**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF TEXAS**
**FORT WORTH DIVISION**

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| **SECURITIES AND EXCHANGE COMMISSION,**<br><br>**Plaintiff,**<br><br>**v.**<br><br>**CHRISTOPHER S. KIRCHNER,**<br><br>**Defendant,**<br><br>**-and-**<br><br>**KFIM LLC,**<br><br>**Relief Defendant.** | **C.A. No.: 4:23-cv-147**<br><br>**Jury Trial Demanded** |

# COMPLAINT

Plaintiff Securities and Exchange Commission ("SEC") files this Complaint against Defendant Christopher S. Kirchner ("Kirchner" or "Defendant") and Relief Defendant KFIM LLC ("KFIM" or "Relief Defendant") and alleges as follows:

## SUMMARY

1. This case concerns an offering fraud orchestrated by Kirchner, the co-founder and former Chief Executive Officer ("CEO") of Slync, Inc. ("Slync" or the "Company"), involving his brazen theft of over $28 million of investor funds to fund his lavish lifestyle.

2. From approximately January 2020 through May 2021, Defendant raised approximately $67 million for the Company from investors in connection with two rounds of capital fundraising—an initial offering of Slync Series A Preferred Stock (the "Series A Raise") and a subsequent offering of Slync Series B Preferred Stock (the "Series B Raise," and together with the Series A Raise, the "Capital Raises")—through a series of deceptions ranging from

grossly inflating Slync's revenue figures, to intentionally misrepresenting the number and nature of Slync's customer contracts, to falsely claiming that investor proceeds would be used to fund product development and to support the Company's growth.

3. After luring investors to participate in the Capital Raises on the basis of these false promises, Defendant siphoned investor proceeds by diverting funds to his personal bank accounts and to a related entity he controlled, and by paying for personal expenses directly out of a Company bank account. Kirchner used investor funds to support his lavish lifestyle, including for the purchase of a private jet, payment of personal credit cards, and funding of Defendant's personal investment accounts, all while continuing to lie to investors about Slync's financial health and repeatedly failing to meet payroll deadlines for Company employees.

4. All told, prior to his termination from Slync in August 2022, Defendant misappropriated more than $28 million of the $67 million of investor funds raised by Slync in connection with the Capital Raises.

## VIOLATIONS

5. By virtue of the foregoing conduct and as alleged further herein, Defendant has violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

6. Unless Defendant is restrained and enjoined, he will engage in the acts, practices, transactions, and courses of business set forth in this Complaint or in acts, practices, transactions, and courses of business of similar type and object.

## NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

7. The SEC brings this action pursuant to the authority conferred upon it by

Securities Act Sections 20(b) and 20(d) [15 U.S.C. § 77t(b) and 77t(d)] and Exchange Act Section 21(d) [15 U.S.C. § 78u(d)].

8. The SEC seeks a final judgment: (a) permanently enjoining Defendant from violating the federal securities laws and rules this Complaint alleges he has violated; (b) ordering Defendant to disgorge all ill-gotten gains he received as a result of the violations alleged herein, pursuant to Exchange Act Sections 21(d)(3), 21(d)(5), and 21(d)(7) [15 U.S.C. §§78u(d)(3), 78u(d)(5), and 78u(d)(7)], and to pay prejudgment interest thereon; (c) ordering Defendant to pay civil money penalties pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)]; (d) permanently prohibiting Defendant from serving as an officer or director of any company that has a class of securities registered under Exchange Act Section 12 [15 U.S.C. § 78l] or that is required to file reports under Exchange Act Section 15(d) [15 U.S.C. § 78o(d)], pursuant to Securities Act Section 20(e) [15 U.S.C. § 77t(e)] and Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)]; (e) ordering Relief Defendant to disgorge all unjust enrichment it received as a result of the violations alleged herein, pursuant to Exchange Act Sections 21(d)(3), 21(d)(5), and 21(d)(7) [15 U.S.C. §§78u(d)(3), 78u(d)(5), and 78u(d)(7)], and to pay prejudgment interest thereon; and (f) ordering any other and further relief the Court may deem just and proper.

## JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to Securities Act Section 22(a) [15 U.S.C. § 77v(a)] and Exchange Act Section 27 [15 U.S.C. § 78aa].

10. Defendant has, directly and indirectly, made use of the means or instrumentalities of interstate commerce or of the mails or of any facility of any national securities exchange, and/or use of any means or instruments of transportation or communication in interstate

commerce in connection with the transactions, acts, practices, and courses of business alleged herein.

11. Venue lies in this District under Securities Act Section 22(a) [15 U.S.C. § 77v(a)] and Exchange Act Section 27 [15 U.S.C. § 78aa]. Defendant resides in the Northern District of Texas, and Slync's principal place of business is in this District. In addition, certain of the acts, practices, transactions, and courses of business alleged herein occurred in this District, including, but not limited to, offers to investors.

## DEFENDANT

12. **Christopher S. Kirchner**, age 35, is a resident of Westlake, Texas. Kirchner is the co-founder of Slync and served as the Company's CEO from approximately June 2017 to August 4, 2022, when the Slync Board of Directors (the "Board") terminated his employment.

## RELIEF DEFENDANT

13. **KFIM LLC** is a Delaware limited liability company with its principal place of business in Westlake, Texas. Defendant formed KFIM in late November 2020 primarily to purchase a private jet for his personal use and to hold certain assets that Defendant misappropriated from investors in the Series B Raise. KFIM is wholly owned by its two members, Defendant and his wife, who bear a 51% ownership interest and a 49% ownership interest in the company respectively. Defendant is the sole manager of KFIM and maintains exclusive authority to manage KFIM's affairs. KFIM conducts no business operations and has no employees.

