

RECEIVED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

13 CIV 236

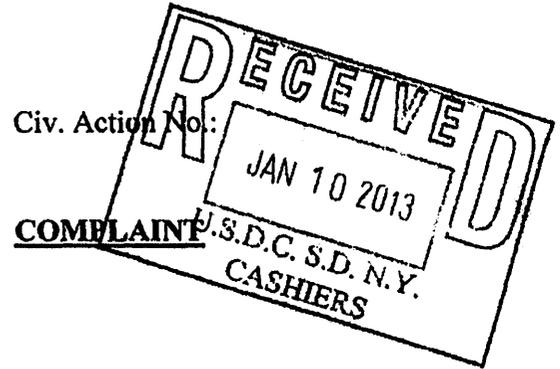
SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

JACK J. EGAN, JR., C.P.A.,

Defendant.



The Securities and Exchange Commission ("SEC" or "Commission") alleges:

SUMMARY

1. This accounting fraud action arises from the conduct of defendant, Jack J. Egan, Jr. ("Egan"), former senior vice president ("SVP"), chief financial officer ("CFO"), and principal financial officer ("PFO") of Volt Information Sciences, Inc. ("Volt" or "Company"), in providing substantial assistance to, in making untrue statements of material fact concerning, and allowing misleading omissions of material fact regarding, Volt's improper and fraudulent recognition of \$7.55 million as revenue ("Fraudulent Revenue"), resulting in materially overstated consolidated, pre-tax net income of approximately \$5.45 million ("Overstated Net Income") for Volt's fourth quarter 2007 ("4Q 2007") and fiscal year ("FY") ended October 28, 2007 ("FY 2007").

2. On or about the end of Volt's FY 2007 (October 28, 2007), Volt's computer-segment subsidiary, Volt Delta Resources, LLC ("VDR"), as a software vendor, recognized Fraudulent Revenue based on its purported completion and sale of

two of four software modules, which constituted the core of a new directory assistance (“DA”) system (“New DA System”), to its significant telecommunications customer (“Key Customer”). The alleged arrangement between VDR and Key Customer (“Parties”) was evidenced by a purported “contract of sale” and required that VDR complete and sell all four software modules (“Four Modules”) to Key Customer for a total “price” of \$10 million (“Purported Contract of Sale”).

3. The Purported Contract of Sale, constructed from a phony purchase order embedded in an actual general purchase agreement, never existed. When the Purported Contract of Sale was fabricated on December 20, 2006, VDR and its Key Customer were negotiating a four-year arrangement by which VDR would lease to Key Customer, beginning on January 1, 2008, and ending on December 31, 2011, with a possible one-year extension, the Four Modules of the New DA System for a price exceeding \$70 million (“Possible Consolidated Contract of Use”).

4. Rule 4-01(a)(1) of the Commission’s Regulation S-X [17 C.F.R. § 210.4-01(a)(1)], promulgated pursuant to the Securities Act of 1933, provides that unless the Commission has provided otherwise, financial statements filed with Commission that are not prepared in accordance with generally applicable accounting principles of the United States (“GAAP”) are presumed misleading or inaccurate.

5. Volt’s publicly filed financial statements for 4Q 2007 and FY 2007 represented that the Company’s policy was to comply with GAAP.

6. For a public company to recognize revenue properly under GAAP, certain conditions must be satisfied (*see*, AICPA’s Statement of Position No. 97-2, ¶ 8; *see also*, Commission’s Staff Accounting Bulletin (“SAB”) No. 104). These conditions are:

- a. Persuasive evidence of an arrangement exists;
- b. Delivery has occurred or services have been rendered;
- c. The seller's price to the buyer is fixed or determinable; and
- d. Collectability is reasonably assured.

7. For purposes of GAAP, an "arrangement" may be defined as "the final understanding between the parties as to the specific nature and terms of the agreed-upon transaction." (SAB No. 104, n.3) An arrangement may consist of "separate contracts with the same entity or related parties that are entered into at or near the same time," in which case they "are presumed to have been negotiated as a package and should, therefore, be evaluated as a single arrangement. . . ." (Emerging Issues Task Force Release No. 00-21, ¶ 2)

8. Volt failed to apply properly the revenue recognition principles of GAAP to certain activities that VDR and Volt mischaracterized as a "sales arrangement" resulting in the Fraudulent Revenue and Overstated Net Income under GAAP.

