IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. '09 - CV - 00497 RPM-BNB

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

THE REGENCY GROUP, LLC,
SCOTT F. GELBARD,
JEFFREY S. KOSLOSKY,
AARON S. LAMKIN,
JOHN J. COUTRIS,
MICHAEL J. COUTRIS,
J. COUTRIS PARTNERS, LP,
JOSEPH S. FERNANDO,
WELLINGTON CAPITAL ENTERPRISES, INC.,
JAMES J. COUTRIS, and
DIMITRIOS I. GOUNTIS,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, United States Securities and Exchange Commission ("Commission") alleges:

INTRODUCTION

1. From at least January 2005 through early 2006, the Defendants were involved in two consecutive "pump and dump" schemes involving stock in two companies, Xpention and HS3, through which they defrauded the investing public of millions of dollars. Each of these schemes had four steps. First, the Defendants acquired the stock of a publicly-held "shell"

corporation at minimal prices. Second, they merged the shell company with a non-public start up company and sold the stock in the company, at higher prices, to a network of associates, without any registration statement for those transactions. Third, they promoted the stock of the newly-merged company through the widespread dissemination of materially false and misleading statements about the company and its prospects to the investing public. Finally, the Defendants then sold additional shares of stock in the company after the prices and volume in the stock had risen, again in the absence of any registration statement for those transactions. As a result of their fraudulent schemes with these two companies, Defendants realized profits totaling at least $5.9 million dollars.

2. By virtue of their conduct, as described more fully herein, one or more of the Defendants violated, and unless enjoined by this Court, will continue to violate the general antifraud, stock registration, stock ownership reporting, and broker-dealer registration provisions of the federal securities laws, specifically, Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b), 13(d), 15(a)(1),and 16(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b), 78m(d), 78o(a)(1), and 78p(a)] and Exchange Act Rules 10b-5, 13d-1, 13d-2, and 16a-3 [17 C.F.R. §§ 240.10b-5, 240.13d-1, 240.13d-2, and 240.16a-3]. Through this action, the Commission requests the Court to enter permanent injunctions prohibiting the Defendants from further violations of the federal securities laws, and to issue orders directing certain Defendants to disgorge their ill-gotten gains from this scheme and to pay civil money penalties, and barring them from participating in future offerings of penny stock.

JURISDICTION AND VENUE

3. The Commission brings this action pursuant to Securities Act § 20(b) [15 U.S.C. § 77t(a)] and Exchange Act § 21(d) [15 U.S.C. § 78u(d)].

4. This Court has jurisdiction over this action pursuant to Securities Act §§ 20(d) and 22(a) [15 U.S.C. §§ 77t(d) and 77v(a)] and Exchange Act §§ 21(d), 21(e) and 27 [15 U.S.C. §§ 78u(d), 77u(e) and 78aa]. The Defendants, directly and indirectly, used the means and instrumentalities of transportation and communication in interstate commerce, or the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices and courses of business in this Complaint

5. The offer and sale of securities and certain of the acts, practices, and courses of conduct constituting the violations of law alleged in this Complaint occurred within this judicial district. In addition, several of the Defendants reside in or transact business in this district. Accordingly, venue is proper pursuant to Securities Act § 22(a) and Exchange Act § 27.

DEFENDANTS

6. The Regency Group, LLC ("Regency") is a Colorado limited liability company that, at all relevant times, has engaged in investment banking and stock promotion activities. Its headquarters are in Denver, CO. It assists companies to become public companies through reverse mergers with publicly listed shell companies that it purchases. Regency was formed on or about September 6, 2002 by defendants Scott F. Gelbard, Aaron S. Lamkin, and Jeffrey S. Koslosky.

7. Scott F. Gelbard ("Gelbard"), age 33, resides in Colorado. He is one of the three principal owners of Regency.

8. Aaron S. Lamkin ("Lamkin"), age 31, resides in Colorado. He is a former college fraternity brother of Gelbard's. He is one of the three principal owners of Regency.

9. Jeffrey S. Koslosky ("Koslosky"), age 43, resides in Colorado. He is one of the three principal owners of Regency.

10. John J. Coutris ("J. Coutris"), age 38, resides in Texas. From 1994 to 2001, he was a registered representative of several broker-dealers. From 2003 until at least 2007, he and his brother M. Coutris recruited investors for Regency's projects, including investors in the two companies that are the subject of this Complaint.

11. Michael J. Coutris ("M. Coutris"), age 28, resides in Colorado. From the summer of 2005 until at least 2007, he worked out of Regency's headquarters, in Denver, Colorado. From 2003 until at least 2007, he and his brother J. Coutris recruited investors for Regency's projects, including investors in the two companies that are the subject of this Complaint.

12. J. Coutris Partners, LP "(JC Partners") is a Texas limited partnership, with headquarters in Texas. It was formed by general partners J. Coutris and M. Coutris on or about March 3, 2005. It is a vehicle through which J. and M. Coutris engaged in some of their activities in connection with Regency that are the subject of this Complaint.

13. Joseph S. Fernando ("Fernando"), age 40, is a Canadian citizen who resides in British Columbia, Canada. He is a friend of Gelbard's. He owns or controls the British Columbia, Canada entities 0693234 BC Ltd. and 0711005 BC Ltd. (collectively, "Canadian entities"). He sold large amounts of Xpention stock to fund stock promotions for Regency and arranged for the promotions that are the subject of this Complaint to be prepared and published by other persons and entities.

14. Wellington Capital Enterprises, Inc. ("Wellington"), is a Nevada corporation incorporated by Fernando on or about May, 19, 2005. It is a vehicle through which Fernando paid and arranged for the publication of promotions for HS3 stock that are the subject of this Complaint.

15. James J. Coutris ("J. J. Coutris"), age 64, is the father of J. and M. Coutris. He is retired and lives in Ohio.

16. Dimitrios I. Gountis ("Gountis"), age 34, lives and owns and operates a retail computer store in Ohio. He is a longtime friend of M. Coutris.

RELEVANT ENTITIES

17. Xpention Genetics, Inc. ("Xpention") is a development stage, Nevada corporation run out of its Chief Executive Officer's home in Conifer, Colorado. It has licensed a patent related to a tumor-associated "marker" protein known as the p65 marker and funded laboratory research related to the marker's correlation with the incidence of cancer in dogs. It changed its name to Cancer Detection Corporation on or about September 10, 2008. Xpention (now doing business as Cancer Detection Corporation) at all relevant times was a reporting company pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)], and its stock was recently quoted on the OTC Bulletin Board at approximately $.03 per share.

18. HS3 Technologies, Inc. ("HS3") is a Nevada corporation headquartered in Denver, Colorado. HS3 resells satellite-based, broadband Internet access and has a web-hosting business. It also installs and services surveillance systems and sells certain security products. HS3 claims to have had plans to offer surveillance systems making use of satellite-based Internet connectivity to enable surveillance of remote locations. HS3's common stock is registered under

Section 12(g) of the Exchange Act [15 U.S.C. 78l(g)] and was recently quoted on the OTC Bulletin Board at approximately $.02 per share.

19. Bayview Corp. was incorporated as a Nevada corporation on or about September 5, 2002, by two Canadian residents. It was a shell company, with no or nominal business or operations, which would later merge with Xpention. On March 8, 2004, Bayview Corp. (hereinafter referred to as "Shell No. 1") filed an amended Form SB-2 registration statement with the Commission to allow forty shareholders (the "SB-2 shareholders") to resell restricted shares that they had bought directly from Shell No. 1 (the "SB-2 shares"). According to the registration statement, the forty SB-2 shareholders would determine when and how they would sell the SB-2 shares, and the company would receive no proceeds from these sales. The registration statement acknowledged that Shell No. 1 would be obligated to file a post-effective amendment "disclosing [any] arrangements [with] . . . underwriters," were its selling shareholders to enter into arrangements with third parties to distribute the shares. No such post-effective amendments were filed. Moreover, no other registration statements were filed or in effect with respect to any other type of transactions in the SB-2 shares. At all relevant times, no exemptions to registration existed for the sale of its stock to the public.

