UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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<tr><td>LAWRENCE A. SCHULER, Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

vs.

NIVS INTELLIMEDIA TECHNOLOGY GROUP, INC., TIANFU LI, SIMON ZHANG, ALEXANDER CHEN, KWOK FU WONG, RUXIANG NIU, MINGHUI ZHANG, GENGQIANG YANG, CHARLES MO, RODMAN & RENSHAW LLC, WESTPARK CAPITAL, INC., and MALONEBAILEY, LLP,

Defendants.</td><td>)
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CLASS ACTION

SECOND AMENDED COMPLAINT

DEMAND FOR JURY TRIAL</td></tr>
</table>

TABLE OF CONTENTS

I. NATURE OF THE ACTION 1

II. SUMMARY OF THE FRAUD 2

III. JURISDICTION AND VENUE 7

IV. OVERVIEW OF NIVS AND REVERSE CHINESE MERGERS....................8

A. Background of NIVS 8

B. Background of Reverse Chinese Mergers.................... 9

i. Reverse Mergers Shield Companies From Oversight....................9

ii. Fraudulent RCMs Spur SEC Investigations 10

iii. NIVS' Underwriters and Auditor Enabled Its Fraudulent Scheme 13

1. WestPark Facilitated the Rush of Reverse Chinese Mergers....................13

2. MaloneBailey Enables the Reverse Chinese Merger Scheme....................16

iv. Inconsistencies Between The Company's U.S. and SAIC Filings Are An Indicator of Accounting Manipulation....................18

v. Convergence of Chinese Accounting Standards with International Financial Reporting Standards....................24

V. CLAIMS UNDER THE SECURITIES ACT 28

A. Securities Act Parties 28

i. Securities Act Plaintiffs 28

ii. Securities Act Defendants....................28

1. The Company....................28

2. The Officer and Director Defendants 29

3. The Underwriter Defendants....................30

4. The Outside Auditor Defendant....................30

B. Allegations Against The Securities Act Defendants.................... 32

i. Nature of Plaintiffs' Securities Act Claims 32

ii. The Offering Documents 32

iii. The Offering Documents Contained Materially False and Misleading Statements and Omissions 33

iv. Reasons For Falsity of the Offering Documents 43

VI. COUNTS AGAINST THE SECURITIES ACT DEFENDANTS 47

VII. CLAIMS UNDER THE EXCHANGE ACT 51

A. Exchange Act Parties 51

i. Exchange Act Plaintiffs 51

ii. Exchange Act Defendants 51

1. The Company 51

2. The Individual Defendants 52

3. The Outside Auditor Defendant 55

B. Allegations Against The Exchange Act Defendants 56

i. The Exchange Act Defendants' False and Misleading Statements 56

1. Fourth Quarter And Full Year 2009 Statements 57

2. SPO Statements 68

3. First Quarter 2010 Statements 68

4. Second Quarter 2010 Statements 75

5. Third Quarter 2010 Statements 84

ii. The Exchange Act Defendants' Class Period Statements And Omissions Were Materially False and Misleading 92

iii. The Truth Comes To Light and the Fraud Continues 97

C. The Company's Accounting Violations Were Pervasive And Egregious 109

i. Defendants Violated GAAP, GAAS and SEC Regulations 109

1. GAAP, GAAS and SEC Standards 109

2. The 2009 Audit Violated GAAP, GAAS and SEC Regulations 110

3. NIVS' Interim Financial Statements And Reports Also Violated Accounting and Reporting Rules 118

ii. MaloneBailey Should Have Been Alerted To Defendants' Fraudulent Scheme 121

1. Several Red Flags Were Present At NIVS 121

2. MaloneBailey Should Have Been On Notice Of NIVS' Fraud 124

VIII. UNDISCLOSED ADVERSE INFORMATION 127

IX. STATUTORY SAFE HARBOR 128

X. LOSS CAUSATION 129

XI. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET DOCTRINE 130

XII. CLASS ACTION ALLEGATIONS 131

XIII. COUNTS AGAINST THE EXCHANGE ACT DEFENDANTS 133

XIV. REQUEST FOR RELIEF 138

XV. DEMAND FOR JURY TRIAL 138

Lead Plaintiff Allan Lyons and Plaintiffs Henry C. Beinstein and Michael A. Short (collectively, "Plaintiffs") allege the following against NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company"), certain of the Company's executive officers and directors (the "Individual Defendants"), the underwriters of the Company's offerings, and the Company's auditor (together, "Defendants"). Plaintiffs make these allegations upon personal knowledge as to those allegations concerning Plaintiffs and, as to all other matters, upon the investigation of counsel, which included, without limitation: (a) review and analysis of public filings made by NIVS and other related parties and non-parties with the U.S. Securities and Exchange Commission ("SEC"); (b) review and analysis of press releases and other publications disseminated by certain of the Defendants and other related non-parties; (c) review of news articles, shareholder communications, and postings on NIVS' website concerning the Company's public statements; and (d) review of other publicly available information concerning NIVS and the Individual Defendants.

I. <u>NATURE OF THE ACTION</u>

1. This is a federal securities class action against NIVS, certain of its directors and officers, its underwriters Rodman & Renshaw LLC and WestPark Capital, Inc., and its auditor MaloneBailey LLP for violations of the federal securities laws. This action is brought, in part, on behalf of all persons or entities that purchased shares of NIVS common stock between March 24, 2010 and March 25, 2011, inclusive (the "Class Period"), under the Securities Exchange Act of 1934 (the "Exchange Act"). The Exchange Act claims allege that Defendants engaged in a fraudulent scheme to artificially inflate the Company's stock price through an egregious fraudulent accounting scheme. As a result of the fraud described below, the Company has lost nearly all of its value.

2. The action is also brought on behalf of all persons or entities who purchased shares of NIVS common stock directly in the Company's Secondary Public Offering of common stock priced at $3.29 per share, commencing on or about April 20, 2010 (the "SPO"), under the Securities Act of 1933 (the "Securities Act"). Under the Securities Act, Defendants are strictly liable for the material misstatements in the Offering Documents (as defined below) issued in connection with the Offerings, and these claims specifically exclude any allegations of knowledge or scienter. The Securities Act Claims also expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional or reckless misconduct.

3. Defendants' actions resulted in the artificial inflation of NIVS stock during the Class Period. As a result of Defendants' wrongful acts, false and misleading statements and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiffs and the other Class members have suffered significant losses and damages, as detailed below.

II. SUMMARY OF THE FRAUD

4. NIVS' securities came to be traded on the NYSE AMEX exchange through a process commonly known as a "reverse merger" ("RCM"). This process, reportedly invented by the Company's SPO underwriter, Westpark Capital, is straightforward in that a foreign business is typically acquired by a non-operational U.S. shell company that is worthless, except for one thing—the shell company is publicly traded. Following the merger of the foreign company and the U.S. shell company, the board of directors of the U.S. company promptly resigns, and the foreign board takes over. The foreign board then changes the company's name and issues new stock to investors, thus raising millions of dollars in fresh capital.

5. Many Chinese companies have been able to exploit the reverse merger process in recent years in order to tap into the lucrative American investor market without being subject to

the extensive governmental and regulatory oversight required through a traditional initial public offering. Since many businesses that use the reverse merger process to lure American investments often keep the bulk, if not all, of their operations in China, there exist significant limitations in the ability of American authorities, such as the SEC, to actively regulate these companies. While reverse Chinese mergers ("RCMs") have allowed these companies to obtain a comparatively easy influx of capital, the relatively unregulated nature of the process also allows for fraudulent schemes to play the system and defraud investors of millions of dollars.

6. This is exactly what happened in the case of NIVS. In fact, NIVS is exactly the type of "vessel of outright fraud" described by the SEC as part of its ongoing investigation into RCMs and their catastrophic effects on American investors.

7. NIVS is engaged in the design, manufacture, marketing and sale of consumer electronic products, which consist primarily of audio and video products. The Company claims it invests substantial resources in the research and development of its intelligent audio and video consumer products.

8. Leading up to its SPO, NIVS reported seemingly amazing growth and profits. In April 2009, shortly after the Company initially went public, it reported that its 2008 revenues increased 85% to $143.6 million, and that its 2008 net income grew 54% to $13.0 million. Then, after numerous reassuring and positive reports issued throughout 2009, on March 23, 2010 it again announced incredible results. This time, the Company reported that its 2009 revenues increased 29% to $185.2 million, and that its 2009 net income grew by an astonishing 80.8% to $23.5 million.

9. Less than a month later, on April 20, 2010, NIVS and its Underwriters conducted the SPO which incorporated the Company's earlier reported financial results. The SPO was a

financial success for the Company and the Underwriters, raking in approximately $22 million for NIVS, and earning the Underwriters a fee of nearly $1.5 million.

10. After completion of the SPO, NIVS continued to report impressive results. For example, on May 10, 2010, the Company reported that its 2010 first quarter revenues increased 153% to $74.1 million versus $29.2 million in the comparable period the year before, and that its net income more than doubled, growing from $2.4 million to $5.3 million. On August 11, 2010, it announced that quarterly revenues again increased, this time by 89.7% and net income by 71.8% for the second quarter of 2010. On November 4, 2010, the Company yet again reported an increase in its quarterly revenue and net income, this time by 59.7% and 43% respectively. All of these reports, as well as the false statements and omissions detailed below, had the direct effect of both artificially inflating, and sustaining the inflation, in NIVS common stock.

11. Unfortunately for investors, NIVS was brilliant at deceiving the market into thinking its profits were real. Even market professionals with years of experience, such as Gene Marcial, were convinced by NIVS' lies. Mr. Marcial, who penned the iconic *Business Week* column "Inside Wall Street" for 28 years and now writes for Forbes, wrote an article called *NIVS Inside Wall Street: A Tiny Chinese Stock U.S. Investors Should Get to Know,* on February 7, 2011, just weeks before NIVS was to implode in a massive accounting scandal. Relying on NIVS' repeated reports of stellar results, certified by its auditor and backed by its underwriters, he wrote a glowing report on NIVS, and said the Company looks like an "electrifying bet." The Marcial article cited NIVS' CFO Alexander Chen's comments that he expects nothing but positive news for NIVS, including continued high sales growth. After the article was published, the stock increased by over 10%, closing at $2.42 per share, up from $2.14 the previous day.

12. On the morning of March 24, 2011, NIVS stock was trading between $2.16 and $2.23 per share and had a total market capitalization value of nearly $90 million. But shortly after trading began that morning, AMEX regulators delivered the devastating news to investors that trading in NIVS stock would be immediately halted. The regulators explained that they were halting trading because it was evaluating both the need for certain public disclosures, as well as the overall suitability for continued listing of the Company's common stock. The last unfortunate investor before the halt purchased shares for $2.21 per share.

13. The next day, on March 25, 2011, the public learned that the Company's independent auditor, MaloneBailey, had resigned. According the Company's Form 8-K filed with the SEC on April 11, 2011, in MaloneBailey's letter of resignation, MaloneBailey said it had discovered "***massive accounting fraud involving forging [the] Company's accounting records and forging bank statements***," which were characterized as ***illegal acts involving the Company's accounting records and bank statements and discrepancies in accounts receivable.***[1] MaloneBailey stated that, "as a result of the ***irregularities and fraud***" it had discovered, it was unable to rely on management's representations and could no longer support its audit opinion for the year end 2009.

14. In addition to this revelation, the Company was forced to reveal a copy of a letter regarding the resignation of MaloneBailey submitted to the SEC. The letter stated that after MaloneBailey's discovery of ***accounting fraud and irregularities at NIVS***—in what now is considered to be an obvious attempt by Defendants to cover-up their fraud—MaloneBailey encountered difficulties with management trying to limit the scope of the NIVS audit.

[1] Unless otherwise indicated, emphasis is added.

15. The next devastating blow came on March 31, 2011, when NIVS revealed that it would not be able to file its required Annual Report with the SEC. Within two months, AMEX regulators delisted NIVS stock, and the SEC launched a formal investigation into the fraud occurring at NIVS, which remains ongoing.

16. The stock, which once traded at a class-period high of $4.38 per share, never again traded on the AMEX, eventually opening on the "grey market" two months later at a meager $0.31 per share, which equates to a market capitalization of approximately $12 million, a catastrophic decline of more than $77 million, and a drop of 86%. The stock is now practically worthless, trading at less than one cent per share.

17. NIVS auditor, MaloneBailey, was either complicit or extraordinarily reckless in issuing its audit opinion and approving NIVS financials, either of which essentially amounted to conducting no audit at all. Numerous red flags described below—such as NIVS already having problem-ridden internal controls, and a complete discrepancy between the financial statements NIVS submitted to China's State Administration of Industry and Commerce ("SAIC"), which reported net income of $7,508,000 for the year ended December 31, 2009, and the results NIVS reported to the SEC and investing public that claimed it had net annual income for 2009 of $23,457,078—should have alerted them to the ongoing fraud at NIVS, and it is impossible that MaloneBailey could have conducted a proper audit as further explained below. In essence, MaloneBailey was completely asleep at the wheel and is liable for the false statements and omissions made by NIVS that directly caused the losses to investors who relied on their professional opinion.

18. Since the time the stock was delisted, NIVS has never filed or issued a single report regarding its finances. Instead, it has claimed that it is "investigating" the situation, has

hired law firms and auditors to supposedly accomplish this task, with one after another resigning shortly after each of them is retained, several of whom have cited their own experience with delays and obstruction from NIVS management. In fact, no investigative report has ever been provided to the Company's shareholders, leaving the investing public and the Company's investors in the dark about the true nature and extent of NIVS accounting fraud, and exactly which Company documents were forged and when such forgeries occurred.

19. In sum, Defendants' wrongful acts, and false and misleading statements and omissions, as described in this complaint, have caused a precipitous decline in the market value of the Company's securities. As a direct result, Plaintiffs and that other Class members have suffered significant losses and damages.

III. JURISDICTION AND VENUE

20. This action arises under Sections 11, 12(a)(2), and 15 of the Securities Act (15 U.S.C. §§ 77k and 77o), and under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b 5).

21. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1307, Section 22 of the Securities Act (15 U.S.C. § 77v), and pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa).

22. Venue is proper in this Judicial District pursuant to Section 22 of the Securities Act and Section 27 of the Exchange Act. NIVS traded on the NYSE AMEX located in New York, New York and has executive offices located in New York, New York. The Company's underwriter, Rodman & Renshaw, has its headquarters in New York, New York. Many of the false and misleading statements were made in or issued from this District. Many acts charged

herein, including the preparation and/or dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District.

23. In connection with the acts and omissions alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the national securities markets.

IV. OVERVIEW OF NIVS AND REVERSE CHINESE MERGERS

A. Background of NIVS[2]

24. NIVS is engaged in the design, manufacture, marketing, and sale of consumer electronic products. These products consist mainly of audio and video products, digital audio systems, televisions, digital video broadcasting set-top boxes, DVD players and audio/video peripheral and accessory products.

25. The Company devotes substantial resources to its research and development of intelligent audio and video consumer products, which utilize Chinese speech interactive technology and permit users to control products through spoken commands.

26. Standard audio and video equipment sold by the Company include mid and high-end home audio products, premium home theater systems, speakers, shelf-stereo systems, digital players and related products. As of December 31, 2009, the Company's standard audio and video products included approximately 500 different products.

27. The market for intelligent audio and video products in which the Company competes consists of traditional audio and video products which are then combined with a speech-based interface based upon the Chinese language. These products powered by voice

[2] The information contained in Section IV(A) is taken from the Company's SEC filings and website. It is unknown which, if any, of these representations are or were true.

possess unique capabilities, superior convenience and increased ease-of-use. As of December 31, 2009, the Company's intelligent audio and video products included approximately 150 products.

28. In September 2009, the Company was granted a license to manufacture mobile phones by the Ministry of Industry and Information Technology in China. The Company has mobile phones equipped with features such as e-mail and multimedia messaging, touchscreen and PDA functionality, large dual-color displays, audio and video recording and playing, and photography.

29. The Company purportedly owns a 2.7 million square-foot production factory located in China, which includes a 1.1 million square-foot production area. Further, the Company states that it employs 1,886 employees, of which 1,469 are based in production.

30. Production processes at NIVS are modernized and include automated processing equipment and procedures that the Company can modify quickly to accommodate new customer requests, designs and specifications.

31. NIVS distributes its products through a well-established network of distributors and resellers, which allows the Company to penetrate customer markets worldwide. The Company states that its products are sold domestically in China at over 8,000 points of sale and internationally through various channels, including specialty retailers, international and regional chains and distributors.

B. Background of Reverse Chinese Mergers

i. Reverse Mergers Shield Companies From Oversight

32. NIVS' entry onto the NYSE AMEX is just another example of a recent trend where operating Chinese companies effectuate reverse mergers with all-but-defunct publicly-

traded U.S. corporations in order to trade on U.S. stock exchanges. Once the reverse merger is completed, the tried-and-true process that is typically followed is simple: the board of directors of the U.S. company resigns and the Chinese board takes over, immediately changing the company's name and issuing new stock to new investors, usually through a private placement, thus quickly raising millions of dollars in fresh capital.

33. Although an RCM allows a Chinese company to trade on a U.S. stock exchange and tap into the lucrative American investment market, these companies' assets and operations are often solely located in China. This limits the SEC's ability to regulate and enforce the securities laws of the United States against Chinese companies, especially given that these corporations did not complete the more rigorous requirements of a traditional initial public offering.

34. Shielded by the geographic distance of thousands of miles, and operating under a regulatory framework that is a world apart from the SEC's oversight, RCM companies and the individuals that control them have few incentives to provide complete and accurate disclosures to American investors and, in fact, have every incentive to maximize investments and profits. An August 28, 2010 article in *Barron's* by Bill Alpert and Leslie P. Norton entitled, "Beware This Chinese Export," discusses the enforcement problems that American regulators face when dealing with Chinese companies that trade on U.S. exchanges through RCMs. The article states that "***[t]he SEC's enforcement staff can't subpoena evidence of any fraudulent activities in China, and Chinese regulators have little incentive to monitor shares sold only in the U.S.***"

ii. <u>Fraudulent RCMs Spur SEC Investigations</u>

35. RCMs were effective in attracting interest in small Chinese companies that were purportedly poised for financial growth and achievement. According to a *CNBC.com* article

published on December 21, 2010 and entitled "Greenberg: Dangers Lurk in Chinese Reverse Mergers," there were approximately 300 reverse mergers trading in the United States. American investors have suffered losses in excess of $30 billion as a result of their investments in RCMs.

36. As reports of fraud and manipulation involving RCM's have inundated the international business news in recent quarters, U.S. regulators have finally begun to take notice of the opportunities for manipulation and fraud that RCMs create. The SEC has recently established a task force to investigate investors' claims regarding the impropriety and fraud of RCMs trading on the U.S. markets. Investigators are examining individual companies, as well as the role of so-called "gatekeepers," or firms that help find and bring Chinese businesses to U.S. capital markets, such as stock promoters, auditors, law firms, and investment banks.

37. The SEC has also started investigating RCM's and the allegations of fraud surrounding numerous Chinese companies, including a very serious investigation that is presently ongoing against NIVS itself. For instance, in his speech to the Council of Institutional Investors on April 4, 2011, SEC Commissioner Luis A. Aguilar (the "Commissioner") discussed Chinese reverse mergers and the process of "backdoor registration," stating:[3]

> A common but lesser known way of accessing the public markets is the reverse merger into a public shell, or where a public shell merges into a private company, a so-called "backdoor registration." For those of you not familiar with these types of mergers, what typically happens is a private company seeking to go public merges with a public shell company. Before the transaction, the public shell company no longer has substantive operations, but its public company registration remains in effect. The transaction gives the formerly private company the credibility and access to capital of being registered as a public company, without any of the vetting from underwriters and investors that companies undergo when they perform a traditional IPO.
>
> Since January of 2007, there have been over 600 backdoor registrations. Over 150 of these have been by companies from China and the China region.

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[3] Text of the Commissioner's entire speech is available at: http://sec.gov/news/speech/2011/spch040411laa.htm#P79_43025.

> Notwithstanding the SEC rulemaking of a few years ago to respond to abuses involving shell companies, ***we are seeing increasing problems.*** While the vast majority of these Chinese companies may be legitimate businesses, ***a growing number of them are proving to have significant accounting deficiencies or being vessels of outright fraud.*** (Emphasis added) (footnotes omitted).

38. Further, in discussing regulators' responses to the problems posed by many of these Chinese reverse merger companies, the SEC Commissioner stated:

> I support all of the efforts to address these problems. The SEC staff has been working collaboratively and tirelessly with many others to investigate and shed light on this situation. It has been widely reported that the SEC set up an internal task force to investigate fraud in overseas companies with listings on U.S. exchanges, with particular emphasis on companies engaging in these mergers to achieve backdoor SEC registration. The staff's hard work has yielded, and will continue to yield, results.

39. The SEC Commissioner also discussed his concerns that RCMs suffer from auditing and financial reporting deficiencies, stating:

> In the world of backdoor registrations to gain entry into the U.S. public market, the use by Chinese companies has raised some unique issues, even compared to mergers by U.S. companies. Two important ones are:
>
> - First, there appear to be ***systematic concerns with the quality of the auditing and financial reporting***; and
>
> - Second, even though these companies are registered here in the U.S., there are ***limitations on the ability to enforce the securities laws, and for investors to recover their losses when disclosures are found to be untrue, or even fraudulent***.
>
> ***I am worried by the systematic concerns surrounding the quality of the financial reporting by these companies.*** In particular, according to a recent report by the staff of the Public Company Accounting Oversight Board (PCAOB), ***U.S. auditing firms may be issuing audit opinions on the financials, but not engaging in any of their own work***. Instead, the U.S. firm may be issuing an opinion based almost entirely on work performed by Chinese audit firms. If this is true, it ***could appear that the U.S. audit firms are simply selling their name and PCAOB-registered status because they are not engaging in independent activity to confirm that the work they are relying on is of high quality.*** This is significant for a lot of reasons, including that the PCAOB has been prevented from inspecting audit firms in China.

40. The SEC Commissioner's concerns articulated in his April 2011 speech were spawned from the repeated shareholder abuses inflicted by dubious RCMs such as NIVS.

iii. NIVS' Underwriters and Auditor Enabled Its Fraudulent Scheme

1. WestPark Facilitated the Rush of Reverse Chinese Mergers

41. Richard Rappaport, the CEO of NIVS' underwriter WestPark, purportedly invented the reverse merger mechanism. In a May 24, 2010 article entitled "WestPark Capital, Richard Rappaport, IPO and Reverse Merger Specialists with Chinese Expertise, Featured in Dow Jones Investment Banker Article," Rappaport praised his "invention," stating that the reverse merger is "easier, faster and more beneficial to companies seeking funding to grow their companies."[4] Between March 2009 and February 2011, WestPark completed five reverse mergers of Chinese companies, including NIVS in March 2009. Notably, ***four*** out of those five companies have had the trading of their common stock halted by U.S.-based stock exchanges, including NIVS.[5]

42. In addition, WestPark has a history of facing disciplinary proceedings and reprimands in the securities industry. As recent as May 26, 2010, FINRA, the largest non-governmental regulator for all securities firms doing business in the United States, ordered WestPark to pay a $100,000 fine, $300,000 in customer restitution, and suspended two of its officers for failing to supervise brokers with histories of disciplinary actions, customer complaints regarding churned accounts, and who engaged in unauthorized and unsuitable trading. FINRA noted that this was not the first time it had disciplined WestPark. In prior

[4] The article is located at: http://findarticles.com/p/articles/mi_m0EIN/is_20100524/ai_n53756939/.

[5] *See* Scott Eden, *L.A. Firm's China Ventures Turn Sour (Pt. 1)*, http://www.thestreet.com/_yahoo/story/11073056/1/la-firms-china-ventures-turn-sour-pt-1.html?cm_ven=YAHOO&cm_cat=FREE&cm_ite=NA.

disciplinary actions, FINRA had barred and/or fined several WestPark brokers for churning customer accounts and other violations. Several of the brokers involved came to WestPark from other broker-dealers that had lengthy disciplinary records and that FINRA has expelled from the securities industry. Moreover, when WestPark hired these brokers, several of them had employment histories that included multiple customer complaints and/or disciplinary actions.

43. An April 15, 2011 *Forbes* article entitled, "Reverse Mergers -- Pushers May Be The Problem," characterized the underwriters and auditors that assist companies in executing RCMs as "pushers" and "dealers" that "profit whether the company makes money or not."[6] Citing the firm's history of running afoul of regulators, the *Forbes* article provided sharp criticism of WestPark's role in the wave of fraudulent reverse merger schemes that have been perpetrated on the American investing public:

> The reverse merger business has been growing strong and has found an eager clientele in China. Now, investors are crying foul, the SEC is launching investigations and Chinese companies are in trouble for failing to comply with reporting rules of the exchange on which they are listed. ***At the center of these transactions are pushers, dealers in these transactions that profit whether the company makes money or not***.
>
> WestPark Capital Financial is an aggressive firm that has been involved in reverse mergers for Chinese companies. WestPark derives its revenue from fees it charges companies to take them public, commissions on shares placed in raising capital and by taking shares in the companies they take public. These are all traditional and legal means of conducting business just as other, larger, investment firms do every day. ***However, besides many of WestPark's clients now being investigated for wrongdoing, WestPark itself has its own problems***.
>
> * * *
>
> With regard to Westpark Capital, in 2010, FINRA ordered Westpark to pay $400,000 for failing to supervise brokers with histories of disciplinary actions, churning of accounts and engaging in unauthorized and unsuitable trading. The

[6] The *Forbes* article can be found at: http://www.forbes.com/sites/walterpavlo/2011/04/15/reverse-mergers-pushers-may-be-the-problem/.

> chief compliance officer and the chief operating officer for Westpark were suspended and fined as well. Not a good track record on top of the failing companies they brought to the public market.
>
> WestPark Capital's CEO, Richard Rappaport has had his own personal run-ins with FINRA. He was suspended in 2004 and 2006 for violations according to FINRA BrokerCheck. In addition, the state of Illinois has banned Rappaport from acting as a principal of WestPark for a period of 3 years based on a 2004 violation noted by NASD (National Association of Security Dealers). Rappaport stated that he did not feel the violations had merit and stated in his response, "I elected to go the least costly route by settling this matter without admitting the allegations or denying." FINRA's BrokerCheck is a self-reporting site allowing Rappaport to give his side of the story. Perhaps a lesson in personal responsibility is warranted for Mr. Rappaport.

44. Similarly, an April 7, 2011 *TheStreet.com* article entitled "L.A. Firm's China Ventures Turn Sour"[7] reiterated WestPark's role in the reverse Chinese merger schemes, including NIVS. The article provided in pertinent part as follows:

> From its headquarters on the Avenue of the Stars, not far from Beverly Hills, a little-known investment firm called WestPark Capital has long promised to make the dreams of Chinese entrepreneurs come true.
>
> The firm has billed itself as one of the most innovative boutique investment banks involved in helping small Chinese companies travel across the Pacific in pursuit of riches on U.S. equity markets. Several years ago, WestPark even invented a special breed of reverse merger, marketed as a way for companies to avoid the perceived dirtiness of most kinds of reverse mergers, but still attain public listings "fast."
>
> ***Now, for a handful of WestPark's clients and their investors -- and probably for WestPark itself -- those dreams have devolved into horror shows***.
>
> * * *
>
> WestPark has thus become ensnarled in a much larger trend. Since before the financial crisis, more than 150 companies hailing from the People's Republic have gone public in the U.S. via reverse mergers, and ***allegations of fraud have beset so many of them that the entire RTO practice has become tarred***.

[7] The article can be found at: http://www.thestreet.com/story/11073056/1.html.

45. Accordingly, WestPark's involvement in RCMs has been instrumental in enabling frauds such as NIVS to run roughshod over the American investing public, through which companies and executives such as Defendants have obtained millions of dollars from investors.

2. MaloneBailey Enables the Reverse Chinese Merger Scheme

46. Both the *Forbes* and *TheStreet.com* articles mentioned above included lists of companies that used WestPark's services to go public, including NIVS, and noted that each one of these companies faced significant regulatory and/or legal issues, including investigations, auditor resignations, stock trading halt and fraud accusations. While each of these companies used WestPark to gain access to the American investing market, the companies also shared another significant operational facet: each of them, including NIVS, chose MaloneBailey as their outside auditor. The article provided the following commentary concerning MaloneBailey's history in audit procedures:

> While WestPark's clients are having a bad run of it, what's up with this accounting firm discovering all this fraud in these companies or just being outright dismissed? Never heard of the accounting firm MaloneBailey? It is only one of nine accounting firms in the U.S. that the Sarbanes-Oxley Act requires to be inspected annually by the PCAOB (Public Company Accounting Oversight Board) because the firm audits over 100 companies that are traded on stock exchanges here in the United States (18 of them Chinese).
>
> The PCAOB's audits have been critical of MaloneBailey in the past by stating some weaknesses in the audit procedures used by the firm for its clients.

