

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

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**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

v.

**BLACK BOX CORPORATION,  
FREDERICK C. YOUNG and  
ANNA M. BAIRD,**

**Defendants.**

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Civil Action No. 09-cv-1591

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows:

**SUMMARY**

1. From 1998 through 2001, defendant Frederick C. Young engaged in the improper backdating of stock option grants at defendant Black Box Corporation (“Black Box” or the “Company”). Throughout this period, Young served as Black Box’s Chief Executive Officer and chairman of Black Box’s board of directors. In or about December 2000, defendant Anna M. Baird, Black Box’s former chief financial officer, also participated in granting backdated options to Black Box’s officers and employees.

2. The backdating of options gave the appearance that Black Box had granted “at-the-money” options when, in fact, Black Box had granted “in-the-money” options. “At-the-money” describes an option whose exercise price equals the underlying security’s market price on the option’s grant date, while “in-the-money” describes an option whose exercise price is less

than the underlying security's market price on the option's grant date. The exercise price is the amount the option owner must pay to exercise the option and receive the underlying security.

3. Among other things, the backdating of options rendered Black Box's Commission filings materially misleading. Under generally accepted accounting principles ("GAAP") in effect throughout the relevant period, Black Box was required to record an expense in its financial statements for any in-the-money options. Black Box did not record this expense as required. As a result, Black Box materially understated its expenses and materially overstated its income in certain reports filed with the Commission. Moreover, certain of the reports falsely stated, among other things, that Black Box's option prices were equal to the fair market value of its stock on the date of the grant.

4. In July and August 2007, as a result of a previously announced review of its stock options practices, Black Box filed quarterly and annual reports restating its net income for fiscal years 1994 through 2006 (the "Restatements") by identifying approximately \$70.9 million of unrecorded expenses it had incurred as a result of mispriced stock option grants. More than one-half of the unrecorded expenses reported in the Restatements, approximately \$38.1 million, stem from backdated options with six recorded grant dates that were awarded at Young's direction between 1998 and 2001.

5. As a result of the conduct described in this Complaint, defendant Black Box violated Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

6. As a result of the conduct described in this Complaint, defendant Young violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77q(a)], Sections

10(b), 13(b)(5) and 14(a) of the Exchange Act [15 U.S.C. §§78j(b), 78m(b)(5) and 78n(a)] and Rules 10b-5, 13b2-2, 13a-14 and 14a-9 thereunder [17 C.F.R. §§240.10b-5, 240.13b2-2, 240.13a-14 and 240.14a-9]; and aided and abetted violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

7. As a result of the conduct described in this Complaint, defendant Baird violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(2) and (a)(3)] and Section 13(b)(5) of the Exchange Act [15 U.S.C. §78m(b)(5)]; and aided and abetted violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

#### **JURISDICTION AND VENUE**

8. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. § 77t(b) and 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], to enjoin such acts, transactions, practices, and courses of business; obtain disgorgement and civil penalties; and for other appropriate relief.

9. 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(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa].

10. Venue is proper because certain of the acts, transactions, practices, and courses of business constituting the violations alleged herein occurred within the Western District of

Pennsylvania. In addition, Black Box is based in the Western District of Pennsylvania and Young and Baird worked and resided in this location.

11. In connection with the conduct alleged in this Complaint, the defendants directly or indirectly made use of the means or instruments of transportation or communication in interstate commerce, or the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange.

#### DEFENDANTS

12. **Black Box Corporation** is a Delaware corporation with its principal place of business in Lawrence, PA. Black Box is a technical services provider for communication systems. At all relevant times, Black Box's common stock was registered with the Commission pursuant to Sections 12(b) and 12(g) of the Exchange Act and traded on NASDAQ's Global Select Market System (or its predecessor) under the symbol "BBOX." The Company's fiscal year ends March 31.

13. **Frederick C. Young**, age 53, lives in Silver Point, Tennessee. Young was employed by Black Box from 1991 until 2007 and served as its Chief Executive Officer from June 1998 through May 2007 when he resigned. Young served on the Black Box board of directors from 1995 until 2007, and as Chairman from June 1998 through May 2004.

14. **Anna M. Baird**, age 52, lives in Bridgeville, Pennsylvania. Baird was employed by Black Box from March 1983 until August 2004 and served as Black Box's Chief Financial Officer, Vice President and Treasurer from May 1997 to December 2002, when she became Director of Compliance. Baird was licensed as a certified public accountant in Pennsylvania from 1982 through early 2003, when her license lapsed.

