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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION
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12 UNITED STATES OF AMERICA,) No. 98-40167-DLJ
13 Plaintiff,)
14 v.) VIOLATIONS: 18 U.S.C. §§ 1001, 1341,
15 PAUL JAIN,) 1343, 1344, and 2; 15 U.S.C. §§ 78m(b)(2),
a/k/a Prabhat Jain, and) 78j(b), 78ff(a); 17 C.F.R. §§ 240.10b-5 and
16 STEVEN ALLAN,) 240.13b2-2 – False Statements; Wire, Mail
Defendants.) and Bank Fraud; Insider Trading
17)
18) OAKLAND VENUE

19 SUPERSEDING INDICTMENT
OCTOBER 7, 1999

20 The Grand Jury charges:

21 I. BACKGROUND

22 1. At all times relevant to the allegations in this Indictment, Media Vision
23 Technology, Inc. ("Media Vision") was a Delaware corporation with headquarters in Fremont,
24 California, and was in the business of assembling and selling multi-media computer upgrade kits,
25 computer software, and other computer products. Media Vision sold shares of its common stock
26 to the public in November 1992 and in April 1993 and sold debentures to the public in October
27 1993. From November 1992 until about August 1994, Media Vision's common stock and
28 debentures were publicly traded on the National Association of Securities Dealers' Automatic

1 Quotation System.

2 2. At all times relevant to this Indictment, the defendant PAUL JAIN, a/k/a “Prabhat
3 Jain”, was the Chief Executive Officer and a member of the Board of Directors of Media Vision.

4 3. From approximately mid-1992, and at all times relevant to this Indictment, the
5 defendant STEVEN ALLAN was the Chief Financial Officer of Media Vision.

6 4. As a public company, Media Vision was required to file quarterly reports (on
7 Form 10-Q) and annual reports (on Form 10-K) with the United States Securities and Exchange
8 Commission (hereafter “SEC”). The Form 10-Q included unaudited financial statements and the
9 Form 10-K included audited financial statements. Media Vision’s annual and quarterly reports
10 were made available to the investing public by the SEC and Media Vision.

11 5. At all times relevant to this Indictment, Ingram Micro, Inc., located in Santa Ana,
12 California (hereafter “Ingram”), Merisel, Inc., located in El Segundo, California (hereafter
13 “Merisel”), and Cheng Fong Technology Corporation (hereafter “Cheng Fong”), located in
14 Taiwan, were distributors of Media Vision’s products.

15 6. In 1993 and 1994, Egghead Software, Inc. (hereafter “Egghead”), located in
16 Issaquah, Washington, and Sam’s Club, located in Bentonville, Arkansas, were resellers of
17 computer products. In 1993, Egghead and Sam’s Club ordered Media Vision products.

18 7. In late 1993 and early 1994, Play/Tech Distribution Co. (hereafter “Play/Tech”)
19 was a newly formed entity located in Austin, Texas that had never sold Media Vision’s product
20 and had no identified customers for its product.

21 8. At all times relevant to this Indictment, KTL Research Limited (hereafter “KTL”),
22 located in Hong Kong, purchased chips for resale from Media Vision. KTL also assembled
23 Media Vision products for re-shipment to Media Vision’s customers (hereafter referred to as
24 “drop shipments”).

25 9. In 1993 and 1994, Total Transportation Enterprise, Incorporated (hereafter “Total
26 Transportation”) and All Cargo Transport, Inc. (hereafter “All Cargo”), received and stored
27 returned Media Vision product at warehouses in Milpitas, California.

28 10. In 1993 and 1994, Transphere, Inc., located in San Francisco, California, acted as

1 an advertising agency for Media Vision.

2 11. In 1993 and 1994, two financial institutions, Comerica Bank-California, with
3 offices in San Jose, California, and The First National Bank of Boston, with offices in Palo Alto,
4 California and Boston, Massachusetts loaned money to Media Vision.

5 12. In 1993 and 1994, Ernst & Young, an independent public accounting firm, acted
6 as the outside auditors of Media Vision's financial statements.

7 II. THE SCHEME TO DEFRAUD

8 13. From at least February 1993 and continuing through May 1994, within the
9 Northern District of California, and elsewhere, the defendants PAUL JAIN and STEVEN
10 ALLAN, and others, knowingly and intentionally devised, and intended to devise, a scheme and
11 artifice to defraud Media Vision, its shareholders, its creditors, and the public, and to obtain
12 money and property by means of materially false and fraudulent pretenses, representations, and
13 promises.

