.

43. Section 4C of the Exchange Act and Rule 102(e)(1) of the Commission's Rules of Practice provide that the Commission may censure or deny, temporarily or permanently, any person the privilege of appearing or practicing before it if that person engaged in unethical or improper professional conduct or willfully violated Federal securities laws or the rules and regulations thereunder.

Response: Except as otherwise expressly admitted in this Answer, Respondent denies each and every allegation of Paragraph 43. Respondent admits that Section 4C of the Exchange Act and Rule 102(e)(1) of the Commission's Rules of Practice speak for themselves.

44. In light of the conduct described above, Bedwell engaged in improper professional conduct in violation of Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

Response: Respondent lacks sufficient information to admit or deny the allegations in paragraph 44 and on that basis denies each and every allegation of Paragraph 44.

The allegations contained in paragraphs 45 through 50 reflect requests for determination of certain contentions made by the Commission, warranting no response. To the extent a response is

required, Respondent lacks sufficient information to admit or deny such allegations and on that basis denies each and every allegation set forth in Article III, paragraphs 45 through 50, inclusive.

IV. AFFIRMATIVE DEFENSES

Without admitting any wrongful conduct on the part of Respondent and without conceding that it carries the burden of proof on any of the following affirmative defenses, Respondent alleges the following affirmative defenses to the claims alleged in the OIP.

First Affirmative Defense

The Division's more than five-year investigation is tainted by fruit of the poisonous tree. The entire investigation was launched when an individual named Drew Walker, who claimed to an attorney and who BioElectronics reasonably believed to be an attorney, wrongfully engaged in discussions regarding confidential attorney-client privileged information with the Division's counsel. The Division knowingly engaged in these conversations.

Second Affirmative Defense

The OIP fails to state a claim upon which relief may be granted against Respondent.

Third Affirmative Defense

The proceeding, as to Respondent, is not warranted by the facts and is unsupported by substantial evidence.

Fourth Affirmative Defense

The Division's claims against Respondent fail, in whole or in part, because the Respondent acted reasonably and in good faith at all relevant times.

Fifth Affirmative Defense

Respondent reasonably and justifiably relied on professionals for their unqualified opinions about the legality of the transactions at issue.

Sixth Affirmative Defense

The Section 5 claim alleged in the OIP is barred, in whole or part, because all of the exchanges and issuances of securities were made in accordance with Section 4 of the Securities Act and following the extensive guidance the SEC publishes for parties and participants in exempt transactions, including Rule 144. The Section 5 claim alleged in the OIP is barred, in whole or part, because all of the exchanges and issuances of securities were made in accordance with Section 4 of the 1933 Act, 15 U.S.C. § 77d, and following the extensive guidance the SEC publishes for parties and participants in exempt transactions, including Rule 144. These exemptions include: (1) transactions that do not involve an issuer, underwriter, or dealer under Section 4(1); (2) private offerings under Section 4(2); (3) certain dealer or broker transactions under Sections 4(3) and 4(4); and (4) restricted issuer transactions to accredited investors under Section 4(6). The market participants have a right to rely on what the SEC says about the way the law is to be applied, and the SEC violates due process and sound policy when it attempts to regulate by surprise and announce a new view of the law through an enforcement action that could not have been anticipated from, and is instead contrary to, its past statements about what the law means.

The market participants have a right to rely on what the SEC says about the way the law is to be applied, and the SEC violates due process and sound policy when it attempts to regulate by surprise and announce a new view of the law through an enforcement action that could not have been anticipated from, and is instead contrary to, its past statements about what the law means.

Seventh Affirmative Defense

The Commission and the Commission's Administrative Law Judges lack authority to conduct the proceedings herein, including, but not limited to, the fact that the presiding Administrative Law Judge is an "inferior officer" for purposes of Article II of the United States

Constitution who was not appointed by the Commissioners, the President, or the courts and is impermissibly shielded from the President's removal powers.

