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VISX INC
Form PREC14A
April 10, 2003

SCHEDULE 14A
Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934 (Amendment No. ___)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
 Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
 Definitive Proxy Statement
 Definitive Additional Materials
 Soliciting Material Pursuant to Section 240.14a-12

VISX, Incorporated

(Name of Registrant as Specified In Its Charter)

Carl C. Icahn, Barberry Corp. and High River Limited Partnership

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (check the appropriate box):

- No fee required.
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- 1) Title of each class of securities to which transaction applies:
 - 2) Aggregate number of securities to which transaction applies:
 - 3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
 - 4) Proposed maximum aggregate value of transaction:
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- 1) Amount Previously Paid:
- 2) Form, Schedule or Registration Statement No.:
- 3) Filing Party:
- 4) Date Filed:

CARL C. ICAHN
767 Fifth Avenue - 47th Floor
New York, NY 10153

April __, 2003

Dear Fellow VISX Shareholder:

Through my affiliated companies, I am the largest shareholder of VISX, holding over 6 million shares, which is in excess of 11% of the outstanding shares. We have held this position for the past 2 1/2 years. My affiliated companies are conducting a proxy solicitation to place Keith Meister, an individual nominated by my affiliates, on the VISX Board.

I believe that public companies, such as VISX, benefit by having individuals nominated by shareholders serve on their board of directors, rather than having boards comprised solely of persons nominated by existing directors. Individuals nominated by shareholders are likely to be more independent of management and therefore will be in a better position to represent the interests of shareholders. I believe that management and board members nominated by company nominating committees often seek to retain their fiefdoms and may therefore discourage potential sales of companies.

On November 3, 2000, at which time VISX common stock was trading at \$22.25 (having come off of its high of \$103.75 achieved on July 28, 1999), I began a series of letters to VISX. In those letters, I indicated to VISX management that it was an appropriate time to seek a sale of the company. On December 8, 2000, in a letter to shareholders, the chief executive officer of VISX stated that it had hired Goldman Sachs & Co. to explore "various alternatives". I do not know what alternatives may have been considered by the VISX Board, but no alternatives were presented for a vote of shareholders. Managements that do not really want to pursue strategic alternatives, can, with a "wink and a nod," communicate this fact to their investment bankers and, remarkably, no proposals will be obtained by the bankers. I don't know that anything like that ever happened at VISX. However, I do know that Mr. Meister will keep careful watch to assure that such activity does not occur.

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VISX common stock has risen 50% since March 10, 2003. Expectations regarding the Company's new CustomVue Vision Correction System, which is awaiting Food and Drug Administration approval for the treatment of myopia and astigmatism, may be an important factor in that increase. The most recent VISX report on Form 10K notes that there is a potential market in the U.S. alone of 50-60 million eligible laser vision correction candidates, but that to date the industry has penetrated less than 5% of the U.S. population eligible for refractive surgery. Although I believe that VISX management has done a good job in creating technology, I believe that for laser vision correction to achieve maximum consumer acceptance, it will be necessary to engage in directed, high profile marketing efforts, something that, in my opinion, has not been done by VISX. As the new CustomVue technology is introduced, I believe there will be great interest in purchasing the company. The most likely buyers will be large companies in the healthcare area. Such a potential purchaser, with far more capital and distribution capabilities than VISX, will be far more proficient than current VISX, not only in developing excellent technology, but also in growing the market for laser vision correction through appropriate, consumer oriented marketing. Additionally, as demand for laser technology grows by practicing ophthalmologists, a company with a larger marketing presence in this area will be much better suited than VISX to compete with companies such as Alcon, Inc. for these buyers and therefore will have a much better chance than current VISX to retain and expand market share.

Why is VISX afraid to let Mr. Meister on the Board? VISX could have avoided spending company capital and time by simply allowing Mr. Meister, the individual nominated by its largest shareholder, to join the VISX Board. I believe that having Mr. Meister on the VISX Board will enhance the likelihood that any proposal to acquire VISX will receive a full and fair hearing at VISX. I would personally support a sale of the Company at a price of \$22 per share.

