

1 LYNN M. DEAN (Cal. Bar No. 205562)
Email: DeanL@sec.gov
2 PATRICIA PEI (Cal. Bar No. 274957)
Email: PeiP@sec.gov

3 Attorneys for Plaintiff
4 Securities and Exchange Commission
Michele Wein Layne, Regional Director
5 Alka N. Patel, Associate Regional Director
Amy J. Longo, Regional Trial Counsel
6 444 S. Flower Street, Suite 900
Los Angeles, California 90071
7 Telephone: (323) 965-3998
Facsimile: (213) 443-1904

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

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12
13 **SECURITIES AND EXCHANGE**
COMMISSION,

14 Plaintiff,

15 vs.

16
17 **NL TECHNOLOGY, LLC,**
JONNY NGO, and DONATO BACA,
18 **JR.,**

19 Defendants.

Case No.

COMPLAINT

20
21 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

22 **SUMMARY**

23 1. Over a four-year period from 2013 to 2017, defendants Jonny Ngo and
24 Donato “Mick” Baca, Jr. raised more than \$61 million from over 350 investors,
25 falsely telling them their monies would be used to fund defendant NL Technology,
26 LLC’s wholesale electronics import business, by purchasing bulk electronics abroad
27 for resale in the United States. Defendants promised returns of 5% to 15% over
28

1 periods as short as two weeks to 45 days, assuring investors their monies would be
2 secured by collateral interests in receivables and other property.

3 2. In reality, NL Technology engaged in little to no actual wholesale import
4 business activity. Rather, Ngo and Baca converted virtually all of the investors'
5 monies, using them to make Ponzi payments to prior investors and to fund Ngo's and
6 Baca's extravagant lifestyles—including purchasing lavish personal items such as
7 luxury cars, watches, and homes, and spending the money at casinos. To conceal
8 their fraud, Ngo fabricated bank statements and financial records, forged checks and
9 invoices, created phony email addresses, and even impersonated third parties with
10 whom NL Technology was supposedly doing business.

11 3. As their scheme fell apart beginning in April 2017, Ngo and Baca
12 stopped making payments to most investors, giving a litany of false excuses for why
13 the payments had ceased, while encouraging investors to put in more money. When a
14 major investor uncovered the fraud in mid-May, Baca immediately disavowed
15 knowledge of the scheme, but concealed the information from other investors.
16 Instead, Baca told investors who contacted him to continue investing directly with
17 Ngo, who himself continued to raise money for NL Technology through July 2017.

18 4. By engaging in this conduct, Defendants committed violations of
19 Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") and
20 Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule
21 10b-5 thereunder. The SEC seeks permanent injunctions, disgorgement with
22 prejudgment interest, and civil penalties against all three Defendants.

23 JURISDICTION AND VENUE

24 5. The Court has jurisdiction over this action pursuant to Sections 20(b),
25 20(d)(1) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d)(1) & 77v(a), and
26 Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of the Exchange Act, 15 U.S.C.
27 §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa(a).

28 6. Defendants have, directly or indirectly, made use of the means or

1 instrumentalities of interstate commerce, of the mails, or of the facilities of a national
2 securities exchange in connection with the transactions, acts, practices and courses of
3 business alleged in this complaint.

4 7. Venue is proper in this district pursuant to Section 22(a) of the Securities
5 Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a),
6 because certain of the transactions, acts, practices and courses of conduct constituting
7 violations of the federal securities laws occurred within this district. In addition,
8 venue is proper in this district because defendant NL Technology has its principal
9 place of business in this district and defendants Ngo and Baca reside in this district.

10 THE DEFENDANTS

11 8. **NL Technology, LLC** is a California limited liability company
12 headquartered in San Diego, California, that was in operation from approximately
13 mid-2011 until February 2018. During the relevant period, the company had a
14 storefront location in San Diego, offering cell phone and computer repairs; it also
15 purported to import wholesale electronic and technology-related products for resale in
16 the United States. NL Technology has never registered an offering of securities
17 under the Securities Act or a class of securities under the Exchange Act.