Eighth Affirmative Defense

The claims alleged in the OIP are barred, in whole or in part, because this administrative proceeding violates Respondent's United States Constitutional rights, including, but not limited to, Respondents' rights to due process and equal protection. Among other things, (1) the Fifth Amendment Due Process Clause was violated based on the Commission's prejudgment of the charges; (2) the Commission's decision to place its claims against Respondent in an administrative proceeding violated Respondent's rights under the Equal Protection Clause by denying Respondent the fundamental right to a jury trial. The SEC chooses whether to bring cases in administrative proceedings or in federal court on a case-by-case basis, subject to no standard, thereby unilaterally deciding whether or not to deprive the Respondent of a jury trial based on its arbitrary, capricious or malicious decision; (3) the Equal Protection Clause is also violated under a "class-of-one" theory, in that the Commission had taken similarly situated persons to court, while deciding to pursue Respondent in an agency proceeding; (4) the Due Process Clause and Equal Protection Clause is violated because the Respondent had no advance notice that its actions, which appeared lawful and in compliance with the blue sky provisions of Rule 144, could expose the Respondent to devastating liability to the Commission. The claims should be litigated in the United States District Court for the District of Maryland, where Respondent would enjoy all of its Constitutional rights of Due Process and Equal Protection under the laws.

Ninth Affirmative Defense

The claims alleged in the OIP are barred in whole or in part, because the administrative proceeding violates the doctrine of separation of powers.

Tenth Affirmative Defense

The OIP, and each alleged cause of action contained therein, is barred in whole or in part by the statute of limitations.

Eleventh Affirmative Defense

The OIP, and each alleged cause of action contained therein, is barred by the doctrine of laches because the Division of Enforcement delayed unreasonably and inexcusably in commencing this action and the Respondent suffered prejudice as a result.

Twelfth Affirmative Defense

The civil penalties sought by the Commission should be denied or substantially reduced because any such award would be unjust, arbitrary and oppressive, or confiscatory.

Thirteenth Affirmative Defense

This action should be barred because of the Division of Enforcement's failure to comply with the requirements of the Dodd-Frank Act (codified at Securities and Exchange Act Section 4E(a)) to bring an enforcement action within 180 days of the Wells notice to the Respondent. The Division of Enforcement did not file this OIP within the 180 days and has not carried its burden to show an exception from the requirement.

Fourteenth Affirmative Defense

The relief of disgorgement and other monetary relief is barred in whole or in part to the extent of applicable claims of Respondent for setoff, offset, recoupment and subsequent or concurrent new value exchanged for any moneys received by Respondent for which disgorgement or other legal or equitable monetary relief is sought. For example, in bankruptcy, a preference action (a non-scienter claim) does not lie if the transfer was a contemporaneous exchange for new value

and/or if the defendant provided subsequent new value in exchange for the transfer 11 USC § 547(c)(1)(4).

Fifteenth Affirmative Defense

Respondent reserves the right to amend this Answer to assert any additional affirmative defense once discovery proceeds and more information becomes available. Respondent hereby incorporates herein all affirmative defenses asserted by the other Respondents.

WHEREFORE, Respondent prays for judgment as follows:

1. Dismissing the OIP in its entirety with prejudice on the merits;
2. Awarding judgment in Respondent's favor against the Commission;
3. Granting Respondent's costs and fees, including reasonable attorneys' fees; and
4. Granting such further and other relief as the Court deems just and proper.

Respectfully submitted, February 29, 2016

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BioElectronics Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following on March 11, 2016 in the manner indicated below.

Securities and Exchange Commission
Office of the Secretary
Attn: Secretary of the Commission Brent J. Fields
100 F Street, N.E.
Mail Stop 1090
Washington, D.C. 20549
Fax: (202) 772-9324
alj@sec.gov
(via overnight mail and electronic mail)

The Honorable Cameron Elliot
Office of the Administrative Law Judges
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549
(via overnight mail and email: alj@sec.gov)

Charles Stodghill, Esq.
Paul Kisslinger, Esq.
Division of Enforcement
Securities and Exchange Commission
100 F. Street, N. E.
Washington, DC 20549
(via email pursuant to parties' agreement:
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