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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING **File No. 3-17551**	:
In the Matter of	:
Med-X, Inc.	:
Respondent.	:

DIVISION OF ENFORCEMENT'S POST-HEARING REPLY BRIEF

April 7, 2017

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I. Preliminary Statement

This Court must determine whether to make permanent the order suspending Med-X's Regulation A+ exemption. As outlined in the Division's Post-Hearing brief ("DIV PHB"), the unchallenged evidence of Med-X's repeated sales in violation of Regulation A+ and Section 5 while delinquent in its annual reporting requirement, coupled with the Commission's clearly expressed intent through its rules and statements in the Regulation A+ adopting release, render a permanent suspension the appropriate outcome.

Respondent's Post-Hearing brief ("RES PHB") mischaracterizes the factual nature of Med-X's own conduct and continues to frame the question as one of a "single inadvertent failure," which has put its Regulation A+ exemption at risk. In doing so, Med-X posits that this Court may and should consider additional facts and circumstances (which it believes are "ameliorative"); that a permanent suspension is "draconian" in light of its single error; and, that pre-amendment Regulation A case law and other legal authority supports its position. RES PHB at 1, 18, 46.

Med-X's arguments are not persuasive. Med-X's deviations from the Regulation A+ requirements alone are deemed to be significant to the offering as a whole and warrant a permanent suspension; it is unnecessary to reach Med-X's claimed "ameliorative" facts. In Rule 260(a)(2), the Commission made it very plain that selling securities in an offering while there is a delinquency in periodic reporting is significant to a Regulation A+ offering as a whole. As a consequence, and in light of the Section 5 violations that resulted from Med-X's sale of securities while delinquent in its annual reporting requirement, the appropriate remedy is a permanent suspension. But, even if the Court were to consider additional facts beyond the untimely annual report filing and the unlawful sale of securities, as further detailed in the

Division's Post Hearing brief, Med-X's overall conduct ("facts and circumstances" or the "totality of the circumstances") is not ameliorative and underscores that this issuer, however well-intentioned, does not merit the privilege of a Regulation A+ exemption, and that it is in the public's interest to permanently suspend the exemption.

II. The Division Has Proven that Med-X's Violations of Regulation A+ were Significant and that a Permanent Suspension is Warranted

Med-X incorrectly maintains that the primary issue before the Court is whether Regulation A+ "*automatically* requires" a permanent suspension of the exemption in this case without consideration of ancillary facts and circumstances, arguing that the rules do not require a permanent suspension and that ameliorating facts and circumstances weigh against a permanent suspension of Med-X's Regulation A+ exemption. RES PHB at 18. Rather, the primary issue is whether Med-X violated Regulation A+ rules of sufficient significance to warrant the permanent loss of the Regulation A+ exemption. The Division has conclusively proven that Med-X has violated such rules; the Court need go no further. However, should the Court choose to consider ancillary facts and circumstances, the totality of those facts and circumstances support the conclusion that a permanent suspension is the appropriate result.

A. The Requirements of Rule 258 Provide No Support for Med-X

Med-X notes that a permanent suspension is an "elective" remedy based on the provision in Rule 258(d) that provides that once a temporary suspension is ordered the Commission "may," at any time after notice and an opportunity for a hearing, enter an order permanently suspending the Regulation A+ exemption "for any reason upon which it could have entered a temporary suspension" under Rule 258(a). RES PHB at 1, 22.

The "may" included in Rule 258(d) relates to the issue of whether the Commission may consider in a permanent suspension hearing a basis for suspension of the exemption that is in

addition to the basis upon which a temporary suspension was initially granted. Rule 258(d) makes it clear that such an additional basis may be considered if notice of and opportunity for a hearing have been provided. Here, Respondent received notice and the opportunity for a hearing. Now that the record shows further illegal sales *after* the imposition of the temporary suspension order and *after* Med-X made its late filing, these further violations provide a compelling basis for a permanent suspension.

Rule 258(c) provides that "[w]here a hearing is requested or is ordered by the Commission, the Commission will, after notice of and opportunity for such hearing, *either* vacate the order *or* enter an order permanently suspending the exemption." (Emphasis added.) By its explicit terms, Rule 258(c) provides a binary option. Rule 258(d) defines the necessary predicate for a permanent suspension order to be issued: a permanent suspension order could be entered by the Commission "for any reason upon which it could have entered a temporary suspension order" under Rule 258(a). Rule 258(a)(1) provides that the Commission may at any time enter an order temporarily suspending a Regulation A+ exemption when it has reason to believe that "any of the terms, conditions or requirements of Regulation A have not been complied with." Thus, a violation of Rule 251(d)(3)(i)(F) is one such requirement that provides the predicate for a permanent suspension order. Contrary to Respondent's claim that additional facts and circumstances need to be considered, nothing further is required in this case.

