

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

17cv21033 Lenard/Goodman

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

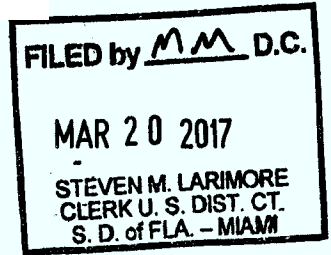
v.

LOTTONET OPERATING CORP.,  
DAVID GRAY,  
JOSEPH VITALE A/K/A DONOVAN KELLY,

Defendants, and

ORACLE MARKETING GROUP INC.,  
CRM INTERACTIVE LLC,  
THE COUNCIL CLUB LLC,

Relief Defendants.



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**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission alleges:

**I. INTRODUCTION**

1. The Commission brings this action to enjoin LottoNet Operating Corp. ("LottoNet" or the "Company"), its CEO David Gray, and its sales person Joseph Vitale from continuing to defraud investors through the ongoing sale of securities in violation of the anti-fraud and broker-dealer registration provisions of the federal securities laws.

2. From no later than July 21, 2015 until present, the Defendants have sold securities in the form of shares in LottoNet, which purports to be in the business of facilitating the purchase of lottery tickets from lotteries in various states online.

3. The LottoNet offering has thus far raised approximately \$4.8 million from about 138 investors nationwide.

4. To lure investors, the Defendants have knowingly or recklessly materially misrepresented how they would use investor funds.

5. LottoNet and Gray have misused or misappropriated more than \$2 million of the \$4.8 million raised in a manner contrary to the representations to investors.

6. For example, in its private placement memorandum (“PPM”) and SEC filings, LottoNet and Gray represent that the Company will not pay sales agents any commission.

7. This is false. In truth, LottoNet and Gray use investor proceeds to pay sales agents commissions of at least 35 percent of the amount raised from an investor. As of February 28, 2017, LottoNet has paid sales agents more than \$1.1 million of the investor funds.

8. Similarly, Vitale tells potential investors LottoNet will use investor proceeds to develop the company’s business and technology, while failing to disclose LottoNet uses investor proceeds to pay Vitale, through his companies Relief Defendants Oracle Marketing Group Inc., CRM Interactive LLC, and The Council Club LLC.

9. In addition, Gray, who has authority over LottoNet and runs the day-to-day operations, has misappropriated at least \$464,000 of investor funds and an additional \$121,000 of investor funds have been siphoned off to pay for personal expenditures, including strip clubs and clothing.

10. Contrary to Gray’s representations in LottoNet’s SEC filings that officer and director compensation would total about \$200,000, LottoNet has paid its officers and directors, including Gray and others, more than three times that amount, or about \$617,000.

11. Through their conduct, LottoNet, Gray, and Vitale are violating the anti-fraud provisions of the federal securities laws, LottoNet and Vitale are violating the broker-dealer

registration provisions of the federal securities laws, and Gray is aiding and abetting the violation of the broker-dealer registration provisions of the federal securities laws.

12. Based on the ongoing nature of their violations and the scienter the Defendants have demonstrated through their willful and wanton disregard for the federal securities laws, the Defendants have shown they will continue to violate the law unless the Court grants the injunctive and other relief the Commission seeks.

## **II. DEFENDANTS AND RELIEF DEFENDANTS**

### **A. Defendants**

13. LottoNet is a Delaware corporation Gray formed on May 20, 2015 with its principal place of business in Pompano Beach, Florida. LottoNet is not registered with the Commission in any capacity. On October 21, 2015, LottoNet filed a Form D with the SEC to raise \$5 million through a private offering, and filed an amended Form D on November 23, 2015.

14. Gray is a resident of Lighthouse Point, Florida. He is the Chief Executive Officer, President, and Chairman of the Board of Directors of LottoNet, and he owns more than half of LottoNet's common stock. He has ultimate authority over LottoNet and runs the day-to-day operations. Gray is not registered with the Commission in any capacity.

