

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**ROB ROY J. GRAHAM,**

**Defendant.**

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**CIVIL ACTION  
NO. 07-11152**

**TRIAL BY JURY  
DEMANDED**

**COMPLAINT**

Plaintiff Securities and Exchange Commission (the “Commission”) alleges that:

1. From at least 2000 through at least February 2002 (the “relevant period”), Intervoice, Inc., formerly known as Intervoice-Brite, Inc. (“Intervoice”), acting through its then chief financial officer Rob Roy J. Graham (“Graham”), improperly recognized revenue on seven transactions (the “relevant transactions”) under circumstances in which revenue recognition was prohibited pursuant to generally accepted accounting principles (“GAAP”) and to Intervoice’s own accounting policies. As a result, Intervoice’s public filings with the Commission, and other statements to investors related to the company’s financial condition during the relevant period, contained financial information that was materially misleading, including: (i) net income and revenue for the fiscal quarter ended February 29, 2000; (ii) net loss for the fiscal year ended February 29, 2000, (iii) net income and revenue for the fiscal quarter ended November 30, 2000; (iv) net income and revenue for the fiscal quarter ended May 31, 2001; and (v) net income and revenue for the fiscal quarter ended August 31, 2001.

2. The scheme arose when, during the relevant period, Graham negotiated and approved several transactions with certain of Intervoice's distributors, in which he caused Intervoice to improperly recognize as revenue even though the deal terms did not comply with the company's revenue recognition policies or GAAP. Intervoice's recognition of revenue from these transactions did not comport with GAAP or the company's accounting policies because, among other things, the transactions involved undocumented terms, including provisions that permitted Intervoice's distributors to return the products without penalty and/or to forgo payment until they had sold the products to their end users. In addition, Graham agreed to terms whereby Intervoice would be required after shipment of products to distributors to reconfigure or substitute products to suit the needs of the distributors' yet-to-be-determined end customers.

3. Graham, in violation of Intervoice's policies, knowingly or recklessly failed to document the rights of reconfiguration, substitution, return or contingent payment that he secretly provided to distributors, and failed to disclose these terms to the company's external auditors. In some instances, Graham affirmatively provided Intervoice's auditors with false information and documents that contradicted the actual terms of its agreements with the distributors. As a result, Graham had Intervoice recognize revenue and profits from these deals even though he knew, or was reckless in not knowing, that under the company's policies and GAAP, revenue and profits should not have been recognized because the key terms were not documented, and the deals involved rights of reconfiguration, substitution, return, and/or contingent payment that prevented recognition until the rights were expired or exercised.

4. Graham also caused Intervoice to sell shares of stock of a third-party public company that Intervoice falsely claimed were exempt from registration and freely tradable when, in fact, he knew the stock was not freely trading. Graham further aided and abetted one of Intervoice's distributors, Speechworks International, Inc. ("Speechworks"), to recognize revenue in violation of Speechworks' policies and GAAP, in return for Speechworks' assistance in helping Intervoice improperly recognize revenue.

5. By engaging in the transactions and practices alleged in this Complaint, Graham violated Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §§ 77e(a), 77e(c), 77q(a)]; Sections 10(b) and 13(b)(5) of the Exchange Act of 1934 (the "Exchange Act") and Rules 10b-5, 13b2-1 and 13b2-2 thereunder [15 U.S.C. §§ 78j(b) and 78m(b)(5) and 17 C.F.R. §§ 240.10b-5, 240.13b2-1 and 240.13b2-2]; and aided and abetted violations of Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1 and 13a-13 thereunder [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), 78m(b)(2)(B) and 17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1 and 240.13a-13].

6. Accordingly, the Commission seeks entry of a permanent injunction against Graham, prohibiting further violations of the federal securities laws, and seeking civil monetary penalties, disgorgement of ill-gotten gains, and a permanent bar prohibiting Graham from serving as an officer or director of a public company.

## **JURISDICTION**

7. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa].