B. Regulation A+'s Investor Protections Far Outweigh the Speculative Harm Med-X Claims

Med-X argues that there is no evidence of investors being hurt. The company fails to appreciate that its failure to file a timely annual report deprived investors of important

information about the issuer.[1] At issue is whether "any of the terms, conditions or requirements of Regulation A have not been complied with." The Commission imposed Tier 2 filing requirements to protect investors. As established at trial, Med-X failed to comply with the requirements. Nor is this Rule 258 proceeding a private action in which injury to investors must be proven.

Med-X further argues that—despite its failure to comply with Regulation A+'s investor protection requirements—it should be permitted to continue to raise money under Regulation A+, in part, because of the dire consequences to the company if the exemption becomes unavailable. But if an issuer chooses to take advantage of the benefits of a Tier 2 offering, it must fully and accurately comply with the investor protection requirements of the Tier 2 regime. By electing to proceed under Tier 2, Med-X was able to avoid complying with not only the registration process available for offerings under the Securities Act but also the registration and qualification requirements of the many states across the country in which it sold shares. Having made its election and obtained the benefit of preemption, it was necessary for Med-X to comply with the investor protection requirements specifically imposed by the Commission on Tier 2 offerings. DIV PHB at 18-20. Med-X failed to do so.

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[1] *Cf. In the Matter of Absolute Potential, Inc.*, Release No. 71866 (April 4, 2014) at 10 ("In evaluating what is necessary or appropriate to protect investors, 'regard must be had not only for existing stockholders of the issuer, but also for potential investors. All investors in the marketplace, both current and prospective, were deprived of timely reports that accurately reflect the company's financial situation."). *See also In the Matter of Gateway International Holdings, Inc.*, Rel. No. 53907 (May 31, 2006) at 14 ("[E]xisting shareholders may be harmed by an issuer's failure to have its financial statements audited. For example, in the absence of an audit, an existing shareholder could be forced to determine whether to sell his stock based on financial statements that give an inaccurate view of the issuer's financial situation.").

Med-X warns of a purported chilling effect on issuers that will result if a permanent suspension order is issued. RES PHB at 46.[2] But rather than having a chilling effect, enforcement would reassure smaller issuers and investors. In adopting Regulation A+, the requirements of the Tier 2 offering framework were not only viewed by the Commission as necessary to protect investors, but they were also viewed as encouraging investor participation in such offerings. DIV PHB at 20 n.14. Rather, permitting Med-X to avoid the consequences of its admitted failures would chill compliance with the Tier 2 requirements by other issuers.

Med-X also warns that it has "suffered significant hardship," and that a permanent suspension will "slow us down," that it is "quickly losing ground to its competitors," and that it will have to "save all the capital that we have so we could file and get the company public." Med-X also mentions that the temporary suspension, which it concedes there was a basis for, caused a broker-dealer to pull out of an agreement. The company suggests that there is "a strong likelihood that it will not survive." RES PHB at 16-17.

In considering Med-X's dire warnings, it must be emphasized that in order to provide assurance to investors, the Commission structured Regulation A+ to clearly delineate those provisions from which an issuer could not deviate without being subject to the hardship of a loss of the exemption and, with respect to Tier 2 offerings, the loss of preemption of state registration and qualification requirements. DIV PHB at 23 n.18. The sales made by Med-X were unquestionably in violation of Rule 251(d)(3)(i)(F), a significant deviation intended to be subject to a permanent suspension and the consequences thereof. DIV PHB at 18.

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[2] In making its "chilling" argument, Med-X again raises the specter of a violation consisting of a sale of only "a single share of stock." RES PHB at 34. The proper focus, however, is the established violative facts in this case that go far beyond a single late-filed report , specifically, $241,818 in sales to 150 investors across the country over 4 months, including some sales that were made *after* Med-X became aware of its delinquency and *after* Med-X became aware of the temporary suspension.