18 9. **Jonny Ngo**, age 32, is a resident of San Diego, California. Ngo is the
19 owner and president of NL Technology. Ngo holds no securities licenses, and has
20 never been registered with the SEC in any capacity.

21 10. **Donato “Mick” Baca, Jr.**, age 36, is a resident of San Diego,
22 California. Baca is the sole proprietor of MR Media Inc. (“MR Media”), an internet
23 marketing company. Beginning in late 2013 and continuing through at least early
24 2017, Baca held himself out at various times as the chief executive officer, president,
25 co-owner, co-founder, and/or partner of NL Technology. Baca holds no securities
26 licenses, and has never been registered with the SEC in any capacity.

1 **THE ALLEGATIONS**

2 **A. Ngo's Solicitation and Acceptance of Investors' Funds**

3 11. Beginning in 2013 through as late as July 2017, Ngo solicited and
4 accepted at least \$61.5 million from at least 350 individuals, purportedly to invest in
5 NL Technology's wholesale electronics business.

6 12. Ngo told investors orally and in writing that their monies would be used
7 to fund purchase orders of electronic parts and goods, such as iPhone screens and
8 drones, which NL Technology claimed to have purchased in bulk from an overseas
9 supplier and sold at a substantial markup in the United States.

10 13. NL Technology's investment terms were typically two weeks to 45 days
11 in duration, with promised returns typically between 5% and 15%.

12 14. Once investors agreed to invest in NL Technology, Ngo provided them
13 with substantially identical investment contracts to sign. The contracts purported to
14 be between the investor and "Jonny Ngo, [an] individual who also does business as
15 NL Technology," with a signature line for "Jonny Ngo, individually, and as
16 proprietor of NL Technology."

17 15. The investment contracts represented, among other things, that:

18 (a) Ngo, who was in the business of purchasing electronic goods at
19 wholesale and reselling them, was "in need of additional capital in order to receive
20 bulk pricing" on "commercial lots" of these items;

21 (b) Ngo would use the investor funds to place the orders for these
22 lots;

23 (c) The investor, in exchange, would receive a "participation interest
24 in the profits derived" from those orders;

25 (d) The investor funds would be deposited "in a business checking
26 account used by [Ngo] for business purposes," and "w[ould] not be used for any
27 purpose other than to place the [wholesale orders];" and,

28 (e) The investor received a "security interest" in various assets,

1 including NL Technology's accounts receivable, Ngo's personal automobile, and
2 the company itself.

3 16. After signing the investment contracts, investors transferred money to
4 Ngo via check, wire transfer, or cash.

5 17. Most of the investor funds were pooled and deposited directly into a
6 bank account in NL Technology's name; occasionally, funds were also deposited
7 directly into Ngo's personal account.

8 18. Payments were made to investors from these same accounts, either by
9 check, wire transfer, or cash.

10 19. Although all of the investments were marketed as short-term, many of
11 the investors chose to continuously "roll" their investments forward into new
12 contracts, rather than taking delivery of the principal owed at the end of the
13 investment period.

14 20. By the end of July 2017, the bank accounts associated with Ngo and NL
15 Technology were depleted.

16 **B. Baca's Solicitation and Acceptance of Investors' Funds**

17 21. In or about late 2013, certain NL Technology investors (the "second-tier
18 investors") began recruiting and managing other NL Technology investors.

19 22. These second-tier investors would provide prospective investors with the
20 same form investment contract, signed by Ngo on behalf of NL Technology, and
21 would facilitate the transfers of money to and from Ngo.

22 23. Baca initially became involved with NL Technology as a second-tier
23 investor, describing himself to prospective investors in October 2013 as "simply an
24 investor who has helped gather investors."

25 24. By as early as December 2013, however, Baca began routinely
26 representing himself to prospective and actual investors as, at varying times, a "co-
27 owner," "president," "CEO," "partner," and "founder" of NL Technology, and as
28 someone closely involved in "run[ning] all facets" of the business—often copying

1 Ngo on his communications to investors.

2 25. In addition to reiterating the same representations Ngo was making
3 about NL Technology's business and the nature of the investment, Baca regularly
4 provided updates about NL Technology's operations in emails to investors or via
5 public posts on social media.