47. As the *Forbes* article noted, the PCAOB published an inspection report of MaloneBailey on February 26, 2009 (the "2009 PCAOB Report").[8] The 2009 PCAOB Report notes that the PCAOB conducts inspections in order to "identify and address weaknesses and deficiencies related to how a firm conducts audits."

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[8] The 2009 PCAOB Report can be found at: http://pcaobus.org/Inspections/Reports/Documents/2009_Malone_and_Bailey.pdf.

48. Regarding MaloneBailey, the 2009 PCAOB Report noted that, after reviewing MaloneBailey's auditing of the financial statements of eleven issuers, the PCAOB identified several "audit deficiencies." Notably, the "***deficiencies identified in six of the audits reviewed included deficiencies of such significance that it appeared to the inspection team that [MaloneBailey] did not obtain sufficient competent evidential matter to support its opinion on the issuer's financial statements***." These deficiencies included, among others, "***the failure, in two audits, to perform tests of revenue***" and "the failure to sufficiently test for impairment."

49. The PCAOB issued another report on February 24, 2011 based on its 2009 inspection of MaloneBailey (the "2011 PCAOB Report").[9] The 2011 PCAOB Report provided the following additional identification of significant deficiencies in MaloneBailey's practices:

> In reviewing the audits, the inspection team identified matters that it considered to be audit deficiencies. ***Those deficiencies included failures by [MaloneBailey] to identify or appropriately address errors in the issuer's application of GAAP, including, in some cases, errors that appeared likely to be material to the issuer's financial statements***. In addition, ***the deficiencies included failures by [MaloneBailey] to perform, or to perform sufficiently, certain necessary audit procedures***.
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> * * *
>
> In some cases, ***the deficiencies identified were of such significance that it appeared to the inspection team that [MaloneBailey], at the time it issued its audit report, had not obtained sufficient competent evidential matter to support its opinion on the issuer's financial statements***. The deficiencies that reached this degree of significance are described below.

50. The 2011 PCAOB Report went on to describe several significant deficiencies in MaloneBailey's auditing work, including various instances where MaloneBailey:

(a) "***failed to identify a departure from GAAP that it should have identified and addressed before issuing its audit report***";

[9] The 2011 PCAOB Report can be found at: http://pcaobus.org/Inspections/Reports/Documents/2011_MaloneBailey_LLP.pdf.

(b) "failed to perform procedures necessary to use the work of specialists and, as a result, ***[MaloneBailey] failed to obtain sufficient competent evidential matter to support its audit opinions***";

(c) "***failed to evaluate the reasonableness of the significant assumptions*** and test the underlying data that the issuer used in its goodwill impairment analysis";

(d) "***failed to perform sufficient audit procedures*** with regard to (1) the existence and valuation of debt, debt discounts, and deferred financing costs, (2) the valuation of a realized gain on derivatives, (3) the valuation of the asset retirement obligation, and (4) the accuracy of the depletion, depreciation, and amortization expense";

(e) "***used financial statement totals that did not agree to the issuer's financial statements***" and "failed to include in its evaluation a specific waived adjustment that exceeded [MaloneBailey's] threshold for individually significant items"; and

(f) "***failed to evaluate and assess the issuer's own evidence as to the fair value*** of this service from the issuer's renewal contracts, which was significantly different from the competitors' amounts."

51. Accordingly, MaloneBailey has a track record of performing deficient auditing practices that only serves to enable accounting fraud, and the auditor's work on NIVS' year-end 2009 financials is but another example of MaloneBailey's auditing deficiencies that facilitated fraud.

iv. <u>Inconsistencies Between The Company's U.S. and SAIC Filings Are An Indicator of Accounting Manipulation</u>

52. Since 2004, there have been more than 350 small Chinese companies listed in the United States as a result of the reverse merger process. These companies attempt to establish the perceived strength of their businesses with financial statements that can attract the interest of American investors, both casual and professional alike, while giving the appearance of stability and growth. However, these financial reports sometimes lack transparency and full disclosure, and even more troubling, are sometimes falsified.

53. The SEC filings of RCM companies often stand in stark contrast to comparable filings with the Chinese equivalent of the SEC, the SAIC—the Chinese government agency responsible for drafting and implementing legislation concerning the administration of industry and commerce in China. SAIC regulations are implemented by local AIC branches. All Chinese companies file a variety of financial and valuation information with their local AIC office, including, among other things, property leases, land use information, business licenses, capital raises, bylaws and, most importantly, their annual financial statements.

54. Recently, many RCMs have been identified as fraudulent schemes where their financial results and operational figures have been greatly exaggerated—and in some cases fabricated—in order to attract overseas investments. Often, examinations of filings with the SAIC have demonstrated sobering inconsistencies when viewed against the comparable figures filed in the U.S. Invariably, the American filings feature robust financial results and exciting statements of growth and expansion, while the Chinese filings are comparatively conservative, if not polar opposites. In essence, one version is prepared to lure foreign investment without the threat of repercussions from American regulators, while the accurate version is reported at home to avoid repercussions from Chinese authorities with the power to implement such punitive measures.

55. Many of the Chinese companies implicated in these frauds question or minimize the significance of SAIC filings, suggesting that any inconsistencies between SEC and SAIC filings are neither relevant nor indicative of fraudulent business practices. A logical examination of the SAIC's role in overseeing Chinese corporations, however, suggests that SAIC filings are indeed a revealing metric to gauge the legitimacy of an enterprise. The SAIC itself publishes a

detailed list of requirements that places an emphasis on audited financial statements.[10] Non-compliance with SAIC requirements provides significant penalties, including fines, revocation of business licenses and, in some cases, criminal punishment, including possible capital punishment.

56. In addition, various leading analysts indicate that accuracy in SAIC filings is imperative and provides a true picture of a given company's financial condition. For instance, a Strubel Investment Management, LLC article entitled, "10 Lessons for Investors in the Wake of the CCME Scandal: Part II,"[11] provides the following commentary on why SAIC filings matter:

> One of the most contentious issues in the Chinese RTO space has been the financial information that companies in China must file with the State Administration for Industry and Commerce (SAIC). Bulls argued that these filings do not matter, while Bears argued that they did and gave a true picture of the company's financial condition. ***The truth is and always has been that the SAIC filings matter a great deal***. What legitimate management team would risk having its business license revoked by not following regulations?
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> * * *
>
> But perhaps the SAIC is lying just to frighten businesses into registering or some other nonsense. Let's look at another truly independent source. There is a book on Chinese law published by the ABA called *China Law Deskbook* by James M. Zimmerman, Esq. A 2005 edition is available on Amazon.com and a free preview of the 2010 edition is available on Google Books. Again, in the book, the author confirms that a SAIC filing must be accurate and be prepared by Chinese CPAs.
>
> Finally, ***we can logically show that SAIC filings should be accurate*** by using a 2×2 payoff matrix chart. Management has two choices regarding two options: (1) they can lie to the SAIC or tell the truth; or (2) they can lie to the SEC or tell the truth. The payoff matrix below shows the result of each choice.

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[10] The English list of SAIC requirements is available at: http://202.108.90.68/ae/ae_1.html.

[11] The article can be found at: http://www.valuewalk.com/2011/04/10-lessons-for-investors-in-the-wake-of-the-ccme-scandal-part-ii/.

	Lie To SAIC	**Lie To SEC**
Upside	None. Publicly available SEC filings would show true business to all competitors and Chinese government.	Able to steal millions of dollars from U.S. based investors.
Downside	Fines and/or loss of business license. Short seller attacks.	None. The SEC has no enforcement power over Chinese individuals.

> Utilizing a simple payoff matrix, it's easy to see that management gains nothing by lying to the SAIC and also has absolutely nothing to lose by lying to the SEC.

57. Similarly, Glaucus Research Group published an investment research report[12] on L&L Energy, Inc. in August 2011 that discussed the debate concerning the validity of SAIC filings and the relevance of discrepancies between a Chinese company's SAIC and SEC filings:

> There has been much debate recently about the validity of SAIC filings. The SAIC is a government agency that, among other functions, issues business licenses to Chinese firms. In order to obtain and renew a business license, which is required to operate in China, a Chinese company must file an annual inspection report with a local government office containing a balance sheet and an income statement.
>
> Brokers pumping small cap Chinese stocks often argue that SAIC filings do not match SEC filings because the SAIC is a business registrar and it does not review the accuracy of submitted financial statements. This makes no sense. Why would a government agency ask a company to submit a balance sheet or income statement and then not care if it is blatantly false? More importantly, what would a company gain by lying on financial statements submitted to the SAIC?
>
> Some small cap brokers have argued that Chinese companies understate revenue in SAIC filings so as to avoid the attention of corrupt government officials. This argument is weak. Nothing should attract more attention from potentially corrupt government officials than raising tens of millions of dollars in cash through

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[12] The research report can be found at: http://www.scribd.com/doc/53952066/GlaucusResearch-Gulf-Resources-GFRE-Strong-Sell-April-26-2011.

American capital markets. Regardless, why are investors comfortable with a company that lies on any financial statement filed with any governmental agency, in the U.S. or China?

* * *

Whereas for a Chinese company there is large upside and limited downside to lying to the SEC, there is by comparison no upside and a potentially large downside to lying to the SAIC. ***So if there is a discrepancy between SEC and SAIC filings, it is logically more likely that the SEC filings are false***. Deductive reasoning aside, empirical evidence shows that there are many examples of legitimate companies that file financial statements with the SAIC which are consistent with their SEC financials. The company's Chinese SAIC filings show that LLEN's revenues and net income are much smaller than reported and its assets are much less valuable than the company claims in its SEC financials.

58. Another report published by *SeekingAlpha* on August 31, 2010, entitled "China-Biotics vs. Spreadtrum Communications: Why AIC Filings Matter,"[13] echoes the sentiments concerning the importance of SAIC filings as it compares the regulatory filings of two Chinese companies:

Over the past few months, the topic of financial filings with China's State Administration for Industry and Commerce (SAIC) has made frequent appearances within the U.S.-listed Chinese RTO ("reverse takeover") sector. I and other critics have advocated that AIC filings are important data points in determining whether certain Chinese RTOs are falsifying their SEC financial statements. ***In cases where AIC-reported revenue, profit and assets are substantially lower than SEC-reported financial figures, we've claimed that this provides material evidence that the companies in question are fabricating their SEC financials***.

Our arguments have made sense to many investors, but some remain unconvinced. Misleading responses by certain of the alleged frauds that AIC filings don't matter have muddled the debate. These companies, such as CMFO, LIWA or CSKI, have claimed that AIC filings are unimportant and are not taken seriously in China, and that investors should not use these filings as data points when analyzing U.S.-listed RTOs. I strongly disagree.

The point of this article is that AIC filings do matter.

[13] The *SeekingAlpha* article can be found at: http://seekingalpha.com/article/223068-china-biotics-vs-spreadtrum-communications-why-aic-filings-matter.

* * *

> For those new to the debate, I'll provide a brief discussion of AIC filings. The State Administration for Industry and Commerce is the Chinese government agency responsible for drafting and implementing legislation concerning the administration of industry and commerce in China. SAIC regulations are implemented by local AIC branches.
>
> All Chinese companies file a variety of information with their local AIC office, including information on property leases; land use rights/building ownership certificates; capital verification reports (these show money/assets contributed by whom, and when); business licenses; the approved "business scope"; the legal representatives; applications to form the companies, with some personal information on the applying shareholders; applications to raise / reduce capital or change the business scope or term; tax and other government incentive documents; company bylaws; and, last but not least, annual financial statements.
>
> Not all AIC branch offices operate the same way. Some provide photocopies of original documents to inquiring agents. Others email electronic data sheets. And others either provide information only verbally or require agents to visit the office and transcribe the relevant information by hand.
>
> Furthermore, not all AIC branch offices provide the same volume of information to outsiders. Some AIC branch offices provide no information at all to the public. Some provide just financial statements. And some provide extensive reports, including financial statements, capital registrations, leases, etc.

* * *

> Each company provides lengthy and accurate information on their registered capital, leases, shareholders, company bylaws, etc. ***It's a tremendous leap of faith to believe that the AIC requires accurate reporting in these aspects, but is indifferent as to whether a $40m revenue company reports sales of only $1m in its financial statements***.

59. Accordingly, variances between the information presented by RCMs in their SAIC filings that differ materially from the information included in SEC filings are one indicator of fraudulent accounting practices.

60. With regard to NIVS, the Company's SEC filings during the Class Period were materially inconsistent from the financial figures posted in its SAIC filings. For instance, NIVS furnished financial statements to the SEC and to the investing public which reported net income

of $23,457,078 for the year ended December 31, 2009, whereas NIVS furnished financial statements to the SAIC which reported net income of $7,508,000 for the year ended December 31, 2009.

61. The approximately $16 million stated difference in the level of reported net income represents a variance of 68% and strongly infers that 2009 NIVS financial statements that were furnished to the SEC and the American investing public reported "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents" that were materially overstated. Much like other fraudulent RCMs, the wide disparities between NIVS' SEC and SAIC filings is one indicator of the Company's fraudulent accounting practices.

62. As discussed in greater detail in the Exchange Act allegations, this indication of incorrect and fraudulent accounting practices occurring at NIVS was later corroborated when MaloneBailey itself stated that "massive accounting fraud" and "illegal activities" took place at the Company during the Class Period.

v. Convergence of Chinese Accounting Standards with International Financial Reporting Standards

64. On February 15, 2006, the Ministry of Finance of the People's Republic of China (MOF) issued a new set of accounting standards, commonly known as New PRC GAAP. The new law set out the general principles of accounting for all Chinese enterprises and also empowered the Ministry of Finance to administer accounting affairs and to establish uniform accounting regulations and systems. The Accounting Standards for Business Enterprises ("ASBEs") consist of a new Basic Accounting Standard and 38 Specific ASBEs. The ASBEs cover nearly all of the topics under the current International Financial Reporting Standards ("IFRSs") literature and became mandatory for listed Chinese enterprises beginning on January

1, 2007. The standards are substantially in line with IFRSs, except for certain modifications which reflect China's unique circumstances and environment.

65. During the development of New PRC GAAP, the China Accounting Standards Committee (CASC) involved the International Accounting Standards Board (IASB) in confirming the extent to which New PRC GAAP converged with IFRS. This culminated in a joint statement released on November 8, 2005, in which the CASC and IASB affirmed that New PRC GAAP had achieved substantial convergence with IFRS.[14]

66. New PRC GAAP was formally adopted on January 1, 2007, with its application coverage gradually expanding to medium and large sized enterprises across Mainland China. Listed companies must adopt the new rules and non-listed companies are encouraged to adopt them as well. The intention behind the adoption of New PRC GAAP was that a company applying Chinese accounting standards should produce financial statements that are virtually the same as those of a company that applies IFRSs.

67. The issuance of New PRC GAAP represents a milestone in Chinese economic development, and with the convergence being recognized between Chinese accounting standards and International Financial Reporting Standards (IFRSs), as set by the International Accounting Standards Board (IASB). Following in the footsteps of the United States and Japan, China has achieved substantial convergence with the IFRS. Indeed, the degree of similarity between the new Chinese accounting standards and the IFRS is approximately 90–95%. The revised accounting law marks a large step forward for the continuing integration of world trade and

[14] The KPMG Report entitled, "An Overview of New PRC GAAP: Differences between old and new PRC GAAP and its convergence with IFRS" can be found at: http://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Documents/New-PRC-GAAP-201109.pdf

capital markets. By incorporating accounting principles familiar to investors worldwide, the purpose of the new standards were to encourage investor confidence in China's capital markets and financial reporting, as well as spur investment from both domestic and foreign sources of capital. Moreover, as Chinese companies increased their global presence, the acceptance of the new accounting standards reduced the cost of complying with the accounting regimes of the different jurisdictions in which they operate.

68. Back in the United States, as a response to worldwide demand from regulators, investors, businesses, and auditing firms for a single set of high-quality, globally-accepted accounting standards, the International Accounting Standards Board (IASB) and the US Financial Accounting Standards Board (FASB) have been working together since 2002 to achieve convergence of IFRSs and US generally accepted accounting principles (GAAP).[15] After a decade long convergence program, the accounting standards set forth by US GAAP and the IFRS have come into significant alignment with only a few material differences remaining. Indeed, a 2012 report commissioned by the IFRS Foundation concluded that, "as a result of more than ten years of joint work with the FASB to improve IFRS and US GAAP and bring about their convergence, the differences that the US will have to bridge are significantly smaller in scope than the differences faced by other major countries that have already adopted IFRS."[16]

69. In the light of the progress achieved by the regulatory boards and other factors, the US Securities and Exchange Commission (SEC) removed in 2007 the requirement for non-

[15] The SEC Staff Paper entitled, "Work Plan for the Consideration of Incorporating International Financial Reporting Standards into the Financial Reporting System for U.S. Issuers" can be found at: http://www.sec.gov/spotlight/globalaccountingstandards/ifrs-work-plan-paper-111611-practice.pdf

[16] The IFRS Report entitled, "IFRS Foundation staff analysis of the SEC Final Staff Report" is available at: http://www.ifrs.org/Use-around-the-world/Global-convergence/Convergence-with-US-GAAP/Documents/Analysis-of-SEC-Final-Staff-Report.pdf

US companies registered in the United States to reconcile their financial reports with US GAAP if their accounts complied with IFRSs as issued by the IASB.[17] Accordingly, as the result of the significant convergence of US and Chinese accounting standards with the IFRS, financial statements submitted to the SAIC should be substantially similar to the Company's financial data presented to the SEC.

70. Thus, while it is understandable that SEC and SAIC financial statements may have small differences due to subsidiary consolidation and Chinese vs. U.S. GAAP accounting rules, the complete discrepancy between the financial statements that NIVS submitted to China's State Administration of Industry and Commerce, which reported net income of $7,508,000 for the year ended December 31, 2009, and those NIVS reported to the SEC and that investing public that claimed it had net income of $23,457,078 for the same period clearly indicates fraudulent accounting practices. The approximately $16 million difference in reported net income represents a variance of 68% and strongly infers that 2009 NIVS financial statements submitted to the SEC materially overstated the Company's net income, and that this difference is not due to GAAP accounting differences.

71. Indeed, it has typically been the case that Chinese companies listed on a U.S. securities exchange through the traditional IPO process will issue SEC and SAIC financial statements that are substantially similar. On the other hand, Chinese companies that come to be publicly traded through the reverse merger process typically issue financial statements to the SEC that vary significantly when compared to those financial statements submitted to the SAIC.

[17] The Final Rule adopted by the SEC entitled, "Acceptance From Foreign Private Issuers of Financial Statements Prepared in Accordance With International Financial Reporting Standards Without Reconciliation to U.S. GAAP" can be found at: http://www.sec.gov/rules/final/2007/33-8879.pdf

V. CLAIMS UNDER THE SECURITIES ACT

A. Securities Act Parties

i. Securities Act Plaintiffs

72. Plaintiff Henry C. Beinstein, as set forth in the accompanying certification and incorporated by reference herein, purchased shares of NIVS common stock in the SPO at the artificially-inflated offering price of $3.29 per share, and has been damaged thereby.

73. Plaintiff Michael A. Short, as set forth in the accompanying certification and incorporated by reference herein, purchased shares of NIVS common stock in the SPO at the artificially-inflated offering price of $3.29 per share, and has been damaged thereby.

ii. Securities Act Defendants

74. The Securities Act Claims are asserted against NIVS as the issuer of the common stock offered in the SPO, all signatories to the Offering Documents, all members of the Company's Board of Directors at the time of the filing of the materially untrue Offering Documents, the financial entities that underwrote the SPO (defined below as the "Underwriter Defendants"), the Company's outside auditor, and those officers who were controlling persons of NIVS. Each of these Defendants is statutorily liable under Sections 11, 12 and/or 15 of the Securities Act for the materially untrue statements contained in and incorporated in the Company's Offering Documents.

1. The Company

75. Defendant NIVS is a corporation incorporated under the laws of the Delaware with its principal executive offices located at NIVS Industry Park, No. 29-31, Shuikou Road, Huizhou, Guangdong, People's Republic of China, 516006. The Company's fiscal year runs

from January 1 to December 31. NIVS was the issuer of the common stock offered pursuant to the SPO.

2. <u>The Officer and Director Defendants</u>

76. Defendant Tianfu Li ("Li") has served as the Company's CEO and Chairman of the Board of Directors since July 2008. Li signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

77. Defendant Simon Zhang ("Zhang") served as Interim CFO and a director of the Company from January 2009 until October 2010. Zhang signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

78. Defendant Ruxiang Niu ("Niu") has served as a director of the Company since December 2008. Niu is a member of the Audit, Compensation, and Nominating Committees. Niu signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

79. Defendant Minghui Zhang ("Minghui") has served as a director of the Company since December 2008. Minghui is a member of the Audit, Compensation, and Nominating Committees. Minghui signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

80. Defendant Gengqiang Yang ("Yang") has served as a director of the Company since July 2008. Yang signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

81. Defendant Charles Mo ("Mo") has served as a director of the Company since January 2009. Mo is a member of the Audit, Compensation, and Nominating Committees. Mo

signed the Company's Registration Statement regarding the Offering, which was a part of the Offering Documents.

82. Defendants Li, Zhang, Niu, Minghui, Yang, and Mo are collectively referred to herein as the "Officer and Director Defendants." The Officer and Director Defendants served as NIVS' officers and/or directors during the Class Period, and are strictly liable under the Securities Act for endorsing the Company's false statements in the Offering Documents.

3. The Underwriter Defendants

83. Defendant Rodman & Renshaw LLC ("Rodman & Renshaw") acted as a joint book-running manager for the SPO.

84. Defendant WestPark Capital, Inc. ("WestPark") acted as a joint book-running manager for the SPO.

85. Defendants Rodman & Renshaw and Westpark are collectively referred to herein as the "Underwriter Defendants."

4. The Outside Auditor Defendant

86. Defendant MaloneBailey, LLP was NIVS' auditor, and consented to the inclusion of the Company's audited financial statements for the year ending 2009 into the Offering Documents for the SPO. MaloneBailey issued a report of independent registered public accounting firm on the Company's financial statements for the fiscal year 2009. For this audit report, MaloneBailey received robust fees of approximately $450,000. MaloneBailey performed an audit of the Company's consolidated balance sheet as of December 31, 2009, as well as the related consolidated statements of income, change in stockholders' equity, comprehensive income, and cash flows for the year then ended. MaloneBailey was required to plan and perform the audit to obtain reasonable assurance about whether the financial statements were free of

material misstatements. MaloneBailey's audit included the consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances.

87. As discussed below, MaloneBailey's report stated that, in its opinion, the Company's "consolidated financial statements . . . present fairly, in all material respects, the financial position of NIVS[] as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America." In addition, MaloneBailey's report further stated that "the related financial statement schedule, when considered in relation to the consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein."

88. MaloneBailey consented to the incorporation by reference into the Offering Documents of its auditor's report for the year ended December 31, 2009. Specifically, under the caption "Experts" in the Prospectus (as defined herein), NIVS stated that the "(i) consolidated financial statements of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009 and for the year ended December 31, 2009 and (ii) condensed parent-only balance sheet of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009, and the related condensed parent-only statements of income and cash flows for the year ended December 31, 2009 included in footnote 25 to the Consolidated Financial Statements of NIVS IntelliMedia Technology Group, Inc., each appearing in this prospectus and registration statement ***have been audited by MaloneBailey, LLP, an independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing***."

89. NIVS, the Officer and Director Defendants, MaloneBailey and the Underwriter Defendants are collectively referred to as the "Securities Act Defendants."

B. Allegations Against The Securities Act Defendants

i. Nature of Plaintiffs' Securities Act Claims

90. In the allegations and claims set forth in Section V hereof, Plaintiffs assert a series of strict liability and negligence claims based on the Securities Act on behalf of the Class. Plaintiffs' Securities Act claims are not based on any allegations of knowing or reckless misconduct on behalf of the Defendants named in the First through Third Claims for Relief. Plaintiffs' Securities Act claims do not allege, and do not sound in, fraud, and Plaintiffs specifically disclaim any reference to or reliance upon allegations of fraud in these non-fraud claims under the Securities Act.

91. This action was initially brought within one year after the discovery of the untrue statements and omissions (and within one year after such discovery should have been made in the exercise of reasonable diligence), and within three years after the SPO.

ii. The Offering Documents

92. On April 20, 2010, NIVS issued a press release entitled, "NIVS IntelliMedia Technology Group Announces Pricing of $24 Million Public Offering of Common Stock." The press release announced that the SPO would include over 7 million shares priced at $3.29 per share and was expected to close on April 23, 2010, with the proceeds being used for "general corporate and working capital purposes."

93. Also on April 20, 2010, NIVS filed a Form 424B3 prospectus (the "Prospectus") with the SEC in connection with the SPO for the sale of the Company's shares at a price of $3.29 per share. In addition, the Company also filed the following documents with the SEC: (i) a Form

S-1 Registration Statement (the "Registration Statement") on March 4, 2010; (ii) a Form S-1/A Pre Effective Amendment No. 1 on March 26, 2010 ("Amendment No. 1"); (iii) a Form S-1/A Pre-Effective Amendment No. 2 on April 19, 2010 ("Amendment No.2"); and (iv) an updated Form S-1 Registration Statement (the "Updated Registration Statement") on April 20, 2010 (the Registration Statement, Amendment No. 1, Amendment No. 2, Updated Registration Statement, and Prospectus are all collectively referred to herein as the "Offering Documents").

94. According to the Offering Documents, the Underwriter Defendants acted as joint book-running managers and underwriters of the SPO. The Company granted the Underwriter Defendants a 45-day option period to purchase up to an additional 1,094,224 NIVS shares to cover over-allotments, if any.

95. The SPO provided aggregate net proceeds to the Company of approximately $21.9 million, after deduction of underwriting discounts and commissions and estimated offering expenses payable by the Company, not including the over-allotment option.

iii. **<u>The Offering Documents Contained Materially False and Misleading Statements and Omissions</u>**

96. The Offering Documents, and the document incorporated by reference therein, contained material misstatements and omissions regarding the Company's business and operations. Specifically, the Offering Documents failed to include material adverse information concerning, among other things, the Company's financial and operational condition and future business prospects. The Offering Documents were not prepared in accordance with the rules and regulations governing their preparation.

97. With respect to the Company's results of operations, the Offering Documents provided the following chart demonstrating crucial balance sheet metrics:

	Years Ended December 31,					
	2009		2008		2007	
			(in thousands)			
Revenue	$ 185,198	99.8%	$ 143,631	99.7%	$ 77,627	99.3%
Other Sales	282	0.2%	415	0.3%	516	0.7%
Cost of Goods Sold	(142,416)	-76.8%	(109,763)	-76.2%	(58,864)	-75.3%
Gross Profit	43,064	23.2%	34,283	23.8%	19,279	24.7%
Selling Expenses	6,761	3.6%	5,376	3.7%	3,270	4.2%
General and administrative						
Amortization	79	0.0%	69	0.0%	62	0.1%
Depreciation	331	0.2%	337	0.2%	328	0.4%
Bad debts (recovery)	(2,745)	-1.5%	2,531	1.8%	473	0.6%
Merger cost	-	0.0%	1,786	1.2%	-	0.0%
Stock-based compensation	-	0.0%	765	0.5%	-	0.0%
Other G&A expense	4,850	2.6%	3,172	2.2%	2,548	3.3%
Total General and administrative	2,515	1.3%	8,660	5.9%	3,411	4.4%
Research and development	5,315	2.9%	1,737	1.2%	373	0.5%
Total operating expenses	14,591	7.8%	15,773	10.8%	7,054	9.1%
Income from operations	28,473	15.4%	18,510	13.0%	12,225	15.6%
Other income (expenses)						
Government grant	576	0.3%	32	0.0%	28	0.0%
Write-down of inventory	-	0.0%	(132)	-0.1%	(105)	-0.1%
Gain on disposal of assets	-	0.0%	-	0.0%	-	0.0%
Interest income	-	0.0%	-	0.0%	235	0.3%
Interest expense	(1,567)	-0.8%	(2,208)	-1.5%	(1,792)	-2.3%
Imputed interest	-	0.0%	(656)	-0.5%	(527)	-0.7%
Sundry income (expense), net	11	0.0%	(52)	0.0%	(111)	-0.1%
Total other income (expenses)	(980)	-0.5%	(3,016)	-2.1%	(2,272)	-2.9%
Income before Noncontrolling interest and income taxes	27,493	14.9%	15,494	10.9%	9,953	12.7%
Income taxes	(3,406)	-1.8%	(2,031)	-1.4%	(1,269)	-1.6%
Noncontrolling interest	(630)	-0.3%	(430)	-0.2%	(217)	-0.3%
Net Income	$ 23,457	12.8%	$ 13,033	9.3%	$ 8,467	10.8%

98. With respect to the Company's financial results for the year ended December 31, 2009, the Offering Documents stated as follows:

> ***Revenues, which consist of sales of our products, were $185.2 million for the year ended December 31, 2009, an increase of $41.6 million, or 29.0%, compared to $143.6 million for the year ended December 31, 2008***. The increase in revenue was attributed mainly to the increased demand for and sales of intelligent audio and video products, which we believe is a result of our market expansion efforts. The increase of revenue was also due to the sales of digital equipment and other products, as well as price increases of some of our audio system products. Sales revenue for our intelligent audio and video equipment increased to $83.9 million for the year ended December 31, 2009, an increase of 363.5% as compared to $18.1 million for the year ended December 31, 2008. For

the year ended December 31, 2009, our sales revenue for standard audio equipment decreased to $90.5 million, a decrease of 21.6 % compared to $115.5 million for the same period in 2008. Sales revenue for televisions decreased to $19.4 million, a decrease of 6.3% compared to $20.7 million for the same period in 2008. For the year ended December 31, 2009, our sales volume for standard audio equipment decreased by 25.3% to 3.48 million pieces as compared to 4.66 million pieces for 2008. For the year ended December 31, 2009, our sales volume for televisions increased by 5.6% to 0.19 million pieces as compared to 0.18 million pieces for the same period in 2008. Our sales volume for intelligent audio and video equipment increased by 66.7% to 0.85 million pieces as compared to 0.51 million pieces for the same period in 2008. ***We believe the increases in sales revenue and volume of intelligent audio and video products are a result of our investment of resources into the research and development of new products and design to meet the requirements of the market, our focus on the promotion of our brand, and expansion of our sales channels***.

