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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 SECURITIES AND EXCHANGE COMMISSION,
12 Plaintiff,
13 vs.
14 DANIEL MATTES,
15 Defendant.
16

Case No.

COMPLAINT

17
18 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

19 **SUMMARY OF THE ACTION**

20 1. From at least March 2014 through February 2015, Daniel Mattes, the founder and
21 former Chief Executive Officer of Jumio, Inc., a private Palo Alto, California based mobile
22 payments company, defrauded investors by providing them with materially misstated financial
23 statements that purported to show that Jumio had earned significantly more revenue and profits
24 that it actually did.

25 2. In approximately April 2014, Mattes began selling a portion of his personal
26 Jumio shares to investors on the secondary market, so that he could monetize his stake in the
27 company. To facilitate these sales, Mattes provided investors with financial statements that,
28 among other things, overstated Jumio's revenue by more than ten times through inclusion of

1 revenue that Jumio did not earn as well as revenue from a round-trip transaction that had no
2 economic substance. He also falsely told at least one secondary market investor that he was not
3 selling any of his own Jumio shares, because in his words, “there was lots of great stuff coming
4 up” for Jumio and “he’d be stupid to sell at this point.” Mattes also engaged in efforts to hide
5 his sales from Jumio’s board of directors and made false statements to certain of Jumio’s
6 lawyers, who signed off on the sales. Mattes profited by approximately \$14 million by selling
7 his personal shares in Jumio to the secondary market investors.

8 3. Jumio restated its financial statements in 2015. In 2016, Jumio filed for
9 bankruptcy and these investors lost their entire investment.

10 4. The Commission seeks an order enjoining Mattes from future violations of the
11 securities laws, requiring him to pay disgorgement and prejudgment interest, a civil monetary
12 penalty, prohibiting him from acting as an officer or director of any publicly listed company, and
13 providing other appropriate relief.

14 JURISDICTION AND VENUE

15 5. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a)
16 of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and
17 Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 (“Exchange Act”)
18 [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

19 6. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1)
20 and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a)] and Sections 21(d),
21 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

22 7. Defendant, directly or indirectly, made use of the means and instrumentalities of
23 interstate commerce or of the mails in connection with the acts, transactions, practices, and
24 courses of business alleged in this complaint.

25 8. Venue is proper in this District pursuant to Section 22(a) of the Securities Act
26 [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)]. Acts,
27 transactions, practices, and courses of business that form the basis for the violations alleged in
28

1 this complaint occurred in this District. Defendant met with and solicited prospective investors
2 in this District, and the relevant offers or sales of securities took place in this District.

3 9. Under Civil Local Rule 3-2(d), this civil action should be assigned to the San
4 Jose Division, because a substantial part of the events or omissions which give rise to the claims
5 alleged herein occurred in Santa Clara County.

6 DEFENDANT

7 10. Daniel Mattes, age 46, of Wels, Austria, is the founder and former CEO of Jumio,
8 Inc. From 2010 to 2015, he lived part-time in Silicon Valley. Previously, in 2005, Mattes
9 founded Jajah, a Mountain View-based technology company that he sold for hundreds of
10 millions of dollars in 2009. After leaving Jumio in 2015, Mattes founded 42.cx, an artificial
11 intelligence startup in Austria; he currently is the CEO of that company.

12 FACTUAL ALLEGATIONS

13 11. Daniel Mattes founded Jumio, a private mobile payments company, in Palo Alto
14 in 2010. Jumio sought to make purchases on mobile phones easier and more secure by using its
15 technology to verify customers' IDs and credit cards, thereby increasing the completion rate of
16 mobile transactions and decreasing fraud. From 2011 to 2013, the company received several
17 rounds of private funding.