8. The Commission brings this action pursuant to the authority conferred upon it by Sections 20(b) and (e) of the Securities Act [15 U.S.C. § 77t(b) and (e)] and Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)].

9. In connection with the conduct alleged herein, Graham, directly and indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, the facilities of national securities exchanges, and/or of the means and instruments of transportation or communication in interstate commerce. Moreover, conduct in connection with the events alleged herein occurred in Massachusetts.

## **DEFENDANT**

10. Rob Roy J. Graham, 54, of Dallas, Texas, joined Intervice in 1992 as the company's Controller. In 1994, he became CFO, a position he held until July 2003, when he left the company.

## **OTHER PARTIES**

11. Intervice, a Texas corporation with its principal place of business in Dallas, manufactures interactive voice recognition and telecommunications systems. At all relevant times, Intervice's stock was traded on the NASDAQ National Market System and was registered with the Commission pursuant to Section 12(g) of the Exchange Act. The company's fiscal year ended on the last day of February.

12. Speechworks, formerly a Delaware corporation with its principal place of business in Boston, Massachusetts, was acquired by ScanSoft, Inc. (“ScanSoft”) in August 2003. Between August 2000 and its acquisition by ScanSoft, Speechworks’ stock was traded on the NASDAQ National Market System and was registered with the Commission pursuant to Section 12(g) of the Exchange Act. In September 2005, ScanSoft bought Nuance Communications, Inc., and the combined entity was renamed Nuance Communications, Inc. Speechworks’ fiscal year ended on December 31 during the relevant period.

### **THE SCHEME**

#### **The Fourth Quarter Fiscal Year 2000**

13. In the fourth quarter of fiscal 2000, ended February 29, 2000, Intervoice improperly recorded in its books and records and improperly recognized revenue in a quarter-end barter transaction with Speechworks. Specifically, Intervoice sold hardware and software products to Speechworks, in its capacity as a reseller of Intervoice products, recognizing revenue of approximately \$1,196,130. However, in connection with this transaction, Graham agreed in advance to reconfigure the hardware and software products, or to substitute products of commensurate value, in order to meet the needs of Speechworks’ ultimate end users, thereby precluding revenue recognition under GAAP until the reconfiguration right was exercised or expired.

14. Also in the fourth quarter of fiscal 2000, ended February 29, 2000, Intervoice improperly recorded in its books and records and recognized revenue of approximately \$1,106,553 related to the sale of hardware and software to another reseller of Intervoice products, Reseller A. Recognition of revenue on this transaction was

improper in light of post-shipment obligations agreed to by Graham including the obligation to reconfigure products or substitute products of commensurate value to meet the needs of Reseller A's ultimate end users.

15. As a result of the two fourth quarter transactions described above, Intervice overstated its net income for the quarter by 19%, and understated net loss for the fiscal year ended February 29, 2000 by 8%, which it reported in its Form 10-K filed with the Commission on May 26, 2000. In the spring of 2000, during the course of working on the fiscal 2000 year end audit, Intervice's outside auditors obtained documents indicating that Intervice had granted reconfiguration rights to Reseller A that would have precluded revenue recognition. Graham provided false information to the outside auditors about the deal, including false statements from Reseller A, indicating that the transaction occurred with no special terms that would have precluded revenue recognition.

#### **The Third Quarter of Fiscal Year 2001**

16. In the third quarter of fiscal 2001, ended November 30, 2000, Intervice improperly recorded and reported \$1.4 million of revenue by arranging for the improper removal of a reserve associated with hardware systems sold to Speechworks during the prior fiscal year.

17. Intervice implemented new accounting procedures pursuant to SAB 101 in the first fiscal quarter of 2001. As part of the SAB 101 implementation, Intervice established a sales reserve on its books of approximately \$1.4 million associated with the hardware sales to Speechworks for resale (most of which related to the fourth quarter sale), wherein Intervice retained a post-shipment installation obligation.