Even though the rules prohibited Med-X from selling shares while delinquent in its reporting, Med-X casually asserts that the sale of additional shares is "not surprising." RES PHB at 3; *See also, Id.* at 35. However, as established in detail previously, after carefully balancing the various interests and equities associated with the Regulation A+ exemption, the Commission determined that such sales are in fact significant to the offering as a whole, and therefore are not insignificant deviations from the rules. DIV PHB at 21-23. A permanent suspension for an issuer that engages in such sales therefore serves to incentivize issuers to comply with these important disclosure requirements.

C. The Involvement of Counsel Does Not Insulate Med-X

As previously demonstrated, the involvement of counsel in Med-X's failures provides no basis to avoid a permanent suspension. DIV PHB at 41-48. Med-X asserts that it had to use Richardson because it was "lacking any internal legal department," and states repeatedly that Richardson was its "outside counsel" with an arm's length relationship. RES PHB at 13. Even if Richardson did have an arm's length relationship with the company, he was still Med-X's lawyer-agent and as such Med-X is bound by his acts. Here, however, as established by the evidence, Med-X and Richardson had a closely entwined relationship. Richardson, among other things, was one of the Founders of Med-X, he capitalized the company through his no-charge legal work, he received 5 million Founder's shares without paying anything, and, he was one of the top four Principal Shareholders of Med-X -- owning more shares than even the CEO of the company.[3]

[3] Richardson's involvement with Med-X has not changed at all. He is still working for the company as special securities counsel. His relationship with the company is "just as good as it was." (Richardson Tr. 270:3-24.) The company has had no discussion with Richardson concerning his obligation with respect to his mistake. The company has not raised with Richardson a possible claim against him due to his mistake. (*Id.* at 270:1-271:25.)

Moreover, Richardson's "mistake" was the result of his failure to read and follow on a timely basis the clear language of Rule 257(b)(1) and Form 1-K, as well as his illogical assumption that multiple post-qualification amendments would somehow continuously postpone the deadline for filing an annual report. Richardson's belief that no annual report would be due until April 2017 meant that investors would not get timely information about the company's financial condition until more than a year after the commencement of its Regulation A+ offering. A permanent suspension order does not require a showing of either negligence or recklessness, although Richardson's failure here constituted both and at least exhibits a highly unreasonable belief. *See, e.g., In re Robert Mfg.* 1974 WL 161431 at *2 (Commission upheld permanent suspension, despite issuer's good faith, because the "concern here is not with the purity of the issuer's motives but with the accuracy of its filing.") *See also, Tabby's Int'l. Inc., v. SEC,* 479 F.2d 1080, 1082-1083 (5th Cir. 1973) (affirming SEC's permanent suspension including its finding that "[t]he exemption provided by Regulation A is a conditional one based on strict compliance with express provisions and standards, and its suspension is appropriate where they are not met.") DIV PHB at 44-48. The failure to file, which directly resulted in the substantial volume of illegal sales, is not properly offset or cured by any other thing that Richardson may have done properly.

III. Pre-JOBS Act Regulation A Failure-to-File Cases Med-X Cites are Readily Distinguishable and Support a Permanent Suspension

Med-X asserts that a series of pre-JOBS Act Regulation A cases involving the failure to file certain required reports should serve as a guidepost for the appropriate relief in this case. *See* RES PHB at 25–32. Specifically, Med-X relies on cases in which the Commission vacated the temporary suspension of a Regulation A exemption based upon pre-JOBS Act Rule 224—

Reports of Sales and Use of Proceeds—which required issuers to file a report "concerning sales and use of proceeds on Form 2-A" at specific times after qualification of the offering. Rule 224 was superseded by Rule 257, and Rule 257 was later amended as part of the post-JOBS Act changes to Regulation A by ultimately rescinding the Form 2-A requirement entirely.[4] Med-X contends that these pre-JOBS Act cases support its position that once it filed its annual report, any problem was cured, and the only appropriate result is to vacate the temporary suspension. Med-X posits that these cases are analogous because, like in this case, they involve the failure to file a required report which the issuer later filed after receiving a temporary suspension. But, as explained below, this analogy does not hold up— factually or legally. Indeed, these cases underscore why the Court should make the suspension permanent in Med-X's case.