Cost of sales, which include raw material, labor and manufacturing overhead, were $142.4 million for the year ended December 31, 2009, an increase of $32.6 million, or 29.7%, compared to $109.8 million for the year ended December 31, 2008. The increase was primarily a result of the increase in sales and was relatively consistent with the increase in our net revenue. As a percentage of net revenue, cost of sales for the years ended December 31, 2009 and 2008 were 76.8% and 76.2%, respectively.

Gross profit for the year ended December 31, 2009 was $ 43.1 million, or 23.3 % of revenues, compared to $34.3 million, or 23.9% of revenues, for the year ended December 31, 2008. Gross profit margins are a factor of cost of sales, product mix and product demand. For the year ended December 31, 2009, the price of standard audio equipments which are large percentage of our sales decreased and some of the costs involved in production increased; however, its effect is partially offset by increase in the new intelligent products. These factors caused the small decrease in gross margin.

Selling expenses, which mainly include marketing, shipping, insurance, wage and other expenses, were $6.8 million for the year ended December 31, 2009, an increase of $1.4 million, or 25.9%, compared to $5.4 million for the year ended December 31, 2008. The increase was primarily due to an increase in television advertising (on CCTV), internet advertising, and marketing activities.

Research and development expenses were approximately $5.3 million for the year ended December 31, 2009, an increase of approximately $3.6 million, or 211.8% compared to approximately $1.7 million for the year ended December 31, 2008. We believe that our focus on research and development contributed to the increase in our total sales. In the future, we expect to continue to increase our research and development efforts and to enable us to manufacture wider lines of products, such as mobile phones and other 3G communication products.

* * *

Net income was $23.5 million for the year ended December 31, 2009, an increase of $10.5 million, or 80.8%, compared to $13.0 million for the year ended December 31, 2008.

99. With respect to the amounts of the Company's liquidity and capital resources as of December 31, 2009, the Offering Documents provided in pertinent part as follows:

We had an unrestricted cash balance of approximately $5.9 million as of December 31, 2009, as compared to $0.5 million as of December 31, 2008. In addition, we also had approximately $4.8 million in restricted cash as of December 31, 2009, as compared to $11.7 million as of December 31, 2008.

* * *

We had working capital of approximately $3.3 million and negative working capital of $18.6 million as of December 31, 2009 and 2008, respectively. The decrease of negative working capital was largely caused by public offering fund raising.

Our accounts receivable has been an increasingly significant portion of our current assets, representing $33.2 million and $20.4 million, or 52.6% and 45.3% of current assets, as of December 31, 2009 and 2008, respectively.

* * *

As of December 31, 2009, inventories amounted to $9.6 million, compared to $11.3 million as of December 31, 2008. We have experienced increased sales volume annually and, also, we launched promotion campaign in domestic market in the first quarter of 2009; as a result, we need to maintain certain amounts of finished goods to meet the customers' demand when launching nationwide promotion campaign.

100. With respect to the Company's net cash flow position as of December 31, 2009, the Offering Documents provided in pertinent part as follows:

Net cash used in financing activities amounted to $1.8 million for the year ended December 31, 2009, compared to net cash provided by financing activities of 23.3 million for the year ended December 31, 2008. The change in cash used in/provided by financing activities was primarily a decrease in various notes payable financing, partially offset by an increase in cash flow provided by bank loans and our public offering closing in March 2009. Net cash provided by financing activities amounted to $23.3 million for the year ended December 31, 2008, compared to net cash provided by financing activities of $20.7 million for the year ended December 31, 2007. The increase of cash provided was primarily a result of the private placement closing in July 2008 and various notes payable financing.

Based upon our present plans, we believe that cash on hand, cash flow from operations and funds available to us through a public offering that we intend to conduct in 2010 will be sufficient to fund our current capital needs. We expect that our primary sources of funding for our operations for this year will result from our continued use of bank loans and bank notes and cash flow from operations to fund our operations during this year.

101. The Offering Documents also provided the following chart depicting the Company's results of operations for the prior several quarters, including the financial results for the fourth quarter of 2009 ended December 31, 2009:

	Quarter Ended								
	December, 31 2009		**September 30, 2009**		**June 30, 2009**		**March 31, 2009**		**Total**
Revenues	62,697	$	52,384	$	40,860	$	29,257	$	185,198
Operating Income	12,456		6,787		5,934		3,296		28,473
Net Income attributable NIVS IntelliMedia Technology Group, Inc. shareholders	10,955		5,538		4,596		2,368		23,457
Net Income Per Share									
Basic and Diluted	0.28		0.14		0.11		0.06		0.59

102. The Offering Documents also provided the following chart depicting the consolidated balance sheet of the Company as of December 31, 2009:

NIVS INTELLIMEDIA TECHNOLOGY GROUP, INC. AND SUBSIDIARIES
Consolidated Balance Sheets
(In US Dollars)

	December 31, 2009	December 31, 2008
Assets		
Current Assets		
Cash and cash equivalents	$ 5,916,224	$ 461,504
Trade receivables, net	33,228,955	20,364,356
Inventories, net	9,626,048	11,279,832
Prepaid expenses, deposit and other receivables	8,641,448	81,690
VAT refundable	869,202	1,094,090
Restricted cash	4,840,137	11,681,595
Total current assets	63,122,014	44,963,067
Property, equipment and construction in progress, net	58,409,374	56,331,487
Advances to suppliers	16,649,904	15,286,028
Intangible assets, net	2,295,244	2,343,383
Total Assets	$ 140,476,536	$ 118,923,965
Liabilities and Shareholders' Equity		
Current Liabilities		
Accounts payable - trade	$ 3,932,115	$ 2,020,363
Accrued liabilities and other payable	1,485,577	1,441,922
Wages payable	801,972	800,744
Corporate tax payable	1,372,117	2,744,518
Various taxes payable	494,678	470,860
Customer deposits	-	1,393,171
Short-term loans	43,987,358	35,871,715
Bank notes payable	7,712,609	18,849,201
Total current liabilities	59,786,426	63,592,494
Due to shareholder	-	7,842,780
Total Liabilities	59,786,426	71,435,274
Shareholders' Equity		
NIVS IntelliMedia Technology Group, Inc.'s shareholders' equity		
Preferred stock, $0.0001 par value, 10,000,000 shares authorized, 0 shares issued and outstanding at December 31, 2009 and December 31, 2008, respectively	-	-
Common stock, $0.0001 par value, 100,000,000 shares authorized, 40,675,347 and 36,855,714 shares issued and outstanding at December 31, 2009 and December 31, 2008, respectively	4,068	3,686
Additional paid-in capital	21,717,239	12,663,513
Accumulated other comprehensive income	3,979,941	3,960,012
Statutory reserve fund	5,722,107	3,568,869
Retained earnings (unrestricted)	47,497,211	26,193,371
Total NIVS IntelliMedia Technology Group, Inc. Shareholders' Equity	78,920,566	46,389,451
Noncontrolling interest	1,769,544	1,099,240
Total Shareholders' Equity	80,690,110	47,488,691
Total Liabilities & Shareholders' Equity	$ 140,476,536	$ 118,923,965

103. In addition, the Offering Documents also provided the following chart depicting the consolidated statements of cash flows for the Company as of December 31, 2009:

NIVS INTELLIMEDIA TECHNOLOGY GROUP, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows
(In US Dollars)

	For the Year Ended December 31, 2009	2008	2007
Cash Flows From Operating Activities			
Net income	$ 24,086,708	$ 13,462,903	$ 8,684,089
Adjustments to reconcile net income to net cash provided by operating activities:			
Imputed interest	-	656,167	526,428
Bad debt expense (recovery)	(2,745,003)	2,531,479	473,218
Depreciation expense	5,850,550	4,887,386	1,169,319
Amortization expense	78,665	68,788	62,175
Stock-based compensation	-	765,000	-
Write-down of inventory	-	131,837	105,106
Changes in operating assets and liabilities:			
Trade receivables	(10,117,126)	(18,385,002)	(4,838,184)
Advances to suppliers	350,934	1,318,827	(13,640,207)
Prepaid expenses and deposits	-	(63,105)	38,265
Inventories, net	1,655,152	6,067,538	(15,908,385)
VAT refundable	225,021	(1,094,090)	-
Accounts payable, accrued liabilities and customer deposits	561,647	(12,650,271)	12,402,518
Various taxes payable	23,761	283,149	(315,905)
Wages payable	1,131	192,522	436,329
Corporate tax payable	(1,372,734)	1,018,753	1,092,944
Net cash provided by (used in) operating activities	18,598,706	(808,119)	(9,712,290)
Cash Flows From Investing Activities			
Restricted cash	6,842,875	(9,698,348)	(276,104)
Deposits for Dongri Acquisition	(8,559,748)	-	-
Purchases of property, plant and equipment	(5,232,911)	(15,326,949)	(15,297,640)
Payments made for construction in progress	(4,405,199)	(1,480,627)	-
Purchases of intangible assets	(31,605)	(28,830)	-
Due from related parties	-	2,213,370	4,801,648
Short-term investment, marketable securities	-	-	(650)
Net cash used in investing activities	(11,386,588)	(24,321,384)	(10,772,746)
Cash Flows From Financing Activities			
Net borrowing from bank loans payable	8,111,292	3,230,239	15,985,886
Net borrowing (repayment) in bank notes payable	(11,138,878)	12,744,638	(145,438)
Capital lease payable	-	-	(61,669)
Net proceeds of share issuances	1,212,382	10,487,474	-
Due to shareholder	-	(3,165,990)	4,916,614
Net cash provided by (used in) financing activities	(1,815,204)	23,296,361	20,695,393
Effect of exchange rate changes on cash	57,806	855,995	668,904
Net increase in cash and cash equivalents	5,454,720	(977,147)	879,261
Cash and cash equivalents, beginning of period	461,504	1,438,651	559,390
Cash and cash equivalents, end of period	$ 5,916,224	$ 461,504	$ 1,438,651
Supplemental disclosure information::			
Interest expense paid	$ 1,706,762	$ 2,208,051	$ 1,791,490
Income taxes paid	$ 4,773,839	$ 2,031,031	$ 1,268,963
Non cash investing and financing activities:			

104. The Offering Documents also contained false and misleading statements concerning the auditing and accounting work performed by MaloneBailey, the Company's outside auditor. For instance, the Offering Documents provide the following representations concerning MaloneBailey's audit of the Company's financial statements:

> The (i) consolidated financial statements of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009 and for the year ended December 31, 2009 (ii) condensed parent-only balance sheet of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009, and the related condensed parent-only statements of income and cash flows for the year ended December 31, 2009 included in footnote 25 to the Consolidated Financial Statements of NIVS IntelliMedia Technology Group, Inc., each appearing in this prospectus and registration statement have been audited by MaloneBailey, LLP, an independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

105. The Offering Documents also included the following letter to the NIVS Board of Directors from MaloneBailey attesting that the Company's consolidated financial statements referred to above present fairly, in all material respects, the financial position of NIVS as of December 31, 2009:

> To the Board of Directors
> NIVS IntelliMedia Technology Group, Inc. and Subsidiaries
>
> We have audited the accompanying consolidated balance sheet of NIVS IntelliMedia Technology Group, Inc. and Subsidiaries ("the Company") as of December 31, 2009 and the related consolidated statements of income, change in stockholders' equity, comprehensive income, and cash flows for the year then ended. In connection with our audits of the consolidated financial statements, we also have audited financial statement schedule II for the year ended December 31, 2009. These consolidated financial statements and the financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and the financial statement schedule based on our audit.
>
> We conducted our audit in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. The Company is not

required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the related financial statement schedule, when considered in relation to the consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/MALONEBAILEY, LLP
www.malone-bailey.com
Houston, Texas

March 24, 2010

106. The Offering Documents further contained the following additional letter to the NIVS Board of Directors dated March 24, 2012 from MaloneBailey concerning the "Parent Only" balance sheet of the Company:

To the Board of Directors
NIVS IntelliMedia Technology Group, Inc. and Subsidiaries

We have audited the condensed Parent Only balance sheet of NIVS IntelliMedia Technology Group, Inc. (the "Company") as of December 31, 2009 and the related condensed Parent Only statements of income and cash flows for the year then ended included in Footnote 25 to the Consolidated Financial Statements of NIVS IntelliMedia Technology Group, Inc. These Parent Only condensed financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required at this time, to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the condensed Parent Only financial statements referred to above present fairly, in all material respects, the financial position of NIVS IntelliMedia Technology Group, Inc. at December 31, 2009 and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the in the United States of America.

/s/MALONEBAILEY, LLP
www.malone-bailey.com
Houston, Texas

March 24, 2010

107. Lastly, the Offering Documents also contained the following consent from MaloneBailey to the inclusion of its report and the reference of the firm in the Offering Documents:

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the inclusion in this Amendment No. 2 of Registration Statement No. 333-165222 on Form S-1 of our reports dated March 24, 2010 of the consolidated financial statements of NIVS IntelliMedia Technology Group, Inc. and Subsidiaries and to the Parent only financial statements of NIVS IntelliMedia Technology Group, Inc. for the year ended December 31, 2009, which appear in the annual report on Form 10-K of NIVS IntelliMedia Technology Group, Inc. for the year ended December 31, 2009. We also consent to the reference of our Firm under the caption "Experts" in such Registration Statement and related prospectus.

/s/MALONEBAILEY, LLP
www.malone-bailey.com
Houston, Texas

April 19, 2010

iv. Reasons For Falsity of the Offering Documents

108. The Offering Documents, as well as the statements and filings incorporated by reference therein, were materially false and misleading because they failed to disclose and misrepresented the following critical information concerning fundamental aspects of the Company's business, financial results, accounting practices and operations.

109. *First*, the Company's periodic financial statements and results contained in the Offering Documents and issued in the 2009 Form 10-K—including the Company's critical balance sheet figures as of December 31, 2009, such as revenue, net income, accounts receivables, liquidity and capital resources, as well as the recording of certain transactions—contained false financial results that differed materially from the Company's comparable figures filed with the SAIC, leading both the Company and MaloneBailey to declare on March 24, 2011 that these financial statements should no longer be relied upon, as well as leading to the delisting of the Company's stock from the AMEX due to considerable accounting irregularities and "for the protection of investors."

110. *Second*, the Company's financial results as of December 31, 2009 were not prepared in accordance with GAAP in that NIVS' 2009 financial statements reported material misstatements concerning the Company's year-end 2009 cash flow, financial position, and results of operation, including "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents," that were materially overstated, and thus such

statements were not "presented fairly" in conformity with GAAP, all of which violated the following GAAP principles, among others:

a. The principle that "interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements" was violated (APB No. 28, ¶10);

b. The principle that "financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions" was violated (FASB Statement of Concepts No. 1, ¶34);

c. The principle that "financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources" was violated (FASB Statement of Concepts No. 1, ¶40);

d. The principle that "financial reporting should provide information about an enterprise's financial performance during a period" was violated (FASB Statement of Concepts No. 1, ¶42);

e. The principle that "financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it" was violated (FASB Statement of Concepts No. 1, ¶50);

f. The principle that "financial reporting should be reliable in that it represents what it purports to represent" was violated (FASB Statement of Concepts No. 2, ¶¶ 58-59);

g. The principle that "completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions" was violated (FASB Statement of Concepts No. 2, ¶79); and

h. The principle that "conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered" was violated (FASB Statement of Concepts No. 2, ¶95).

111. *Third*, the Company's financial results as of December 31, 2009 were not prepared in accordance with GAAS in that, although GAAS (AU Section 311) requires an auditor to "obtain a level of knowledge of the entity's business that will enable him to plan and

perform his audit in accordance with generally accepted auditing standards," MaloneBailey violated Section 311 because it failed to, among other things:

a. Identify areas that needed special consideration (such as NIVS' accounting for "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") or identified such areas and audited them in a manner which was so deficient that it amounted to no audit at all, while making audit judgments that no reasonable auditor would have made if confronted with the same facts;

b. Assess the conditions under which accounting data (such as accounting data related to "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") was produced, processed, reviewed, and accumulated within the organization or assessed such conditions and made audit judgments based upon said assessment that no reasonable auditor would have made if confronted with the same facts;

c. Evaluate the reasonableness of management's representations (such as the representation that "inventories are stated at the lower of cost, as determined on a weighted average basis, or market") or evaluated management's representations in a manner which was so deficient that it amounted to no evaluation at all; and

d. Judge the appropriateness of the accounting principles applied (such as the principle that disclosure of accounting policies should identify and describe the accounting principles followed by the reporting entity and the methods of applying those principles that materially affect the financial statements) and the adequacy of disclosures in the Company's financial statements (such as disclosure of the fact that there existed fictitious sales and receivables), or did so and arrived at judgments that no reasonable auditor would have arrived at if confronted with the same facts.

112. *Fourth*, the statements contained in the Offering Documents concerning the adequacy of MaloneBailey's audit were materially false and misleading, all of which violated the following GAAS standards, among others:

a. General Standard No. 1 was violated, which standard requires that the examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor;

b. General Standard No. 3 was violated, which standard requires that due professional care is to be exercised in the performance of the examination and in the preparation of the report;

c. Standard Of Field Work No. 1 was violated, which standard requires that the work is to be adequately planned and assistants, if any, are to be properly supervised;

d. Standard Of Field Work No. 2 was violated, which standard requires that a sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed;

e. Standard Of Field Work No. 3 was violated, which standard requires that sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under examination;

f. Standard Of Reporting No. 1 was violated, which standard requires that the report shall state whether the financial statements are presented in accordance with generally accepted accounting principles; and

g. Standard Of Reporting No. 3 was violated, which standard requires that informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

113. *Fifth*, the Company's reported financial results as of December 31, 2009 were not prepared in accordance with SEC Regulations and disclosure rules in that, among other things:

a. The Securities Act Defendants failed to disclose the existence of known trends, events or uncertainties that they reasonably expected would have a material, unfavorable impact on net revenues or income or that were reasonably likely to result in the Company's liquidity decreasing in a material way, in violation of Item 303 of Regulation S-K under the federal securities laws, and that failure to disclose material information rendered the statements that were made in the Offering Documents materially false and misleading; and

b. The Securities Act Defendants failed to file with the SEC financial statements that conformed to the requirements of GAAP, and by doing so such financial statements were presumptively misleading and inaccurate pursuant to Regulation S-X, 17 C.F.R. 210.4-01(a)(1).

114. *Sixth*, as a result of the foregoing misleading statements and omissions, the Company's financial results were false and misleading and lacking in any reasonable basis at all relevant times.

115. In addition to the false and misleading statements described in detail herein, Defendants also failed to disclose the truth regarding NIVS' financial condition. Specifically,

and in addition to the other omissions described herein, Defendants failed to tell the investing public the true risks with which the Company was faced. As a result, NIVS' reported financial results were materially false and misleading at all relevant times.

VI. COUNTS AGAINST THE SECURITIES ACT DEFENDANTS

COUNT I
Violation of Section 11 of The Securities Act
Against NIVS, the Officer and Director Defendants, MaloneBailey and the Underwriter Defendants

116. Plaintiffs incorporate the Securities Act allegations set forth above pertaining to the false Offering Documents, as if set forth fully herein only to the extent, however, that such allegations do not allege fraud, scienter, or the intent of the Defendants to defraud Plaintiffs or the other members of the Class. This Count is predicated upon Defendants' strict liability for making false and materially misleading statements in the Offering Documents under the Securities Act.

117. This claim is asserted by Plaintiffs against NIVS, the Officer and Director Defendants, MaloneBailey and the Underwriter Defendants by, and on behalf of, persons who acquired shares of the Company's securities pursuant to the false Offering Documents issued in connection with the Company's SPO. The Offering Documents for the SPO were inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and failed adequately to disclose material facts, as described above.

118. The Securities Act Defendants are strictly liable for the aforesaid misstatements and omissions, as well as for the damages that Plaintiffs and the other members of the Class have sustained thereby. The Securities Act Defendants are responsible for the contents and dissemination of the Offering Documents, and did not conduct a reasonable investigation or

possess reasonable grounds for the belief that the statements contained in the Offering Documents were true and without omissions of any material facts and were not misleading.

119. The Securities Act Defendants issued, caused to be issued, and participated in the issuance of materially false and misleading written statements to the investing public that were contained in the Offering Documents, which misrepresented or failed to disclose, among other things, the facts set forth above. By reasons of the conduct alleged herein, each Section 11 Defendant violated, and/or controlled a person who violated, Section 11 of the Securities Act.

COUNT II
Violation of Section 12(a)(2) of The Securities Act
Against NIVS and the Underwriter Defendants

120. Plaintiffs incorporate the Securities Act allegations set forth above pertaining to the false Offering Documents, as if set forth fully herein only to the extent, however, that such allegations do not allege fraud, scienter, or the intent of the Defendants to defraud Plaintiffs or the other members of the Class. This Count is predicated upon Defendants' strict liability for making false and materially misleading statements in the Offering Documents under the Securities Act.

121. This Count is brought against NIVS and the Underwriter Defendants on behalf of all persons or entities who purchased NIVS stock issued pursuant to the April 20, 2010 SPO. NIVS and the Underwriter Defendants were sellers, offerors, and/or solicitors of purchasers of the shares offered pursuant to the Offering Documents.

122. The Offering Documents contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and failed to disclose material facts. NIVS and the Underwriter Defendants' actions of solicitation included participating in the preparation and dissemination of the false and misleading Offering Documents.

123. NIVS and the Underwriter Defendants owed to the purchasers of NIVS' common stock, including Plaintiffs and the other members of the Class, the duty to make a reasonable and diligent investigation of the statements contained in the Offering Documents to ensure that such statements were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading. NIVS and the Underwriter Defendants knew of, or in the exercise of reasonable care should have known of, the misstatements and omissions contained in the Offering Documents, as set forth above.

124. Plaintiffs and the other members of the Class purchased or otherwise acquired NIVS' securities pursuant to the defective Offering Documents. Plaintiffs did not know, or in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Offering Documents.

125. Plaintiffs, individually and representatively, hereby offers to tender to the Underwriter Defendants and NIVS that stock which Plaintiffs and the other Class members continue to own, on behalf of all members of the Class who continue to own such stock, in return for the consideration paid for that stock together with interest hereon. Class members who have sold their NIVS stock are entitled to rescissory damages.

126. By reason of the conduct alleged herein, these Defendants violated and/or controlled a person who violated §12(a)(2) of the Securities Act. Accordingly, Plaintiffs and the other members of the Class who hold NIVS securities purchased in the SPO have the right to rescind and recover the consideration paid for the NIVS securities, and hereby elect to rescind and tender their NIVS securities to the Securities Act Defendants sued herein. Plaintiffs and the other Class members who have sold their NIVS securities are entitled to rescissory damages.

COUNT III
Violation of Section 15 of the Securities Act
Against the Officer and Director Defendants

127. Plaintiffs incorporate the allegations set forth above pertaining to the false Offering Documents, as if set forth fully herein only to the extent, however, that such allegations do not allege fraud, scienter, or the intent of the Defendants to defraud Plaintiffs or the other members of the Class. This Count is predicated upon Defendants' strict liability for making false and materially misleading statements in the Offering Documents under the Securities Act.

128. This Count is brought against the Officer and Director Defendants, each of whom was a controlling person of NIVS by virtue of their position as directors and/or senior executive officers of NIVS and/or by virtue of their status as a major shareholder of the Company.

129. This Count is brought against the Officer and Director Defendants pursuant to Section 15 of the Securities Act, 15 U.S.C. §77o, on behalf of all persons or entities who purchased NIVS stock issued pursuant to the April 20, 2010 SPO.

130. Each of the Officer and Director Defendants was a control person of the Company with respect to the SPO by virtue of that individual's position as a senior executive officer and/or director of the Company. These Defendants each had a series of direct and/or indirect business and/or personal relationships with other directors and/or officers and/or major shareholders of NIVS. By reason of the positions with the Company and/or their stock ownership and/or because of their positions on NIVS' Board, the Officer and Director Defendants had the requisite power to directly or indirectly control or influence the specific corporate policy that resulted in the unlawful acts and conduct alleged in Count I above.

131. Each of the Officer and Director Defendants was a culpable participant in the violations of Section 11 of the Securities Act alleged in Count I above, based on their having signed the Offering Documents and having otherwise participated in the process that allowed the

SPO to be successfully completed. These Defendants, by virtue of their managerial and/or Board positions with the Company, controlled the Company as well as the contents of the Offering Documents at the time of the SPO. Each of the Officer and Director Defendants was provided with or had unlimited access to copies of the Offering Documents and had the ability to either prevent their issuance or cause them to be corrected.

132. As a result, the Officer and Director Defendants are liable under Section 15 of the Securities Act for the Company's primary violation of Section 11 of the Securities Act.

133. By virtue of the foregoing, Plaintiffs and the other members of the Class who purchased or otherwise acquired the Company's common stock pursuant to the SPO are entitled to damages against the Officer and Director Defendants.

VII. CLAIMS UNDER THE EXCHANGE ACT

A. Exchange Act Parties

i. Exchange Act Plaintiffs

134. Lead Plaintiff Allan Lyons purchased the publicly traded securities of NIVS during the Class Period at artificially inflated prices and has been damaged thereby.

135. Plaintiff Henry C. Beinstein purchased the publicly traded securities of NIVS during the Class Period at artificially inflated prices and has been damaged thereby.

136. Plaintiff Michael A. Short purchased the publicly traded securities of NIVS during the Class Period at artificially inflated prices and has been damaged thereby.

ii. Exchange Act Defendants

1. The Company

137. As described above, Defendant NIVS is a Delaware corporation located in Huizhou, Guangdong, People's Republic of China.

2. The Individual Defendants

138. Defendant Li has served as the Company's CEO and Chairman of the Board of Directors since July 2008. As discussed below, Defendant Li signed the Company's filings with the SEC during the Class Period and certified the financial and operational statements contained therein pursuant to the Sarbanes-Oxley Act of 2002 ("SOX"). In addition, Defendant Li participated in several conference calls held during the Class Period to discuss NIVS' quarterly and annual financial statements, wherein he made materially false and misleading statements concerning the Company's financial and operational results and prospects.

139. Defendant Zhang served as Interim CFO and a director of the Company from January 2009 until October 2010. As discussed below, Defendant Zhang signed the Company's annual report on Form 10-K filed with the SEC on March 24, 2010, and certified the financial and operational statements contained in the Company's filings with the SEC during the Class Period pursuant to SOX. In addition, Defendant Zhang participated in several conference calls held during the Class Period to discuss NIVS' quarterly and annual financial statements, wherein certain of the Individual Defendants made materially false and misleading statements concerning the Company's financial and operational results and prospects.

140. Defendant Alexander Chen ("Chen") has served as the CFO and a director of NIVS since October 1, 2010. As discussed below, Defendant Chen signed the Company's quarterly report on Form 10-Q filed with the SEC on November 4, 2010, and certified the financial and operational statements contained therein pursuant to SOX. In addition, Defendant Chen participated in the Company's earnings conference call held on November 5, 2011 to discuss NIVS' financial results for the third fiscal quarter of 2010, wherein he made materially

false and misleading statements concerning the Company's financial and operational results and prospects.

141. Defendant Kwok Fu Wong ("Wong"), a/k/a Jason Wong, has served as the Company's Vice President of Investor Relations since October 2008. Defendant Wong participated in several earnings conference calls held during the Class Period to discuss NIVS' quarterly and annual financial statements, wherein he made materially false and misleading statements concerning the Company's financial and operational results and prospects.