14 14. It was part of the scheme and artifice to defraud that the defendants JAIN and
15 ALLAN, directly and indirectly, would and did:

- 16 a. create false sales for Media Vision;
17 b. create false inventory for Media Vision;
18 c. hide millions of dollars of products returned to Media Vision;
19 d. record as sales products that had not been shipped;
20 e. misrepresent Media Vision's expenses; and
21 f. make material false and misleading statements to Media Vision's auditors
22 and creditors, and to the SEC and the public regarding Media Vision's revenue and profits.

23 15. The purpose of the scheme and artifice to defraud was to falsely inflate Media
24 Vision's revenue and profits and thereby enhance Media Vision's ability to borrow money from
25 banks and sell securities to the public and to enable the defendants JAIN and ALLAN to sell their
26 own shares of Media Vision stock at inflated prices.

27 A. False Transactions and Accounting Entries

28 16. In particular, as part of the scheme and artifice to defraud, the defendants JAIN

1 and ALLAN, and others, would and did engage in the following transactions:

2 17. False Sales

3 a. Shipment to Cheng Fong: In or about June 1993, at the direction of the
4 defendant JAIN, employees of Media Vision entered into a transaction with Cheng Fong whereby
5 Cheng Fong submitted a purchase order for 100,000 Pro Audio Spectrum chip sets, valued at
6 about \$4.8 million, but did not have to pay for the bulk of the order unless and until Cheng Fong
7 sold the product. At the defendant JAIN's direction, Media Vision recorded the full amount of
8 the shipment as a sale in the company's second quarter of 1993, in violation of the company's
9 revenue recognition policy and generally accepted accounting principles.

10 b. Shipments of Unordered Product: On December 31, 1993, the Media
11 Vision sales department, at the direction of the defendant JAIN, shipped products to Ingram and
12 Play/Tech that those companies had not ordered, and Media Vision recorded about \$3.3 million
13 of those shipments as bona fide sales. The defendant JAIN also directed the sales department to
14 ship about 4000 Kit Fusion LX products at \$350 each to Egghead that JAIN knew Egghead did
15 not want because it had previously canceled its order. At least 1800 of these kits were shipped to
16 Egghead. The total of the false sales recognized by Media Vision as revenue based on the
17 shipment of unordered product was about \$3.9 million, which was improperly recognized as
18 revenue in Media Vision's fourth quarter of 1993 in violation of the company's revenue
19 recognition policy and generally accepted accounting principles.

20 c. Invoices to KTL:

21 i. On December 31, 1993, at the direction of defendant JAIN, Media
22 Vision officers and employees created three invoices to KTL for about \$3.9 million worth of
23 chips that Media Vision claimed to have sold to KTL, when in fact the chips were never shipped
24 to KTL.

25 ii. In order to conceal the false \$3.9 million sale, in March 1994, the
26 defendants JAIN and ALLAN directed that Media Vision issue a \$3.9 million check to KTL,
27 which KTL endorsed back to Media Vision, and Media Vision then used this check to make it
28 appear as if KTL had paid for the \$3.9 million in false sales.

1 18. False Inventory: In January 1994, the defendants JAIN and ALLAN directed
2 other officers and employees to create false records to show that, as of December 1993, Media
3 Vision owned an additional \$6 million of inventory that in fact did not exist. Later, in February
4 1994, the defendant JAIN asked Arun Jain, a relative of defendant PAUL JAIN, to falsely
5 confirm to Ernst & Young that his company, Hotz Industries, held the inventory. Ernst & Young
6 received the false confirmation in connection with its audit and examination of Media Vision's
7 1993 financial statements. By creating the false inventory, Media Vision was able to falsely
8 report about \$6 million in additional profits, approximately one-third of the total profit reported
9 by Media Vision for the 1993 year.

10 19. Hidden Returns

11 a. Concealment of Nonstandard RMA Numbers: At the end of 1993, Ingram
12 and Merisel conditioned their purchase orders for Media Vision products on Media Vision's
13 agreement to accept the return of about \$10 million worth of Media Vision product. To hide this
14 agreement, the defendant JAIN authorized members of Media Vision's sales department to issue
15 nonstandard return merchandise authorization ("RMA") numbers to the distributors, which were
16 not recorded in Media Vision's RMA books and which were used to accept the return of the
17 merchandise. This resulted in improperly inflated revenue for Media Vision for the fourth
18 quarter of 1993 in violation of the company's revenue recognition policy and generally accepted
19 accounting principles.