## OTHER RELEVANT ENTITY

14. **Slync, Inc.** (formerly known as SupplyLinc, Inc.) is a Delaware corporation with its principal place of business in Southlake, Texas. Slync develops and maintains an eponymous

process automation software system that facilitates global supply chain logistics for its customers, which include international shippers and service providers.

## FACTS

### I. Slync Background

15. Defendant co-founded Slync as a start-up company in 2017 with four other individuals (collectively, the "Founders"). The Company was incorporated in Delaware in June 2017 with headquarters located in California (later moved to Texas in 2020), and with Defendant as the sole director of the Company.

16. In December 2017, the Board increased its size to two members, adding another Founder as a director. In April 2018, one additional director joined the Board, and a fourth director joined in July 2019.

17. By January 2020 and continuing through early August 2022 (the "Relevant Period"), Slync maintained two bank accounts.

18. The first bank account ("Slync Bank Account A") was managed and controlled by Defendant, and the only Slync employees who had access to that account were Defendant and Slync's chief of staff. In addition, any transfer out of Slync Bank Account A in excess of $100,000 required the signature of both Defendant and the chief of staff.

19. Slync's second bank account ("Slync Bank Account B") was under the exclusive management and control of Defendant at all times. No other Slync employee was able to access that account. In addition, Defendant was not required to obtain any additional authorization to make transfers out of Slync Bank Account B, regardless of amount.

20. Throughout the Relevant Period, Defendant maintained sole control over Slync's financials and actively monitored the inflows and outflows of cash for Slync Bank Account A

and Slync Bank Account B, including the receipt of revenues and investor funds into those accounts.

21. Between 2019 and August 2022, Slync earned and collected a combined revenue of approximately $1,726,883 from all customers.

22. At all times prior to his termination in August 2022, Defendant oversaw, managed, and controlled all of Slync's capital fundraising efforts, finances, banking, business operations, capital structure, and customer contracts and relationships.

## II. Defendant Orchestrates the Series A Raise and Fraudulently Solicits Investments

23. Prior to January 2020, Slync had raised approximately $2 million from seed investors who were connected to Defendant and the Founders.

24. By early 2020, the seed funding was mostly depleted, and Slync required additional capital to continue normal business operations.

25. To address the Company's liquidity needs, Kirchner coordinated and launched a round of capital fundraising in early 2020.

26. Between approximately January 2020 and mid-May 2021, Slync conducted a private offering of Series A preferred stock to institutional and individual investors (the Series A Raise).

27. Defendant had ultimate authority over all aspects of the Series A Raise, including outreach to and communications with potential and actual investors, and he oversaw the collection of Series A investor proceeds.

28. In order to secure investments in the Series A Raise, Defendant deceived and defrauded prospective Series A investors by making numerous false representations concerning Slync's actual revenue, annual recurring revenue ("ARR") (a metric that estimated expected

revenue over the course of a year based upon existing customer contracts), and capital structure, and by materially misleading investors concerning the planned use of investment proceeds.

### A. Misrepresentations to Series A Investors Concerning Slync's Financial Condition

29. Throughout the Series A Raise, Defendant made statements to Series A investors concerning various Slync financial metrics that were materially false or misleading.

30. For example, on January 30, 2020, Kirchner sent an unsolicited email to a potential institutional investor ("Investor 1"), representing, among other things, that: Slync's ARR was approaching $3 million; Slync had signed a seven-figure ARR deal; there were two additional seven-figure deals currently in the latter stages of closing; and Slync's customers included three of the top five global freight forwarders.

31. Each of these statements to Investor 1 was false: Slync had no existing customer contracts and thus could not generate ARR of $3 million per year; it had not signed any seven-figure ARR deal; and it did not have three freight forwarder customers, but rather two unsigned software pilot agreements with three freight forwarder companies worth a combined total of $75,000.

32. Defendant knew the statements to Investor 1 were false when made because he managed and oversaw Slync's relationships with potential and actual customers, including the solicitation of customer business and contract placement, and he was aware that Slync had no existing customer contracts in place as of the date of the email to Investor 1.

33. Defendant also misled Investor 1 concerning the Company's capital structure.

34. In one such instance, on or about February 24, 2020, Defendant emailed Investor 1 a copy of Slync's capitalization table, a document that he prepared and controlled. The capitalization table showed $6,252,319.95 of "Cash Raised" as of February 24, 2020.

35. As Defendant knew from overseeing Slync's fundraising efforts and managing Slync's bank accounts into which raised funds were deposited, Slync had raised approximately $1.95 million as of that date, so the "Cash Raised" figure falsely inflated the actual amount of Slync's raised capital by more than $4 million.

36. On February 25, 2020, the day after receiving Slync's capitalization table, the Chief Financial Officer of Investor 1 sent Defendant a proposed term sheet for a $4 million Series A investment.

37. Defendant continued to make additional materially false and misleading representations to Investor 1 leading up to its investment. For example, on or about March 20, 2020, Defendant sent a text message to an employee of Investor 1 representing that a current Slync customer who previously had a $288,000 deal in place with Slync told Defendant it intended to increase its commitment to $1.02 million per year, set to take effect in the second quarter of 2020.

38. In reality, as Defendant was aware from managing the relationship with the referenced customer, there was no previous deal with the customer for $288,000 per year, nor any new commitment of $1.02 million per year. Slync ultimately earned and collected only $17,500 total from the customer in 2020, which it received months after Defendant's text message to the employee of Investor 1.

39. Defendant knew, or was at least severely reckless or negligent in not knowing, that the statements described in paragraphs 30 through 38 were false or misleading when he made them to Investor 1.

40. The information Defendant provided to Investor 1 as described in paragraphs 30 through 38 was material to Investor 1's decision to invest in the Series A Raise. Investor 1 would

not have made its $4 million investment in Slync had it known Defendant misrepresented, among other things, Slync's financial condition.