18 A. Mattes Overstated Jumio's Financial Statements

19 12. Jumio had two sources of revenue: a business connected to the payment
20 processing industry that Mattes ran out of Austria ("Processing Business"), and a business based
21 on licensing Jumio's ID and credit card verification technology, that was run out of Palo Alto
22 ("Product Business"). Jumio's Processing Business made money by introducing third-party
23 merchants to a payment processor ("Payment Processor"), and getting a commission for doing
24 so. The Payment Processor would collect payment processing fees directly from the merchant,
25 and would then pay Jumio an approximately 10% referral commission. Jumio's Product
26 Business made money by licensing its products (ID and credit card verification for purchases
27 made on mobile phones) to merchants.

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1 13. Mattes personally prepared Jumio's consolidated financial statements for 2013
2 and 2014, which included the financial results for both Jumio's Processing Business and its
3 Product Business.

4 14. Mattes overstated Jumio's Processing Business revenue and profitability on the
5 financial statements by recording revenue that Jumio did not earn and by failing to include
6 certain expenses. In 2013 and 2014, Mattes caused Jumio to record the total amount of
7 processing fees collected by the Payment Processor—instead of the 10% Jumio earned—as
8 Jumio's revenue. Mattes also omitted certain expenses associated with Jumio's commissions
9 from the financial statements, thus overstating Jumio's profitability.

10 15. Mattes overstated Jumio's Product Business revenue in two ways. First, he
11 directed that the company recognize revenue for a large deal that had no economic substance.
12 Second, he directed that Jumio immediately recognize the entire amount of money due under
13 some of its contracts, even though it had not yet earned that money, and in some cases, even
14 when it was clear that it was unlikely that the money would ever be paid.

15 16. Almost half of the Product Business revenue Mattes directed to be recorded on
16 Jumio's 2013 and 2014 financial statements was due to a round-trip revenue deal ("Round-Trip
17 Transaction") that Mattes made with a third party software development company. Beginning in
18 the first quarter of 2013, Mattes caused Jumio to recognize revenue from a contract with the
19 software developer under which the software developer would ostensibly pay Jumio \$710,000 a
20 quarter for credit card verification scans that the developer could resell to third parties, and Jumio
21 would ostensibly pay the developer \$800,000 each quarter for software development services.
22 At the time he made the deal, Mattes wrote to another Jumio employee that he should not get
23 excited about the deal because, "it's more a deal to get our numbers straight for the upcoming
24 round" of investor financing. After the first quarter of 2013, when Jumio paid the software
25 developer the difference between the two amounts, the software developer stopped performing
26 work for Jumio. Thereafter, no money was paid by either party. But Mattes continued to include
27
28

1 the revenue associated with the Round-Trip Transaction in Jumio's financial statements
2 throughout 2013 and 2014.

3 17. Mattes also overstated Jumio's Product Business revenue by causing the
4 company to immediately recognize as revenue the entire amount of money due under some of its
5 contracts, which were subscriptions with customers for a period of time, even if Jumio had not
6 yet provided its services to the customer, or at times even after it was clear that the customer
7 would not pay its bill. Under Generally Accepted Accounting Principles, Jumio should have
8 recognized the revenue over the period of the subscription as the revenue was earned, and should
9 not have recognized revenue from deals where collectability was not reasonably assured.

10 18. The misstatements Mattes made in Jumio's financial statements were material.
11 Jumio's 2013 financial statements represented: that Jumio's gross revenue was \$101 million,
12 when in fact it was \$9.5 million; that its gross margin was \$23 million, when in fact it was \$9.2
13 million; and that it had a net profit of \$1.3 million, when in fact it had a net loss of \$10 million.
14 Jumio's 2014 financial statements represented: that Jumio's gross revenue would be \$150
15 million, when in fact it was \$7.7 million; that gross margin would be \$26 million, when in fact it
16 was \$3 million; and that the company would have a net loss of \$11 million, when in fact it had a
17 net loss of \$26 million.

18 19. Mattes knew, or was reckless in not knowing, that Jumio's 2013 and 2014
19 financial statements were misstated. Because Mattes personally negotiated and signed Jumio's
20 contract with the Payment Processor, he knew that Jumio had only earned about 10% of the
21 revenue that he caused to be recorded on its financials. He also knew that he had omitted the
22 Processing Business expenses from external versions of the financial statements that he provided
23 to investors, even though he included the expenses on certain internal versions of the financials.
24 He also knew, or was reckless in not knowing, that the Round-Trip Transaction lacked economic
25 substance and that he was he was recording Jumio's subscription revenue in advance of when
26 that revenue actually was earned, and in some cases, when it would likely not be paid at all.