142. For purposes of Plaintiffs' Exchange Act claims, Defendants Li, Chen, Zhang and Wong are collectively referred to herein as the "Individual Defendants."

143. During the Class Period, the Individual Defendants, as senior executive officers and/or directors of NIVS, were privy to confidential, proprietary and material adverse non-public information concerning NIVS, its operations, finances, financial condition and present and future business prospects via their access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and/or board of directors meetings and committees thereof, and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or recklessly disregarded that the adverse facts specified herein had not been disclosed to, and were being concealed from, the investing public.

144. The Individual Defendants are liable as direct participants in the wrongs complained of herein. In addition, the Individual Defendants, by reason of their status as senior executive officers and/or directors, were "controlling persons" within the meaning of §20(a) of the Exchange Act and had the power and influence to cause the Company to engage in the

unlawful conduct complained of herein. Because of their positions of control, the Individual Defendants were able to and did, directly or indirectly, control the conduct of NIVS' business.

145. The Individual Defendants, because of their positions with the Company, controlled and/or possessed the authority to control the contents of its reports, press releases and presentations to securities analysts and through them, to the investing public. The Individual Defendants were provided with copies of the Company's periodic reports and other publicly disseminated documents alleged herein to be misleading, prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Thus, the Individual Defendants had the opportunity to commit the fraudulent acts alleged herein.

146. As senior executive officers and/or directors and as controlling persons of a publicly traded company whose securities were, and are, registered with the SEC pursuant to the Exchange Act, and were traded on the AMEX and governed by the federal securities laws, the Individual Defendants had a duty to disseminate promptly accurate and truthful information with respect to NIVS' financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings, and present and future business prospects, to correct any previously issued statements that had become materially misleading or untrue, so the market price of NIVS' securities would be based on truthful and accurate information. The Individual Defendants' misrepresentations and omissions made during the Class Period violated these specific requirements and obligations.

147. The Individual Defendants are liable as participants in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of NIVS' publicly traded

securities by disseminating materially false and misleading statements and/or concealing material adverse facts.

3. **The Outside Auditor Defendant**

148. Defendant MaloneBailey was NIVS' auditor from January 21, 2010 until its abrupt resignation in March 2011. MaloneBailey issued a report of independent registered public accounting firm on the Company's financial statements for the fiscal year 2009. MaloneBailey performed an audit of the Company's consolidated balance sheet as of December 31, 2009 and the related consolidated statements of income, change in stockholders' equity, comprehensive income, and cash flows for the year then ended. MaloneBailey was required to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. MaloneBailey's audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances.

149. As discussed below, MaloneBailey's report stated that, in MaloneBailey's opinion, the Company's "consolidated financial statements . . . present fairly, in all material respects, the financial position of NIVS[] as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America." In addition, MaloneBailey's report further stated that "the related financial statement schedule, when considered in relation to the consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein."

150. NIVS, the Individual Defendants, and MaloneBailey are referred to herein as the "Exchange Act Defendants." The Securities Act Defendants and the Exchange Act Defendants are collectively referred to herein as "Defendants."

B. Allegations Against The Exchange Act Defendants

i. The Exchange Act Defendants' False and Misleading Statements

151. Throughout the Class Period, the Exchange Act Defendants issued various press releases, SEC filings, financial reports and other statements that consistently touted NIVS as a leader in the realm of Chinese mobile phones and groundbreaking communications technology. To hear these Defendants tell it, the Company was poised to capitalize on its strong business fundamentals and embark on a prolonged expansion period where it would substantially increase its sales and production capacity, thus increasing what were already impressive financial results. Unfortunately for the Company's shareholders, however, NIVS was a house of cards that would come crashing down when the truth concerning the Company's actual state of affairs slowly emerged.

152. The Exchange Act Defendants are liable for issuing a series of materially false and misleading statements, and failing to disclose materially adverse information that would make such statements not false and misleading, during the Class Period. These Defendants' false and misleading statements and omissions concerned fundamental aspects of the Company's business and financial prospects, all of which caused the artificial inflation of NIVS' common stock prices and resulted in Plaintiffs and the other members of the Class purchasing such common stock at artificially-inflated prices. After the truth of the Exchange Act Defendants' wrongful course of conduct was revealed to the investing public, the price of the Company's

common stock plummeted, resulting in Plaintiffs and the other members of the Class suffering significant economic loss.

1. Fourth Quarter And Full Year 2009 Statements

153. The Class Period commences on March 24, 2010. On the previous day after the close of the markets, NIVS issued a press release entitled, "NIVS Announces Full Year and Fourth Quarter 2009 Results," which announced 2009 full year and fourth quarter financial results for the period ended December 31, 2009 (the "4Q09 Press Release"). In the 4Q09 Press Release, the Company reported what appeared to be stellar year-over-year 2009 fourth quarter financial results, including a 47.2% increase in net sales to $62.7 million, a 220.5% increase in income from operations to $12.5 million, and a 479% increase in net income to $11 million. Regarding the amounts of the Company's liquidity and capital resources, the 4Q09 Press Release cited unrestricted cash and cash equivalents of $5.9 million, a 1080% increase compared to December 31, 2008.

154. For the full year 2009, the 4Q09 Press Release announced remarkable year-over-year results, including a 29% increase in net sales, a 54.1% increase in income from operations, and an 80.8% increase in net income. NIVS attributed these positive financial results primarily to an increased demand for the Company's intelligent audio and video products.

155. Regarding the Company's financial results for the 2009 fourth quarter and full year, the 4Q09 Press Release provided in pertinent part as follows:

> NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a consumer electronics company that designs, manufactures and sells intelligent audio and visual products, announced today that net sales for the three months ended December 31, 2009, were $62.7 million compared to $42.6 million in the comparable prior year period, an increase of 47.2%. The increase in sales during the fourth quarter of 2009 compared to the fourth quarter of 2008 was attributed primarily to an increased demand for the Company's intelligent audio and video products as a result of the economic recovery that began in China, and

market expansion efforts. Net sales for the full year ended December 31, 2009 were $185.2 million, an increase of $41.6 million, or 29.0% compared to $143.6 million for the year ended December 31, 2008. The increase in revenue was also attributed primarily to the increased demand for and sales of the Company's intelligent audio and video products, which the Company believes was the result of its market expansion efforts.

Income from operations during the fourth quarter 2009 was $12.5 million, an increase of $8.6 million or 220.5% compared to $3.9 million in the comparable prior year period. The increase in income from operations was attributable in part to the reversal of $2.7 million of bad debt charges in the fourth quarter. For the year ended December 31, 2009, the Company reported income from operations of $28.5 million, an increase of $10.0 million, or 54.1% from $18.5 million in the comparable prior year period.

* * *

During the fourth quarter of 2009, the Company reported net income of $11.0 million, or $0.28 per diluted share compared to $1.9 million, or $0.04 per diluted share, in the comparable period of 2008, an increase of $9.1 million. For the year ended December 31, 2009, the Company reported net income of $23.5 million, or $0.59 per diluted share, an increase of $10.5 million, or 80.8% from $13 million, or $0.41 per diluted share, in 2008.

Liquidity and Capital Resources

The Company had unrestricted cash and cash equivalents of approximately $5.9 million at December 31, 2009, compared with $0.5 million at December 31, 2008. In addition, the Company had approximately $4.8 million in restricted cash at December 31, 2009, as compared to $11.7 million at December 31, 2008. The Company had working capital of approximately $3.3 million at December 31, 2009 and a working capital deficit of $18.6 million at December 31, 2008.

The Company had short-term bank loans of approximately $51.7 million and $54.7 million as of December 31, 2009 and 2008, respectively.

During 2009, the Company spent $9.6 million on capital expenditures compared to $16.8 million in 2008. Depreciation and amortization was $5.9 million in 2009 compared to $4.9 million in 2008.

156. In addition to the Company's strong financial results for the fourth quarter and full year 2009, the 4Q09 Press Release also painted a picture of a growing Company that was

purportedly on the verge of becoming "China's preeminent integrated consumer electronics company." In this regard, the 4Q09 Press Release provided in pertinent part as follows:

> For the remainder of 2010, the Company intends to continue its strong marketing and new product launch momentum, and remain focused on executing the goal of becoming China's preeminent integrated consumer electronics company. The Company intends to further enhance its balance sheet by focusing on cutting operating costs and streamlining operating efficiencies. In addition, the Company will continue to focus on R&D and add to its product portfolio, such as 3G mobile handsets, for example. ***As demonstrated by the tripling of revenue year-over-year of the intelligent audio and visual products in the fourth quarter of 2009, the Company believes that its integration of solid technology, design, manufacturing, distribution, product and marketing continues to be well-received by its customers and end users.***
>
> ***The Company intends to sustain its strong growth across all its operating segments and remains confident about the business and growth of the AV consumer electronics industry, and believes that its integrated strengths should allow it to expand market share within its core market and help to capture opportunities in new markets, enabling the Company to deliver sustained strong financial results and greater share value.***

157. Commenting on NIVS' strong financial results and business outlook, Defendant Li, the Company's Chairman and CEO, was quoted as follows in the 4Q09 Press Release:

> I am delighted at our strong 2009 fourth quarter and full year performance and completing our first year of trading on the NYSE Amex. We acquired our U.S. listing during a challenging economic environment and succeeded in expanding our business within the Chinese domestic market as well as in international markets. ***We believe our 2009 performance provides a solid foundation from which to grow in 2010. Our management team is focused on achieving outstanding operational performance and the continuance of increasing shareholder value.***

158. Also on March 24, 2010, NIVS filed its annual report on Form 10-K with the SEC for the fiscal year ending December 31, 2009 (the "2009 Form 10-K"). The 2009 Form 10-K was signed by Defendants Li and Zhang and reiterated the financial results announced in the 4Q09 Press Release. The 2009 Form 10-K also included certifications signed by Defendants Li and Zhang pursuant to the Sarbanes-Oxley Act of 2002 ("SOX"). The SOX certifications

attested that the 2009 Form 10-K included financial results and information that fairly presented the financial and operational condition of NIVS:

> 1. I have reviewed this report on Form 10-K of NIVS IntelliMedia Technology Group, Inc.;
>
> 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
>
> 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
>
> 4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
>
> > a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
> >
> > b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
> >
> > c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
> >
> > d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

> 5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
>
> > a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
> >
> > b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

159. Defendants Li and Zhang further certified, pursuant to 18 U.S.C. § 1350, that the 2009 Form 10-K fairly presents the financial condition and results of operations of NIVS:

> In connection with the report of NIVS IntelliMedia Technology Group, Inc. (the "Company") on Form 10-K for the period ending December 31, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned, in the capacities and on the dates indicated below, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his knowledge:
>
> (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
>
> (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

160. The 2009 Form 10-K provided the following regarding NIVS' critical accounting policies, estimates and assumptions:

> The SEC defines critical accounting policies as those that are, in management's view, most important to the portrayal of our financial condition and results of operations and those that require significant judgments and estimates.
>
> The discussion and analysis of our financial condition and results of operations is based upon our financial statements which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities. On an on-going basis, we evaluate our estimates including the allowance for doubtful accounts, the salability and

recoverability of inventory, income taxes and contingencies. We base our estimates on historical experience and on other assumptions that we believe to be reasonable under the circumstances, the results of which form our basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We cannot predict what future laws and regulations might be passed that could have a material effect on our results of operations. We assess the impact of significant changes in laws and regulations on a regular basis and update the assumptions and estimates used to prepare our financial statements when we deem it necessary.

Revenue recognition. We recognize revenue from the sales of products. Sales are recognized when the following four revenue criteria are met: persuasive evidence of an arrangement exists, delivery has occurred, the selling price is fixed or determinable, and collectivity is reasonably assured. Sales revenue is presented net of value added tax (VAT), sales rebates and returns. No return allowance is made as product returns are insignificant based on historical experience.

Allowance for doubtful accounts. In estimating the collectability of accounts receivable we analyze historical write-offs, changes in our internal credit policies and customer concentrations when evaluating the adequacy of our allowance for doubtful accounts. Differences may result in the amount and timing of expenses for any period if we make different judgments or use different estimates. Our accounts receivable represent a significant portion of our current assets and total assets. Our realization on accounts receivable, expressed in terms of United States dollars may be affected by fluctuations in currency rates since the customer's currency is frequently a currency other than United States dollars.

Inventories. Inventories comprise raw materials and finished goods are stated at the lower of cost or market. Substantially all inventory costs are determined using the weighted average basis. Costs of finished goods include direct labor, direct materials, and production overhead before the goods are ready for sale. Inventory costs do not exceed net realizable value.

Taxation. Under the tax laws of PRC, NIVS PRC has had tax advantages granted by local government for corporate income taxes and sales taxes commencing April 6, 2004. NIVS PRC has been entitled to have a full tax exemption for the first two profitable years, followed by a 50% reduction on normal tax rate of 24% for the following three consecutive years. On March 16, 2007, the National People's Congress of China enacted a new PRC Enterprise Income Tax Law, under which foreign invested enterprises and domestic companies will be subject to enterprise income tax at a uniform rate of 25%, except for High Tech companies that pay a reduced rate of 15%. The new law became effective on January 1, 2008. During the transition period for enterprises established before

March 16, 2007 the tax rate will be gradually increased starting in 2008 and be equal to the new tax rate in 2012. We believe that our profitability will be negatively affected in the near future as a result of the new EIT Law.

161. The 2009 Form 10-K for NIVS provided the following table concerning the Company's financial results:

	Years Ended December 31,					
	2009		2008		2007	
			(in thousands)			
Revenue	$ 185,198	99.8%	$ 143,631	99.7%	$ 77,627	99.3%
Other Sales	282	0.2%	415	0.3%	516	0.7%
Cost of Goods Sold	(142,416)	-76.8%	(109,763)	-76.2%	(58,864)	-75.3%
Gross Profit	43,064	23.2%	34,283	23.8%	19,279	24.7%
Selling Expenses	6,761	3.6%	5,376	3.7%	3,270	4.2%
General and administrative						
Amortization	79	0.0%	69	0.0%	62	0.1%
Depreciation	331	0.2%	337	0.2%	328	0.4%
Bad debts (recovery)	(2,745)	-1.5%	2,531	1.8%	473	0.6%
Merger cost	-	0.0%	1,786	1.2%	-	0.0%
Stock-based compensation	-	0.0%	765	0.5%	-	0.0%
Other G&A expense	4,850	2.6%	3,172	2.2%	2,548	3.3%
Total General and administrative	2,515	1.3%	8,660	5.9%	3,411	4.4%
Research and development	5,315	2.9%	1,737	1.2%	373	0.5%
Total operating expenses	14,591	7.8%	15,773	10.8%	7,054	9.1%
Income from operations	28,473	15.4%	18,510	13.0%	12,225	15.6%
Other income (expenses)						
Government grant	576	0.3%	32	0.0%	28	0.0%
Write-down of inventory	-	0.0%	(132)	-0.1%	(105)	-0.1%
Gain on disposal of assets	-	0.0%	-	0.0%	-	0.0%
Interest income	-	0.0%	-	0.0%	235	0.3%
Interest expense	(1,567)	-0.8%	(2,208)	-1.5%	(1,792)	-2.3%
Imputed interest	-	0.0%	(656)	-0.5%	(527)	-0.7%
Sundry income (expense), net	11	0.0%	(52)	0.0%	(111)	-0.1%
Total other income (expenses)	(980)	-0.5%	(3,016)	-2.1%	(2,272)	-2.9%
Income before Noncontrolling interest and income taxes	27,493	14.9%	15,494	10.9%	9,953	12.7%
Income taxes	(3,406)	-1.8%	(2,031)	-1.4%	(1,269)	-1.6%
Noncontrolling interest	(630)	-0.3%	(430)	-0.2%	(217)	-0.3%
Net Income	$ 23,457	12.8%	$ 13,033	9.3%	$ 8,467	10.8%

162. Also included in the 2009 Form 10-K filing was the report of MaloneBailey attesting that NIVS' financial statements presented fairly, in all material respects, the financial position of the Company as of December 31, 2009:

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors
NIVS IntelliMedia Technology Group, Inc. and Subsidiaries

We have audited the accompanying consolidated balance sheet of NIVS IntelliMedia Technology Group, Inc. and Subsidiaries ("the Company") as of December 31, 2009 and the related consolidated statements of income, change in stockholders' equity, comprehensive income, and cash flows for the year then ended. In connection with our audits of the consolidated financial statements, we also have audited financial statement schedule II for the year ended December 31, 2009. These consolidated financial statements and the financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and the financial statement schedule based on our audit.

We conducted our audit in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of NIVS IntelliMedia Technology Group, Inc. as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, ***the related financial statement schedule, when considered in***

relation to the consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/MALONEBAILEY, LLP
www.malone-bailey.com
Houston, Texas

March 24, 2010

163. On March 25, 2010, the Company held an earnings conference call to discuss the earnings and financial results announced in the 4Q09 Press Release and the 2009 Form 10-K (the "4Q09 Conference Call"). Defendants Li, Zhang and Wong participated on the 4Q09 Conference Call. Commenting on the Company's financial results and operations status, Defendant Wong stated the following:

> Before we get to the details of our year-end 2009 financial results, allow me to share with you highlights of our achievement during the quarter. In our previous earning call, I outlined our key objectives for 2009. They were, number one, to expand our brand awareness. Number two, to increase our sales and marketing activities and broaden our distribution channel. And number three, to improve our balance sheet and enhance internal controls.
>
> I am delighted that during the fiscal year and fourth quarter of 2009, we were able to strongly and successfully execute on those objectives. ***I am also quite pleased that we achieved solid growth in revenues and profits in the first quarter of 2009. Our fourth quarter revenue grew to 62.7 million and our gross margin was 23.3%. Our operating income grew 220.5% year-over-year and our net income grew 415.6% year-over-year.***
>
> In addition to our strong financial performance, this past quarter, we laid down the ground work for our future brand and product expansion, as we began working with prominent companies like China Telecom and Edward Service Group in California. We signed a contract with China Telecom to deliver 3G cell phones. Their Hunan process subsidiary assisted us in increasing our branding in the 3G mobile phone market throughout China.
>
> * * *
>
> ***Our balance sheet also improved significantly. We grew our cash position to 5.9 million and our achieved strong positive cash flow from operations, as Simon would detail shortly. We recently implement stricter payment terms to improve our accounts receivable balance and streamlined our operations to manage our***

> ***inventory. As we continue to improve our cash conversion cycle***; moreover we continued with internal training program to further educate our middle and senior managers on aligning daily performance scores with our long-term objectives. We believe our training has helped our management team gain a better understanding of our core business processes, which improve our internal abilities to forecast our operational needs.
>
> ***The results have been very positive in 2009. We continue to improve our internal controls to comply with essential requirements and also continue to work with -- Hong Kong office for the second year and have already complete a full review of our existing internal operations procedures.***
>
> ***We should implement new steps for further improvement with confidence in our ability to abide by the internal controls required to fulfill our Sarbanes-Oxley requirements***. ***As a recognition of our strong internal controls, this will also grant a AAA credit rating from the China Export and Credit Insurance Cooperation for the fourth consecutive years, reflecting our excellence in business operations, credit worthiness and internal risk management***.
>
> We are very satisfied with our fourth quarter and 2009 whole year performance, and believe the combination of our growing brand, distribution and portfolio of innovative products provides strong momentum for 2010.

164. Also during the 4Q09 Conference Call, Defendant Zhang trumpeted the Company's purportedly strong financial and operational results, as well as its prospects for continued growth in the future:

> ***I'm also very pleased with our performance in fourth quarter and whole year of 2009. Driven by our successful integrated marketing campaign and the new product launch our revenue profit margin, net income and cash flows all posted solid growth during the quarter and whole year.***
>
> ***In the fourth quarter of 2009, total revenue growth grew 47.2% to $62.7 million from $42.6 million in the fourth quarter of 2008, driven by increase in demand, success of new products and recognition as a result of market expansion efforts.*** The increase in sales during the fourth quarter of 2009 compared to fourth quarter of '08 was attributable primarily to increased demand for our intelligent audio and radio overview as a result of the economic recovery that became in China and market expansion efforts.
>
> ***Gross profit in fourth quarter of 2009 increased to 27.5 million compared to 10.8 million for the same period last year***. Operating expenses were $3.1 million for the fourth quarter of 2009 or 5% of total revenue compared to $6.9 million or 16.2% of total revenue a year ago.

* * *

Income from operations of 12.5 million for the fourth quarter 2009 increased 8.6 million or 220.5% from 3.9 million for the fourth quarter of 2008. Accordingly, operating margins increased to 19.9% versus 9.1% for the same period in 2008. Increase in income from operations was attributable in part to the reversal of 2.7 million of bad debt charges in fourth quarter.

* * *

Net income; net income of $11 million increased 9 million or over five times from 2 million for the same period in 2008, primarily as a result of increase revenue cost by economic recovery and lower general and administrative expenses. As a percentage of revenue, net income increased to 17.5% from 4.7% for the same period in 2008. The reason for the increase is in the increase in income from operations.

In 2009, total revenue grew 28.9% to $185.2 million from $143.9 million in 2008 driven by increased demand, success of new product and a breakdown recognition as a result of our market expansion effort. Increase in revenue was attributed from primarily through the increase demand for our product through sales of our intelligent audio and video products, which we believe result of our market expansion efforts.

* * *

Now I would like to turn my attention to -- turn your attention to our balance sheet and cash flows. Because the balance sheet is a snapshot at moment in time, we will just specifically only line items that have significantly changed and that we believe can have a material impact to our ongoing operation.

During the year, we significantly managed our balance sheet. Our net cash provided by operating activities was $18.6 million for the year at December 31, 2009 compared to a net cash used by operating activities of 0.8 million for 2008. Our cash position at end of December 31, at end of 2009 was 5.9 million, as compared to 0.36 million in December 31 -- on December 31 of 2008.

In summary, I'm very pleased with our strong performance in revenue and net income growth, with our solid product momentum and expanded distribution. I'm confident of our ability to further expand in 2010.

165. The market reacted positively to the Company's strong financial performance and glowing reports regarding its future growth prospects. Over the course of the next two trading

days following the filing of the 4Q09 Press Release and the 2009 Form 10-K, as well as the dissemination of Defendants' statements during the 4Q09 Conference Call, NIVS' stock price climbed over 34%, or $0.98, on heavy trading volume. The Company's stock price reached a high of $4.38 per share on March 25, 2010 before closing at $3.86 per share, representing an increase of nearly 28%, or $0.84, from the stock's closing price of $3.02 per share on the prior trading day.

2. SPO Statements

166. On April 20, 2010, NIVS filed with the SEC the Prospectus on Form 424B4 in connection with the SPO. Also in connection with the SPO, the Company filed the various Offering Documents with the SEC, including (i) the Registration Statement on March 4, 2010; (ii) Amendment 1 to the Registration Statement on March 26, 2010; (iii) Amendment 2 to the Registration Statement on April 19, 2010; and (iv) the Updated Registration Statement on April 20, 2010. As discussed in the Securities Act section above, the Offering Documents contained materially false and misleading statements and omissions, including the Company's false 2009 financial results.

3. First Quarter 2010 Statements

167. On May 10, 2010, NIVS issued a press release entitled, "NIVS Announces 2010 First Quarter Results and Guidance for Year 2010," which announced 2010 first quarter financial results for the period ended March 31, 2010 (the "1Q10 Press Release"). In the 1Q10 Press Release, the Company again reported what appeared to be stellar year-over-year 2010 first quarter financial results, including a 153% increase in net sales to $74.1 million, a 106% increase in income from operations to $6.8 million, and a 121% increase in net income to $5.3 million. Regarding the Company's liquidity status as compared to the prior quarter, NIVS reported a 34%

increase in its unrestricted cash balance to $7.9 million. NIVS attributed the positive financial results primarily to the launch of the Company's mobile phone business and the increased sales of the Company's intelligent audio and video products, which the Company purportedly believed was the result of its market expansion efforts.

168. The 1Q10 Press Release also announced impressive full-year 2010 guidance, including (i) $280-330 million of revenue, with gross and net margins estimated to range between 19-21% and 7-10%, respectively; (ii) 20-30% growth for its traditional audio and visual products, with gross and net profit margin maintained at approximately 22-25% and 10-12%, respectively; and (iii) the Company's mobile phone business contributing $60-90 million of revenue, with gross and net profit margins ranging from approximately 10-18% and 5-9%, respectively.

169. Regarding the Company's first quarter 2010 financial results and guidance for the full-year 2010, the 1Q10 Press Release provided in pertinent part as follows:

> Huizhou, Guangdong, China, May 10, 2010 – NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a consumer electronics company that designs, manufactures and sells intelligent audio and visual products and mobile phones, announced today that net sales for the three months ended March 31, 2010, were $74.1 million compared to $29.2 million in the comparable prior year period, an increase of 153%. The increase in sales during the first quarter of 2010 compared to the first quarter of 2009 was attributed primarily to the launch of the Company's mobile phone business and increased sales of the Company's intelligent audio and video products, which the Company believes was the result of its market expansion efforts.
>
> Income from operations during the first quarter 2010 was $6.8 million, an increase of $3.5 million from $3.3 million in the comparable prior year period. The increase in income from operations was attributable to the increase in revenue from mobile phone and intelligent audio and video products.
>
> For the quarter ended March 31, 2010, the Company reported net income of $5.3 million, or $0.13 per diluted share compared to $2.4 million, or $0.06 per diluted share, in the comparable period of 2009, an increase of $2.9 million.

* * *

Liquidity and Capital Resources

The Company had an unrestricted cash balance of approximately $7.9 million as of March 31, 2010, as compared to $5.9 million as of December 31, 2009. In addition, the Company also had approximately $3.1 million in restricted cash as of March 31, 2010, as compared to $4.8 million as of December 31, 2009. The Company received $21.9 million of net proceeds from its secondary offering which went effective April 19, 2010.

The Company had bank loans of approximately $54.5 million and $51.7 million as of March 31, 2010 and December 31, 2009, respectively.

Net cash provided by operating activities was $8.6 million for the three months ended March 31, 2010, compared to net cash provided by operating activities of $4.3 million for the first quarter of 2009. Accounts receivable decreased to $30.7 million from $33.2 million at the end of the first quarter of 2009, while DSO improved to 38 days versus 58 days in the prior quarter.

* * *

Guidance for 2010 business operations

The Company expects 20-30% growth in fiscal 2010 for its traditional audio and visual products compared with fiscal 2009, with gross and net profit margin maintained at approximately 22-25% and 10-12%, respectively. The mobile phone business is a new product line for the Company and is expected to contribute $60-90 million of revenue in 2010 and with gross and net profit margins ranging from approximately 10-18% and 5-9%, respectively. The Company hopes to further enhance its margins by incorporating increased product functionality and enhanced product design into its recently acquired mobile phone manufacturing operations.

Overall, the Company anticipates that it will generate $280-330 million of revenue, with gross and net margins estimated to range between 19-21% and 7-10%, respectively, in 2010.

170. Regarding NIVS' business outlook, the 1Q10 Press Release provided in pertinent part as follows:

The Company's financial position improved strongly in first quarter of 2010 as the Company's newly acquired mobile phone manufacturing operations began to contribute revenue. The Company believes that these and other fundamentals

> ***that have been established will contribute to the Company's continued rapid growth in 2010.***
>
> ***For the remainder of 2010, the Company intends to continue its strong marketing and new product launch momentum, and remain focused on executing the goal of becoming China's preeminent integrated consumer electronics company***. The Company intends to further enhance its income statement by focusing on cutting operating costs and streamlining operating efficiencies. In addition, the Company will continue to focus on R&D and add to its product portfolio, such as 3G mobile handsets, for example. ***As demonstrated by the robust year-over-year revenue growth of its intelligent audio and visual products in the first quarter of 2010, the Company believes that the integration of its solid technology, design, manufacturing, distribution, product and marketing continues to be well-received by its customers and end users***.
>
> The Company intends to sustain its strong growth across all operating segments and remains confident about the growth of the mobile phone and consumer electronics industry. Management further believes that the Company's integrated strengths should allow it to expand market share within its core market and help to capture opportunities in new markets, enabling sustained strong financial results and greater share value.

171. In discussing the Company's results for the first quarter of 2010, Defendant Li trumpeted the Company's impressive figures and its "robust" outlook for full-year 2010, stating:

> We are pleased to report our first quarter results as well as a robust outlook for the full-year 2010. We anticipate our traditional audio/visual products division to increase 20-30% over 2009 and our mobile phone product to contribute $60 – 90 million of revenue for 2010. Our objective is to sustain strong growth across all our operating segments, expand market share within our core markets and take advantage of opportunities in new markets.

172. Also on May 10, 2010, NIVS filed its quarterly report on Form 10-Q with the SEC for the fiscal quarter ending March 31, 2010 (the "1Q10 Form 10-Q"). The 1Q10 Form 10-Q was signed by Defendant Li and reiterated the Company's financial results announced on the same day in the 1Q10 Press Release. The 1Q10 Form 10-Q also included SOX certifications signed by Defendants Li and Zhang that were substantially identical to the SOX certifications discussed above in connection with the 2009 Form 10-K, attesting that the 1Q10 Form 10-Q

included financial results and information that fairly presented, in all material respects, the financial and operational results and condition of NIVS.