18. In or about October 2000, Graham had Speechworks sign releases that containing a false acknowledgement that Speechworks had installed the products and purportedly released Intervoice from its installation obligation. Graham knew the releases were false and misleading because he knew that the products were still sitting in a third party warehouse and that if necessary, Intervoice would still install the products. Because of Graham's conduct, Intervoice improperly removed the reserve and recognized approximately \$1.4 million in revenue. The improper recognition of the revenue from the reserve reversal resulted in Intervoice filing a false and misleading Form 10-Q for the third fiscal quarter of 2000, filed with the Commission on January 12, 2001, which materially overstated Intervoice's net income by 242%.

#### **The Warrant Transaction**

19. In the fourth quarter of fiscal 2001, pursuant to a transaction negotiated by Graham, Intervoice paid \$900,000 to Speechworks in exchange for Speechworks agreeing to amend an unregistered stock warrant that had been previously issued by Speechworks to Intervoice. The amendment purported to permit Intervoice to immediately exercise the warrant and resell the underlying shares as freely trading shares under a registration exemption pursuant Rule 144(d)(1) of the Securities Act. The Speechworks shares should have been issued to Intervoice as restricted stock that could not be freely traded on the open market until February 2002, absent some other registration exemption. Nonetheless, Graham had Intervoice sell the Speechworks securities as freely-trading shares and the company earned gross proceeds of \$21.4 million in reliance on a registration exemption that was in fact not available. Graham received a substantial bonus in connection with monetizing the warrant.

20. The \$900,000 payment to Speechworks made in connection with the warrant amendment was misrepresented by Graham in Intervoice's books and records as a prepayment of software royalties from Intervoice to Speechworks. Speechworks, with Graham's knowing and substantial assistance, improperly recognized the \$900,000 as revenue in the first quarter of fiscal 2001, ended March 31, 2001. Intervoice was a reseller of Speechworks' software products and the agreement between the parties called for the payment of a specific royalty whenever Intervoice shipped out a device containing Speechworks' software. In 2001, Intervoice provided Speechworks with a royalty report on a quarterly basis indicating what software had been shipped, the geographical region into which the product had been shipped, and the royalty owed. Graham was responsible for providing Intervoice's royalty report in 2001.

21. The initial royalty report for the quarter ended February 28, 2001 listed the \$900,000 payment made in connection with the warrant amendment as a prepayment of royalties. Speechworks' CFO requested that Graham provide a new royalty report, indicating that listing the payment as a prepaid amount would preclude revenue recognition by Speechworks. Graham complied and provided a replacement royalty report that falsely showed approximately \$900,000 of royalties owed from products supposedly shipped by Intervoice to Texas. Graham knew that no such shipment had occurred, that Speechworks would be using the false royalty report to justify the improper recognition of revenue, and that the \$900,000 of false revenue was material to Speechworks' financials. Speechworks, with Graham's knowing and substantial assistance improperly recognized the \$900,000 as revenue in its quarter ended March 31, 2001.

### **The Speechworks May 2001 Transaction**

22. In the first quarter of fiscal 2002, ended May 31, 2001, Intervoice improperly recorded in its books and records and recognized revenue of approximately \$999,960 when it sold hardware and software to Speechworks, in its capacity as a reseller of Intervoice products. Recognition of revenue on this transaction was improper in light of post-shipment obligations agreed to by Graham, including the obligation to reconfigure products or substitute products of commensurate value to meet the needs of Speechworks' ultimate end users. As a result of this conduct, Intervoice overstated its net income for the quarter by 67%, which it reported in its Form 10-Q filed with the Commission on June 29, 2001.

23. The May 2001 sale to Speechworks was part of an undocumented deal Graham arranged with Speechworks' CFO. Intervoice received the \$999,960 hardware order from Speechworks prior to Speechworks receiving final orders from its end users in return for Intervoice agreeing to prepay for up to \$2 million of royalties prior to shipment of devices containing Speechworks' software. Graham caused Intervoice to agree to prepay for \$1 million of Speechworks royalties in May 2001, \$500,000 in August 2001, and \$500,000 in November 2001. As was the case for the February 28, 2001 royalty report, Graham sent Speechworks false quarterly royalty reports for each of these prepaid amounts that incorrectly associated the prepayments with shipments by Intervoice of products to Texas. Graham knew that no such shipments had occurred, that Speechworks would be using the false royalty reports to justify the improper recognition of revenue, and that the \$1 million, \$500,000 and \$500,000 of false revenue were material to Speechworks' financials. Speechworks, with Graham's knowing and substantial

assistance, improperly recognized the \$1,000,000, \$500,000 and \$500,000 as revenue in its quarters ended June 30, 2001, September 30, 2001, and December 31, 2001 respectively.

**Improper Transactions with Reseller B, Reseller C and Reseller D**

24. In the second quarter of fiscal 2002, ended August 31, 2001, Intervice improperly recorded in its books and records and recognized revenue of approximately \$742,751 and \$1,078,738, respectively, on two transactions involving hardware and software sales to two resellers, Reseller B and Reseller C. Recognition of revenue on each of these transactions was improper in light of post-shipment obligations agreed to by Graham, including the obligations to reconfigure products or substitute products of commensurate value to meet the needs of the ultimate end users. In addition, recognition of the \$1,078,738 to Reseller C was improper because Graham granted the reseller the right to return the products if the ultimate end user failed to buy the products.

25. In the second and third quarters of fiscal 2002, ended August 31, 2001 and November 30, 2001, respectively, Intervice improperly recorded in its books and records and recognized revenue on two related transactions involving hardware and software sales to a reseller, Reseller D, for approximately \$5.1 million and \$300,000, respectively. Intervice subsequently reversed the revenues associated with both transactions during the fourth quarter of fiscal 2002 in connection with a return of the products. Recognition of revenue on these transactions was improper in light of post-shipment obligations agreed to by Graham, including the obligation to reconfigure products or substitute products of commensurate value to meet the needs of Reseller D's ultimate end users. In addition, recognition of the revenue was improper because

Graham granted Reseller D the right to return the products if the ultimate end user failed to buy the products.

26. As a result of the \$5.1 million, \$1,078,738, and \$742,751 second quarter transactions described above, Intervoice reported net income of \$1.7 million in its fiscal quarter ended August 31, 2001 (which it included in its Form 10-Q filed with the Commission on October 9, 2001), when it should have reported a net loss of \$1.5 million.

27. During February 2002, Graham met with Intervoice's outside auditors to discuss Reseller D's return of the products sold to it in the improperly recognized transactions from the second and third quarters of fiscal 2002. Graham provided false information to the auditors with respect to the nature of Reseller D's returns. Graham failed to describe the rights of reconfiguration or return that he had provided to Reseller D, and instead falsely described the return as an after-the-fact business accommodation.

#### **Impact of the Improperly Accounted For Transactions**

28. Below is a chart showing the cumulative impact by reporting period of all of the above discussed improper transactions in a given reporting period on certain of Intervoice's reported financial metrics. The "Revised" numbers show what the specific financial metrics should have been if the improperly recognized transactions described

above in a given period were reported correctly.

Period Ended	Reported Earnings (Loss) Per Share	Revised Earnings (Loss) Per Share	Reported Net Income (Loss) [Thousands]	Revised Net Income (Loss) [Thousands]	Amount Net Income or Loss Overstated [Thousands]	Percentage Net Income Overstated
Three Months Ended 2/29/00	\$0.23	\$0.19	\$7,884	\$6,641	\$1,243	19%
Three Months Ended 11/30/00	\$0.03	\$0.01	\$1,106	\$323	\$783	242%
Twelve Months Ended 2/29/00	(\$0.49)	(\$0.53)	(\$14,846)	(\$16,089)	\$1,243	8%
Three Months Ended 5/31/01	\$0.04	\$0.02	\$1,408	\$845	\$563	67%
Three Months Ended 8/31/01	\$0.05	(\$0.04)	\$1,725	(\$1,534)	\$3,259	212%

29. Intervice's reported revenue for the three months ended August 31, 2001, was also overstated by 10% in Intervice's Commission filings and earnings releases as a result of the improperly recognized transactions with Resellers B, C and D described above.