As a philosophical matter, I believe that boards of directors, whether that of VISX or any other company, should be composed entirely of shareholder nominees. However, I have determined that, rather than seek such a substantial Board change at VISX, it is more desirable to seek to place only one member on the VISX Board at this time. This approach has the benefit of assuring VISX shareholders who so desire, that there will be substantial continuity at VISX, while at the same time providing to VISX shareholders the opportunity to add Mr. Meister, an individual not nominated by existing VISX Board members, to the VISX Board. Mr. Meister, a Harvard graduate, has had significant investment banking and business experiences both at Lazard Freres and at Northstar Capital Partners. Currently, he serves in the capacity of senior investment analyst with one of my affiliates. Mr. Meister has not been nominated for his background in laser vision technology or the industry. There is sufficient expertise in those areas on the VISX Board already. However, I believe that Mr. Meister's finance and business background and his experience in merger and acquisition transactions, will supplement the current Board. Mr. Meister's biographical information is set forth in the attached proxy statement.

Naturally, I expect that VISX will assert that even the addition of one board member selected by shareholders may be disruptive or will otherwise interfere with the smooth operation of VISX. However, as the largest VISX shareholder, I would certainly have no interest in taking any action, including the addition of Mr. Meister to the VISX Board, if I thought that VISX would suffer as a result. Moreover, I believe that as the largest shareholder, with an investment of in excess of \$140 million in the Company, my interest in benefiting VISX is at least as great as that of the existing board, which has very little invested in the Company. Of the [1,708,093] shares of VISX common stock reported in the company's [proxy statement dated April __, 2003] as beneficially owned by the VISX Board's nominees for directorship, approximately 97% are held in the form of options granted by the company.

The addition of Mr. Meister to the VISX Board does not mean that all 7 VISX

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nominees cannot continue to serve as Board Members. If Mr. Meister is elected, and if a majority of the other Board members thereafter determine that it would be desirable to allow the individual against whom Mr. Meister will be running to continue as a member of the VISX Board, the Board could permit that result by increasing the size of the Board and appointing that individual as an additional member. That individual was not selected as an opponent of Mr. Meister for any particular reason. Rather, under applicable law, it is necessary for Mr. Meister to run against an individual opponent for a Board position.

I believe that true shareholder democracy involves shareholders expressing their rights and that elections of corporate boards should be more than a coronation process for board members' self perpetuation through self-nomination. In this regard, I agree with the statements of Securities and Exchange Commissioner Paul S. Atkins, who, in a speech on March 27, 2003, asked: "shouldn't shareholders have more say than simply whether to buy, hold or sell their stock? Just as with socialism, the danger is that if a large number of dispersed people supposedly own something, then in reality, no one owns it and oversees it." Commissioner Atkins further noted, "strong concerns that management is free under current rules to dominate the proxy agenda, influence shareholder votes through exclusive ability to examine balloting results and unilaterally use corporate funds to subsidize solicitations". I URGE SHAREHOLDERS TO VOTE FOR MR. MEISTER AND THEREBY JOIN ME IN MY EFFORT TO ADD TO THE BOARD AN INDIVIDUAL SELECTED OUTSIDE OF THE "BUSINESS AS USUAL" NOMINATION PROCESS UNDER WHICH ALL BOARD MEMBERS ARE NOMINATED BY EXISTING VISX DIRECTORS.

Very truly yours,

Carl C. Icahn

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IMPORTANT

Please sign, date and return the enclosed [WHITE] proxy card today in the postage-paid envelope provided. Do not sign any proxy card that you may receive or have received from VISX. You may also revoke any proxy you previously signed and submitted by signing, dating and returning the enclosed [WHITE] proxy card.

If you have any questions, or need assistance in voting your shares, please contact the firm assisting us in the solicitation of proxies:

Innisfree M&A Incorporated
TOLL-FREE: (877)-750-9501
Banks and Brokers call collect: (212) 750-5833

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2003 ANNUAL MEETING OF STOCKHOLDERS
OF
VISX, INCORPORATED

PROXY STATEMENT
OF
BARBERRY CORP.

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This Proxy Statement and the accompanying [WHITE] proxy card are being furnished to stockholders ("Stockholders") of VISX, Incorporated ("VISX" or the "Company") in connection with the solicitation of proxies by Barberry Corp. ("Barberry"), a Delaware corporation controlled by Carl C. Icahn, to be used at the 2003 Annual Meeting (the "Annual Meeting"), of Stockholders of VISX which is scheduled to be held at 8:00 a.m. local time on May __, 2003 at VISX's principal executive offices located at 3400 Central Expressway, Santa Clara, California 95051, and at any adjournments, postponements or continuations thereof.. This Proxy Statement and the [WHITE] proxy card are first being furnished to Stockholders on or about April __, 2003.

At the Annual Meeting, Barberry will seek to elect to the Board of Directors of VISX one (1) nominee, Keith Meister (the "Nominee"), who has been selected by Mr. Icahn and has consented, if elected, to serve as a director.