6 26. For example, in or about January 2015, Baca posted on Facebook that
7 NL Technology "now has its drones being sold inside of Electronic Fry's," a major
8 electronics retailer. Similarly, in or about January 2017, Baca sent an email to an
9 acquaintance whose brother and mother were both investors, stating that NL
10 Technology was "on pace for over 60 million in sales in 2016."

11 27. Ngo at times provided Baca drafts of investor communications, and
12 asked Baca to improve the drafts, before showing them to prospective investors.

13 28. Baca himself created presentations describing the NL Technology
14 business and investment model to show to investors.

15 29. Baca also issued some investment contracts to investors himself,
16 revising them to reflect new dates and terms and reusing Ngo's electronic signature.

17 30. Baca was also directly involved in transfers of money to and from NL
18 Technology investors.

19 31. Typically, Baca directed the investors he recruited to write checks or
20 wire funds directly to NL Technology.

21 32. Between January 2016 and February 2017, however, Baca personally
22 accepted seven different transfers of funds from investors, totaling \$310,000.

23 33. Baca deposited these funds into either his personal account or an account
24 under the name of his sole proprietorship, MR Media.

25 34. Baca also made a number of payments to NL Technology investors out
26 of these same accounts.

27 35. Baca further led investors to believe that the safety and performance of
28 the NL Technology investments were directly linked to his own financial standing.

1 36. When soliciting investors for NL Technology, Baca provided a letter,
2 purportedly signed by an accounting professional, attesting to Baca's personal
3 ownership of liquid assets of over \$1.7 million, along with a copy of his driver's
4 license; once the investor agreed to invest, Baca added his own automobile as
5 collateral in the investment contracts.

6 **C. Defendants' Misappropriation of Investors' Funds**

7 37. Between January 2015 and May 2017, NL Technology received
8 transfers from investors totaling approximately \$61.5 million.

9 38. Ngo was the sole signatory on the NL Technology and his own bank
10 accounts, and thus the only person able to authorize disbursements and withdrawals
11 from these accounts.

12 39. Between January 2016 and February 2017, investors transferred an
13 additional \$310,000 to accounts under Baca's sole control, for investment in NL
14 Technology.

15 40. Defendants misappropriated investor funds from the accounts controlled
16 by Ngo and Baca into which investor funds flowed.

17 41. Defendants made materially false and misleading statements regarding
18 their use of investor funds, to entice investors to invest in NL Technology and to
19 dissuade investors from withdrawing their money.

20 42. Financial records of the known accounts associated with NL
21 Technology, Ngo, and Baca do not reflect more than *de minimis* financial activity
22 relating to the wholesale import of electronics.

23 43. Rather, financial records of the known accounts associated with NL
24 Technology, Ngo, and Baca indicate that nearly all of the funds raised from investors
25 were spent in one of the three following ways:

26 **1. Ponzi payments made with investors' monies**

27 44. The majority of NL Technology's investor funds were used to repay
28 other investors. About \$52 million—or around 85% of the investor money raised—

1 was returned to investors directly from an NL Technology bank account via check,
2 wire transfer, or intra-bank transfer.

3 45. Payments to investors comprised approximately 3,800 separate
4 transactions between January 2015 and May 2017 alone.

5 46. NL Technology, Ngo, and Baca each made Ponzi payments to investors
6 out of accounts under their control, for the purpose of creating the false impression
7 that NL Technology was successfully conducting a wholesale electronics business.

8 47. As a result of these Ponzi payments, many investors were convinced to
9 reinvest with NL Technology, and many recommended the investment to family and
10 friends, who also invested, thereby perpetuating the scheme.

11 **2. Payments made to Baca with investors' monies**

12 48. Baca personally misappropriated at least \$4.7 million of investor funds,
13 including:

14 (a) Baca received direct payments totaling \$5.3 million to either his
15 personal account or to an account in the name of MR Media, over which he had
16 sole control;

17 (b) An additional \$57,000 in payments were purportedly made on
18 Baca's behalf to outside entities, including \$20,000 wired to an auto dealership and
19 designated for a Maserati under Baca's name; and

20 (c) Baca also deposited the \$310,000 he raised from NL Technology
21 investors between January 2016 and February 2017 into his own accounts.