20 b. Concealment of Returns: When the \$10 million in Ingram and Merisel
21 returns arrived at Media Vision, in late December 1993 and through at least March 1994, the
22 merchandise was stored at, among other places, Total Transportation in Milpitas, California, and
23 at a warehouse leased by All Cargo in Milpitas, California. The defendants JAIN and ALLAN
24 directed other officers and employees of Media Vision not to record the returns in Media
25 Vision's books and records unless and until the products had been resold. This failure to record
26 returns either at the time Media Vision agreed to take them back or when they were received by
27 the company enabled Media Vision to overstate its revenues for 1993 by a material amount.

1 20. False Recording of Sales:

2 a. Sam's Club: In September and October 1993, the defendants JAIN and
3 ALLAN directed others to create documents to show falsely that the company had received
4 component parts for its products and then built and shipped about \$7 million of Media Vision
5 product to Sam's Club before the end of September 1993. In fact, although the products were not
6 shipped until October 1993, the next reporting quarter, Media Vision improperly recorded the
7 shipment as a sale for the third quarter of 1993.

8 b. Labtec Speakers: In December 1993, Media Vision employees, at the
9 direction of the defendants JAIN and ALLAN, created false documents indicating that Media
10 Vision had received about 15,000 Labtec speakers that were supposed to be included in computer
11 upgrade kits. Media Vision employees then created false documents to show that the kits
12 containing these speakers were assembled and shipped in the fourth quarter of 1993. By doing
13 this, Media Vision was able to add at least \$2.8 million to its 1993 reported revenue.

14 c. KTL Drop Shipments: During December 1993, at the direction of the
15 defendant JAIN, officers and employees at Media Vision asked KTL to provide daily faxes that
16 falsely stated that KTL had shipped products to Media Vision customers. When KTL notified
17 Media Vision of the purported shipments, Media Vision recorded the shipments as revenue. The
18 total amount of these false sales was about \$2.9 million.

19 21. Misrepresentation of Expenses: At the end of 1993 and in 1994, at the direction
20 of the defendants JAIN and ALLAN, Media Vision officers and employees directed that
21 payments to its advertising agency, Transphere, be falsely recorded in Media Vision's accounting
22 records as payments for future advertising, rather than as payments for past services. This had
23 the effect of making Media Vision's income in 1993 appear to be about \$4.4 million higher than
24 it actually was.

25 B. False Statements To Media Vision's Auditors

26 22. It was further part of the scheme and artifice to defraud that the defendants JAIN
27 and ALLAN would and did make material false and misleading statements to Media Vision's
28 auditors, Ernst & Young.

1 23. At the end of each quarter of 1993, Ernst & Young conducted an interim review
2 of Media Vision's quarterly financial statements in preparation of the Media Vision's Form 10-
3 Qs. In addition, at the beginning of 1994, Ernst & Young conducted an audit of Media Vision's
4 annual financial statements for 1993 in preparation of Media Vision's Form 10-K. In connection
5 with each review and the audit, the defendants JAIN and ALLAN signed letters to Ernst &
6 Young in which they represented that they had provided Ernst & Young with all significant
7 contracts and agreements. The defendants JAIN and ALLAN signed these representation letters
8 on April 14, 1993, July 14, 1993, October 15, 1993, and February 15, 1994.

9 24. At about the same time as these interim reviews, and at the end of each quarter of
10 1993, the defendant JAIN, and others, negotiated and executed quarterly agreements on behalf of
11 Media Vision with Ingram and Merisel, among others, which required Media Vision to ship the
12 following product:

- 13 a. February 25, 1993 -- \$14.5 million to Ingram;
- 14 b. March 22, 1993 -- \$7 million to Merisel;
- 15 c. June 1, 1993 -- \$19.7 million to Ingram;
- 16 d. June 15, 1993 -- \$2.64 million to Merisel;
- 17 e. August 24, 1993 -- \$27.9 million to Ingram;
- 18 f. September 27, 1993 -- \$10 million to Merisel;
- 19 g. December 21, 1993 -- \$25.2 million to Ingram;
- 20 h. December 23, 1993 -- \$1.3 million to Merisel.

21 25. The terms and conditions of these quarterly agreements differed materially from
22 the standard distribution contracts that Media Vision had with Ingram and Merisel by authorizing
23 large returns, providing discounts and rebates, and extending payment terms.