MR. ICAHN URGES STOCKHOLDERS TO VOTE FOR MR. MEISTER AND THEREBY JOIN HIM IN HIS EFFORT TO ADD TO THE BOARD AN INDIVIDUAL SELECTED OUTSIDE OF THE "BUSINESS AS USUAL" NOMINATION PROCESS UNDER WHICH ALL BOARD MEMBERS ARE NOMINATED BY EXISTING VISX DIRECTORS.

WE URGE YOU TO VOTE YOUR [WHITE] PROXY CARD FOR THE NOMINEE.

IF YOUR SHARES ARE HELD IN THE NAME OF A BROKERAGE FIRM, BANK, BANK NOMINEE OR OTHER INSTITUTION ON THE RECORD DATE, ONLY IT CAN VOTE SUCH SHARES AND ONLY UPON RECEIPT OF YOUR SPECIFIC INSTRUCTIONS ACCORDINGLY, PLEASE CONTACT THE PERSON RESPONSIBLE FOR YOUR ACCOUNT AND INSTRUCT THAT PERSON TO EXECUTE ON YOUR BEHALF THE [WHITE] PROXY CARD AS SOON AS POSSIBLE.

IMPORTANT

The election of the Nominee requires the affirmative vote of a plurality of the votes cast, assuming a quorum is present or otherwise represented at the Annual Meeting. As a result, your vote is extremely important. We urge you to mark, sign, date and return the enclosed [WHITE] proxy card to vote FOR the election of the Nominee.

WE URGE YOU NOT TO SIGN ANY PROXY CARD SENT TO YOU BY VISX. IF YOU HAVE ALREADY DONE SO, YOU MAY REVOKE YOUR PROXY BY DELIVERING A LATER-DATED [WHITE] PROXY CARD IN THE ENCLOSED POSTAGE-PREPAID ENVELOPE, OR BY VOTING IN PERSON AT THE ANNUAL MEETING. SEE "VOTING PROCEDURES" AND "PROXY PROCEDURES" BELOW.

Only holders of record of VISX's voting securities as of the close of business on April __, 2003, the record date (the "Record Date") established by VISX, are entitled to notice of, and to attend and to vote at the Annual Meeting and any adjournments or postponements thereof. According to the Company's proxy statement filed with the Securities and Exchange Commission, as of April __, 2003, there were outstanding approximately _____ shares of common stock, par value \$.01 per share (the "Common Stock"). Stockholders of record at the close of business on the Record Date will be entitled to one vote at the Annual Meeting for each share of Common Stock of VISX held on the Record Date.

As of the Record Date, Mr. Icahn, Barberry and its affiliates beneficially will own an aggregate of 6,020,005 shares of Common Stock, representing approximately 11.67% of the outstanding shares of Common Stock. Barberry and its affiliates intend to vote such shares FOR the election of the Nominee.

VOTE FOR THE NOMINEE BY RETURNING YOUR COMPLETED [WHITE] PROXY TODAY.

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PARTICIPANTS IN SOLICITATION OF PROXIES

In addition to the Nominee, the participants (the "Participants") in the solicitation of proxies are Barberry and its affiliate High River Limited Partnership ("High River"), both of which entities are owned directly or indirectly by Mr. Icahn, and Gail Golden, the spouse of Mr. Icahn.

High River is a Delaware limited partnership, principally engaged in the business of investing in securities. High River's general partner is Barberry. Barberry is primarily engaged in the business of investing in securities. The principal business address of each of High River and Barberry 1 Wall Street Court, 9th floor, New York, New York 10005.

Carl C. Icahn, age 67, has served as Chairman of the Board and a Director of Starfire Holding Corporation (formerly Icahn Holding Corporation), a privately-held holding company, and Chairman of the Board and a Director of various subsidiaries of Starfire, including ACF Industries, Incorporated, a privately-held railcar leasing and manufacturing company, since 1984. He has also been Chairman of the Board and President of Icahn & Co., Inc., a registered broker-dealer and a member of the National Association of Securities Dealers, since 1968. Since November 1990, Mr. Icahn has been Chairman of the Board of American Property Investors, Inc., the general partner of American Real Estate Partners, L.P., a public limited partnership that invests in real estate. Mr. Icahn has been a Director of Cadus Pharmaceutical Corporation, a firm which holds various biotechnology patents, since 1993. From August 1998 to August 2002 Mr. Icahn served as Chairman of the Board of Maupintour Holding LLC (f/k/a Lowestfare.com, LLC), an internet travel reservations company. From October 1998, Mr. Icahn has been the President and a Director of Stratosphere Corporation which operates the Stratosphere Hotel and Casino. Mr. Icahn received his B.A. from Princeton University. Since September 29, 2000, Mr. Icahn has served as the Chairman of the Board of GB Holdings, a holding company that owns the Sands Hotel and Casino in Atlantic City, New Jersey. In January 2003 Mr. Icahn became Chairman of the Board and a Director of XO Communications, Inc., a telecommunications company. Mr. Icahn's principal business address is c/o Icahn Associates Corp., 767 Fifth Avenue, 47th Floor, New York, New York 10153. Please see Appendix II for additional information.