20. Zeno, Inc. was incorporated as a Nevada corporation on or about January 28, 2003, by two other Canadian residents. It was a shell company, with no or nominal business or operations, which would later merge with HS3. On August 2, 2004, Zeno, Inc. (hereinafter referred to as "Shell No. 2") filed a Form SB-2 with the Commission to allow 32 shareholders to resell restricted shares that they had bought directly from Shell No. 2. According to the registration statement, these SB-2 shareholders would determine when and how they would sell

their SB-2 shares, and the company would receive no proceeds from these sales. The registration statement represented that "[n]one of the selling shareholders has any arrangement or agreement with any ... underwriting firm" and acknowledged that "[i]f these shares being registered for resale are transferred from the named selling shareholders and the new shareholders wish to rely on the prospectus to resell these shares, then we must first file a prospectus supplement naming these individuals as selling shareholders and providing [required] information." No such supplements or post-effective amendments were filed. Moreover, no other registration statements were filed or in effect with respect to any other type of transactions in the SB-2 shares. At all relevant times, no exemption to registration existed for the sale of its stock to the public.

DEFENDANTS ENGAGED IN TWO FRAUDULENT "PUMP AND DUMP" SCHEMES

I. SUMMARY OF THE TWO SCHEMES

21. The illegal actions in this case involved two schemes orchestrated by Regency, its three principal owners, and the other Defendants. Defendants' schemes occurred in the following way. First, two entities – biotechnology startup Xpention and surveillance startup HS3 – were merged with shell companies that created the appearance that Xpention and HS3 stocks qualified to be traded publicly. Contemporaneously, Regency and several other Defendants sold shares of Xpention and HS3 stock in unregistered distributions, at a substantial profit, to a network of investors whom they had recruited. Second, the Xpention and HS3 stocks were touted as outstanding buys with false and misleading information. Third, after the stocks had been fraudulently touted, the Defendants sold additional shares of Xpention and HS3 stock – which they had retained during the unregistered distributions – into the market after the stocks'

prices had risen following the fraudulent touts, generating further unlawful profits. These sales were likewise unregistered.

22. Defendants' Xpention scheme began on or about January 2005 and the virtually identical HS3 scheme began on or about March 2005. In the first step of each scheme, Defendants Regency, Gelbard, Lamkin, and Koslosky (collectively, "the Regency Defendants") acquired the stock of Shell No. 1 and Shell No. 2's controlling shareholders and then merged the shells with Xpention and HS3 in "reverse mergers." (In a reverse merger, a privately held company is merged into a shell company, *i.e.*, a publicly listed company with no or nominal operations and assets. The shell company is the surviving entity in the merger, thereby enabling the formerly private company to take advantage of the shell's public listing. Following the merger, the shell's business plan and management are replaced with those of the formerly private company.)

23. After the acquisition of the shell companies' stock and their respective mergers with Xpention and HS3, Regency, Gelbard, and Lamkin directed the drafting, publication, and dissemination of numerous fraudulent promotions to inflate the share price of each stock and enable the Regency Defendants and others to dump shares at a profit. Defendants Fernando and Wellington, working with Regency, Gelbard, and Lamkin, arranged for the publication and funding of the fraudulent promotions that are the subject of this Complaint and also dumped shares.

24. The touts that Defendants disseminated to potential investors were materially false or misleading, because, among other things, they (a) contained false claims about the status of Xpention and HS3's businesses, technologies, and prospects; (b) contained extravagant price

predictions for Xpention and HS3 shares that had no basis in fact; (c) misrepresented who had paid for the preparation and distribution of the touts; and (d) and omitted information that Defendants Regency, Gelbard, Lamkin, and sometimes Fernando: (i) had paid for the promotions and the statements and recommendations to potential investors to purchase shares of stock in Xpention and HS3, (ii) owned or controlled shares in Xpention and HS3, and (iii) intended to sell those shares while at the same time recommending that the shares be purchased.

25. The Regency Defendants' unlawful profits from their unregistered sales of Xpention and HS3 stock exceeded $3.52 million.

26. Defendants J. Coutris and M. Coutris's unlawful profits from their unregistered sales of Xpention and HS3 stock exceeded $275,000.

27. Defendant Fernando's unlawful profits from his unregistered sales of Xpention and HS3 stock exceeded $2.13 million.

II. THE XPENTION PUMP AND DUMP SCHEME

28. On or about October 2004, the Regency Defendants agreed to take Xpention public and raise $500,000 for the company. On or about November 12, 2004, the Regency Defendants loaned the first $100,000 of the promised funds to Xpention, through an entity that they had formed. In furtherance of their agreement to raise an additional $400,000 for the company, the Regency Defendants acquired control of Shell No. 1, on or about January 17, 2005. They did so by acquiring a control block of restricted shares held by Shell No.1's corporate officers (the "Shell No. 1 control-block shares") for $725,000, which constituted approximately 32% of Shell No. 1's outstanding shares. The Regency Defendants also acquired over 60% of Shell No. 1's SB-2 shares from the SB-2 shareholders and/or associates of the SB-2 shareholders

referred to in Paragraph 19 of this Complaint, above. The acquired SB-2 shares constituted over 40% of Shell No. 1's outstanding shares. After the acquisitions, the Regency Defendants thus controlled approximately 72% or more of Shell No. 1's outstanding shares.

29. On or about December 14, 2004, the Regency Defendants and J. Coutris, M. Coutris, and JC Partners began soliciting and accepting payments from a network of recruited, "down-line" investors for the purchase of some of the SB-2 shares that had been acquired by the Regency Defendants. Acting as underwriters, the Regency Defendants, beginning on or about February 25, 2005, transferred SB-2 shares to the down-line investors in unregistered transactions for over $2.94 million. J. Coutris, M. Coutris, and JC Partners were necessary participants in the scheme.

30. On or about June 15, 2005, the Regency Defendants provided Xpention with $400,000 of the funds they had received from the down-line investors for the Xpention SB-2 shares. The Regency Defendants concealed the transaction by funneling the $400,000 through a longtime friend of M. Coutris. The Regency Defendants represented this to be the friend's personal investment of $400,000 in Xpention.

31. The Regency Defendants acted as dealers by selling Xpention SB-2 shares from an acquired inventory, for their own account and to raise funds for their client Xpention, as part of their regular business. Also as part of their regular business, they directly and indirectly solicited down-line investors to purchase such shares, handled the down-line investors' money, and directed the transfer of shares to the down-line investors. J. Coutris, M. Coutris, and JC Partners acted as brokers by actively soliciting down-line investors to purchase Xpention shares, making valuations for such investors or giving them advice regarding the investment,

participating at key points in the chain of distribution of Xpention shares to such investors, and receiving compensation from the Regency Defendants that was, in whole or in part, transaction based.

32. The Regency Defendants kept, as unlawful profits, at least $557,000 of the funds that they received from the sale of the SB-2 shares to down-line investors.

33. On or about March 18, 2005, Xpention merged with Shell No. 1. In the transaction, Shell No. 1 assumed Xpention's operations, assets, and name. It split its shares 13:1 and, on April 12, 2005, Shell No. 1's stock began publicly trading under the Xpention name. Xpention's senior management assumed control of the merged company's operations and received newly issued Xpention shares.

A. <u>The Regency Defendants Concealed Their Ownership of Xpention Stock</u>

34. The Regency Defendants actively concealed their ownership interest in Xpention.

35. First, the Regency Defendants transferred former Shell No. 1 control-block shares (*i.e.*, 11,750,375 remaining shares, or 20.67% of Xpention's outstanding shares) that they had previously acquired to J. J. Coutris, on or about April 25, 2005, for no or nominal consideration.

36. Second, at the request of the Regency Defendants, J. J. Coutris filed a Schedule 13D with the Commission, on May 13, 2005, in which he reported that he was the "beneficial" owner of these shares. On the Schedule 13D filed with the Commission, J. J. Coutris represented that he had "acquired the securities in order to control the Company [*i.e.*, Xpention]." J. J. Coutris further represented on his Schedule 13D, signed on May 4, 2005, that he had "sole voting power" and "sole dispositive power" over the entire block of shares and did not share such powers with respect to any of the shares. In signing his Schedule 13D, J. J. Coutris attested

to the following: "After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct."

37. Contrary to J. J. Coutris' representations, made at the Regency Defendants' direction, the Regency Defendants maintained voting and dispositive power over J. J. Coutris' control-block shares, and J. J. Coutris only had a shared beneficial ownership interest in them. As a consequence, J. J. Coutris' representations in the May 13, 2005 Schedule 13D filed with the Commission contained false and misleading representations material to investors. J. J. Coutris either knowingly, or in reckless disregard of the facts, signed and filed the false and misleading May 13, 2005 Schedule 13D with the Commission.

B. <u>The Xpention Pump: Fraudulent Touts and Spam E-Mails</u>

38. On or about March and April 2005, Gelbard and an associate of the Regency Defendants promised certain potential down-line Xpention investors that Xpention stock would be promoted in order to increase the price and volume so that early shareholders, including those buying the SB-2 stock in the unregistered offering, could sell their shares into the market for a significant profit.