Form 2-A and Form 1-K are substantively very different. While it is true that issuers were formerly required to file reports at a specified time on Form 2-A and that issuers are currently required to file reports at a specified time on Form 1-K , the similarity ends there. Form 2-A is a two page fill-in-the-blanks form which does not require any narrative discussion, financial statements (audited or otherwise), exhibits or other attachments. According to Form 2-A, it takes an estimated 12 hours to complete the form. In contrast, Form 1-K is a multi-part report requiring detailed narratives, audited financial statements, and multiple exhibits.[5] According to Form 1-K, it takes an estimated 600 hours to complete the form. The scope and

[4] This rule was adopted in 1953 as Rule 224, subsequently renumbered as Rule 260, and renumbered again as Rule 257, before it was finally rescinded in 2015 as part of the JOBS Act amendments. 17 CFR 230.224 (March 13, 1963); (superceded August 1, 1956) 17 CFR 230.260 (Cum. Supp. 1963); 57 Fed. Reg. 36,444, 36,468, 36,470 (August 13, 1992); 17 CFR 230.257 (March 25, 2015).

[5] Med-X's 2015 Annual Report is 27 pages of narrative, plus financial statements and 10 exhibits.

depth of information required by Form 1-K is far more informative to potential investors than Form 2-A was, and therefore, the failure to file a Form 1-K is far more significant.

Furthermore, the purpose of Form 2-A and Form 1-K are entirely different. Form 1-K is intended, as Med-X concedes, to provide investors with important disclosures. By contrast, Form 2-A was designed to benefit the Commission itself, specifically, to provide information to the Commission about the efficacy of Regulation A.[6]

Changes to Regulation A rules also make clear that the Commission has viewed the importance of these forms very differently. The Commission made two critically important amendments to Regulation A in 1992.

First, former Rule 257, Reports of Sales and Use of Proceeds,[7] was revised to reflect the concern of commenters that the failure to comply with the Form 2-A requirement could cause the loss of the exemption.[8] The Commission amended the rule to *clarify* that the failure to file a Form 2-A would not cause the exemption to be lost. The following prefatory language was added to Rule 257: "*While not a condition to an exemption pursuant to this provision,*" the issuer shall file Form 2-A at the specific times specified in the rule.[9] By adopting this amendment the Commission explicitly stated that it did not consider a failure to timely file a Form 2-A to be sufficiently significant to warrant loss of the exemption.

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[6] This is made clear by the Commission's comments in the Regulation A+ proposing release: "The summary information about the issuer and its offering required to be disclosed in the Form 2-A is intended to provide the Commission with valuable data about Regulation A offerings and the effectiveness of Regulation A as a capital formation tool for smaller issuers." Proposed Rule Amendments for Small and Additional Issues Exemptions Under Section 3(b) of the Securities Act, Release No. 33-9497 (Dec. 18, 2013), *available at* https://www.sec.gov/rules/proposed/2013/33-9497.pdf.

[7] RES PHB at 26.

[8] Small Business Initiatives, Securities Act Release No. 33,6949, 57 Fed. Reg. 36,442; 36,444 (Aug. 13, 1992).

[9] *Id*, at 36,470.

A second important amendment the Commission adopted in 1992 came in the form of current Rule 260—Insignificant Deviations from a Term, Condition or Requirement of Regulation A. As discussed at length in the Division's Post-Hearing Brief, in Rule 260 the Commission defined which violations of Regulation A were sufficiently significant to warrant possible loss of the exemption and which were not.[10] Rule 251(d)(3)(i)(F)—the prohibition against stock sales if the issuer's Form 1-K is not current— is among the rules deemed to be "significant to the offering as a whole," and therefore sufficient to warrant loss of the exemption. Rule 260 stands in direct contrast to pre-JOBS Act Rule 257 in which the Commission expressly stated that Form 2-A did not warrant loss of the exemption. The cases Med-X cites involve issuers that failed to file Form 2-A—a failure that was explicitly insufficient to warrant loss of the exemption. In contrast, Med-X executed extensive stock sales while the required filing had not been made. Thus, Med-X's subsequent filing of its delinquent report did nothing to cure its separate violations of the Regulation A+ exemption (and Section 5 of the Securities Act). In sum, all the cases cited by Med-X are readily distinguishable.

IV. Med-X Ignores the Significant "Facts and Circumstances" That Underscore the Need for a Permanent Suspension

Throughout its Post-Hearing brief, Med-X clings to the fiction that its only transgression was a single late-filed report—the delinquency of which resulted entirely from the inadvertence of its attorney—and that any sales of its stock thereafter were merely incidental. Med-X repeatedly urges this Court to weigh additional facts surrounding its conduct to save it from the permanent loss of its Regulation A+ exemption. *See* RES PHB at 18, 23, 24, 28, 32-35. In further support of its position, Med-X cites pre-JOBS Act Regulation A cases, drawing analogies

[10] Small Business Initiatives, Securities Act Release No. 33, 6924, 57 Fed. Reg. 36,9768; 36,9773 (proposed Mar. 20, 1992); Rule 260(c).

to what it asserts was its own conduct, and concluding that dissolving the temporary suspension is the appropriate remedy. *Id.* at 35-36.