41. In or around February 2020, Defendant made similar misrepresentations to another potential institutional investor ("Investor 2") and knew, or was at least severely reckless or negligent in not knowing, that the subject statements were false or misleading.

42. For example, on our around February 20, 2020, Defendant provided a slide deck to Investor 2 that he had prepared, which stated that Slync had a $2.2 million contract with a particular customer. In fact, as Defendant knew, as of this date, Slync had only three unsigned pilot agreements with the customer worth a combined total of $105,000.

43. Defendant also told Investor 2 on or around February 24, 2020 that Slync currently had $3 million in ARR, when, in reality, Slync had no individual customer contract with annual recurring revenue of $3 million, nor customer contracts with an aggregate annual recurring revenue of $3 million, in place as of this date.

44. The information Defendant provided to Investor 2 was material to Investor 2's decision to invest in the Series A Raise. Investor 2 would not have made its approximately $2.8 million investment in Slync had it known Defendant misrepresented, among other things, Slync's financial condition.

**B. Misrepresentations to Series A Investors Concerning Use of Proceeds**

45. Defendant also substantially misled all Series A investors concerning the use of investor funds generated in the Series A Raise.

46. Each Series A investor executed an identical Series A Preferred Stock Purchase Agreement in connection with its investment in Slync (the "Series A SPA"), which was drafted under Defendant's direction and review. Defendant was also the Slync signatory on each Series

A SPA executed with investors.

47. The Series A SPA contained a section titled "Use of Proceeds" which, among other things, represented that, "the Company will use the proceeds from the sale of the Shares for product development and other general corporate purposes."

48. That representation was false and misleading because it stated that the proceeds collected from the offering would be spent on product development and corporate purposes and not used by Kirchner to fund his own personal expenses, as described further in Section V.A below.

49. The misleading nature of the description of the use of Series A proceeds was material to each Series A investor in making its respective decision to invest, and Series A investors would not have invested in Slync had they known that Defendant would divert approximately $1.9 million in Series A investor funds for his personal use.

50. For example, Investor 1 would not have wired nearly $4 million to Slync Bank Account A for its Series A investment on or about March 30, 2020 had it known that Defendant planned to use investment proceeds from the Series A Raise to also fund his own personal expenses, and not just for the purposes set forth in the "Use of Proceeds" section in the Series A SPA.

51. Likewise, Investor 2 would not have wired approximately $2.8 million to Slync Bank Account A for its Series A investment on or about March 31, 2020 had it known that Defendant planned to use investment proceeds from the Series A Raise to also fund his own personal expenses, and not just for the purposes set forth in the "Use of Proceeds" section in the Series A SPA.

52. In total, between approximately March 30, 2020 and May 13, 2020, Slync raised

at least $7.2 million in financing from at least five investors through the Series A Raise. None of the Series A investors would have invested in the Series A Raise had they known that known that Defendant planned to use investment proceeds from the Series A Raise to also fund his lifestyle, and not just for the purposes set forth in the "Use of Proceeds" section in the Series A SPA.

## III. Defendant Fraudulently Induces Two Series A Investors to Exercise Stock Purchase Warrants Issued In Connection with the Series A Raise

53. Concurrent with their respective investments in the Series A Raise, Investors 1 and 2 each also entered into a Stock Purchase Warrant with Slync, which entitled them to purchase a certain number of Series A preferred stock shares at a set price per share any time within two years of their respective initial Series A investments (collectively, the "Warrants").

54. The Warrants were issued pursuant and subject to the terms and conditions of the Series A SPA.

55. Following the Series A Raise, Defendant continued to make false and misleading representations to Investors 1 and 2, including concerning Slync's financial condition, which ultimately prompted Investors 1 and 2 to exercise their Warrants and collectively wire the Company an additional nearly $3.4 million (the "Series A Warrant Exercises").

56. At the first Board meeting after the close of the Series A Raise, on or about May 20, 2020, Defendant provided Board members, including a representative of Investor 1, with a slide deck he had prepared. The deck included a "Financial Overview" section that stated that revenues for January, February, March, and April of 2020 were $74,583, $56,149, $78,642, and $94,125, respectively. In fact, as Defendant knew from his oversight of Slync's bank accounts, total customer revenues earned and collected for those periods were $6,250, $25,000, $0, and $10,000, respectively.

57. Later, on or about January 13, 2021, Defendant sent a slide deck he had drafted to

Investor 1, among other recipients, falsely stating that Slync's total revenue for 2020 was $3,259,306—even though Defendant knew that figure was over eighteen times greater than the $175,715 in revenue the Company earned and collected in 2020.

58. On or about April 14, 2021, Defendant sent another slide deck he had prepared to Investor 1, among other recipients, falsely reporting that Slync's first quarter of 2021 revenue was $2,617,626. In reality, Slync's total revenue earned and collected for the first quarter of 2021 was $354,205.

59. On or about July 16, 2021, Defendant circulated an email to the Board, including a representative of Investor 1, claiming that Slync had "doubled [its] quarterly revenue and did more revenue this quarter than all of last year." Defendant knew this statement was false because he was aware that the Company had earned and collected $121,019 in customer revenue in the second quarter of 2021, compared with $354,205 in the first quarter of 2021, and that Slync's total revenue earned and collected for 2020 was $175,714.

60. Months later, shortly prior to the expiration date of Investor 1's Warrant, on or about January 13, 2022, Defendant created a spreadsheet that was provided to Investor 1, which purported to show certain Slync financial metrics through the third quarter of 2021. Among other things, the metrics spreadsheet claimed that Slync's total year-to-date revenue for 2021 was in excess of $15 million, that its 2021 third quarter revenue totaled over $7.3 million, and that the Company's ARR in the third quarter of 2021 exceeded $14.2 million.

