

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 10302 / February 3, 2017

SECURITIES EXCHANGE ACT OF 1934

Release No. 79971 / February 3, 2017

ACCOUNTING AND AUDITING ENFORCEMENT

Release No. 3858 / February 3, 2017

ADMINISTRATIVE PROCEEDING

File No. 3-17825

In the Matter of

**IXIA AND
VICTOR ALSTON,**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Victor Alston (“Alston”) and pursuant to Exchange Act Section 21C against Ixia, a California corporation (“Ixia”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (“Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

SUMMARY

1. This matter principally involves material misrepresentations and omissions concerning the internal controls of Ixia, a developer and seller of network testing products, resulting from a directive by Victor Alston, Ixia's former chief executive officer and president, to improperly accelerate the recognition of revenue in contravention of not only those controls but also well-established accounting rules and principles. This directive resulted in Alston's fraudulent misrepresentations, omissions, and certifications concerning Ixia's internal controls, namely Internal Control over Financial Reporting ("ICFR"), as well as concerning Ixia's compliance with those accounting rules and principles in Ixia's filings with the Commission in 2012. In addition, Alston's misconduct resulted in misleading representations and omissions to Ixia's auditors, circumvention of internal accounting controls, and falsification of books and records.

2. In October 2012, Alston, in coordination with others at Ixia, directed Ixia to "Split POs" (or "Splitting POs") in an effort to improperly accelerate the recognition of revenue. Ixia typically packaged and sold multiple products to its customers. In instances when Ixia sold its software and professional services, such as training, together, Generally Accepted Accounting Principles ("GAAP"), notably software revenue recognition accounting rules, required that the company defer revenue from both its software and professional services until its professional services were delivered to its customer. GAAP required the deferral of revenue because Ixia had not established fair value for professional services. Alston ordered that Ixia Split POs – artificially break apart these services onto separate purchase orders in instances where professional services were included in any sale – which gave the false appearance that these professional services sales were stand-alone sales. Splitting POs was designed to accomplish two improper goals. First, the practice allowed Ixia to immediately, but improperly, recognize revenue from its software sales. Second, Ixia intended to improperly use the now-separated professional services to establish fair value in order to prevent the deferral of revenue in future sales that included both software and those services.

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

RESPONDENTS

3. Ixia is a California corporation based in Calabasas, California that develops and sells network testing, visibility and security products. Ixia's securities trade on the NASDAQ Global Select Market and are registered pursuant to Exchange Act Section 12(b).

4. Victor Alston, age 39, joined Ixia as its vice president of applications at or around 2004 and served in sequentially higher positions until his elevation to chief executive officer and president at or around May 2012. Alston resigned from Ixia in October 2013 following certain findings from an internal investigation conducted by Ixia into whether Alston had misrepresented his educational and professional experience prior to joining Ixia.

5. The matters addressed in this Order first came to light as a result of an investigation that the Audit Committee of Ixia's Board of Directors (the "Audit Committee") conducted into Ixia's financial statements following Alston's departure. Ixia informed the Commission staff of this investigation at its outset, and as a result of this investigation restated its first and second quarter 2013 financial statements, including to correct errors in the recognition of revenue caused by Split POs, and made remedial efforts to address internal controls weaknesses. Ixia also cooperated with the Commission staff in the staff's investigation.

BACKGROUND

Ixia's Revenue Recognition for Its Key Products and Services

6. Like many of its peers in the software and hardware industry, Ixia was bound by accounting rules that required, in some circumstances, a significant deferral of revenue from its sales.

7. This deferral of revenue was a result of the required accounting for most of Ixia's sales. Ixia's primary product line is a combination of hardware and software designed to test, assess, and validate the performance of technology networks. Ixia also sells post-contract support ("PCS") – this line of products includes technical support and extended warranty and maintenance for Ixia's hardware and software products. Last, Ixia sells professional services, including providing customized software and product training in the use of Ixia's hardware and software.

8. Because Ixia typically sold a combination of its products to customers in a single transaction, those sales were known in accounting as "multi-element arrangements" that were subject to revenue recognition rules that required deferral of some or all of the revenue depending on the products included in the sale, and how they related to each other.