22 49. Although some of these funds were later used to make payments to
23 investors or back to NL Technology, Baca spent a majority of the funds on personal
24 expenses, including rent, luxury watches, payments on personal credit cards, and a
25 down payment on a \$3.5 million home.

26 **3. Payments for Ngo's personal expenses**

27 50. Ngo spent most of the remaining funds in the NL Technology accounts
28 on a variety of personal expenses, including various luxury cars, car-related

1 accessories, and home improvements; payments on a home loan; and large
2 expenditures at casinos. He also transferred substantial amounts directly to himself
3 and his wife.

4 51. In total, approximately \$4.5 million was diverted from the NL
5 Technology accounts for Ngo's personal benefit.

6 52. Defendants Ngo and Baca knew, or were reckless or negligent in not
7 knowing, that they were misappropriating investor funds and that their
8 misrepresentations and omissions were false and misleading when made.

9 53. Because they were NL Technology's principals, Ngo's and Baca's
10 knowledge, recklessness and/or negligence are imputed to NL Technology.

11 54. It would have been important to the decisions of NL Technology's
12 prospective and actual investors to know that defendants were not using investor
13 funds for NL Technology's wholesale business, but were using funds instead to make
14 Ponzi payments to other investors and to pay Ngo's and Baca's personal expenses.

15 **D. Ngo's and Baca's Misrepresentations to Investors**

16 55. Because NL Technology's wholesale business was essentially
17 nonexistent, virtually all the representations Ngo and Baca made to investors about
18 NL Technology's purported wholesale business were materially false and misleading.

19 56. These representations included:

20 (a) That NL Technology was "a leader in providing wholesale
21 [iP]hone and electronic parts distribution nationwide";

22 (b) That investor money would be used to fund these wholesale orders
23 of iPhone screens and other electronic goods and would produce a return on
24 investment in the range of 5% to 15% over 14 to 45 days;

25 (c) That NL Technology had a long-term relationship with a supplier
26 of iPhone screens in China;

27 (d) That NL Technology was a regular supplier of iPhone screens to a
28 number of buyers, including two clients who each ordered \$2 million of products

1 from NL Technology each month;

2 (e) That all wholesale orders funded by investor money were “pre
3 purchased” by NL Technology’s clients; and

4 (f) That the quality of the products and the safety of the funds used to
5 purchase them was guaranteed by a third-party escrow company.

6 57. Between 2013 and 2017, Ngo and Baca made these misrepresentations
7 to prospective and actual investors in writing—via email, text message, and various
8 social media platforms and applications such as Facebook, Instagram, and WhatsApp.
9 For example:

10 (a) In or around the first half of 2016, Baca sent the same email to
11 several prospective investors, in which he stated: “[NL Technology is] a leader
12 nationwide in the wholesale vertical when it comes to [iP]hone replacement
13 parts. . . . NL Tech did 8 figures in sales in 2015 and are [sic] projecting to do
14 around 40-45 million in 2016”

15 (b) In that same email, Baca also described NL Technology’s order
16 process, including the receipt of “trade assurance[s]” from suppliers, the collection
17 of a 10% deposit from buyers, and the use of an escrow service to “verify funds
18 and documents.”

19 (c) Similarly, in or around February 2017, Ngo emailed a document
20 purporting to be a 2015 “Performance Report” for NL Technology to several
21 investors. The report boasted \$12.5 million in annual revenues from NL
22 Technology’s wholesale business, the company’s “[h]ighest performing division,”
23 and that investors received an average return of 6%.

24 58. Between 2013 and 2017, Ngo and Baca also made these
25 misrepresentations orally, during in-person or telephone conversations with
26 prospective and actual investors. For example:

27 (a) Many investors had in-person meetings with Ngo prior to
28 investing. In those meetings, Ngo explained that funds raised from investors

1 would be used to purchase electronics in bulk from China, and that NL Technology
2 was able to resell those products in the United States at a substantial mark-up.

