

ORIGINAL NEW APPLICATION



0000152623

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

2014 FEB 26 P 1:16

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB 26 2014

DOCKETED BY [Signature]

In the matter of:
Catharon Software Corporation, a Delaware corporation,
Betsy A. Feinberg and Michael A. Feinberg, husband and wife,
Respondents.

DOCKET NO. S-20905A-14-0061

TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents CATHARON SOFTWARE CORPORATION, a Delaware corporation, BETSY A. FEINBERG, and MICHAEL A. FEINBERG are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. CATHARON SOFTWARE CORPORATION ("CATHARON") is a corporation organized under the laws of the State of Delaware on March 8, 2002. Since at least March 25, 2002,

1 CATHARON has been conducting business within or from Arizona. From 2002 to mid-2013,
2 CATHARON was based in and operated from Sedona, Arizona. From mid-2013 to the present,
3 CATHARON has been based in and operated from Tucson, Arizona. CATHARON has not been
4 registered by the Commission as a securities dealer or salesman, and is not registered with the
5 Commission to do any business in Arizona.

6 3. From March 25, 2002 through the present, BETSY A. FEINBERG has been a
7 Director and the Chief Executive Officer of CATHARON, and an Arizona resident.

8 4. From March 25, 2002 through the present, MICHAEL A. FEINBERG has been a
9 Director and the President and Treasurer of CATHARON, and an Arizona resident.

10 5. From March 25, 2002 through the present, BETSY A. FEINBERG and MICHAEL
11 A. FEINBERG have not been registered by the Commission as securities dealers or salespersons.

12 6. From March 25, 2002 through the present, BETSY A. FEINBERG and MICHAEL
13 A. FEINBERG have been husband and wife, and they have acted for their own individual benefits
14 and for the benefit or in furtherance of their marital community.

15 7. CATHARON, BETSY A. FEINBERG and MICHAEL A. FEINBERG may be
16 referred to individually as a "Respondent" or collectively as "Respondents" as the context so
17 requires.

18 **III.**

19 **FACTS**

20 8. From at least April 14, 2003, Respondents have been offering and selling common
21 stock in CATHARON within and from Arizona by representing that CATHARON owns a patented
22 computer language and infrastructure technology that "will allow it to compete in the market with
23 microcomputer language systems manufacturers, such as Microsoft...."

24 9. In Offering Memoranda dated March 25, 2002 and May 14, 2003, Respondents
25 called the technology "TenCORE Net." In Offering Memoranda dated May 26, 2010 and April 5,

26

1 2013, Respondents called the technology “VΔDelta.” For consistency and ease of reference, the
2 technology is referred to herein as “VΔDelta.”

3 10. CATHARON’s website at
4 http://wiki.catharon.com/vdwiki/index.php/Catharon/About_Us (“Website”) states:

5 We have created the first fully functional programming language for
6 authoring, distributing and reading interactive content over the
7 Internet. VΔDeltaTM, delivers rapidly over the Internet, providing a
8 programming paradigm that supports rapid and economical
9 development of content, facilitating new capabilities in Internet
10 software and systems management.

11 ...

12 Catharon has copyrighted the VΔDelta technology and been granted
13 a patent covering 11 major features of the protocol.

14 11. On December 18, 2013, a potential Arizona investor (“AZ Offeree”) viewed the
15 Website from Arizona. The Website referenced CATHARON’s “Current Offering” and stated,
16 “Current offering documents are available from the Reference Documents page.”

17 12. AZ Offeree submitted her contact information to CATHARON through an on-line
18 form available on the Website.

19 13. On December 20, 2013, AZ Offeree received an email from the address
20 InvestorRelations@Catharon.com. The email contained four PDF attachments: (i) CATHARON’s
21 Offering Memorandum dated April 5, 2013 (“the 2013 Offering Memorandum”); (ii)
22 CATHARON’s Business Plan dated April 5, 2013 (“the 2013 Business Plan”); (iii) a VΔDelta
23 Wiki article dated February 1, 2013; and (iv) a VΔDelta Wiki article dated September 20, 2013
24 (collectively, “the 2013 Offering Materials.”).