9. Egan, as a certified public accountant, CFO, and PFO, knew GAAP and the revenue recognition principles of GAAP, and knew of Volt's representations in its public filings that Volt's revenue recognition policy was to comply with GAAP, but he:

- a. Knew, or was reckless in not knowing, that the Purported Contract of Sale was inconsistent with the Possible Consolidated Contract of Use inasmuch as the former purported to sell the Four Modules but the latter would lease the Four Modules;
- b. Knew, or was reckless in not knowing, that recognition of the Fraudulent Revenue did not comply with GAAP;

- c. Signed Volt's public filings, which included its financial statements, for Volt's 4Q 2007 and FY 2007, and certified the Company's Annual Reports on Form 10-K for FY 2007 and FY 2008 as Volt's PFO, when he knew or was reckless in not knowing that the financial statements were materially false and misleading because they contained the Fraudulent Revenue and Overstated Net Income;
- d. Knowingly or recklessly misled Volt's external auditor regarding the purported transactional basis for the Fraudulent Revenue; and
- e. Signed management representation letters to the external auditor that he knew or was reckless in not knowing were materially false and misleading in confirming the accuracy of Volt's financial statements for 4Q 2007 and FY 2007.

10. By knowingly or recklessly engaging in the conduct described in this

Complaint, Egan:

- a. Violated Sections 10(b) and Section 13(b)(5) of the Exchange Act [15 U.S.C. §§78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 [17 C.F.R. §§ 240.10b-5], 13a-14 [17 C.F.R. § 240.13a-14], 13b2-1 [17 C.F.R. § 240.13b2-1], and 13b2-2 [17 C.F.R. § 240.13b2-2];
- b. Violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)]; and
- c. Aided and abetted Volt's violations of Section 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§78j (b), 78(m)(a), 78m(b)(2)(A), and 78m(b)(2)(B)]; and Exchange Act Rules 10b-5 [17

C.F.R. §§240.10b-5; 12b-20, 13a-1, and 13a-11 [17 C.F.R. §§240.12b-20, 240.13a-1, and 240.13a-11].

11. The Commission, therefore, requests that this Court:
  - a. Permanently restrain and enjoin Egan from violating the federal securities laws and rules cited herein pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)];
  - b. Impose civil money penalties on Egan pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)]; and
  - c. Prohibit Egan, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(d)(4)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)], 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. §78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)].

#### JURISDICTION AND VENUE

12. The Commission brings this action pursuant to Sections 20(b) and 20(e) of the Securities Act [15 U.S.C. §§ 77t(b) and 15 U.S.C. § 77t(e)] and Section 21(d) of the Exchange Act [15 U.S.C. §§ 78u(d)] to enjoin such transactions, acts, practices, and courses of business, and to obtain civil money penalties, and such other and further relief as the Court may deem just and appropriate.

13. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21 (d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa].

14. Egan, directly or indirectly, made use of the means and instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange in connection with the acts, practices, and courses of business alleged herein.

15. Venue in this District is proper pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the District of Columbia and elsewhere, and were effected, directly or indirectly, by making use of the means or instruments or instrumentalities of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

#### DEFENDANT

16. Egan, 63 years of age, was Volt's SVP, CFO, and PFO from January 1992, to August 10, 2011. Effective August 10, 2011, Egan became Volt's SVP of Global Planning and Budgeting. In February 2012, Volt terminated Egan as an officer and employee.

#### OTHER ENTITIES

17. Volt is a New York corporation with principal executive offices located in New York, New York. Volt's business segments offer services in staffing, and goods and services in telecommunications and computer systems. Volt's common stock is registered with the Commission under Section 12(b) of the Exchange Act, traded on the

New York Stock Exchange ("NYSE") under the symbol "VOL." The NYSE de-listed Volt's common stock on May 9, 2011, as a consequence of the Company's failure to file periodic reports with the Commission. Volt's common stock now trades in the Over-the-Counter ("OTC") market under the symbol "VISI."

18. VDR, a limited liability company organized in Nevada, is a subsidiary of Volt and provides computer-based directory assistance and other services, including the development, hosting, leasing, and maintenance services related to customers in the telecommunications industry.

#### FACTUAL ALLEGATIONS

##### **VDR'S OLD DA SYSTEM**

19. Before, during, and after calendar year 2006, VDR owned the customized DA System that Key Customer used ("Old DA System").

20. For its use of the Old DA System in 2006 and before, Key Customer paid VDR amounts that were based on different pricing models, including leasing and maintenance fees on a term-of-years basis and use fees on a per-usage basis.

21. Key Customer paid VDR to use the Old DA System under multiple agreements ("Legacy Agreements").

22. For FY 2005 and FY 2006, Key Customer's use of the Old DA System under the Legacy Agreements generated at least \$40 million in annual revenue for VDR and Volt.

