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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **OAKLAND DIVISION**

18 IN RE AQUA METALS, INC. SECURITIES)
19 LITIGATION)

Lead Case No.: 4:17-cv-07142-HSG

20 This document Relates to:)
21 All Actions.)

22 **STIPULATION AND ~~PROPOSED~~ ORDER**
23 **TO CORRECT NOVEMBER 16, 2020**
24 **ORDER GRANTING MOTION TO**
25 **DISMISS**

1 Pursuant to Local Rule 7-12, the Parties respectfully request the following:

2 WHEREAS, the above-captioned action is currently pending before this Court;

3 WHEREAS, on August 14, 2019, this Court issued an Order Granting in Part and Denying in Part
4 Motion to Dismiss and Motion to Strike (Dkt. 113) (the “August 2019 Order”);

5 WHEREAS, the August 2019 Order denied Defendants’ motion to dismiss as to Plaintiff’s Count
6 Two for violations of Section 10(b) and Rule 10b-5(a) and (c) scheme liability, and Count Three, Section
7 20(a) control liability claim, as the 20(a) claims relates to Count Two;

8 WHEREAS, the August 2019 Order also granted the Defendants’ motion to dismiss as to Plaintiff’s
9 Count One for violations of Section 10(b) and Rule 10b-5(b) misrepresentation, and Count Three for
10 violations of Section 20(a) control liability, as the 20(a) claims relates to Count One, with leave to amend;

11 Whereas, on September 20, 2019, Plaintiff filed an amended complaint;

12 Whereas, on November 1, 2019, Defendants moved to dismiss the amended complaint as to
13 Plaintiff’s Count One for violations of Section 10(b) and Rule 10b-5(b) misrepresentation and Count Three
14 for violations of Section 20(a) control liability as the 20(a) claims relates to Count One only (the “Second
15 Motion to Dismiss”);

16 WHEREAS, on November 16, 2020, this Court issued an Order Granting Motion to Dismiss (Dkt.
17 141) (the “November 2020 Order”);

18 WHEREAS, the first sentence under Section V (titled “CONCLUSION”) on page 31, lines 12-14
19 of the November 2020 Order states, in part, that the Court grants “Defendants’ motion to dismiss the Section
20 10(b), Rule 10b-5(a) and (c) scheme liability claim and Section 20(a) control person liability claim as it
21 relates to Count One”;

22 WHEREAS, the reference to Rule 10b-5(a) and (c) scheme liability claim is a clerical error;

23 WHEREAS, in order to correct this clerical error, the aforementioned sentence in the November
24 2020 Order should be corrected to delete the words “Rule 10b-5(a) and (c) scheme liability claim” and
25 replace them with “Plaintiff’s Count One Section 10(b) and Rule 10b-5(b) misrepresentation claim;”

26 THEREBY, IT IS HEREBY STIPULATED AND AGREED, by and among the parties hereto, that:

1 The first sentence under Section V, on page 31, of the November 2020 Order shall be corrected by
2 deleting the words “Rule 10b-5(a) and (c) scheme liability claim” and replacing them with “Plaintiff’s Count
3 One Section 10(b) and Rule 10b-5(b) misrepresentation claim;”
4

5 IT IS SO STIPULATED.

6 DATED: March 22, 2021

Respectfully submitted,

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8 *Counsel for the Lead Plaintiff Plymouth County Group*
9 *and Co-Lead Counsel for the Class*

10 DATED: March 22, 2021

11 Respectfully submitted,

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26 *Counsel for Defendants Aqua Metals, Inc., Thomas*
27 *Murphy, and Selwyn Mould*

1 DATED: March 22, 2021

Respectfully submitted,

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Counsel for Defendant Stephen R. Clarke


[PROPOSED] ORDER

It is hereby ordered that:

The first sentence under Section V on page 31 of the Court's November 19, 2020 Order, titled "CONCLUSION," shall be corrected by deleting the words "Rule 10b-5(a) and (c) scheme liability claim" and replacing them with "Plaintiff's Count One Section 10(b) and Rule 10b-5(b) misrepresentation claim."

PURSUANT TO STIPULATION IT IS SO ORDERED.

Dated: 3/23/2021


HON. HAYWOOD S. GILLIAM, JR.
UNITED STATES DISTRICT JUDGE