61. Defendant knew at the time he prepared the spreadsheet, however, that those figures were false. Slync's third quarter revenue earned and collected was approximately $146,000, and its year-to-date revenue earned and collected was approximately $500,000. In addition, Slync had not signed any customer contracts for which the annual recurring revenue

amounts exceeded $14.2 million (individually or collectively), contrary to the misleading ARR figure provided by Defendant.

62. Defendant similarly continued to mislead Investor 2 concerning Slync's financial condition by, among other things, emailing Investor 2 on or about January 20, 2022 and stating that Slync's total revenue was $3.2 million in 2020 and $23.3 million in 2021, when he knew revenues earned and collected by Slync for those years were $175,714 and $667,778, respectively.

63. The misinformation communicated by Defendant to each of Investors 1 and 2 was material to Investors 1 and 2 in making their decisions to exercise their respective Warrants.

64. For example, Investor 1 ultimately exercised its Warrant on February 9, 2022 and wired nearly $2 million to Slync Bank Account A for its purchase of 1,516,760 shares of Series A preferred stock. Investor 1 would not have done so if it had known the truth about Slync's actual financial condition.

65. Investor 2 similarly exercised its Warrant on March 2, 2022 and wired nearly $1.4 million to Slync Bank Account A for its purchase of 1,057,571 shares of Series A preferred stock. Like Investor 1, Investor 2 would not have done so if it had known the truth about Slync's actual financial condition.

## IV. Defendant Orchestrates the Series B Raise and Fraudulently Solicits Investments

66. Following the close of the Series A Raise in mid-May 2020, there was ongoing investor interest in Slync.

67. By early summer 2020, Defendant began soliciting investments for a second round of fundraising (the Series B Raise).

68. As had been the case with the Series A Raise, Defendant had ultimate authority

over all aspects of the Series B raise, including negotiating and communicating with investors on behalf of Slync and overseeing the flow of Series B investor proceeds into the Company throughout the offering.

69. The Series B Raise was structured in two phases: an initial offering of Series B Preferred Stock (the "Series B Primary"), followed by a secondary sale once the Company had surpassed the issuance of a certain number of Series B preferred shares in the Series B Primary (the "Series B Secondary").

70. Slync offered Series B Primary investors preferred stock on terms similar to those governing the preferred stock ownership of Series A stockholders pursuant to a Series B Stock Purchase Agreement ("Series B SPA").

71. Investors in the Series B Secondary purchased preferred stock pursuant to a Stock Transfer Agreement, and each such investor also became a party to the Series B SPA by executing a counterparty signature page to that agreement.

72. The entire Series B Raise was conducted from approximately summer 2020 through spring 2021.

### A. Misrepresentations to Series B Investors Concerning Slync's Financial Condition

73. On or about June 9, 2020, an employee from an institutional investor ("Investor 3") contacted Defendant after identifying Slync as a possible investment opportunity.

74. Defendant subsequently began negotiating with Investor 3, as well as with multiple other prospective investors, to participate in the Series B Primary, and later with other potential investors to participate in the Series B Secondary.

75. In order to obtain investments in connection with the Series B Raise, Defendant serially lied to and misled investors concerning Slync's financial condition, as he had done in the

previous fundraising round to secure investments from Series A investors.

76. For example, during a telephone call between Defendant and an employee of Investor 3 on or about June 9, 2020, Defendant claimed that Slync had a current cash balance of $7 million, $6 million of ARR, and three customers with seven-figure signed deals. In reality, as Defendant knew from overseeing and monitoring Slync's bank accounts, Slync did not have $7 million in cash—in part due to Defendant's misappropriation of Series A investor funds (described further at Section V.A below). Moreover, Slync did not have $6 million worth of signed customer contracts whose revenue would recur annually, or three customers with seven-figure signed deals, as Defendant was aware from managing the Company's customer relationships.

77. Defendant made numerous additional false statements to Investor 3. On or about July 14, 2020, Defendant provided Investor 3 with a profit and loss statement he had prepared showing that Slync's year-to-date revenue as of June 1, 2020 was $351,230, despite that, as Defendant knew from his oversight of Slync bank records, the amount of revenue earned and collected during that period was $140,710.

78. In addition, on or about August 4, 2020, Defendant prepared and sent to Investor 3 a list of purported Slync customers that indicated nine customers had signed contracts with the Company as of June 2020, and that Slync's then-current booked ARR was $6,397,300. Those statements were false, as Slync had no signed customer contracts as of June 2020 with annual recurring revenue valued at $6,397,300.

79. Defendant emailed Investor 3 a similar list of customers on or about August 24, 2020 that claimed total current ARR across all customers was $6,198,800. In fact, there were no signed customer contracts in place at that time with any of the listed companies that individually

or aggregately were valued at $6,198,800.

80. On or about November 20, 2020, Kirchner emailed an accounting firm retained by Investor 3 to perform due diligence in connection with Investor 3's potential Series B Primary investment attaching written responses to a series of inquiries the accounting firm had posed to Defendant concerning Slync's finances and accounting. Among other things, the accounting firm asked Defendant whether Slync was "still on track to meet 2020 revenue forecast of $4.2 million," and who Slync's external service providers were for financial reporting.

81. In response to the revenue question, Defendant wrote back, "Yes." Defendant knew this statement was untrue because Slync's 2020 year-to-date revenue earned and collected as of the date of this email exchange totaled approximately $175,000, as reflected in Slync's bank accounts.

82. In response to the service provider question, Defendant claimed that Slync was currently "moving to" a particular accounting and advisory company, when, in reality, Defendant was not in the process of engaging, and never did engage, the referenced company.

83. Defendant knew, or was at least severely reckless or negligent in not knowing, that the statements described in paragraphs 76 through 82 were false or misleading when he made them to Investor 3 or Investor 3's agents or representatives.