23. For FY 2005, FY 2006, and FY 2007, revenue from the Old DA System was important to VDR's annual net income and Volt's annual consolidated net income because VDR's profit margin was the highest, or among the highest, of Volt's business

segments during those fiscal years.

24. In FY 2006, VDR recognized revenue from the Old DA System as it was earned, namely, periodically throughout the lease and maintenance period, or on a per-use basis, or both.

25. VDR recognized revenue on the Old DA System based on usage over time because VDR had leased, not sold, the Old DA System.

**KEY CUSTOMER'S DESIRE FOR A CHEAPER, NEW DA SYSTEM**

26. In 2006, VDR, Volt and Egan knew that Key Customer had received and was considering one or more competitors' proposals to lease to Key Customer a new DA System for a total price that would be less than VDR's total price for the Old DA System.

27. By September 1, 2006, VDR, with Egan's knowledge, had prepared a proposal ("VDR's Proposal") for Key Customer in which VDR offered, among other things:

- a. To consolidate the Legacy Agreements into the Possible Consolidated Contract of Use;
- b. To develop for Key Customer the New DA System, including the Four Modules, which VDR would own but would lease and maintain on a term basis or for which it would charge per-usage fees under the Possible Consolidated Contract of Use;
- c. To reduce Key Customer's annual cost of using the DA System by approximately \$20 million per year in using the New DA System; and
- d. To have the Possible Consolidated Contract of Use, when executed, begin upon the expiration of the Legacy Agreements on January 1, 2008, and

operate for four (4) years, beginning on January 1, 2008, and continuing to December 31, 2011, with a possible one-year extension.

28. VDR's Proposal offered Key Customer two alternative pricing models, each with its own pricing mechanisms and pricing totals (stated or estimated) for the four-year period:

- a. A capital model under which Key Customer would continue to pay annual leasing and maintenance fees, to VDR for the Key Customer's (on-site) use of VDR's New DA System over four years ("Capital Model"); and
- b. A transactional model under which Key Customer would pay per-usage fees to VDR for the (off-site) use of VDR's New DA System over four years ("Transactional Model").

29. The total prices over the anticipated four-year period for the Capital Model and Transactional Model each exceeded \$70 million.

30. VDR's Proposal required Key Customer to make a down payment of \$27.5 million under the Capital Model and \$4.5 million under the Transactional Model.

31. On or about September 1, 2006, Egan, as Volt's CFO, met with VDR's former CFO ("VDR's CFO") to review VDR's Proposal ("Meeting of September 1, 2006").

32. Egan called or attended the Meeting of September 1, 2006, because, among other things, he was concerned about the potential impact of VDR's Proposal on Volt's total revenue and consolidated net income.

33. Egan edited VDR's Proposal during or shortly after the Meeting of September 1, 2006.

34. In his capacity as Volt's CFO, and as a consequence of his role in the negotiations with Key Customer, as of December 20, 2006, Egan knew or was reckless in not knowing that:

- a. Key Customer's lease and maintenance revenue was important to VDR and to Volt;
- b. VDR's Proposal anticipated that the Legacy Contracts and other arrangements between VDR and Key Customer would be replaced with a single, consolidated Possible Consolidated Contract of Use;
- c. VDR's Proposal anticipated total revenue from Key Customer under the New DA System of \$70 million or more over four years;
- d. VDR had never transferred title or provided a perpetual license to Key Customer for the Old DA System; and
- e. VDR had no intention or plan—as evidenced by the Proposal's pricing models—of transferring title (or providing a perpetual license) to any DA System to Key Customer.

35. On or about October 13, 2006, VDR's Proposal (with no significant changes to the pricing models and corresponding prices) was delivered to Key Customer.

**KEY CUSTOMER'S DESIRE TO OBTAIN \$10 MILLION OF INTERNAL FUNDING  
AND THE PARTIES' PURPORTED CONTRACT OF SALE**

36. In early December 2006, Key Customer learned and subsequently informed VDR, VDR's CFO, and others that Key Customer could receive \$10 million in internal funding if Key Customer purchased a capital asset by December 21, 2006.

37. To assist Key Customer to receive the \$10 million in funding so that Key Customer could transfer such funds to VDR and likely remain VDR's customer pending execution and finalization of the Possible Consolidated Contract of Use, VDR personnel, including its then-CFO, created, authorized, or confirmed paperwork constituting the Purported Contract of Sale.

