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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

FEB - 9 2015

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In the matter of
Catharon Software Corporation, a Delaware corporation,
P.O. Box 448
4729 East Sunrise Drive
Tucson, Arizona 85718
Betsy A. Feinberg and Michael A. Feinberg, husband and wife,
P.O. Box 448
4729 East Sunrise Drive
Tucson, Arizona 85718
Respondents.

DOCKET NO. S-20905A-14-0061

DECISION NO. 74944

ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND CONSENT TO SAME BY RESPONDENTS CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG AND MICHAEL A. FEINBERG

Respondents CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG and MICHAEL A. FEINBERG elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 et seq. ("Securities Act") with respect to this Order To Cease And Desist, Order for Restitution, Order for Administrative Penalties and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit only for purposes of this proceeding and any other state or federal proceeding in which the Commission is a party, including any proceeding in a bankruptcy court, the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

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I.**FINDINGS OF FACT**

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3 1. CATHARON SOFTWARE CORPORATION (“CATHARON”) is a corporation
4 organized under the laws of the State of Delaware on March 8, 2002. Since at least March 25, 2002,
5 CATHARON has been conducting business within or from Arizona. From 2002 to mid-2013,
6 CATHARON was based in and operated from Sedona, Arizona. From mid-2013 to the present,
7 CATHARON has been based in and operated from Tucson, Arizona. CATHARON has not been
8 registered by the Commission as a securities dealer or salesman, and is not registered with the
9 Commission to do any business in Arizona.

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

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

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

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

19 6. CATHARON, BETSY A. FEINBERG and MICHAEL A. FEINBERG may be
20 referred to individually as a “Respondent” or collectively as “Respondents” as the context so requires.

21 7. From at least March 25, 2002 to February 2014, Respondents offered and/or sold
22 common stock in CATHARON within and from Arizona by representing that CATHARON owns
23 a patented computer language and infrastructure technology that “will allow it to compete in the
24 market with microcomputer language systems manufacturers, such as Microsoft...”

25 8. In Offering Memoranda dated March 25, 2002 and May 14, 2003, Respondents
26 called the technology “TenCORE Net.” In Offering Memoranda dated December 1, 2008, May 26,

1 2010 and April 5, 2013, Respondents called the technology “VΔDelta.” For consistency and ease
2 of reference, the technology is referred to herein as “VΔDelta.”

3 9. In December 2013, CATHARON’s website at <http://wiki.catharon.com> stated:

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

8 ...

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

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

14 11. AZ Offeree submitted her contact information to CATHARON through an on-line
15 form available on the website.

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

22 13. The 2013 Offering Memorandum stated that CATHARON “is seeking to raise
23 \$500,000 from the sale of Common Stock.”

24 14. The Financial Statements included in the 2013 Offering Memorandum reflect that
25 from March 25, 2002 to November 30, 2012, CATHARON raised \$4,816,559 from the sale of its
26 common stock to investors. From December 1, 2012 to February 26, 2014, which is the date when

1 CATHARON was served with the Commission's Temporary Order to Cease and Desist and Notice
2 of Opportunity for Hearing in this matter, CATHARON raised another \$110,000 from the sale of
3 its common stock to investors.

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

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

12 **1. Ownership Of The Patents And Rights To The VΔDelta Technology**

13 17. The 2013 Offering Materials repeatedly refer to the Patents as belonging to
14 CATHARON and covering the VΔDelta technology. For instance, the 2013 Offering Memorandum
15 represents VΔDelta as CATHARON's "proprietary and patented technology," which it owns. The
16 2013 Business Plan represents: "Catharon has been awarded 2 major patents with a total of 65
17 claims." It represents CATHARON is the "Assignee" for United States Patent Numbers
18 6,065,046 and 7,234,139 ("the Patents").

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

23 19. The purported value and potential of CATHARON's patented VΔDelta technology
24 are central to CATHARON's stock offering. According to the 2013 Offering Memorandum and
25 Business Plan, CATHARON's primary revenue source will come from "the low cost, high volume
26 licensing of VΔDelta...."

1 20. The 2013 Business Plan projects that CATHARON's licensing of VΔDelta will
2 generate \$2 billion in revenue within 3 years.

3 21. The 2013 Business Plan states, "Catharon will be returning nearly half its earnings
4 after taxes to its investors as dividends."

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

7 23. The 2013 Offering Memorandum states that CATHARON expects "intense
8 competition from Microsoft, Sun Microsystems and others."

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

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

16 26. At the time of the April 2013 offering, however, the Patents no longer belonged to
17 CATHARON.