9. Under GAAP, revenue from a multi-element arrangement involving software must be allocated to each element (e.g., the separate products sold in the combination sale) based on the fair value of each element (e.g., dollar value established through evidence of a consistent price paid by customers for the same or similar element), as measured by vendor-specific objective evidence of fair value ("VSOE"). Thus, if VSOE does not exist for any of the elements of the transaction,

then any software revenue from the multi-element arrangement must be deferred until either the point in time when all elements have been delivered to the customer, or when VSOE does exist for each individual element, whichever is earlier.

10. Consistent with this, Ixia's internal revenue recognition policy provided that:

If evidence of fair value (or VSOE) cannot be established for an undelivered element within the software group or software arrangement, we defer revenue on the entire order until the earlier of (i) delivery of all elements or (ii) establishment of VSOE of the undelivered element. We have not been able to establish VSOE for our Professional Services, therefore, if the only undelivered element is Professional Services, the entire order or group is recognized as revenue over the service term or when the service is completed, depending on the arrangement.

11. Given its significance to Ixia's financial statements, Ixia's 2012 Form 10-K explicitly referenced and incorporated this aspect of Ixia's revenue recognition policy in the company's disclosures to investors. Within the Form 10-K's discussion of its "Significant Accounting Policies," the company represented that:

As our systems typically include hardware and software products, and the related services, we recognize our revenue in accordance with authoritative guidance on both hardware and software revenue recognition.

If VSOE cannot be established for an undelivered element within the software group (or arrangement), we defer the entire value allocated to the software group (or arrangement) until the earlier of (i) delivery of all elements (other than technical support, warranty and software maintenance services, provided VSOE has been established) or (ii) establishment of VSOE of the undelivered element(s).

Alston signed Ixia's 2012 Form 10-K in his capacity as Ixia's chief executive officer.

12. Crucially, Ixia had never established VSOE for any of its professional services.

13. Accordingly, Alston knew that whenever Ixia sold a combination of software and professional services in a multi-element arrangement, Ixia could not recognize revenue from its sale of the software element until the professional services element of the transaction was fully delivered. This requirement to defer software revenue was compelled by GAAP as well as Ixia's stated revenue recognition policy.

14. These accounting rules and the required deferral of revenue in certain circumstances subjected Ixia to considerable pressure at quarter or year end. Much of Ixia's sales occurred at or near the conclusion of reporting periods. In many instances, Ixia was prohibited from recognizing all the revenue from those sales if professional services were included in the deal.

Consequently, these accounting rules introduced a level of uncertainty even when sales and earnings targets appeared within reach.

Professional Services' Impact on Ixia's Revenue was Highlighted in the Third Quarter 2012

15. Events at the end of third quarter 2012 coalesced to place the impact of these accounting rules on Ixia's revenue recognition in sharp focus. On September 28, 2012, Ixia closed a significant, seven-figure sale to a large technology company. The transaction was a multi-element arrangement comprised of software, along with a nominal amount of hardware and professional services. Although in the aggregate, the value of the deal was substantial, Ixia could not recognize any of the revenue from the software licensed in the transaction in third quarter 2012 because the professional services sold to Ixia's customer would not be delivered in the two days before quarter-end.

16. Once briefed on the situation, Alston requested bi-weekly meetings to review status on delivery of professional services to ascertain the timing of revenue associated with those sales.

17. Soon thereafter, certain Ixia employees learned that recognition of revenue from Ixia's large transaction at the end of third quarter 2012 would be deferred even further because Ixia's customer had decided that it wanted delivery of professional services to complete in 2013, rather than fourth quarter 2012.

18. Faced with this, certain Ixia employees asked its customer to "split" its original purchase order into two purchase orders. One purchase order would refer to software and already-completed professional services. The other purchase order would reference the uncompleted professional services previously negotiated and agreed to by the customer. The terms of the original agreement were unchanged, with the only difference being the issuance of two purchase orders, rather than one, to document what was in substance a single multi-element arrangement. Ixia's customer agreed to its request to submit new purchase orders. On that fiction, Ixia prematurely recognized approximately \$530,000 of software revenue in its financial statements including with its 2012 Form 10-K.

19. This course of action circumvented Ixia's internal accounting controls, which required that the documentation for orders reflect the details of all other orders or open negotiations for products that were discussed as part of the order. Further, these controls also required any quote provided to a customer to reflect the entirety of the contemplated sales transaction. Split POs circumvented these key controls.