24 26. At the end of each quarter in 1993 and in early 1994, as part of the interim
25 reviews and the annual audit of Media Vision's 1993 financial statements, the defendants JAIN
26 and ALLAN:

- 27 a. concealed the quarterly agreements from Ernst & Young; and
- 28 b. concealed the false sales, false inventory, hidden product returns, falsely

1 recorded shipments of product, and falsely recorded expenses from Ernst & Young.

2 C. False Statements to the SEC and the Public

3 27. It was further part of the scheme and artifice to defraud that the defendants JAIN
4 and ALLAN would and did make material false and misleading statements to the SEC and the
5 public:

6 a. Third Quarter 10-Q: On November 11, 1993, the defendant ALLAN
7 signed Media Vision's quarterly report on Form 10-Q for the quarter ended September 30, 1993,
8 and then caused the report to be filed with the SEC on November 15, 1993. The report stated the
9 following: "As is typical in the PC industry, the Company grants price protection and limited
10 rights of product exchange to its distributors." This statement was materially false and
11 misleading because the defendant JAIN and others had granted full rights of return of unsold
12 product to distributors in the third quarter of 1993. The report also contained materially false and
13 misleading financial statements in that, as defendants JAIN and ALLAN knew at the time, they
14 improperly characterized shipments in October 1993 to Sam's Club as sales in the quarter ending
15 September 1993.

16 b. 1993 Year End Results: On February 17, 1994, the defendants JAIN and
17 ALLAN released Media Vision's unaudited financial statements for the 1993 calendar year,
18 which stated that the company had revenues of approximately \$241 million and profits of
19 approximately \$20 million. In fact, as the defendants JAIN and ALLAN knew at the time, the
20 statements materially overstated both revenues and profits. When the company ultimately
21 released its audited financial statements, in August 1994, it reported about \$150 million in
22 revenue and a loss of \$99 million for calendar year 1993. These audited financial statements
23 took into account, among other things, the false sales, false inventory, hidden product returns,
24 falsely recorded shipments of product, and falsely recorded expenses.

25 c. February 17, 1994 Call: In a telephone conference call with stock analysts
26 and investors on February 17, 1994, the defendants JAIN and ALLAN announced the materially
27 false 1993 revenue and profits, falsely claimed that sales in 1994 were good, and falsely
28 explained that the failure of customers to pay was because of a conscious decision by JAIN and

1 ALLAN to extend payment terms to encourage more sales of products.

2 d. March 14, 1994 Conference: On or about March 14, 1994, the defendants
3 JAIN and ALLAN told stock market analysts at a conference in Laguna Niguel, California, that
4 Media Vision had \$95 million in revenues in the fourth quarter of 1993 and \$240 million in
5 revenues for the 1993 year; and predicted that the company would increase its 1994 revenues to
6 \$400 million. Both defendants JAIN and ALLAN knew these statements were materially false
7 because they knew that: millions of dollars of product were being or had been returned to Media
8 Vision; sales of Media Vision products were slow; sales by Media Vision to its distributors were
9 slow; Media Vision was low on cash; Media Vision's inventory consisted primarily of products
10 that were or were becoming obsolete; and the inventory at Total Transportation and a warehouse
11 leased by All Cargo still had not been recorded in Media Vision's accounting books and records.
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13 e. March 24, 1994 Call: On March 24, 1994, the defendants JAIN and
14 ALLAN told stock market analysts and others in a telephone conference call that Media Vision
15 would report a loss for the first quarter of 1994, and claimed that the loss was due to a surprise
16 price cut by Media Vision's major competitor. In fact, as both defendants JAIN and ALLAN
17 knew, Media Vision's financial problems were due to improper accounting and fraudulent sales
18 practices in 1993 and to its poor sales and high inventory in 1994. These financial problems
19 were not limited to the first quarter of 1994 and were not caused by a competitor's price cut.

20 D. False Statements to the Banks

21 28. It was further part of the scheme and artifice to defraud that the defendants JAIN
22 and ALLAN would and did make material false statements to Media Vision's banks:

23 a. On December 20, 1993, Media Vision entered into a Revolving Credit
24 Agreement with Comerica Bank-California and The First National Bank of Boston (the
25 "Banks"), which was signed by the defendant ALLAN on behalf of Media Vision. The
26 defendant ALLAN also signed a Revolving Note in the amount of \$25,000,000 for each Bank.
27 The Banks made \$50 million in credit available to Media Vision, on condition that Media Vision
28 limit its borrowings under the credit to no more than the "borrowing base", which was 75% of

1 Media Vision’s eligible accounts receivable as defined in the Revolving Credit Agreement. The
2 Revolving Credit Agreement also required that Media Vision furnish a “borrowing base
3 certificate” to the Banks in which it certified the company’s total amount of accounts receivable
4 and the portion that was eligible to use as the borrowing base. On the day that the defendant
5 ALLAN signed the Revolving Credit Agreement and Revolving Notes, and thereafter, a
6 significant number of Media Vision’s accounts receivable were not eligible to serve as a
7 borrowing base.