39. Shortly after the merged company started trading under its new name of Xpention on April 12, 2005, Regency, Gelbard, and Lamkin implemented a stock promotion program for Xpention with Fernando. The program provided for the promotion of Xpention stock in a number of ways, including, without limitation, through widely-disseminated tout-sheets distributed by the United States Postal Service and by electronic mail. Gelbard, Lamkin, and Fernando intended to sell shares in coordination with the stock promotion program and, in fact, did so.

40. Between February and May 2005, Regency, with Gelbard taking the lead and Lamkin acting as his principal assistant, supervised the writing of the text and the design of the promotional materials that they arranged to have distributed to potential investors by two different publishers. The materials they arranged to have prepared and distributed included direct mail touts and flyers, and spam e-mail sent to potential investors. Each of these Xpention promotions directed potential investors to a toll-free telephone number for investor information. The toll-free number was manned by an investor-relations contractor whose services were paid for by Regency.

1. SuperStock Mailer and Spam E-Mail, and Williams Tout

41. Between February and May 2005, Regency, Gelbard, and Lamkin directed the drafting, publication, and dissemination of a key, 14-page, tout-sheet mailer featuring Xpention, as well as a spam e-mail based on the 14-page tout. Gelbard and Lamkin reviewed and approved both the mailer and spam e-mail prior to the distribution of these promotions through the United States Postal Service and Internet. At Gelbard's direction, the spam e-mail ("SuperStock e-mail") was sent to 21 million e-mail accounts on May 10 through May 12, 2005. The SuperStock Investor mailer (the "SuperStock mailer"), was sent to approximately 500,000 recipients, primarily on May 23, 2005.

42. The SuperStock mailer and spam e-mail, contained false and misleading extravagant price projections material to investors, including, without limitation, the following quotations:

- [Bold headline] **This tiny R&D company [Xpention] can make you healthy *and* ...MAKE YOU RICH! When the FDA approves their cancer**

vaccine, the stock could go from $1 to $100 a share...as crazy as that sounds. But even if that doesn't happen, early investors could see a 900% return when the technology is applied successfully in an entirely different field – veterinary medicine! (Ellipses in original.) (MAILER)

- [Cover page headline] Earn a staggering 9,900% profit from the first therapeutic vaccine for cancer… as incredible as that sounds! The $1 cancer stock that **could go to $100 a share within 3 years – and why you *can't lose!*** (Italics, bold, and ellipses in original.) (MAILER)
- Investors can own Xpention today for around $1 a share – and the target price for the stock once the first early detection cancer tests are marketed in 2007 is $10 a share. Your profit: 900%. (MAILER)
- Xpention investors win big either way! Even if the cancer test never wins FDA approval for human usage, introduction of the P65 canine cancer test could drive the stock as high as $10, giving us a 900% return on our investment. (E-MAIL)
- So in the unlikely event that Xpention loses the race to develop a human cancer vaccine . . . . You still make 10 times [y]our money from the veterinary market for P65 technology alone – and a $10,000 stake in Xpention could become a $100,000 windfall. (Ellipses in original.) (E-MAIL)
- But if I am right … and Xpention's P65 technology is approved for human cancer testing and cancer vaccines … Then your one dollar shares of Xpention today could go as high as $100 a share by 2009. (Ellipses in original.) (E-MAIL)

43. The false and misleading extravagant price projections in the SuperStock mailer and spam e-mail relied on false and misleading representations about the state of Xpention's technology, clinical trials, and marketing prospects material to investors, including but not limited to the following:

- . . . . [S]cientists have stumbled onto an incredible biotechnology breakthrough: *the world's most effective medical test for early detection of cancer.* (Italics in original.) (MAILER AND E-MAIL)
- [The scientists] discovered several chemical agents that could effectively block the production of P65 in the body. And by stopping the body from making P65, they were actually able to slow – even halt – further growth of the cancer cells! (MAILER AND E-MAIL)
- The combination of chemical and gene therapies now being developed by the researchers to lower P65 levels will, within a few years, be sold as the world's first effective cancer treatment and vaccine. (MAILER AND E-MAIL)
- And with one out of three Americans getting cancer, the market for P65 early detection tests and cancer vaccines is enormous – big enough to earn huge gains for alert early-stage investors who get in. (MAILER AND E-MAIL)

44. Although the SuperStock mailer and spam e-mail contained cautionary representations, those representations , standing alone, were also materially false and misleading to investors. They included, but are not limited to, the following:

- However, FDA approval and commercialization of P65 cancer early detection test is still a few years away – probably around 2009 [note: e-mail states 2010]. But Xpention

shareholders don't have to wait that long to see a handsome profit on their investment. That's because another P65 product is literally months away from being introduced to the marketplace – and it doesn't have to pass an FDA trial of any kind! (MAILER AND E-MAIL)

- [Highlighted quotation] We've all read the hype about companies promising a cure for cancer. . . but P65 technology is the real thing. (MAILER)
- As the timeline shows (see above chart) [chart omitted], the company will have annual sales of $150 million within 2 years from its canine cancer test. (MAILER)
- The FDA could approve Xpention's P65 technology, which has an accuracy rate of better than 90%, for human cancer testing as early as 2010… with an [*sic*] cancer vaccine to follow on its heels. When these approvals are announced, we believe Xpention could go as high as $100 a share – giving early investors a staggering 9,900% gain. (Ellipses in original.) (MAILER)
- The bottom line: a biotech investment that gives you the astronomical upside potential of a genuine medical school breakthrough … while limiting your downside risk with profits from a secondary application of the same technology. (E-MAIL)

45. During the same time period, Regency, Gelbard, and Lamkin also directed the drafting, publication, and dissemination of another tout-sheet mailer promoting Xpention, entitled Michael Williams Market Movers (the "Williams tout"), and reviewed this tout prior to its dissemination. They engaged in these activities under the Regency name, with Gelbard taking the lead and Lamkin acting as his principal assistant. The Williams tout was published and disseminated by the same publisher as the SuperStock mailer, as part of a unified campaign

directed by Regency, Gelbard, and Lamkin, and it contained many fraudulent claims similar to those in the SuperStock mailer and spam e-mail. More than 500,000 copies of the Michael Williams mailer were disseminated, on an unsolicited basis, primarily on May 23, 2005.

46. The Williams tout made false and misleading extravagant price projections, including without limitation the following:

- [Bold heading] **Why settle for "BORING" 25% returns?**

- [Highlighted, boxed text repeated on multiple pages]
  PROJECTED PRICE:
  $2.25 - $3.50 within 6 months
  $3.50 - $5.00 within 1 year

  RECOMMENDATION:
  STRONG BUY.

- [Bold heading] **XPNG's 'canine' early cancer test alone could generate upwards of $120 Million per year.**

- Early investors could potentially make 10 times their money from the veterinary market for P65 technology alone – a $10,000 stake in XPNG could become a $100,000 windfall.

- Once Xpention begins human trials all bets are off. That initial investment of $10,000 could be worth millions.

47. The false and misleading extravagant price projections in the Williams tout relied on essentially the same false and misleading representations about the state of Xpention's technology, clinical trials, and marketing prospects that were in the SuperStock mailer and spam e-mail, including but not limited to the following representations in the Williams tout:

- [Large-type, cover-page headline] **THE WORLD'S FIRST CANCER VACCINE? The BIOTECH COMPANY behind this AMAZING discovery is about to EXPLODE!**
- [Bold heading] **The worlds [*sic*] most effective medical test for early detection of Cancer**
- The ease by which this new test can measure P65 levels and the fact that it is the first indicator of cancer activity means these scientists have stumbled onto an incredible biotechnology breakthrough: the world's most effective medical test for early detection of cancer.
- The scientists wanted to see whether, by controlling a patient's P65 level, they could actually stop, and even reverse, the cancer. They discovered several chemical agents that can effectively block the production of P65 in the body. And by stopping the body from making P65, they were actually able to slow – even halt – further growth of the cancer cells!
- Xpention is a biotechnology start-up that was recently formed to commercialize this new 'P65' technology, and bring it to the multi-billion dollar health care marketplace
- Although Xpention's p65 breakthrough is the most promising cancer vaccine technology of the 21st century, the first application of P65 will be in tests for early detection of cancer.

