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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT TACOMA**

11
12 SECURITIES AND EXCHANGE COMMISSION,
13 Plaintiff,
14 vs.
15 INTERNATIONAL COMMERCIAL TELEVISION,
INC.,
16 Defendant.

Case No. _____

COMPLAINT

17
18 Plaintiff Securities and Exchange Commission (“the Commission”) alleges:

19 **SUMMARY OF THE ACTION**

20 1. This case involves false financial reporting at International Commercial
21 Television, Inc. (“ICTV” or the “Company”), a marketer of health and beauty products
22 headquartered in Bainbridge Island, Washington. From February 2007 to June 2008, ICTV
23 improperly recognized revenue and incorrectly recorded product returns, resulting in a material
24 overstatement of revenue and net income in periodic reports filed with the Commission during a
25 six-quarter period. Collectively, ICTV overstated revenue and net income by \$3.7 million and
26 \$3.9 million, respectively. As a result, ICTV reported net income for each fiscal period, when in
27 reality the company had suffered net losses.

DEFENDANT

10. ICTV is a Nevada corporation headquartered in Bainbridge Island, Washington. The Company's common stock is registered with the Commission under Section 12(g) of the Exchange Act [15 U.S.C. §78I]. ICTV sells health and beauty products internationally via infomercials and through various televised shopping networks.

FACTUAL ALLEGATIONS

A. Background and Applicable Revenue Recognition Policies

11. According to the Company's SEC filings, ICTV is a marketer of consumer retail goods, specializing in "fountain of youth" health and beauty products it owns or holds the right to sell. The Company's best-selling product is the Derma Wand, a skin care appliance that, according to ICTV's SEC filings, purportedly "reduces fine lines and wrinkles and improves overall skin appearance."

12. ICTV sells product through two main channels: (1) direct sales to end users via infomercials produced by the Company ("direct sales"), and (2) distribution through third-party distributors for sell-through to end users ("sell-through sales"). ICTV's distributors include televised shopping networks such as HSN.

13. As a public company, ICTV's financial statements filed with the Commission are required to be prepared in accordance with GAAP.

14. Under GAAP, revenue must be realized or realizable and earned before it can be recognized. GAAP guidance provides that revenue generally is realized and earned when persuasive evidence of an arrangement exists, delivery has occurred, the seller's price is fixed or determinable, and collectibility is reasonably assured.

15. GAAP also provides that, when a right of return exists, revenue cannot be recognized at the time of sale unless, *inter alia*, the amount of future returns can be reasonably estimated and an offsetting allowance established.

B. ICTV's Improper Revenue Recognition on Purported Sales Through HSN

16. In 2007, ICTV formed a relationship with HSN, one of the top-grossing television shopping networks in the United States. This alliance with HSN helped to promote

1 ICTV's product and brand awareness, increasing ICTV's reported net sales by 97% over year-
2 end 2006. In total, during 2007, ICTV's reported net sales, including HSN sales and direct sales,
3 increased by 280% from 2006.

4 17. ICTV sold product through HSN predominantly through a "drop-ship" contract
5 entered into between ICTV and HSN in or about May 2007. Under the drop-ship contract,
6 HSN did not purchase the product itself, but instead facilitated sales to HSN's customers (*i.e.*,
7 the end users). Generally, HSN sent ICTV written requests to pre-order product that would be
8 sold during future HSN television broadcasts. ICTV stored the product at ICTV's third-party
9 fulfillment warehouse until HSN sold the product on the air. After HSN sold the product to
10 its customers, ICTV's warehouse shipped the product to the HSN customers, and HSN
11 subsequently sent payment to ICTV. ICTV retained title to the product until HSN sold the
12 product on-air to its customers and the product was shipped to the end users. HSN did not
13 guarantee the purchase of any product, and any unsold product remained under the ownership
14 of ICTV. The contract also allowed HSN to return any product from its customers up to 60
15 days after delivery to the customer.

16 18. From the first quarter of 2007 through the second quarter of 2008, ICTV
17 prematurely recognized revenue on ICTV's sales to HSN, before HSN sold through to its
18 customers and before the right of return expired, in violation of GAAP.

19 19. Despite the contractual provisions governing sell-through and right of return,
20 ICTV recognized revenue upon HSN's order of the product, before HSN sold through to its
21 customers and before the right of return expired.