## FACTS

### Black Box's Stock Option Plans and Disclosures

15. Black Box's stock option program was an important component of its compensation structure. Between 1992 and 2006, Black Box awarded approximately 2,000 stock option grants with 69 recorded grant dates.

16. Beginning in 1992 and continuing until 2006, Black Box issued stock option grants pursuant to the Company's 1992 Stock Option Plan ("Employee Plan") and the 1992 Directors Stock Option Plan ("Director Plan," collectively "the Plans"). From 1998 forward, both Plans expressly prohibited the granting of stock options with exercise prices lower than the stock's fair market value on the date of the grant.

17. The Employee Plan provided that it would be administered by a Compensation Committee, which consisted of at least two members of the board of directors. The Compensation Committee had the authority to determine the recipients of the grants, the number of shares awarded to each recipient, the exercise price for each grant, and the period during which the award could be exercised. The Director Plan provided that the stock option grants to directors would be administered by the Board or the Compensation Committee, whose authority was the same as that under the Employee Plan.

18. Black Box made public representations about the Plans in its annual reports on Form 10-K and proxy statements filed with the Commission. Black Box disclosed in its annual reports on Form 10-K that it would account for stock options using the intrinsic-value method under GAAP and, in particular, Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25") which required employers to record as an expense on their financial statements the "intrinsic value" of a fixed stock option on its measurement date.

19. The measurement date, as defined by APB 25, is the first date on which the following information is known: (i) the number of options that an individual recipient is entitled to receive and (ii) the exercise price. An option that is in-the-money on the measurement date has intrinsic value, and the difference between its exercise price and the underlying security's market price must be recorded as compensation expense.

20. On or about February 1, 2007, Black Box announced that it was conducting a review of its stock option practices. As a result of its internal review, on or about July 23, 2007, Black Box reported that the recorded grant dates for a "majority of grants do not match the applicable measurement dates as determined under APB 25." The Company noted that "[f]or a majority of grants issued by the Company during the Review Period, there is either no or inadequate documentation of approval actions that satisfies the requisites for establishing a measurement date under [APB 25]." Further, it announced that "relatively few option grants were approved in complete compliance with the Company's stock option plans."

#### **The Backdated Options and Role of the Defendants**

21. As Chief Executive Officer, Young had authority for the granting of stock options at Black Box. On six occasions, from 1998 through 2001, Young intentionally backdated stock option grants totaling millions of shares, to hundreds of recipients, including Black Box's officers, directors, and rank and file employees. As further described in this Complaint, in or about December 2000, Baird participated in the granting of backdated options to Black Box officers and other employees.

22. Young chose dates for these grants from between two weeks to over a year prior to the actual dates such grants were awarded. By doing so, the options were in-the-money in

amounts ranging from \$3.19 to \$43.86 per share on the dates they were actually granted (or 13% to 58% lower than the market price on the actual grant date).

23. As part of the intentionally backdated grants recorded on these six grant dates, Young was awarded options to purchase 725,400 shares of Black Box stock with a total in-the-money value in excess of \$12 million. Young never exercised any of these option grants.

24. Young knew that what he was doing contravened the Company's Plans and public disclosures. From 1998 through 2006, Young reviewed and signed Black Box's filings with the Commission which falsely stated that the Company awarded stock option grants at the fair market value on the date of the grant, as required by the Plans.

#### **October 8, 1998 Grants**

25. Black Box awarded approximately 700,000 shares to its officers (including 195,000 to Young), directors, and rank and file employees with a purported grant date of October 8, 1998. The closing price on that date was \$21.94 per share, which was the lowest price for the 1999 fiscal year. However, Black Box did not actually grant any options on October 8, 1998. Rather, most of these options were not finalized until November 19, 1998, after the price of the stock had risen considerably.

26. In its Restatements, Black Box used a grant date of November 19, 1998 as the appropriate measurement date for most of these grants. The fair market value of Black Box's stock on November 19 was \$33.44 a share, \$11.50 more per share than the fair market value on the purported grant date. In its Restatements, Black Box recognized a net charge of approximately \$7.6 million as a result of the October 8 grants.

### **The Fiscal Year 2000 Grants**

27. During the fiscal year ended March 31, 2000, Black Box awarded a total of 783,000 shares with three different recorded grant dates. Young selected the dates for each of these grants. In its Restatements, Black Box recognized additional net compensation charges of \$11.9 million as a result of the fiscal year 2000 grants.