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

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

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 29. 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 30. On February 5, 2013, CATHARON and FD formed Catharon Intellectual Property,
9 LLC (“CIP”), a Texas limited liability company.

10 31. 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 32. 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 33. 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 34. 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 35. CIP’s Company Agreement does not contain any terms that prohibit or restrict FD
23 from licensing, on behalf of CIP, the Patents to potential competitors of CATHARON.

24 36. 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 37. 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 38. CATHARON's 2013 Offering Memorandum represented as a risk factor the "Possible
4 Loss ... of Intellectual Property Rights."

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

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

10 41. The 2013 Offering Memorandum represented 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 42. The 2013 Offering Materials did 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 43. The 2013 Business Plan represented to offerees and investors that the Patents "create a
21 formidable barrier to entry for prospective competitors."

22 44. The 2013 Offering Materials did 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 VΔDelta Technology With FD**

3 45. The 2013 Business Plan projected that CATHARON's licensing of VΔDelta would
4 generate \$2 billion in revenue within 3 years, and stated, "Catharon will be returning nearly half its
5 earnings after taxes to its investors as dividends."

6 46. 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 47. The 2013 Offering Materials did not disclose CATHARON's obligation to share
10 profits with FD from the licensing and other uses of the Patents

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

13 49. The September 20, 2013 Wiki article stated: "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 did
16 not identify those "partners."

17 50. The September 20, 2013 Wiki article did 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 VΔDelta Into The Market**

21 51. Since 2002, Respondents have repeatedly represented to offerees and investors that
22 CATHARON would launch its VΔDelta technology within months of their investment, but
23 Respondents have never launched it.

24 52. For instance, CATHARON's Offering Memorandum dated March 25, 2002,
25 represented that CATHARON'S technology was "fully functional," and "currently performing up
26 to its expectations...." In each of its four subsequent Offering Memoranda dated May 14, 2003;

1 December 1, 2008; May 26, 2010; and April 5, 2013, CATHARON repeated its representations
2 that its technology was “fully functional,” and “currently performing up to its expectations....”

3 53. CATHARON’s Business Plan dated March 25, 2002 (“2002 Business Plan”) stated
4 that CATHARON was then seeking a “final round of \$6 million to assist us in bringing our
5 consumer-licensed product to the general market within ten months of receipt of funding.”

6 54. Similar to that representation in the 2002 Business Plan, CATHARON’s Business
7 Plan dated May 14, 2003 (“2003 Business Plan”) stated that CATHARON was then seeking a
8 “final round of \$3 million to assist us in bringing our consumer-licensed product to the general
9 market within six months of receipt of funding.”

10 55. The 2003 Business Plan represented that CATHARON’s technology was “finished,
11 not in R & D,” and projected that investors would receive returns within 3 years of 1,572%.

12 56. In March 2004, Respondents induced two investors in Sedona, Arizona to purchase
13 \$12,500 of CATHARON’s common stock by telling them that CATHARON was close to
14 launching its software.

15 57. On October 7, 2005, in response to an investor’s inquiry about when Catharon
16 would launch its technology, BETSY A. FEINBERG wrote: “The prospects for next year are
17 excellent.”

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

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

24 60. Like the 2003 Business Plan, CATHARON’s Business Plan dated December 1,
25 2008 (“2008 Business Plan”) represented that the VΔDelta technology was “finished, not in R &
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1 D.” The 2008 Business Plan stated that CATHARON was then seeking \$750,000 “to cover our
2 burn rate during the first few months of release....”

3 61. In June 2010, BETSY A. FEINBERG wrote to investors: “[T]he release is planned
4 for this year, 2010....”

5 62. In July 2010, BETSY A. FEINBERG wrote to investors: “Not only are we less than
6 a year from revenue, we are less than a year from profitability and the payment of dividends.”

7 63. In November 2010, BETSY A. FEINBERG wrote to investors: “We do expect to
8 release and start the dividends flowing in 2011.”

9 64. On August 16, 2011, BETSY A. FEINBERG wrote to investors offering to sell
10 another \$100,000 of common stock in CATHARON. She wrote: “We’re so excited! After all
11 these many months of preparation, we are scheduled to launch VΔDelta on December 16th of this
12 year [2011].”

13 65. In each of its five Offering Memoranda dated March 25, 2002; May 14, 2003;
14 December 1, 2008; May 26, 2010; and April 5, 2013, CATHARON stated: “The Company’s ability
15 to realize sufficient cash flow to cover its overhead for the next 12 months is dependent primarily
16 upon the extent to which VΔDelta [or TenCORE Net] is accepted by Internet users as an alternative
17 to established programming languages.” Implicit in that statement was the representation that
18 CATHARON would release its technology within 12 months from the date of the Offering
19 Memorandum containing the statement.