B. Mattes Deceived Jumio's Board of Directors in Order to Sell His Stock

20. In early 2014, Mattes set up a stock sale program for Jumio employees to enable them to sell some of their equity in the company. Because Jumio was a private company, its shares were not traded on an exchange. Accordingly, Mattes made arrangements for the employees to sell their Jumio shares through a broker that specialized in private, secondary market transactions (that is, sales of shares from one investor to another, rather than from an issuer to an investor). The Jumio employees sold their shares through the stock sale program in March and April of 2014.

21. Mattes was contractually obligated to give the board members prior written notice before selling his shares in Jumio. At the time of the employee stock sale, Mattes had already sold large blocks of shares to two institutional investors, with Jumio's board's approval. One of the board members had told Mattes that the board would not approve any more sales. This was because the board wanted Mattes to be strongly incentivized to maximize the company's value.

22. When Mattes obtained approval from Jumio's board of directors for the employee stock sale program, he represented to the board in writing that he and other senior executives would be excluded from the program. Although Mattes later gave a presentation to the board stating that "executives" were considering selling their shares, he told the board that "executives" referred to Jumio's VPs, not himself. Nonetheless, Mattes sold his own shares through the employee stock sale program, without telling Jumio's board of directors.

23. Jumio's general counsel and outside counsel told Mattes multiple times, both orally and in writing, that he needed board consent for the sales. Mattes falsely told both of the lawyers, however, that the members of the board had informally approved the sales and would ratify them in writing later.

C. Mattes Used Jumio's Misstated Financial Statements to Sell His Stock to Secondary Market Investors

24. From April 2014 through February 2015, Mattes used the stock sale program to

1 | sell millions of his own Jumio shares to secondary market investors, including a number of
2 | individuals and funds. Mattes made a profit of \$14,617,922 from these sales.

3 | 25. All of these sales were based on Jumio's overstated financial statements. In
4 | March 2014, Mattes personally directed that the 2013 financial statements be placed in a data
5 | room for investors to view in deciding whether to buy Jumio shares. By May 2014, he caused
6 | the 2014 financial statements (which ostensibly contained a mix of actual results for 2014 and
7 | forecasts for the remainder of the year) to be provided to the broker who was arranging the sales.
8 | The broker, with Mattes' knowledge, orally discussed the 2014 financial statements with
9 | investors. Mattes also personally discussed Jumio's financial results with several of the
10 | investors, in person and in phone calls. Many of the secondary market investors would not have
11 | bought the shares if they had known that Jumio's revenue was less than 10% of what they had
12 | been told, and that the company did not have a net profit.

13 | 26. Mattes also misrepresented to at least one investor that he was not selling any of
14 | his own shares. The investor asked in an email: "Are any of the sellers...current or former
15 | employees of Jumio?" The broker who was selling the shares responded, "I have not sold a
16 | single share nor has Daniel [Mattes]." The broker then forwarded the investor's questions and
17 | his response to Mattes, who edited the email to add additional information for the investor on
18 | other topics, but did not correct the false statement that he had not sold a single share.

19 | 27. After the transaction closed and the investor saw that his money was to be wired
20 | to Mattes' company in Austria, he called Mattes for an explanation. Mattes falsely assured him
21 | that he himself was not selling shares, but was merely using his company as a vehicle to buy the
22 | shares of early investors and then resell those shares to third parties, for legal reasons that
23 | Jumio's lawyer had insisted on. Mattes told the investor that he did not want to sell a single
24 | share, because there was "lots of great stuff coming up" and that "he'd be stupid to sell at this
25 | point."
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1 28. Mattes' representation that he was not selling his shares was important to the
 2 investor because he believed Mattes would not sell his own shares if Jumio was a good
 3 investment.