15. Vitale, a/k/a Donovan Kelly, is a resident of Boca Raton, Florida. Since no later than May 2016, Vitale has been a sales agent for LottoNet. He is not currently registered with the Commission in any capacity. From 2006 until 2009, Vitale was a Series 7 and 63 licensed registered representative. On January 5, 2010, the Pennsylvania Securities Commission entered a cease-and-desist order against Vitale to prevent him from offering unregistered securities. *In the Matter of LADP Acquisition, Inc., et al.*, Docket No. 2009-12-16, 2010 WL 428767 (Pa. Sec.

Com. Jan. 5, 2010). On October 19, 2011, the Financial Industry Regulatory Authority (“FINRA”) permanently barred Vitale from acting as a broker or otherwise associating with firms that sell securities to the public.

**B. RELIEF DEFENDANTS**

16. Oracle Marketing Group Inc. (“Oracle”) is a Florida corporation Vitale formed in March 2015. Vitale was Oracle’s president from March 2015 until at least September 2016 when the State of Florida administratively dissolved Oracle for failure to file annual reports. From August 28, 2015 until August 15, 2016, LottoNet and Gray have paid their sales agent Vitale through at least 41 payments of investor funds to Oracle totaling at least \$245,000. Without any legitimate basis, Oracle received investor proceeds emanating from the Defendants’ securities fraud.

17. CRM Interactive LLC is a Delaware company formed in 2016. Vitale is the signatory on CMR Interactive’s bank account and from August 30, 2016 until January 31, 2017, LottoNet has paid Vitale by making at least 14 payments of investor funds to CMR Interactive totaling at least \$335,000. Without any legitimate basis, CRM Interactive has received investor proceeds emanating from the Defendants’ securities fraud.

18. The Council Club LLC is a Delaware company formed in 2015, and Vitale is its sole member. Vitale is the signatory on The Council Club’s bank account and from June 3, 2016 until September 14, 2016, LottoNet paid its sales agent Vitale by making at least at least 10 payments of investor funds to The Council Club totaling at least \$129,663. Without any legitimate basis, The Council Club has received investor proceeds emanating from the Defendants’ securities fraud.

### **III. JURISDICTION AND VENUE**

19. The Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a); and Sections 21(d), 21(e), and Section 27 of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d), 78u(e), and 78aa.

20. This Court has personal jurisdiction over the Defendants and Relief Defendants, and venue is proper in the Southern District of Florida, because many of the Defendants’ acts and transactions constituting or resulting from violations of the Securities Act and the Exchange Act occurred, and continue to occur, in the Southern District of Florida. LottoNet’s principal place of business is in the Southern District of Florida, the Defendants reside in the Southern District of Florida, Gray manages LottoNet’s operations from the Southern District of Florida, Vitale solicits investors from LottoNet’s boiler room located in the Southern District of Florida, and LottoNet directs investors to make their investments by wiring funds to LottoNet’s bank in Pompano Beach or by mailing checks to LottoNet’s office in Pompano Beach.

21. In connection with the conduct alleged in this Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

### **IV. THE LOTTONET FRAUD**

#### **A. The LottoNet Offering**

22. From approximately July 21, 2015 through present, LottoNet and Gray have offered and sold shares in the Company to the public.

23. The terms of the offering are memorialized in a PPM dated July 1, 2015.

24. As set forth in the PPM, LottoNet seeks to raise \$5 million by offering to sell 40,000 shares of common stock in the Company for \$125.00 per share.

25. Gray is responsible for the representations in the PPM, which states:

DG [Gray] has the power and authority to execute, deliver, and perform this Agreement and other agreements and instruments to be executed and delivered by them in connection with the transactions contemplated hereby, and DG [Gray] will have taken all necessary action to authorize the execution and delivery of this Agreement .... This Agreement is, and the other agreements and instruments to be executed and delivered by [Gray] in connection with the transactions contemplated hereby, when such other agreements and instruments are executed and delivered, shall be, the valid and legally binding obligations of Gray enforceable against Gray in accordance with their respective terms.

26. LottoNet filed a Form D with the SEC on October 21, 2015, and an amended Form D with the SEC on November 23, 2015 (“Form D Filings”), stating LottoNet seeks to raise \$5 million from investors.