38. The Purported Contract of Sale, which was not a genuine contract:
- a. Was created on or about December 20, 2006;
  - b. Purportedly required VDR to construct and sell to Key Customer the Four Modules, which would be the core of the New DA System for Key Customer's business use; and
  - c. Purportedly required Key Customer to pay VDR a total "price" of \$10 million to "purchase" the Four Modules of the New DA System. On or about October 25, 2007, three days before Volt's and VDR's FY 2007 ended, VDR recorded that it had completed, delivered, and sold to Key Customer two of the Four Modules at a combined price of \$7.55 million.

**VOLT'S AND VDR'S TREATMENT OF THE \$10 MILLION AS THE "SALES PRICE" OF THE FOUR MODULES OF THE NEW DA SYSTEM**

39. VDR created two firm sales price quotes, one dated December 14, 2006 and another dated December 18, 2006, and an invoice dated December 19, 2006 ("Invoice") listing two numbered items at \$5 million per item ("Item"). The Items included the Four Modules of the New DA System. These documents were fictitious because neither VDR nor Volt intended to sell, and never did sell, any of the Four Modules of the New DA System to Key Customer.

40. On or about December 20, 2006, Key Customer issued a \$10 million purchase order to VDR ("Purchase Order") to buy the two Items. The Purchase Order was fictitious because neither VDR nor Volt intended to sell, and never did sell, any of the Four Modules of the New DA System to Key Customer.

41. In late December 2006 or early January 2007, VDR created a pricing schedule by which it "allocated" the \$10 million "total purchase price" under the Purported Contract among each the Four Software Modules ("Price Allocation Schedule").

42. The Price Allocation Schedule ignored the two Items of \$5 million each and showed that two of the Four Software Modules totaled \$7.55 million and the other two totaled \$2.45 million.

43. VDR created the Price Allocation Schedule to enable VDR and Volt to recognize revenue, albeit fraudulently, on the Purported Contract of Sale.

44. VDR internally characterized its fictitious obligations under, and work pursuant to, the Purported Contract of Sale as a "project." At VDR, the term "project" was used for work that resulted in the construction and sale of a product to a customer. The characterization of the construction of the Four Modules as a "project," therefore, promoted the understanding among VDR and Volt personnel who were unaware that the Purported Contract of Sale was fictitious that VDR would "sell" each of the Four Modules of the New DA System to Key Customer.

#### **VDR'S AND VOLT'S "COMMITMENT LETTER" TO KEY CUSTOMER**

45. In mid-December 2006, Egan reviewed and edited a document dated December 15, 2006, that VDR called a "commitment letter" or "guarantee letter"

("Commitment Letter"). VDR prepared a final version of the Commitment Letter that included some or all of Egan's edits for Key Customer.

46. The purpose of the Commitment Letter was to assure Key Customer that upon Volt's and VDR's receipt of the \$10 million, Volt and VDR would continue to negotiate in good faith with Key Customer over the Possible Consolidated Contract of Use in an effort to execute a final agreement.

47. On or about December 15, 2006, VDR emailed Key Customer an unsigned copy of the Commitment letter.

#### **VOLT'S AND VDR'S RECEIPT OF THE \$10 MILLION**

48. On or about January 22, 2007, Key Customer transferred \$10 million plus taxes to Volt, and Egan authorized the \$10 million plus taxes to be transferred to VDR.

49. Key Customer's transfer of \$10 million plus taxes to Volt and VDR was made with the Parties' understanding that the \$10 million:

- a. Was not a payment on any existing contract or arrangement;
- b. Was not the price of any existing contract or arrangement;
- c. Was a deposit on the four-year Possible Consolidated Contract of Use that VDR could use to start development on the Four Modules;
- d. Was refundable by VDR to Key Customer unless and until the Parties executed the Possible Consolidated Contract of Use; and
- e. Would be used as Key Customer's down payment to VDR under the Possible Consolidated Contract of Use to begin on January 1, 2008, but only if and after the Parties executed the final, possible consolidated contract of use ("Final Agreement").

50. Egan knew or was reckless in not knowing each of these conditions regarding the transfer. He also knew or was reckless in not knowing that, in light of these conditions, it was wrong, misleading and deceptive to recognize the revenue.

#### **THE MEMORANDUM OF UNDERSTANDING**

51. After VDR received Key Customer's \$10 million, VDR and Key Customer believed that they would be unable to finalize an agreement by the target date of May 8, 2008. This belief prompted Key Customer to request that VDR execute a memorandum of understanding ("MOU") with Key Customer to protect Key Customer's \$10 million in already transferred funds.