20 66. Despite Respondents’ repeated representations since 2002 that CATHARON would
21 launch its VΔDelta technology within months, CATHARON has never done so.

22 67. Similar to the representations in the 2002 and 2003 Business Plans, the 2013
23 Business Plan represented that CATHARON “is seeking a final round of \$500,000 to assist us in
24 bringing our consumer-licensed product to the general market within eight months of receipt of
25 funding....” The 2013 Business Plan further stated: “Formal release of VΔDelta and VΔDeltaFlex
26 is expected by the end of 2013.”

1 68. Given CATHARON's repeated failures over the previous 10 years to launch its
2 technology, its projection in the 2013 Business Plan that it would launch VΔDelta by the end of
3 2013 lacked a reasonable factual basis.

4 69. CATHARON's 2013 Offering Memorandum represented: "[CATHARON] believes
5 that this technology, given adequate financial resources and successful marketing, will allow it to
6 compete in the market with microcomputer language systems manufacturers, such as Microsoft...."

7 70. In its previous Offering Memoranda dated March 25, 2002, May 14, 2003,
8 December 1, 2008, and May 26, 2010, through which CATHARON raised \$4.8 million,
9 CATHARON made the identical representation that: "[CATHARON] believes that this
10 technology, given adequate financial resources and successful marketing, will allow it to compete
11 in the market with microcomputer language systems manufacturers, such as Microsoft...."

12 71. Despite these representations dating back to 2002, CATHARON has never entered,
13 let alone competed in, the market for computer languages.

14 72. Given CATHARON's repeated historical failures to enter and compete in the
15 market for computer languages, its stated belief that it would be able to compete with
16 manufacturers such as Microsoft lacked a reasonable factual basis.

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

18 73. Attached as exhibits to CATHARON'S 2010 and 2013 Offering Memoranda were
19 financial statements that CATHARON states it prepared but which have not been audited.
20 CATHARON represented, "[T]he Company believes these statements to be accurate...."

21 74. CATHARON lacked a reasonable factual basis for that representation for at least
22 two reasons.

23 75. First, the exhibits state that CATHARON prepared its financial statements on a cash
24 basis rather than an accrual basis of accounting.

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

1 77. The second reason why CATHARON lacked a reasonable factual basis for asserting
 2 that its financial statements were accurate are the inconsistencies between those statements' reports
 3 of CATHARON'S total assets from 2005 through 2012 and the total assets CATHARON reported
 4 to the State of Delaware, under the penalty of perjury, for the same years in its tax filings. The
 5 following table illustrates the inconsistencies:

Year	Total Assets CATHARON Stated in its financial statements attached to 2010 Offering Memorandum	Total Assets CATHARON Stated in its financial statements attached to 2013 Offering Memorandum	Total Assets CATHARON Stated 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

Misrepresentations and Omissions Regarding Use of Funds

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 19 78. According to CATHARON'S Offering Memoranda dated March 25, 2002, May 14,
 20 2003, and December 1, 2008, CATHARON would use the investors' monies to pay for "Marketing &
 21 Selling," "Internet Infrastructure," "Research & Development," "Administrative System,"
 22 "Administration & General," "Payment of Loans," and "Cost of Offering."

23
 24 79. According to CATHARON'S Offering Memoranda dated May 26, 2010, and April 5,
 25 2013, CATHARON would use the investors' monies to pay for "Marketing & Selling," "Internet
 26

1 Infrastructure,” “Research & Development,” “Administrative System,” “Legal (Publishing License),”
2 “Administration & General,” “Payment of Loans,” “Cost of Offering,” and “Reserve.”

3 80. CATHARON’s Offering Memoranda and its other materials for the 2002, 2003, 2008,
4 2010 and 2013 offerings did not disclose that BETSY A. FEINBERG and MICHAEL A. FEINBERG
5 would use investors’ monies deposited into CATHARON’s bank account to pay their own personal
6 living expenses and transfer over \$891,000 to themselves, but that is what occurred from at least
7 February 2007 through June 2014.

8 81. For instance, during that period, BETSY A. FEINBERG and MICHAEL A.
9 FEINBERG used CATHARON’s Bank of America account ending in Xx6162 (“BOA Xx6162”) to
10 spend \$50,919 dining at restaurants. In contrast, they only spent \$921 from their own personal bank
11 account at restaurants during the same period.

12 82. BETSY A. FEINBERG and MICHAEL A. FEINBERG spent \$76,299 from
13 CATHARON’s BOA Xx6162 account on medical care for themselves and their children, including
14 \$43,194 for services from a concierge physician, \$4,531 for eye care, and \$8,403 for dental work.