Gail Golden, age 53, has served as the Chief Executive Officer and Vice Chairman of Maupintour LLC, a luxury tour operator since August 2001 and October 1999, respectively. Ms. Golden also serves as the Chief Executive Officer of Maupintour Holding LLC (f/k/a Lowestfare.com, LLC), an internet travel reservations company since August 2001 and as Vice Chairman since February 1999 and served as President from February 1999 to November 1999 and Chief Executive Officer from August 1995 to January 1999. Ms Golden has also served in several capacities with Lowestfare.com, Inc. including Vice Chairman of the Board of Directors from August 1998 to June 2002 and President from August 1998 to November 1999. Ms. Golden also served as Chief Executive Officer and President of Global Travel Marketing, a telephone travel reservations company, from June 1995 to August 2002. Ms. Golden has served as Vice President of Administration of Icahn Associates Corp., a privately owned holding company, since May 1985. Since 1978, Ms. Golden has served in various capacities at Icahn & Co., Inc., a registered broker-dealer and a member of the National Association of Securities Dealers, including Director of Public and Investor Relations and Director of Human Resources. Ms. Golden also serves in various executive capacities for privately-owned entities controlled by Mr. Icahn. Ms. Golden is a Director and Vice-President and Secretary of the Icahn Charitable Foundation, Director Vice-President and Secretary of the Icahn Family Foundation and Director and Secretary of the Foundation for a Greater Opportunity. Ms. Golden's principal business address is c/o Icahn Associates Corp., 767 Fifth Avenue, 47th Floor,

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New York, New York 10153.

Mr. Icahn, through the companies he owns, may be deemed to be the indirect beneficial owner of 6,020,005 shares of the Common Stock, which represents approximately 11.67% of outstanding shares of Common Stock.

High River is the direct beneficial owner of 3,245,505 shares of the Common Stock. Barberry is the direct beneficial owner of 2,774,500 shares of the Common Stock and, in addition, as the sole general partner of High River, Barberry may be deemed to be the indirect beneficial owner of 3,245,505 shares of the Common Stock. Gail Golden is the direct beneficial owner of 1,800 shares of the Common Stock. Ms. Golden purchased such shares with her personal funds.

The purchase of the 6,020,005 shares of Common Stock was made with working capital of Barberry and High River and pursuant to margin accounts in the regular course of business. As of April __, 2003, each of Barberry and High River has a substantial portion of the Common Stock in a margin account that has a debit balance

All transactions in the securities of VISX effected within the past 2 years by High River, Barberry, and other affiliates of Mr. Icahn are contained in Appendix I attached hereto.

ELECTION OF DIRECTORS

According to VISX's proxy statement in connection with the Annual Meeting, VISX's management is going to nominate seven (7) candidates for the election as directors. Barberry proposes that VISX Stockholders elect Keith Meister to be nominated by Barberry as one of the Directors of VISX at the Annual Meeting. If elected, Mr. Meister would hold office until the 2004 Annual Meeting of Stockholders and until a successor has been elected and qualified. Although Barberry does not anticipate that Mr. Meister will be unable or unwilling to stand for election, in the event of such occurrence, proxies may be voted for a substitute designated by Barberry.

Background information about Mr. Meister is set forth below. Mr. Meister not receiving any compensation from Mr. Icahn, Barberry or any of their affiliates in connection with this proxy solicitation. See Appendix I for additional information about Mr. Meister.

Keith Meister, 30, has served as senior investment analyst of High River Limited Partnership, a company affiliated with Carl C. Icahn, since June, 2002. From March 2000 through 2001, Mr. Meister co-founded and served as co-president of J Net Ventures, a venture capital fund focused on investments in information technology and enterprise software businesses. From 1997 through 1999, Mr. Meister served as an investment professional at Northstar Capital Partners, an opportunistic investment partnership with assets in excess of \$2 billion. Prior to Northstar, Mr. Meister served as an investment analyst in the investment banking group at Lazard Freres. Mr. Meister received his A.B. in Government (cum laude) from Harvard College in 1995. Mr. Meister is a director of XO Communications, Inc.