27. Gray, in his capacity as CEO, executed the Form D and Amended Form D on behalf of LottoNet.

28. In the Form D Filings, LottoNet and Gray state the offering will not last longer than one year.

29. This representation is false, as the LottoNet offering continued beyond one year.

30. In addition, LottoNet and Gray have launched a second securities offering, for LottoNet Peru, which LottoNet claims has an exclusive license to operate lotteries in Peru.

31. LottoNet and its sales agents are raising funds for this new offering.

32. On February 23, 2017, LottoNet transferred approximately \$72,000 of LottoNet investor funds overseas to a LottoNet Peru account.

**B. Solicitation of Investors**

33. From no later than July 21, 2015 until at least February 2017, Gray has solicited investor contributions for LottoNet by managing a boiler room in Pompano Beach where Gray has utilized unregistered sales agents to place cold calls to potential investors nationwide.

34. LottoNet is seeking to hire an additional sales agent. Specifically, LottoNet is currently advertising on the website www.Indeed.com that it seeks to hire an additional “Private Placement Account Specialist,” entailing “[o]utbound dialing fronting” for a commission.

35. From no later than May 2016 until at least February 2017, Vitale has worked as an unregistered sales agent in the LottoNet boiler room.

36. Gray and LottoNet provide the sales agents with scripts Vitale prepared to use during calls to solicit investors (the “Scripts”).

37. From no later than July 2016 until at least February 2017, Vitale drafted the Scripts, and Vitale and Gray directed the sales agents to read them verbatim during calls to solicit investors in LottoNet.

38. From no later than July 2016 until at least February 2017, the sales agents used the Scripts during calls to solicit investors.

39. Pursuant to the Scripts, LottoNet sales agents tell investors that “you’re looking at a monthly dividend payout of \$8,500 every month” on a \$25,000 investment if LottoNet reaches 1% market share.

40. LottoNet’s PPM, executive summary, and pro forma financial projections include similar figures touting the potential for enormous investment returns.

41. The Scripts also tout the purported safety of the investment, noting that there is a “minimum floor” paid to the investor in the event the company is acquired and a 60% return is the “worst case” in that scenario.

42. As of February 28, 2017, LottoNet has only paid a total of \$10,525.43 to investors in investment returns in a Ponzi-like fashion, using funds from later investors to pay earlier investors.

43. After Vitale and other LottoNet sales agents make cold-calls to potential investors by telephone, Vitale and the other LottoNet sales agents email the potential investors marketing materials that include a PPM, subscription agreement, investor questionnaire, pro forma financial projections, marketing video, and executive summary (“Marketing Materials”).

44. After the cold calls, Gray utilizes his sales agents to place additional telephone calls to potential investors to close the sales.

45. To date, LottoNet has raised a total of more than \$4.8 million from about 138 investors.

46. Vitale has personally raised at least \$1.4 million of this amount by soliciting potential investors.

### **C. Misrepresentations and Omissions in the LottoNet Offering**

47. In connection with LottoNet’s offering, LottoNet, Gray, Vitale, and others have knowingly or recklessly made material misrepresentations and omissions about the use of investor funds, Gray’s compensation, and commissions paid to LottoNet’s sales agents.

#### ***1. Defendants’ Representations About The Use Of Investor Funds***

48. From no later than July 21, 2015 until at least February 2017, LottoNet and Gray have made materially false and misleading statements to potential investors in LottoNet’s PPM.



49. The PPM states that investor proceeds will be used to pay for:

“(i) the development cycle, which includes perfecting the software and hosting platform, (ii) for marketing; including online & offline advertising and the initial free ticket promotion; (iii) managerial and administrative expenses; (iv) legal expenses and consulting fees, including fees to take the company public.”

50. The PPM further estimates how much of the \$5 million raised would be spent in each of these four categories, stating 15% of the total amount raised would be spent on management and administration.

51. Similarly, in the executive summary Gray and Vitale distribute to potential investors, LottoNet asserts that the Company will use investor funds to “invest[] primarily into marketing a quality product,” as well to pay for LottoNet software, management and administration, legal expenses including patents, and to go public.

