



## PhotoMedex: Letter Alleges Faulty Equipment, Possible Cover-Up

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PhotoMedex (PHMD) is poised for another shocker on top of the one sparked by its \$85 million loan covenant default just described by TheStreetSweeper.

Now the TheStreetSweeper has discovered a jolting new risk wrapped up in a “Laser-gate” letter that suggests management knew about dangerous equipment problems and tried to quietly fix them, allegedly without notifying federal regulators.

Best known for TV ads touting its roughly \$300 no!no! hair removers that work no better than common \$3 razors, the Horsham, Pa. company’s segment under fire now is its laser business.

TheStreetSweeper obtained a copy of a letter just sent to the FDA on Oct. 7, requesting an investigation into PHMD’s XTRAC laser machines and what the whistleblower implies may have been a company cover-up of some laser machines’ dangerous random firing action.

### **Laser-Gate Letter: XTRAC Lasers Spark At Random**

About 1,000 allegedly hazardous faulty PHMD XTRAC lasers may be in operation, states a letter to the FDA compliance division from a letter-writer self-described as a former mid-level employee.

Under normal conditions, the laser firing trigger may allegedly shoot sporadic sparks of laser, according to the letter. These random firings are described as potential hazards to patients as well as doctors, nurses and other laser technicians.

TheStreetSweeper also has obtained a video that appears to show the wand of an XTRAC machine – about the size of a dishwasher – shooting out sparks as the wand is moved around.

“Although complaints were received by the company of lasers firing un-intentionally, these complaints were not filed or identified on the orders of senior management (Jeff Levatter, Chief Technology Office),” states the letter.

Federal regulators would want to know about such risks, of course. Rather than notifying the FDA, the letter states the company published a single page safety procedure document.

But the document lacked a document control number, the Laser-gate letter states, “so its existence could be denied by management.”

## **Modifications Quietly Accomplished?**

PHMD modified many lasers in the field but the letter contends PHMD kept old numbers on the new pieces of equipment so as not to attract attention.

The letter describes alleged additional fiddling with equipment numbers, adding:

“The company was careful to do this so that these efforts would be difficult to trace and discover by investigators, particularly investigators from the FDA.”

“Many lasers have not been modified as of today,” states the letter, “and have the problem where the laser will uncontrollably release radiation even when used properly with no failure of components.”

The Laser-gate letter, wraps up with:

“Please investigate these issues to avoid injuries to patients and help this facility to correct these deficiencies.”

An FDA spokeswoman said the administration does not comment on complaint letters. In the interest of protecting the public, the FDA could launch an investigative inspection.

PHMD has not returned TheStreetSweeper’s numerous calls for comment.

## **Alleged Defect Interlocked With Default Issues**

If the Laser-gate allegations prove to be true, they may point to management issues similar to those we’ve discussed previously.

“Look at Dolev (CEO Dolev Rafaeli) – what he was saying in those calls and how management was addressing investors. Fast forward to today,” said Hamed Khorsand of BWS Financial. “It seems they were either arrogant or distracted by trying to defend themselves at every angle. Instead of executing on an actual business strategy.”

PHMD’s recent business strategy involved digging its way out of its declining no!no! segment by paying \$106 million for money-losing LCA-Vision laser vision correction company.

Within weeks, PHMD defaulted on loan covenants and now faces unsavory options, as TheStreetSweeper described earlier.

Along with paying big money to claim LCA’s revenues, PHMD management’s plan involves placing XTRAC laser boxes in LCA-Vision clinics and cross-training call center agents.

So the last thing PHMD needs right now is to get its hands slapped over Laser-gate – or even worse, face a reputation-damaging and lawsuit-producing product recall. The company’s already had a big handful of inspections and FDA [Warning Letters](#) with attached regulatory matters resolved just last March.

## Insiders Keep Selling Stock

“I don’t find anything attractive about this company,” said Fred Russell of Frederic E. Russell Investment Management Co.

“And I recall that one of the warning signs about its future was the fact you exposed very well in your story ... the company announced a share repurchase and ... the CEO was selling a huge block of stocks,” said Mr. Russell. “So that would be, at the minimum, very worrisome.”

Indeed, since our articles published last fall, the CEO, Mr. Rafaeli - whose total 2013 compensation exceeded \$3 million - continues his massive stock sales. And chief financial officer Dennis McGrath – whose total 2013 compensation fell just short of \$1 million - joined him. Since December, they’ve dumped more than \$7 million worth of the company’s stock.

All in all, with the Laser-gate allegations, the covenant default, declining finances and management’s actions, PHMD is at best worrisome. And we agree with Mr. Russell’s understated assessment.

“I’m not sure the stock has great appreciation potential,” said Mr. Russell.

*\* Important Disclosure: The owners of TheStreetSweeper hold a short position in PHMD and stand to profit on any future declines in the stock price.*

*Editor’s Note: As a matter of policy, TheStreetSweeper prohibits members of its editorial team from taking financial positions in the companies that they cover. To contact Sonya Colberg, the author of this story, please send an email to [scolberg@thestreetsweeper.org](mailto:scolberg@thestreetsweeper.org).*

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