173. The 1Q10 Form 10-Q provided the following table concerning NIVS' results of operations:

	For Three Months Ended March 31, 2010 (in dollars)	(as percent of revenue)		2009 (in dollars)	(as percent of revenue)	
	(all amounts are in thousands except percentages)					
Revenue	$ 74,108	99.9	%	$ 29,257	99.7	%
Other Sales	61	0.1	%	91	0.3	%
Cost of Goods Sold	(60,948)	-82.2	%	(23,097)	-78.7	%
Gross Profit	13,221	17.8	%	6,251	21.3	%
Selling Expenses	1,602	2.2	%	1,141	3.9	%
General and administrative						
Amortization	811	1.1	%	18	0.1	%
Depreciation	87	0.1	%	81	0.3	%
Other general and administrative	1,220	1.6	%	1,143	3.9	%
Total General and administrative	2,118	2.9	%	1,242	4.2	%
Research and development	2,663	3.6	%	573	2.0	%
Total operating expenses	6,383	8.6	%	2,956	10.1	%
Income from operations	6,838	9.2	%	3,295	11.2	%
Other income (expenses)						
Interest expense	(393)	-0.5	%	(562)	-1.9	%
Sundry income (expense), net	119	0.2	%	10	0.0	%
Total other income (expenses)	274	0.4	%	(552)	-1.9	%
Income before Noncontrolling interest and income taxes	6,564	8.9	%	2,743	9.3	%
Income taxes	(1,126)	-1.5	%	(314)	-1.1	%
Noncontrolling interest	(136)	-0.2	%	(61)	-0.2	%
Net Income	$ 5,302	7.1	%	$ 2,368	8.1	%

174. In addition, the 1Q10 Form 10-Q provided the following regarding NIVS' critical accounting policies, estimates and assumptions:

> Management's discussion and analysis of results of operations and financial condition are based upon our consolidated financial statements. These statements have been prepared in accordance with accounting principles generally accepted in the United States of America. These principles require management to make certain estimates and assumptions that affect amounts reported and disclosed in the financial statements and related notes. The most significant estimates and assumptions include valuation of inventories, provisions for income taxes, allowance for doubtful accounts, and purchase price allocation relating to the business acquired. Actual results could differ from these estimates. Periodically, we review all significant estimates and assumptions affecting the financial statements and record the effect of any necessary adjustments.
>
> We describe our significant accounting policies in Note 1, Summary of Significant Accounting Policies, of the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K as of and for the year ended December 31, 2009. We discuss our critical accounting policies and estimates in Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K as of and for the year ended December 31, 2009. Other than as indicated in this quarterly report, there have been no material revisions to the critical accounting policies as filed in our Annual Report on Form 10-K as of and for the year ended December 31, 2009 with the SEC on March 24, 2010.

175. On May 11, 2010, the day after NIVS issued the 1Q10 Press Release and filed with the SEC the 1Q10 Form 10-Q, the Company held an earnings conference call to discuss its first quarter 2010 financial results (the "1Q10 Conference Call"). Defendants Li, Zhang and Wong participated in the 1Q10 Conference Call on behalf of NIVS. Commenting on the Company's financial results and operations status, Defendant Wong stated the following:

> In our previous earnings call, I outlined our key objectives for 2010. They were, number one: to expand our brand awareness, physically our new mobile phone product lines; number two: to increase our sales and marketing activities and broaden our distribution channel to workout with the mobile telecommunication carriers in China; and number three: to improve our balance sheet and enhance the internal controls. ***I am delighted that during the first quarter of 2010, we were able to strongly and successfully execute on those objectives. I am also very***

> ***pleased that we achieved solid growth in revenue in August in the first quarter of 2010.***
>
> ***Our first quarter revenue growth is 4.1 million and our gross margin was 17.8%. Our operating income growth 107.5% year-over-year and our net income grew 123.8% year-over-year.*** In addition, to our strong financial performance. This past year, we laid down the ground work for our future brand and product expansion.
>
> * * *
>
> ***Our balance sheet also improved significantly. We grew our cash position just 7.9 million and achieved strong positive cash flows from operations*** . . . we recently implement payment terms to improve our account receivables, other than streamline other operations to manage our inventory as we continue to improve our cash conversion cycle.
>
> * * *
>
> The result has been very positive in 2010. We also complete the full stock offering in April of this year, rating 21.9 million of net proceeds. ***We are continuing to improve our internal control to comply with stock requirements*** and also continue to work with -- participate in Hong Kong office for second year. And as they already complete the full of our internal operation procedures. We can implement new steps for further improvement.
>
> ***We are confident in our ability to abide by the internal controls to fulfill our Sarbanes-Oxley requirements as the recognition of our strong internal controls***. What's going to our AAA credit rating from the China Export and Credit Insurance Corporation for the fourth consecutive year reflecting our excellences in business operation, credit listeners and internal risk management. In addition, our DSOs improved to 38 days from 58 days in the prior quarter. ***We are very satisfied with our first quarter 2010 performance and believe that combination of our growing brand, distribution and portfolio of innovate products provide strong momentum for the following quarter in 2010***.

176. Regarding the Company's financial guidance and operational outlook for fiscal year 2010, Defendant Wong provided the following commentary:

> As usual, we offered the 2010 guidance right after the first quarter financials after we have settled with quality on our business running this year. ***The Company expects 20 to 30% growth in the fiscal 2010 for it's our traditional audio and virtual products compared with the fiscal 2009***.

> ***This quarter, net profit margin maintained at approximately 22 to 25% and 10 to 12% respectively***. The mobile phone business is a new product lines for the company, and it is expected to contribute 60 to 90 million of revenues in 2010, and we've plot an net profit margin ranging from approximately 10 to 18% and 5 to 9% respectively.
>
> The Company hopes to further enhance its margin by incorporating improved product functionality and that has product besides into recently acquired mobile phone manufacturing operations. ***Overall, the Company anticipates that it will generate 280 to 330 million of revenues, which cross our net margins estimates to range between 19 to 21% and 7 to 10% respectively in 2010***.
>
> In closing, ***we are pleased with our growth and our objectives to sustain our strong growth across all our operating segments. We remain confident about the business and growth of the audio and visual consumer electronic industries, and we believe that our integrated strength should allow us to expand our market share within our market and help us to capture opportunities in new markets, enabling us to deliver sustained strong financial results and to ultimately reward our success of shareholders with compared to share value***.

177. The market again reacted positively to the Company's strong financial performance and glowing reports regarding its future growth prospects. On May 10, 2011, following the filing of the 1Q10 Press Release and the Company's 1Q10 Form 10-Q, as well as the dissemination of Defendants' financial statements during the 1Q10 Earnings Conference Call, NIVS' stock price reached a high of $3.36 per share before closing at $3.26 per share, representing an increase of nearly 6%, or $0.17, from the stock's closing price of $3.09 per share on the prior trading day.

4. <u>Second Quarter 2010 Statements</u>

178. On July 20, 2010, NIVS issued a press release entitled, "NIVS Estimates Second Quarter 2010 Preliminary Revenue And Net Income," which provided estimates for the Company's 2010 second quarter financial results. The press release provided the following regarding the Company's financial results for the second quarter of fiscal 2010, as well as the guidance for full-year 2010:

> Huizhou, Guangdong, China, July 20, 2010 – NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a consumer electronics company that designs, manufactures and sells intelligent audio and visual products and mobile phones, announced today estimates for its 2010 second quarter results. The Company expects second quarter 2010 total revenue to be between $77 million and $79 million (compared to $40.9 million for 2009 second quarter), representing an estimated increase of between 88.4% and 93.3%. Second quarter 2010 gross profit is expected to be between $15 million and $16 million (compared to $9.7 million for 2009 second quarter), representing an estimated increase of between 53.9% and 64.1%. Second quarter 2010 net income is expected to be between $6.5 million and $7.5 million (compared to $4.6 million for 2009 second quarter), representing an estimated increase of between 52.3% and 63.2%, and resulting in estimated earnings per share of between $0.14 and $0.16, based on a weighted-average of 47,159,642 shares outstanding during the second quarter.
>
> * * *
>
> Regarding its previously released guidance for full year 2010, ***the Company reiterates that it anticipates full year revenue of between $290 and $340 million, with gross and net margins estimated to range between 19-21% and 7-10% respectively***.

179. Commenting on the Company's 2010 second quarter preliminary financial results, Defendant Li stated the following:

> Our preliminary estimates of our second quarter results reflects a growth in the demand for both our traditional audio and visual products as well as our newer, mobile phone business, as we had anticipated as we entered the 2010 fiscal year. ***We're pleased to be on track towards achieving the financial objectives we established for our 2010 fiscal year***.

180. On July 22, 2010, NIVS filed with the SEC a Form 8-K, which included the press release issued on July 20, 2010 announcing the Company's preliminary second quarter 2010 financial results. The July 22, 2010 Form 8-K was signed by Defendant Li.

181. On August 11, 2010, NIVS issued a press release entitled, "NIVS Announces 2010 Second Quarter Results," which announced 2010 second quarter financial results for the period ended June 30, 2010 (the "2Q10 Press Release"). In the 2Q10 Press Release, the Company again reported what appeared to be stellar year-over-year second first quarter financial

results, including, among other impressive figures, a 89.7% increase in net sales to $77.6 million, a 50.8% increase in income from operations to $8.9 million, and a 47% increase in net income to $6.8 million. Regarding the Company's liquidity status, as compared to the status six months earlier, NIVS reported a 325% increase in its unrestricted cash balance to $25.1 million.

182. Regarding the Company's second quarter 2010 financial results and guidance for 2010 business operations, the 2Q10 Press Release provided in pertinent part as follows:

> Huizhou, Guangdong, China, August 11, 2010 – NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a consumer electronics company that designs, manufactures and sells intelligent audio and visual products and mobile phones, announced today that net sales for the second quarter ended June 30, 2010 were $77.6 million, an increase of $36.7 million or 89.7 %, from $40.9 million in the comparable prior year quarter. Net sales for the six months ended June 30, 2010 more than doubled to $151.7 million from $70.1 million in the comparable prior year period.
>
> Income from operations for the second quarter ended June 30, 2010 was $8.9 million, an increase of $3.0 million, or 50.8 %, from $5.9 million in the prior year period. For the six month period ended June 30, 2010, the Company reported income from operations of $15.7 million, an increase of $6.5 million, or 70.7%, from $9.2 million in the comparable prior year period.
>
> For the second quarter ended June 30, 2010, the Company reported net income of $6.8 million, or $0.14 per diluted share, an increase of $2.1 million, versus $4.7 million, or $0.11 per diluted share, in the second quarter of 2009. For the six months ended June 30, 2010, the Company reported net income of $12.2 million, or $0.27 per diluted share, an increase of $5.1 million, or 71.8%, compared to $7.1 million, or $0.18 per diluted share, during the comparable prior year period.
>
> * * *
>
> Liquidity and Capital Resources
>
> The Company had an unrestricted cash balance of approximately $25.1 million as of June 30, 2010, compared with $5.9 million as of December 31, 2009. In addition, the Company also had approximately $2.2 million in restricted cash as of June 30, 2010, compared with $4.8 million as of December 31, 2009. The Company received $21.9 million of net proceeds from its secondary offering on April 19, 2010.

> The Company had bank loans of approximately $63.1 million and $51.7 million as of June 30, 2010 and December 31, 2009.
>
> Net cash provided by operating activities was $2.9 million for the six months ended June 30, 2010, compared to net cash provided by operating activities of $3.2 million for the same period of 2009. Accounts receivable increased to $41.8 million from $33.2 million at the end of the first half of 2009, while DSO was 44.8 days.
>
> * * *
>
> Guidance for 2010 business operations
>
> Overall, the Company anticipates that it will generate $290-340 million of revenue in 2010, with gross and net margins estimated to be similar to those realized in the first half of the year.

183. Regarding the Company's business outlook, the 2Q10 Press Release provided the following overview of NIVS' prospects for growth:

> ***The Company's financial position improved strongly in the second quarter of 2010 as the Company's newly acquired mobile phone manufacturing operations contributed a meaningful amount of revenue. The Company believes that these and other fundamentals that have been established will contribute to the Company's continued rapid growth in 2010***.
>
> For the remainder of 2010, the Company intends to continue its strong marketing and new product launch momentum, and remain focused on executing the goal of becoming China's preeminent integrated consumer electronics company. The Company intends to further enhance its income statement by focusing on cutting operating costs and streamlining operating efficiencies. In addition, the Company will continue to focus on R&D and add to its product portfolio, such as 3G mobile handsets, for example. ***As demonstrated by the robust year-over-year revenue growth of its intelligent audio and visual products in the first quarter of 2010, the Company believes that the integration of its solid technology, design, manufacturing, distribution, product and marketing continues to be well-received by its customers and end users***.
>
> The Company intends to sustain its strong growth across all operating segments and remains confident about the growth of the mobile phone and consumer electronics industry. ***Management further believes that the Company's integrated strengths should allow it to expand market share within its core market and help to capture opportunities in new markets, enabling sustained strong financial results and greater share value***.

184. In discussing the financial results for the second quarter of 2010, Defendant Li again touted the Company's financial results and strong prospects for continued growth of NIVS' operational performance:

> We are pleased to report a strong financial performance in the second quarter. Our relationship with China Telecom began to produce anticipated results and we are now working with China Mobile and China Unicom as well to further enhance our mobile phone business category. Our acquisition of Dongri was also validated by its strong performance at this point in the year. ***The continued growth of our traditional audio/visual products division is expected to increase revenue by 20-30% over 2009 and our mobile phone products should contribute $80–$100 million of revenue for 2010. Our objective is to sustain strong growth across all our operating segments, expand market share within our core markets and take advantage of opportunities in new markets***.

185. Also on August 11, 2010, NIVS filed its quarterly report on Form 10-Q with the SEC for the fiscal quarter ending June 30, 2010 (the "2Q10 Form 10-Q"). The 2Q10 Form 10-Q was signed by Defendant Li and reiterated the financial results announced on the same day in the 2Q10 Press Release. The 2Q10 Form 10-Q also included SOX certifications signed by Defendants Li and Zhang, which certifications were substantially identical to the SOX certifications discussed above in connection with the 2009 Form 10-K, attesting that the 2Q10 Form 10-Q included financial results and information that fairly presented, in all material respects, the financial and operational results and condition of NIVS.

186. The 2Q10 Form 10-Q provided the following table concerning NIVS' results of operations:

	For The Three Months Ended June 30,				For The Six Months Ended June 30,			
	2010		2009		2010		2009	
	(in dollars)	(% of revenue)	(in dollars)	(% of revenue)	(in dollars)	(% of revenue)	(in dollars)	(% of revenue)
	(all amounts are in thousands except percentages)							
Revenues	77,602	99.9%	40,860	99.9%	151,710	99.9%	70,116	99.8%
Other Revenues	61	0.1%	61	0.1%	122	0.1%	152	0.2%
Cost of Goods Sold	(61,512)	-79.2%	(31,174)	-76.2%	(122,460)	-80.7%	(54,270)	-77.2%
Gross Profit	16,151	20.8%	9,747	23.8%	29,372	19.3%	15,998	22.8%
Selling Expenses	1,918	2.5%	2,127	5.2%	3,519	2.3%	3,268	4.7%
General and administrative								
Amortization	818	1.1%	18	0.0%	1,629	1.1%	36	0.1%
Depreciation	89	0.1%	83	0.2%	176	0.1%	164	0.2%
Other general and administrative	2,204	2.8%	822	2.0%	3,424	2.3%	1,965	2.8%
Total general and administrative	3,111	4.0%	923	2.2%	5,229	3.5%	2,165	3.1%
Research and development	2,255	2.9%	763	1.9%	4,918	3.2%	1,335	1.9%
Total operating expenses	7,284	9.4%	3,813	9.3%	13,666	9.0%	6,768	9.7%
Income from operations	8,867	11.4%	5,934	14.5%	15,706	10.3%	9,230	13.1%
Other income (expenses)								
Interest expense	(438)	-0.6%	(324)	-0.8%	(831)	-0.5%	(886)	-1.3%
Sundry income (expense), net	(194)	-0.2%	67	0.2%	(75)	0.0%	77	0.1%
Total other income (expenses)	(632)	-0.8%	(257)	-0.6%	(906)	-0.5%	(809)	-1.2%
Income before noncontrolling interest and income taxes	8,235	10.6%	5,677	13.9%	14,800	9.7%	8,421	12.0%
Income taxes	(1,434)	-1.8%	(962)	-2.4%	(2,561)	-1.7%	(1,276)	-1.8%
Noncontrolling interest	(186)	-0.2%	(120)	-0.3%	(322)	-0.2%	(181)	-0.3%
Net income	6,615	8.6%	4,595	11.2%	11,917	7.8%	6,964	9.9%

187. In addition, the 2Q10 Form 10-Q provided the following regarding NIVS' critical accounting policies, estimates and assumptions:

> Management's discussion and analysis of results of operations and financial condition are based upon our consolidated financial statements. These statements have been prepared in accordance with accounting principles generally accepted in the United States of America. These principles require management to make certain estimates and assumptions that affect amounts reported and disclosed in the financial statements and related notes. The most significant estimates and assumptions include valuation of inventories, provisions for income taxes, allowance for doubtful accounts, and purchase price allocation relating to the business acquired. Actual results could differ from these estimates. Periodically, we review all significant estimates and assumptions affecting the financial statements and record the effect of any necessary adjustments.

> We describe our significant accounting policies in Note 1, Summary of Significant Accounting Policies, of the Notes to Consolidated Financial Statements included in our Annual Report on Form 10-K as of and for the year ended December 31, 2009. We discuss our critical accounting policies and estimates in Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K as of and for the year ended December 31, 2009. Other than as indicated in this quarterly report, there have been no material revisions to the critical accounting policies as filed in our Annual Report on Form 10-K as of and for the year ended December 31, 2009 with the SEC on March 24, 2010.

188. On August 12, 2010, the day after NIVS issued the 2Q10 Press Release and filed with the SEC the 2Q10 Form 10-Q, the Company held an earnings conference call to discuss its second quarter 2010 financial results (the "2Q10 Conference Call"). Defendants Li, Zhang and Wong participated in the 2Q10 Conference Call on behalf of NIVS. Defendant Li began the call by emphasizing the dedication of the Company's management to the development and maintenance of the long-term growth of NIVS:

> I have led management here to the responsible management and execution of their responsibilities, encouraging our team to be effective in creating opportunities for continuously development of this company. ***We are focused on improving business management, strengthening strategic planning and promoting the long-term sustainable and stable growth of the business***.
>
> ***Outstanding performance and continuous rapid growth will further establish the confidence of the company's shareholders and investors***.

189. Commenting on the Company's financial results and operations status, Defendant Wong stated the following:

> Before we get to the detail of our second quarter 2010 financial results, allow me to share with you highlights of our achievement during the quarter.
>
> In our previous earnings call, I outlined our key objectives for 2010. They were number one; to expand our brand awareness, specifically our new mobile phone product lines.
>
> Number two; to increase our sales and marketing activities and broaden our distribution channels and establish relations with professional mobile

telecommunication carriers in China. And number three, to improve our balance sheet, and enhance internal control.

I am delighted that during the second quarter of 2010, we were able to successfully execute on those objectives. I am also very pleased that we achieved solid growth in revenue and profits in the second quarter of 2010.

Our second quarter revenue grew to 77.6 million and our gross margin was 20.8%. Our operating income grew 49.4% year-over-year and our net income grew 44.2% year-over-year. The GOME that we laid down enhances our future brands and product expansion as we began working with prominent companies like China Telecom, and further expand our sales network with GOME, a leading consumer electronic distributor in China.

* * *

On April 23, 2010, we complete a public offering of 7.29 million shares at a price of $3.29 per share. The company received aggregate net proceeds of approximately 21.9 million. We used the net proceeds from this offering for general profit and working capital progresses such as sales and marketing, research and development, working capital and other general profit purposes. ***In addition, what's our profit from our operation, our balance sheet also improved significantly. We grew our cash position to 25.1 million and achieved strong positive cash flow from operations***.

* * *

As our recognition of our strong internal controls, NIVS was grant AAA credit rating from the China Export and Credit Insurance Corporation for the second consecutive year, reflecting our excellence in the business operation, credit worthiness and internal risk management.

* * *

At this point, however, let me turn the focus to our second quarter 2010 financial results. Afterwards, I would turn to discuss our recent development and our strategic plans. In this quarter, driven by our successful integrated marketing campaign and new product launch, our revenue, profit margin, net income and cash flows all post solid growth during the quarter.

In the second quarter of 2010, total revenue grew 89.9% to 77.6 millions and 40.9 million in the second quarter of 2010 driven by the launch of our mobile phone products, increased demand of our audio and visual products, and greater brand recognition as a result of our marketing expansion efforts.

> Gross profit in the second quarter of 2010 increased to 16.2 million, compared to 9.7 million for the same period last year. Operating expenses were 7.3 million for the second quarter of 2010 or 9.4% of total revenue, compared to 3.8 million or 9.3% of total revenue a year ago.
>
> * * *
>
> Income from operation of 8.9 million in the second quarter 2010 increased 3 million or 50.8% from 5.9 million in second quarter of 2009. Accordingly, operating margin decreased to 11.4%, versus 14.5% for the same period in 2009. The increase in the income from operation was attributable in the launch of our new mobile phone business in the second quarter.
>
> * * *
>
> Now, I would like to turn your attention to our balance sheet and cash flows, because the brand issue is a snapshot at the moment in time. We will address specifically only line items that have significantly changed or at that would the lift, can have an material impact to our ongoing operations.
>
> ***During the year, we significantly strengthened our balance sheet. Our cash position at the end of June 30, 2010 was 25.1 million, as compared to 5.9 million as of December 31, 2009***. Depending on our account receivable collecting effort, our DSO is 44.8 days.
>
> Our net cash provided by operating activities was 2.9 million for the six months end June 30, 2010, compared to net cash provided by operating activities of 3.2 million for the same period last year.
>
> The improvement of the operation cash flow is due to an improvement in the effort of our collecting accounts receivable and increasing account payable. In summary, ***we are very pleased with our strong performance in revenue and net income growth with our solid product momentum and expense distribution; I am comfortable with our ability to deliver on our target for 2010***.

190. Regarding the Company's operational performance, 2010 guidance and business outlook, Defendant Wong provided as follows:

> Back to our operations our financials have strongly improved in this quarter. Our acquisition of the Dongri and new mobile phone product lines started to contribute revenues from their operations. And we believe the fundamental that relate in separation for our rapid growth in this year.
>
> * * *

> ***We believe the margins will gradually improve in following quarter in 2010 and we hope to further enhance our margins by incorporating increase product functionality and enhanced product design to our recently acquired mobile phone manufacturing operations***.
>
> * * *
>
> For the remainder of 2010, we intend to continue our strong marketing and new product launch momentum, as ***we remain focused on executing our goal to become Chinese premium integrated consumer electronic company***. We aim to further enhance our balance sheet by focusing on cutting operating costs and streamlining our operating efficiencies.
>
> In addition, we will continue to focus on research and development, and adding our product portfolio such as 3G handsets. ***As demonstrated by our tripling of revenue year-over-year for our intelligent audio and visual product in 2009-2010, we believe that our integrated combination of solid technology designed manufacturing, distribution and product and marketing continues to be well received by our customers and end users***.
>
> * * *
>
> Overall, the company anticipates that it will generate 290 to 340 million of revenue with gross and net margin estimate to range between 19.1% and 7 to 10% respectively in this year.
>
> In closing, ***we are pleased with our growth and our objectives to sustain our strong growth across all our operating segments. We remain confident about the business and growth of the audio and visual consumer electronic industry***. And believe that our integrated strength should allow us to expand our market share within our core market and help us to capture opportunities in new market, ***enabling us to deliver sustained strong financials result and to ultimately reward our supportive shareholders with greater share value***.

5. Third Quarter 2010 Statements

191. On November 4, 2010, NIVS issued a press release entitled, "NIVS Announces 2010 Third Quarter Results," which announced 2010 third quarter financial results for the period ended September 30, 2010 (the "3Q10 Press Release"). In the 3Q10 Press Release, the Company again reported what appeared to be impressive year-over-year quarterly financial results, including, among other figures, a 59.7% increase in net sales to $84.5 million, a 13.3% increase

in income from operations to $8.2 million, and a 7.6% increase in net income to $6.0 million. The Company's liquidity status remained robust as NIVS reported an unrestricted cash balance of $23.8 million.

192. Regarding the Company's third quarter 2010 financial results and guidance for 2010 business operations, the 3Q10 Press Release provided in pertinent part as follows:

> Huizhou, Guangdong, China, November 4, 2010 – NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a consumer electronics company that designs, manufactures and sells intelligent audio and visual products and mobile phones, announced today that sales for the third quarter ended September 30, 2010 were $84.5 million, an increase of $31.6 million or 59.7%, from $52.9 million in the same period last year. Net sales for the nine months ended September 30, 2010 were $236.3 million, an increase of $113.0 million or 92%, from $123.1 million in the same period last year.
>
> Income from operations for the third quarter ended September 30, 2010 was $8.2 million, an increase of $1 million, or 13.3 %, from $7.2 million in the prior year period. For the nine month period ended September 30, 2010, the Company reported income from operations of $23.9 million, an increase of $7.4 million, or 45.3 %, from $16.4 million in the same period last year.
>
> For the third quarter ended September 30, 2010, the Company reported net income of $6.0 million, or $0.12 per diluted share, an increase of $500 thousand, or 7.6% from $5.5 million in the same period last year. The EPS in the 2009 third quarter was $0.14 per diluted share. The decrease in the September 30, 2010 EPS can be attributed to the increased operating expense in the quarter due to the non-cash cost of amortization, stock based compensation – a new cost to the Company, and to the Company's increase in diluted shares outstanding as a result of the Company completing a common share stock offering in April of this year. For the nine months ended September 30, 2010, the Company reported net income of $17.9 million, or $0.40 per diluted share, an increase of $5.4 million, or 43.0 %, compared to $12.5 million, or $0.31 per diluted share, during the same period last year.
>
> * * *
>
> **Liquidity and Capital Resources**
>
> The Company had an unrestricted cash balance of approximately $23.8 million as of September 30, 2010, as compared to $5.9 million as of December 31, 2009. In addition, the Company also had approximately $2.2 million in restricted cash as of September 30, 2010, as compared to $4.8 million as of December 31, 2009.

The Company received $21.9 million of net proceeds from its secondary offering which went effective on April 19, 2010.

The Company had bank loans of approximately $70 million and $51.7 million, as of September 30, 2010 and December 31, 2009.

Net cash provided by operating activities was $4.2 million for the three months ended September 30, 2010, compared to net cash provided by operating activities of $ 3.4 million for the third quarter of 2009.

Accounts receivable increased to $50.0 million for the three months ended September 30, 2010, from $33.2 million at December 31, 2009, while days sales outstanding was 60 days for third quarter 2010 compared to 77 days for third quarter 2009.

* * *

Guidance for 2010 business operations

The Company expects 20-30% growth in fiscal 2010 for its traditional audio and visual products compared with fiscal 2009, with gross and net profit margin maintained at approximately 22-25% and 10-12%, respectively. The mobile phone business is a new product line for the Company and is expected to contribute $80-100 million of revenue in 2010 and with gross and net profit margins ranging from approximately 10-18% and 5-9%, respectively. The Company hopes to further enhance its margins by incorporating increased product functionality and enhanced product design into its recently acquired mobile phone manufacturing operations.

Overall, the Company anticipates that it will generate $290-340 million of revenue, with gross and net margins estimated to range between 19-21% and 7-10%, respectively, in 2010.

193. Regarding the Company's business outlook, the 3Q10 Press Release provided the following overview of NIVS' prospects for growth:

The Company's financial position remained consistent and strong during the third quarter as the Company's mobile phone products continued to gain acceptance and brand recognition. The Company believes that these and other established Company fundamentals will contribute to the Company's continued rapid growth in 2010.

For the remainder of 2010, the Company intends to continue its strong marketing and new product launch momentum, and will remain focused on executing the goal of becoming China's preeminent integrated consumer electronics company.

> The Company intends to further enhance its income statement by focusing on cutting operating costs and streamlining operating efficiencies. In addition, the Company will continue to focus on research and development and add to its product portfolio with products such as 3G mobile handsets. As demonstrated by the robust year-over-year revenue growth of its intelligent audio and visual products in the third quarter and nine-month period of 2010, and with the contribution of its mobile phone products lines, the Company believes that the integration of its solid technology, design, manufacturing, distribution, product and marketing continues to be well-received by its customers and end users.
>
> ***The Company intends to sustain its strong growth across all operating segments and remains confident about the growth of the mobile phone and consumer electronics industry. Management further believes that the Company's integrated strengths should allow it to expand market share within its core market and help to capture opportunities in new markets, enabling sustained strong financial results and greater share value***.