As discussed above and in the Division's Post-Hearing brief, the violations Med-X admitted to committing are significant enough that the Court need not consider any additional facts to determine that a permanent suspension is the appropriate result. However, should the Court consider additional "facts and circumstances" as Med-X urges it to do, Med-X's argument is still fatally flawed because it ignores the critical aggravating facts detailed in the Division's Post-Hearing Brief. For example:

- Even after receiving the SEC's written notification that its annual report was late, Med-X continued selling its stock in violation of Regulation A+ Rule 251 and Section 5 of the Securities Act. *See* DIV PHB at 33-35.

- Med-X even continued selling stock *after* it received actual notice of the order temporarily suspending its Regulation A+ exemption. *Id.* at 34-35.

- When Med-X ultimately filed its annual report it **chose not** to inform investors that it had been temporarily suspended, while touting its ostensible new business relationship with an investment adviser that had agreed to make "best efforts" to help Med-X "raise capital in accordance with the exemption from registration available under Regulation A+"—an exemption that had been temporarily suspended at the time Med-X filed the report. *Id.* at 35-37; *see also* RES PHB at 16 ¶24.

- Med-X's founder and president has twice been charged in state regulatory actions with violating securities laws, was not credible during his testimony and demonstrated indifference towards the importance of the annual report to investors, particularly when he speculated that a timely filed annual report would not have made a difference because of the "growth in the company" and "stuff that's beneficial to the investors." *See* DIV PHB at 37-40.

These facts unquestionably put the lie to Med-X's repeated refrain that the facts and circumstances of its conduct are "ameliorative"— only a single error in conducting its

Regulation A+ offering, not deserving of so "punitive"[11] and "draconian" a sanction as permanent suspension. Under the totality of the circumstances, it is clear that Med-X made compounding errors and bungled its Regulation A offering. The company proclaims that, once it learned its annual report was late, it immediately sprang into action, completing its (four-month-late) report in record time. *See* RES PHB at 4, 33. But in its apparent haste to file the report, Med-X failed to: comply with its obligations to cease selling stock (which was illegal and which it clearly should have been aware of at the time), or disclose to its investors in the annual report that it was facing a possible permanent suspension—a result it believes is potentially "catastrophic." *Id.* at 18, 34, 40.

Med-X's self-assessment in its handling of the delinquent annual report is telling. The company reiterates how quickly it filled out the Form 1-K, as if filing the form were the end unto itself. *See* RES PHB at 4, 33. What Med-X misses, however, is that the annual report is a Commission-prescribed *means* to an end. The real end, or objective, is to provide timely and adequate disclosure to current and potential investors to permit them to make an informed decision about the company. Merely filing the annual report (even in what Med-X describes as being record time after learning of its delinquency) while omitting to make key disclosures—e.g., that the company's Regulation A+ exemption had been suspended before it filed the report while at the same time puffing up its future use of the exemption—misses the point entirely about whether the company is deserving of the privilege of a Regulation A+ exemption.

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[11] Legal authority does not support this characterization of a permanent suspension. Where an issuer has been granted the privilege of an exemption, as Med-X has been here, "[a] suspension of the exemption is *not a sanction or a penalty*, but rather serves the remedial purpose of protecting investors by making the safeguards of a registration statement under the Securities Act a prerequisite for any further public offering of securities either by the issuer or the underwriter where there has been a failure to adhere to the conditions of the exemption." *Tabby's Int'l*, 479 F.2d at 1082-83 (emphasis added).

Equally telling is Med-X's repeated emphasis on the purpose of Regulation A+ to help small issuers raise capital quickly, and that its offering materials were an adequate substitute for the financial information required in an annual report. Med-X goes so far as to suggest that some in the industry believe that the ongoing reporting requirements for Tier 2 offerings are overly burdensome. RES PHB at 46. These arguments show that Med-X fails to appreciate that the policy to help issuers raise capital was explicitly counterbalanced by the requirement to provide investors with timely and fulsome disclosures about the company's financial condition. Med-X was not free to quickly raise cash from public investors and slow walk furnishing its annual report.