3 (b) Several investors also had in-person meetings with Baca prior to
4 investing, in which Baca gave the same description of NL Technology's wholesale
5 business model.

6 59. Defendants Ngo and Baca knew, or were reckless or negligent in not
7 knowing, that their misrepresentations and omissions concerning NL Technology's
8 purported business activities were false and misleading when made.

9 60. It would have been important to the decisions of NL Technology's
10 prospective and actual investors to know that the information defendants provided
11 about NL Technology's purported wholesale business was false.

12 **E. Ngo's and Baca's Other Deceptive Conduct**

13 61. Defendants engaged in additional deceptive conduct in furtherance of the
14 fraud. Ngo generated and distributed forged financial records and documents
15 purporting to be from third parties doing business with NL Technology; and created
16 fake email accounts in order to pose as various NL Technology business contacts
17 when communicating with investors. Baca helped disseminate the false documents
18 Ngo created to investors.

19 62. Defendants' deceptive acts were committed for the principal purpose and
20 effect of making NL Technology appear to be a legitimate, successful business.

21 63. From at least August 2014 through May 2017, Ngo and Baca created and
22 distributed to investors false or fake documents purporting to substantiate their claims
23 about NL Technology's wholesale business—documents which, taken together,
24 created the impression that NL Technology was operating a true and profitable
25 wholesale business, such as:

- 26 a. Financial statements purportedly certified by an accountant and
27 showing, *inter alia*, income from NL Technology's wholesale business
28 of \$12.5 million in 2015 and \$15.4 million in 2016;

1 b. Bank statements or screenshots from a bank account under NL
2 Technology's name, with individual line items altered to reflect fake
3 transactions related to the wholesale business;

4 c. Fake invoices on the letterhead of other companies, and/or signed
5 by representatives of other companies, showing orders for wholesale
6 goods by NL Technology from overseas suppliers, and from NL
7 Technology by United States buyers, none of which existed; and

8 d. Fabricated checks from supposed purchasers of products imported
9 by NL Technology.

10 64. Examples of these false documents include:

11 (a) On or around October 25, 2014, Ngo emailed an investor a
12 document that he claimed was "the purchase invoice I put in yesterday with [the]
13 supplier." The document itself appeared to be an invoice from a company based in
14 China, for the purchase of almost \$50,000 of iPhone screens by Ngo and NL
15 Technology. There was no corresponding expenditure of \$50,000 to the named
16 supplier from Ngo's or NL Technology's accounts at or around this time.

17 (b) On or around October 25, 2015, Ngo emailed an investor an image
18 file that he claimed showed a bank deposit from one of NL Technology's buyers.
19 The image appeared to be a screenshot of recent bank account activity, including
20 two fictitious wire deposits on October 20 for \$12,540 and \$596,000. All the other
21 transactions displayed in the screenshot correspond to actual activity in one of NL
22 Technology's bank account on the dates shown.

23 (c) In or around the first half of 2016, Baca sent prospective investors
24 an email with several attachments purporting to be, *inter alia*: a \$1.2 million
25 invoice for the purchase of iPhone screens from a supplier in China; a purchase
26 order request for 8,200 iPhone screens from a U.S. buyer, along with a check to NL
27 Technology for \$309,000 from that same buyer; and a Profit & Loss Statement for
28 NL Technology, showing income of approximately \$1 million per month in 2015.

1 There was no underlying business activity by NL Technology corresponding to any
2 of these transactions, or supporting the supposed financial statement.

3 65. Beginning around 2016 through early 2017, Ngo also conducted a
4 number of in-person meetings with prospective and actual investors at a warehouse in
5 San Diego, which he led investors to believe housed NL Technology's inventory.

6 66. In reality, the warehouse did not contain NL Technology inventory.

7 67. Rather, the warehouse was rented by a third party that Ngo started with
8 one of the NL Technology investors to import and sell technology-related items.

9 **F. Defendants' Attempts to Lull Investors**

10 68. In April 2017, NL Technology began defaulting on payments to its
11 investors.