25 14. The 2013 Offering Memorandum states that CATHARON “is seeking to raise
26 \$500,000 from the sale of Common Stock.”

15 15. The 2013 Business Plan states that CATHARON has raised \$6 million of private
16 equity funding.

1 16. Based upon that statement in the 2013 Business Plan, the Division alleges that
2 CATHARON has raised \$6 million from the sale of its common stock to investors.

3 17. CATHARON did not register the offer and sale of its common stock with the
4 Commission.

5
6 **Material Misrepresentations And Omissions In CATHARON's 2013 Offering
7 Materials**

8 18. CATHARON's 2013 Offering Materials contain misrepresentations and omissions
9 of material fact regarding: (i) CATHARON's purported ownership of the patents and rights to the
10 VADelta technology; (ii) CATHARON's undisclosed agreement to share fifty-percent (50%) of any
11 profits derived from the VADelta technology with a third-party; (iii) CATHARON's planned schedule
12 for launching the VADelta technology into the market; and (iv) the accuracy of CATHARON's
13 financial statements.

14 **1. Ownership Of The Patents And Rights To The VADelta Technology**

15 19. The 2013 Offering Memorandum represents VADelta as CATHARON's
16 "proprietary and patented technology," which it owns.

17 20. The 2013 Business Plan represents: "Catharon has been awarded 2 major patents
18 with a total of 65 claims." It represents CATHARON is the "Assignee" for United States Patent
19 Numbers 6,065,046 and 7,234,139 ("the Patents").

20 21. The 2013 Offering Materials repeatedly refer to the Patents as belonging to
21 CATHARON and covering the VADelta technology.

22 22. The 2013 Business Plan asserts that CATHARON's technology "represents the first
23 major breakthrough in computer languages in thirty years," "VADelta has several major advantages
24 over all other languages," and "There is no competition because all existing development
25 environments lack key elements...."

26 23. The purported value and potential of CATHARON's patented VADelta technology
are central to CATHARON's stock offering. According to the 2013 Offering Memorandum and

1 Business Plan, CATHARON's primary revenue source will come from "the low cost, high volume
2 licensing of VADelta...."

3 24. The 2013 Business Plan projects that CATHARON's licensing of VADelta will
4 generate \$2 billion in revenue within 3 years.

5 25. The 2013 Business Plan states, "Catharon will be returning nearly half its earnings
6 after taxes to its investors as dividends."

7 26. Based on what CATHARON states is its detailed research and analysis, the 2013
8 Business Plan projects investors will receive a three-year return on investment of 668%.

9 27. The 2013 Offering Memorandum states that CATHARON expects "intense
10 competition from Microsoft, Sun Microsystems and others."

11 28. The 2013 Business Plan, however, also represents to offerees and investors, "The
12 four-year technology lead coupled with the two [P]atents create a formidable barrier to entry for
13 prospective competitors."

14 29. The 2013 Business Plan further discusses the Patents' role in protecting the VADelta
15 technology and investors' investments in CATHARON: "These [P]atents effectively preclude
16 competitors from introducing software products and services that make unlicensed use of these
17 proprietary techniques."

18 30. The Patents no longer belong to CATHARON, however.

19 31. On January 9, 2013, CATHARON assigned to a third party whose initials are "FD",
20 "[A]ll right, title and interest in, and to the Patents" according to a Patent Assignment and Revenue
21 Share Agreement ("Patent Assignment") that BETSY A. FEINBERG executed that date. FD
22 granted back to CATHARON a nonexclusive "fully paid-up personal license to practice inventions
23 covered by the claims of the Patents."

24 32. According to the Patent Assignment, except for the nonexclusive license to
25 CATHARON, FD received all rights to "the enforcement, assignment, licensing,
26 commercialization, exploitation, use, practice, and/or sale of the Patents." FD agreed to pay

1 CATHARON forty-five percent (45%) of any profits generated from his enforcement, assignment,
2 licensing, commercialization, exploitation, use, practice, and/or sale of the Patents.