52. VDR and Key Customer negotiated and executed the MOU that specified and confirmed or reaffirmed, among other things, that: the Parties were "negotiating the terms of a new agreement"; the target date for execution of a final agreement would be June 30, 2007; and the Key Customer's \$10 million transfer would remain refundable unless and until the Parties executed a final agreement. VDR's CFO signed the MOU on or about April 14, 2007, and Key Customer signed it on or about May 2, 2007.

53. From December 2006 to late fall 2007, the Parties continued negotiating the Possible Consolidated Contract of Use. Egan followed and participated in the negotiations.

#### **THE ACCEPTANCE LETTER**

54. VDR's CFO and others prepared an acceptance letter dated October 25, 2007, for Key Customer's executive director to sign ("Acceptance Letter").

55. The Acceptance Letter:
- a. Confirmed that the two modules passed certain agreed-upon testing and validation processes and that Key Customer accepted such results;
  - b. Suggested incorrectly that VDR had transferred and delivered physical possession of two of the Four Modules to Key Customer; and
  - c. Did not state that VDR's delivered or Key Customer received any legal rights to use the two modules.

56. VDR did not transfer to Key Customer any legal rights to use the two modules. Nevertheless, VDR misused the Acceptance Letter to justify VDR's and Volt's recognition of the \$7.55 million as revenue for FY 2007.

57. In early October 2007, before VDR improperly recognized the \$7.55 million in revenue, Egan asked Volt's assistant controller to provide him with a copy of the MOU, which stated that the \$10 million deposit was refundable to Key Customer if the Possible Consolidated Contract of Use did not become a Final Agreement.

58. On or about October 29, 2007, VDR's CFO forwarded the Acceptance Letter to Egan and offered to discuss the Acceptance Letter with Egan.

**VDR'S RECOGNITION OF REVENUE ON THE PURPORTED SALE OF TWO OF THE FOUR MODULES**

59. On or about October 27, 2007, VDR prepared a "project recognition worksheet" showing the purported sale of two of the Four Modules for \$7.55 million. VDR attached the "project recognition worksheet" to various documents, including Key Customer's Purchase Order of December 20, 2006, VDR's Price Allocation Schedule, and the Parties' Acceptance Letter of October 25, 2007.

60. On or about October 28, 2007, the last day of Volt's FY 2007, VDR's CFO, with Egan's knowledge and approval, completed the steps that facilitated the recognition of the Fraudulent Revenue. VDR's CFO approved:
- a. VDR's improper journal entries that recorded \$7.55 million (of Key Customer's \$10 million refundable deposit) as revenue and decreased VDR's liability by the same amount.
  - b. VDR's improper journal entries that recorded approximately \$2.1 million of the software development costs for the two of the Four Modules as "costs of goods sold." These journal entries made it falsely appear that VDR had sold two of the Four Software Modules of the New DA System software to Key Customer, and as a result, VDR could recognize the fictitious Key Customer "revenue."
61. The improper journal entries described above falsely showed that:
- a. VDR had consummated part of the Purported Contract of Sale:
  - b. VDR had transferred possession and title (or its equivalent) of two of the Four Modules to Key Customer;
  - c. VDR would receive no further revenue for leasing or maintenance of two of the Four Modules; and
  - d. VDR could recognize immediately revenue on \$7.55 million of Key Customer's \$10 million under GAAP.
62. No later than shortly after Volt's FY 2007 had ended, Egan learned that VDR had recognized revenue totaling \$7.55 million had booked "costs of goods sold" totaling about \$2.1 million, and had booked a "profit" of \$5.45 million based upon the

Purported Contract of Sale.

63. On or about November 14, 2007, Egan informed VDR that he had been expecting a “much bigger boost to earnings” based on Key Customer’s “acceptance” [of two of the Four Modules] and requested that VDR provide to him the “actual sales and profit” realized on the Purported Contract of Sale with Key Customer.

64. Egan knew or was reckless in not knowing that:

- a. The Purported Contract of Sale was incompatible with the Parties’ anticipation of a single or omnibus agreement that would lease, not sell, the Four Modules of the New DA System for four years under the Possible Consolidated Contract of Use;
- b. Key Customer’s deposit to VDR of \$10 was refundable until the Possible Consolidated Contract of Use had become the Final Agreement;
- c. VDR had not intended to transfer and did not transfer ownership of, or a perpetual license to use, the Four Modules of the New DA System to Key Customer; and
- d. Recognizing the Fraudulent Revenue did not comply with GAAP.

**THE PARTIES’ EXECUTION OF THE FINAL AGREEMENT**

65. On or about November 16, 2007, the Parties agreed to the Possible Consolidated Contract of Use and executed the Final Agreement under which VDR would lease and maintain the Four Modules and the New DA System for the four years beginning on January 1, 2008, for a total cost of more than \$70 million.

