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VISX INC  
Form DFAN14A  
April 26, 2001

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 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.

Fee computed on table below per Exchange Act Rule 14a-6(i)(4) and 0-11.

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

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filing fee is calculated and state how it was determined):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

On April 26, 2001, Mr. Icahn issued a press release, which press release is attached hereto as Exhibit 1.

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Exhibit 1

FOR IMMEDIATE RELEASE

ICAHN REPEATS HIS DEMAND THAT VISX MANAGEMENT AGREE TO PUT THE BEST OFFER OF \$32 PER SHARE OR HIGHER FROM ANY QUALIFIED BIDDER TO A VOTE OF VISX SHAREHOLDERS

New York, New York April 26, 2001. Carl C. Icahn, having reviewed the latest press release by VISX management observed, "VISX management continues to

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be disingenuous in its actions and public statements. In my view, management's most recent statement reflects the same reprehensible approach as was evidenced in their April 12, 2001 earnings press release, which I found to be vague and confusing at best. Management understands that my proposal contemplates the conduct of due diligence but the form of confidentiality agreement they have provided to me would likely make a tender offer impossible by preventing me from making disclosures that may be necessary in a tender offer. Management is also well aware that my prior statements contemplated a cash merger not a tender offer and that financing a merger is quite different from financing a tender offer. In an "LBO", such as a financed all cash merger, commercial lenders desire to secure their loans with a lien on a company's assets. A tender offer does not allow this. These financing requirements are well known to VISX management and its financial advisors."

Mr. Icahn stated, "I call upon VISX to stop the confusing verbal jousting and simply agree with me to submit to a vote of shareholders the best offer of \$32 per share or higher from any qualified bidder. As I have said before, I believe that a clear commitment by VISX may move the auction process forward. Today's ploy by VISX does not advance that process."

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Contact: Susan Gordon at (212) 702-4309.