Ixia Split POs to Improperly Accelerate Ixia's Revenue

20. The sale to the large technology company focused Alston and others on professional services' impact on Ixia's ability to immediately recognize revenue. In approximately October 2012, Alston (along with others at Ixia) fundamentally changed the way Ixia did business by instructing his team to artificially separate all professional services from sales.

21. Ixia's historic sales practice was to submit a single sales quote to a potential customer that typically reflected a combination of its products. Now, Ixia would Split POs in instances when a sale included professional services. Ixia would submit two quotes to that potential customer, one quote reflecting professional services and the other reflecting all of the other components of the sale. Ixia then requested that its customer keep its purchase of professional services separate by submitting two separate purchase orders.

After consulting and in coordination with others at Ixia, Alston sent an April 21, 2013 email to Ixia management that stated:

Team

Carrier deals that involve services need to be quoted with [professional services] on a separate quote.

We cannot have [hardware/software] and Services quoted on the same order. That includes [professional services,] RE, or any other custom work.

Ixia cannot deliver the quarter or meet revenue recognition any longer if we continue to book orders in this manner ...

Its [sic] not a business choice. It's a business reality ...

22. Splitting POs was designed to accomplish two important but prohibited goals. First, in sales that included both software and professional services, Ixia could recognize the revenue from software immediately because professional services had been excised from the sale. Second, Ixia purportedly planned to separately establish VSOE for professional services through Split POs by relying on artificially-separated professional services orders as evidence of fair value. And once that fabricated VSOE was established, Ixia would be in a position to avoid deferring revenue from multi-element arrangements involving both professional services and software in the future, whether or not it chose to continue Splitting POs. But GAAP requires, among other criteria, that VSOE be established on the basis of truly independent sales, and professional services that are sold as part of a multi-element arrangement, do not constitute an independent sale. Accordingly, Ixia would be utilizing a false record of these sales to establish VSOE, in violation of GAAP.

23. Split POs violated Ixia's revenue recognition policy and circumvented Ixia's internal accounting controls. Split POs also created a trail of sales documentation, including sales quotes, purchase orders, and invoices that did not accurately reflect the true nature of the sale. Ixia prematurely and improperly recognized revenue as a result.

24. Some in Ixia's accounting and finance department knew or recklessly disregarded that Splitting POs was likely resulting in Ixia's premature recognition of revenue. Although some

advised Alston against the practice, no one pushed back in any meaningful way on Alston's desire to institutionalize the practice.

Split POs Resulted in Misrepresentations and Omissions in Ixia's SEC Filings

25. Alston's directive to Split POs resulted in material misrepresentations and omissions in Ixia's 2012 Form 10-K. Specifically, Split POs rendered false and misleading Ixia's and Alston's representations concerning Ixia's ICFR and Ixia's representations of its compliance with GAAP, including the applicable software revenue recognition rules.

26. Ixia is required to maintain ICFR pursuant to Exchange Act Rule 13a-15(a). Pursuant to Exchange Act Rule 13a-15(f), Ixia's ICFR is defined as:

[A] process designed by, or under the supervision of, the issuer's principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles[.]

27. Item 308 of Regulation S-K required Ixia's management to provide a report on ICFR that contains management's assessment of the effectiveness of the company's ICFR, and in that report, management must disclose any material weaknesses in the company's ICFR identified by management. Further, Item 308 of Regulation S-K prohibited Ixia's management from concluding that its ICFR was effective if there were one or more material weaknesses in that ICFR.

28. A "material weakness" in a company's ICFR is a "deficiency, or a combination of deficiencies, in [ICFR] such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis." 17 C.F.R. 210.1-02(a)(4). A misstatement is reasonably possible if the chance of a misstatement is more than remote but less than likely.

29. Management's report on the company's ICFR is found in Item 9A of Ixia's 2012 Form 10-K. That report, entitled "Management's Report on Internal Control over Financial Reporting," stated:

As of December 31, 2012, our management (with the participation of our Chief Executive Officer and our Chief Financial Officer) conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on this evaluation, management concluded that our internal control over financial reporting was not effective as of December 31, 2012 based on criteria in Internal Control – Integrated Framework issued by the COSO.