15 83. From February 2007 through June 2014, BETSY A. FEINBERG and MICHAEL A.
16 FEINBERG used CATHARON’s BOA Xx6162 account to spend \$3,835 on massages; \$1,197 on
17 ancestry.com; \$853 on Netflix.com; \$647 on SiriusXM satellite radio; and \$451 on iTunes.

18 84. On June 29, 2007, MICHAEL A. FEINBERG wrote a check for \$750.00 from
19 CATHARON’s BOA Xx6162 account to pay for BETSY A. FEINBERG to take a bird watching trip
20 in Chihuahua, Mexico on September 6-10, 2007.

21 85. On August 15, 2007, BETSY A. FEINBERG wrote a check for \$190.00 from
22 CATHARON’s BOA Xx6162 account to purchase theater or music tickets for herself and MICHAEL
23 A. FEINBERG.

24 86. On March 22, 2008, MICHAEL A. FEINBERG wrote a check for \$750.00 from
25 CATHARON’s BOA Xx6162 account to pay for a nature tour.
26

1 87. On April 30, 2009, MICHAEL A. FEINBERG wrote a check from CATHARON's
2 BOA Xx6162 account payable to his son for \$3,600 with the notation "Tuition - Fall 2008, Spring
3 2009."

4 88. On January 3, 2014, CATHARON's BOA Xx6162 account received a wire deposit
5 from Catharon Intellectual Property, LLC in the amount of \$259,981.64, which was CIP's distribution
6 to CATHARON of proceeds from CIP's settlements of several patent infringement lawsuits it had
7 filed in Texas. The wire deposit increased the balance in the account from \$3,386.78 to \$263,368.42.

8 89. On January 7, 2014, MICHAEL A. FEINBERG withdrew \$33,888.42 from
9 CATHARON's BOA Xx6162 account and used that sum to purchase a 2014 recreational vehicle.

10 90. BETSY A. FEINBERG and MICHAEL A. FEINBERG registered the recreational
11 vehicle in their own names.

12 91. In January and February 2014, BETSY A. FEINBERG and MICHAEL A.
13 FEINBERG spent more than \$59,000 from CATHARON's BOA Xx6162 account at Camping
14 World, Bed Bath & Beyond, Whole Foods, Trader Joe's, Amazon, Basha's, Target, music stores,
15 art supply stores, sushi bars and other restaurants.

16 92. According to CATHARON's Offering Memoranda dated (i) March 25, 2002; (ii) May
17 14, 2003; (iii) December 1, 2008; (iv) May 26, 2010; and (v) April 5, 2013, BETSY A. FEINBERG
18 and MICHAEL A. FEINBERG "have, and after completion of this offering will continue to exercise,
19 effective control of [CATHARON]."

20 93. From at least March 25, 2002 through the present, BETSY A. FEINBERG and
21 MICHAEL A. FEINBERG have directed the activities of CATHARON and exercised effective
22 control over it.

23 **II.**

24 **CONCLUSIONS OF LAW**

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

1 2. From at least March 25, 2002 to February 2014, Respondents CATHARON,
2 Betsy A. Feinberg and Michael A. Feinberg offered or sold securities within or from
3 Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

4 3. Respondents CATHARON, Betsy A. Feinberg and Michael A. Feinberg
5 violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt
6 from registration.

7 4. Respondents CATHARON, Betsy A. Feinberg and Michael A. Feinberg
8 violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or
9 salesman nor exempt from registration.

10 5. Respondents CATHARON, Betsy A. Feinberg and Michael A. Feinberg
11 violated A.R.S. § 44-1991 by: (a) employing devices, schemes, or artifices to defraud; (b) making
12 untrue statements or misleading omissions of material facts; and (c) engaging in transactions,
13 practices, or courses of business that operate or would operate as a fraud or deceit. Respondents
14 conduct includes, but is not limited to, the following:

15 a) Representing in the 2013 Offering Materials that CATHARON held the
16 Patents when it had previously assigned “all right, title and interest in and to the [Patents]” to FD
17 and CIP;

18 b) Representing in the 2013 Offering Materials that CATHARON would
19 license the patented VΔDelta technology to generate revenue, when according to CIP’s Company
20 Agreement CIP holds all rights to the “licensing, commercialization, exploitation, use, practice,
21 and/or sale of the Patents....”;

22 c) Representing in the 2013 Offering Materials that CATHARON expected to
23 generate \$2 billion in revenue and provide a 668% return to investors within 3 years, when
24 according to CATHARON’s own financial statements, it has not made a single sale or generated
25 any revenue since 2004;