194. In discussing the financial results for the third quarter of 2010, Defendant Li once again painted a picture of a strong Company that was poised for continued financial and operational success as it continued to capitalize on its impressive prospects for continued operational growth:

> We were very busy during the third quarter of this year. Among other things we completed delivery of our 3-G Android mobile phone to the World Expo. We're also awaiting approvals from both China Mobile and China Unicom as approved suppliers and if approved, we expect that such designation will further enhance the overall performance of our mobile phone business. We were also recognized by GOME Electrical Appliances Holding for contributing 12% to their top line from the sales of the NIVS computer peripheral speaker. ***As a result of these and other developments our sales and net income remained robust and we're confident that for the balance of the year we will achieve the financial results for which we've previously provided guidance***.

195. Also on November 4, 2010, NIVS filed its quarterly report on Form 10-Q with the SEC for the fiscal quarter ending September 30, 2010 (the "3Q10 Form 10-Q"). The 3Q10 Form 10-Q was signed by Defendants Li and Chen and reiterated the Company's financial results announced on the same day in the 3Q10 Press Release. The 3Q10 Form 10-Q also included SOX certifications signed by Defendants Li and Chen, which certifications were substantially

identical to the SOX certifications discussed above in connection with the 2009 Form 10-K, attesting that the 3Q10 Form 10-Q included financial results and information that fairly presented, in all material respects, the financial and operational results and condition of NIVS.

196. The 3Q10 Form 10-Q provided the following table concerning NIVS' results of operations:

	Three Months Ended September 30, 2010		Three Months Ended September 30, 2009	
	Amount	**Percent of Revenues**	**Amount**	**Percent of Revenues**
Revenues	$ 84,400,427	99.9%	$ 52,384,695	99.1%
Other revenues	76,004	0.01%	473,123	0.9%
Cost of goods sold	(67,129,754)	(79.5)%	(40,596,192)	(77.5)%
Gross profit	17,346,677	20.5%	11,901,626	22.5%
Selling expenses	2,161,817	2.6%	2,327,577	4.4%
General and administrative				
Amortization	831,625	1.0%	24,270	0%
Depreciation	86,005	0.1%	83,903	0.2%
Stock-based Compensation	1,972,883	2.3%	0	0%
Other general and administrative	1,443,414	1.7%	1,154,369	2.2%
Total general and administrative	4,333,972	5.1%	1,262,542	2.4%
Research and development	2,702,743	3.2%	1,122,003	2.1%
Total operating expenses	9,394,276	10.9%	4,712,122	8.9%
Income from operations	7,952,401	9.6%	7,189,504	13.6%
Other income (expenses)				
Interest expense	(575,962)	(0.7)%	(404,081)	(0.8)%
Sundry income (expense), net	121,311	0.1%	(66,928)	(0.1)%
Total other income (expenses)	(454,651)	(0.5)%	(471,009)	(0.9)%
Income before noncontrolling interest & income taxes	7,497,750	9.1%	6,718,495	12.7%
Income taxes	(1,541,039)	(1.8)%	(1,033,814)	(2)%
Noncontrolling interest	(192,552)	(0.2)%	(146,805)	(0.3)%
Net income	$ 5,959,948	7.1%	$ 5,537,876	10.5%

197. In addition, regarding the Company's critical accounting policies, the 3Q10 Form 10-Q represented that there "have been no changes in our critical accounting policies from those disclosed in Item 7, 'Management's Discussion and Analysis of Results of Operations and

Financial Condition' in our Annual Report on Form 10-K for the fiscal year ended December 31, 2009."

198. On November 5, 2010, the day after NIVS issued the 3Q10 Press Release and filed with the SEC the 3Q10 Form 10-Q, the Company held an earnings conference call to discuss its third quarter 2010 financial results (the "3Q10 Conference Call"). Defendants Li, Chen and Wong participated in the 3Q10 Conference Call on behalf of NIVS. Commenting on the Company's financial results and operations status, Defendant Wong stated the following:

> In our previous earnings call I outlined our key objectives for 2010. They were: (1) – to expand our brand awareness, specifically our new mobile phone product lines; (2) – to increase our sales and marketing activities, broaden our distribution channels and establish relationships with additional mobile telecommunication carriers in China; and, (3) – to improve our balance sheet and enhance internal controls.
>
> ***I am delighted that during the third quarter of 2010, we were able to successfully execute on these objectives and at the same time achieve solid growth in revenue and profits. Our third quarter revenue grew to $84.5 million, and our gross margin was 20.5%. Our operating income grew 13.3% YoY, and our net income grew 7.6% YoY***.
>
> * * *
>
> ***We continued to improve our internal controls to comply with SOX requirements***, and also continued to work with Protiviti Inc.'s Hong Kong office for the second year. We are planning to have the SOX improvement test in December. According to the new legislation, NIVS is not required to have our auditor prepare a SOX report this year, therefore after the test is conducted by Protiviti, we'll have another half year for the third trial run of the new internal control procedures. ***We're confident in our ability to abide by the internal controls required to fulfill our Sarbanes Oxley requirements. As a recognition of our strong internal controls, NIVS was granted a Triple A credit rating from the China Export & Credit Insurance Corp for the third consecutive year, reflecting our excellence in business operations, credit worthiness and internal risk management***.
>
> ***We're very satisfied with our third quarter 2010 performance, and believe the combination of our growing brand, distribution networks, and portfolio of innovative products will provide our operations with strong momentum for the remainder of 2010***.

199. Defendant Chen provided the following strong characterization of the Company's 2010 third quarter financial results during the 3Q10 Conference Call:

> Driven by our successful integrated marketing campaign and new product launch, our revenue, profit margin, net income, and cash flows all posted solid growth during the quarter.
>
> 3Q 10 Financial Results
>
> Revenue**:** In the 3rd quarter of 2010, total revenue grew 59.7% to $84.5m when compared to $52.9m from a year ago, and it was an 8.8% increase compared to the previous quarter's $77.6m. As for first nine month period, we achieved $236.1m in total sales compared to $123.1m last year's - a significant 92.0% increase. There are some metrics behind these revenue numbers I thought was worth explaining. They show some very telling stories of our business and the changes that are taking place and the role the new mobile phone unit plays for the company group.
>
> ***From the numbers I just stated, it suggests a trend of even growth for all quarters and across the whole year***. Traditionally, the market demand for our main products of audio/video are seasonal and cyclical in nature and they are relatively weak in demand in Q1, better in Q2, strong in Q3 and strongest in Q4. This is because audio/video products are considered large household items in China and many of our overseas markets because our customers in these markets have to plan and budget for those products. Holidays are another important consideration for consumer purchases. In China all the important holidays seems to be concentrated more in the Q3 and Q4 periods which partially explains the seasonal characteristic of our audio/video sales. But since the acquisition of Dongri and the launch of our mobile phone business, ***this seasonal pattern has been smoothed to a more even growth pattern across all quarters so that the Q1 and Q2 quarters are no longer weak***. The reason for this stabilizing effect of the mobile phone business is because mobile phones are in high demand all year. ***The addition of the new mobile business to our group has the most obvious benefit of increasing our total sales but the even growth also helps us to better manage our workforce and improve our cash flows***.
>
> * * *
>
> Income from operations was $8.2 million for the 3rd quarter of 2010, a 13.3% increase compared to the 3rd quarter of 2009's $7.2m.
>
> * * *

> Net income to the Group was $6.0 mm, an increase of $0.5 million, from $5.5 m for the same period in 2009. ***The reason for the strong quarterly (Q3 to Q3) revenue increase of 59.7% translated only to a modest Net income increase of 7.6% and was primarily due to the increase in Operating expense, specifically the non-cash cost of Amortization and Stock based Compensation***.
>
> * * *
>
> ***We showed a strong balance sheet at September 30, 2010 and it was very liquid with $23.8 million in cash, compared to $5.9 million as of December 31, 2009***. Comparing the Working Capital, we had $12.6m more in cash and other liquid current assets over short terms liabilities, where in December 31, 2009, our Working Capital was $3.3m. Because all our liabilities are short term, if we were to retire all our debts, we would still have $12.6m in cash or cash equivalents, plus all the none current assets such as land, buildings, machineries etc. ***This is a very strong balance sheet***.
>
> In the 3rd quarter, we have seen continued growth for our traditional audio/video products and we have solidified our position for the new but rapid growing mobile phone business. ***Now with only one quarter left for the year, I'm confident in meeting our annual revenue target of $290m – $340m in fact***.

200. Regarding the Company's operational performance, 2010 guidance and business outlook, Defendant Wong provided as follows:

> Beginning with the fourth quarter, ***we also opened a New York City office where Alex and our VP of IR Jason Wong will take turns being stationed***. We believe that the establishment of a New York City office will enable our U.S. based investors to have direct access to our representatives, and view certain of our products (which will be featured in a mini showroom on site).
>
> * * *
>
> Finally, we offered revised 2010 guidance prior to our release of the third quarter financials after we had better visibility into the business for the year. The Company expects to achieve over 300 million of total revenue, with gross and net margins estimated to range between 19-21% and 7-10% respectively. ***We expect to achieve over 30% year to year growth for all our audio and visual products across the categories and for the new mobile phone business, we expect it to contribute $90m or beyond in revenue for 2010***. The EPS guidance will be in the range of $0.5-0.6.
>
> In closing, ***we're pleased with our growth, and our objective is to sustain our strong growth across all our operating segments. We remain confident about the business and growth of the AV consumer electronics industry, and believe***

***that our integrated strengths should allow us to expand our market share within our core market and help us to capture opportunities in new markets, enabling us to deliver sustained strong financial results and to ultimately reward our supportive shareholders with greater share value*.**

ii. <u>The Exchange Act Defendants' Class Period Statements And Omissions Were Materially False and Misleading</u>

201. NIVS' financial statements and filings during the Class Period, including the Offering Documents, were materially false and misleading because they failed to disclose and misrepresented the following critical information concerning fundamental aspects of the Company's business, financial results, accounting practices and operations.

202. *First*, the Company engaged in rampant accounting fraud and irregularities in NIVS' critical accounting policies, including the "massive accounting fraud and irregularities," as well as the falsification and forging of accounting records and bank statements, as stated in MaloneBailey's resignation letter of March 24, 2011 and the Company's Form 8-K filed with the SEC on April 11, 2011.

203. *Second*, the Company's financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs—including the Company's critical balance sheet figures such as revenue, net income, accounts receivables, liquidity and capital resources, as well as the recording of certain transactions—contained false financial results, which results differed materially from the Company's comparable figures filed with the SAIC, leading both the Company and MaloneBailey to declare on March 24, 2011 that these financial statements should no longer be relied upon, which disclosures led to the delisting of the Company's stock from the AMEX due to considerable accounting irregularities and "for the protection of investors."

204. *Third*, the Individual Defendants' financially-related statements issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs; the Company's

4Q09, 1Q10, 2Q10, and 3Q10 Press Releases; as well as their statements made during the 4Q09, 1Q10, 2Q10, and 3Q10 Conference Calls, all of which concerned the Company's impressive financial and operational results, the Company's strong prospects for continued growth in its business outlook, and its commitment to improving financial controls, were materially false and misleading since the Individual Defendants were aware, throughout the Class Period, that NIVS' actual financial results were being grossly inflated and were inaccurate.

205. *Fourth*, the SOX certifications of the Individual Defendants made during the Class Period concerning the Company's financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs, were false and lacking in any reasonable basis when made because the Company had engaged in "massive accounting fraud and irregularities," the falsification and forging of accounting records and bank statements, and the inflation of the Company's critical balance sheet figures such as revenue, net income, accounts receivables, liquidity and capital resources, as well as the recording of certain transactions.

206. *Fifth*, the Company's financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs were not prepared in accordance with GAAP in that NIVS' 2009 financial statements reported material misstatements of the Company's year-end 2009 cash flow, financial position, and results of operation, including "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents," which results were materially overstated, and thus such statements were not "presented fairly" in conformity with GAAP, all of which violated the following GAAP principles, among others:

a. The principle that "interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements" was violated (APB No. 28, ¶10);

b. The principle that "financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions" was violated (FASB Statement of Concepts No. 1, ¶34);

c. The principle that "financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources" was violated (FASB Statement of Concepts No. 1, ¶40);

d. The principle that "financial reporting should provide information about an enterprise's financial performance during a period" was violated (FASB Statement of Concepts No. 1, ¶42);

e. The principle that "financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it" was violated (FASB Statement of Concepts No. 1, ¶50);

f. The principle that "financial reporting should be reliable in that it represents what it purports to represent" was violated (FASB Statement of Concepts No. 2, ¶¶ 58-59);

g. The principle that "completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions" was violated (FASB Statement of Concepts No. 2, ¶79); and

h. The principle that "conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered" was violated (FASB Statement of Concepts No. 2, ¶95).

207. *Sixth*, the Company's financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs were not prepared in accordance with GAAS in that, although GAAS (AU Section 311) requires an auditor to "obtain a level of knowledge of the entity's business that will enable him to plan and perform his audit in accordance with generally accepted auditing standards," MaloneBailey violated Section 311 because it failed to, among other things:

a. Identify areas that needed special consideration (such as NIVS' accounting for accounting for "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") or identified such areas and audited them in a manner which was so deficient that it amounted to no audit at all, while making audit judgments that no reasonable auditor would have made if confronted with the same facts;

b. Assess the conditions under which accounting data (such as accounting data related to "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") was produced, processed, reviewed, and accumulated within the organization or assessed such conditions and made audit judgments based upon said assessment that no reasonable auditor would have made if confronted with the same facts;

c. Evaluate the reasonableness of management's representations (such as the representation that "inventories are stated at the lower of cost, as determined on a weighted average basis, or market") or evaluated management's representations in a manner which was so deficient that it amounted to no evaluation at all; and

d. Judge the appropriateness of the accounting principles applied (such as the principle that disclosure of accounting policies should identify and describe the accounting principles followed by the reporting entity and the methods of applying those principles that materially affect the financial statements) and the adequacy of disclosures in the Company's financial statements (such as disclosure of the fact that there existed fictitious sales and receivables), or did so and arrived at judgments that no reasonable auditor would have arrived at if confronted with the same facts.

208. *Seventh*, the financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs concerning the adequacy of MaloneBailey's audit were materially false and misleading, all of which violated the following GAAS standards, among others:

a. General Standard No. 1 was violated, which standard requires that the examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor;

b. General Standard No. 3 was violated, which standard requires that due professional care is to be exercised in the performance of the examination and in the preparation of the report;

c. Standard Of Field Work No. 1 was violated, which standard requires that the work is to be adequately planned and assistants, if any, are to be properly supervised;

d. Standard Of Field Work No. 2 was violated, which standard requires that a sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed;

e. Standard Of Field Work No. 3 was violated, which standard requires that sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under examination;

f. Standard Of Reporting No. 1 was violated, which standard requires that the report shall state whether the financial statements are presented in accordance with generally accepted accounting principles; and

g. Standard Of Reporting No. 3 was violated, which standard requires that informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

209. *Eighth*, the Company's financial statements and results issued in the 2009 Form 10-K, the Offering Documents and the 1Q10, 2Q10 and 3Q10 Form 10-Qs were not prepared in accordance with SEC Regulations and disclosure rules in that, among other things:

a. the Securities Act Defendants failed to disclose the existence of known trends, events or uncertainties that they reasonably expected would have a material, unfavorable impact on net revenues or income or that were reasonably likely to result in the Company's liquidity decreasing in a material way, in violation of Item 303 of Regulation S-K under the federal securities laws, and that failure to disclose material information rendered the statements that were made in the Offering Documents materially false and misleading; and

b. the Securities Act Defendants failed to file with the SEC financial statements that conformed to the requirements of GAAP, and by doing so such financial statements were presumptively misleading and inaccurate pursuant to Regulation S-X, 17 C.F.R. 210.4-01(a)(1).

210. *Ninth*, contrary to the SOX certifications included in the Company's 2009 Form 10-K and the 1Q10, 2Q10 and 3Q10 Form 10-Qs, NIVS lacked adequate and necessary internal controls, and as a result multiple fraudulent accounting and financial irregularities occurred.

211. *Tenth*, as a result of the foregoing misleading statements and omissions, the Company's financial results were false and misleading and lacking in any reasonable basis at all relevant times.

212. In addition to the false and misleading statements described in detail herein, Defendants also failed to disclose the truth regarding NIVS' financial condition. Specifically, and in addition to the other omissions described herein, Defendants failed to tell the investing public the actual risks the Company was faced with, and failed to disclose that the Company was engaged in fraudulent and deceptive business and accounting practices. As a result, NIVS' reported financial results that were materially false and misleading at all relevant times.

iii. <u>The Truth Comes To Light and the Fraud Continues</u>

213. On March 24, 2011, NYSE Regulation Inc. ("NYSE Regulation") announced that it was halting trading in in the Company's common stock on the NYSE AMEX. The press release announcing the halt in trading stated:

> NYSE Amex Halts Trading in the Securities of NIVS IntelliMedia Technology Group, Inc.
>
> NEW YORK, March 24, 2011 - NYSE Regulation, Inc. ("NYSE Regulation") announced today that a trading halt was implemented in the common stock, par value $.0001, of NIVS IntelliMedia Technology Group, Inc. (the "Company") (Symbol: NIV). The Company is listed on NYSE Amex.
>
> NYSE Regulation is evaluating both the need for certain public disclosure, as well as the overall suitability for continued listing of the Company's common stock. In this regard, NYSE Regulation is in the process of requesting additional information from the Company in connection with such assessment.
>
> NYSE Regulation expects that the trading halt will continue until its continued listing assessment is complete. Trading may or may not resume as NYSE Regulation may, at any time, determine to suspend a Company's securities if it believes continued dealings on the NYSE Amex are not advisable.

214. On March 25, 2011, NIVS filed a Form 8-K with the SEC regarding the dismissal and resignation of the Company's independent auditor, MaloneBailey by the Audit Committee and Board of Directors of the Company. In discussing the reasons behind this decision, the 8-K stated, in relevant part:

Item 4.01 Changes in Company's Certifying Accountant.

Dismissal and Resignation of Previous Independent Registered Public Accounting Firm

On March 23, 2011, the Audit Committee of the Board of Directors (the "Audit Committee") of NIVS IntelliMedia Technology Group, Inc. (the "Company"), approved the dismissal of Malone Bailey LLP ("Malone Bailey") as the Company's independent auditor, effective immediately, and on March 24, 2011, Malone Bailey submitted its resignation as the Company's independent auditor.

The Board of Directors engaged Malone Bailey on January 21, 2010, and Malone Bailey reported on the Company's financial statements for the fiscal year ended December 31, 2009. On March 23, 2011, Malone Bailey provided a letter to the Audit Committee, advising that it had encountered issues and concerns that, in Malone Bailey's view, required additional information and procedures, including the initiation of an independent investigation, in order to verify the accuracy of certain transactions and balances recorded on the Company's financial statements and records for the year ended December 31, 2010. In a letter dated March 23, 2011, the Company notified Malone Bailey of the Board's decision to terminate Malone Bailey as the Company's independent auditor and on March 24, 2011, Malone Bailey submitted a letter of resignation to the Company. In its letter of resignation, Malone Bailey based its resignation on what ***it characterized illegal acts involving the Company's accounting records and bank statements and discrepancies in accounts receivable***. Malone Bailey further advised the Company that, as a result of the issues identified in performing its audit of the Company's financial statements for the fiscal year ended December 31, 2010, it is ***unable to rely on management's representations as they relate to previously issued financial statements*** and it could no longer support its audit opinion dated March 24, 2010, related to its audit of the consolidated financial statements of the Company and its subsidiaries as of December 31, 2009, included in the Company's annual report on Form 10-K for the fiscal year ended December 31, 2009. The Company believes that it was taking appropriate steps to respond to Malone Bailey's recommendations for further investigation prior to the dismissal and resignation of Malone Bailey, but Malone Bailey does not agree with the Company's assertion in this regard.

Other than as set forth above, from January 21, 2010 when Malone Bailey was engaged, through Malone Bailey's dismissal and resignation on March 24, 2011, there were (1) no disagreements with Malone Bailey on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedures, which disagreements, if not resolved to the satisfaction of Malone Bailey would have caused Malone Bailey to make reference to the subject matter of the disagreements in connection with its reports, and (2) no events of the type listed in paragraphs (A) through (D) of Item 304(a)(1)(v) of Regulation S-K.

> The Company furnished Malone Bailey with a copy of this disclosure on March 24, 2011, providing it with the opportunity to furnish the Company with a letter addressed to the SEC stating whether it agrees with the statements made by the Company herein in response to Item 304(a) of Regulation S-K and, if not, stating the respect in which it does not agree. A letter from Malone Bailey, dated March 25, 2011 is filed as Exhibit 16.1 to this report.
>
> The Audit Committee plans to thoroughly investigate the issues raised by Malone Bailey with the help of an independent third party. The Company is also interviewing candidates to appoint as its independent auditor and will authorize Malone Bailey to respond fully to the inquiries of such successor auditor concerning the subject matter of any potential reportable events and disagreements set forth above.

215. Further, the 8-K filed on March 25, 2011 also contained a statement of non-reliance by NIVS' Audit Committee, in regards to multiple SEC filings, which stated in part:

> Item 4.02. Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review.
>
> Reference is made to the disclosure set forth under Item 4.01 of this report, which disclosure is incorporated herein by reference.
>
> As a result of the issues identified by Malone Bailey in performing their audit of the Company's financial statements of the fiscal year ended December 31, 2010, ***the Board of Directors has determined that the audited consolidated financial statements*** of the Company for the year ended December 31, 2009 contained in the Company's annual report on Form 10-K, and the interim financial statements of the Company for the fiscal quarters ended March 31, June 30, and September 30, 201 contained in the Company's quarterly reports on Form 10-Q for such periods, ***should not be relied upon*** until a successor auditor can assess the impact of such issues on the Company's prior financial reports. Malone Bailey's letter, dated March 25, 2011, is incorporated by reference as Exhibit 7.1 to this report.
>
> Except as described above, no additions or modifications will be made to reflect facts or events occurring subsequent to the date of the original filings or any subsequent amendments to any of them.

216. In addition to the Company's announcement regarding the dismissal and resignation of its auditor MaloneBailey, the 8-K also included as an attachment, a letter

submitted to the SEC by MaloneBailey regarding financial irregularities and difficulties at NIVS. The letter stated:

> March 25, 2011
>
> Securities and Exchange Commission
> 100 F Street, N.E.
> Washington, D.C. 20549-7561
>
> We have reviewed Item 4.01 of the Form 8-K, dated March 25, 2011 (the "Form 8-K") of NIVS IntelliMedia Technology Group, Inc. (the "Company"), filed with the Securities and Exchange Commission (the "Commission"), and we are in agreement with the statements concerning our firm in those paragraphs except that we would like to add the following:
>
> On March 21 with email and On March 22, 2011, MaloneBailey, LLP, informed Charles Mo, NIVS independent board member and the chairman of the audit committee about "significant difficulties encountered during the 2010 audit." During the conversation, MaloneBailey, LLP informed Mr. Mo that two other public companies audits were conducted at the NIVS accounting department location. These two companies are located in Beijing and Guangzhou. However, their books and records were shipped to NIVS accounting department and MaloneBailey conducted the audits of these two public companies at NIVS accounting department. NIVS accounting personnel were involved in coordinating the two audits. ***MaloneBailey found accounting fraud*** and irregularities in these two audits. After the discovery, we ***encountered difficulties with management trying to limit our scope of the NIVS audit***. We told Mr. Mo that we suspected accounting irregularities and fraud at NIVS but cannot audit through the issues due to the difficulties encountered during the audit. On March 23, 2011, the audit partner of MaloneBailey informed the CFO of NIVS that MaloneBailey is writing a letter to the board of directors and the audit committee about accounting irregularities and difficulties encountered during the NIVS audit. We subsequently issued such letter.
>
> In our resignation letter dated March 24, 2011, MaloneBailey cited that MaloneBailey ***found accounting fraud and irregularities in forging accounting records and bank statements*** during 2010 NIVS audit.
>
> We have also reviewed Item 4.02 of the Form 8-K and are in agreement with management's determination that ***the financial statements*** included in the Company's annual report on Form 10-K for the year ended December 31, 2009, which was filed with the Commission on March 24, 2010, and that the interim financial statements of the Company for the fiscal quarters ended March 31, June 30, and September 30, 2010 contained in the Company's quarterly reports on

> Form 10-Q for such periods, which were filed with the Commission on May 10, August 11, and November 4, 2010, respectively, ***should not be relied upon***.
>
> We have no basis to agree or disagree with the other statements included in such Form 8-K.

217. On March 28, 2011, the Company issued a press release announcing the start of an investigation by the Company's Audit Committee into MaloneBailey's allegations regarding the accuracy of the Company's financial statements. The press release also announced the appointment of BDO China Li Xin Da Hua CPA's ("BDO") as the Company's new independent auditor, and the law firm of Sidley Austin as legal counsel. The press release stated the following:

> NIVS IntelliMedia Technology Group Reports Former Auditor's Non-reliance Letter and Starts Independent Investigation
>
> HUIZHOU, China, March 28, 2011 /PRNewswire-Asia-FirstCall/ -- NIVS IntelliMedia Technology Group, Inc. ("NIVS" or the "Company") (NYSE Amex: NIV), a comprehensive consumer electronics company that designs, manufactures, and sells intelligent audio and visual products and mobile phones, today responded to allegations by the Company's former independent auditor, MaloneBailey, LLP, regarding the accuracy of the Company's financial statements, as disclosed in a current report on Form 8-K filed by the Company with the Securities and Exchange Commission on March 25, 2011.
>
> After consultation with legal counsel and the members of the audit committee, the Board of Directors has established a special independent committee (the "Special Committee") comprised of audit committee chair, Charles C. Mo, and independent director, Robert J. Wasielewski, to investigate the allegations. The Special Committee subsequently engaged the law firm of Sidley Austin LLP ("Sidley") to serve as its independent counsel in connection with the investigation. Sidley intends to engage an accounting firm to serve as an independent forensic accountant in this regard.
>
> Mr. Mo said, "We take the allegations by MaloneBailey very seriously and plan to conduct a thorough investigation. In the interim, we remain dedicated to providing the highest standards of oversight and governance to our shareholders and will work diligently to conclude the investigation in a timely manner."
>
> In light of the investigation, the Company is delaying the filing of its Form 10-K for the year ended December 31, 2010.

> The Company does not intend to provide further comment regarding the allegations until after the conclusion of the Special Committee's investigation.
>
> The Company also announced that the Audit Committee has authorized the appointment of BDO China Li Xin Da Hua CPAs ("BDO") as the Company's new independent auditors, to conduct an audit of the Company's fiscal years ended December 31, 2010 and 2009.

218. On March 31, 2011, NIVS filed a Notification of Late Filing on Form 12b-25 with the SEC, disclosing that the Company's Annual Report on Form 10-K would not be filed on time. The Form 12b-25 stated the following as justification of its late filings, and announcing that Sidley Austin had retained Deloitte as its forensic accounting advisor:

> On March 27, 2011, the Company's Board of Directors appointed a Special Committee comprised of independent directors, Charles C. Mo and Robert J. Wasielewski, to investigate certain allegations of the Company's former auditor, Malone Bailey, LLP, ("Malone Bailey"), in connection with which Malone Bailey withdrew its audit opinion related to the Company's audited financial statements for the year ended December 31, 2009, and to take remedial action if appropriate. On the same day, the Special Committee engaged Sidley Austin LLP ("Sidley") as independent counsel in connection with the investigation, and on March 30, 2011, Sidley retained Deloitte to serve as its forensic accounting advisor.
>
> The Company has also separately retained a new independent registered public accounting firm, BDO China Li Xin Da Hua CPAs, to audit its financial statements for the 2009 year, as well as for the year ended December 31, 2010.
>
> At this time, the Company is unable to predict when it will be in a position to file its annual report on Form 10-K for the year ended December 31, 2010, however, the Company intends to submit such filing as soon as practicable after completion of the work that will be performed by the Special Committee and by BDO China Li Xin Da Hua CPAs.

219. On April 11, 2011, the Company revealed in an 8-K filing that the NYSE AMEX Exchange had indicated its plans to strike NIVS stock from trading on the Exchange:

> Item 3.01 Notice of Delisting or Failure To Satisfy a Continued Listing Rule or Standard; Transfer of Listing.
>
> On April 5, 2011, NIVS IntelliMedia Technology Group, Inc. (the "Company") received notification from the NYSE Amex LLC ("Amex" or the "Exchange") of

its intention to strike the common stock of the Company from Amex by filing a delisting application with the U.S. Securities and Exchange Commission (the "SEC") pursuant to Section 1009(a) of the NYSE Amex LLC Company Guide (the "Company Guide"), based on a determination by the staff of NYSE Regulation, Inc. (the "Staff"), that it is ***necessary and appropriate for the protection of investors to initiate immediate delisting proceedings***.