- [Bold heading] **Xpention to Create the World's First Cancer Vaccine? Stop Cancer in it's [*sic*] tracks!**

48. Although the Williams tout contained cautionary representations similar to those in the SuperStock mailer and spam e-mail, the cautionary representations, standing alone, were also false and misleading, including but not limited to the following:

- As Xpention forges ahead toward FDA approval and commercialization of their 'P65 cancer early detection test', the company is already in the process of immediately applying their 'other P65 application' to the marketplace – Veterinary Medicine.
- Here's the best part: there's no waiting for the lengthy government bureaucratic approval process to bring the Xpention animal cancer test to market. . . . Xpention has put development of the canine cancer test on a fast track. This application alone could be enough to earn early shareholders a fortune!

49. The material representations in the SuperStock mailer and spam e-mail, and in the Williams tout, about Xpention's technology, the state of its clinical trials, and the timing of its purported marketing of the P65 products were false and misleading. At the time the representations were made, Xpention: (a) had not been able to replicate the laboratory results of the entity from which Xpention had acquired the technology featured in the touts; (b) had not engaged in any research directly related to cancer detection in humans; and (c) was not prepared to market any cancer detection or prevention products to the public in the time frames represented. In fact, even the potential, future marketing of a cancer test for dogs was false and misleading because the touts omitted material information that Xpention's laboratory research on canine tissue had still not successfully replicated the results claimed by the entity from which

Xpention had purchased the technology. The time frame for the marketing of human cancer tests was pure fantasy, and research on vaccines or treatments was only a contingent component of Xpention's long-range business plan. Even today, Xpention has not performed or funded any work on a cancer vaccine and has never marketed products of *any* kind, including detection, preventive, or therapeutic products.

50. In addition, the SuperStock mailer and spam e-mail, and the Williams tout, also contained false and misleading representations in disclaimers placed at the end of the materials. Although the promotional materials noted that the Xpention profiles were paid advertisements, the disclaimers contained false and misleading representations, material to investors, about who had paid for the advertisements.

51. Contrary to the representations in the SuperStock mailer and spam e-mail, and in the Williams tout, on or about April 25, 2005, Fernando and/or his associates wired the publisher of the SuperStock mailer and Williams tout $700,000 to distribute the false and misleading promotional material. Additionally, on or about April 20, 2005, Fernando wired $105,000 to the publisher of the Superstock e-mail from the account of one of his Canadian entities. Fernando raised money to pay for these promotions by selling more than $1.2 million worth of Xpention stock between April 12 and April 18, 2005, in the brokerage account of one of his Canadian entities. Prior to this time, the Regency Defendants had directed the transfer of as much as 17.3% of the outstanding Xpention SB-2 shares to Fernando and his two Canadian entities. Approximately $1 million worth of Fernando's April 12 through April 18 sales consisted of a privately-negotiated, but publicly-cleared transaction that Gelbard and an associate of the Regency Defendants had arranged between Fernando and a large investor.

52. Gelbard directed the publisher of the spam e-mail to invoice one of Fernando's Canadian entities, but to attribute payment for the promotion, falsely, to another party in the disclaimer at the end of the e-mail. Gelbard likewise directed the publisher of the SuperStock mailer and Williams tout to attribute payment for those promotions, falsely, to the same falsely-identified party named in the spam e-mail disclaimer.

53. Regency, Gelbard, Lamkin, and Fernando knew or were reckless in not knowing that the SuperStock promotions and Williams tout contained false and misleading extravagant price projections that relied on false or misleading representations about Xpention's technology, the state of its clinical trials, and the timing of the marketing of its purported cancer detection and protection products. These price projections and claims about Xpention's business were material to investors. They also knew or were reckless in not knowing that the disclaimers in the touts and e-mail were false and misleading, not only because they misrepresented who had paid for the publications, but because they also omitted information that Fernando, Regency, Gelbard, and Lamkin: (i) had paid for the publications' statements and recommendations that investors purchase shares of stock in Xpention; (ii) owned, beneficially owned or controlled shares in Xpention; and (iii) intended to sell shares in coordination with the statements and recommendations. These were material facts necessary in order to make the statements and recommendations, in light of the circumstances under which they were made, not misleading.

2. <u>OTC Mailer and Spam E-Mail</u>

54. During this same time period – as part of Regency, Gelbard, Lamkin, and Fernando's illegal scheme to tout Xpention stock – Gelbard, Lamkin, and Fernando arranged for the preparation and dissemination of another key publication through a stock promoter associate

of Gelbard and Fernando's. Gelbard and Lamkin directed the drafting, publication, and dissemination of a 12-page mailer entitled OTC Special Situations Report ("OTC mailer") and reviewed the OTC mailer prior to its dissemination. Additionally, Regency participated in the negotiation of a March 2, 2005 written agreement between one of Fernando's Canadian entities and an affiliate of the aforementioned stock promoter. That agreement provided for the transfer of 2,500,004 Xpention shares from one of Fernando's companies to the stock promoter's affiliate, as disguised compensation for distribution of the tout. Gelbard and Lamkin directed Xpention's stock transfer agent to transfer the 2,500,004 shares to the stock promoter's affiliate in the form of two stock certificates, issued in the affiliate's name, totaling 2,500,004 shares. Gelbard and Lamkin facilitated the transmittal of these shares to the stock promoter's affiliate by directing the transfer agent, on or about March 22, 2005, to transmit the second of the affiliate's two stock certificates in care of Regency. Another of the stock promoter's affiliates later acted as publisher for the tout. On or about February 9, 2006, Gelbard and Lamkin replaced the shares that Fernando's Canadian entity had agreed to transfer to the stock promoter's affiliate by transferring an essentially identical 2.5 million Xpention shares from the block of Xpention shares nominally in J. J. Coutris's name to Fernando's Nevada corporation, Wellington, as payment "for IR," *i.e.*, investor relations or stock promotion.

55. The OTC mailer, distributed on or about May 2005, contained false and misleading extravagant price projections material to investors, including without limitation the following examples:

- [Inside cover page heading] Could XPNG's stock skyrocket from $1.50 a share to $15?

- Could a $10,000 investment turn into more than $150,000?
- [Bold headline] **How every $10,000 invested in XPNG could grow into $150,000.**
- Could XPNG double, maybe even TRIPLE in the short-term… and could it hand early investors profits of more than 1,500% within the next 36 months? [Chart shows XPNG stock price rising from "$1.50" to "$6.00", "$12.00" and "16.00?"]
- I believe that early-bird investors could, at the minimum, double their money on XPNG… and if sales are as rapid as I believe they will be, you could turn every $10,000 invested into $150,000 – or more! (Ellipses in original.)

56. The false and misleading extravagant price projections in the OTC mailer relied upon false and misleading representations about the state of Xpention's technology, its clinical trials and marketing prospects, including without limitation the following:

- [Outside cover page] [O]ne small, publicly-traded company [Xpention] **is about to market a simple, inexpensive blood test** that could revolutionize cancer detection and treatment. (Emphasis in original.)
- What if a company developed a simple, inexpensive test that could detect the presence of cancer cells ANYWHERE in the body? And what if the company that developed this test was so new that Wall Street still hadn't heard about it yet?
- [Bold headline] **Short-circuiting cancer cells: XPNG is developing a cancer treatment that could "interfere" with the cellular mechanism responsible for cells becoming cancerous.**

57. A spam e-mail version of the OTC mailer was disseminated, on or about June 2, 2005, under the name OTC Growth Stock Watch (the "OTC e-mail"). The OTC e-mail contained false and misleading price projections and numerous false or misleading claims about Xpention's technology, clinical trials, and marketing prospects, similar or identical to those made in the OTC mailer.

58. Although the OTC mailer and spam e-mail contained disclaimers that the Xpention profiles were paid advertisements, the disclaimers contained false and misleading representations, material to investors, about who paid for the advertisements. Rather than identifying Regency, Gelbard, Lamkin, and Fernando as sponsors, the OTC mailer's disclaimer instead identified, as the parties that had paid for that promotion: (i) one of Fernando's Canadian entities and (ii) the stock promoter's affiliate that had received 2,500,004 Xpention shares through the Regency-brokered agreement with Fernando's entity. The OTC e-mail's disclaimer identified, as the sponsor of that promotion, the same party that Gelbard had instructed the publishers of the SuperStock and Williams promotions to misidentify as the sponsor of those contemporaneous promotions.

59. The OTC mailer's disclaimer was also false and misleading when it stated that entities that had paid for the OTC mailer owned shares of Xpention and reserved the right to sell shares at any time they deem it advisable, but omitted material information that the Regency Defendants and Fernando had already sold shares and intended to sell more shares after participating in the funding of the Xpention tout. The OTC e-mail's disclaimer falsely and misleadingly omitted this material information, as well.