3 33. The Patent Assignment provided for CATHARON and FD to form a limited
4 liability company to which FD would assign the Patents so that the limited liability company could
5 prosecute the Patents. The Patent Assignment further provided that the terms of the operating
6 agreement for the to-be-formed limited liability company would replace the terms of the Patent
7 Assignment.

8 34. On February 5, 2013, CATHARON and FD formed Catharon Intellectual Property,
9 LLC ("CIP"), a Texas limited liability company.

10 35. According to CIP's Company Agreement, FD and CATHARON each assigned to
11 CIP "all right, title and interest in and to the [Patents]" and agreed "to share any and all revenue
12 generated from [CIP's] enforcement, assignment, licensing, commercialization, exploitation, use,
13 practice and/or sale of the Patents...."

14 36. According to CIP's Company Agreement, FD and CATHARON each own a fifty-
15 percent (50%) membership interest in CIP. FD is the Managing Member, however.

16 37. As the Managing Member, FD has the "exclusive and complete authority and
17 discretion to manage the operations and affairs of [CIP] and to make all decisions regarding the
18 business of [CIP]."

19 38. According to CIP's Company Agreement, FD has the exclusive and complete
20 authority and discretion over the "enforcement, assignment, licensing, commercialization,
21 exploitation, use, practice, and/or sale of the Patents...."

22 39. CIP's Company Agreement does contain any terms that prohibit or restrict FD from
23 licensing, on behalf of CIP, the Patents to potential competitors of CATHARON.

24 40. CIP's Company Agreement states that it "constitutes the entire agreement and
25 understanding among [CATHARON and FD] with respect to [CIP] and supersedes all prior
26 agreements and understandings...."

1 41. CIP's Company Agreement is silent as to whether CATHARON still holds a non-
2 exclusive license or any other rights to the technology covered by the Patents.

3 42. CATHARON's 2013 Offering Memorandum represents as a risk factor the "Possible
4 Loss ... of Intellectual Property Rights."

5 43. The 2013 Offering Materials do not disclose, however, that CATHARON previously
6 assigned away "all right, title and interest in, and to the Patents."

7 44. The 2013 Offering Materials do not disclose to offerees and investors that the loss of
8 CATHARON's intellectual property rights is not just "possible" but actually occurred by virtue of
9 the January 9, 2013 Patent Assignment, and the February 5, 2013 Company Agreement of CIP.

10 45. The 2013 Offering Memorandum represents to offerees and investors that
11 CATHARON "enters into confidentiality or license agreements with its employees, consultants and
12 vendors, and it generally controls access to and distribution of its software, documentation and other
13 proprietary information."

14 46. The 2013 Offering Materials do not disclose, however, that FD, not CATHARON,
15 has the "exclusive and complete authority and discretion" to manage the "enforcement, assignment,
16 licensing, commercialization, exploitation, use, practice, and/or sale of the Patents...." The 2013
17 Offering Materials do not disclose that CATHARON has no legal authority to control access to and
18 distribution of the technology covered by the Patents because that authority resides in CIP and its
19 Managing Member, FD.

20 47. The 2013 Business Plan represents to offerees and investors that the Patents "create a
21 formidable barrier to entry for prospective competitors."

22 48. The 2013 Offering Materials do not disclose, however, that by virtue of the Patent
23 Assignment and CIP's Company Agreement, nothing prohibits or restricts CIP from licensing the
24 Patents to potential competitors of CATHARON.

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1 **2. CATHARON's Undisclosed Agreement To Share 50% Of Any Profits**
2 **Derived From The VADelta Technology With FD.**

3 49. As alleged above, the 2013 Business Plan projects that CATHARON's licensing of
4 VADelta will generate \$2 billion in revenue within 3 years, and states, "Catharon will be returning
5 nearly half its earnings after taxes to its investors as dividends."