The Staff noted that it had received a copy of a letter dated March 24, 2011 to the Company from the Company's most recent independent auditor MaloneBailey, LLP ("MaloneBailey"), in which MaloneBailey stated that it had resigned and that it had ceased its services as the Company's independent auditor. In this letter MaloneBailey cites the reason for its resignation as ***"massive accounting fraud involving forging [the] Company's accounting records and forging bank statements."*** The letter also states that "As a result of the irregularities and fraud…[MaloneBailey is] unable to rely on management's representation as they relate to previously issued financial statements and [MaloneBailey] can no longer support [its] opinions dated March 24, 2010 related to [its] audit of the consolidated financial statements of the Company and Subsidiaries as of December 31, 2009…included in the Form 10-K filed with the SEC on March 24, 2010."

After review of MaloneBailey's resignation letter, the Staff determined that the Company is not in compliance with the listing standards of the Exchange as follows, and is therefore subject to immediate delisting proceedings:

1. The Company is subject to delisting pursuant to Section 1003(f)(iii) of the Company Guide in that the Company or its management has engaged in operations, which, in the opinion of the Exchange, are contrary to the public interest. In this regard, the Staff believes that the actions (including, but not limited to inaction) of ***the Company and/or its management and/or its agents raise significant public interest concerns***. Specifically, MaloneBailey raised concerns to the Company's board of directors and management that its ***accounting records may have been falsified constituting an illegal act***. The Company failed to adequately address the concerns raised by MaloneBailey, thereby leading to MaloneBailey's resignation as the Company's independent auditor and the withdrawal of MaloneBailey's audit opinions, ***as well as a presumption that the concerns raised are true***. Moreover, the SEC, the Exchange and market participants (in making investment and trading decisions) reasonably relied on the audit opinions in determining that the Company's financial statements subject to such opinions were accurate, complete and in accordance with generally accepted accounting principles and standards. Thus, the Company's actions and inactions which led to MaloneBailey's resignation and withdrawal of its audit opinions have ***cast material doubt on the integrity of its financial statements as reasonably relied on*** for such purposes.

> 2. The Company is noncompliant with Section 1003(d) of the Company Guide, in that the withdrawal of MaloneBailey's audit opinions has caused its filings to be noncompliant with SEC regulations. Specifically, as a consequence of the resignation of MaloneBailey and the withdrawal of MaloneBailey's audit opinions, there is now no current audited financial information available for the Company.
>
> 3. The Company is noncompliant with Section 127 of the Company Guide, which grants the Exchange the discretion to delist a company when, for example, the company's independent accountants issue a disclaimer opinion on financial statements required to be audited. In this case, the independent auditor has withdrawn its opinions in their entirety. Clearly, if a disclaimer opinion with respect to an audit opinion is a basis for delisting under Section 127 of the Company Guide, then the complete removal of an opinion is also a basis for delisting under the rule. The Staff determined that the public interest concern raised by MaloneBailey's resignation and withdrawal of its audit opinions ***is so serious that no remedial measure would be sufficient to alleviate it***, and that immediate delisting is warranted.

220. On May 17, 2011, NIVS filed another Notification of Late Filing on Form 12b-25 with the SEC, this time disclosing that the Company's Form 10-Q for the first quarter of 2011 would not be filed. The Form 12b-25 stated the following as justification of its late filings, revealed that the Company's newly appointed auditor (BDO) had resigned, and that the Special Committee had encountered a lack of cooperation:

> The Special Committee has not completed the Investigation, and has made no findings to date. The Special Committee ***has encountered difficulties in obtaining cooperation*** with the Investigation and as a result, no assurance can be provided as to when or if the Investigation will be completed.
>
> On May 14, 2011, BDO China Li Xin Da Hua CPAs ("BDO") resigned as the Company's independent auditor, effective immediately. For details regarding BDO's resignation, see the Company's current report on Form 8-K to be filed on or before May 19, 2011.
>
> The Company is unable to predict when it will be in a position to file its quarterly report on Form 10-Q for the quarter ended March 31, 2011. The Company intends to submit such filing as soon as practicable after completion of the Special Committee's Investigation and work by a new auditor.

221. On May 19, 2011, the Company revealed in an 8-K filing that the NYSE AMEX Exchange had again determined that the Company's stock should be delisted for issuing additional material misrepresentations, this time with respect to an ongoing investigation by the SEC. The 8-K filing also revealed that BDO had resigned because the Company failed to provide certain critical financial related documents and records. Finally, it was revealed that the SEC has issued a subpoena and was conducting a formal investigation.

> On May 16, 2011, the Company received a subsequent notification (the "Second Notice") from the Exchange advising the Company of the Staff's determination that the Company is also subject to delisting pursuant to Section 132(e) of the Company Guide, in that, in the view of the Staff, ***the Company made a material misrepresentation*** in its submission to the Listing Qualifications Panel. Specifically, in the Initial Submission, the Company stated that it had been ***contacted by the SEC Division of Enforcement and received a subpoena for documents in relation to an SEC investigation of three other companies. However, in the Initial Submission, the Company did not state that it was itself under investigation by the SEC***. It has come to the Staff's attention that the representatives of the Company had been specifically informed prior to the date of the Initial Submission that the Company was itself a subject of the SEC's investigation. Notwithstanding such notification, the Initial Submission ***failed to disclose that the Company was itself under investigation by the SEC***. After the discrepancy was brought to the attention of the Company's representatives, it submitted the Supplemental Submission, in which it confirmed that the Company is under investigation by the SEC. In light of the failure to disclose the SEC investigation of the Company in the Initial Submission to the Listing Qualifications Panel, the Staff has determined that the Company is subject to delisting pursuant to Section 132(e) of the Company Guide, which provides that a listed company may be delisted "if any communication…to the Exchange…omits material information necessary to make the communication to the Exchange not misleading."
>
> On May 14, 2011, BDO China Li Xin Da Hua CPA Co., Ltd. ("BDO") resigned as the Company's independent auditor, effective immediately. In its letter to the Company's audit committee, dated May 14, 2011, BDO noted that the reason for its resignation was the ***Company's inability to provide BDO with "certain critical financial related documents and records," including production records, inventory logbooks, original bookkeeping records, and sales orders***.
>
> The Company has received formal notification from the staff of the ***SEC that it has initiated a formal, nonpublic investigation*** into whether the Company and four other listed companies had made material misstatements or omissions

> ***concerning their financial statements, including cash accounts and accounts receivable***. The SEC has served the Company with a subpoena, dated March 24, 2011, for documents relating to the matters under review by the SEC.

222. On June 14, 2011, the Company reported that it had hired an auditor, Friedman LLP, to replace the recently-resigned auditor BDO.

223. On June 22, 2011, the Company announced that its stock was being delisted:

> On June 20, 2011, the Company was notified by the Exchange that a Listing Qualifications Panel of the Exchange's Committee on Securities had ***denied the Company's request for continued listing*** with the Exchange, following a hearing on June 15, 2011.
>
> Upon the suspension of trading on the Exchange, it is expected that the Company's common stock will be eligible to trade in the "grey market" where securities that are not listed, traded or quoted on any U.S. stock exchange, the OTC Bulletin Board or OTC Link are found. Grey market trades are reported by broker-dealers to their Self Regulatory Organization ("SRO") and the SRO distributes the trade data to market data vendors and financial websites, such as Yahoo!® Finance, so investors can track price and volume. The Company's stock is not immediately eligible for trading on the over-the-counter (OTC) market due to the fact that trading in the Company's stock was previously halted on the Exchange.
>
> The Company looks forward to the conclusion of the investigation of the Special Committee and the planned subsequent audit of the Company's 2009 and 2010 fiscal years. The Company ***hopes to provide accurate and complete financial information*** to its shareholders and the investing public as soon as possible.

224. On June 23, 2011, NIVS stock began trading in the grey market. The stock, which had last traded at $2.21 per share on March 24, 2011 before trading was abruptly halted, opened at a mere 31 cents per share, a devastating 86% drop from the Company's last public trading price as a result of massive selling volume of millions of shares.

225. On July 14, 2011, the Company announced the Special Committee's interim recommendations that were issued on June 12, 2011, the resignation and replacement of the Special Committee's members (one of whom cited the Company's delay in implementing the Special Committee's recommendations), and that both Sidley Austin and Deloitte had resigned:

> On June 12, 2011, the special committee of the Board of Directors of NIVS IntelliMedia Technology Group, Inc. (the "Company"), established on March 28, 2011 to investigate certain allegations of the Company's former independent auditors (the "Special Committee"), made certain interim remedial recommendations to the Company, including: the suspension of two employees; the engagement of an outside accounting firm to perform the Company's accounting functions; and the consolidation of the Company's cash in fewer bank accounts, and on June 15, 2011, the Board of Directors formally approved the Special Committee's recommendations.
>
> On July 11, 2011, each of ***Messrs. Charles Mo and Robert Wasielewski resigned*** as a Director of the Company, effective immediately. In his resignation letter, Mr. Wasielewski's cited as a reason for his resignation, ***the Company's delay in implementing the Special Committee's recommendations***. Mr. Wasielewski's resignation also noted that concurrent with his resignation, the Special Committee's legal counsel, ***Sidley Austin LLP, and its accounting advisors, Deloitte Financial Advisory Services LLP, have terminated their engagements*** with the Special Committee.
>
> The Company is in the process of engaging an outside consulting firm and consolidating the Company's bank accounts.
>
> ***Appointment of Directors***
>
> On July 12, 2011, the Board of Directors appointed Ms. Meng-ju Wang and Mr. Zhong Ning as Directors of the Company, and as members of the Special Committee, effective immediately. In doing so, the Board of Directors determined that each of Ms. Wang and Mr. Ning is "independent" as that term is defined by Rule 4200(a)(15) of the Nasdaq Marketplace Rules.
>
> The Board of Directors also appointed existing independent director, Mr. Minghui Zhang, to serve as a member of the Special Committee. The Special Committee intends to engage new counsel and forensic auditors to continue its work.

226. On July 19, 2011, the NYSE AMEX issued its final decision, which determined that the Company's stock "does not qualify for listing" because "the Company's previous

independent auditor, MaloneBailey" "***had found accounting fraud and irregularities in forging accounting records and bank statements*** during the 2010 NIVS audit." As a result, the NYSE AMEX formally struck NIVS common stock so that it could no longer be traded on the Exchange.

227. On August 26, 2011, the Company issued its only last public communication up to and including April 11, 2013, in which it stated that "on August 7, 2011 and on August 26, 2011, respectively, the Company's Special Committee engaged Nixon Peabody LLP, as its independent legal counsel, and Navigant Consulting, Inc., as its accounting advisors.

228. The Company has issued no further public communications since August 26, 2011 concerning these issues, and it is unknown when, or even if, the Company will ever provide accurate past or present financial information.[18] Since August 2011, the Company has not provided such financial information, nor has it issued any updates about the then newly-constituted Special Committee or its investigation. Therefore, the entire truth concerning NIVS is not yet known, and cannot be known, until NIVS issues, or some other entity or individual reveals, the true facts about NIVS' actual financial information and results.

[18] On October 17, 2012, NIVS filed a Form 8-K with the SEC in which it announced a loan agreement between Defendant Tianfu and Hnglitong Limited Co, in which the Company stated, in pertinent part: "For the past twelve months or so, NIVS has been experiencing severe difficulties in business operations as a result of the worldwide economic slowdown and is particularly troubled by the fact that the local banks have been pursuing loan practices that are detrimental to NIVS financial health. In order to ease the cash flow pressure the Company has been suffering and returning the Company back to its normal operational conditions, NIVS' CEO/Chairman, Mr Li Tianfu has sought personally to enter into a loan agreement with Henglitong Limited Co (a company registered in China, known as Henglitong thereafter)." *See* http://www.sec.gov/Archives/edgar/data/1403795/000114420412056676/v325917_8k.htm.

C. The Company's Accounting Violations Were Pervasive And Egregious

i. Defendants Violated GAAP, GAAS and SEC Regulations

1. GAAP, GAAS and SEC Standards

229. Generally Accepted Accounting Principles (or "GAAP") consists of those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X (17 C.F.R. § 210.4 01(a) (1)) states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include any disclosures which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

230. Generally Accepted Auditing Standards (or "GAAS"), as set forth in AICPA Professional Standards Volume 1, U.S. Auditing Standards ("AU"), in section AU 411, describes "The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Auditor's Report." It states:

> The auditor's opinion that financial statements present fairly an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles should be based on his judgment as to whether (a) the accounting principles selected and applied have general acceptance; (b) the accounting principles are appropriate in the circumstances; (c) the financial statements, including the related notes, are informative of matters that may affect their use, understanding, and interpretation...; (d) the information presented in the financial statements is classified and summarized in a reasonable manner, that is, neither too detailed nor too condensed...; and (e) the financial statements reflect the underlying events and transactions in a manner that presents the financial position, results of operations, and cash flows within a range of acceptable limits, that is, limits that are reasonable and practicable to attain in financial statements.

231. SEC Rule 12b-20 requires that financial reports contain such further information as is necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

232. Item 303 of Regulation S-K requires that, for interim periods, the Management Division and Analysis Section must include, among other things, a discussion of any material changes in the registrant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided. Instructions to Item 303 require that this discussion identify any significant elements of a registrant's income or loss from continuing operations that are not necessarily representative of the registrant's ongoing business. The GAAP requirement for the recognition of an adequate provision for foreseeable costs and an associated allowance applies to interim financial statements as required by APB Opinion No. 28.

2. The 2009 Audit Violated GAAP, GAAS and SEC Regulations

233. On March 24, 2010, MaloneBailey issued its unqualified audit opinion on the consolidated financial statements of NIVS as of and for the year ending December 31, 2009. This audit opinion, which was contained in MaloneBailey's report as reproduced in the Company's 2009 Form 10-K for the year ended December 31, 2009 and incorporated in the Company's Offering Documents, which was filed with the SEC on or about March 24, 2010, stated:

> We have audited the accompanying consolidated balance sheet of NIVS IntelliMedia Technology Group, Inc. and Subsidiaries ("the Company") as of December 31, 2009 and the related consolidated statements of income, change in stockholders' equity, comprehensive income, and cash flows for the year then ended. In connection with our audits of the consolidated financial statements, we also have audited financial statement schedule II for the year ended December 31, 2009.
>
> In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of NIVS IntelliMedia

> Technology Group, Inc. as of December 31, 2009, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, ***the related financial statement schedule***, when considered in relation to the consolidated financial statements taken as a whole, ***presents fairly, in all material respects***, the information set forth therein.

234. MaloneBailey's audit opinion issued in connection with its audit of NIVS' financial statements as of and for the year ending December 31, 2009 was materially (as the term is used in SEC Staff Accounting Bulletin No. 99) false and misleading because these financial statements were not presented in accordance with GAAP nor were they audited in accordance with GAAS.

235. MaloneBailey knew and recklessly disregarded, or was reckless in not knowing, the facts set forth herein concerning the non-GAAP accounting practices and the materially false and misleading representations which were contained in the Company's filings with the SEC during the class period. MaloneBailey further knew and disregarded, or was reckless in not knowing, that such non-GAAP accounting and the materially false and misleading representations resulted in material misstatements of the Company's 2009 cash flow, financial position, and results of operation.

236. MaloneBailey's unqualified audit opinion, insofar as it stated that MaloneBailey's audit of the Company's financial statements was conducted in accordance with GAAS, was false and misleading because the following GAAS (AU 150) principles were knowingly and recklessly violated:

> a. General Standard No. 1 was violated, which standard requires that the examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
>
> b. General Standard No. 3 was violated, which standard requires that due professional care is to be exercised in the performance of the examination and in the preparation of the report.

c. Standard Of Field Work No. 1 was violated, which standard requires that the work is to be adequately planned and assistants, if any, are to be properly supervised.

d. Standard Of Field Work No. 2 was violated, which standard requires that a sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed.

e. Standard Of Field Work No. 3 was violated, which standard requires that sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under examination.

f. Standard Of Reporting No. 1 was violated, which standard requires that the report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.

g. Standard Of Reporting No. 3 was violated, which standard requires that informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

237. As particularized herein, MaloneBailey failed to comply with GAAS by failing to perform its audits of the Company's financial statements with a proper degree of professional skepticism (AU Section 316). In this regard, MaloneBailey either identified and ignored evidence (such as a material difference between 2009 financial data furnished to the SEC and 2009 financial data furnished to SAIC) that the Company's financial statements were materially misstated via fraudulent accounting or recklessly failed to identify such fraudulent accounting.

238. During the Class Period, NIVS' audited financial statements, which were publicly disseminated, were not presented "fairly in conformity with generally accepted accounting principles" because, as subsequently admitted in a letter sent by MaloneBailey to the SEC on March 25, 2011, (i) there existed "accounting fraud and irregularities in forging records and bank

statements during the 2010 NIVS audit" and (ii) "the financial statements included in the Company's annual report on Form 10-K for the year ended December 31, 2009...should not be relied upon."

239. Further, as particularized herein, MaloneBailey either identified and ignored, or recklessly failed to investigate extremely questionable transactions (such as significant sales that were not supported by customer sales orders, invoices, withdrawals of inventory from the warehouse, and documentation supporting delivery to customers and customer acceptance), and made audit judgments that no reasonable auditor would have made if confronted with the same facts. Accordingly, MaloneBailey's audits were so deficient that they amounted to no audit at all.

240. Had MaloneBailey undertaken the performance of those audit procedures which were required by GAAS, and with the due professional care which was required by GAAS, it would have known that the Company's 2009 financial statements were materially false and misleading because these financial statements were not presented in accordance with GAAP. In reckless disregard of professional standards, MaloneBailey failed to audit the Company's financial statements in conformity with GAAS.

241. MaloneBailey either knew and ignored, or recklessly failed to know that the Company's 2009 financial statements that were disseminated to the investing public during the Class Period improperly reported the Company's revenues, gross profit, net income, inventory, receivables, and cash, and failed to disclose these material facts in an adverse audit opinion. Thus, MaloneBailey failed to comply with GAAS (AU Section 508) and did not take the step that was necessary in order to make these financial statements, in light of the circumstances, not misleading.

242. GAAS (AU Section 311) states that:

> The auditor should obtain a level of knowledge of the entity's business that will enable him to plan and perform his audit in accordance with generally accepted auditing standards. That level of knowledge should enable him to obtain an understanding of the events, transactions, and practices that, in his judgment, may have a significant effect on the financial statements. . . Knowledge of the entity's business helps the auditor in:
>
> a. Identifying areas that may need special consideration.
>
> b. Assessing conditions under which accounting data are produced, processed, reviewed, and accumulated within the organization.
>
> c. Evaluating the reasonableness of estimates.
>
> d. Evaluating the reasonableness of management representations.
>
> e. Making judgments about the appropriateness of the accounting principles applied and the adequacy of disclosures.

243. MaloneBailey violated AU Section 311 in that it failed to:

a. Identify areas that needed special consideration (such as NIVS' accounting for accounting for "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") or identified such areas and audited them in a manner which was so deficient that it amounted to no audit at all, while making audit judgments that no reasonable auditor would have made if confronted with the same facts.

b. Assess the conditions under which accounting data (such as accounting data related to "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables," and "Cash and cash equivalents") was produced, processed, reviewed, and accumulated within the organization or assessed such conditions and made audit judgments based upon said assessment that no reasonable auditor would have made if confronted with the same facts.

c. Evaluate the reasonableness of management's representations (such as the representation that "inventories are stated at the lower of cost, as determined on a weighted average basis, or market") or evaluated management's representations in a manner which was so deficient that it amounted to no evaluation at all.

d. Judge the appropriateness of the accounting principles applied (such as the principle that disclosure of accounting policies should identify and describe the accounting principles followed by the reporting entity and the methods of applying those principles that materially affect the financial statements) and the adequacy of disclosures in the Company's financial statements (such as disclosure of the fact that there existed fictitious sales and receivables), or did so and arrived at judgments that no reasonable auditor would have arrived at if confronted with the same facts.

244. GAAS (AU Section 331) states that the observation of inventories is a generally accepted auditing procedure, and that an auditor who issues an opinion without having observed inventory "has the burden of justifying the opinion expressed." Regardless of whether MaloneBailey handled the inventory counts or not, the inventory counts have to comply with certain guidelines to the satisfaction of the auditor. Accordingly, MaloneBailey was required to observe NIVS' inventory at year end 2009 or be prepared to justify the unqualified opinion that it expressed.

245. MaloneBailey was not engaged to audit NIVS' 2009 financial statements until January 21, 2010 and, therefore, MaloneBailey was not able to observe the 2009 year-end inventory. Moreover, MaloneBailey did not perform the alternative procedures (such as examining warehouse records, shipping records, purchase records, ***production records, direct labor records, direct materials records, production overhead records, inventory logbooks***, and inventory price tests records) that might have enabled it to determine that NIVS' inventory was materially overvalued as of December 31, 2009.

246. Had MaloneBailey performed the procedures that were required by GAAS, MaloneBailey would have learned that there were material differences between the dollar amount of the inventory that was reflected in the NIVS' 2009 year-end balance sheet and the inventory that physically existed and was counted at year end 2009. Having not performed a year

end physical inventory observation and having not performed effective alternative audit procedures, MaloneBailey cannot justify the unqualified opinion that it expressed at that time.

247. In addition, NIVS furnished financial statements to the SEC and to the investing public which reported net income of $23,457,078 for the year ended December 31, 2009, whereas NIVS furnished financial statements to the SAIC which reported net income of $7,508,000 for the year ended December 31, 2009.

248. The approximately $16 million difference, when coupled with the forged records and bank statements and NIVS' inability to furnish ***original bookkeeping records,*** inventory records, and sales records, strongly infers that 2009 NIVS financial statements that were furnished to the SEC and the investing public reported "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents" that was materially overstated. Accordingly, the 2009 financial statements that were disseminated to the investing public were not "presented fairly" in conformity with GAAP as the concept is described above.

249. The approximately $16 million overstatement of net income was also, in significant part, achieved through a fraudulent overstatement of credit sales (sales which resulted in increased accounts receivable balances) that did not comply with the revenue recognition criteria set forth in SEC Staff Accounting Bulletin No 104 or NIVS' stated accounting policy ("Sales are recognized when...persuasive evidence of an arrangement exists, delivery has occurred, the selling price is fixed or determinable, and collectivity is reasonably assured."). Had MaloneBailey audited 2009 reported sales in conformity with GAAS (i.e. by matching customer sales orders with invoices, withdrawals of inventory from the warehouse, and documentation supporting delivery to customers and customer acceptance), MaloneBailey would have known that reported sales were being overstated by NIVS. MaloneBailey either failed to employ

appropriate procedures in order to assess the propriety of reported sales, or it did so in an egregiously reckless manner.

250. Because there was an overstatement of credit sales, there was an overstatement of accounts receivable. GAAS (AU Section 330) states that "confirmation of accounts receivable is a generally accepted auditing procedure" because "it is generally presumed that evidence obtained from third parties will provide the auditor with higher-quality audit evidence than is typically available from within the entity...An auditor who has not requested confirmations in the examination of accounts receivable should document how he or she overcame this presumption." MaloneBailey either failed to employ appropriate confirmation procedures in order to assess the propriety of year end 2009 reported accounts receivable, or it did so in an egregiously reckless manner.

251. In opining on the fairness of the Company's financial statements as particularized above, MaloneBailey specifically represented that its audit included "assessing the accounting principles used...by management, as well as evaluating the overall financial statement presentation." This representation was materially false and misleading because, as discussed above, MaloneBailey either failed to assess the propriety of the accounting principles used (i.e., the principles used to recognize revenue) by the Company or did so in an egregiously reckless manner.

252. In addition, GAAS (AU Section 230) states that "Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The auditor with final responsibility for the engagement...should be knowledgeable about the client."

253. MaloneBailey either obtained a sufficient understanding of the internal control structure and possessed the requisite level of knowledge of the material internal control deficiencies and ignored them, or MaloneBailey failed to possess the requisite level of knowledge and failed to utilize this knowledge in auditing NIVS' 2009 financial statements.

254. GAAS (AU Section 326) notes that underlying accounting data and all corroborating information available to the auditor (including books of original entry, the general and subsidiary ledgers, related accounting manuals, bank statements, inventory records, and sales records, and records such as work sheets and spreadsheets supporting cost allocations, computations, checks, purchase orders, bills of lading, invoices, records of electronic fund transfers, invoices, contracts, minutes of meetings, and reconciliations) constitute evidence that should be subjected to inquiry, observation, inspection, confirmation and physical examination. It is inconceivable that MaloneBailey could have inquired about, observed, inspected, confirmed and physically examined the available documentation and still failed to detect NIVS' improper accounting for "Revenue," "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents."

255. Accordingly, MaloneBailey either performed an audit of NIVS' 2009 financial statements that was so deficient that it amounted to no audit at all, or it identified and ignored, or recklessly failed to investigate, extremely questionable transactions and made audit judgments that no reasonable auditor would have made if confronted with the same facts.

3. NIVS' Interim Financial Statements And Reports Also Violated Accounting and Reporting Rules

256. NIVS' 1Q10, 2Q10 and 3Q10 Form 10-Qs contained NIVS' 2009 year-end financial statements and 2009 year-end financial data. In addition, NIVS' 1Q10, 2Q10 and 3Q10 Form 10-Qs contained a disclosure which stated: "These interim condensed consolidated

financial statements should be read in conjunction with the most recent annual consolidated financial statements of the Company." Accordingly, NIVS' 1Q10, 2Q10 and 3Q10 Form 10-Qs were materially false and misleading.

257. In addition, NIVS' 1Q10, 2Q10 and 3Q10 Form 10-Qs were materially false and misleading because the interim condensed consolidated financial statements contained within these filings, which were submitted to the SEC and disseminated to the investment community, were pervasively affected by "accounting fraud and irregularities."

258. The precise amount of the Company's overstatement of "Gross Profit," "Net Income," "Inventories," "Receivables" and "Cash and cash equivalents" associated with NIVS' 2009 financial statements and each of the NIVS' 2010 quarterly financial statements is presently unknown, at least in part, because Defendants were not able to furnish ***"certain critical financial related documents and records, including production records, inventory logbooks, original bookkeeping records, and sales orders" which would have enabled NIVS' auditors to determine the correct amounts.***

259. NIVS' financial statements contained in its reports filed with the SEC throughout the Class Period were presented in a manner that violated GAAP, including the following principles:

a. The principle that "interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements" was violated (APB No. 28, ¶10);

b. The principle that "financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions" was violated (FASB Statement of Concepts No. 1, ¶34);

c. The principle that "financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources" was violated (FASB Statement of Concepts No. 1, ¶40);

d. The principle that "financial reporting should provide information about an enterprise's financial performance during a period" was violated (FASB Statement of Concepts No. 1, ¶42);

e. The principle that "financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it" was violated (FASB Statement of Concepts No. 1, ¶50);

f. The principle that "financial reporting should be reliable in that it represents what it purports to represent" was violated (FASB Statement of Concepts No. 2, ¶¶ 58-59);

g. The principle that "completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions" was violated (FASB Statement of Concepts No. 2, ¶79); and

h. The principle that "conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered" was violated (FASB Statement of Concepts No. 2, ¶95).

260. In addition, NIVS' filings made during the Class Period violated SEC disclosure rules in that:

a. Defendants failed to disclose the existence of known trends, events or uncertainties that they reasonably expected would have a material, unfavorable impact on net revenues or income or that were reasonably likely to result in the Company's liquidity decreasing in a material way, in violation of Item 303 of Regulation S-K under the federal securities laws, and that failure to disclose material information rendered the statements that were made during the Class Period materially false and misleading; and

b. Defendants failed to file with the SEC financial statements that conformed to the requirements of GAAP, and by doing so such financial statements were presumptively misleading and inaccurate pursuant to Regulation S-X, 17 C.F.R. 210.4-01(a)(1).

261. Accordingly, the adverse information concealed by Defendants during the Class Period was in violation of Item 303 of Regulation S-K under the federal securities laws (17

C.F.R. § 229.303). Defendants were required to disclose, and failed to disclose, in the Company's financial statements the existence of the material facts described herein. Defendants failed to appropriately recognize and report the accurate amounts of assets, revenues and expenses in conformity with GAAP. Defendants failed to make such disclosures and to account for and to report its financial statements in conformity with GAAP.

ii. <u>MaloneBailey Should Have Been Alerted To Defendants' Fraudulent Scheme</u>

1. <u>Several Red Flags Were Present At NIVS</u>

262. There are numerous red flags that should have alerted MaloneBailey that it should be particularly skeptical and careful in signing off on an audit of NIVS' financials.