66. VDR signed the Final Agreement on or about October 28, 2007, and Key Customer signed and delivered to VDR the Final Agreement on or about November 16,

2007, after Volt's FY 2007 had ended on October 28, 2007.

67. The Final Agreement was consistent with VDR's Proposal and the Possible Consolidated Contract of Use insofar as it confirmed VDR's leasing of a New DA System to Key Customer for four years beginning on January 1, 2008. The Final Agreement did not support the lump-sum recognition of the \$7.55 million in FY 2007, because, among other things, revenue under the Final Agreement would be for the leasing the New DA System and would not commence before January 1, 2008.

#### **EGAN'S ASSURANCES TO VOLT'S EXTERNAL AUDITOR**

68. During Volt's FY 2007 year-end audit, VDR provided Volt's external auditor with the Purchase Order, Acceptance Letter, and false journal entries ("Audit Evidence") underlying the Fraudulent Revenue.

69. VDR did not provide the external auditor VDR's Proposal, the MOU, the Commitment Letter or any other documents showing or confirming the negotiations that occurred about the Possible Consolidated Contract of Use, or the Final Agreement. These documents, which were incompatible with the Audit Evidence, were material to the analysis of whether \$7.55 million could be recognized as revenue.

70. In December 2007, Egan met with Volt's external auditor and discussed the propriety of the recognition of the Fraudulent Revenue under GAAP.

71. When he met with the external auditor, Egan knew, or was reckless in not knowing, that:

- a. VDR and Key Customer were negotiating VDR's Proposal to finalize and execute the Possible Consolidated Contract of Use of the Four Modules and a New DA System under which VDR would lease to and maintain for,

or charge a per-usage fee to, Key Customer to use—but not transfer title to—those Four Modules.

- b. VDR's Proposal anticipated a single, consolidated agreement concerning the Four Modules and the New DA System. VDR had no plans to execute other agreements, including the Purported Consolidated Contract of Sale, during calendar year 2007.
- c. VDR had no intention of selling to Key Customer any of the Four Modules or granting to Key Customer a perpetual license to use any of the Four Modules.
- d. Recognizing \$7.55 million in revenue for a purported sale for 4Q 2007 or FY 2007, was contrary to GAAP and resulted in the reporting of false revenue.

72. At his meeting with the external auditor, Egan learned that the auditor believed incorrectly that VDR had sold or leased perpetually two of the Four Modules to Key Customer, but Egan did not correct the external auditor or show the auditor existing documents that would have revealed that no sale had occurred.

73. Egan knew or was reckless in not knowing that the Audit Evidence did not include documents evidencing negotiations and terms of the Possible Consolidated Contract of Use—namely, VDR's Proposal, the MOU, the Commitment Letter, negotiation-related documents, or the Final Agreement because documents concerning the Possible Consolidated Contract of Use and the Final Agreement showed that the Four Modules of the Possible Consolidated Contract of Use were to be leased—not sold—to Key Customer, and that, therefore, the Audit Evidence presented a misleading and

deceptive picture regarding recognition of revenue.

74. Although aware of the auditor's misunderstanding, Egan intentionally or recklessly failed to inform Volt's external auditor that two of the Four Modules had not been sold and would not be sold to Key Customer and that, therefore, recognition of revenue from such sale would be improper.

75. Egan further misled Volt's external auditor by signing and delivering a management representation letter dated January 10, 2008, that made false representations about earned revenue, fraud, material subsequent events, and that Volt's "consolidated statements of financial position, results of operations, and cash flows [were] fairly presented in conformity with U.S. generally accepted accounting principles...."

76. Egan misled Volt's external auditor by signing and delivering a second management representation letter dated February 2, 2009, that continued or reconfirmed the representations concerning the audit of Volt's financial statements for FY 2007.

77. Egan knew or was reckless in not knowing, that the foregoing management representation letters were false and misleading because they did not disclose the Company's improper recognition of the Fraudulent Revenue.

**VOLT'S AND EGAN'S MATERIAL MISREPRESENTATIONS, OMISSIONS, AND  
EGAN'S AIDING AND ABETTING**

78. Egan signed public filings of Volt that he knew or was reckless in not knowing were false and misleading in that the Company's financial statements contained the Fraudulent Revenue and Overstated Net Income.

79. The Fraudulent Revenue and Overstated Net Income were material both quantitatively and qualitatively. From a quantitative perspective, the Fraudulent Revenue

increased Volt's consolidated net income by about 16 percent for 4Q 2007, and 10 percent for FY 2007. From a qualitative perspective, the Fraudulent Revenue and Overstated Net Income derived from a segment of Volt's business that played a significant role in Volt's profitability, and it masked a change in Volt's earnings and originated from the treatment of a non-transaction as a transaction.