26

1 d) Representing in the 2013 Offering Materials that CATHARON had the
2 ability to “effectively preclude competitors from introducing software products and services that
3 make unlicensed use of [CATHARON’s] proprietary techniques,” when under the terms of CIP’s
4 Company Agreement, at FD’s complete discretion, CIP can license the Patents to potential
5 competitors of CATHARON;

6 e) Representing in the 2013 Offering Materials as a risk factor CATHARON’s
7 “Possible Loss ... of Intellectual Property Rights,” when by virtue of CATHARON’s Patent
8 Assignment and the CIP Company Agreement CATHARON had already lost its intellectual
9 property rights;

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

13 g) Representing in each of its Offering Memoranda dated March 25, 2002;
14 May 14, 2003; December 1, 2008; May 26, 2010; and April 6, 2013, that CATHARON’s
15 technology will allow it to compete with Microsoft without having a reasonable factual basis for
16 that statement;

17 h) Representing in the 2002 Business Plan that CATHARON was then
18 seeking a “final round of \$6 million to assist us in bringing our consumer-licensed product to the
19 general market within ten months of receipt of funding.”

20 i) Representing in the 2003 Business Plan that CATHARON was then in its
21 “final round” of raising “\$3 million to assist us in bringing our consumer-licensed product to the
22 general market within six months of receipt of funding;”

23 j) Representing in the 2008 Business Plan that CATHARON was then seeking
24 \$750,000 “to cover our burn rate during the first few months of release....”

25 k) Inducing offerees to invest since 2003 by repeatedly representing to them
26 verbally and in writing that CATHARON would launch its technology within months of their

1 investment and they would receive returns within 3 years of between 400% and 1,572%, without
2 having a reasonable factual basis for the launch date or the returns CATHARON would pay
3 investors;

4 l) Representing in the 2013 Business Plan, in nearly identical language to its
5 2002 and 2003 Business Plans, that CATHARON is in its “final round” of raising “\$500,000 to
6 assist us in bringing our consumer-licensed product to the general market within eight months of
7 receipt of funding” without disclosing that since 2002, CATHARON has repeatedly represented it
8 would launch its technology within months and then failed to do so each time;

9 m) Representing in the 2013 Business Plan that CATHARON expected to
10 launch VADelta by the end of 2013 without having a reasonable factual basis to project such a
11 launch date;

12 n) Representing in the 2010 and 2013 Offering Memoranda CATHARON’s
13 stated belief that its financial statements are accurate without having a reasonable factual basis
14 for that belief as demonstrated by the inconsistencies between those statements’ reports of
15 CATHARON’S total assets from 2005 through 2012 and the total assets CATHARON reported
16 to the State of Delaware for the same years in its tax filings; and

17 o) Omitting to disclose in CATHARON’s Offering Memoranda and its other
18 materials for the 2002, 2003, 2008, 2010 and 2013 offerings that BETSY A. FEINBERG and
19 MICHAEL A. FEINBERG would use investors’ monies to pay their own personal living expenses
20 and transfer over \$891,000 to themselves.

21 6. From March 25, 2002 through the present, BETSY A. FEINBERG and MICHAEL
22 A. FEINBERG directly or indirectly controlled CATHARON within the meaning of A.R.S. § 44-
23 1999. BETSY A. FEINBERG and MICHAEL A. FEINBERG are jointly and severally liable to the
24 same extent as CATHARON for its violations of A.R.S. § 44-1991.

25 7. Respondents’ conduct is grounds for a cease and desist order pursuant to A.R.S.
26 § 44-2032, A.R.S. § 44-1961, and A.R.S. § 44-1962.

1 8. Respondents' conduct is grounds for an order of restitution pursuant to A.R.S. § 44-
2 2032, A.R.S. § 44-1961 and A.R.S. § 44-1962.

3 9. Respondents' conduct is grounds for administrative penalties under A.R.S. § 44-
4 2036, A.R.S. § 44-1961, and A.R.S. § 44-1962.

5 10. Respondents BETSY A. FEINBERG and MICHAEL A. FEINBERG acted for the
6 benefit of their marital community and, pursuant to A.R.S. §§ 25-214 and 25-215, this order of
7 restitution and administrative penalties is a debt of the community.

8 **III.**

9 **ORDER**

10 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents'
11 consent to the entry of this Order, attached and incorporated by reference, the Commission finds
12 that the following relief is appropriate, in the public interest, and necessary for the protection of
13 investors:

14 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents CATHARON
15 SOFTWARE CORPORATION, BETSY A. FEINBERG and MICHAEL A. FEINBERG, and any
16 of Respondents' agents, employees, successors and assigns, permanently cease and desist from
17 violating the Securities Act.