#### **April 8, 1999 Grants**

28. Black Box awarded approximately 40,000 shares to three executives, including Young, with a recorded grant date of April 8, 1999 and an exercise price of \$32.14, the lowest price of the fiscal year. Black Box's records show that grants with a grant date of April 8, 1999 were first recorded on December 16, 1999. From December 16, 1999 (when the fair market value was \$65.12 per share) through May 15, 2000 (when the fair market value was \$76.00 per share), Young modified the recipients and amount of the grants.

29. In its Restatements, Black Box concluded that the appropriate measurement date for these grants was the date each grant was entered into Black Box's stock option database in its final form; thus, the final April 8, 1999 awards were in-the-money in amounts ranging from \$29.05 to \$43.86 per share. The total in-the-money amount of these April 8 grants restated by Black Box was \$1.65 million.

#### **August 30, 1999 Grants**

30. Black Box awarded grants to each of four non-employee directors and grants aggregating 573,000 shares to 105 recipients, including officers and other Black Box employees. The options had a recorded grant date of August 30, 1999 and an exercise price of \$45.06. The fair market value of the Company's stock on August 30, 1999 was the lowest in the second



quarter of the fiscal year ended March 31, 2000. Young awarded himself 30,000 shares as part of this grant.

31. In its Restatements, Black Box concluded that the appropriate measurement date for these grants was the date each grant was entered into the stock option database in its final form. These grants were entered on various dates between September 15, 1999 and May 15, 2000. The fair market value of Black Box's stock on these dates ranged from \$49.56 per share to \$76.00 per share resulting in in-the-money amounts between \$4.50 and \$30.94 per share. Black Box restated \$6.18 million for the backdated August 30, 1999 grants.

#### **October 21, 1999 Grants**

32. Black Box awarded 150,000 shares, including 145,000 to Young and 5,000 to his assistant, with a grant date of October 21, 1999 and an exercise price of \$49.31. The final entry into the Company's stock option database occurred on May 15, 2000. The fair market value of Black Box's stock on May 15, 2000 was \$76.00 a share, \$26.69 more per share than on the purported grant date.

33. In its Restatements, Black Box concluded that May 15, 2000 was the appropriate measurement date for the October 21, 1999 grants. The total in-the-money benefit of these October 21 grants was \$4 million, nearly all of which (\$3.9 million) was attributable to Young's grant.

#### **October 2000 Grants – "The December Program"**

34. The most egregious backdated grants were those with the purported grant date of October 11, 2000. Many of the October 2000 grants were part of a cost-reduction program identified by Black Box as the "December Program." Young developed the December Program

as a means to reduce Black Box's costs during the third quarter of the 2001 fiscal year. Baird played a crucial role in the December Program option grants.

35. In September 2000, Young met with members of senior management, including Baird, and proposed that Black Box reduce expenses by offering employees and officers stock option grants in exchange, *inter alia*, for foregoing their salaries for the month of December, the last month for the third quarter of the 2001 fiscal year. As an incentive for participation, the stock option grants awarded as part of the December Program were to be in-the-money and with a shortened vesting period (one year, as opposed to the three-year period for all other stock option grants).

36. In or about late November 2000, Young chose a grant date of October 11, 2000 and an exercise price of \$42.25 for the December Program options. All of the stock option grants were awarded with this grant date and exercise price, despite the fact that this process continued through at least the end of December 2000, during which time Black Box stock traded in a range of \$42.75 to \$63.75 per share.

37. Black Box awarded approximately 900,000 shares to officers, directors, and rank and file employees, including shares under the December program, with a recorded grant date of October 11, 2000. The fair market value of Black Box stock on this date was the lowest price for the Company's stock for the third quarter of fiscal year 2001 and one of the lowest prices during the fiscal year.

38. Black Box did not disclose the December Program in its Form 10-Q for the quarter ending December 31, 2000 or the Form 10-K for the fiscal year ended March 31, 2001, and it did not record any compensation expense for the in-the-money options granted as part of the December Program as required by APB 25. In addition, Black Box did not disclose that it

had reduced compensation expenses for the third quarter of fiscal year 2001 by approximately \$1 million, the amount of salary and other benefits not paid to employees who chose to receive the stock options.

39. Prior to this grant, Baird, as a CPA, knew how Black Box was required to account for in-the-money-options. Baird had understood the term “measurement date” related to APB 25, and generally understood that final names and the numbers of shares approved by the appropriate approving authority are the elements necessary in order to determine the grant date and grant price.

40. Baird knew or should have known that Black Box had failed to properly record compensation expenses for these in-the-money options, and that Black Box’s filings with the Commission contained materially false and misleading statements.