WE STRONGLY URGE YOU TO VOTE FOR THE ELECTION OF MR. MEISTER BY SIGNING, DATING AND RETURNING THE ENCLOSED [WHITE] PROXY CARD IN THE POSTAGE PAID ENVELOPE PROVIDED TO YOU WITH THIS PROXY STATEMENT. IF YOU HAVE SIGNED THE [WHITE] PROXY CARD AND NO MARKING IS MADE, YOU WILL BE DEEMED TO HAVE GIVEN A DIRECTION TO VOTE THE SHARES REPRESENTED BY THE [WHITE] PROXY CARD FOR THE ELECTION OF MR. MEISTER.

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The Nominee has not engaged in any transactions in securities of VISX during the past two years, and owns no securities of VISX or any parent or subsidiary of VISX either of record or beneficially. In addition, and except as stated herein, neither the Nominee nor any of his associates has any agreement or understanding with respect to future employment by VISX and no such person has any agreement or understanding with respect to any future transactions to which VISX will or may be a party.

Except as described herein, neither Nominee nor any of his associates (i) has engaged in or had a direct or indirect interest in any transaction or series of transactions since the beginning of VISX's last fiscal year or in any currently proposed transaction, to which VISX or any of its subsidiaries is a party, where the amount involved was in excess of \$60,000, or (ii) borrowed any funds for the purpose of acquiring or holding any securities of VISX or is presently, or has been within the past year, a party to any contract, arrangement or understanding, with any person with respect to securities of VISX.

AGREEMENTS WITH THE NOMINEE

High River has entered into a letter agreement (the "Nominee Agreement") with the Nominee with respect to his service as nominee, to stand for election as a Director of VISX at the Annual Meeting. The Nominee Agreement provides, among other things, as follows:

* The Nominee has acknowledged that he has agreed to become a member of the slate to stand for election as directors of the VISX in connection with a proxy contest with management of VISX in respect of the election of directors of VISX at the Annual Meeting.

* High River has agreed to pay the costs of the proxy contest.

* High River has agreed to indemnify the Nominee from and against any losses incurred by the Nominee arising from any action relating to the Nominee's role as a nominee, absent gross negligence or willful misconduct.

OTHER MATTERS TO BE CONSIDERED AT THE ANNUAL MEETING

According to VISX's Proxy Statement, VISX is soliciting proxies with respect to three (3) proposals other than the election of directors. Please refer to VISX's Proxy Statement for a detailed discussion of those proposals, including various arguments, if any, in favor of and against such proposals. Those proposals are referred to below.

Proposal 2 - Approval of Amendments to 1995 Director Option Plan

At the Annual Meeting, the Stockholders will be asked to approve certain amendments to the VISX 1995 Director Option Plan. Barberry recommends a vote FOR this proposal.

Proposal 3 -- Approval of Amendments to 2000 Stock Plan

At the Annual Meeting, the Stockholders will be asked to approve certain amendments to the VISX 2000 Stock Plan. Barberry recommends a vote FOR this proposal.

Proposal 4 -- Ratification of Appointment of Independent Auditors

At the Annual Meeting, the Stockholders will be asked to ratify the

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appointment of KPMG LLP as VISX's independent auditors for the year ending December 31, 2003. Barberry recommends a vote FOR this proposal.

Voting on Proposals 2, 3 and 4

The accompanying [WHITE] proxy card will be voted in accordance with your instruction on such card. You may vote for or vote against, or abstain from voting on any of Proposals 2, 3 or 4 described above by marking the proper box on the [WHITE] proxy card. IF YOU HAVE SIGNED THE PROXY CARD AND NO MARKING IS MADE, YOU WILL BE DEEMED TO HAVE GIVEN A DIRECTION TO VOTE THE SHARES REPRESENTED BY THE [WHITE] PROXY CARD FOR PROPOSALS 2, 3 and 4.

Other Proposals

Barberry and its affiliates know of no other business to be presented at the Annual Meeting, but if other matters do properly come before the Annual Meeting, the persons appointed in the proxy will use their discretion to vote the shares of Common Stock represented by [WHITE] proxy cards in accordance with their judgment on such matters.