18 IT IS FURTHER ORDERED that Respondents CATHARON SOFTWARE
19 CORPORATION, BETSY A. FEINBERG and MICHAEL A. FEINBERG comply with the
20 attached Consent to Entry of Order.

21 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, A.R.S. § 44-1961, and A.R.S.
22 § 44-1962, that Respondents BETSY A. FEINBERG and MICHAEL A. FEINBERG individually,
23 and the marital community of Respondents BETSY A. FEINBERG and MICHAEL A. FEINBERG
24 jointly and severally shall, jointly and severally with Respondent CATHARON SOFTWARE
25 CORPORATION pay restitution to the Commission in the principal amount of \$4,926,559 as a
26 result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in

1 full on the date of this Order. Payment shall be made to the "State of Arizona" to be placed in an
2 interest-bearing account controlled by the Commission. Any principal amount outstanding shall
3 accrue interest at the rate of 4.25 percent per annum from the date of purchase until paid in full.

4 The Commission shall disburse the funds on a pro-rata basis to investors shown on the
5 records of the Commission. Any restitution funds that the Commission cannot disburse because an
6 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an
7 investor because the investor is deceased and the Commission cannot reasonably identify and
8 locate the deceased investor's spouse or natural children surviving at the time of the distribution,
9 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the
10 Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse
11 shall be transferred to the general fund of the state of Arizona.

12 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, A.R.S. § 44-1961, and A.R.S.
13 § 44-1962, that Respondents BETSY A. FEINBERG and MICHAEL A. FEINBERG individually,
14 and the marital community of Respondents BETSY A. FEINBERG and MICHAEL A. FEINBERG
15 jointly and severally shall, jointly and severally with Respondent CATHARON SOFTWARE
16 CORPORATION pay an administrative penalty in the amount of \$250,000.00 as a result of the
17 conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the
18 date of this Order. Payment shall be made to the "State of Arizona." Any amount outstanding shall
19 accrue interest as allowed by law.

20 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
21 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
22 shall be applied to the penalty obligation.

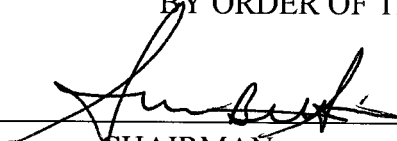
23 For purposes of this Order, a bankruptcy filing by a Respondent shall be an act of default.
24 If Respondents do not comply with this Order, any outstanding balance may be deemed in default
25 and shall be immediately due and payable.

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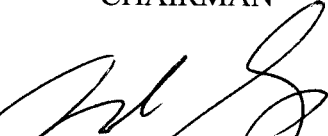
1 IT IS FURTHER ORDERED, that if Respondents fail to comply with this Order, the
2 Commission may bring further legal proceedings against Respondents, including application to the
3 superior court for an order of contempt.

4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

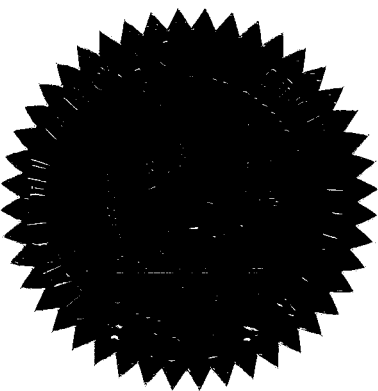
6 
7 CHAIRMAN


COMMISSIONER

8 
9 COMMISSIONER


COMMISSIONER


COMMISSIONER



11 IN WITNESS WHEREOF, I, JODI JERICH, Executive
12 Director of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of
15 Phoenix, this 9th day of February, 2015.

16 
17 JODI JERICH
18 EXECUTIVE DIRECTOR

19 _____
DISSENT

20 _____
DISSENT

21 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
22 Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

23 (JDB)

CONSENT TO ENTRY OF ORDER

1
2 1. Respondents CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG
3 and MICHAEL A. FEINBERG (collectively, "Respondents") admit the jurisdiction of the
4 Commission over the subject matter of this proceeding. Respondents acknowledge that
5 Respondents have been fully advised of their right to a hearing to present evidence and call
6 witnesses and Respondents knowingly and voluntarily waive any and all rights to a hearing before
7 the Commission and all other rights otherwise available under Article 11 of the Securities Act and
8 Title 14 of the Arizona Administrative Code. Respondents acknowledge that this Order To Cease
9 And Desist, Order for Restitution, Order for Administrative Penalties and Consent to Same
10 ("Order") constitutes a valid final order of the Commission.