8 b. On February 7, 1994, the defendants JAIN and ALLAN caused Media
9 Vision’s Controller to give Comerica Bank a borrowing base certificate that they knew to be
10 materially false because it contained ineligible accounts receivable.

11 c. On or about May 4, 1994, the defendant JAIN executed a Credit
12 Agreement Dated as of December 20, 1993 and Amended and Restated as of May 4, 1994 with
13 the Banks, along with a related Security Agreement. The Amended and Restated Agreement and
14 the Security Agreement included a Schedule of Location of Chief Executive Office, Records
15 Center and Inventory Locations, which was materially false and misleading because it did not list
16 Total Transportation, 496 South Abbott, Milpitas, California, and a warehouse at 49035 Milmont
17 Drive, Milpitas, California, as inventory locations.

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1 COUNTS ONE AND TWO: (18 U.S.C. §§ 1341 and 2 -- Mail Fraud)

2 29. Paragraphs 1 through 28 are incorporated herein by reference.

3 30. On or about the following dates, for the purpose of executing the foregoing
4 scheme to defraud, the defendants PAUL JAIN and STEVEN ALLAN did place and cause to be
5 placed in an authorized depository for mail matter the following items, to be sent and delivered
6 by the United States Postal Service:

7	<u>Count</u>	<u>Date</u>	<u>Sender</u>	<u>Addressee</u>	<u>Document Mailed</u>
8	ONE	9/30/93	Media Vision Fremont, CA	Sam's Club Bentonville,AK	Invoice ## 116311-13; 116315-20; 9 116605; 116661; 116685; 10 116846; 116934; 117002; 11 117056-60; 117062-66 (false recording of sales)
12	TWO	12/31/93	Media Vision	Ingram Micro Santa Ana, CA	Invoice ## 133924 and 133932 14 (false recording of sales)

15 All in violation of Title 18, United States Code, Sections 1341 and 2.

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1 COUNTS THREE THROUGH SIX: (18 U.S.C. §§ 1341 and 2 -- Mail Fraud)

2 31. Paragraphs 1 through 28 are incorporated herein by reference.

3 32. On or about the following dates, for the purpose of executing the foregoing
4 scheme to defraud, the defendant PAUL JAIN did place and cause to be placed in an authorized
5 depository for mail matter the following items, to be sent and delivered by the United States
6 Postal Service:

7 <u>Count</u>	<u>Date</u>	<u>Sender</u>	<u>Addressee</u>	<u>Document Mailed</u>
8 THREE	12/31/93	Media Vision Fremont, CA	Egghead Issaquah, WA	Invoice ##134490 and 134492 9 (shipment of canceled 10 order)
11 FOUR	12/31/93	Media Vision Fremont, CA	Play/Tech Austin, TX	Invoice #134657 12 (unordered shipment)
13 FIVE	12/31/93	Media Vision Fremont, CA	Ingram Micro Santa Ana, CA	Invoice ##134313, 14 134322, 134325, 15 134328, 134333 (unordered shipment)
16 SIX	12/31/93	Media Vision Fremont, CA	KTL Hong Kong	Invoice ##134116, 17 134188, 133474 (never shipped chips)

18 All in violation of Title 18, United States Code, Sections 1341 and 2.
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1 COUNTS SEVEN THROUGH NINE: (18 U.S.C. §§ 1343 and 2 -- Fraud by Wire)

2 33. Paragraphs 1 through 28 are incorporated herein by reference.

3 34. On or about the following dates, for the purpose of executing the foregoing
4 scheme to defraud, the defendants PAUL JAIN and STEVEN ALLAN did transmit and cause the
5 following to be transmitted by means of wire communication in interstate and foreign commerce:

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7 Count	Date	Point of Origin	Point of Reception	Wire Communication
8 SEVEN	2/19/94	Hotz Indus. New Delhi, India	Ernst & Young San Jose, CA	Faxed inventory confirmation
9				
10 EIGHT	2/17/94	Media Vision Fremont, CA	New York, NY	Telephone conference call
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12 NINE	3/24/94	Media Vision Fremont, CA	New York, NY Boston, MA	Telephone conference call
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14 All in violation of Title 18, United States Code, Sections 1343 and 2.