84. On or around December 14, 2020, Investor 3 wired approximately $35 million to Slync Bank Account A for its Series B Primary investment.

85. Investor 3 would not have made its investment in Slync had it known that Defendant had misrepresented, among other things, Slync's financial condition.

86. Defendant made similar false representations to another institutional investor ("Investor 4") in connection with its Series B Primary investment.

87. On or about September 27, 2020, for example, Defendant provided Investor 4 with a pitch deck he prepared that stated Slync had ten customers, including a $3 million contract in place with a particular customer. In reality, Slync only had six customers at this time, and there was no $3 million contract in place with the specified customer.

88. On or about October 21, 2020, Defendant emailed Investor 4 a set of Slync historical financials that he had prepared, claiming that the Company's revenue had increased from $18,750 to $488,210 between September 2019 and September 2020. This was false. The amount of revenue Slync had earned and collected by the end of September 2020 was less than $300,000.

89. Defendant also told Investor 4 during a call on or about November 12, 2020 that Slync had twelve customers, including a contract with one customer for $3.8 million and with another for $1.9 million. In fact, Slync only had six customers as of that date, and neither of the two purported seven-figure customer contracts existed. And, ultimately, the amount earned and collected from the two customers in all of 2020 was $6,250 and $17,500, respectively, as Defendant knew from his oversight of Slync bank records.

90. In addition, Defendant represented to Investor 4 in or around November 2020 that Slync would use the proceeds of Investor 4's Series B Primary investment towards working capital and accelerating product, account management, and sales capabilities. Defendant failed to disclose that he would deploy Series B invested funds for his personal use and to fund his lifestyle, which he ultimately did, as described in Section V.B below.

91. Based upon Defendant's false representations to Investor through the end of 2020, Investor 4 wired nearly $7.5 million to Slync as an initial Series B Primary investment on December 28, 2020.

92. Defendant continued to make additional misrepresentations to Investor 4 that led to Investor 4's second Series B Primary investment, as well as a subsequent Series B Secondary investment.

93. For example, on or about January 28, 2021, Defendant sent an email to Investor 4 stating, among other things, that Slync had a contract in place with a particular customer for $12.5 million. In fact, there was no such contract in place, and Slync had earned and collected approximately $127,000 in revenue from the referenced customer relationship as of that date.

94. A month later, on or about February 24, 2021, Investor 4 emailed Defendant and asked him to confirm, among other things, Slync's 2020 revenue, after noticing a discrepancy in revenue figures provided in two different documents prepared by Defendant—a January 2021 Board deck that stated Slync's 2020 revenue was $3.2 million, and an October 2020 profit and loss statement that projected $4.2 million in revenue for 2020.

95. Both revenue figures provided by Defendant to Investor 4 were false. As of October 2020, Slync's year-to-date revenue earned and collected was approximately $140,710. Ultimately, Slync's total revenue earned and collected for 2020 was approximately $175,000. In addition, Defendant lied when responding to Investor 4 concerning the purported reason for the discrepancy, claiming it was due to a recognition change and movement of a certain customer revenue due back to Slync, when Defendant knew Slync had never received any revenue from that customer.

96. In another instance, on or about April 14, 2021, Kirchner emailed Slync's Board, including Investor 4 as a Board observer, a slide deck that Defendant had prepared, which stated that Slync's revenue for the first quarter of 2021 was $2,617,626. In addition, the presentation represented that Slync had "Over $11MM in booked ARR."

97. This information was false. In fact, Slync had earned and collected approximately $354,000 in revenue in the first quarter of 2021, and Defendant knew that Slync did not have customer contracts in place with annual recurring revenue in amounts to support $11 million in ARR.

98. Following Defendant's additional false and misleading representations to Investor 4 throughout the first several months of 2021, on May 7, 2021, Investor 4 invested another approximately $5 million in the Series B Primary and more than $3.8 million in the Series B Secondary.

99. Defendant knew, or was at least severely reckless or negligent in not knowing, that the statements described in paragraphs 87 through 97 were false or misleading when he made them to Investor 4.

100. The information Defendant provided to Investor 4 as described in paragraphs 87 through 97 was material to Investor 4's decision to invest in the Series B Raise.

**B. Misrepresentations to Series B Investors Concerning Use of Proceeds**

101. In addition to making misrepresentations to Series B investors concerning Slync's financial condition, Defendant also materially misled all Series B investors concerning the use of Series B investor proceeds.

102. Each Series B SPA, which was drafted under Defendant's direction and review and signed by Defendant on behalf of the Company, contained a section titled "Use of Proceeds" which, among other things, represented that, "the Company will use the proceeds from the sale of the Shares as follows: (i) $391,666 (plus interest accrued thereon) for full repayment of the outstanding balance owed by the Company in connection with [a preexisting loan] and (ii) the balance of the proceeds for product development and other general corporate purposes."

103. That representation was false and misleading because it did not alert Series B investors that Kirchner would also use Series B investment proceeds to fund his own personal expenses, including, but not limited to, the purchase of a private jet for personal use, as described further in Section V.B below.

104. The false and misleading "Use of Proceeds" disclosure was material to each Series B investor in making its respective decision to invest. Series B investors would not have invested in the Series B Raise had they known Defendant was also going to take a large percentage of the proceeds of their investments to fund his lifestyle.

105. In total, between December 11, 2020 and May 7, 2021, Slync raised approximately $60 million in financing from thirteen investors across the Series B Primary and Series B Secondary.

## V. Defendant Misuses and Misappropriates More than $28 Million of Investor Funds

106. After fraudulently deceiving Series A and Series B investors into making investments in connection with the Capital Raises, Defendant began to misappropriate investor funds from Slync's bank accounts, often almost immediately after funds had been received by the Company (including, on multiple occasions, while the offerings were still ongoing), ultimately siphoning more than $28 million of investor funds for himself.