6 50. CIP's Company Agreement, however, entitles FD to fifty-percent (50%) of the
7 profits from the "licensing, commercialization, exploitation, use, practice, and/or sale of the
8 Patents...."

9 51. The 2013 Offering Materials do not disclose CATHARON's obligation to share profits
10 with FD from the licensing and other uses of the Patents.

11 52. The 2013 Offering Memorandum, Business Plan and February 1, 2013 Wiki article
12 CATHARON do not contain any disclosures about FD and CIP.

13 53. The September 20, 2013 Wiki article states: "Earlier this year Catharon Software
14 Corporation set up Catharon Intellectual Properties LLC (CIP), a Texas LLC, with partners with
15 significant intellectual property experience and a history of successes in the field." The article does
16 not identify those "partners."

17 54. The September 20, 2013 Wiki article does not disclose CATHARON's (i) assignment
18 of the Patents, or (ii) CATHARON'S obligation to share fifty-percent of any profits generated from
19 the Patents with FD.

20 **3. CATHARON's Schedule For Launching VADelta Into The Market**

21 55. Since 2003, Respondents have repeatedly represented to offerees and investors that
22 CATHARON would launch its VADelta technology within months.

23 56. For instance, CATHARON's Offering Memorandum dated May 14, 2003
24 represented that CATHARON'S technology was "fully functional," and "currently performing up
25 to its expectations...."

26 57. CATHARON's Business Plan dated May 14, 2003 ("2003 Business Plan") similarly
 represented that CATHARON's technology was "finished, not in R & D." The 2003 Business Plan

1 stated that CATHARON was then seeking a “final round of \$3 million to assist us in bringing our
2 consumer-licensed product to the general market within six months of receipt of funding.”

3 58. CATHARON’s 2003 Business Plan represented investors would receive returns
4 within 3 years of 1,572%.

5 59. In March 2004, Respondents induced two investors in Sedona, Arizona to purchase
6 \$12,500 of CATHARON’s common stock by telling them that CATHARON was close to launching its
7 software.

8 60. In early 2007, MICHAEL A. FEINBERG induced another Sedona resident to
9 purchase \$50,000 of common stock by representing that CATHARON would launch its software in
10 the summer of 2007 and he would quickly make a 400% to 500% return on his principal.

11 61. On June 6, 2008, another Sedona resident purchased \$50,000 of common stock
12 based on Respondents’ representation that CATHARON would launch its software within 12 to 18
13 months.

14 62. On August 16, 2011, BETSY A. FEINBERG wrote to that same Sedona investor
15 referenced in the preceding paragraph and offered to sell another \$100,000 of common stock in
16 CATHARON. She wrote: “We’re so excited! After all these many months of preparation, we are
17 scheduled to launch VΔDelta on December 16th of this year [2011].”

18 63. In each of its four Offering Memoranda dated March 25, 2002; May 14, 2003; May
19 26, 2010; and April 6, 2013, CATHARON stated: “The Company’s ability to realize sufficient
20 cash flow to cover its overhead for the next 12 months is dependent primarily upon the extent to
21 which VΔDelta [or TenCORE Net] is accepted by Internet users as an alternative to established
22 programming languages.”

23 64. Implicit in that statement was the representation that CATHARON would release its
24 technology within 12 months from the date of the Offering Memorandum containing the statement.

25 65. Despite Respondents’ repeated representations since 2003 that CATHARON would
26 launch its VΔDelta technology within months, CATHARON has never done so.

1 66. The 2013 Business Plan represents that CATHARON “is seeking a final round of
2 \$500,000 to assist us in bringing our consumer-licensed product to the general market within eight
3 months of receipt of funding.... Formal release of VΔDelta and VΔDeltaFlex is expected by the
4 end of 2013.”

5 67. Given CATHARON’s repeated failures over the previous 10 years to launch its
6 technology, its projection in the 2013 Business Plan that it would launch VΔDelta by the end of
7 2013 lacks a reasonable factual basis.