60. Regency, Gelbard, Lamkin, and Fernando knew or were reckless in not knowing that the OTC mailer and e-mail contained false and misleading extravagant price projections that relied on false or misleading representations about Xpention's technology, the state of its clinical trials, and the timing of the marketing of its purported cancer detection and protection products. These price projections and claims about Xpention's business were material to investors. They also knew or were reckless in not knowing that each of the promotions falsely and misleadingly omitted information that Regency, Gelbard, Lamkin, and Fernando: (i) had paid for the promotion; (ii) owned, beneficially owned or controlled shares in Xpention; and (iii) intended to sell shares in coordination with the statements and recommendations to purchase in the publications. These were material facts necessary in order to make the statements and recommendations, in light of the circumstances under which they were made, not misleading.

C. <u>The Dump of Xpention Shares into Market</u>

61. The various false and misleading Xpention touts built in intensity throughout May 2005, causing a substantial increase in the price and trading volume of Xpention shares. After closing at $1.00 per share on April 12, 2005, the stock price reached a lifetime closing price high of $1.29 per share on May 26, 2005. Trading volume grew from approximately 250,499 shares on April 12, 2005 to approximately 1,325,200 shares on May 27, 2005.

62. Spikes in the price and trading volume of Xpention shares between April 12, and May 27, 2005 coincided with the release of the various touts. For example, on May 10, 2005, the first day of the SuperStock spam campaign, trading volume spiked to 968,800 shares from only 29,200 shares the day before. On Monday, May 23, 2005 – the day that most of the SuperStock and Williams mailers were deposited with the U.S. Postal Service – Xpention shares

closed at $1.12 per share, on trading volume of only 8,500 shares. The next day, the closing price for Xpention stock jumped to $1.20 per share, and volume surged to approximately 567,600 shares. By May 26, 2005, the stock had closed at its all-time record, $1.29 per share, on trading volume of 913,900 shares. On Friday, May 27, 2005, it traded an even greater 1,325,200 shares.

63. The Regency Defendants and Fernando sold a large percentage of their previously acquired Xpention shares after the publication of the false and misleading touts of Xpention stock. These shares had been acquired in unregistered transactions, and the sale of the shares into the market was likewise unregistered. In all, the Regency Defendants realized profits of approximately $1.4 million from their sale of Xpention shares into the market. Fernando and his Canadian entities realized profits of approximately $2 million from their sale of Xpention shares into the market. Fernando and his Canadian entities realized additional proceeds from private sales of Xpention stock.

64. J. Coutris, M. Coutris, and JC Partners realized profits of approximately $120,379 from their sale into the market of Xpention shares that they had previously received, in unregistered transactions, as compensation for their role in the unregistered distribution of Xpention stock. These sales included the sale of shares through a brokerage account in the name of another entity controlled by J. Coutris.

III. THE HS3 PUMP AND DUMP SCHEME

65. The Regency Defendants moved to replicate their Xpention scheme with the stock of surveillance start-up HS3. As in the Xpention scheme, the Regency Defendants and their associates acquired control of a shell company, engaged in unregistered sales of its stock, merged

it with a start-up company, hyped the stock through false and misleading promotional materials, and then dumped shares into the public market at a profit.

66. On or about February 2005, the Regency Defendants agreed to take HS3 public and raise $500,000 for the company. In furtherance of the agreement, the Regency Defendants acquired control of Shell No. 2, on or about March 5, 2005, by purchasing, directly or indirectly, the control block of restricted shares held by the shell company's officers (the "Shell No. 2 control-block shares") for $750,000, representing 67% of the company's total outstanding shares. The Regency Defendants also acquired at least 66% of the SB-2 shares from the SB-2 shareholders and/or associates of the SB-2 shareholders referred to in Paragraph 20 of this Complaint, above. The acquired SB-2 shares constituted at least another 22% of Shell No. 2's total outstanding shares. After the acquisitions, the Regency Defendants thus controlled approximately 89% or more of Shell No. 2's outstanding shares.

67. On or about June 2005, the Regency Defendants and J. Coutris, M. Coutris, and JC Partners began soliciting and accepting payments from their network of down-line investors for the purchase of some of the SB-2 shares that had been acquired by the Regency Defendants. Some down-line investors sent their payments to an attorney escrow account controlled by Regency, while other down-line investors sent their payments directly to a Regency bank account. Acting as underwriters, the Regency Defendants, beginning on or about September 22, 2005, transferred SB-2 shares to the down-line investors in unregistered transactions for which the aforementioned two accounts received payments totaling at least $3.95 million. J. Coutris, M. Coutris, and JC Partners were necessary participants in the scheme.

68. On or about October 10, 2005, the Regency Defendants directed the transfer of $500,000 of the proceeds in the aforementioned attorney escrow account to HS3, *via* a Shell No. 2 bank account. The Regency Defendants misrepresented that the amount was a third-party investment in HS3 by a Turks and Caicos Islands corporation, which was owned by a Gelbard associate.

69. Regency, Gelbard, and Lamkin further directed the transfer of $1,075,000 from the aforementioned attorney escrow account to a stock promoter who, as discussed in Paragraphs 76 through 81 of this Complaint, below, subsequently published a tout sheet mailer promoting HS3. Regency, Gelbard, and Lamkin also directed the transfer of $300,000 from the attorney escrow account to Wellington, which used the funds to pay for forthcoming HS3 promotions.

70. The Regency Defendants acted as dealers by selling HS3 SB-2 shares from an acquired inventory, for their own account and to raise funds for their client HS3, as part of their regular business. Also as part of their regular business, they directly and indirectly solicited down-line investors to purchase such shares, handled the down-investors' money, and directed the transfer of shares to the down-line investors. J. Coutris, M. Coutris, and JC Partners acted as brokers by actively soliciting down-line investors to purchase HS3 shares, making valuations for such investors or giving them advice regarding the investment, participating at key points in the chain of distribution of HS3 shares to such investors, and receiving compensation from the Regency Defendants that was, in whole or in part, transaction based.

71. The Regency Defendants kept, as unlawful profits, approximately $1,281,000 of the HS3 down-line investors' funds – $561,000 of which the investors had deposited directly into Regency's bank account; $390,000 of which the Regency Defendants directed be transferred

from the attorney escrow account to Gelbard, Lamkin, and Koslosky's individual accounts; and $330,000 of which the Regency Defendants directed be transferred from the attorney escrow account and rolled forward, as profits, into a subsequent, unrelated venture. On or about September 29, 2005, they also directed that $100,000 of the funds paid by the HS3 down-line investors be wired from the attorney escrow account to an entity controlled by M. Coutris, as unlawful profits and/or compensation. After receipt of these funds, M. Coutris split them with J. Coutris and JC Partners by wiring $90,000 to JC Partners on or about the next business day.

72. On or about November 9, 2005, HS3 merged with Shell No. 2. The shell company had changed its name to HS3 on October 12, 2005, prior to the actual merger, after splitting its shares 13:1. With the merger, HS3 senior management assumed control of the merged company. When the merger closed, they received controlling shares from the block that the Regency defendants had purchased from Shell No. 2's Canadian officers. However, as set forth immediately below, the Regency defendants did not transfer the shares directly to HS3's management.

A. <u>The Regency Defendants' Concealed Their Ownership of HS3</u>

73. After directly or indirectly purchasing the Shell No. 2 control-block shares from the shell's officers, the Regency Defendants transferred nominal ownership of the control-block shares to Gountis for no or nominal consideration, on or about April 12, 2005. The Regency Defendants continued to exercise decision-making authority over the control-block shares and shared beneficial ownership with Gountis. Neither the Regency Defendants nor Gountis filed a Schedule 13D regarding their shared beneficial ownership, as required by Section 13(d) of the Exchange Act [15 U.S.C. 78m(d)] and Rule 13d-1 thereunder [17 C.F.R. 240.13d-1]. The

Regency Defendants and Gountis also failed to file Forms 3 with respect to their beneficial ownership of the Shell No. 2 shares, as required by Section 16(a) of the Exchange Act [15 U.S.C. §78p(a)] and Rule 16a-3(a) thereunder [17 C.F.R. 240.16a-3(a)].