22 20. Throughout 2007 to the second quarter of 2008, ICTV failed to ensure that, by
23 the end of each quarter, HSN had sold through the units for which revenue was recognized
24 during that period. As a result, ICTV reported revenue to investors for sales which had not
25 been completed that quarter and for which it had no assurance of being paid.

26 21. ICTV's accounting of sales through HSN violated revenue recognition criteria
27 under GAAP. Delivery of the goods had not occurred prior to revenue recognition.

28 Collectibility of the receivable was not reasonably assured, given that product had not been sold

1 through and HSN had the right to return any unsold product. And, there was no persuasive
2 evidence of an arrangement, as HSN had not sold through to its customers at the time ICTV
3 recognized the sales, and ICTV retained ownership of any unsold product.

4 22. In addition to prematurely recognizing revenue on sales to HSN, ICTV also
5 recognized revenue in 2007 on a new product called Cell Rx that failed an HSN quality control
6 inspection and was never sold through HSN. The receivable remained on ICTV's books through
7 the second quarter of 2008 and was not reversed until ICTV issued a restated Form 10-K/SB in
8 March 2009.

9 23. ICTV's recognition of revenue on the Cell Rx product was also improper
10 because, under GAAP, there was no persuasive evidence of an arrangement, as HSN never
11 agreed to purchase the product or to sell the product to end users. In addition, because there was
12 no sale, delivery had not occurred, the seller's price was not fixed or determinable, and
13 collectibility was not reasonably assured.

14 24. As a result of the improper accounting for HSN sales, ICTV reported materially
15 inflated revenue and net income to investors and to the Commission on Forms 10-Q and 10-K
16 from the first quarter of 2007 through the second quarter of 2008. Investors determining whether
17 to buy or sell ICTV stock were thus basing their decisions on false information about ICTV's
18 financial performance.

19 **C. ICTV's Improper Revenue Recognition on Direct Sales**

20 25. ICTV also failed to properly recognize revenue and returns for the Company's
21 direct sales (i.e., sales made directly by ICTV to end users via infomercials), resulting in a
22 material overstatement of revenue and net income from the second quarter of 2007 through the
23 second quarter of 2008.

24 26. First, ICTV improperly recognized revenue on direct sales prior to customer
25 acceptance. ICTV provided its direct sales customers a 30-day free trial period whereby the
26 customer could try the ordered product prior to purchase. ICTV billed customers upon
27 expiration of the 30-day period. Although ICTV did not bill customers until expiration of the
28

1 trial period, ICTV recognized revenue upon shipment of the product, before expiration of the
2 trial period.

3 27. Under GAAP, where a customer is given a trial or evaluation period for a
4 product, revenue cannot be recognized until the earlier of when the customer accepts the product
5 (as set forth in the contract with the seller or by affirmative acceptance) or the trial period has
6 expired. Because ICTV's direct sales customers did not accept the product prior to expiration of
7 the trial period, ICTV's recognition of revenue was improper.

8 28. ICTV also improperly accounted for returns of product sold through the
9 Company's direct sales channels. ICTV failed to estimate and establish a return allowance as
10 required by GAAP, despite a disclosure in ICTV's financial statements stating that "[t]he
11 company provides an allowance for returns based upon past experience." Contrary to this
12 disclosure, ICTV did not establish any return allowance. Instead, ICTV recorded returns as they
13 were received and wrote off returns directly against current sales.

14 29. In failing to establish an allowance and instead writing off returns directly against
15 current sales, ICTV overstated revenue on direct sales, for two reasons. First, the actual returns
16 that ICTV recorded were significantly underreported and did not reflect the actual returns
17 received. ICTV relied exclusively on return reports received from ICTV's third-party fulfillment
18 warehouse (which processed the direct sales and returns). However, these reports were
19 inherently flawed due in part to the warehouse's methods for updating the reports.

20 30. The second issue with ICTV's accounting treatment, which compounded the
21 problem, was that ICTV failed to adhere to its stated 30-day return policy. ICTV accepted
22 returns at any time, without exception. Because ICTV failed to adhere to its stated 30-day return
23 policy and accepted returns beyond the 30-day period, ICTV's practice of recording actual
24 returns overstated revenue by failing to offset future returns.

25 31. As a result of ICTV's improper accounting practices on direct sales, ICTV
26 reported materially inflated revenue and net income in its Forms 10-Q for the second and third
27 quarters of 2007 and its Form 10-K for fiscal year 2007. ICTV also reported inflated revenue
28 and net income in its Forms 10-Q for the first and second quarters of 2008. Investors

1 determining whether to buy or sell ICTV stock were thus basing their decisions on false
2 information about ICTV's financial performance.