12 69. Ngo and Baca provided investors with a series of false and misleading
13 explanations, designed to dissuade investors from seeking to withdraw their money
14 from NL Technology, and to convince them to continue investing.

15 70. From April through June of 2017, Ngo and Baca provided a series of
16 excuses to multiple investors for why payments were late, including that NL
17 Technology had received a bad shipment of products from a supplier; that NL
18 Technology was having logistical problems as a result of switching banks; that the
19 bank was asking for additional documentation before wiring the payments; that Ngo
20 had had a death in the family; and that the company's funds were frozen as a result of
21 an SEC "audit."

22 71. Ngo and Baca provided these purported excuses both orally and in
23 writing.

24 72. Baca told one investor ("Investor A")—whose business entity was one
25 of NL Technology's largest investors—that he had personally spoken to the bank
26 about a large pending wire transfer, which was simply delayed because of some
27 missing documentation.

28 73. Beginning around May of 2017, Ngo began promising other investors he

1 would connect them directly with NL Technology's suppliers and purchasers, either
2 to confirm the existence of pending orders or to allow the investors to try and arrange
3 additional wholesale purchases themselves to earn extra money.

4 74. The investors were then put in contact via email with someone claiming
5 to be one of Ngo's business contacts.

6 75. For at least some of these contacts, Ngo had created the email address on
7 the other end of the communication and was posing as that individual to investors.

8 76. On or around May 5, 2017, Baca instructed Investor A to wire \$500,000
9 to the account of a purported drone supplier, who in fact was another investor
10 expecting a payment from NL Technology.

11 77. With their scheme on the decline, defendants made these materially false
12 and misleading statements to lull investors into not withdrawing their money.

13 78. Defendants' misrepresentations and omissions concerning the true
14 reason that investor payments had ceased were material, as they were central to
15 investors' decisions to invest and remain invested in NL.

16 79. Defendants knew, or were reckless or negligent in not knowing, that
17 these lulling misrepresentations and omissions were false and misleading when made.

18 **G. Ngo and Baca are Confronted and Continue to Lie**

19 80. Investor A became suspicious about NL Technology after receiving a
20 telephone call on May 11, 2017 from the purported "drone supplier" to whom he had
21 wired money—who was in reality, another NL Technology investor.

22 81. Subsequently, on May 18, 2017, Investor A and Baca met with Ngo.
23 During that meeting, Ngo admitted to Investor A that the numbers on some of the
24 large order invoices he had previously shown Investor A were doctored. Ngo was
25 also unable to show Investor A evidence of any wholesale transactions in NL
26 Technology's bank records.

27 82. Baca denied knowledge of the scheme to Investor A, and claimed to be
28 just as surprised as Investor A.

1 83. In late May and early June of 2017, two other investors (who were
2 referred to the NL Technology investment by Baca) each separately had
3 conversations with Baca.

4 84. Baca told the two investors that he was parting ways with NL
5 Technology, but that if they wanted to continue to invest, they could do so with Ngo
6 directly.

7 85. Following their conversations with Baca, both of these two investors
8 either rolled over their existing investments or invested additional money with NL
9 Technology.

10 **H. Defendants' Fraudulent Offering was Unregistered**

11 86. The NL Technology offering was not registered with the SEC.

12 87. Defendants sold the NL Technology investments to more than 350
13 investors in multiple states.

14 88. Defendants offered the NL Technology investments to a large number of
15 investors, without regard to their sophistication level.

16 89. Defendants made no effort to determine whether investors were
17 accredited, nor were the majority of the investors accredited.

18 90. Ngo and Baca directly solicited investors and accepted investor monies
19 for the offering, as well as drafting and editing solicitation materials provided to
20 investors.

21 **FIRST CLAIM FOR RELIEF**

22 **Fraud in the Connection with the Purchase and Sale of Securities**

23 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5**

24 **(against All Defendants)**

25 91. The SEC realleges and incorporates by reference paragraphs 1 through
26 90 above.