41. Baird reviewed, approved and signed Black Box’s Form 10-Q for the quarter ending December 31, 2000, and the Form 10-K for the fiscal year ended March 31, 2001, respectively, that she knew or should have known contained disclosures and financial statements that were materially false and misleading as a result of the October 11, 2000 stock option grants.

42. As head of the Finance Department, Baird was responsible for the preparation of the financial statements included in these filings. Young and Baird reviewed and signed the reports before they were filed with the Commission.

43. In its Restatements, Black Box concluded that the appropriate measurement date for the October 11, 2000 grants was the date these grants were entered into the stock option database. Black Box recognized additional net compensation charges of nearly \$12 million as a result of the October 11, 2000 grants.

44. Baird received 26,152 shares with a purported October 11, 2000 grant date. Baird exercised all of the October grants on May 27, 2004, when the fair market value of Black Box's stock was \$45.59 per share. As a result, she received ill-gotten gains of \$87,243, the difference between \$42.25, the exercise price of the backdated options, and the \$45.59 share price on the date she exercised the options.

45. Young received 140,400 shares with a purported grant date of October 11, 2000. Of these, 3,400 were awarded in exchange for foregoing cash compensation.

#### **September 21, 2001 Grants**

46. The final improper grants occurred in the fall of 2001. Black Box awarded grants of 5,000 shares to each of four directors and grants aggregating nearly 800,000 shares to officers and other employees. These shares were granted as of September 21, 2001 and at an exercise price of \$41.45. This price was one of the lowest for the Company's fiscal year, as it reflected the market impact of the September 11, 2001 attacks.

47. Employee grants aggregating 798,000 shares with the September 21, 2001 grant date were ultimately entered into the stock option database beginning January 24, 2002, when the fair market value was \$52.40 per share, and continuing until as late as March 2004, when the fair market value was \$53.27 per share. Young received 195,000 shares with a purported grant date of September 21, 2001.

48. In its Restatements, Black Box concluded that the appropriate measurement date for the officer and employee grants was the date those grants were entered into the stock option database. Black Box recognized additional net compensation charges of approximately \$6.7 million as a result of these backdated grants.

### **Black Box's Improper Accounting and Inaccurate Filings**

49. In July and August 2007, respectively, Black Box filed its Forms 10-Q and 10-K restating its net income for fiscal years 1994 through 2006 by identifying approximately \$70.9 million of unrecorded expenses it incurred as a result of mispriced stock option grants. Black Box's original filings with the Commission inflated annual net earnings by amounts ranging from 0.18% to 21.4%. In addition to misstating its earnings as a result of backdated options, Black Box consistently misrepresented that it awarded options in accordance with its stock option plans.

50. Between 1998 and 2006, Young participated in the preparation and review of Black Box quarterly and annual reports filed with the Commission that were materially false and/or misleading as a result of the backdated and mispriced options. As Black Box's principal executive officer, Young signed certifications that were included in Black Box's 2003, 2004, 2005 and 2006 annual reports on Form 10-K as well as its quarterly reports filed on Form 10-Q for the quarters ended September 30, 2002, through March 31, 2006. He knew or was reckless in not knowing that these certifications were not accurate.

51. During the relevant time period, Young signed false management representation letters that were provided to Black Box's auditor in connection with Black Box's annual audits. Among other things, the letters falsely stated that Black Box's financial statements were prepared in conformity with GAAP.

52. During the relevant period, Black Box filed proxy statements containing representations regarding Black Box's stock option program which, at the time and in light of the circumstances under which they were made, were false and misleading.

53. As a member of Black Box's board of directors, Young solicited proxies on behalf of Black Box and acted as a proxy for stockholders. Young knew or should have known that the proxy statements were materially false and misleading.

### **FIRST CLAIM**

#### **Violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder**

54. Paragraphs 1 through 53 are realleged and incorporated herein by reference.

55. As a result of the conduct alleged herein, defendant Young, directly or indirectly, by use of the means or instruments of transportation and communication in interstate commerce, or the means and instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange, in the offer or sale or in connection with the purchase or sale of Black Box securities, knowingly or recklessly: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of, and made, untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon offerees, purchasers and prospective purchasers of securities.

56. By reason of the foregoing, defendant Young violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], 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**

#### **Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act**

57. Paragraphs 1 through 56 are realleged and incorporated herein by reference.

58. As a result of the conduct alleged herein, defendant Baird, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mails, in connection with the offer or sale of securities, knowingly, recklessly, or negligently: (a) obtained money or property by means of untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (b) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of Black Box securities.