3 **D. ICTV's Restatement**

4 32. In October 2008, ICTV announced that it intended to restate its historical
5 financial statements for the fiscal year ended 2007 and the first two quarters of 2008 as a result of
6 improper revenue recognition. ICTV completed its filing of amended financial statements in
7 June 2009. The restatement included a \$1.4 million reduction in 2007 revenue related to the
8 HSN errors, and an \$840,000 reduction in 2007 revenue related to the failure to properly record
9 direct sales returns. ICTV also reduced 2008 revenue by an additional \$840,000 due to the direct
10 sales returns issue.

11 33. In April 2010, ICTV again restated its financial statements for the fiscal year
12 ended 2007. The restatement included an additional \$550,000 revenue reduction related to the
13 premature recognition of direct sales revenue prior to expiration of a free trial period.

14 34. The following table reflects that the accounting errors were material to the
15 Company's financial statements:

16 Period	Originally Reported Net Sales	Adjustment to Net Sales	Restated Net Sales	Percentage Overstatement (Under)
17 FY 2007	\$11,324,000	(\$2,836,000)	\$8,488,000	33%
18 1Q 2008	\$3,669,000	\$197,000	\$3,866,000	(5%)
19 2Q 2008	\$4,282,000	(\$1,077,000)	\$3,205,000	34%

20 35. Additionally, in all periods all originally reported net income was negated and
21 restated to a net loss as follows:

22 Period	Originally Reported Net Income	Restated Net (Loss)	Reduction to Reported Net Income
23 FY 2007	\$1,475,775	(\$1,081,988)	(\$2,557,763)
24 1Q 2008	\$109,980	(\$164,773)	(\$274,753)
25 2Q 2008	\$260,298	(\$862,399)	(\$1,122,697)

26 **FIRST CLAIM FOR RELIEF**

27 *Violations of Section 13(a) of the Exchange Act and*
28 *Rules 12b-20, 13a-1, and 13a-13 thereunder*

36. The Commission realleges and incorporates by reference Paragraphs 1 through
35.

1 37. ICTV filed with the Commission quarterly and annual reports on Forms 10-Q
2 and 10-K that contained untrue statements of material fact and omitted to state material
3 information required to be stated therein or necessary in order to make the required statements, in
4 the light of the circumstances under which they were made, not misleading, in violation of
5 Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.

6 38. ICTV has violated, and unless restrained and enjoined, will continue to violate
7 Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, and 13a-13
8 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13] thereunder.

9 **SECOND CLAIM FOR RELIEF**

10 *Violations of Section 13(b)(2)(A) of the Exchange Act*

11 39. The Commission realleges and incorporates by reference Paragraphs 1 through
12 35.

13 40. ICTV failed to make and keep books, records, or accounts which, in reasonable
14 detail, accurately and fairly reflected its transactions and dispositions of its assets, in violation of
15 Section 13(b)(2)(A) of the Exchange Act.

16 41. ICTV has violated and, unless restrained and enjoined, will continue to violate
17 Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

18 **THIRD CLAIM FOR RELIEF**

19 *Violations of Section 13(b)(2)(B) of the Exchange Act*

20 42. The Commission realleges and incorporates by reference Paragraphs 1 through
21 35.

22 43. ICTV violated Section 13(b)(2)(B) of the Exchange Act, which obligates issuers
23 of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to devise
24 and maintain a sufficient system of internal accounting controls.

25 44. ICTV has violated and, unless restrained and enjoined, will continue to violate
26 Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue an order permanently enjoining ICTV from violating Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B)] and Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13] thereunder.

II.

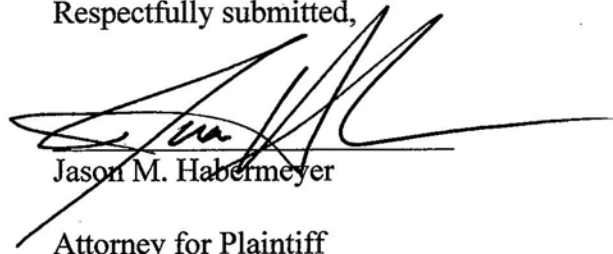
Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

III.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: August 9, 2010

Respectfully submitted,



Jason M. Habermeyer

Attorney for Plaintiff
SECURITIES AND EXCHANGE
COMMISSION