27 92. Specifically, Defendants represented to investors in NL Technology that
28 they would use investor funds to purchase electronic goods at wholesale and resell

1 them; in exchange, the investor would receive “participation interest in the profits
2 derived” from those orders. The contracts further warranted that investor funds
3 would be deposited “in a business checking account used by [Ngo] for business
4 purposes,” and “w[ould] not be used for any purpose other than to place the
5 [wholesale orders].” Each contract also purported to secure the investment by
6 assigning to the investor a “security interest” in various assets, including NL
7 Technology’s accounts receivable, Ngo’s personal automobile, and even the company
8 itself.

9 93. These statements were false. Instead, Ngo and Baca misappropriated
10 investor funds to pay their personal expenses. In addition, NL Technology, Ngo, and
11 Baca each acted to make Ponzi payments to investors out of accounts under their
12 control, for the purpose of creating the false impression that NL Technology was
13 successfully conducting large and highly lucrative purchases and resales of wholesale
14 electronic goods. As a result of these payments, many investors were convinced to
15 reinvest with NL Technology, and many recommended the investment to family and
16 friends, who also invested, thereby perpetuating the scheme.

17 94. In addition, Ngo forged documents purporting to be from third parties
18 doing business with NL Technology, and created fake email accounts in order to pose
19 as various NL Technology business contacts and communicate with investors. Both
20 Baca and Ngo distributed the forged documents to actual and prospective investors.
21 All of these acts were committed for the principal purpose and effect of making NL
22 Technology appear to be a legitimate business.

23 95. By engaging in the conduct described above, Defendants, and each of
24 them, directly or indirectly, in connection with the purchase or sale of a security, by
25 the use of means or instrumentalities of interstate commerce, of the mails, or of the
26 facilities of a national securities exchange: (a) employed devices, schemes, or
27 artifices to defraud; (b) made untrue statements of a material fact or omitted to state a
28 material fact necessary in order to make the statements made, in the light of the

1 circumstances under which they were made, not misleading; and (c) engaged in acts,
2 practices, or courses of business which operated or would operate as a fraud or deceit
3 upon other persons.

4 96. By engaging in the conduct described above, Defendants violated, and
5 unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange
6 Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a), 10b-5(b), and 10b-5(c) thereunder, 17
7 C.F.R. §§ 240.10b-5(a), 240.10b-5(b) & 240.10b-5(c).

8 **SECOND CLAIM FOR RELIEF**

9 **Fraud in the Offer or Sale of Securities**

10 **Violations of Section 17(a) of the Securities Act**

11 **(against All Defendants)**

12 97. The SEC realleges and incorporates by reference paragraphs 1 through
13 90 above.

14 98. Specifically, Defendants represented to investors in NL Technology that
15 they would use investor funds to purchase electronic goods at wholesale and resell
16 them; in exchange, the investor would receive “participation interest in the profits
17 derived” from those orders. The contracts further warranted that investor funds
18 would be deposited “in a business checking account used by [Ngo] for business
19 purposes,” and “w[ould] not be used for any purpose other than to place the
20 [wholesale orders].” Each contract also purported to secure the investment by
21 assigning to the investor a “security interest” in various assets, including NL
22 Technology’s accounts receivable, Ngo’s personal automobile, and even the company
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4 100. In addition, Ngo forged documents purporting to be from third parties
5 doing business with NL Technology, and created fake email accounts in order to pose
6 as various NL Technology business contacts and communicate with investors. Both
7 Baca and Ngo distributed the forged documents to actual and prospective investors.
8 All of these acts were committed for the principal purpose and effect of making NL
9 Technology appear to be a legitimate business.

10 101. By engaging in the conduct described above, Defendants, and each of
11 them, directly or indirectly, in the offer or sale of securities, and by the use of means
12 or instruments of transportation or communication in interstate commerce or by use
13 of the mails directly or indirectly: (a) employed devices, schemes, or artifices to
14 defraud; (b) obtained money or property by means of untrue statements of a material
15 fact or by omitting to state a material fact necessary in order to make the statements
16 made, in light of the circumstances under which they were made, not misleading; and
17 (c) engaged in transactions, practices, or courses of business which operated or would
18 operate as a fraud or deceit upon the purchaser.

19 102. By engaging in the conduct described above, Defendants violated, and
20 unless restrained and enjoined will continue to violate, Sections 17(a)(1), 17(a)(2),
21 and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1), 77q(a)(2), & 77q(a)(3).

THIRD CLAIM FOR RELIEF

Unregistered Offer and Sale of Securities

Violations of Sections 5(a) and 5(c) of the Securities Act

(against All Defendants)

26 103. The SEC realleges and incorporates by reference paragraphs 1 through
27 90 above.

28 104. No registration statement had ever been in effect or filed for the NL

1 Technology investment. NL Technology, Ngo, and Baca all directly sold and offered
2 to sell the investments to investors through the use of various means of interstate
3 commerce, including email, text messages, and internet websites.

4 105. By engaging in the conduct described above, Defendants, and each of
5 them, directly or indirectly, singly and in concert with others, has made use of the
6 means or instruments of transportation or communication in interstate commerce, or
7 of the mails, to offer to sell or to sell securities, or carried or caused to be carried
8 through the mails or in interstate commerce, by means or instruments of
9 transportation, securities for the purpose of sale or for delivery after sale, when no
10 registration statement had been filed or was in effect as to such securities, and when
11 no exemption from registration was applicable.

12 106. By engaging in the conduct described above, Defendants violated, and
13 unless restrained and enjoined, is reasonably likely to continue to violate, Sections
14 5(a) and 5(c), 15 U.S.C. §§ 77e(a) & 77e(c).

15 **PRAYER FOR RELIEF**

16 WHEREFORE, the SEC respectfully requests that the Court:

17 **I.**

18 Issue findings of fact and conclusions of law that Defendants committed the
19 alleged violations.

20 **II.**

21 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
22 Civil Procedure, permanently enjoining Defendants, and their officers, agents,
23 servants, employees and attorneys, and those persons in active concert or
24 participation with any of them, who receive actual notice of the judgment by personal
25 service or otherwise, and each of them, from violating Section 17(a) of the Securities
26 Act [15 U.S.C. §77q(a)], and Section 10(b) of the Exchange Act [15 U.S.C. §§
27 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].
28

1 **III.**

2 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
3 Civil Procedure, permanently enjoining Defendants, and their officers, agents,
4 servants, employees and attorneys, and those persons in active concert or
5 participation with any of them, who receive actual notice of the judgment by personal
6 service or otherwise, and each of them, from violating Sections 5(a) and 5(c) of the
7 Securities Act [15 U.S.C. §§ 77e(a), 77e(c)].

8 **IV.**

9 Issue orders, in a form consistent with Fed. R. Civ. P. 65(d), permanently
10 enjoining Defendants Ngo and Baca and their agents, servants, employees, and
11 attorneys, and those persons in active concert or participation with any of them, who
12 receive actual notice of the judgment by personal service or otherwise, and each of
13 them, from soliciting, accepting, or depositing any monies from actual or prospective
14 investors in connection with any offering of securities pursuant to Section 20(b) of
15 the Securities Act and Section 21(d) of the Exchange Act; provided, however, that
16 such injunction shall not prevent Defendants Ngo and Baca from purchasing or
17 selling securities listed on a national securities exchange for their own personal
18 accounts.

19 **V.**

20 Order Defendants to disgorge all funds received from their illegal conduct,
21 together with prejudgment interest thereon.

22 **VI.**

23 Order Defendants to pay civil penalties under Section 20(d) of the Securities
24 Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §
25 78u(d)(3)].

26 **VII.**

27 Retain jurisdiction of this action in accordance with the principles of equity and
28 the Federal Rules of Civil Procedure in order to implement and carry out the terms of

1 all orders and decrees that may be entered, or to entertain any suitable application or
2 motion for additional relief within the jurisdiction of this Court.

3 **VIII.**

4 Grant such other and further relief as this Court may determine to be just and
5 necessary.

6 Dated: September 27, 2018

7 /s/ Lynn M. Dean

8 Lynn M. Dean

9 Attorney for Plaintiff

10 Securities and Exchange Commission

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