107. As described in further detail below, Defendant's misappropriations of investment proceeds from the Capital Raises and cash received from Investors 1 and 2 in connection with the Series A Warrant Exercises included depositing certain investor funds directly into his personal bank account and misdirecting investor funds to, among other things, purchase a private jet, pay for ongoing costs associated with the jet, and to fund purchases of other luxury goods and services to support Defendant's lifestyle.

**A. Defendant's Misappropriation of Investor Funds from the Series A Raise**

108. In total, Slync obtained approximately $7.2 million in investor funds in connection with the Series A Raise. All of those proceeds were wired directly from the Series A investors to Slync Bank Account A.

109. Defendant knew, or recklessly disregarded, that, in order to make any transfer in excess of $100,000 out of Slync Bank Account A, he would have to obtain the authorizing signature of Slync's chief of staff.

110. To avoid triggering the secondary authorization requirement for transfers over $100,000, Defendant executed a series of wire transfers out of Slync Bank Account A, each under the $100,000 threshold, to Slync Bank Account B, over which he maintained exclusive control and to which he had exclusive access.

111. Specifically, between late March 2020 and late November 2020 (including on the same day the first Series A investor funds were wired to Slync), Defendant made at least 28 wire transfers from Slync Bank Account A to Slync Bank Account B, totaling approximately $2.2 million.

112. Because Defendant was the only Slync employee with access to Slync Bank Account B, Defendant knew that, once investor funds had been moved to Slync Bank Account B, he could transfer them to his own personal bank accounts without anyone at the Company having visibility into those transfers.

113. Between late March 2020 and late November 2020, Defendant transferred a total of approximately $1.3 million of Series A investor funds from Slync Bank Account B to his personal checking and savings accounts, including a $150,000 transfer that was marked "Cash Bonus" (despite that no cash bonus to Defendant in that amount had been authorized or issued by

the Board).

114. In addition to fraudulently diverting Series A proceeds to his own bank accounts, between approximately April 2020 and August 2020, Defendant also paid for numerous personal expenses with Series A investor money directly out of Slync Bank Account B, including approximately $274,000 to a company that provides luxury concierge services for private jet aviation; $209,000 to a provider of "on demand" private aviation, including aircraft management services; and $75,000 for luxury items and experiences, including clothing purchases and expenditures at a golf club and vineyard.

115. In all, Defendant misappropriated at least approximately $1.9 million of Series A investor funds.

116. The false and misleading disclosure concerning use of proceeds made in the Series A SPA—claiming that proceeds would be used to fund Slync product development and for other corporate purposes—failed to alert Series A Investors that Defendant would also divert over a quarter of the proceeds of their investments to fund his personal expenses. Had Series A Investors known the proceeds of their investments would be used for that purpose, they would not have invested in the Series A Raise.

### B. Defendant's Misappropriation of Investor Funds from the Series B Raise and the Series A Warrant Exercises

117. Defendant undertook similar efforts to fraudulently misappropriate, for his personal benefit, more than $26.2 million of funds raised by Series B investors and paid in connection with the Series A Warrant Exercises.

#### 1. Defendant Diverts $20 Million of Investor 3 Investment Proceeds, Including for Purchase of a Private Jet for Personal Use

118. Defendant's primary misuse of Series B proceeds was to fund the purchase of a

$16.1 million private jet purely for Defendant's personal use and enjoyment.

119. On or about November 22, 2020, after the term sheet with Investor 3 had been signed, but a few weeks before Investor 3's investment was funded, Defendant met with an aircraft sales broker to discuss purchasing a private jet for Defendant's personal use.

120. Defendant did not possess sufficient personal funds to afford the private jet, and instead intended to siphon incoming Series B investor proceeds to cover the purchase price in order to buy the private jet before year end.

121. On December 11, 2020, Investor 3 wired $35 million to Slync Bank Account A in connection with the Series B Raise.

122. Defendant knew, or recklessly disregarded, that, in order to transfer Investor 3 funds in any amount greater than $100,000 out of Slync Bank Account A, he would be required to obtain authorization for the wire from Slync's chief of staff. He was also aware that the Series B SPA he executed on behalf of Slync stated that Series B investment proceeds would be used to repay a preexisting loan owed by the Company and for product development and other corporate purposes.

123. In order to induce Slync's chief of staff to approve the intended wire of Investor 3 investment proceeds out of Slync Bank Account A, Defendant lied to him concerning the logistics and rationale for the proposed transfer.

124. On December 13, 2020, Defendant sent a text message to Slync's chief of staff stating that there was a "big week coming up" for Slync and advised that, in light of those circumstances, Defendant was going to move money from Slync Bank Account A to Slync's investment account and Slync Bank Account B.

125. Defendant's statements were knowingly false, as Defendant never intended to

transfer, and never did transfer, any of the subject Investor 3 funds to Slync Bank Account B or to a Slync investment account (—in fact, as Defendant knew, no investment account existed). In addition, the purpose of the transfer was to fund Defendant's purchase of a personal private jet, not for any Slync corporate expense or approved business purpose.

126. Based upon Defendant's false representations, Slync's chief of staff provided the necessary authorization for the transfer.

127. The next day, on December 14, 2020, Defendant wired $20 million from Slync Bank Account A directly to Defendant's personal bank account with the intention of using those proceeds to fund his purchase of the private jet.

128. On that same day, as soon as the $20 million in Investor 3 funds from Slync Bank Account A became available in Defendant's personal bank account, Defendant emailed a representative at his personal bank stating: "I took a distribution from my company today and am moving money out for a few things that I need to get taken care of before year end. One, is a wire for $5,000,000 to an escrow company for a plane that I am purchasing. I need this one completed ASAP as it's very time sensitive in order to complete a transaction this month. Could you make sure this one in particular is done as fast as possible?"