The facts also show that Med-X is helmed by a founding president with a checkered past relating to state securities regulators, who is inconsistent, is imprecise with company-related figures, and exhibits indifference towards the need for investors to obtain critical reporting information. DIV PHB at 37 – 41.

In light of these additional facts, and contrary to Med-X's argument, pre-JOBS Act Regulation A cases do not support vacating the temporary suspension. Indeed, the cases that Med-X relies on *highlight* the seriousness of Med-X's case, and the need to "protect[] investors by making the safeguards of a registration statement under the Securities Act a prerequisite for any further public offering of [Med-X] securities. . . ." *Tabby's Int'l*, 479 F.2d at 1082-83.

For example, Med-X lists the factors it believes are important—and seeks to draw analogies to Regulation A cases in which the Commission vacated the order. RES PHB at 32-36. Med-X's factors include: (1) "the serious nature of the offense—intent/scienter/willfulness;" (2) "inadvertence in failing to file report;" (3) "fixing the filing deficiency;" (4) "basis for exemption still exists;" (5) "failure to cooperate;" (6) "good faith /sincere effort to comply/consider other

filings;" (7) "public interest/protection of investors;" (8) "no further reason to believe the problem will reoccur and the company has urgent need for funds;" and (9) "number and nature of deficiencies." *Id.*

Accepting these factors as instructive for purposes of argument, Med-X's conduct is egregious, and the cases Med-X cites are wholly inapposite. As just one example, in support of its "**Serious nature of the offense- intent/scienter/willfulness**" factor, Med-X relies upon two cases in which the Commission determined that misstatements or deficiencies in the issuers' public disclosures were not serious enough to support a permanent suspension.[12] These cases do not inform the analysis as they do not deal with conduct approaching the gravity of illegal stock sales (including *after* notice of a deficiency or temporary suspension order, both of which obviously required immediate cessation of stock sales), or a failure to disclose that the company had been suspended from the exemption it was promoting.[13]

Moreover, Med-X's assertion that the failure to file the report was "not intentional or willful" ignores the undisputed fact that Med-X otherwise failed to comply with Rule 251 even when that rule was expressly brought to its attention. RES PHB at 32. Likewise, the rest of the factors suffer in similar ways, based in large part upon Med-X's incorrect characterization of the

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[12] *In the Matter of Mid-Hudson Natural Gas Corp.*, SEC Release No. 33-3985, 1958 WL 55561; *In the Matter of Telescript-CSP, Inc.* SEC Release No. 33-4644, 1963 WL 62765; RES PHB at 32.

[13] By contrast, Med-X cites *In the Matter of Lewis Securities Company,* Administrative Proceeding File No. 3-2259, Sidney L. Feiler (1970), in apparent support of its contention that it acted in good faith. *See* RES PHB at 33-34 & n.57. The case bears no real resemblance to the facts at issue here. Indeed, the issuer in *Lewis* was permitted the rarely-granted opportunity to withdraw a flawed offering statement in part because of good faith, but also because "*none of the shares of this issue were offered to the public*" and that it was therefore "not necessary in the public interest or for the protection of investors that the temporary suspension of the Issuer's Regulation A exemption be made permanent." *Lewis Securities*, A.P. File No. 3-2259 at 15 (emphasis added).

actual "facts and circumstances" surrounding its conduct. Thus, even if the Court decides to examine the "facts and circumstances" beyond the core, undisputed allegations of Med-X's violative conduct, Med-X does not, and cannot, cite to any Regulation A suspension case that in any way supports vacating the temporary suspension order.

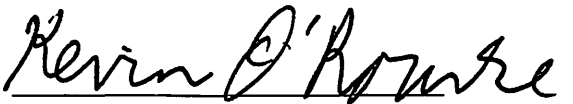
Finally, as discussed in detail in the Division's Post-Hearing Brief, the registration cases Med-X has cited are inapposite to suspension proceedings, and otherwise do not aid Med-X. *See* DIV PHB at 25-32.

V. Conclusion

The Division has demonstrated that Med-X's admitted violations of its Regulation A+ requirements are significant enough to permanently suspend the company's exemption. The Court therefore need not accept Med-X's invitation to delve further into the facts, which Med-X incorrectly believes are "ameliorative." But doing so further establishes that it is in the public's interest to permanently suspend the company's Regulation A+ exemption.

April 7, 2017

Respectfully submitted,



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I hereby certify that a true copy of the Division of Enforcement's Post-Hearing Reply Brief was served on the following on this7th day of April, 2017, in the manner indicated below:

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