74. On or about November 9, 2005, in connection with the merger, the Regency Defendants and Gountis transferred most of their stock, held in nominee Gountis's name, to other individuals, including HS3 management, and retired some of the remaining shares to HS3's treasury. As a result, the number of shares in the former control block, beneficially owned by the Regency Defendants and Gountis, fell to 5.76% of HS3's outstanding shares. Having never – as set forth in the preceding paragraph – filed Schedules 13D or Forms 3 with the Commission, the Regency Defendants and Gountis did not file amended or updated disclosures to reflect their changed ownership positions. In all, they failed to make the following additional required filings: (i) a Schedule 13D/A, as required by Section 13(d) of the Exchange Act [15 U.S.C. 78m(d)] and Rule 13d-2 [17 C.F.R. 240.13d-2] thereunder, to reflect material changes in the facts set forth in a Schedule 13D, and (ii) Forms 4 and 5, as required by Section 16(a) of the Exchange Act [15 U.S.C. §78p(a)] and Rule 16a-3(a) thereunder [17 C.F.R. 240.16a-3(a)] to reflect changes in beneficial ownership and as annual statements of beneficial ownership, respectively.

B. <u>The HS3 Pump: Fraudulent Promotions</u>

75. After the merger of Shell No. 2 with HS3, Regency, Gelbard, and Lamkin, together with Fernando and Wellington, promoted HS3's stock through various false and misleading promotions, including, without limitation, a multi-page mailer, a glossy brochure, a spam e-mail, and websites publicized through press releases. Regency, Gelbard, Lamkin,

Fernando, and Wellington intended to sell shares in coordination with the stock promotion program and, in fact, did so.

1. STN Mailer

76. One of the primary promotional vehicles for HS3 stock was a 12-page, unsolicited tout-sheet mailer identified as a "Special Report by Stock Trader News," disseminated on or about late 2005 and early 2006 (the "STN mailer"). The STN mailer was published by the same publisher that had earlier published the OTC mailer promoting Xpention. This publisher was affiliated with a stock promoter associate of Gelbard and Fernando's. Lamkin and Gelbard reviewed and approved the STN mailer prior to its publication. The STN mailer made numerous false and misleading claims, discussed below, and urged investors to call HS3 investor relations for additional information. The toll-free telephone number that investors were urged to call was staffed by a contractor paid by Regency.

77. The STN mailer contained false and misleading extravagant price projections that were material to investors, including without limitation the following:

- [Cover page] You can buy HS3 today for approximately $1 a share… and it has a realistic shot at tripling, maybe even QUADRUPLING your money in just a few months. (Ellipses in original.)
- [Inside cover page heading] Our #1 Pick; **HS3 Technologies (HSTT)** (Emphasis in original.)
- [Inside cover page heading] You could make huge profits in this company!
- [Inside cover page heading] HSTT could QUADRUPLE your money in just a few months – and turn every $5,000 into $20,000 or more.

- **This could end up being the homeland security play of all time** – and could make early investors more money in a few months than most have made in a decade! (Emphasis in original.)
- [Highlighted footer] A **$5,000** investment could turn into more than **$25,000!** (Emphasis in original.)
- [Highlighted footer] HSTT could be a money-making opportunity of a **lifetime!** (Emphasis in original.)
- [Headline] HSTT could **QUADRUPLE** your money in just 24 months! (Emphasis in original.)
- **[E]arly bird investors could make enormous potential profits** if this stock shoots up from $1 per share to, say, $4. (Emphasis in original.)
- When I invest in a company, I look at my risk to reward ratio.... [W]hat is the chance that this stock will decline significantly? Not much.
- It's estimated that **HS3 could save oil companies $1,000 to $5,000 per well, per month, from theft, loss of production, and over billing** from contracted maintenance personnel. With 500,000 wells in the U.S., that adds up to between $6 and $30 BILLION in savings annually. Oil and gas executives are likely to pay any price to implement HS3's proprietary technology that no other company has.
- [C]ash-rich oil and gas companies... will gladly pay the relatively small monthly fees that HS3 will charge.

- **If HS3 captures merely 1% of the potential revenue for cattle ranches and oil and gas wells, that's $25.2 million in annual sales right there.** (Emphasis in original.)
- [I]f [HS3] can capture just 1% of the market for oil and gas wells and cattle ranches, it would gross $25 million just from those sales alone! HS3 could easily generate more than just 1% of the market as well.
- In the next few months, thousands of CCTV cameras are going to be set up in sensitive areas around energy installations – and they could all be installed by [HS3].

78. The STN mailer's false and misleading extravagant price projections relied on false and misleading representations material to investors that HS3 owned the purportedly proprietary technology touted in the STN mailer and that HS3 was or could be the first national provider of so-called "Ka-band" technology or other high-speed, satellite-based Internet technology, including without limitation the following representations:

- [Cover page heading] HS3 is using the next-generation Ka-band satellite system to bring its proprietary, real-time video surveillance technology to America's rural areas.
- [Inside cover page heading] Proprietary technology could make HSTT the next homeland security blockbuster!
- [Headline] Proprietary technology could make HS3 the next Homeland Security **BLOCKBUSTER**. (Emphasis in original.)

- **HS3 has a jump start on all its would-be competitors.** ... HS3 [is] positioned to be the first national provider of the Ka-band high-speed Internet system. (Emphasis in original.)
- [Bold paragraph] **Canada & Mexico are both HUGE potential markets for HS3's proprietary oil security technology!**
- [Headline] HS3's proprietary technology is the solution businesses have been searching for!
- **HS3 is positioned to be the first and so far ONLY, national provider of the Ka-band high-speed Internet systems commercially."** (Emphasis in original.)
- **HS3 faces little or no competition in [the rural] segment of the market.** (Emphasis in original.)

79. The representations in the STN mailer that HS3 owned the touted proprietary technology were false or misleading material misrepresentations. HS3 did not own any proprietary technology. Representations that HS3 was or could be the first national provider of Ka-band technology or other high-speed, satellite-based Internet technology were false or misleading. The company that actually provided the Ka-band service, for resale by HS3, was already offering Ka-band service nationally. Likewise, other companies were already offering other (*i.e.,* not Ka-band) high-speed, satellite-based Internet services nationally. Moreover, HS3 was only beginning to market the Ka-band technology in January 2006 and did not even have a contract in effect to resell Ka-band services until on or about January 17, 2006.

80. The STN mailer was also false and misleading when it stated in its disclaimer that its publisher had been paid $1,075,000 by a falsely-identified third party and that this third party

"*reserves the right* to sell any or all of its shares. . . . " (Emphasis added.) The falsely-identified third party was a Belize company affiliated with another associate of Gelbard's. The disclaimer was false and misleading because Regency, Gelbard, and Lamkin had actually paid for publication of the STN mailer, through Lamkin and/or Gelbard's direction that $1,075,000 be transferred from the HS3 attorney escrow account to the publisher of the STN mailer, as set forth in Paragraph 69 of this Complaint, above. The $1,075,000 was paid with five separate wire transfers from the attorney escrow account to the publisher, in varying amounts, from on or about September 15, 2005 through November 7, 2005.

81. Regency, Gelbard, and Lamkin knew or were reckless in not knowing that the STN mailer contained false and misleading extravagant price projections that relied on false or misleading representations about HS3's technology and the company's competitive standing. These price projections and claims about HS3's business were material to investors. They also knew or were reckless in not knowing that each of the promotions falsely and misleadingly omitted information that Regency, Gelbard, and Lamkin: (i) had paid for the promotion; (ii) owned, beneficially owned or controlled shares in HS3; and (iii) intended to sell shares in coordination with the statements and recommendations to purchase in the publication. These were material facts necessary in order to make the statements and recommendations, in light of the circumstances under which they were made, not misleading.

2. Tech Watch Alert

82. On or about January 2006, Gelbard directed the drafting, publication, and dissemination of another tout-sheet mailer featuring HS3, entitled Tech Watch Newsletter Alert ("Tech Watch Alert"), and reviewed and approved the mailer prior to its dissemination.

83. The Tech Watch Alert contained the following false and misleading extravagant price projection that was material to investors:

- **Rated: "Speculative Buy" with a price target of $1.97 by [a named research firm].**

84. The Tech Watch Alert omitted information that the named research firm had been paid, ostensibly by or on behalf of HS3, to issue its "Speculative Buy" rating and $1.97 price target for HS3 stock.

85. The Tech Watch Alert's false and misleading extravagant price projection relied on false and misleading representations, material to investors, about HS3's technology and the company's competitive standing, including without limitation the following:

- HS3 addressed . . . security issues through the combined use of proprietary technology and state-of-the-art IP CCTV and wireless internet-linked satellite surveillance systems.
- The company has a sustainable competitive advantage. . . .
- HS3 Technologies is in position to be the first national provider of a state-of-the-art KA-band high speed satellite Internet security system.