11 2. Respondents knowingly and voluntarily waive any right under Article 12 of the
12 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
13 resulting from the entry of this Order.

14 3. Respondents acknowledge and agree that this Order is entered into freely and
15 voluntarily and that no promise was made or coercion used to induce such entry.

16 4. Respondents CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG
17 and MICHAEL A. FEINBERG acknowledge that they have been represented by the same attorneys
18 in this matter, John F. Munger and Robert J. Metli of Munger Chadwick, P.L.C. Respondents
19 acknowledge that Munger Chadwick, P.L.C. has apprised them of their rights regarding any
20 potential and actual conflicts of interest arising from the joint representation. Respondents
21 CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG and MICHAEL A.
22 FEINBERG acknowledge that they have each given their informed consent to such representation.

23 5. Each Respondent acknowledges that he/she/it has reviewed this Order with their
24 attorneys, John F. Munger and Robert J. Metli, and understand all terms it contains.

25 6. Respondents CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG
26 and MICHAEL A. FEINBERG admit only for purposes of this proceeding and any other state or

1 federal proceeding in which the Commission is a party, including any proceeding in a bankruptcy
2 court, the Findings of Fact and Conclusions of Law contained in this Order. Respondents each
3 agree that he/she/it shall not contest the validity of the Findings of Fact and Conclusions of Law
4 contained in this Order in any present or future proceeding in which the Commission is a party.

5 7. With respect to any future proceeding to which the Commission is not a party, this
6 Order is not intended to have any collateral estoppel effect. Nor is this Order intended to be of use
7 in any criminal proceeding.

8 8. Respondents CATHARON SOFTWARE CORPORATION, BETSY A. FEINBERG
9 and MICHAEL A. FEINBERG further agree the Findings of Fact and Conclusions of Law
10 contained in this Order shall be taken as true and correct and that this Order shall collaterally estop
11 them from re-litigating with the Commission, in any forum, the accuracy of the Findings of Fact
12 and Conclusions of Law contained in this Order. In the event CATHARON SOFTWARE
13 CORPORATION, BETSY A. FEINBERG and/or MICHAEL A. FEINBERG pursue bankruptcy
14 protection in the future, they each further agree that in such bankruptcy proceeding, pursuant to 11
15 U.S.C. § 523(a)(19), the following circumstances exist:

- 16 a. The obligations incurred as a result of this Order are a result of the conduct set
17 forth in the Findings of Fact and Conclusions of Law in the Order and are for the
18 violation of Arizona state securities laws, pursuant to 11 U.S.C. §
19 523(a)(19)(A)(i); and
- 20 b. This Order constitutes a judgment, order, consent order, or decree entered in a
21 state proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement
22 agreement entered into by Catharon Software Corporation, Betsy A. Feinberg
23 and Michael A. Feinberg pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court
24 order for damages, fines, penalties, restitution payments, disgorgement
25 payments, attorney fees, costs or other payments owed by CATHARON
26

1 SOFTWARE CORPORATION, BETSY A. FEINBERG and MICHAEL A.
2 FEINBERG pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

3 9. By consenting to the entry of this Order, Respondents agree not to take any action or
4 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
5 Fact or Conclusion of Law in this Order or creating the impression that this Order is without
6 factual basis.

7 10. The Commission and Respondents agree that the validity of the January 9, 2013
8 Patent Assignment, and the February 5, 2013 Company Agreement of CIP has not been adjudicated
9 before the Commission.

10 11. While this Order settles this administrative matter between Respondents and the
11 Commission, Respondents understand that this Order does not preclude the Commission from
12 instituting other administrative or civil proceedings based on violations that are not addressed by
13 this Order.

14 12. Respondents understand that this Order does not preclude the Commission from
15 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
16 that may be related to the matters addressed by this Order.

17 13. Respondents understand that this Order does not preclude any other agency or
18 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
19 proceedings that may be related to matters addressed by this Order.

20 14. Each Respondent agrees that he/she/it will not apply to the state of Arizona for
21 registration as a securities dealer or salesman or for licensure as an investment adviser or
22 investment adviser representative at any time in the future.

23 15. BETSY A. FEINBERG and MICHAEL A. FEINBERG acknowledge that the
24 restitution and penalties imposed by this Order are obligations of themselves individually as well as
25 obligations of their marital community.

26

1 16. Each Respondent consents to the entry of this Order and agrees to be fully bound by
2 its terms and conditions.

3 17. Each Respondent acknowledges and understands that if he/she/it fails to comply
4 with the provisions of the order and this consent, the Commission may bring further legal
5 proceedings against him/her/it, including application to the superior court for an order of contempt.