52. The PPM falsely assures potential investors that “no commissions or any other form of remuneration will be paid on sales made directly to the public by the Company.”

53. The Form D and Amended Form D Gray executed and filed with the SEC on behalf of LottoNet falsely represents that LottoNet will not pay commissions to sales agents or promoters.

54. In the LottoNet Form D and Amended Form D, Gray also falsely represents that the total compensation to officers and directors would be approximately \$200,000.

55. During telephone calls to solicit investors, Vitale and the sales agents have made materially misleading oral representations to potential investors about the use of investor funds.

56. For example, one of the Scripts the sales agents read potential investors states that “we are only raising a small amount of 5 million dollars for advertising and Technical Support on the backside.”

57. During telephone calls with potential investors, Vitale has also represented that LottoNet would use investor funds for technical development, including development of a cellular phone application, and the marketing of LottoNet.

58. As of February 28, 2017, LottoNet has only received about \$4,075 from non-investor sources. All other funds in the LottoNet accounts are from investors, totaling more than \$4.8 million.

59. The Defendants' representations about the use of investor funds are materially false.

60. As set forth in more detail below, Gray and LottoNet have misused or misappropriated more than \$2 million of the investor funds, contrary to the representations the Defendants made about the use of investor funds.

## ***2. Misappropriation of Investor Funds and Gray's Compensation***

61. Contrary to the LottoNet and Gray's representations about the use of investor funds in the PPM and during solicitation calls, from July 21, 2015 until at least February 28, 2017, more than \$464,000 of the investor funds have been transferred from LottoNet to Gray directly. Contrary to the representation in the PPM that Gray will receive \$10,000 a month as compensation, Gray has directly received an average of \$22,000 per month:

<b>Month and Year</b>	<b>Amount</b>
August 2015	\$16,097
September 2015	\$19,231
October 2015	\$22,776
November 2015	\$14,534
December 2015	\$17,852
January 2016	\$14,181
February 2016	\$15,202
March 2016	\$27,624
April 2016	\$16,815
May 2016	\$25,645

June 2016	\$33,026
July 2016	\$40,731
August 2016	\$41,231
September 2016	\$32,538
October 2016	\$32,231
November 2016	\$21,731
December 2016	\$27,851
January 2017	\$26,453

62. An additional \$121,000 of investor funds have been used to pay for personal expenses, including strip clubs, clothing, and some of Gray's wedding-related expenses.

63. Gray and LottoNet have not disclosed to investors the misappropriation and misuse of investor funds to pay personal expenses.

64. The misappropriation and misuse of investor funds is omitted from the PPM, executive summary, Scripts, and other Marketing Materials.

65. Contrary to the Amended Form D Gray filed with the SEC in which he represented officer and director compensation would be about \$200,000, LottoNet has paid the officers and directors three times that amount – or about \$617,000.

### ***3. Use of Investor Funds to Pay Undisclosed Commissions to Sales Agents***

66. LottoNet, Gray, and Vitale have failed to disclose to potential investors that LottoNet uses investor funds to pay commissions to sales representatives in exchange for selling the LottoNet shares to investors.

67. Contrary to the Defendants' representations about the use of investor funds in the PPM, executive summary, and Form D filings, and contrary to Vitale's oral representations to potential investors, LottoNet and Gray have used investor funds to pay Vitale and other sales agents commissions in exchange for selling LottoNet shares to investors.

68. In exchange for selling LottoNet shares, LottoNet and Gray pay sales agents at least 35 percent of each investor contribution they obtain through their solicitation efforts.

69. LottoNet has paid more than \$1.1 million of the investor funds to sales agents.

70. The Defendants knowingly or recklessly conceal the commissions from potential investors. For example, in August 2016, Vitale told a potential investor LottoNet would use investor funds for the technical development and marketing of LottoNet, while failing to disclose that he would receive a commission if the potential investor contributed funds.