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1 COUNTS TEN THROUGH THIRTEEN: (18 U.S.C. §§ 1343 and 2 -- Fraud by Wire)

2 35. Paragraphs 1 through 28 are incorporated herein by reference.

3 36. On or about the following dates, for the purpose of executing the foregoing
4 scheme to defraud, the defendant PAUL JAIN did transmit and cause the following to be
5 transmitted by means of wire communication in interstate and foreign commerce:

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7 Count	Date	Point of Origin	Point of Reception	Wire Communication
8 TEN	12/23/93	Hong Kong	Media Vision Fremont, CA	KTL faxed confirmations (drop shipments)
9				
10				
11 ELEVEN	12/24/93	Hong Kong	Media Vision Fremont, CA	KTL faxed confirmations (drop shipments)
12				
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14 TWELVE	12/25/93	Hong Kong	Media Vision Fremont, CA	KTL faxed confirmations (drop shipments)
15				
16 THIRTEEN	12/27/93	Hong Kong	Media Vision Fremont, CA	KTL faxed confirmations (drop shipments)
17				

18 All in violation of Title 18, United States Code, Sections 1343 and 2.

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1 COUNTS FOURTEEN THROUGH TWENTY-TWO: (18 U.S.C. §§ 1344 and 2 -- Bank
2 Fraud)

3 37. Paragraphs 1 through 12 and 25 are incorporated herein by reference.

4 38. From in or about June 1993 and continuing to in or about March 1994, within the
5 Northern District of California, and elsewhere, the defendants PAUL JAIN and STEVEN
6 ALLAN, knowingly and intentionally devised a scheme and artifice to defraud Comerica Bank-
7 California and The First National Bank of Boston (the "Banks"), each a financial institution, and
8 to obtain money and funds owned by and under the custody and control of the Banks by means of
9 materially false and fraudulent pretenses, representations and promises.

10 39. It was part of the scheme and artifice to defraud that the defendants JAIN and
11 ALLAN, and others, would and did falsely represent to the Banks that Media Vision's accounts
12 receivable were eligible accounts within the meaning of the Revolving Credit Agreement when,
13 in fact, as they knew, the payment terms of a substantial part of the receivables exceeded sixty
14 days and a substantial part of the receivables were for goods placed on consignment, guaranteed
15 sale, or other terms that made payment for the goods conditional. As a result, these accounts
16 were ineligible accounts receivable within the meaning of the Revolving Credit Agreement.

17 40. It was further part of the scheme and artifice to defraud that the defendants JAIN
18 and ALLAN would and did furnish and cause to be furnished to the Banks a "borrowing base
19 certificate" that contained accounts receivable that were false and that did not qualify as "eligible
20 accounts" under the terms of the Revolving Credit Agreement with the Banks.

21 41. It was further part of the scheme and artifice to defraud that the defendants JAIN
22 and ALLAN would and did falsely represent the locations of Media Vision's inventory in a
23 Schedule of Location of Chief Executive Office, Records Center and Inventory Locations (the
24 "Schedule of Inventory Locations") submitted to the Banks pursuant to the Credit Agreement
25 Dated as of December 20, 1993 and Amended and Restated as of May 4, 1994, and a related
26 Security Agreement, in that they did not list Total Transportation, 496 South Abbott, Milpitas,
27 California, and a warehouse at 49035 Milmont Drive, Fremont, California, as inventory
28 locations.

1 42. On or about the following dates, within the Northern District of California, and
2 elsewhere, the defendants JAIN and ALLAN knowingly and intentionally executed and
3 attempted to execute the scheme and artifice set forth above when they delivered and caused to
4 be delivered the following documents to the Banks:

5	<u>Count</u>	<u>Date</u>	<u>Document</u>
6	14	February 7, 1994	Borrowing base certificate
7	15	May 4, 1994	Schedule of Inventory Locations

8 43. On or about the following dates, within the Northern District of California, and
9 elsewhere, the defendants JAIN and ALLAN knowingly and intentionally executed and
10 attempted to execute the scheme and artifice set forth above when they caused Media Vision to
11 borrow the following amounts of money from the Banks:

12	<u>Count</u>	<u>Date</u>	<u>Amount of Money</u>
13	16	12/21/93	\$7,600,000
14	17	12/22/93	\$1,000,000
15	18	1/21/94	\$5,000,000
16	19	2/7/94	\$5,000,000
17	20	2/14/94	\$5,000,000
18	21	3/1/94	\$1,000,000
19	22	5/24/94	\$4,513,548.50

20 All in violation of Title 18, United States Code, Sections 1344 and 2.

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1 COUNT TWENTY-THREE: (18 U.S.C. §§ 1001 and 2 -- False Statements to the SEC)

2 44. Paragraphs 1 through 12, 20(a), 23 through 25, and 27(a) are incorporated herein
3 by reference.