86. The Tech Watch Alert also contained a false and misleading disclaimer material to investors that stated that its publisher had "received eighty thousand dollars for the publication and circulation of this report" but omitted any information regarding who had paid the eighty thousand dollars, including the information that Regency had paid for the HS3 Tech Watch Alert by funneling the funds through Fernando and his company, Wellington. Gelbard and/or Lamkin had directed the wiring of $300,000 from the HS3 attorney escrow account to a Wellington bank

account, on or about September 15, 2005. Wellington's agent subsequently wired $80,000 from this account to the publisher of the Tech Watch Alert, on or about January 23, 2006.

87. Regency, Gelbard, Lamkin, Fernando, and Wellington knew or were reckless in not knowing that the Tech Watch Alert contained a false and misleading extravagant price projection that relied on false or misleading representations about HS3's technology and the company's competitive standing. These price projections and claims about HS3's business were material to investors. They also knew or were reckless in not knowing that the promotion falsely and misleadingly omitted information that the named research firm had been paid to issue its "Speculative Buy" rating and $1.97 price target for HS3 stock and that Regency, Gelbard, Lamkin, Fernando, and Wellington: (i) had paid for the Tech Watch Alert promotion; (ii) owned, beneficially owned or controlled shares in HS3; and (iii) intended to sell shares in coordination with the statements and recommendations to purchase in the publication. These were material facts necessary in order to make the statements and recommendations, in light of the circumstances under which they were made, not misleading.

3. Glossy Brochure

88. Gelbard and Lamkin, under Regency's name, also directed and paid for the drafting and publication of a glossy informational brochure, on or before January 2006, promoting HS3, which was sent to investors who requested information about the company, as well as to brokers and others in the investment community ("glossy brochure"). Gelbard and Lamkin reviewed the glossy brochure prior to its dissemination, and Gelbard provided it, among other materials, to the publisher of the Tech Watch Alert as a partial basis for drafting the Tech Watch Alert.

89. The glossy brochure made false or misleading material statements about HS3's competitive standing as well as false or misleading extravagant market-share and revenue projections, including but not limited to the following:

- [Bold headline on first page] **HS3 Technologies is ideally positioned to become the first national provider of satellite-based internet connectivity for businesses throughout the United States.**
- HS3's leading-edge satellite-based Ka-band technology represents the first viable alternative to antiquated land-based telephony. . . .
- Today, HS3 is ideally positioned to become the first national provider of satellite-based internet connectivity for businesses throughout the United States.
- [Headline] **Partnering with some of the world's premiere technology companies, HS3's leading-edge network relies on Telesat's Anik F2 satellite to deliver a range of unique satellite-based services that are years ahead of the competition.**
- [Bold footer] **HS3's leading-edge satellite-based Ka-band technology represents the first viable alternative to antiquated land-based telephony. . . .**
- HS3 is in the process of expanding to other states [outside Colorado] as it moves towards a target of 3-4% of the total [petroleum] market by the end of 2006. Given a potential marketplace of 1,200,000 oil and natural gas wells nationwide, conservative estimates would suggest a potential for $12 million/month in total revenue by the end of next year.

- Symbol: HSTT
  Exchange: OTCBB

90. The glossy brochure's representations about HS3's competitive standing were false and misleading because HS3 was merely one of numerous resellers of Ka-band high-speed, satellite-based Internet service actually provided by another company. The brochure's extravagant market-share and revenue projections were false or misleading because they were unattainable, within the time frame specified, in light of HS3's small size and limited resources.

91. Regency, Gelbard, and Lamkin knew or were reckless in not knowing that the glossy brochure contained false and misleading representations about HS3's competitive standing as well as false or misleading extravagant market-share and revenue projections. These representations and projections were material to investors. They also knew or were reckless in not knowing that the glossy brochure falsely and misleadingly omitted that Regency, Gelbard, and Lamkin: (i) had paid for the promotion; (ii) owned, beneficially owned or controlled shares in HS3; and (iii) intended to sell shares in coordination with the statements and implied recommendation to purchase in the brochure. These were material facts necessary in order to make the statements and recommendation, in light of the circumstances under which they were made, not misleading.

4. <u>Small Cap E-Mail</u>

92. Regency, Gelbard, Lamkin, and Fernando, through Wellington, prepared and paid for the publication and circulation of an unsolicited, spam e-mail that was sent to investors on or about the evening of November 28, 2005. The e-mail, titled Small Cap News ("Small Cap e-

mail"), repeated many of the false or misleading representations also set forth in the STN mailer, Tech Watch Alert, and Glossy Brochure.

93. The Small Cap e-mail contained several false or misleading material statements about HS3's technology and competitive standing, including without limitation the following:

- HS3 Technologies has a sustainable competitive advantage in its ability to merge existing technology with the latest innovations in satellite broadband service, IP hardware, software, and seamless security.
- HS3 Technologies is in position to be the first national provider of a state-of-the-art Ka-bank high-speed satellite Internet security system.
- Using the most up-to-date satellite technology, Ka-band, HS3 has a unique ability to supply and support high-speed Internet access anywhere in North America.
- [I]ts proprietary technology combined with state-of-the-art IP CCTV surveillance cameras and the Ka-band transmission, provide the highest-speed integrated security solutions to today's growing homeland security demands.
- The only solution now available is that provided by HS3 with its Ka-band Internet system.
- [Bold headline] **Why is this such exciting news for investors?**
- Because HS3 is positioned to be the first, and so far ONLY, national provide of the Ka-bank high speed Internet system.
- [They] are positioned to be the first national provider of the Ka-band high-speed Internet satellite security system.

94. The Small Cap e-mail contained a disclaimer that was likewise false and misleading. The disclaimer stated that "an affiliate of [the publisher] has been hired by a third party non affiliate, Wellington Capital Enterprises for publication and circulation of this report and has been compensated fifteen thousand dollars. [The publisher,] its affiliates or directors may also buy or sell stock in companies it profiles." However, the disclaimer omitted material information that Regency, Gelbard, and Lamkin had paid for the promotion through Wellington.

95. Regency, Gelbard, Lamkin, Fernando, and Wellington knew or were reckless in not knowing that the Small Cap spam e-mail contained false and misleading claims about HS3's technology and competitive standing. These claims were material to investors. They also knew or were reckless in not knowing that the promotion falsely and misleadingly omitted that Regency, Gelbard, and Lamkin: (i) had paid for the promotion; (ii) owned, beneficially owned or controlled shares in HS3; and (iii) intended to sell shares in coordination with the statements and recommendation to purchase in the publication. These were material facts necessary in order to make the statements and recommendation, in light of the circumstances under which they were made, not misleading.

5. Press Releases and Web Site Touts

96. On or about November 2005, Regency, Gelbard, Lamkin, Fernando, and Wellington arranged for the publication of press releases and the creation and placement of promotional content on Internet websites by three stock promoters. The Website promotional content contained essentially the same false and misleading representations as the other touts described above, in particular the Small Cap e-mail. At various times from at least November 7, 2005 through February 1, 2006, Wellington or its agent wired funds to each of the three stock

promoters from the Wellington bank account into which, as set forth in Paragraph 69 of this Complaint, above, Gelbard and/or Lamkin had directed the wiring of $300,000 from HS3's attorney escrow account on or about September 15, 2005.

97. The three promoters issued press releases, on November 28, 2005, touting HS3 stock and soliciting investors to follow Internet links in the press releases for further information regarding HS3, available on the promoters' respective websites. The press releases, similar to those that often appear on popular financial websites as "news," are readily accessible to investors who are actively seeking information about a particular stock to assist in making an investment decision. All three promoters' websites made false and misleading representations, including without limitation the following representations that appeared identically on each website:

- HS3 Technologies has a sustainable competitive advantage. . . .
- HS3 Technologies is in position to be the first national provider of a state-of-the-art Ka-band high-speed satellite Internet security system.
- Using the most up-to-date satellite technology, Ka-band, HS3 has a unique ability to supply and support high-speed Internet access anywhere in North America.
- [I]ts proprietary technology. . . provide[s] the highest-speed integrated security solutions for today's growing homeland security demands.
- The only solution now available is that provided by HS3 with its Ka-band Internet system.

These representations also appeared identically in the Small Cap spam e-mail.

98. Disclaimers in two of the three aforementioned press releases ("Press Release No. 1" and "Press Release No. 2") stated that the stock promoter had been paid by Wellington in the amounts of $20,000 and $70,000 respectively. A disclaimer in the third press release ("Press Release No. 3") stated that the stock promoter had been paid $15,000 but did not identify the source. None of the three press release disclaimers made representations regarding HS3 stock sales by any party.