129. Later that day, Defendant received confirmation from his personal bank and from the aircraft sales broker that the escrow company had received the $5 million wire from Defendant's personal bank account as a deposit for the private jet he intended to purchase.

130. A week later, on December 21, 2020, Defendant, through his company KFIM, executed an aircraft management agreement for the private jet.

131. The next day, on December 22, 2020, Defendant wired another approximately $11.1 million of Investor 3 funds from his personal bank account to the escrow company for the

remaining payment for the private jet.

132. On December 23, 2020, Defendant completed the purchase of the private jet for $16.1 million, with title to the aircraft in the name of KFIM.

133. In addition to buying the private jet, Defendant also used Investor 3 investment proceeds toward the purchase of a suite at a National Football League stadium for $495,000 on December 14, 2020. He accomplished this by wiring funds out of his personal account directly to a bank account in the name of the company from which he purchased the suite.

134. Defendant kept the remaining approximately $3.4 million of the $20 million of Investor 3 proceeds that he had misappropriated on December 14, 2020 and either retained those funds in his personal bank account(s) or used them for personal expenses (or both).

135. Meanwhile, in the same month that Defendant fraudulently diverted funds from Investor 3's investment to pay for the private jet and to fund his personal bank account, Slync was late on making payroll for its employees.

136. At no time was Defendant authorized to use Series B investment funds to purchase the private jet or the stadium suite, or to direct those funds to his personal bank account, nor did he ever seek (or receive) approval from Slync's Board to use investor proceeds for those purposes.

137. In fact, with respect to the private jet, Defendant told Board members and some investors that the private jet was specifically not for business use and falsely claimed that the funds he used to purchase it came from successful cryptocurrency investments and sales he had made.

### 2. Defendant Pays Other Personal Expenses With Series B Investor Funds and Series A Warrant Exercise Proceeds

138. Over the several months following his purchase of the private jet, Defendant

continued to misappropriate additional Series B investor funds, as well as proceeds from the sale of Series A preferred stock to Investors 1 and 2 in connection with the Series A Warrant Exercises, which had all been paid into Slync Bank Account A.

139. Using the same method he had employed to divert Series A investor proceeds without risking detection by anyone at Slync, Defendant concealed his misappropriation of millions of additional dollars of Series B and Series A Warrant Exercise proceeds by making serial individual wire transfers out of Slync Bank Account A in amounts less than $100,000.

140. Between approximately January 15, 2021 and May 10, 2022, Defendant made 74 wire transfers that included Series B investor funds and money received from the Series A Warrant Exercises from Slync Bank Account A to Slync Bank Account B—each of which was just under the $100,000 threshold that would otherwise trigger the requisite authorization by Slync's chief of staff—amassing a total of more than $7.1 million of additional investor funds in Slync Bank Account B.

141. Defendant then fraudulently diverted approximately $5.3 million of those proceeds by making an additional 29 transfers from Slync Bank Account B to a personal bank account in the name of KFIM (which Defendant owned, controlled, and managed, together with his wife, and to which no one at Slync had access) between approximately January 27, 2021 and May 3, 2022.

142. Defendant used the $5.3 million of investor funds siphoned into the KFIM bank account to, among other things, pay for golf-related expenditures, ongoing costs associated with Defendant's private jet, and other personal expenses, and to finance investment accounts in KFIM's name through which Defendant traded equities securities and options using the misappropriated funds.

143. In addition to wrongfully diverting $25.3 million of funds from the Series B Raise and Series A Warrant Exercises to his personal bank account and the KFIM bank account as described in paragraphs 139 to 142 above, between approximately mid-February 2021 and early January 2022, Defendant also fraudulently misused Series B investor funds to pay over $902,000 of personal credit card charges directly out of Slync Bank Account B.

144. In total, Defendant misappropriated more than $26.2 million of investor funds from the Series B Raise and the Series A Warrant Exercises.

145. The false and misleading disclosure concerning use of proceeds made in the Series A SPA—claiming that investor funds would be used to fund Slync product development and for other corporate purposes—failed to alert Investors 1 and 2 that Defendant would divert Series A proceeds, including proceeds of the Series A Warrant Raises, to fund his personal expenses. Had Investors 1 and 2 known that the proceeds of the Series A Warrant Raises would be used in the manner or for the purposes described in paragraphs 139 to 143 above, they would not have exercised their Warrants.

146. Likewise, the false and misleading disclosure concerning use of proceeds made in the Series B SPA—claiming that investor funds would be used to repay a corporate loan owed by Slync and to fund Slync product development and for other corporate purposes—failed to notify Series B Investors that Defendant would divert a large portion of the proceeds of their investments to fund his personal expenses as described in paragraphs 139 to 143. Had Series B investors known Series B proceeds would be used in the manner or for the purposes described in paragraphs 139 to 143 above, they would not have invested in the Series B Raise.

## VI. Defendant Repeatedly Fails to Meet Payroll Deadlines for Slync Employees and is Fired by the Board

147. Due in part to Defendant's misappropriation of Slync investor funds described

above, Slync was late in paying its U.S. or Canadian employees at least six times between April and June 2022.

148. Defendant was responsible for timely coordinating the wire of payroll funds to Slync's outside payroll administrator each month, but failed to consistently to do so throughout that period.

149. For at least one missed payroll cycle, Defendant forged a wire confirmation to purportedly show that he had transferred the necessary funds for payroll disbursement.

150. On May 6, 2022, Defendant sent an email to Slync's chief of staff and its outside payroll administrator forwarding what he claimed was an email wire confirmation from Slync Bank Account B to fund Slync's May 5, 2022 employee payroll, reflecting a transfer of $566,241.06 on May 5, 2022.