VOTING PROCEDURES

According to the VISX Proxy Statement, the voting procedures are as set forth below. Votes cast by proxy or in person at the Annual Meeting will be tabulated by the Inspector of Elections, EquiServe, L.P. (the "Inspector"), VISX's Transfer Agent. The Inspector will also determine whether or not a quorum is present. The presence at the Annual Meeting, in person or by proxy, of the holders of a majority of the shares of Common Stock outstanding on the Record Date will constitute a quorum. All proxies representing shares that are entitled to vote at the meeting will be counted toward establishing a quorum, regardless of whether such proxies contain abstentions or broker non-votes.

The affirmative vote of a plurality of the votes cast at the meeting is required for the election of directors. A properly executed proxy marked "Withhold Authority" and broker non-votes with respect to the election of one or more directors will not be voted with respect to the director or directors indicated. The affirmative vote of the holders of a majority of the votes cast at the meeting will be required to ratify each other proposal.

Whether or not you are able to attend the Annual Meeting, you are urged to complete the enclosed [WHITE] proxy and return it in the enclosed self-addressed, prepaid envelope. All valid proxies received prior to the meeting will be voted. If you specify a choice with respect to any item by marking the appropriate box on the proxy, the shares will be voted in accordance with that specification. IF NO SPECIFICATION IS MADE, THE SHARES WILL BE VOTED FOR THE NOMINEE AND FOR THE PERSONS WHO ARE EXPECTED TO BE NOMINATED BY VISX, OTHER THAN MR. JAY T. HOLMES, WHOM WE ARE SEEKING TO REPLACE, WITH RESPECT TO PROPOSAL 1 AND FOR PROPOSALS 2, 3 AND 4, AND, IN THE PROXY HOLDERS' DISCRETION AS TO OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE ANNUAL MEETING. The names, backgrounds and qualifications of the VISX's nominees, and other information about them, can be found in the proxy statement distributed by VISX. There is no assurance that any of the VISX's nominees will serve as directors if the Nominee is elected.

This proxy statement is soliciting proxies to elect not only Mr. Meister, but also all of the VISX nominees other than Mr. Holmes. This gives stockholders who wish to vote for Mr. Meister and such other persons the ability to do so. Mr. Holmes was not selected as an opponent of Mr. Meister for any particular reason. Rather, under applicable law, it is necessary for Mr. Meister to run against an individual opponent for a Board position. Mr. Icahn notes that if Mr. Meister is elected, and if a majority of the other Board members thereafter determines that it would be desirable that Mr. Holmes continue as a member of

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the Board of Directors, the Board could permit that result by increasing the size of the Board and adding Mr. Holmes as an additional member.

PROXY PROCEDURES

IN ORDER FOR YOUR VIEWS TO BE REPRESENTED AT THE ANNUAL MEETING, PLEASE MARK, SIGN, DATE AND RETURN THE ENCLOSED [WHITE] PROXY CARD IN THE ENCLOSED POSTAGE-PREPAID ENVELOPE.

The accompanying [WHITE] proxy card will be voted at the Annual Meeting in accordance with your instructions on such card.

Revocation of Proxies

Any Stockholder who has mailed a [VISX COLOR] proxy card to VISX may revoke it before it is voted by mailing a duly executed [WHITE] Proxy Card to Barberrry bearing a date LATER than the [VISX COLOR] proxy card delivered to VISX. Proxies may also be revoked at any time prior to voting by: (i) delivering to the corporate secretary of VISX, a written notice, bearing a date later than the date of the proxy, stating that the proxy is revoked, (ii) delivering a duly executed proxy bearing a later date than the proxy delivered previously, or (iii) by attending the Annual Meeting and voting in person.

Only holders of record as of the close of business on the Record Date will be entitled to vote. If you were a Stockholder of record on the Record Date, you will retain your voting rights at the Annual Meeting even if you sell such shares after the Record Date. Accordingly, it is important that you vote the shares held by you on the Record Date, or grant a proxy to vote such shares on the [WHITE] proxy card, even if you sell such shares after the Record Date.

COST AND METHOD OF SOLICITATION

Solicitation of proxies shall be made by Mr. Icahn and Mr. Meister. No other director, officer or employee of Barberrry or its affiliates will be soliciting proxies.