30. The report, however, set forth only two reasons that led to management's conclusion that Ixia's ICFR was not effective as of December 31, 2012. Neither concerned Split POs. Rather, management's report only disclosed deficiencies arising from warranty and software maintenance revenue recognition. Therefore, although management had concluded that Ixia's ICFR was not effective, that assessment was on the basis of material weaknesses unrelated to the issues caused by Alston's directive to Split POs.

31. This undisclosed material weakness made management's report on Ixia's ICFR materially misleading. Alston's directive to Split POs, a practice designed to inappropriately and prematurely recognize revenue, resulted in the exploitation of that undisclosed material weakness. As Ixia's chief executive officer and president, Alston could not omit the existence of this material weakness while simultaneously exploiting that weakness. Specifically, Ixia had no process in place to identify all software and professional services sales arising from a multi-element arrangement once those POs were artificially split. Since Ixia could no longer reliably identify its multi-element arrangements, it was now impossible for the company to comply with its revenue recognition policy – namely, the rules that policy set forth on how to recognize revenue from multi-element arrangements. Alston knew or was reckless in not knowing that the foregoing representations were materially false and misleading.

32. Alston's directive to Split POs also violated Ixia's revenue recognition policies and circumvented Ixia's internal accounting controls requiring that the documentation for orders reflect the details of all other orders or open negotiations for products that were discussed as part of the order.

33. Alston's directive to Split POs caused Ixia to recognize revenue in contravention of Ixia's revenue recognition policy and the applicable software revenue recognition rules explicitly referenced in Ixia's 2012 Form 10-K's "Significant Accounting Policies."

34. Alston knew or was reckless in not knowing that the foregoing representations were materially false and misleading.

Alston's False SOX Certifications

35. In accordance with SOX Section 302 and Exchange Act Rule 13a-14, Alston signed certifications which the company attached to its 2012 Form 10-K.

36. Alston represented that:

- He had disclosed all significant deficiencies in the company's ICFR to the company's outside auditors and publicly disclosed all material weaknesses in ICFR.
- He had disclosed to the company's outside auditors all fraud – whether or not material – involving Ixia's management or other employees with significant roles in the company's ICFR.

37. Alston's certifications were materially false and misleading because: he directed Split POs for all multi-element transactions involving professional services, Split POs exploited a material weakness in Ixia's ICFR, violated Ixia's revenue recognition policy, and circumvented internal accounting controls. None of these facts were ever disclosed by Alston, or anyone else at the company, to Ixia's outside auditors.

Alston Concealed Split POs from Ixia's Auditors

38. Alston submitted management representation letters to Ixia's auditors during the 2012 year-end audit and first and second quarter 2013 reviews that misrepresented or omitted material information relating to Split POs. Specifically, Alston misrepresented or omitted material information related to Split POs, including that:

- Ixia had identified and accounted for all multi-element arrangements in accordance with GAAP.
- Ixia had disclosed all significant deficiencies in the design or operation of Ixia's ICFR.
- Alston had no knowledge of any fraud or suspected fraud at Ixia involving either senior management, or employees with significant roles in Ixia's ICFR.
- There were no material transactions or agreements that had not been properly recorded.

39. Alston knew or was reckless in not knowing that these representations were materially false and misleading.

Ixia's Discovery of Alston's False Resume Shed Light on Split POs

40. Split POs came to light due to Ixia's discovery of unrelated issues in the second half of 2013. Ixia's Audit Committee then decided to conduct an investigation due to his misrepresentations' implications on the integrity of the Ixia' Commission filings and incorporated financial statements. Ixia informed the staff of these improprieties at the onset of the Audit Committee's investigation.

41. As a consequence of the Audit Committee's investigation, Ixia restated its first and second quarter 2013 financial statements, in part to correct errors related to Split POs, disclosed among other things, material weaknesses in its ICFR, and made substantial remedial efforts to address internal controls weaknesses. Alston resigned from Ixia in October 2013.

VIOLATIONS

42. As a result of the conduct described above, Ixia violated Exchange Act Section 13(a) and Rule 13a-1 thereunder, which require that every issuer of a security registered pursuant

to Exchange Act Section 12 file with the Commission, among other things, annual reports as the Commission may require, and, pursuant to Rule 13a-14, mandate, among other things, that an issuer's principal executive and principal financial officers certify each periodic report.