30. In addition to the false filings with the Commission, Intervice announced the above described financial metrics in quarterly press releases issued after the end of each quarter. Graham reviewed, prepared and consolidated the financial information that

was disseminated in the press releases and knew or recklessly disregarded the fact that the press releases contained misleading financial information.

31. During 2000 and 2001, Intervoice also held quarterly earnings calls, open to the public and market analysts, to discuss the company's financial results. Graham participated in the conference phone calls and knew or recklessly disregarded the fact that he and others disclosed materially false and misleading financial results.

#### **Graham's Signatures**

32. As Intervoice's CFO, Graham signed Intervoice's Forms 10-K for the fiscal years ended February 29, 2000 and February 28, 2001, and prepared, reviewed and consolidated the financial information in Intervoice's Forms 10-Q for the periods ended May 31, 2001 and August 31, 2001. Graham signed these filings knowing or recklessly disregarding the fact that the filings, as described above, contained materially misleading financial information.

#### **Securities Offered in 2000 and 2001**

33. Intervoice offered securities in 2000 and 2001 at the same time its financial statements contained materially false statements.

34. In October 1999, Intervoice filed with the Commission a Form S-8 registering securities to be offered pursuant to an employee stock option plan. The Form S-8 incorporated by reference all Intervoice filings to be made in the future, including the filings containing the fraudulent financial statements.

**FIRST CLAIM**  
**Fraud in Connection With the Purchase or Sale of Securities in  
Violation of Exchange Act Section 10(b) and Rule 10b-5**

35. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

36. By reason of the foregoing, Graham, directly or indirectly, in connection with the purchase or sale of securities, by the use of any means and instrumentalities of interstate commerce, or of the mails, or any facility of any national securities exchange: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of Intervoice securities, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

**SECOND CLAIM**  
**Fraud in the Offer or Sale of Securities in Violation of Securities Act § 17(a)**

37. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

38. By reason of the foregoing, Graham, directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in the light of the

circumstances under which they were made, not misleading; or (c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon certain purchasers, including purchasers of Intervoice securities in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**THIRD CLAIM**  
**The Sale of Unregistered Securities in  
Violation of Sections 5(a) and 5(c) of the Securities Act**

39. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 31 of the Complaint as if set forth fully herein.

40. As set forth above, during February 2001, Graham caused Intervoice to exercise a warrant and sell the underlying shares as freely tradable shares, even though he knew the shares were unregistered and the claimed registration exemption was invalid. Intervoice sold the shares in a market transaction and recognized the \$21.4 million it received as other income, which it recorded in its books and records and included in filings with the Commission.

41. By reason of the foregoing, Graham violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and 77e(c)].

**FOURTH CLAIM**  
**Circumvention of Internal Controls and Falsification of Accounting Records  
in Violation of Exchange Act § 13(b)(5) and Rule 13b2-1**

42. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

43. By reason of the foregoing, Graham knowingly circumvented Intervoice's internal accounting controls; or, directly or indirectly, falsified, or caused to be falsified,

Intervoice' books, records and accounts in violation of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

**FIFTH CLAIM**

**Aiding and Abetting Intervoice's Reporting  
of False and Misleading Information in Annual Statements in Violation of  
Exchange Act § 13(a) and Rules 12b-20 and 13a-1**

44. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

45. Intervoice reported materially false and misleading information and made other false and misleading statements in its Forms 10-K filed with the Commission on May 26, 2000 (for fiscal year ended February 29, 2000) and May 14, 2001 (for fiscal year ended February 28, 2001).

46. Graham knew, or was reckless in not knowing, that Intervoice' conduct was improper, and knowingly and substantially assisted Intervoice to report materially false and misleading information in its Forms 10-K filed with the Commission on May 26, 2000 and May 14, 2001.