263. By the Company's own admission it its filings, including its 2008 10-K and 2009 10-K, MaloneBailey was on notice that:

a. PRC companies have historically not adopted a Western style of management and financial reporting concepts and practices, which includes strong corporate governance, internal controls and, computer, financial and other control systems;

b. Most of NIVS' middle and top management staff are not educated and trained in the Western system, and they may have difficulty hiring new employees in the PRC with such training;

c. NIVS may have difficulty in hiring and retaining a sufficient number of qualified employees to work in the PRC;

d. As a result of these factors, NIVS may experience difficulty in establishing management, legal and financial controls, collecting financial data and preparing financial statements, books of account and corporate records and instituting business practices that meet Western standards;

e. Therefore, NIVS may, in turn, experience difficulties in implementing and maintaining adequate internal controls as required under Section 404 of SOX;

f. This may result in significant deficiencies or material weaknesses in NIVS' internal controls which could impact the reliability of the

Company's financial statements and prevent NIVS from complying with SEC rules and regulations and the requirements of the SOX; and

g. Any such deficiencies, weaknesses or lack of compliance could have a materially adverse effect on NIVS' business.

264. In addition, MaloneBailey was also on notice that NIVS—long before the retention of MaloneBailey—had extreme difficulties with its internal controls, as further revealed in the Company's 2009 Form 10-K and other periodic financial filings:

> We are required to establish and maintain appropriate internal controls over financial reporting. Failure to establish those controls, or any failure of those controls once established, could adversely impact our public disclosures regarding our business, financial condition or results of operations. Any failure of these controls could also prevent us from maintaining accurate accounting records and discovering accounting errors and financial frauds. Rules adopted by the SEC pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 require annual assessment of our internal control over financial reporting, and attestation of this assessment by our independent registered public accountants. The annual assessment of our internal controls requirement first applied to our annual report for the 2008 fiscal year and the attestation requirement of management's assessment by our independent registered public accountants will first apply to our annual report for the 2010 fiscal year.
>
> ***The standards that must be met for management to assess the internal control over financial reporting as effective are new and complex, and require significant documentation, testing and possible remediation to meet the detailed standards.*** In October 2008, our independent registered public accounting firm Kempisty & Company Certified Public Accountants, P.C. ("Kempisty"), informed us that ***our financial statements for the years ended 2007, 2006, and 2005 and the quarter ended June 30, 2008 and 2007 contained an error*** in the accounting treatment of imputed interest on due to shareholders loan, resulting in an understatement of our expenses for those periods. Furthermore, in November 2008, our management ***identified a material weakness in our controls and procedures*** regarding our failure to timely disclose and prevent loan transactions made to entities owned and controlled by our CEO and related parties in violation of Section 402 of the Sarbanes-Oxley Act of 2002. In February 2010, we conducted a restatement related to an ***accounting error*** that resulted in an overstatement of selling expenses in the amount of approximately $618,000 for the three months ended September 30, 2009 and approximately $870,000 of unrecorded liabilities related to the Company's non-payment of contributions to PRC housing provident funds for its employees as required under PRC regulations. ***We may encounter additional problems or delays in completing activities necessary to improve our internal control over financial reporting. In addition, the attestation process by our independent registered public***

> ***accountants is new and we may encounter problems or delays*** in completing the implementation of any requested improvements and receiving an attestation of our assessment by our independent registered public accountants. ***If we cannot assess our internal control over financial reporting as effective***, or our independent registered public accountants are unable to provide an unqualified attestation report on such assessment for fiscal year 2010, investor confidence and share value may be negatively impacted.
>
> In addition, management's assessment of internal controls over financial reporting may identify weaknesses and conditions that need to be addressed in our internal controls over financial reporting or other matters that may raise concerns for investors. Any actual or perceived weaknesses and conditions that need to be addressed in our internal control over financial reporting, disclosure of management's assessment of our internal controls over financial reporting, or disclosure of our public accounting firm's attestation to our report on management's assessment of our internal controls over financial reporting may have an adverse impact on the price of our common stock.

265. According to the 2009 Form 10-K, and other periodic financial filings, MaloneBailey was also on notice that Defendant Li, NIVS' Chairman and CEO, had taken millions of dollars in illegal "loans" from the Company:

> In November 2008, our management identified a material weakness in our controls and procedures regarding our failure to timely disclose and prevent loan transactions made to entities owned and controlled by our CEO ***in violation of Section 402 of the Sarbanes-Oxley Act of 2002*** ("Section 402"). The facts of the loan transactions and remediation are as follows:
>
> On July 25, 2008, we consummated a share exchange transaction (the "Share Exchange") pursuant to a share exchange agreement (the "Exchange Agreement") dated as of June 27, 2008, and amended as of July 25, 2008, with NIVS Holding Company Limited, a British Virgin Islands corporation ("NIVS BVI") and the shareholders of NIVS BVI (the "Shareholders"), whereby we (i) became the 100% parent of NIVS BVI and its subsidiaries, including its 97.5%-owned subsidiary NIVS (Huizhou) Audio & Video Tech. Co., Ltd., a company organized under the laws of the PRC ("NIVS PRC"); (ii) assumed the operations of NIVS BVI and its subsidiaries and (iii) changed our name from SRKP 19, Inc. to NIVS IntelliMedia Technology Group, Inc. Upon the closing of the Share Exchange, the sole business conducted by our company became the business conducted by NIVS BVI, and we appointed new officers and directors, which were officers and directors of NIVS BVI. Prior to the Share Exchange, NIVS PRC entered into loan transactions with its founder and our principal shareholder and current Chief Executive Officer and Chairman of the Board, Tianfu Li. In these transactions, NIVS PRC would borrow funds from Mr. Li and NIVS PRC would also lend

> funds to entities that were owned and controlled by Mr. Li. These entities are NIVS Investment (SZ) Co., Ltd.; Zhongkena Technology Development; Xentsan Technology (SZ) Co., Ltd.; Korea Hyundai Light & Electric (Int'l) Holding; NIVS Information & Technology (HZ) Co., Ltd.; and Hyundai Light & Electric (HZ) Co., Ltd. ***The loans were unsecured with no fixed repayment date***.
>
> It was intended that all loans from the Company to officers and directors, whether directly or indirectly, be repaid prior to the closing of the Share Exchange, and no further loans would be made to such related parties after the closing of the Share Exchange. In November 2008, it was discovered that the loans to entities owned by our CEO and other related parties continued after the closing of the Share Exchange. Upon the discovery of the continued loans to entities owned by our CEO and other related parties, we took remedial steps to address the violation of Section 402 by requiring immediate and full repayment of all outstanding loan balances, including all accrued interest, and we have received full repayment of the amounts owed to us by the entities owned and controlled by our CEO. We entered into a repayment agreement with the entities owned by our CEO and other related parties pursuant to which all amounts owed by such entities to us was repaid in full.

266. MaloneBailey's audit of NIVS is characteristic of the minimalist work performed by audit firms for RCMs that have enabled these companies, including NIVS, to engage in fraudulent schemes, as voiced by SEC commissioner Luis A. Aguilar:

> ***I am worried by the systematic concerns surrounding the quality of the financial reporting by these companies.*** In particular, according to a recent report by the staff of the Public Company Accounting Oversight Board (PCAOB), ***U.S. auditing firms may be issuing audit opinions on the financials, but not engaging in any of their own work*** . . . it ***could appear that the U.S. audit firms are simply selling their name and PCAOB-registered status because they are not engaging in independent activity to confirm that the work they are relying on is of high quality.*** This is significant for a lot of reasons, including that the PCAOB has been prevented from inspecting audit firms in China.

2. MaloneBailey Should Have Been On Notice Of NIVS' Fraud

267. MaloneBailey, which has an office in Shenzhen, China, bills itself as a "market leader in serving SEC clients in China and ranks in the top firms in terms of quantity of SEC clients in China." Further, they boast of the vast experience they possess, which enables them to produce superior audits in the Chinese market:

We possess the cultural, language, and technical expertise to ensure our Chinese clients experience the advantages of going public as it relates to increased valuation, access to US capital markets, acquisitions, stock options & incentives, etc. with reduced cost and risk. Our service offering to Chinese companies includes:

- Initial consulting services to plan for going public so that accounting documentation, issues, planning, and timing are not surprises and the necessary talent is available on both sides.
- Audits of Chinese subsidiaries of non-China companies.
- Initial audit for Chinese companies going public in the US to become listed on the NASDAQ, New York Stock Exchange, or over-the-counter bulletin boards via an IPO or reverse merger, the most common and least costly method.
- Annual interim reviews and audit work for Chinese companies listed on the US stock exchanges.
- Ongoing general accounting consulting services for Chinese companies using SEC and US GAAP expertise.
- Tax compliance and consulting services to assist with unique foreign income tax reporting to the Internal Revenue Service and the state of incorporation. Failure to file certain returns can result in significant financial penalties for the Chinese operating company.

268. In addition to being intimately familiar with the Chinese market, MaloneBailey should have been on notice that there was an extremely heightened risk of fraud, long before it audited NIVS. Going back to as early as 2005, the SEC began to tighten the reins on reverse mergers occurring in the U.S. Among the amended securities rules adopted since 2005 with respect to reverse mergers are: adding a definition of a 'shell company,' amending SEC Rule 144 to impose a longer restriction period for the resale of securities of a former shell company, and requiring shell companies to advertise their shell company status more prominently in periodic reports. This alone is a red flag to any U.S. auditor that reverse mergers located in any country should be carefully scrutinized.

269. As reported in a June 14, 2011 *Forbes* article entitled "Accounting Scandals Galore, China Not Enron-Bound," "[t]here is outright fraud, and there is a shadow financing system in China—loans that are often never paid back, and counted as profit, or used in corruptive practices. This practice occurs upstream as well, in the large cap names."[19] "This account issue is not a new problem," says Paul Dietrich, Chairman of Foxhall Capital Management. "I've been investing in China since the 80s and we'd see five different sets of financials. You have to do your due diligence. If you think you can rely on audits, you're fooling yourself."

270. In addition, as pointed out by *Financier Worldwide Magazine*—a leading source of corporate finance intelligence—in a September 2011 article entitled, "Accounting Fraud In US-listed Chinese Companies," the problems of reverse mergers have long been known in Hong Kong and has been largely stamped out, something MaloneBailey should have been aware of as expert auditors in China:

> Chinese sources maintain that that the closer you get to the mainland, the less likely you are to see the type of fraud on show in the US. ***Where Hong Kong was once a popular location for reverse mergers, the practice is now discouraged, and has been for the past 10 years***. Listing in Hong Kong requires evidence of three years of profit, and probing reviews by a listing department of the local stock exchange and independent listing committee. ***"Chinese companies in Hong Kong are less likely to fool investors than those in the US. Hong Kong has the advantage of being closer to the mainland language-wise and culturally,"*** Charles Li, chief executive officer of Hong Kong Exchanges & Clearing Ltd. told Bloomberg. ***"If I were going to run a fraud, I would find the most gullible people and if the locals in my backyard know that I don't have a business here, then I will go abroad."*** Chinese managers of fraudulent companies listed in America are beyond the reach of authorities; the same cannot be said of companies listed in Shanghai.
>
> US reaction

[19] The *Forbes* article can be found at: http://www.forbes.com/sites/kenrapoza/2011/06/14/accounting-scandals-galore-china-not-enron-bound/.

> The Hong Kong authorities indicate that they believe many of the recent problems have been due to loose listing standards in the US, and the SEC has acknowledged problems with the way some companies have been able to list. Many non-US companies that access the US markets through a reverse merger method rely on small US auditing firms, many of which do not have the resources to meet the auditing requirements. The problem is compounded by the fact that often these firms outsource their audit and review work to foreign accounting firms which may be no more able to comply with the required standings. In these situations, auditing firms may be unable to identify where reverse-merger companies are breaching accounting standards. Some commentators have noted that a number of Chinese companies employed the same auditors and investment banks in their reverse mergers. ***Whether this shows deliberate malpractice among auditors and banks, or a localisation of lax standards, remains to be seen***.[20]

271. Due to their expertise in both auditing and in the Chinese market, MaloneBailey should have known that there was an extremely high risk of fraud being committed by a Chinese company, and should have been prepared from the beginning to conduct a proper audit.

VIII. UNDISCLOSED ADVERSE INFORMATION

272. The market for NIVS' securities was an open, well-developed and efficient market at all relevant times. As a result of the materially false and misleading statements and failures to disclose described herein, NIVS' securities traded at artificially inflated prices during the Class Period. Plaintiffs and the other members of the Class purchased or otherwise acquired NIVS' securities relying upon the integrity of the market price of NIVS' securities and the market information related to NIVS, and have been damaged thereby.

273. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of NIVS' securities, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and misleading. Such statements and omissions were materially false

[20] The *Financier Worldwide Magazine* article can be found at: http://www.financierworldwide.com/article.php?id=8480&page=2.

and misleading in that they failed to disclose material adverse non-public information and misrepresented the truth about the Company, its business, accounting, and financial operations, as alleged herein.

274. At all relevant times, the material misrepresentations and omissions particularized herein directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiffs and the other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and misleading statements about NIVS' business, accounting and financial operations.

275. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of NIVS and its business and operations; thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' false and misleading statements during the Class Period resulted in Plaintiffs and the other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

IX. STATUTORY SAFE HARBOR

276. The federal statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded herein. Furthermore, many of the statements pleaded herein were not identified as "forward-looking statements" when made, or indicated that actual results "could differ materially from those projected." Nor were there any meaningful cautionary statements identifying important factors that could cause actual results to differ materially from the statements made therein.

277. Defendants are liable for the statements pleaded because, at the time each of those statements was made, Defendants knew the statement was false and the statement was authorized

and/or approved by an executive officer of NIVS who knew that such statement was false when made.

X. LOSS CAUSATION

278. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the prices of NIVS' securities and operated as a fraud or deceit on Class Period purchasers of NIVS' securities by failing to disclose to investors that the Company's financial results were materially misleading and misrepresented material information. When Defendants' misrepresentations and fraudulent conduct were disclosed and became apparent to the market, the prices of NIVS' securities fell precipitously as the prior inflation came out of the Company's stock price. As a result of their purchases of NIVS' securities during the Class Period, Plaintiffs and the other Class members suffered economic loss.

279. By failing to disclose the true state of the Company's financial statements, investors were not aware of the true state of the Company's financial status. Therefore, Defendants presented a misleading picture of NIVS' business practices and procedures. Thus, instead of truthfully disclosing during the Class Period the true state of the Company's business, Defendants caused NIVS to conceal the truth.

280. Defendants' false and misleading statements had the intended effect and caused NIVS' common stock to trade at artificially inflated levels throughout the Class Period. The stock price drops discussed herein caused real economic loss to investors who purchased the Company's securities during the Class Period.

281. The decline in the price of NIVS' common stock after the truth came to light was a direct result of the nature and extent of Defendants' fraud finally being revealed to investors

and the market. The timing and magnitude of NIVS' common stock price decline negates any inference that the loss suffered by Plaintiffs and the other Class members was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to the Defendants' fraudulent conduct. The economic loss suffered by Plaintiffs and the other Class members was a direct result of Defendants' fraudulent scheme to artificially inflate the prices of NIVS' securities and the subsequent decline in the value of NIVS' securities when Defendants' prior misrepresentations and other fraudulent conduct were revealed.

XI. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET DOCTRINE

282. At all relevant times, the market for NIVS stock was an efficient market for the following reasons, among others:

a. NIVS securities met the requirements for listing, and were listed and actively traded on the AMEX, a highly efficient market;

b. As a regulated issuer, NIVS filed periodic public reports with the SEC and the AMEX;

c. NIVS securities were followed by securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace; and

d. NIVS regularly issued press releases which were carried by national newswires. Each of these releases was publicly available and entered the public marketplace.

283. As a result, the market for NIVS securities promptly digested current information with respect to the Company from all publicly-available sources and reflected such information in NIVS' stock price. Under these circumstances, all purchasers of NIVS securities during the

Class Period suffered similar injury through their purchase of stock at artificially inflated prices and a presumption of reliance applies.

XII. CLASS ACTION ALLEGATIONS

284. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of all persons who purchased or otherwise acquired NIVS securities during the Class Period and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, members of the immediate family of each of the Individual Defendants, any subsidiary or affiliate of NIVS and the directors, officers and employees of the Company or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors and assigns of any excluded person.

285. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are thousands of members of the Class located throughout the United States. Throughout the Class Period, NIVS securities were actively traded on the AMEX (an open and efficient market) under the symbol "NIV." As of November 3, 2010, the Company had approximately 47.97 million shares outstanding. Record owners and other members of the Class may be identified from records maintained by NIVS and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

286. Plaintiffs' claims are typical of the claims of the other members of the Class as all members of the Class were similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

287. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class and securities litigation.

288. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

a. whether the federal securities laws were violated by Defendants' acts and omissions as alleged herein;

b. whether Defendants participated in and pursued the common course of conduct complained of herein;

c. whether documents, press releases, and other statements disseminated to the investing public and the Company's shareholders during the Class Period misrepresented material facts about the business, finances, financial condition and prospects of NIVS;

d. whether statements made by Defendants to the investing public during the Class Period misrepresented and/or omitted to disclose material facts about the business, finances, value, performance and prospects of NIVS;

e. whether the market price of NIVS common stock during the Class Period was artificially inflated due to the material misrepresentations and failures to correct the material misrepresentations complained of herein; and

f. the extent to which the members of the Class have sustained damages and the proper measure of damages.

289. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this suit as a class action.

XIII. COUNTS AGAINST THE EXCHANGE ACT DEFENDANTS

COUNT IV
For Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against the Exchange Act Defendants

290. Plaintiffs repeat and reallege the Exchange Act allegations as though fully set forth herein. This claim is asserted against the Exchange Act Defendants.

291. During the Class Period, the Exchange Act Defendants, and each of them, carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiffs and the other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of NIVS common stock; and (iii) cause Plaintiffs and the other members of the Class to purchase NIVS stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, the Exchange Act Defendants, and each of them, took the actions set forth herein.

292. These Defendants: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for NIVS securities in violation of §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. The Exchange Act Defendants are sued

as primary participants in the wrongful and illegal conduct charged herein. The Individual Defendants are also sued herein as controlling persons of NIVS, as alleged herein.

293. In addition to the duties of full disclosure imposed on the Exchange Act Defendants as a result of their making of affirmative statements and reports, or participation in the making of affirmative statements and reports to the investing public, they each had a duty to promptly disseminate truthful information that would be material to investors in compliance with the integrated disclosure provisions of the SEC as embodied in SEC Regulation S-X (17 C.F.R. § 210.01 et seq.) and S-K (17 C.F.R. § 229.10 et seq.) and other SEC regulations, including accurate and truthful information with respect to the Company's operations, financial condition and performance so that the market prices of the Company's publicly traded securities would be based on truthful, complete and accurate information.

294. The Exchange Act Defendants, individually and in concert, directly and indirectly, by the use of means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, business practices, performance, operations and future prospects of NIVS as specified herein. These Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of NIVS' value and performance and substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about NIVS and its business, operations and future prospects, in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of

business which operated as a fraud and deceit upon the purchasers of NIVS' securities during the Class Period.

295. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) each of the Individual Defendants was a high-level executive and/or director at the Company during the Class Period; (ii) each of the Individual Defendants, by virtue of his responsibilities and activities as a senior executive officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's operational and financial projections and/or reports; (iii) the Individual Defendants enjoyed significant personal contact and familiarity with each other and were advised of and had access to other members of the Company's management team, internal reports, and other data and information about the Company's financial condition and performance at all relevant times; and (iv) the Individual Defendants were aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

296. These Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were readily available to them. Such Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing NIVS' operating condition, business practices and future business prospects from the investing public, and continued to support the artificially inflated price of its stock. As demonstrated by their overstatements and misstatements of the Company's financial condition and performance throughout the Class Period, the Individual Defendants, if they did not have actual knowledge of the

misrepresentations and omissions alleged, were severely reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

297. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of NIVS securities was artificially inflated during the Class Period. In ignorance of the fact that the market price of NIVS shares was artificially inflated, and by relying, directly or indirectly, on the false and misleading statements made by the Exchange Act Defendants, upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by the Exchange Act Defendants but not disclosed in public statements by these Defendants during the Class Period, Plaintiffs and the other members of the Class acquired NIVS securities during the Class Period at artificially inflated high prices and were damaged thereby.

298. At the time of said misrepresentations and omissions, Plaintiffs and the other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiffs and the other members of the Class and the marketplace known of the true performance, business practices, future prospects and intrinsic value of NIVS, which were not disclosed by the Exchange Act Defendants, Plaintiffs and the other members of the Class would not have purchased or otherwise acquired NIVS securities during the Class Period, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

299. By virtue of the foregoing, NIVS and the Individual Defendants each violated §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

300. As a direct and proximate result of the Exchange Act Defendants' wrongful conduct, Plaintiffs and the other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

COUNT V
For Violations of Section 20(a) of the Exchange Act
Against the Individual Defendants

301. Plaintiffs repeat and reallege the Exchange Act allegations as though fully set forth herein. This claim is asserted against the Individual Defendants.

302. The Individual Defendants were and acted as controlling persons of NIVS within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions with the Company, participation in and/or awareness of the Company's operations and/or intimate knowledge of the Company's actual performance, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiffs contend are false and misleading. Each of the Individual Defendants was provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

303. In addition, each of the Individual Defendants had direct involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

304. As set forth above, NIVS and the Individual Defendants each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their

controlling positions, the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of these Defendants' wrongful conduct, Plaintiffs and the other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

XIV. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the Class, pray for judgment as follows:

a) Declaring this action to be a class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Class defined herein;

b) Awarding Plaintiffs and the other members of the Class damages in an amount which may be proven at trial, together with interest thereon;

c) Awarding Plaintiffs and the other members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' and experts' witness fees and other costs; and

d) Awarding such other relief as this Court deems appropriate.

XV. DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Dated: April 11, 2013

LAW OFFICES OF CURTIS V. TRINKO, LLP

By: *s/ Curtis V. Trinko*____________
Curtis V. Trinko (CT-1838)
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Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 11, 2013, I hand delivered the foregoing to the Clerk of Court for the Southern District of New York and emailed a copy to:

caseopenings@nysd.uscourts.gov

-AND-

Laura M. Vasey
LOEB & LOEB LLP
lvasey@loeb.com
345 Park Avenue
New York, NY 10154

I also certify that I mailed the foregoing documents via US Mail to the following:

NIVS Intellimedia Technology Group, Inc.
c/o Corporation Service Company
2711 Centerville Road
Wilmington, DE 19808

-AND-

NIVS Intellimedia Technology Group, Inc.
NIVS Industry Park
No. 29-31,
Shuikou Road, Huizhou,
Guangdong, People's Republic of China, 516006

-AND-

The Individual Defendants and the Officer and Director Defendants
c/o NIVS Intellimedia Technology Group, Inc.
NIVS Industry Park
No. 29-31,
Shuikou Road, Huizhou,
Guangdong, People's Republic of China, 516006

s/ Curtis V. Trinko
Curtis V. Trinko

CERTIFICATION OF PLAINTIFF

I, Michael A. Short, certify that:

1. I have reviewed a complaint involving NIVS Intellimedia Technology Group, and I authorize the Law Offices Of Curtis V. Trinko and Saxena White P.A. to act on my behalf in this matter in adding me as a representative plaintiff, and for all other purposes in connection with this litigation.
2. I did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. I am willing to serve as a named plaintiff, Lead Plaintiff or class representative, either individually or as part of a group. I understand that a Lead Plaintiff is a representative party who acts on behalf of other class members in directing the action, and whose duties may include providing testimony at deposition and trial, if necessary.
4. I represent and warrant that I am authorized to execute this Certification on behalf of the purchasers of the subject securities described herein (including, as the case may be, myself, any co-owners, any corporations or other entities, and/or any beneficial owners).
5. I will not accept any payments for serving as a representative party on behalf of the class beyond the purchaser's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.
6. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is unaffected by my decision to serve as a representative party or Lead Plaintiff.
7. I have listed below all my transactions in the securities of **NIVS IntelliMedia Technology Group** during the Class Period as follows:

Type of Security (Common stock)	**Purchase/Acquisition** or **Sale/Disposition**	**Quantity**	**Trade Date** (mm/dd/yy)	**Price per Share/Security** ($)
SEE ATTACHED SCHEDULE A				

(* List additional transactions on separate sheet, if necessary)

These securities were acquired or held in (check all that apply):

X General (non-retirement account) ☐ Merger/acquisition/distribution ☐ Gift
☐ IRA ☐ Employer-sponsored plan (401k, 403b, etc.)

8. During the three years prior to the date of this Certification, I have not sought to serve and I have not served as a representative party for a class in an action filed under the federal securities laws except as described below (if any):

N.A.

I declare under penalty of perjury, under the laws of the United States, that the information entered is accurate.

Executed this 19th day of March, 2013

Michael A. Short

Michael A Short

Signature

SCHEDULE A

TYPE OF SECURITY	PURCHASE	QUANTITY	TRADE DATE	PRICE PER SHARE
Common Stock		10,000 shares	April 10, 2010	$3.29/share
Common Stock	Sale Purchase	10,000 Shares	January 10, 2012	$0.064 per share

CERTIFICATION OF PLAINTIFF

I, Henry C. Beinstein, certify that:

1. I have reviewed a complaint and I authorize Saxena White P.A. to act on my behalf in this matter in adding me as a representative plaintiff, and for all other purposes in connection with this litigation.
2. I did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. I am willing to serve as a named plaintiff, Lead Plaintiff or class representative, either individually or as part of a group. I understand that a Lead Plaintiff is a representative party who acts on behalf of other class members in directing the action, and whose duties may include providing testimony at deposition and trial, if necessary.
4. I represent and warrant that I am authorized to execute this Certification on behalf of the purchasers of the subject securities described herein (including, as the case may be, myself, any co-owners, any corporations or other entities, and/or any beneficial owners).
5. I will not accept any payments for serving as a representative party on behalf of the class beyond the purchaser's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.
6. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is unaffected by my decision to serve as a representative party or Lead Plaintiff.
7. I have listed below all my transactions in the securities of **NIVS IntelliMedia Technology Group** during the Class Period as follows:

Type of Security (Common stock)	**Purchase/Acquisition** or **Sale/Disposition**	**Quantity**	**Trade Date** (mm/dd/yy)	**Price per Share/Security** ($)
SEE ATTACHED SCHEDULE A				

(* List additional transactions on separate sheet, if necessary)

These securities were acquired or held in (check all that apply):

☑ General (non-retirement account) ☐ Merger/acquisition/distribution ☐ Gift
☑ IRA ☐ Employer-sponsored plan (401k, 403b, etc.)

8. During the three years prior to the date of this Certification, I have not sought to serve and I have not served as a representative party for a class in an action filed under the federal securities laws except as described below (if any):

I declare under penalty of perjury, under the laws of the United States, that the information entered is accurate.

Executed this 15th day of March, 2013

Henry C. Beinstein
Name (print)

Henry C. Beinstein
Signature

TRANSACTION SUMMARY

Henry C. Beinstein

From 12-31-89 To 03-11-13

Tran Code	Security Symbol	Security	Trade Date	Settle Date	Quantity	Close Meth.	S/D Type	S/D Symbol	Trade Amount	Lot
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	04-20-10	04-23-10	28,599		caus	mcash	94,663	1
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	05-24-10	05-27-10	14,300		caus	mcash	33,482	2
sl	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	12-17-10	12-22-10	1,607	h	caus	mcash	3,604	1
sl	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	12-20-10	12-23-10	26,992	h	caus	mcash	60,634	1
sl	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	11-26-12	11-29-12	14,300	h	caus	mcash	156	2

TRANSACTION SUMMARY

Henry Beinstein and Phyllis Beinstein JTWROS

From 12-31-89 To 03-11-13

Tran Code	Security Symbol	Security	Trade Date	Settle Date	Quantity	Close Meth.	S/D Type	S/D Symbol	Trade Amount	Lot
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	04-20-10	04-23-10	20,000		caus	mcash	66,200	1
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	05-24-10	05-27-10	10,000		caus	mcash	23,414	2
sl	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	12-17-10	12-22-10	20,000	h	caus	mcash	44,850	1
lo	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	01-18-12		87	c	awus	client	4	2
lo	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	01-18-12		87	c	awus	client	4	2
lo	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	01-18-12		87	c	awus	client	4	2
lo	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	01-18-12		89	c	awus	client	5	2
lo	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	01-18-12		89	c	awus	client	5	2
sl	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	11-26-12	11-29-12	9,561	h	caus	mcash	104	2

TRANSACTION SUMMARY

Mr. Henry C. Beinstein Rollover IRA

From 12-31-89 To 03-11-13

Tran Code	Security Symbol	Security	Trade Date	Settle Date	Quantity	Close Meth.	S/D Type	S/D Symbol	Trade Amount	Lot
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	04-20-10	04-23-10	13,000		caus	pcash	42,770	1
by	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	05-24-10	05-27-10	6,500		caus	pcash	14,857	2
li	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	07-27-11		2,000		awus	client	690	3
li	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	07-27-11		1,000		awus	client	345	4
li	nivs	NIVS INTELLIMEDIA TECHNOLOGY GROUP INC	07-27-11		1,080		awus	client	373	5