4 **D. Jumio Restated its Financial Statements and Declared Bankruptcy**

5 29. In late 2014, Jumio hired a CFO, who quit after just a few days on the job. He
 6 told Jumio's board that Jumio's revenue numbers were inaccurate, pointing out the Round-
 7 Trip Transaction in particular. Jumio's board then hired external accountants to assess
 8 Jumio's books, leading to a restatement of Jumio's 2013 and 2014 financial statements. Even
 9 after Mattes knew that the financial statements would need to be restated, he continued selling
 10 his stock on the secondary market.

11 30. In mid-2015, after an internal investigation, Mattes resigned. Jumio filed for
 12 Chapter 11 bankruptcy in 2016, and the shares that Mattes had sold to the secondary market
 13 purchasers became worthless.

14 **FIRST CLAIM FOR RELIEF**

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

16 31. The Commission re-alleges and incorporates by reference Paragraph Nos. 1
 17 through 30.

18 32. By engaging in the conduct described above, Defendant Mattes, directly or
 19 indirectly, in connection with the purchase or sale of securities, by the use of means or
 20 instrumentalities of interstate commerce, or the mails, with scienter:

- 21 (a) Employed devices, schemes, or artifices to defraud;
- 22 (b) Made untrue statements of material facts or omitted to state material facts
 23 necessary in order to make the statements made, in the light of the circumstances
 24 under which they were made, not misleading; and
- 25 (c) Engaged in acts, practices, or courses of business which operated or would
 26 operate as a fraud or deceit upon other persons, including purchasers and sellers
 27 of securities.
- 28

1 33. By reason of the foregoing, Defendant violated, and unless restrained and
2 enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and
3 Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5].

4 **SECOND CLAIM FOR RELIEF**

5 *Violations of Sections 17(a)(1), (2), and (3) of the Securities Act*

6 34. The Commission re-alleges and incorporates by reference Paragraph Nos. 1
7 through 33.

8 35. By engaging in the conduct described above, Defendant Mattes, directly or
9 indirectly, in the offer or sale of securities, by use of the means or instruments of transportation
10 or communication in interstate commerce or by use of the mails,

- 11 (1) with scienter, employed devices, schemes, or artifices to defraud;
- 12 (2) obtained money or property by means of untrue statements of material fact or by
13 omitting to state a material fact necessary in order to make the statements made,
14 in light of the circumstances under which they were made, not misleading; and
- 15 (3) engaged in transactions, practices, or courses of business which operated or
16 would operate as a fraud or deceit upon purchasers.

17 36. By reason of the foregoing, Defendant violated, and unless restrained and
18 enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. §§ 77q(a)].

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the Commission respectfully requests that this Court:

21 **I.**

22 Permanently enjoin Defendant Mattes from directly or indirectly violating Section 17(a)
23 of the Securities Act [15 U.S.C. § 77q(a)], and Section 10(b) of the Exchange Act [15 U.S.C.
24 § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

25 **II.**

26 Issue an order requiring Defendant Mattes to disgorge the ill-gotten gains received as a
27 result of the violations alleged herein, plus prejudgment interest thereon.

1 **III.**

2 Issue an order requiring Defendant Mattes to pay a civil monetary penalty pursuant to
3 Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act
4 [15 U.S.C. § 78u(d)(3)].

5 **IV.**

6 Prohibit Defendant Mattes from serving as an officer or director of any entity having a
7 class of securities registered with the Commission pursuant to Section 12 of the Exchange Act
8 [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act
9 [15 U.S.C. § 78o(d)], pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and
10 Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)].

11 **V.**

12 Retain jurisdiction of this action in accordance with the principles of equity and the
13 Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and
14 decrees that may be entered, or to entertain any suitable application or motion for additional
15 relief within the jurisdiction of this Court.

16 **VI.**

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

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19 Dated: April 2, 2019

Respectfully submitted,

20
21 /s/ Ruth L. Hawley

22 RUTH L. HAWLEY

23 Attorney for Plaintiff

24 SECURITIES AND EXCHANGE COMMISSION
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