8 68. CATHARON’s 2013 Offering Memorandum represents that the VΔDelta
9 technology is “fully functional,” and “currently performing up to its expectations....” It further
10 represents, “[CATHARON] believes that this technology, given adequate financial resources and
11 successful marketing, will allow it to compete in the market with microcomputer language systems
12 manufacturers, such as Microsoft....”

13 69. In its previous Offering Memoranda dated March 25, 2002, May 14, 2003, and May
14 26, 2010, through which CATHARON raised \$6 million, CATHARON made the identical
15 representations that:

- 16 • its technology was then “fully functional,” and “currently performing up to its
17 expectations....”; and
- 18 • “[CATHARON] believes that this technology, given adequate financial resources
19 and successful marketing, will allow it to compete in the market with
20 microcomputer language systems manufacturers, such as Microsoft....”

21 70. Despite these representations dating back to 2002, CATHARON has never entered,
22 let alone competed in, the market for computer languages.

23 71. Given CATHARON’s repeated historical failures to enter and compete in the
24 market for computer languages, its stated belief that it will be able to compete with manufacturers
25 such as Microsoft lacks a reasonable factual basis.

26

1 4. **CATHARON's Financial Statements**

2 72. Attached as exhibits to CATHARON'S 2010 and 2013 Offering Memoranda are
3 financial statements that CATHARON states it prepared but which have not been audited.
4 CATHARON represents, "[T]he Company believes these statements to be accurate...."

5 73. CATHARON lacks a reasonable factual basis for that representation for at least two
6 reasons.

7 74. First, the exhibits state that CATHARON prepared its financial statements on a cash
8 basis rather than an accrual basis of accounting.

9 75. The financial statements' cash flow and balance sheet schedules, however, account
10 for numerous categories of assets and liabilities on an accrual basis.

11 76. The second reason why CATHARON lacks a reasonable factual basis for asserting
12 that its financial statements are accurate are the inconsistencies between those statements' report of
13 CATHARON'S total assets from 2005 through 2012 and the total assets CATHARON reported to
14 the State of Delaware, under the penalty of perjury, for the same years in its tax filings. The
15 following table illustrates the inconsistencies:

16

17 Year	Total Assets CATHARON 18 Stated in its financial 19 statements attached to 2010 20 Offering Memorandum	Total Assets 21 CATHARON Stated in 22 its financial statements 23 attached to 2013 Offering 24 Memorandum	Total Assets 25 CATHARON Stated 26 in its Delaware Tax Filings
2005	\$2,981,369	\$2,981,369	\$1,353
2006	\$3,284,551	\$3,284,551	\$1,357
2007	\$3,291,999	\$3,291,999	\$1,380
2008	\$3,514,243	\$3,514,243	\$1,380
2009	\$3,758,695	\$3,758,695	\$31,688
2010		\$4,027,544	\$32,000
2011		\$4,524,612	\$44,054

2012		\$4,640, 251	\$90,205
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77. According to CATHARON’s Offering Memoranda dated (i) March 25, 2002; (ii) May 14, 2003; (iii) May 26, 2010; and (iv) April 5, 2013, BETSY A. FEINBERG and MICHAEL A. FEINBERG “have, and after completion of this offering will continue to exercise, effective control of [CATHARON].”

VIOLATION OF A.R.S. § 44-1841
(Offer and Sale of Unregistered Securities)

78. From on or about April 14, 2003, Respondents have been offering or selling securities in the form of common stock of CATHARON, within or from Arizona.