80. The false filings that Egan signed included Volt's:
  - a. Form 8-K, furnished to the Commission on December 20, 2007;
  - b. Form 10-K for FY 2007, filed with the Commission on January 11, 2008, as amended by Form 10-K/A, filed with the Commission on February 25, 2008;
  - c. Form S-8, furnished to the Commission on July 31, 2008, by which Volt issued shares of common stock for a Company savings plan; and
  - d. Form 10-K, filed with the Commission on February 2, 2009.

#### FIRST CLAIM

##### Egan Violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

81. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

82. Egan, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or by use of the mails, or of the facilities of a national securities exchange, in connection with the purchase or sale of securities, knowingly or recklessly:

- a. Employed devices, schemes, or artifices to defraud;
- b. Made untrue statements of material facts 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 that operated or would operate as a fraud or deceit upon persons.

83. By reason of the foregoing, Egan violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j (b)] and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5].

#### SECOND CLAIM

##### Egan Violated Section 17(a) of the Securities Act

84. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

85. Egan, directly or indirectly, in the offer or sale of a security, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, knowingly or recklessly:

- a. Employed devices, schemes, or artifices to defraud;
- b. Obtained money or property by means of untrue statements of material facts or omissions of 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 transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon the purchaser.

86. By reason of the foregoing, Egan violated, and unless enjoined, will again violate, Section 17(a) of the Securities Act.

### THIRD CLAIM

#### Egan Aided and Abetted Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

87. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

88. Volt, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or by use of the mails, or the facilities of a national securities exchange, in connection with the purchase or sale of securities, knowingly or recklessly:

- a. Employed devices, schemes, or artifices to defraud;
- b. Made untrue statements of material facts 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 that operate or would operate as a fraud or deceit upon persons.

89. Egan knowingly or recklessly provided substantial assistance to and thereby aided and abetted Volt in its violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5].

90. Unless restrained and enjoined, Egan will again aid abet violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j (b)] and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

## FOURTH CLAIM

### Egan Violated Exchange Act Rule 13a-14

91. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

92. On January 11, 2008, Volt filed its Form 10-K for Volt's 2007 fiscal-year end, as amended on February 25, 2008, which included a certification that Egan signed pursuant to Rule 13a-14 [17 C.F.R. § 240.13a-14]. The certification falsely stated that the Form 10-K: (a) fully complied with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and (b) that the information contained in the report fairly presented, in all material respects, the financial condition and results of operations of Volt.

93. The above-described certification was false because Volt's annual report on Form 10-K included financial statements that reported as revenue the Fraudulent Revenue and resulting in the Overstated Net Income.

94. On February 2, 2009, Volt filed its Form 10-K for Volt's 2008 fiscal year-end, which included a certification that Egan signed pursuant to Rule 13a-14 [17 C.F.R. § 240.13a-14]. Egan signed the certification that falsely stated that the Form 10-K: (a) fully complied with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and (b) that the information contained in the report fairly presented, in all material respects, the financial condition and results of operations of Volt.

95. The above-described certification was false because Volt's annual report on Form 10-K included financial statements that reported as revenue the Fraudulent Revenue and Overstated Net Income.

96. By reason of the foregoing, Egan violated, and unless restrained and enjoined will in the future violate, Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14] promulgated under Section 302 of the Sarbanes-Oxley Act of 2002.

#### FIFTH CLAIM

**Egan Aided and Abetted Violations of Sections 13(a),  
13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and  
Exchange Act Rules 12b-20, 13a-1, and 13a-11 thereunder**

97. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

98. Section 13(a) of the Exchange Act [15 U.S.C. § 78m (a)], and Exchange Act Rules 13a-1 and 13a-11 [17 C.F.R. §§ 240.13a-1 and 240.13a-11], require issuers of registered securities to file with the Commission factually accurate annual and current reports. Exchange Act Rule 12b-20 [17 C.F.R. §§ 240.12b-20] provides that, in addition to the information expressly required to be included in a statement or report, there shall be added such further information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading. Volt violated these provisions by filing reports that included financial statements containing materially inaccurate information regarding the Fraudulent Revenue and Overstated Net Income.

99. 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 reflected 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 were recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain the accountability of assets. Volt violated these provisions by failing to maintain internal accounting controls that were sufficient to assure reasonably that Volt's financial statements were in conformity with GAAP, thereby enabling the recognition of the Fraudulent Revenue and consequential Overstated Net Income.