Barberrry has retained Innisfree M&A Incorporated ("Innisfree") to conduct the solicitation, for which Innisfree is to receive a fee of up to approximately \$_____, plus reimbursement for its reasonable out-of-pocket expenses. Barberrry has agreed to indemnify Innisfree against certain liabilities and expenses, including certain liabilities under the federal securities laws. Insofar as indemnification for liabilities arising under the federal securities laws may be permitted to Innisfree pursuant to the foregoing provisions, we have been informed that in the opinion of the Securities and Exchange Commission, such indemnification is against public policy and is therefore unenforceable. Proxies may be solicited by mail, courier services, Internet, advertising, telephone or telecopier or in person. It is anticipated that Innisfree will employ approximately 75 persons to solicit proxies from Stockholders for the Annual Meeting. The total expenditures in furtherance of, or in connection with, the solicitation of securities holders is \$_____ to date, and is estimated to be \$300,000 in total.

Costs related to the solicitation of proxies, including expenditures for attorneys, accountants, public relations and financial advisers, proxy solicitors, advertising, printing, transportation and related expenses, will be borne by Barberrry and Mr. Icahn. Barberrry and Mr. Icahn intend to seek reimbursement for the costs and expenses associated with the proxy solicitation in the event that the Nominee is elected to the Board of Directors of VISX, but do not intend to submit the issue of reimbursement to a vote of security

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holders.

CERTAIN INFORMATION REGARDING ARRANGEMENTS/UNDERSTANDINGS WITH RESPECT TO SECURITIES OF VISX

Mr. Icahn, High River, Barberry and Ms. Golden may be deemed to have an understanding with respect to securities of VISX as they may be deemed to constitute a "group" for the purposes of Section 13(d) of the Securities Exchange Act of 1934. As a consequence of being deemed a "group", such parties are required to and have made Schedule 13D filings as a group. Such Schedule 13D filings are publicly available at the Securities and Exchange Commission website: www.sec.gov.

ADDITIONAL INFORMATION

Certain information regarding the securities of VISX held by VISX's Directors, nominees, management and 5% Stockholders is contained in VISX's Proxy Statement and is incorporated herein by reference. Information concerning the date by which proposals of security holders intended to be presented at the next annual meeting of Stockholders of VISX must be received by VISX for inclusion in VISX's proxy statement and form of proxy for that meeting is also contained in VISX's proxy statement and is incorporated herein by reference.

Date: April __, 2003

BARBERRY CORP.

APPENDIX I

SUPPLEMENTAL NOMINEE AND OTHER INFORMATION

Set forth below is (a) the name and business address of each of the participants and their associates in the solicitation made pursuant to this Proxy Statement, and (b) the dates, types and amounts of each participant's purchases and sales of the Company's debt and equity securities within the past two years. Except for High River, Barberry, Mr. Icahn and Ms. Golden, the only other participant is the Nominee.

NAME AND BUSINESS ADDRESS	DATE OF TRANSACTION	NUMBER OF SECURITIES PURCHASED	CURRENT OWNERSHIP
Keith Meister Icahn Associates Corp. 767 Fifth Avenue 47th Floor New York, NY 10153	None	None	None

Transactions Within the Past Two Years
in VISX Voting
Securities by Barberry, High River, Mr. Icahn and Ms. Golden

No. of Shares
of Common Stock
Purchased ("P") or Sold
("S")

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Name	Date		
High River Limited Partnership	None	None	
Barberry	None	None	
Transactions by Carl. C. Icahn	None	None	
Transactions by Gail Golden	01/07/02	190	S

APPENDIX II

On January 5, 2001, Reliance Group Holdings, Inc. ("Reliance") commenced an action in the United States District Court for the Southern District of New York against Carl C. Icahn, Icahn Associates Corp. and High River as defendants alleging that High River's tender offer for Reliance 9% senior notes violated Section 14(e) of the Exchange Act. Reliance sought a temporary restraining order and preliminary and permanent injunctive relief to prevent defendants from purchasing the notes. The Court initially imposed a temporary restraining order. Defendants then supplemented the tender offer disclosures. The Court conducted a hearing on the disclosures and other matters raised by Reliance. The Court then denied Reliance's motion for a preliminary injunction and ordered dissolution of the temporary restraining order following dissemination of the supplement.

Reliance took an immediate appeal to the United States Court of Appeals for the Second Circuit and sought a stay to restrain defendants from purchasing notes during the pendency of the appeal. On January 30, 2001, the Court of Appeals denied plaintiffs' stay application. On January 30, Reliance also sought a further temporary restraining order from the District Court. The Court considered the matter and reimposed its original restraint until noon the next day, at which time the restraint against Mr. Icahn and his affiliates was dissolved. On March 22, 2001, the Court of Appeals ruled in favor of Mr. Icahn by affirming the judgment of the District Court.

IMPORTANT

1. If your shares are held in your own name, please mark, date and mail the enclosed [WHITE] proxy card to our Proxy Solicitor, Innisfree M&A Incorporated, in the postage-paid envelope provided.