79. The securities referred to above are not registered pursuant to Articles 6 or 7 of the Securities Act.

80. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842
(Transactions by Unregistered Dealers or Salesmen)

81. Respondents are offering or selling securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

82. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991
(Fraud in Connection with the Offer or Sale of Securities)

83. In connection with the offer or sale of securities within or from Arizona, CATHARON is, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would

1 operate as a fraud or deceit upon offerees and investors. CATHARON's conduct includes, but is not
2 limited to, the following:

3 a) Representing in the 2013 Offering Materials that CATHARON holds the
4 Patents when it had previously assigned "all right, title and interest in and to the [Patents]" to FD
5 and CIP;

6 b) Representing in the 2013 Offering Materials that CATHARON will license
7 the patented VΔDelta technology to generate revenue, when in fact CIP holds all rights to the
8 "licensing, commercialization, exploitation, use, practice, and/or sale of the Patents....";

9 c) Representing in the 2013 Offering Materials that CATHARON expects to
10 generate \$2 billion in revenue and provide a 668% return to investors within 3 years, when
11 according to CATHARON's own financial statements, it has not made a single sale or generated
12 any revenue since 2004;

13 d) Representing in the 2013 Offering Materials that CATHARON has the
14 ability to "effectively preclude competitors from introducing software products and services that
15 make unlicensed use of [CATHARON's] proprietary techniques," when under the terms of CIP's
16 Company Agreement, at FD's complete discretion, CIP can license the Patents to potential
17 competitors of CATHARON;

18 e) Representing in the 2013 Offering Materials as a risk factor CATHARON's
19 "Possible Loss ... of Intellectual Property Rights," when by virtue of CATHARON's Patent
20 Assignment and the CIP Company Agreement CATHARON had already lost its intellectual
21 property rights;

22 f) Failing to disclose in the 2013 Offering Materials that CATHARON is
23 obligated to share with FD fifty-percent (50%) of any profits from the "enforcement, assignment,
24 licensing, commercialization, exploitation, use, practice, and/or sale of the Patents....";

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1 g) Representing in each of its Offering Memoranda dated March 25, 2002;
2 May 14, 2003; May 26, 2010; and April 6, 2013, that CATHARON's technology will allow it to
3 compete with Microsoft without having a reasonable factual basis for that statement;

4 h) Representing in its 2003 Business Plan that CATHARON was then in its
5 "final round" of raising "\$3 million to assist us in bringing our consumer-licensed product to the
6 general market within six months of receipt of funding;"

7 i) Inducing offerees to invest since 2003 by repeatedly representing to them
8 verbally and in writing that CATHARON would launch its technology within months of their
9 investment and they would receive returns within 3 years of between 400% and 1,572%, without
10 having a reasonable factual basis for the launch date or the returns CATHARON would pay
11 investors;

12 j) Representing in the 2013 Business Plan, in nearly identical language to its
13 2003 Business Plan, that CATHARON is in its "final round" of raising "\$500,000 to assist us in
14 bringing our consumer-licensed product to the general market within eight months of receipt of
15 funding" without disclosing that since 2003, CATHARON has repeatedly represented it would
16 launch its technology within months and then failed to do so each time;

17 k) Representing in the 2013 Business Plan that CATHARON expected to
18 launch VADelta by the end of 2013 without having a reasonable factual basis to project such a
19 launch date; and

20 l) Representing in the 2010 and 2013 Offering Memoranda CATHARON's
21 stated belief that its financial statements are accurate without having a reasonable factual basis
22 for that belief as demonstrated by the inconsistencies between those statements' reports of
23 CATHARON'S total assets from 2005 through 2012 and the total assets CATHARON reported
24 to the State of Delaware for the same years in its tax filings.

25 84. This conduct violates A.R.S. § 44-1991.
26

VII.

Control Person Liability Pursuant to A.R.S. § 44-1999

85. From March 25, 2002 through the present, BETSY A. FEINBERG has been a Director and the Chief Executive Officer of CATHARON.

86. From March 25, 2002 through the present, MICHAEL A. FEINBERG has been a Director and the President and Treasurer of CATHARON.

87. According to CATHARON's Offering Memoranda dated (i) March 25, 2002; (ii) May 14, 2003; (iii) May 26, 2010; and (iv) April 5, 2013, BETSY A. FEINBERG and MICHAEL A. FEINBERG "have, and after completion of this offering will continue to exercise, effective control of [CATHARON]."