59. By reason of the foregoing, defendant Baird violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (a)(3)].

### **THIRD CLAIM**

#### **Violations of Section 13(b)(5) of the Exchange Act**

60. Paragraphs 1 through 59 are realleged and incorporated herein by reference.

61. As a result of the conduct alleged herein, defendants Young and Baird, directly or indirectly, knowingly circumvented or knowingly failed to implement a system of internal accounting controls or knowingly falsified books, records or accounts subject to Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)].

62. By reason of the foregoing, defendants Young and Baird violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

#### **FOURTH CLAIM**

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

63. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

64. As a result of the conduct alleged herein, defendant Young, directly or indirectly: (i) made, or caused to be made, materially false or misleading statements; or (ii) omitted to state, or caused others to omit to state, material facts 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 financial statements or the preparation or filing of a document or report required to be filed with the Commission.

65. By reason of the foregoing, defendant Young violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

#### **FIFTH CLAIM**

##### **Violations of Section 14(a) of the Exchange Act and Rule 14a-9 thereunder**

66. Paragraphs 1 through 65 are realleged and incorporated herein by reference.

67. As a result of the conduct alleged herein, defendant Young, by use of the means or instruments of interstate commerce or of the mails, or of the facility of a national securities exchange, knowingly, recklessly or negligently solicited proxies by means of a proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing statements which, at the time and in light of the circumstances under which they were made, were false and misleading with respect to material facts, or which omitted to state material facts which were necessary in order to make the statements made not false or misleading or which were necessary



to correct statements in earlier false or misleading communications with respect to the solicitation of proxies for the same meeting or subject matter.

68. By reason of the foregoing, defendant Young violated Section 14(a) of the Exchange Act [15 U.S.C. § 78n(a)] and Rule 14a-9 [17 C.F.R. § 240.14a-9], thereunder.

### **SIXTH CLAIM**

#### **Violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder**

69. Paragraphs 1 through 68 are realleged and incorporated herein by reference.

70. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], and Exchange Act Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13], require issuers of registered securities to file with the Commission factually accurate quarterly and annual reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] further provides that, in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they were made not misleading.

71. From 1994 through 2006, Black Box filed with the Commission and disseminated to investors false and misleading quarterly and annual reports. In doing so, Black Box violated Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

72. From 1998 through 2006, Young aided and abetted Black Box's violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1 and 13a-13 by knowingly giving substantial assistance to Black Box in its violations of these provisions.

73. Baird aided and abetted Black Box's violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1 and 13a-13 by knowingly giving substantial assistance to Black Box in its violations of these provisions.

## **SEVENTH CLAIM**

### **Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act**

74. Paragraphs 1 through 73 are realleged and incorporated herein by reference.

75. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires issuers to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of its assets. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] requires issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain the accountability of assets.

76. By reason of the foregoing, defendant Black Box violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

77. By engaging in the conduct alleged above, defendants Young and Baird knowingly or recklessly provided substantial assistance to Black Box in its violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

78. By reason of the foregoing, defendants Young and Baird aided and abetted Black Box's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

## **EIGHTH CLAIM**

### **Violations of Exchange Act Rule 13a-14**

79. Paragraphs 1 through 78 are realleged and incorporated herein by reference.

80. Defendant Young certified in Black Box's quarterly reports on Form 10-Q and annual reports on Form 10-K that, among other things, he reviewed each of the reports and, based on his knowledge, the reports: (i) did not contain any untrue statement of material fact or

omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and (ii) included financial statements and other financial information that fairly presented, in all material respects, Black Box's financial condition, results of operations and cash flows.

81. By reason of the foregoing, defendant Young violated Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

**WHEREFORE**, the Commission respectfully requests that this Court:

**I.**

Issue an injunction permanently restraining and enjoining defendant Black Box from violating Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

**II.**

Issue an injunction permanently restraining and enjoining defendant Young from violating Section 17(a) of the Securities Act and Sections 10(b), 13(b)(5) and 14(a) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-2 and 14a-9 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

**III.**

Issue an injunction permanently restraining and enjoining defendant Baird from violating Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 13(b)(5) of the Exchange Act, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

**IV.**

Order defendant Young to pay a civil penalty, pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, as a result of the violations set forth herein.

**V.**

Order defendant Baird to disgorge all ill-gotten gains derived from the activities set forth in this Complaint, together with prejudgment interest.

**VI.**

Pursuant to Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act, prohibit defendant Young 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 or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

**VII.**

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

Respectfully submitted,

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Dated: December 4, 2009