4 45. On or about November 15, 1993, within the Northern District of California and
5 elsewhere, in a matter within the jurisdiction of the SEC, an agency within the Executive Branch
6 of the government of the United States of America, the defendants PAUL JAIN and STEVEN
7 ALLAN knowingly and willfully made and caused to be made false and fraudulent material
8 statements in a Form 10-Q signed by the defendant ALLAN as an officer of Media Vision and
9 filed pursuant to regulation with the SEC, in that the Form 10-Q:

10 a. falsely reported as revenue for the fiscal quarter ending September 30,
11 1993 the sales of product that, in fact, as the defendants well knew, had not been shipped by that
12 date and for which Media Vision was otherwise not entitled to recognize as revenue during that
13 reporting period, resulting in a material overstatement of revenue; and

14 b. falsely stated that Media Vision only granted "limited rights of product
15 exchange to its distributors" when, in fact, as the defendants well knew, Media Vision had
16 granted distributors the right to return unsold products.

17 All in violation of Title 18, United States Code, Sections 1001 and 2.

1 COUNT TWENTY-FOUR: (15 U.S.C. §§ 78m(b)(2) and 78ff(a), and 17 C.F.R. 240.13b2-2;
2 18 U.S.C. § 2 -- False Statements to Accountants)

3 46. Paragraphs 1 through 12, 20(a), and 23 through 26 are incorporated herein by
4 reference.

5 47. On or about October 15, 1993, within the Northern District of California and
6 elsewhere, the defendants PAUL JAIN and STEVEN ALLAN knowingly and willfully would
7 and did, directly and indirectly, (a) make and cause to be made materially false and misleading
8 statements, and (b) omit to state, and cause others to omit to state, material facts necessary in
9 order to make the statements made, in the light of the circumstances under which such statements
10 were made, not misleading to Ernst & Young in connection with (i) the audit and examination of
11 the financial statements of Media Vision, an issuer registered pursuant to Section 12 of the
12 Securities Exchange Act of 1934, required by law to be made; and (ii) the preparation of
13 quarterly and annual reports required to be filed with the SEC. Specifically, the defendants JAIN
14 and ALLAN:

15 a. represented that they made available to Ernst & Young all significant
16 contracts and agreements when, in fact, they did not make available the quarterly agreements
17 with Ingram and Merisel and the terms and conditions of sales to other customers;

18 b. represented that all material transactions had been properly recorded in
19 Media Vision's the accounting books and records underlying the interim financial statements,
20 when, in fact, the accounting books and records included shipments of product to Sam's Club in
21 October 1993 as sales in September 1993.

22 All in violation of Title 15, United States Code, Sections 78m(b)(2) and 78ff(a); Title 17,
23 Code of Federal Regulations, Section 240.13b2-2; and Title 18, United States Code, Section 2.

1 COUNT TWENTY-FIVE: (15 U.S.C. §§ 78m(b)(2) and 78ff(a), and 17 C.F.R. 240.13b2-2;
2 18 U.S.C. § 2 -- False Statements to Accountants)

3 48. Paragraphs 1 through 12, 17 through 21, and 23 through 26 are incorporated
4 herein by reference.

5 49. On or about February 15, 1994, within the Northern District of California and
6 elsewhere, the defendants PAUL JAIN and STEVEN ALLAN knowingly and willfully would
7 and did, directly and indirectly, (a) make and cause to be made materially false and misleading
8 statements, and (b) omit to state, and cause others to omit to state, material facts necessary in
9 order to make the statements made, in the light of the circumstances under which such statements
10 were made, not misleading to Ernst & Young in connection with (i) the audit and examination of
11 the financial statements of Media Vision, an issuer registered pursuant to Section 12 of the
12 Securities Exchange Act of 1934, required by law to be made; and (ii) the preparation of
13 quarterly and annual reports required to be filed with the SEC. Specifically, the defendants JAIN
14 and ALLAN:

15 a. represented that they made available to Ernst & Young all significant
16 contracts and agreements when, in fact, they did not make available the quarterly agreements
17 with Ingram and Merisel and the terms and conditions of sales to other customers;

18 b. represented that all material transactions had been properly recorded in the
19 accounting records underlying the financial statements for 1993, when, in fact, the accounting
20 records included improperly recorded false inventory; failed to record returns stored at Total
21 Transportation and at a warehouse leased by All Cargo; improperly recorded payments of
22 accounts due to Transphere as payments in advance of future advertising costs; included
23 shipments of unordered product to Ingram, Egghead, and Play/Tech at the end of 1993 as sales
24 revenue; and included shipments of product in 1994 as sales in 1993.