88. From March 25, 2002 through the present, BETSY A. FEINBERG and MICHAEL A. FEINBERG directly or indirectly controlled CATHARON within the meaning of A.R.S. § 44-1999. Therefore, BETSY A. FEINBERG and MICHAEL A. FEINBERG are jointly and severally liable to the same extent as CATHARON for its violations of A.R.S. § 44-1991 from March 25, 2002 through the present.

VIII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondents, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with Respondents CEASE AND DESIST from any violations of the Securities Act.

1 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
2 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

3 IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order
4 shall remain effective from the date a hearing is requested until a decision is entered unless
5 otherwise ordered by the Commission.

6 IT IS FURTHER ORDERED that this Order shall be effective immediately.

7 **IX.**

8 **REQUESTED RELIEF**

9 The Division requests that the Commission grant the following relief:

10 1. Order Respondents to permanently cease and desist from violating the Securities Act
11 pursuant to A.R.S. §§ 44-2032, 44-1961 and 44-1962;

12 2. Order Respondents to take affirmative action to correct the conditions resulting from
13 Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to
14 A.R.S. §§ 44-2032, 44-1961 and 44-1962;

15 3. Order Respondents to pay the state of Arizona administrative penalties of up to five
16 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

17 4. Order Respondents to pay the state of Arizona administrative penalties, pursuant to
18 A.R.S. §§ 44-1961 and 44-1962;

19 5. Order that the marital community of BETSY A. FEINBERG and MICHAEL A.
20 FEINBERG be subject to any order of restitution, rescission, administrative penalties, or other
21 appropriate affirmative action pursuant to A.R.S. § 25-215; and

22 6. Order any other relief that the Commission deems appropriate.

23 **X.**

24 **HEARING OPPORTUNITY**

25 Each Respondent may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-
26 4-307. **If a Respondent requests a hearing, the requesting Respondent must also answer this**

1 **Temporary Order and Notice.** A request for hearing must be in writing and received by the
2 Commission within 20 days after service of this Temporary Order and Notice. The requesting
3 Respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation
4 Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained
5 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
6 www.azcc.gov/divisions/hearings/docket.asp.

7 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10
8 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
9 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
10 **Order shall remain effective from the date a hearing is requested until a decision is entered.**
11 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order,
12 with written findings of fact and conclusions of law. A permanent Order may include ordering
13 restitution, assessing administrative penalties, or other action.

14 If a request for hearing is not timely made, the Division will request that the Commission
15 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
16 may include ordering restitution, assessing administrative penalties, or other relief.

17 Persons with a disability may request a reasonable accommodation such as a sign language
18 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
19 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
20 Requests should be made as early as possible to allow time to arrange the accommodation.

21 **XI.**

22 **ANSWER REQUIREMENT**

23 Pursuant to A.A.C. R14-4-305, if a Respondent requests a hearing, the requesting
24 Respondent must deliver or mail an Answer to this Temporary Order and Notice to Docket
25 Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within
26 30 calendar days after the date of service of this Temporary Order and Notice. Filing instructions

1 may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet
2 web site at www.azcc.gov/divisions/hearings/docket.asp.


3 Additionally, the answering respondent must serve the Answer upon the Division.
4 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
5 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
6 Arizona, 85007, addressed to James D. Burgess.

7 The Answer shall contain an admission or denial of each allegation in this Temporary
8 Order and Notice and the original signature of the answering Respondent or the Respondent's
9 attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial
10 of an allegation. An allegation not denied shall be considered admitted.

11 When the answering Respondent intends in good faith to deny only a part or a qualification
12 of an allegation, the Respondent shall specify that part or qualification of the allegation and shall
13 admit the remainder. A Respondent waives any affirmative defense not raised in the Answer.

14 The officer presiding over the hearing may grant relief from the requirement to file an
15 Answer for good cause shown.

16 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 26 day of
17 February, 2014.

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19 Matthew J. Neupert
20 Director of Securities
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