99. Only one of the three aforementioned websites ("Website No. 1") disclosed in its HS3 content that the stock promoter had been paid by any party. This website disclosed that the promoter had been paid $20,000 by Wellington. The Website No. 1 disclaimer also stated that the stock promoter "may hold positions in securities mentioned herein, and may make purchases or sales in such securities featured on our web site or within our reports," and that the promoter "may decide to purchase or sell shares on a voluntary basis in the open market before, during or after the profiling period of this report." However, the disclaimer omitted any information regarding Wellington's ownership position or intended sales.

100. Regency, Gelbard, Lamkin, Fernando, and Wellington knew or were reckless in not knowing that the press release and website touts of HS3 made false and misleading claims regarding HS3's technology and competitive standing. They also knew or were reckless in not knowing that all six of these promotions falsely and misleadingly omitted information that Regency, Gelbard, and Lamkin had paid for the promotions, and that Press Release No. 3 and Websites No. 2 and 3 omitted information that Fernando and Wellington had paid for the promotions. Lastly, Regency, Gelbard, Lamkin, Fernando, and Wellington knew or were reckless in not knowing that all of these promotions omitted information that Regency, Gelbard,

Lamkin, Fernando, and Wellington: (i) owned, beneficially owned or controlled shares in HS3 and (ii) intended to sell shares in coordination with the statements and recommendations to purchase in the publications. All of the omitted information constituted material facts necessary in order to make the statements and recommendations, in light of the circumstances under which they were made, not misleading.

C. The Dump: Profit on Sale of HS3 Shares After Touts

101. The various touts of HS3 were disseminated primarily from November 2005 through January 2006.

102. After closing at $.83 per share on October 12, 2005, HS3 stock price reached a lifetime high closing price of $1.07 per share on November 29, 2005. Trading volume grew from approximately 70,000 shares on October 12, 2005 to a then-record 1,625,555 shares on November 29, 2005.

103. The Regency Defendants, Fernando, and Wellington sold a significant percentage of their previously acquired HS3 shares after the publication of the false and misleading touts of HS3 stock. These shares had been acquired in unregistered transactions, and their sale into the market was likewise unregistered. In all, the Regency Defendants realized profits of approximately $277,000 from their sale of HS3 shares into the market. Fernando and Wellington realized profits of approximately $131,700 from their sales of HS3 shares into the public market.

104. J. Coutris and M. Coutris realized profits of approximately $55,960 from their sale of HS3 shares into the market. They had received these shares in unregistered transactions, as compensation for their role in the unregistered distribution of HS3 stock. These sales included

the sale of shares through brokerage accounts in the names of entities controlled by J. Coutris and/or M. Coutris.

CLAIMS FOR RELIEF

FIRST CLAIM – FRAUD IN THE PURCHASE OR SALE OF SECURITIES

Violations of Section 10(b) and Rule 10b-5 thereunder of the Exchange Act [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5]

105. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

106. Defendants Regency, Gelbard, Lamkin, Fernando, Wellington, and J.J. Coutris have, directly and indirectly, singly or in concert, by use of the means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly, in connection with the purchase or sale of securities: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omissions 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 which operated or would operate as a fraud or deceit upon other persons, including purchasers and sellers of such securities.

107. By reason of the foregoing, Defendants Regency, Gelbard, Lamkin, Fernando, Wellington, and J.J. Coutris violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM – FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]

108. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

109. Defendants Regency, Gelbard, Lamkin, Fernando, and Wellington have, directly and indirectly, singly or in concert, by use of the means or instruments of transportation or

communication in interstate commerce or by use of the mails, in the offer or sale of securities: (a) knowingly or recklessly employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions 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 transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of the securities offered or sold by these Defendants.

110. By reason of the foregoing, Defendants Regency, Gelbard, Lamkin, Fernando, and Wellington violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM - SALE OF UNREGISTERED SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a) and (c)]

111. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

112. By engaging in unregistered distributions of stock, Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, and JC Partners have, directly or indirectly, singly or in concert, made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or for delivery after sale.

113. No registration statements had been filed with the Commission or were in effect with respect to any of the sales alleged above, and no exemptions to registration applied.

114. By reason of the foregoing, Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, and JC Partners violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and (c)].

FOURTH CLAIM – FAILURE TO REGISTER AS A BROKER OR DEALER

Violations of Section 15(a)(1) of the Exchange Act [15 U.S.C. 78o(a)(1)]

115. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

116. Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, and JC Partners, directly or indirectly: (a) are each a person other than a natural person, or a natural person not associated with a broker or dealer which is a person other than a natural person (other than a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange); (b) have made or are making use of the mails or of the means or instrumentalities of interstate commerce to effect transactions in, or to induce the purchase of, securities (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills); and (c) were not or are not registered as a broker or dealer in accordance with Section 15(b) of the Exchange Act [15 U.S.C. §78o(b)].

117. By reason of the foregoing, Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, and JC Partners violated Section 15(a)(1) [15 U.S.C. §78o(a)(1)], by failing to register as brokers or dealers.

FIFTH CLAIM – FAILURE TO DISCLOSE BENEFICIAL OWNERSHIP OF STOCK GREATER THAN FIVE PERCENT AND CHANGES THERETO

Violations of Sections 13(d)(1) and 13(d)(2) of the Exchange Act [15 U.S.C. 78m(d)(1) and 78m(d)(2)] and Exchange Act Rules 13d-1(a) and 13d-2(a) [17 C.F.R. 240.13d-1(a) and 240.13d-2(a)]

118. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

119. Defendants Regency, Gelbard, Lamkin, Koslosky, and Gountis, after acquiring directly or indirectly the beneficial ownership of more than 5% of a class of equity securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l] failed to file with the Commission a statement containing the information required by Schedule 13D [17 C.F.R. 240.13d-101] and, after disposing of beneficial ownership of securities in an amount equal to 1% or more of the class of securities, failed to file with the Commission an amendment disclosing this material change.

120. By reason of the foregoing, these Defendants violated Sections 13(d)(1) and 13(d)(2) of the Exchange Act [15 U.S.C. 78m(d)(1) and 78m(d)(2)] and Exchange Act Rules 13d-1(a) and 13d-2(a) [17 C.F.R. 240.13d-1(a) and 240.13d-2(a)].

SIXTH CLAIM – FAILURE TO DISCLOSE BENEFICIAL OWNERSHIP OF STOCK GREATER THAN TEN PERCENT AND CHANGES THERETO

Violations of Section 16(a) of the Exchange Act [15 U.S.C. 78p(a)] and Exchange Act Rule 16a-3 [17 C.F.R. 240.16a-3]

121. Paragraphs 1 through 104 are hereby re-alleged and incorporated by reference.

122. Defendants Regency, Gelbard, Lamkin, Koslosky, and Gountis, after acquiring directly or indirectly the beneficial ownership of more than 10% of a class of equity securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l], failed to file with the Commission a Form 3 providing an initial statement of beneficial ownership and, after effecting transactions in the securities, failed to file with the Commission Forms 4 and 5 providing statements of changes in beneficial ownership.

123. By reason of the foregoing, these Defendants violated Section 16(a) of the Exchange Act [15 U.S.C. §78p(a)] and Rule 16a-3 thereunder [17 C.F.R. 240.16a-3].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

A.

Enter judgment in favor of the Commission finding that each of the Defendants violated the securities laws as alleged in this Complaint.

B.

Permanently restrain and enjoin each of the Defendants and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice by personal service or otherwise, from engaging in further violations of the securities laws as alleged herein.

C.

Order Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, JC Partners, Fernando, and Wellington to disgorge, with prejudgment interest, the illegal profits and proceeds they obtained as a result of their actions alleged in this complaint.

D.

Order Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, JC Partners, J.J. Coutris, Gountis, Fernando, and Wellington to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

E.

Permanently prohibit Defendants Regency, Gelbard, Lamkin, Koslosky, J. Coutris, M. Coutris, JC Partners, Fernando, and Wellington from participating in any offering of penny stock

pursuant to Section 20(g) of the Securities Act [15 U.S.C. § 77t(g)] and Section 21(d)(6) of the Exchange Act [15 U.S.C. § 78u(d)(6)].

F.

Grant such other relief as this Court may deem just and proper.

Dated: March 9, 2009.

Respectfully submitted,

s/ Kenneth J. Guido
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