25 All in violation of Title 15, United States Code, Sections 78m(b)(2) and 78ff(a); Title 17,
26 Code of Federal Regulations, Section 240.13b2-2; and Title 18, United States Code, Section 2.

1 COUNT TWENTY-SIX: (15 U.S.C. §§ 78j(b) and 78ff(a) and 17 C.F.R. § 240.10b-5 --
2 Insider Trading)

3 50. Paragraphs 1 through 12, 20(a), and 27(a) are incorporated herein by reference.

4 51. In or about October 1993, within the Northern District of California, and
5 elsewhere, the defendant STEVEN ALLAN knowingly and willfully, directly and indirectly, by
6 the use of means and instrumentalities of interstate commerce, the mails, and the facilities of
7 national securities exchanges, would and did use and employ in connection with the purchase and
8 sales of securities, manipulative and deceptive devices and contrivances in violation of Title 17
9 C.F.R. § 240.10b-5, by (i) employing devices, schemes, and artifices to defraud, (ii) making
10 untrue statements of material facts and omitting to state material facts necessary in order to make
11 the statements made, in light of the circumstances under which they were made, not misleading,
12 and (iii) engaging in acts, practices, and courses of business which operated and would operate as
13 a fraud and deceit upon other persons.

14 52. In particular, on October 22, 1993, the defendant ALLAN was in possession of
15 material non-public information: namely, that revenue reported by Media Vision in statements to
16 the public and to financial analysts in September 1993, as well as in the quarterly report on Form
17 10-Q filed with the SEC on or about November 15, 1993, included revenue from products that
18 had not been shipped or for which Media Vision was otherwise not entitled to recognize revenue
19 as reported, and then, using that information, sold 25,000 shares of Media Vision stock at \$33.00,
20 which yielded gross proceeds of \$825,000.

21 All in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and 17
22 C.F.R. § 240.10b-5.

1 COUNT TWENTY-SEVEN: (15 U.S.C. §§ 78j(b) and 78ff(a) and 17 C.F.R. §240.10b-5 --
2 Insider Trading)

3 53. Paragraphs 1 through 12, 20(a), and 27(a) are incorporated herein by reference.

4 54. In or about October 1993, within the Northern District of California, and
5 elsewhere, the defendant PAUL JAIN knowingly and willfully, directly and indirectly, by the use
6 of means and instrumentalities of interstate commerce, the mails, and the facilities of national
7 securities exchanges, used and employed in connection with the purchase and sales of securities,
8 manipulative and deceptive devices and contrivances in violation of Title 17 C.F.R. § 240.10b-5,
9 by (i) employing devices, schemes, and artifices to defraud, (ii) making untrue statements of
10 material facts and omitting to state material facts necessary in order to make the statements made,
11 in light of the circumstances under which they were made, not misleading, and (iii) engaging in
12 acts, practices, and courses of business which operated and would operate as a fraud and deceit
13 upon other persons.

14 55. In particular, on October 22, 1993, the defendant JAIN was in possession of
15 material non-public information: namely, that revenue reported by Media Vision in statements to
16 the public and to financial analysts in September 1993, as well as in the quarterly report on Form
17 10-Q filed with the SEC on or about November 15, 1993, included revenue from products that
18 had not been shipped or for which Media Vision was otherwise not entitled to recognize revenue
19 as reported, and then, using that information, sold 25,000 shares of Media Vision stock at \$33.00,
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1 which yielded gross proceeds of \$825,000.

2 All in violation of Title 15, United States Code, Section 78j(b) and 78ff(a), and 17 C.F.R.
3 § 240.10b-5.

4 DATED: A TRUE BILL.

5

6 FOREPERSON _____

7 ROBERT S. MUELLER, III
8 United States Attorney

9

10 _____
11 DAVID W. SHAPIRO
12 Chief, Criminal Division

13 (Approved as to form: _____)
14 AUSA D. Shapiro

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