71. However, by August 2016, Vitale had received at least \$245,000 in commissions from LottoNet.

72. As of February 28, 2017, Vitale has received more than \$710,000 of investor funds in the form of payments to his entities Relief Defendants Oracle, CRM Interactive, and The Council Club.

73. Gray has further concealed the commissions by, among other things, telling at least one sales agent to refer to the commission he received as a “bonus,” and paying commissions in installments so they would appear to be salaries.

74. Additionally, in the PPM, LottoNet and Gray represent that “no commissions or any remuneration will be paid on sales of the shares,” but that the Board of Directors “may authorize payment of commissions to licensed broker dealers who participate in the offer and sale of shares of common stock in this Offering.”

75. This is another lie. Not only did LottoNet and Gray pay commissions on the sales of shares, but also they recruited and paid commissions to unlicensed broker-dealers, including Vitale.

76. In fact, during the time he worked at LottoNet, Vitale was under a FINRA Order prohibiting him from affiliating with broker-dealers.

**D. The Scheme To Conceal Vitale's Background From Investors**

77. From no later than July 21, 2015 until approximately February 2017, Gray and Vitale engaged in a fraudulent scheme to knowingly or recklessly conceal from investors the negative regulatory history and sanctions previously imposed against Vitale for securities-related violations.

***1. The Pennsylvania Securities Commission Has Found Vitale Violated The Securities Laws***

78. On January 5, 2010, the Pennsylvania Securities Commission entered a Summary Order to Cease and Desist against Vitale arising from his violations of the Pennsylvania Securities Act in connection with a \$10 million securities offering.

79. Specifically, the Pennsylvania Securities Commission found Vitale was the CEO and president of an unregistered broker-dealer he operated to place cold calls to solicit unaccredited investors to invest in an unregistered securities offering.

80. The Pennsylvania Securities Commission found Vitale violated Section 1-201 of the Pennsylvania Securities Act, which makes it unlawful to offer or sell unregistered securities, and Section 1-301(a) of the Act, which makes it unlawful to transact business as an unregistered broker-dealer.

81. Based on Vitale's violations of the Pennsylvania securities laws, the Pennsylvania Securities Commission entered an Order directing him to cease and desist his securities offering in Pennsylvania.

***2. FINRA Has Barred Vitale From Associating With Any Broker-Dealer***

82. In Spring 2009, FINRA initiated an investigation, including but not limited to, whether Vitale had engaged in excessive trading in a customer's account in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

83. On October 14, 2010, the FINRA Department of Enforcement filed a Disciplinary Proceeding against Vitale for failing to respond to at least seven FINRA requests for information in connection with the investigation.

84. The FINRA Hearing Officer found Vitale “frustrated FINRA’s investigation into his misconduct, which had been protracted for over a year because of his obstructive tactics,” and found his misconduct “renders him ‘presumptively unfit for employment in the securities industry.’”

85. On September 11, 2011, FINRA barred Vitale from associating with any FINRA member in any capacity.

***3. Vitale and Gray Tell LottoNet Investors Vitale Is “Donovan Kelly”***

86. To conceal Vitale’s disciplinary history from potential investors, Gray and Vitale referred to Vitale as “Donovan Kelly.”

87. Vitale used the alias Donovan Kelly during his telephone calls to solicit potential investors to contribute to LottoNet.

**E. LottoNet and Vitale Acted As Unregistered Broker-Dealers,  
And Gray Aided And Abetted This Conduct**

88. From no later than May 2016 until at least February 2017, LottoNet, through Gray, retained Vitale and other unregistered sales agents to solicit investors for the LottoNet offering.

89. Gray and LottoNet agreed to pay Vitale and other unregistered sales agents for raising investor funds directly and through an unregistered boiler room where Gray managed at least 13 individuals to assist him with investor solicitation.

90. In exchange for soliciting investors, LottoNet and Gray used investor funds to pay the unregistered sales agents and others commissions totaling at least 35 percent of the amount raised from investors, broken down as follows:

- 10-15% commission to “fronters,” who placed the initial cold calls to solicit potential investors; and
- 20% commission to “closers,” who followed up with the potential investors to close the deals and obtain the investor funds.