43. As a result of the conduct described above, Ixia violated Exchange Act Section 13(b)(2)(A), which requires reporting companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

44. As a result of the conduct described above, Ixia violated Exchange Act Section 13(b)(2)(B), which requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP.

45. As a result of the conduct described above, Ixia violated Exchange Act Rule 12b-20, which requires that, in addition to the information expressly required to be included in a statement or report filed with the Commission, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made not misleading.

46. As a result of the conduct described above, Alston violated Securities Act Section 17(a)(3), Exchange Act Section 10(b) and Rule 10b-5(b) and (c) thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

47. As a result of the conduct described above, Alston violated Exchange Act Section 13(b)(5), which prohibits any person from knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Exchange Act Section 13(b)(2).

48. As a result of the conduct described above, Alston violated Exchange Act Rule 13b2-1, which prohibits any person from, directly or indirectly, falsifying or causing to be falsified, any book, record, or account subject to Exchange Act Section 13(b)(2)(A).

49. As a result of the conduct described above, Alston violated Exchange Act Rule 13b2-2, which prohibits any officer or director from directly or indirectly making or causing to be made a materially false or misleading statement to an accountant in connection with any audit, review, or examination of the financial statements of an issuer.

50. As a result of the conduct described above, Alston violated Exchange Act Rule 13a-14, which requires a principal executive and principal financial officer to certify each periodic report containing financial statements filed by an issuer in accordance with Exchange Act 13(a).

51. As a result of the conduct described above, Alston caused Ixia's violations of Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) and Rules 12b-20 and 13a-1 thereunder.

IXIA'S REMEDIAL EFFORTS

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Ixia and its cooperation afforded the Commission staff.

IV.

UNDERTAKINGS

In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Respondent Ixia (i) agrees to use its best efforts to cause its officers, employees, and directors to be interviewed by the Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints its undersigned attorneys as agents to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the interview or testimony reimburses the travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over it in any United States District Court for purposes of enforcing any such subpoena.

In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Respondent Alston (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints his undersigned attorneys as agents to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the interview or testimony reimburses his travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over him in any United States District Court for purposes of enforcing any such subpoena.

In determining whether to accept Respondents' Offers, the Commission has considered these undertakings.

V.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents Ixia's and Alston's Offers.

Accordingly, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, it is hereby ORDERED, effective immediately, that:

A. Respondent Ixia cease and desist from committing or causing any violations and any future violations of Exchange Act Sections 13(a), 13(b)(2)(A), 13(b)(2)(B) and Rules 13a-1 and 12b-20 thereunder.

B. Respondent Ixia shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$750,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

C. Respondent Ixia acknowledges that the Commission is not imposing a civil penalty in excess of \$750,000.00 based upon its cooperation in a Commission investigation and related enforcement action. If at any time following the entry of the Order, the Division of Enforcement (“Division”) obtains information indicating that Respondent Ixia knowingly provided materially false or misleading information or materials to the Commission, or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent Ixia, petition the Commission to reopen this matter and seek an order directing that the Respondent Ixia pay an additional civil penalty. Respondent Ixia may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

D. Respondent Alston cease and desist from committing or causing any violations and any future violations of Securities Act Section 17(a), Exchange Act Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5), and Rules 10b-5, 12b-20, 13a-1, 13b2-1, 13b2-2, and 13a-14 thereunder.

E. Respondent Alston be, and hereby is, prohibited for five years from the date of this Order from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act, in accordance with Section 8A(f) of the Securities Act and Section 21C(f) of the Exchange Act.

F. Respondent Alston shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

G. Payment must be made in one of the following ways:

(1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondents may make direct payment from a bank account via Pay.gov through the Commission website at <http://www.sec.gov/about/offices/ofm.htm>; or

(3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Ixia or Alston as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to John W. Berry, Division of Enforcement, Securities and Exchange Commission, 444 S. Flower Street, Suite 900, Los Angeles, CA 90071.

H. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

I. Respondents shall comply with the undertakings enumerated in Section IV above.

VI.

It is further Ordered that for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Alston, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Alston under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the

violation by Respondent Alston of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary