



2. The Form 10-K was false and misleading because RBSM had not completed an audit of MedLink and had not authorized MedLink to include the audit report or to use its electronic signature. Rather, on April 25, RBSM was merely in the process of conducting an audit, which was not yet completed.

3. MedLink's CEO, Vuono, and its CFO, Rose, authorized and caused MedLink to file the Form 10-K. At the time of the filing, Vuono and Rose knew that RBSM had not completed its audit.

4. MedLink's Form 10-K was also false and misleading because it contained the electronic signature of MedLink's founder and director ("Director A"), even though Director A had not reviewed the Form nor authorized his signature. At the time, Vuono and Rose knew, or were reckless in not knowing, that Director A had not reviewed the Form 10-K nor authorized his signature.

5. Vuono and Rose authorized and caused MedLink to file the false and misleading Form 10-K because they wanted MedLink to keep its filings current to avoid default on existing financing and to obtain future financing.

6. Defendants also defrauded a MedLink investor ("Investor A"). In approximately April 2011, Investor A agreed to purchase 210,526 shares of MedLink stock for \$149,473.50. Vuono promised Investor A that MedLink would delay this purchase and not cash Investor A's check until Investor A had sufficient funds in his checking account. Shortly thereafter, Investor A informed Vuono and Rose that MedLink was not authorized to cash the check and instructed MedLink to return it. Instead of returning the check, Rose deposited it in MedLink's bank account. Despite repeated requests, MedLink did not return Investor A's money or issue any MedLink stock to Investor A.

## **VIOLATIONS**

7. By virtue of their conduct, the Defendants violated Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5. In addition, (i) MedLink violated Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d), and Rules 12b-20 and 15d-1 thereunder, 17 C.F.R. §§ 240.12b-20 and 15d-1; (ii) Vuono and Rose violated Exchange Act Rule 15d-14, 17 C.F.R. § 240.15d-14, and (iii) Vuono and Rose aided and abetted MedLink’s violations of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a), Sections 10(b) and 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b) and 78o(d), and Rules 10b-5, 12b-20, and 15d-1 thereunder, 17 C.F.R. §§ 240.12b-20, 10b-5, and 15d-1.

8. Unless the Defendants are permanently restrained and enjoined, they each will again engage in the acts, practices, and courses of business set forth in this Complaint, or in acts and transactions of similar type and object.

## **JURISDICTION AND VENUE**

9. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. §§ 78u(d), seeking permanently to enjoin the Defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint. The Commission also seeks a final judgment ordering the Defendants to disgorge their ill-gotten gains, if any, with prejudgment interest thereon. The Commission seeks a judgment ordering Defendants to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3). The Commission also seeks a judgment prohibiting Vuono and Rose from (i) serving as officers or directors of a public

company pursuant to Section 20(e) of the Securities Act, 15 U.S.C. 78t(e), and Section 21(d)(2) of the Exchange Act, 15 U.S.C. 78u(d)(2), and (ii) prohibiting Vuono and Rose from participating in any offering of penny stock pursuant to Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and Section 21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6).

10. This Court has jurisdiction of this action pursuant to Sections 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(d) and 77v(a), and Sections 21(d) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa.

11. Venue in this District is proper pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within this District. In addition, MedLink has an office in this District, and Vuono and Rose reside in this District.

12. The Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in interstate commerce, or of a means or instrumentality of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the transactions, acts, practices and courses of business alleged in this Complaint.

#### **DEFENDANTS**

13. **MedLink** is a Delaware corporation with its principal office Hauppauge, New York, and at all relevant times, was quoted on the Over the Counter Bulletin Board under the symbol “MLKNA.” Currently and at all relevant times, MedLink common stock qualified as a penny stock as defined by Rule 3a51-1 of the Exchange Act. MedLink purports to be a healthcare information technology company that sells and supports various clinical software

applications for physician practices, laboratories, clinics and hospitals.

14. **Vuono**, age 46 and a resident of Huntington Station, New York, is MedLink's president, CEO and Chairman. Vuono is a recidivist securities law violator. In SEC v. Hasho, et al., 784 F. Supp. 1059 (S.D.N.Y. 1992), Vuono was found liable for violating Section 17(a) of the Securities Act, 15 U.S.C. §77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

15. **Rose**, age 33 and a resident of Hauppauge, New York, is MedLink's CFO and executive vice-president.

## **FACTS**

### **A. Background**

16. MedLink retained Jewett Schwartz and Wolfe ("Jewett Schwartz") as its auditor for the years ended December 31, 2006 to 2009.

17. In approximately February 2011, RBSM acquired Jewett Schwartz's audit practice, and shortly thereafter, RBSM became MedLink's auditor. The RBSM engagement letter ("Engagement Letter") provided that RBSM's "reports should not be included in the SEC's EDGAR electronic filing system until you [MedLink] have received a manually signed report from us [RBSM]."

18. Based on RBSM's internal protocols, the engagement partner and audit manager for MedLink, or RBSM's president, were the only RBSM personnel authorized to provide MedLink with a manually signed audit report.

19. MedLink's Form 10-K was originally due on April 15, 2011. On April 5, 2011, MedLink obtained an extension of its filing deadline to April 25, 2011.

20. As of the April 25, 2011 filing deadline, RBSM's audit of MedLink was not completed.

21. MedLink, Vuono and Rose were under substantial pressure to file the completed audit report in the Form 10-K on April 25, 2011. In November 2010, MedLink had obtained approximately \$1.25 million in financing pursuant to a convertible debenture offering which obligated MedLink to remain current in its periodic filings. The investment banker who negotiated the November 2010 financing with MedLink ("Banker A"), specifically warned both Vuono and Rose prior to April 25 that MedLink faced serious consequences if it did not timely file its Form 10-K.

22. In addition, in the weeks prior to April 25, 2011, Vuono and Rose negotiated with Banker A the provisions of a term sheet that contemplated several venture capital firms providing MedLink with additional capital of between \$5.0 million and \$6.5 million. The term sheet specifically provided that MedLink needed to remain current in its filings, and as of April 25, Vuono and Rose were aware of this provision.

**B. MedLink's Form 10-K Falsely Stated That RBSM's Audit Was Completed.**

23. On April 25, 2011, and in the days immediately before, Rose knew that RBSM's audit was not completed. For example, in an email on Friday, April 23, an RBSM auditor ("Auditor A") informed Rose that she needed to "follow up" with Rose on Monday, April 25 regarding audit documentation MedLink had provided, and that she had some questions regarding MedLink's draft Form 10-K. At 10:02 a.m. on April 25, Auditor A emailed Rose saying that RBSM would send Rose a list of "open items" remaining on the audit. At 10:28 a.m., Rose responded: "Please try and get them over to me as soon as possible as we need to file today." At 2:47 p.m., the auditor replied: "We're still working through the audit at this point.

We're getting this done as quickly as we can." At 3:20 p.m., Rose emailed the auditor, writing: "Please let me know how your [sic] progressing as it's important we file today or we will be in default of the Note." At 3:26 p.m., the auditor replied to Rose: "I'm really sorry but we're not going to be done today."

24. Throughout April 25, Rose told Vuono about the status of MedLink's incomplete audit. Nevertheless, Vuono and Rose authorized and caused MedLink to file the Form 10-K. At 1:39 p.m. on April 25, Rose sent via email MedLink's draft Form 10-K to a service provider that specialized in converting documents to proper EDGAR format and filing them with the Commission. At approximately 4:30 p.m., Rose confirmed MedLink's authorization to file. At 4:41 p.m. on April 25, MedLink's Form 10-K was filed with the Commission and made available to the public.

25. The Form 10-K included an audit report with an electronic signature for RBSM. It also included electronic signatures from Vuono, Rose, and Director A.

**C. RBSM Requested That MedLink Amend Its Form 10-K.**

26. A few minutes after MedLink filed its Form 10-K on April 25, Auditor A and RBSM's president learned about MedLink's filing. These RBSM personnel were shocked to learn of MedLink's filing because they knew that RBSM's audit of MedLink had not been completed.

27. A few minutes later, Auditor A called Vuono. Vuono falsely told Auditor A that MedLink's Form 10-K had been filed as a result of a misunderstanding between himself and Rose. At that time, Vuono did not in any way claim that he thought the audit was completed.

28. Shortly thereafter, RBSM's president called Vuono and told Vuono that: he learned about MedLink's Form 10-K filing with the purported audit report; RBSM's audit was

not completed; and therefore, MedLink should not have filed the Form 10-K. Vuono initially responded by indicating that somebody at RBSM “gave him the okay to file.” When RBSM’s president told Vuono that certainly was not the case, Vuono then withdrew his explanation and admitted that he was under pressure to file the Form 10-K due to financing concerns. RBSM’s president then told Vuono that MedLink needed to file an amended Form 10-K which would remove RBSM’s audit report.

29. At 6:05 p.m. on April 25, RBSM’s president sent Vuono an email with an attached letter to MedLink’s Board of Directors in which RBSM stated: (i) RBSM had not performed an audit; (ii) RBSM had not provided MedLink with a manually signed copy of an audit report; (iii) RBSM’s engagement letter with MedLink required that audit reports not be included in filings until MedLink received a manually signed report; and (iv) MedLink’s Form 10-K should not have included an audit report with RBSM’s electronic signature. RBSM’s letter also requested that MedLink take immediate corrective action, including the filing of an amendment to the Form 10-K removing the report and disclosing that MedLink had not previously been authorized by RBSM to include the report.

30. On April 27, 2011, MedLink filed a Form 8-K with the Commission stating that its December 31, 2009 and 2010 financial statements could no longer be relied upon because its auditor had notified MedLink that MedLink had not obtained a manually signed copy of the audit report.

31. On May 12, 2011, MedLink filed a Form 10-K/A to amend the Form 10-K, to remove the audit report, and to label the 2010 financial statement columns as “unaudited.” The Form 10-K/A, which bore the electronic signatures of Vuono, Rose, and Director A, did not include RBSM’s purported audit report.

**D. MedLink's Form 10-K Falsely Stated That Director A Signed It.**

32. MedLink's Form 10-K included the electronic signature of Director A, a medical doctor who is a founder of MedLink and a MedLink board member. MedLink's May 12, 2011 Form 10-K/A also included the electronic signature of Director A. However, Director A did not authorize the use of his electronic signature on the Form 10-K or MedLink's Form 10-K/A. Director A was not aware that MedLink made any public filings in 2011, and had no discussions with anyone regarding the Form 10-K or Form 10-K/A in 2011.

33. At the time that MedLink filed its Forms 10-K and 10-K/A, Vuono and Rose knew, or were reckless in not knowing, that Director A had not reviewed them nor authorized his signature on them.

**E. MedLink, Vuono, and Rose Defrauded MedLink Investor A.**

34. In approximately April 2010, Vuono solicited MedLink Investor A to invest in a private placement of MedLink stock. On April 13, 2010, Investor A signed a subscription agreement providing for a \$200,000 investment in exchange for 210,526 shares of MedLink common stock and an equal number of warrants exercisable within one year of purchase. The warrants could be exercised in one of two ways: (i) by purchasing 210,526 MedLink shares at \$0.95 per share ("Cash Option") or (ii) purchasing significantly fewer shares without payment ("Cashless Option"). Investor A paid the \$200,000, and MedLink provided him with the stock and warrants.

35. In approximately April 2011, shortly before the warrants were to expire, Investor A told Vuono that he intended to exercise the Cashless Option. Vuono then offered to reduce the exercise price from \$0.95 to \$0.71 per share if Investor A exercised the Cash Option.

36. In response, Investor A told Vuono that he did not have sufficient funds to

exercise the Cash Option even at the reduced price. Vuono, however, convinced Investor A to give MedLink a check for \$149,473.50 in return for 210,526 shares of MedLink stock based on Vuono's promise that he would not deposit the check until Investor A had sufficient funds.

37. On May 1, 2011, Investor A sent Vuono an email, copying Rose, saying that MedLink was not authorized to cash the check and instructing MedLink to return it.

38. On approximately May 11, 2011, Vuono told Investor A that he would not deposit the check until Investor A gave him approval

39. Investor A never approved depositing the check.

40. On May 13, 2011, Rose deposited Investor A's check into MedLink's corporate bank account.

41. When Investor A confronted Vuono about cashing the check despite Vuono's assurance that he would not do so, Vuono falsely told Investor A that Rose had cashed the check by mistake. Despite repeated requests, MedLink never returned Investor A's \$149,473.50, nor did it issue any MedLink stock to Investor A from the conversion of the warrants.

### **FIRST CAUSE OF ACTION**

#### **Violations of Section 17(a) of the Securities Act (All Defendants)**

42. The Commission realleges and incorporates paragraphs 1 through 41 by reference as if fully set forth herein.

43. Defendants, directly or indirectly, singly or in concert, in the offer and sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce, or by the use of the mails, have: (a) employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omission to state material facts necessary in order to make statements made, in light of the

circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business which operated , or would operate as a fraud or deceit upon the purchasers of securities.

44. By reason of the foregoing, the Defendants directly or indirectly, singly or in concert, have violated, and unless enjoined will again violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

### **SECOND CAUSE OF ACTION**

#### **Aiding and Abetting MedLink's Violations of Securities Act Section 17(a) (Vuono and Rose)**

45. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

46. Defendants Vuono and Rose, pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), aided and abetted and caused MedLink's violations of Section 17(a) of the Securities Act.

47. By reason of the foregoing, Defendants Vuono and Rose aided and abetted MedLink's violations, and unless enjoined will again aid and abet violations, of Section 17(a) of the Securities Act, 15 U.S.C. §77q(a).

### **THIRD CAUSE OF ACTION**

#### **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 (All Defendants)**

48. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

49. Defendants, directly and indirectly, singly or in concert, in connection with the purchase or sale of securities, by use of the means and instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, have: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact, or omissions of

material facts necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated, or would operate as a fraud or deceit upon any person.

50. By reason of the foregoing, the Defendants, directly or indirectly, singly or in concert, have violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

#### **FOURTH CAUSE OF ACTION**

##### **Aiding and Abetting MedLink's Violation of Exchange Act Section 10(b) and Rule 10b-5 thereunder (Vuono and Rose)**

51. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

52. Defendants Vuono and Rose, pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), aided and abetted and caused MedLink's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

53. By reason of the foregoing, Defendants Vuono and Rose aided and abetted MedLink's violations, and unless enjoined will again aid and abet violations, of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. §240.10b-5.

#### **FIFTH CAUSE OF ACTION**

##### **Violations of Section 15(d) and Rules 12b-20, 15d-1 (MedLink)**

54. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

55. Section 15(d) of the Exchange and Rule 15d-1 (15 U.S.C. §78o(d) and 17 C.F.R. §240.15d-1), require issuers of securities that have filed certain registration statements to file with the Commission annual, quarterly, and current reports. Exchange Act Rule 12b-20 (17

C.F.R. §12b-20), provides that in addition to the information expressly required in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

56. MedLink was required to file annual and other financial reports with the Commission pursuant to Section 15(d) of the Exchange Act and Rule 15d-1 thereunder.

57. MedLink violated Section 15(d) of the Exchange Act and Rules 12b-20 and 15d-1 by filing a Form 10-K that contained materially false statements or failed to include material information necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

#### **SIXTH CAUSE OF ACTION**

##### **Aiding and Abetting MedLink's Reporting Violations (Vuono and Rose)**

58. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

59. As described above, MedLink filed a Form 10-K with the Commission that was materially false and misleading, or failed to include material information necessary to make the required statements in the Form 10-K, in light of the circumstances under which they were made, not misleading.

60. Defendants Vuono and Rose aided and abetted MedLink's reporting violation, in that they provided knowing and substantial assistance to MedLink in the filing of the Form 10-K annual report that was materially false and misleading or failed to include material information necessary to make the required statements in that report, in light of the circumstances under which they were made, not misleading.

61. By reason of the foregoing, Defendants Vuono and Rose aided and abetted, and unless enjoined, will again aid and abet, violations of Exchange Act Section 15(d), 15 U.S.C. §78o(d) and Exchange Act Rules 12b-20 and 15d-1, 17 C.F.R. §§ 12b-20 and 15d-1.

### **SEVENTH CAUSE OF ACTION**

#### **False Certifications in Annual Filing, Violation of Exchange Act Rule 15d-14 (Vuono and Rose)**

62. Paragraphs 1 through 41 are hereby realleged and incorporated by reference.

63. Exchange Act Rule 15d-14 requires that each report filed pursuant to Section 15(d) of the Exchange Act must include a certification signed by the CEO and CFO of the issuer. Among the items that the CEO and CFO must certify is that the filing, to the best of their knowledge, does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances in which such statements were made, not misleading.

64. Vuono and Rose violated Rule 15d-14 by falsely certifying that the Form 10-K contained no material misstatements or omissions.

65. By reason of the foregoing, Defendants Vuono and Rose violated, and unless enjoined, will again violate, Exchange Act Rule 15d-14, 17 C.F.R. 240.15d-14.

### **RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that this Court enter a final judgment:

#### **I.**

Permanently enjoining the Defendants, their agents, servants, employees, and attorneys,

and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Section 17(a) of the Securities Act, 15 U.S.C. §77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. §§ 78i(a)(1) and 78j(b), and Rule 10b-5, 17 C.F.R. §§ 240.10b-5.

## II.

Permanently enjoining MedLink, its agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Section 15(d) of the Exchange Act, 15 U.S.C. §78o(d) and Rules 15d-1, and 12b-20, 17 C.F.R. §§ 240.15d-1, and 12b-20.

## III.

Permanently enjoining Defendants Vuono and Rose, their agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from aiding and abetting violations of Section 17(a) of the Securities Act, 15 U.S.C. §77q(a), Sections 10(b) and 15(d) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78o(d), and Rules 10b-5, 12b-20, and 15d-1 thereunder, 17 C.F.R. §§ 240.10b-5, 12b-20, and 15d-1.

## IV.

Permanently enjoining Defendants Vuono and Rose, their agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Exchange Act Rule 15d-14, 17 C.F.R. §240.15d-14.

**V.**

Ordering each Defendant to disgorge their ill-gotten gains, if any, plus prejudgment interest.

**VI.**

Imposing civil monetary penalties upon each Defendant pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §78u(d)(3).

**VII.**

Prohibiting Vuono and Rose from participating in any offering of penny stock pursuant to Section 20(g) of the Securities Act, 15 U.S.C. §77t(g), and Section 21(d)(6) of the Exchange Act, 15 U.S.C. §78u(d)(6).

**VIII.**

Prohibiting Vuono and Rose from serving as officers or directors of any issuer that has a class of securities registered pursuant to Section 12 of the Securities Exchange Act or that is required to file reports pursuant to Section 15(d) of such Act pursuant to Section 20(e) of the Securities Act, 15 U.S.C. §77t(e), and Section 21(d)(2) of the Exchange Act, 15 U.S.C. §78u(d)(2).

**IX.**

Granting such other and further relief as the Court may deem just and proper.

Dated: October 24, 2012  
New York, New York

A handwritten signature in black ink, appearing to read 'AMC', is written over a solid horizontal line.

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