91. LottoNet has paid the sales agents at least \$1.1 million of investor funds.

92. Neither the boiler room nor Vitale or the other sales agents used to sell the LottoNet shares were registered as broker-dealers, as required by the federal securities law.

### **COUNT I**

#### **Fraud in Violation of Section 10(b) and Rule 10b-5(a) of the Exchange Act Against LottoNet, Gray, and Vitale**

93. The Commission repeats and realleges paragraphs 1 through 92 of its Complaint.

94. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, by use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the purchase or sale of securities, knowingly or recklessly have employed devices, schemes or artifices to defraud in connection with the purchase or sale of securities.

95. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(a) [17 C.F.R. § 240.10b-5(a)].

**COUNT II**

**Fraud in Violation of Section 10(b) and Rule 10b-5(b) of the Exchange Act  
Against LottoNet, Gray, and Vitale**

96. The Commission realleges and incorporates paragraphs 1 through 92 of this Complaint.

97. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or of the mails, in connection with the purchase or sale of securities, knowingly or recklessly made untrue statements of material facts or omitted to state material facts in order to make the statements made, in the light of the circumstances in which they were made, not misleading.

98. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(b) [17 C.F.R. § 240.10b-5(b)].

**COUNT III**

**Fraud in Violation of Section 10(b) and Rule 10b-5(c) of the Exchange Act  
Against LottoNet, Gray, and Vitale**

99. The Commission repeats and realleges paragraphs 1 through 92 of this Complaint.

100. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or of the mails, in connection with the purchase or sale of securities, knowingly or recklessly engaged in acts, practices, and courses of business which have operated, are now operating, and will operate as a fraud upon the purchasers of such securities.



101. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(c) [17 C.F.R. § 240.10b-5(c)].

**COUNT IV**

**Fraud in the Offer or Sale of Securities in  
Violation of Section 17(a)(1) of the Securities Act  
Against LottoNet, Gray, and Vitale**

102. The Commission repeats and realleges paragraphs 1 through 92 of this Complaint as if fully restated herein.

103. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or of the mails have knowingly or recklessly employed devices, schemes or artifices to defraud.

104. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

**COUNT V**

**Fraud in the Offer or Sale of Securities in  
Violation of Section 17(a)(2) of the Securities Act  
Against LottoNet, Gray, and Vitale**

105. The Commission repeats and realleges paragraphs 1 through 92 of this Complaint.

106. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or of the mails have negligently obtained money or property by means of untrue statements of material facts and

omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

107. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

#### **COUNT VI**

##### **Fraud in the Offer or Sale of Securities in Violation of Section 17(a)(3) of the Securities Act Against LottoNet, Gray, and Vitale**

108. The Commission repeats and realleges paragraphs 1 through 92 of this Complaint.

109. LottoNet and Gray, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or of the mails have negligently engaged in transactions, practices, or courses of business which operated or would have operated as a fraud or deceit upon the purchasers.

110. By reason of the foregoing, LottoNet, Gray, and Vitale, directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

#### **COUNT VII**

##### **Unregistered Broker-Dealer Conduct in Violation of Section 15(a)(1) of the Exchange Act Against LottoNet and Vitale**

111. The Commission repeats and realleges paragraphs 13, 15-18, 20, 22, 24, 33-46, 88-92 of this Complaint.

112. LottoNet, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly and indirectly by the use of the means and instrumentalities of interstate

commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase and sale of securities, without registering as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

113. By reason of the foregoing, LottoNet and Vitale, directly or indirectly, violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

### **COUNT VIII**

#### **Aiding And Abetting LottoNet and Vitale's Unregistered Broker-Dealer Conduct in Violation of Section 15(a)(1) of the Exchange Act Against Gray**

114. The Commission repeats and realleges paragraphs 13-18, 20, 22, 24, 33-46, 88-92 of this Complaint.

115. LottoNet, beginning no later than July 2015, and Vitale, beginning no later than May 2016, directly or indirectly, by the use of the means and instrumentalities of interstate commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase and sale of securities, without registering as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

116. Gray knowingly or recklessly provided substantial assistance to LottoNet and Vitale in connection with their violations of Section 15(a)(1) of the Exchange Act.

