## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, -against-U.S. BANCORP PIPER JAFFRAY INC., Defendant.

Civil Action No. 03 Civ. 2942 (WHP)

## ORDER REGARDING DISTRIBUTION FUND PLAN

On October 31, 2003, the Court signed a Final Judgment as to Defendant U.S. Bancorp Piper Jaffray Inc. ("Final Judgment"). Section II of the Final Judgment calls for the creation of a Distribution Fund, which consists of Defendant's Federal Payment plus any income and interest earned thereon.<sup>1</sup> Under Section V.A of the Final Judgment, "[t]he Distribution Fund Administrator shall formulate and administer a Distribution Fund Plan ... intended to provide for the equitable, cost-effective distribution of funds to Eligible Distribution Fund Recipients." Under Section V.C.1 of the Final Judgment, to be an Eligible Distribution Fund Recipient, a person must have purchased "equity securities in question" through Defendant during the "relevant period of purchase." Also under Section V.C.1, "[i]dentification of the 'equity securities in question' and the 'relevant period of purchase' for each such equity security will be set forth (solely for the purpose of administering the Distribution Fund Plan) in a further order of the Court."

<sup>&</sup>lt;sup>1</sup> All defined terms in the Final Judgment apply to this Order.

Accordingly, IT IS HEREBY ORDERED that the "equity securities in question" and the "relevant period of purchase" for each such equity security, as those terms are used in Section V.C.1 of the Final Judgment, are as follows:

Equity Securities in Question Esperion Therapeutics, Inc. Triton Network Systems, Inc. <u>Relevant Periods of Purchase</u> Oct. 18, 2001 – June 28, 2002 March 30, 2001 – May 1, 2001

IT IS FURTHER ORDERED that the Distribution Fund Administrator shall formulate a Distribution Fund Plan that allocates payments (i) in the first instance to Eligible Distribution Fund Recipients who purchased the equity securities of Esperion Therapeutics, Inc. and Triton Network Systems, Inc. during the relevant period of purchase for such securities; and (ii) if such allocation does not exhaust the amount of funds in the Distribution Fund or expected to be in the Distribution Fund at the time of payment to Eligible Distribution Fund Recipients, in the next instance to Eligible Distribution Fund Recipients who purchased the equity securities of the following additional issuers, which securities will also be deemed "equity securities in question" during the "relevant period of purchase" identified below for such securities:

Equity Securities in Question Just for Feet, Inc. JDS Uniphase Corp. Comverse Technology, Inc. <u>Relevant Period of Purchase</u> April 21, 1999 – July 20, 1999 July 27, 1999 – Oct. 25, 1999 March 28, 2001 – June 26, 2001

The identification of "equity securities in question" and "relevant periods of purchase" made in this Order is solely for the purpose of facilitating the efficient administration of the Distribution Fund Plan, is not a judicial or Commission finding, and is not intended to have precedential effect in other actions.

## SO ORDERED.

Dated: New York, New York October 31, 2003

## WILLIAM H. PAULEY III UNITED STATES DISTRICT JUDGE