47. By reason of the foregoing, Graham aided and abetted Intervoice's violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-1], and therefore are liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

**SIXTH CLAIM**

**Aiding and Abetting Intervoice's Reporting  
of False and Misleading Information in Quarterly Reports in Violation of  
Exchange Act § 13(a) and Rules 12b-20 and 13a-13**

48. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

49. Intervoice reported materially false and misleading information in its Forms 10-Q filed with the Commission on June 29, 2001 (first quarter of fiscal 2002, ended May 31, 2001), and October 9, 2001 (second quarter of fiscal 2002, ended August 31, 2001).

50. Graham knew, or was reckless in not knowing, that Intervoice's conduct was improper, and knowingly and substantially assisted Intervoice to report materially false and misleading information in its Forms 10-Q filed with the Commission on June 29, 2001 and October 9, 2001.

51. By reason of the foregoing, both Graham aided and abetted Intervoice's violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-13], and therefore are liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

#### **SEVENTH CLAIM**

#### **Aiding and Abetting Intervoice's Maintenance of False and Misleading Books and Records in Violation of Exchange Act § 13(b)(2)(A)**

52. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

53. Intervoice maintained false and misleading books and records, which, among other things, materially overstated the company's net income and revenue.

54. Graham knew, or was reckless in not knowing, that Intervoice's conduct was improper, and knowingly and substantially assisted Intervoice to keep and maintain false and misleading books and records.

55. By reason of the foregoing, Graham aided and abetted Intervice's violations of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)], and therefore are liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

**EIGHTH CLAIM**

**Aiding and Abetting Intervice's Failure to Maintain Internal Controls  
in Violation of Exchange Act § 13(b)(2)(B)**

56. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

57. Intervice failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

58. Graham knew, or was reckless in not knowing, that Intervice's conduct was improper, and each knowingly and substantially assisted Intervice' failure to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

59. By reason of the foregoing, Graham aided and abetted Intervice's violations of Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)], and therefore is liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

**NINTH CLAIM**

**Violations of Exchange Act Rule 13b2-2**

60. Plaintiff Commission repeats and realleges paragraphs 1 through 105 above.

61. Graham was an officer of Intervoice who, directly or indirectly, made or caused to be made materially false or misleading statements to an accountant in connection with, or omitted to state, or caused another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with an audit, review or examination of the financial statements of Intervoice required to be made pursuant to the Exchange Act or the preparation or filing of any document or report required to be filed with the Commission pursuant to the Exchange Act or otherwise.

62. By reason of the foregoing, Graham violated Exchange Act Rule 13b2-2 [17 C.F.R. §§ 240.13b2-2], and therefore are liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

**TENTH CLAIM**  
**(Aiding and Abetting Speechworks' Violations of Section 10(b)**  
**of the Exchange Act and Rule 10b-5)**

63. Plaintiff Commission repeats and realleges paragraphs 1 through 31 above.

64. As set forth above, Speechworks violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, by improperly recognizing revenue and profits associated with Intervoice's prepayment of royalties in its 2001 financials.

65. As set forth above, Graham knew that Speechworks' conduct was improper and he knowingly and substantially assisted Speechworks' violations of Section

10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder .

66. By reason of the foregoing, Graham aided and abetted Speechworks' violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, and therefore is liable pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Commission respectfully requests that this Court issue a Final Judgment:

#### **I.**

Permanently enjoining Graham from violating, directly or indirectly:

- a. Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];
- b. Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;
- c. Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and 77e(c)].
- d. Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rules 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2];
- e. Section 13(a) of the Exchange Act [15 U.S.C. §§ 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13]; and
- f. Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

#### **IV.**

Permanently prohibiting Graham from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act

[15 U.S.C. § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

**V.**

Requiring Graham to pay civil money penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] in an amount to be determined by the Court.

**VI.**

Ordering Graham to disgorge ill-gotten gains, and such other and further relief as this case may require under equity and the Court deems appropriate.

**JURY DEMAND**

The Commission hereby demands a trial by jury on all claims so triable.

Respectfully submitted,

/s/ R. Daniel O'Connor

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Dated: June 21, 2007