100. By reason of the foregoing, Volt violated Sections 13(a) [15 U.S.C. § 78m(a)], 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)] of the Exchange Act, and Exchange Act Rules 12b-20, 13a-1, and 13a-11 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-11].

101. Egan knowingly or recklessly provided substantial assistance to Volt and thereby aided and abetted Volt in its violations of Sections 13(a) [15 U.S.C. § 78m(a)], 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)] of the Exchange Act, and Exchange Act Rules 12b-20, 13a-1, and 13a-11 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-11].

102. Unless restrained and enjoined, Egan will in the future aid and abet violations of Sections 13(a) [15 U.S.C. § 78m(a)], 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)] of the Exchange Act, and Exchange Act Rules 12b-20, 13a-1, and 13a-11 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-11].

#### SIXTH CLAIM

##### **Egan Violated Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1**

103. The Commission realleges and incorporates by reference each and every

allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

104. Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] prohibits persons from knowingly circumventing or failing to implement a system of internal accounting controls or knowingly falsifying or causing to be falsified any book, record, or account described in Section 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)].

105. Rule 13b2-1 of the Exchange Act [17 C.F.R. § 240.13b2-1] prohibits any person from directly or indirectly falsifying or causing to be falsified any book, record, or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A)]. Egan violated these provisions by causing Volt's books, records, or accounts to be falsified by allowing the Fraudulent Revenue and Overstated Net Income to be included in Volt's financial statements for the 4Q 2007 and FY 2007.

106. By reason of the foregoing, Egan violated 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], and unless restrained and enjoined, Egan will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. § 240.13b2-1].

#### SEVENTH CLAIM

##### Egan Violated Exchange Act Rule 13b2-2

107. The Commission realleges and incorporates by reference each and every allegation in Paragraphs 1 through 80, inclusive, as if they were fully set forth herein.

108. Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2] prohibits officers and directors of issuers from making, or causing to be made, materially false or

misleading statements, or omitting, or causing to be omitted, any material fact necessary to make the statement made not misleading in light of the circumstances, to an accountant in connection with (i) any audit, review, or examination of the financial statements of an issuer or (ii) the preparation or filing of any document or report required to be filed with the Commission.

109. Egan violated Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2] by signing Volt's public filings, which included its financial statements, for Volt's 4Q 2007 and FY 2007, by certifying the Company's Annual Reports on Form 10-K for FY 2007 and FY 2008 as Volt's PFO, by omitting to inform Volt's external auditor about the purported transactional basis for the Fraudulent Revenue; and by signing management representation letters to the external auditor that Egan knew or was reckless in not knowing were materially false and misleading in confirming the accuracy of Volt's financial statements for 4Q 2007 and FY 2007.

110. By reason of the foregoing, Egan violated, and unless restrained and enjoined, will continue to violate, Act Rule 13b2-2 of the Exchange Act [17 C.F.R. §§ 240.13b2-2].

#### PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

(a) Permanently restrain and enjoin Defendant Egan from violation of Section 17(a) of the Securities Act [15 U.S.C. §77q(a)] and Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5], 13a-14 [17 C.F.R. § 240.13a-14], 13b2-1 [17 C.F.R. § 240.13b2-1] and 13b2-2 [17 C.F.R. § 240.13b2-2];

(b) Permanently restrain and enjoin Defendant Egan from aiding and abetting violation of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B)] of the Exchange Act and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5], 12b-20 [17 C.F.R. § 240.12b-20], 13a-1 [17 C.F.R. § 240.13a-1], and 13a-11 [17 C.F.R. § 240.13a-11]; and

(c) Order Defendant Egan to pay a civil money penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d)];

(d) Prohibit Egan, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(d)(4)] and Section 21(d)(2) of the Exchange act [15 U.S.C. §78u(d)(2)], from acting as an officer or director of any issuer that has a class of securities registered under Section 12 of the Exchange Act [15 U.S.C. §78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)]; and

(e) Grant such other relief as the Court may deem just and appropriate.

Dated: January 10, 2013

Respectfully submitted,



Charles D. Stodghill  
Cory C. Kirchert  
SECURITIES & EXCHANGE  
COMMISSION  
100 F. Street, N.E.  
Washington, D.C. 20549  
Attorneys for Plaintiff  
(202) 551-4413  
[stodghillc@sec.gov](mailto:stodghillc@sec.gov)  
[kirchertc@sec.gov](mailto:kirchertc@sec.gov)

Of Counsel:

Jerry W. Hodgkins  
Maira T. Roberts  
Nancy E. McGinley