151. The purported wire confirmation was a forgery by Defendant. He doctored a prior wire confirmation email from Slync Bank Account B by overlaying fake information for the transfer amount, transfer date, and wire reference number, and he altered the date of the email. He also failed to alter the recipient information on the confirmation to show that the wire went to Slync's payroll administrator and instead left in the recipient of the original legitimate confirmation (which had been Slync Bank Account A).

152. In fact, Defendant had not wired $566,241.06 to Slync's payroll administrator on May 5, 2022.

153. It was not until several days later, after missing the payroll funding deadline, that Defendant initiated wire transfers to Slync's payroll administrator in the amounts of $500,000 and $66,241.06 to cover the May 5, 2022 payroll cycle.

154. Several media outlets subsequently published articles in June and July 2022

concerning, among other things, allegations of payroll issues at Slync.

155. On July 24, 2022, the Board emailed Defendant a letter suspending Defendant from Slync in his capacity as both an employee and officer in light of "missed payroll, [Defendant's] misrepresentations regarding payroll status, and public allegations" concerning the Company, and placing Defendant on administrative leave. The letter further indicated that the Board had engaged an outside consulting firm to investigate Slync's cash and financial position and requested Defendant's cooperation in connection with the investigation.

156. On July 26, 2022, counsel for the Board emailed Defendant a letter alleging that Defendant had attempted to delete certain electronic data in connection with the ongoing investigation and the Board's suspension of Defendant the prior day. The Board demanded that Defendant immediately return all Slync records, hardware, and devices in his possession.

157. On or about July 27, 2022, the Board learned that Defendant had forged the email confirmation described at paragraphs 150-151 above to show that he had wired sufficient funds to fund U.S. employees' May 5, 2022 payroll cycle.

158. On July 29, 2022, counsel for the Board emailed counsel for Defendant, informing him that the Board had information concerning Defendant's attempts to destroy, alter, modify, or otherwise compromise Slync records.

159. On August 2, 2022, the Board terminated Defendant as an employee of Slync and from all officer roles held by Defendant, including the office of CEO.

160. The Board notified Defendant of his termination on August 4, 2022.

**FIRST CLAIM FOR RELIEF**
**Violations of Securities Act Section 17(a)**
**(Kirchner)**

161. The SEC realleges and incorporates by reference here the allegations in paragraphs 1 through 160.

162. By engaging in the acts and conduct described in this Complaint, Defendant, directly or indirectly, in the offer or sale of securities and by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails: (1) knowingly or recklessly employed devices schemes, and artifices to defraud; (2) knowingly, recklessly, or negligently obtained money or property by means of untrue statements of a material fact or omissions of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or (3) knowingly, recklessly, or negligently engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of such securities.

163. By reason of the foregoing, Defendant, directly or indirectly, has violated and, unless enjoined, will again violate, Securities Act Section 17(a) [15 U.S.C. § 77q(a)].

**SECOND CLAIM FOR RELIEF**
**Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder**
**(Kirchner)**

164. The SEC realleges and incorporates by reference here the allegations in paragraphs 1 through 160.

165. By engaging in the acts and conduct described in this Complaint, Defendant, directly or indirectly, in connection with the purchase or sale of securities and by the use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly (1) employed one or more devices, schemes, or artifices to defraud; (2) made one or more untrue statements of a material fact or omitted to state one or more material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or (3) engaged in one or more acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

166. By reason of the foregoing, Defendant, directly or indirectly, has violated and, unless enjoined, will again violate Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

**THIRD CLAIM FOR RELIEF**
**Unjust Enrichment**
**(Relief Defendant KFIM)**

167. The SEC realleges and incorporates by reference here the allegations in paragraphs 1 through 160.

168. KFIM, directly or indirectly, received funds or assets, or benefitted from the use of funds or assets, which were obtained as a result of, and are proceeds of, the securities law violations alleged herein, including, but not limited to, at least $5.3 million of Series B investor funds and Series A Warrant Exercise proceeds that Defendant fraudulently misappropriated from Slync Bank Account B to a KFIM bank account.

169. KFIM has no legitimate claim to these ill-gotten gains.

170. KFIM has therefore been unjustly enriched.

**PRAYER FOR RELIEF**

WHEREFORE, the SEC respectfully requests that the Court enter a Final Judgment:

**I.**

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

**II.**

Ordering Defendant to disgorge all ill-gotten gains he received or to which he was not otherwise entitled, that he received directly or indirectly, with pre-judgment interest thereon, as a

result of the alleged violations, pursuant to Exchange Act Sections 21(d)(3), 21(d)(5), and 21(d)(7) [15 U.S.C. §§78u(d)(3), 78u(d)(5), and 78u(d)(7)];

**III.**

Ordering Defendant to pay civil monetary penalties under Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)];

**IV.**

Permanently prohibiting Defendant from serving as an officer or director of any company that has a class of securities registered under Exchange Act Section 12 [15 U.S.C. §78l] or that is required to file reports under Exchange Act Section 15(d) [15 U.S.C. §78o(d)], pursuant to Securities Act Section 20(e) [15 U.S.C. § 77t(e)] and Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)];

**V.**

Ordering Relief Defendant to pay, with prejudgment interest, all ill-gotten gains by which it was unjustly enriched, pursuant to Exchange Act Sections 21(d)(3), 21(d)(5), and 21(d)(7) [15 U.S.C. §§ 78u(d)(3), 78u(d)(5), and 78u(d)(7)]; and

**VI.**

Granting any other and further relief this Court may deem just and proper.

**JURY DEMAND**

The SEC demands a trial by jury.

Dated: February 14, 2023

Respectfully submitted,

*/s/ Jessica T. Quinn*

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