6 18. Respondents understand that default shall render Respondents liable to the
7 Commission for its costs of collection and interest at the maximum legal rate.

8 19. Each Respondent agrees and understands that if he/she/it fails to make any payment
9 as required in the Order, any outstanding balance shall be in default and shall be immediately due
10 and payable without notice or demand. Respondents agree and understand that acceptance of any
11 partial or late payment by the Commission is not a waiver of default by the Commission.

12 20. BETSY A. FEINBERG represents that she is the Chief Executive Officer of
13 CATHARON SOFTWARE CORPORATION and has been authorized by CATHARON
14 SOFTWARE CORPORATION to enter into this Order for and on behalf of it.

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Betsy A. Feinberg
BETSY A. FEINBERG

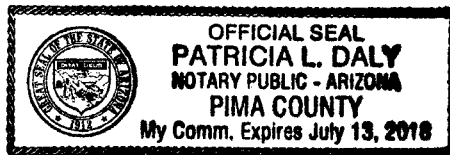
STATE OF ARIZONA)
) ss
County of Pima)

SUBSCRIBED AND SWORN TO BEFORE me this 15th day of January, 2015.

Patricia L. Daly
NOTARY PUBLIC

My commission expires:

7/13/2018



Michael A. Feinberg
MICHAEL A. FEINBERG

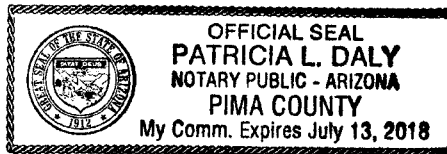
STATE OF ARIZONA)
) ss
County of Pima)

SUBSCRIBED AND SWORN TO BEFORE me this 15th day of January, 2015.

Patricia L. Daly
NOTARY PUBLIC

My commission expires:

7/13/2018



CATHARON SOFTWARE CORPORATION

Betsy A. Feinberg

By: Betsy A. Feinberg

Its: Chief Executive Officer

STATE OF ARIZONA)
County of Pima) ss

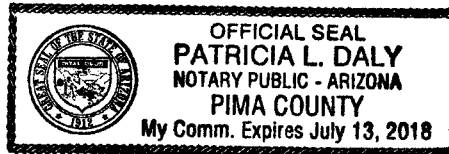
SUBSCRIBED AND SWORN TO BEFORE me this 15th day of January, 2015.

Patricia L. Daly

NOTARY PUBLIC

My commission expires:

7/13/2018



SERVICE LIST FOR: Catharon Software Corporation et al.

John F. Munger, Esq.
Munger Chadwick
333 N. Wilmot, Suite 300
Tucson, AZ 85711

and

Robert J. Metli, Esq.
Munger Chadwick
2398 E. Camelback Road
Suite 240
Phoenix, AZ 85016

Attorneys for Catharon Software Corporation,
Betsy A. Feinberg and Michael A. Feinberg

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

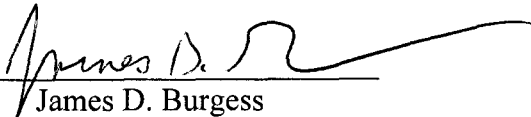
In the matter of:)
Catharon Software Corporation, a Delaware)
corporation,)
P.O. Box 448)
4729 East Sunrise Drive)
Tucson, Arizona 85718)
Betsy A. Feinberg and Michael A. Feinberg,)
husband and wife,)
P.O. Box 448)
4729 East Sunrise Drive)
Tucson, Arizona 85718)
Respondents.)

DOCKET NO. S-20905A-14-0061

**NOTICE OF FILING OF PROPOSED
OPEN MEETING AGENDA ITEM**

Pursuant to A.A.C. R14-4-303, you are hereby notified that the attached: proposed Order
To Cease And Desist, Order for Restitution, Order for Administrative Penalties and Consent to
Same was filed with the Arizona Corporation Commission's Docket Control.

Dated: January 20, 2015

By: 
James D. Burgess
Enforcement Attorney

I hereby certify that I have this day served the foregoing document on all parties of record
in this proceeding by mailing copies thereof, properly addressed with first class postage prepaid to:

John F. Munger, Esq.
Munger Chadwick
333 N. Wilmot, Suite 300
Tucson, AZ 85711

1 and

2 Robert J. Metli, Esq.
3 Munger Chadwick
4 2398 E. Camelback Road
5 Suite 240
6 Phoenix, AZ 85016

7 Dated: 1/20/15

8 By: 
9 Emie R. Bridges, Executive Assistant

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