2. If your shares are held in the name of a brokerage firm, bank nominee or other institution, only it can vote such shares and only upon receipt of your specific instructions. Accordingly, you should contact the person responsible for your account and give instructions for a [WHITE] proxy card to be signed representing your shares.

3. If you have already submitted a [VISX COLOR] proxy card to VISX for the Annual Meeting, you may change your vote to a vote FOR the election of the Nominee and FOR the persons who are expected to be nominated by VISX, other than Mr. Holmes, whom we are seeking to replace, by marking, signing, dating and returning the enclosed [WHITE] proxy card for the Annual Meeting, which must be dated after any proxy you may have submitted to VISX. ONLY YOUR LATEST DATED PROXY FOR THE ANNUAL MEETING WILL COUNT AT THE ANNUAL MEETING.

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PROXY CARD

VISX, INCORPORATED
2003 ANNUAL MEETING OF STOCKHOLDERS

THIS PROXY IS SOLICITED BY
BARBERRY CORP.

The undersigned hereby appoints and constitutes each of Carl C. Icahn, Keith Meister and Robert J. Mitchell (acting alone or together) as proxies, with full power of substitution in each, to represent the undersigned at the Annual Meeting of Stockholders of VISX, Incorporated (the "Company") to be held on May __, 2003 at 8:00 a.m. local time, and at any adjournment or postponement thereof, hereby revoking any proxies previously given, to vote all shares of Common Stock of the Company held or owned by the undersigned as directed below, and in their discretion upon such other matters as may come before the meeting. IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED: (i) FOR KEITH MEISTER FOR DIRECTOR AND FOR THE PERSONS WHO ARE EXPECTED TO BE NOMINATED BY VISX (OTHER THAN MR. HOLMES, WHOM WE ARE SEEKING TO REPLACE), FOR DIRECTORS; (ii) FOR PROPOSALS 2, 3 AND 4; AND (iii) AT THE DISCRETION OF THE PROXY HOLDERS UPON SUCH OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE MEETING. If any nominee for director is unable or declines to serve as director, this proxy will be voted for any nominee that Barberrry Corp. designates.

SIGN, DATE AND MAIL YOUR PROXY TODAY

(CONTINUED AND TO BE SIGNED ON THE REVERSE SIDE.)

BARBERRY CORP. RECOMMENDS A VOTE "FOR" THE ELECTION OF ITS NOMINEES AND FOR PROPOSALS 2, 3 AND 4

[X] PLEASE MARK VOTES AS IN THIS EXAMPLE.

STOCKHOLDERS ARE URGED TO DATE, MARK, SIGN, AND RETURN THIS PROXY.

YOUR VOTE IS VERY IMPORTANT TO US.

1. To elect Mr. Keith Meister as a director: [] [] []
FOR WITHHELD ABSTAIN

Barberrry Corp. intends to use this proxy to vote for persons who have been nominated by the Company to serve as directors, other than the Company nominees listed below. You may withhold authority to vote for one or more additional Company nominees, by writing the name of the nominee(s) below. You should refer to the proxy statement and form of proxy distributed by the Company for the names, background, qualifications and other information concerning the Company's nominees.

There is no assurance that any of the Company's nominees will serve as directors if the nominee of Barberrry Corp. is elected to the board.

The Company's nominee with respect to whom Barberrry Corp. is NOT seeking authority to vote for and WILL NOT exercise any such authority is Mr. Jay T. Holmes.

Write in below the names of any additional Company nominees for which authority to vote is withheld:

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2. To approve an amendment to the 1995 Director Option Plan. FOR WITHHELD ABSTAIN

3. To approve an amendment to the 2000 Stock Plan. FOR WITHHELD ABSTAIN

4. To ratify the appointment of independent public accountants. FOR WITHHELD ABSTAIN

5. To act upon such other matters as may properly come before the meeting or any adjournment or postponement thereof. FOR WITHHELD ABSTAIN

MARK HERE IF YOU PLAN TO ATTEND THE MEETING

MARK HERE FOR ADDRESS CHANGE AND NOTE AT LEFT

Please sign exactly as your name(s) appear on your stock certificate. If shares are issued in the name of two or more persons, all such persons should sign the proxy. A proxy executed by a corporation should be signed in its name by its authorized officers. Executors, administrators, trustees and partners should indicate their positions when signing.

Signature(s) of Stockholder(s) Date

Title, if any

SIGNATURE (IF HELD JOINTLY): _____