117. By reason of the foregoing, Gray aided and abetted, and unless enjoined, is reasonably likely to continue to aid and abet LottoNet and Vitale's violations of Section 15(a)(1) of the Exchange Act. [15 U.S.C. § 78o(a)(1)] .

**COUNT IX**

**Aiding And Abetting LottoNet's Unregistered  
Broker-Dealer Conduct in Violation of Section 15(a)(1) of the Exchange Act  
Against Vitale**

118. The Commission repeats and realleges paragraphs 13-18, 20, 22, 24, 33-46, 88-92 of this Complaint.

119. LottoNet, beginning no later than July 2015, directly or indirectly, by the use of the means and instrumentalities of interstate commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase and sale of securities, without registering as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

120. Vitale knowingly or recklessly provided substantial assistance to LottoNet in connection with its violation of Section 15(a)(1) of the Exchange Act.

121. By reason of the foregoing, Vitale aided and abetted, and unless enjoined, is reasonably likely to continue to aid and abet LottoNet's violation of Section 15(a)(1) of the Exchange Act. [15 U.S.C. § 78o(a)(1)] .

**COUNT X**

**Section 20(a) - Control Person Liability  
Against Gray**

122. The Commission repeats and realleges paragraphs 1 through 92 of this Complaint.

123. Beginning no later than July 2015, Gray has been, directly or indirectly, a control person of LottoNet for purposes of Section 20(a) of the Exchange Act. [15 U.S.C. § 78t(a)].

124. Beginning no later than July 2015, LottoNet violated Section 10(b) and Rule 10b-5 of the Exchange Act.

125. As a control person of LottoNet, Gray is jointly and severally liable with and to the same extent as LottoNet for each of its violations of Section 10(b) and Rule 10b-5 of the Exchange Act.

126. By reason of the foregoing, Gray directly and indirectly violated, and unless enjoined, is reasonably likely to continue violating, Section 10(b) and Rule 10b-5 of the Exchange Act. [15 U.S.C. § 78j(b) and § 78t(a), and 17 C.F.R. § 240.10b-5].

**RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that the Court find that Defendants committed the violations alleged and:

**I.**

**Temporary Restraining Order, Preliminary Injunction and Permanent Injunction**

Issue a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction, restraining and enjoining: Defendants LottoNet, Gray, and Vitale, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Section 17(a) of the Securities Act, Section 10(b) and Rule 10b-5(b) of the Exchange Act, and Section 15(a)(1) of the Exchange Act.

**II.**

**Asset Freeze and Sworn Accountings**

Issue an Order freezing the assets of all Defendants and Relief Defendants until further Order of the Court and requiring the Defendants and Relief Defendants to file sworn accountings with this Court.

**III.**

**Records Preservation**

Issue an Order requiring all Defendants and Relief Defendants to preserve any records related to the subject matter of this lawsuit that are in their custody or possession or subject to their control.

**IV.**

**Disgorgement**

Issue an Order directing all Defendants and Relief Defendants to disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

**V.**

**Penalties**

Issue an Order directing all Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d).

**VI.**

**Repatriation Order**

Issue an Order directing Defendant LottoNet to repatriate any funds held at any bank or other financial institution not subject to the jurisdiction of the Court.

**VII.**

**Appointment of a Receiver**

Appoint a receiver over Defendant LottoNet and all Relief Defendants.

**VIII.**

**Officer and Director Bar**

Issue an Order barring Defendant Gray from serving as an officer or director of any public company pursuant to Section 20(e) of the Securities Act, Sections 21(d)(2) and 21(d)(5) of the Exchange Act, and Section 305(b)(5) of the Sarbanes-Oxley Act.

**IX.**

**Further Relief**

Grant such other and further relief as may be necessary and appropriate.

**X.**

**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

**DEMAND FOR JURY TRIAL**

The Securities and Exchange Commission hereby demands a jury trial in this case.

March 20, 2017

Respectfully submitted,

By:   
s/Amie Riggle Berlin

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