
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**SCHEDULE TO
(RULE 14d-100)**

Tender Offer Statement Pursuant to Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 2)

JETPAY CORPORATION

(Name of Subject Company Issuer)

**Orwell Acquisition Corporation
and
NCR Corporation**

(Names of Filing Persons – Offeror)

Common Stock, \$0.001 par value per share
Series A Convertible Preferred Stock, \$0.001 par value per share
Series A-1 Convertible Preferred Stock, \$0.001 par value per share
Series A-2 Convertible Preferred Stock, \$0.001 par value per share
(Title of Class of Securities)

477177109
(CUSIP Number of Class of Securities)

James M. Bedore
General Counsel
NCR Corporation
864 Spring St NW
Atlanta, Georgia 30308
Telephone: (937) 445-1936

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

Copy to:

Sean T. Peppard
Benesch, Friedlander, Coplan & Aronoff LLP
200 Public Square, Suite 2300
Cleveland, Ohio 44114
(216) 363-4688

CALCULATION OF FILING FEE

Transaction Valuation (1)	Amount of Filing Fee (2)
\$171,649,804	\$20,804

- (1) Estimated solely for purposes of calculating the filing fee. The transaction valuation (the "Transaction Valuation") was calculated by adding the sum of: (i) 15,524,770 shares of common stock, par value \$0.001 per share (the "Common Shares"), of JetPay Corporation ("JetPay") outstanding, multiplied by the offer price of \$5.05 per Common Share; (ii) 15,999,960 Common Shares subject to issuance upon the settlement of the conversion of the Series A Convertible Preferred Stock, par value \$0.001 per share, into Common Shares, multiplied by the offer price of \$5.05 per Common Share; (iii) 9,000 shares of Series A-1 Convertible Preferred Stock, par value \$0.01 per share (the "Series A-1 Preferred Shares"), of JetPay outstanding, multiplied by the offer price of \$600 per Series A-1 Preferred Share; (iv) 2,751,248 Common Shares subject to issuance upon the settlement of the outstanding stock options with an exercise price less than the offer price of \$5.05 per Common Share, multiplied by \$2.14, representing the difference between the offer price of \$5.05 per share and the \$2.91 weighted average exercise price for such stock options; (v) an estimated 33,000 Common Shares subject to issuance upon the settlement of the JetPay employee stock purchase plan, multiplied by the offer price of \$5.05 per Common Share; and (vi) 516,667 Common Shares subject to issuance upon the settlement of the exercise of outstanding warrants of JetPay, multiplied by \$1.94, representing the difference between the offer price of \$5.05 per share and the \$3.11 weighted average exercise price for such warrants. The calculation of the filing fee is based on information provided by JetPay as of October 18, 2018.
- (2) The amount of the filing fee, calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory #1 for Fiscal Year 2019, issued August 24, 2018, equals \$121.20 per million of the Transaction Valuation.

- Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

Amount Previously Paid: \$20,804

Filing Party: NCR Corporation and Orwell Acquisition Corporation

Form of Registration No.: Schedule TO and Amendment No. 1

Date Filed: November 2, 2018 and November 13, 2018

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- Third-party tender offer subject to Rule 14d-1.
 Issuer tender offer subject to Rule 13e-4.
 Going-private transaction subject to Rule 13e-3.
 Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer.

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
 Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
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This Amendment No. 2 (this “Amendment”) amends and supplements the Tender Offer Statement on Schedule TO (together with any subsequent amendments and supplements thereto, the “Schedule TO”) filed by NCR Corporation, a Maryland corporation (“NCR”), and Orwell Acquisition Corporation, a Delaware corporation (“Merger Sub”) and a wholly-owned subsidiary of NCR, with the Securities and Exchange Commission on November 2, 2018. This Schedule TO relates to the offer by Merger Sub to purchase (pursuant to that certain Agreement and Plan of Merger, dated as of October 19, 2018, by and among NCR, Merger Sub and JetPay Corporation, a Delaware corporation (“JetPay”)): (i) all outstanding shares of common stock, \$0.001 par value per share (“Common Shares”), of JetPay at a price per share of \$5.05 (such amount, or any other amount per share paid pursuant to the Offer (defined below), the “Common Share Offer Price”), net to the seller in cash, without interest, on the terms and subject to the conditions set forth in the Merger Agreement (the “Common Share Offer”); (ii) any and all of the shares of Series A Convertible Preferred Stock issued and outstanding (each, a “Series A Preferred Share”) at a price per Series A Preferred Share equal to the greater of (A) the Series A Liquidation Value of such Series A Preferred Share and (B) the amount of proceeds that the holder of such Series A Preferred Share would receive if such Series A Preferred Share was converted into Common Shares pursuant to the Series A Certificate of Designation and such holder received the Common Share Offer Price for each Common Share issued upon such conversion (the greater of the foregoing clauses (A) and (B), or any other amount per Series A Preferred Share paid pursuant to the Offer in accordance with the Merger Agreement, the “Series A Offer Price”), net to the seller in cash, without interest, on the terms and subject to the conditions set forth in the Merger Agreement (the “Series A Offer”); (iii) any and all Series A-1 Preferred Shares issued and outstanding at a price per Series A-1 Preferred Share equal to the greater of (A) the Series A-1 Liquidation Value of such Series A-1 Preferred Share and (B) the amount of proceeds that the holder of such Series A-1 Preferred Share would receive if such Series A-1 Preferred Share was converted into Common Shares pursuant to the Series A-1 Certificate of Designation and such holder received the Common Share Offer Price for each Common Share issued upon such conversion (the greater of the foregoing clauses (A) and (B), or any other amount per Series A-1 Preferred Share paid pursuant to the Offer in accordance with the Merger Agreement, the “Series A-1 Offer Price”), net to the seller in cash, without interest, on the terms and subject to the conditions set forth in the Merger Agreement (the “Series A-1 Offer”); and (iv) any and all shares of Series A-2 Convertible Preferred Stock issued and outstanding (each, a “Series A-2 Preferred Share” and, together with the Series A Preferred Shares and the Series A-1 Preferred Shares, the “Preferred Shares” and, together with the Common Shares, the “Shares”) at a price per Series A-2 Preferred Share equal to the greater of (A) the Series A-2 Liquidation Value of such Series A-2 Preferred Share and (B) the amount of proceeds that the holder of such Series A-2 Preferred Share would receive if such Series A-2 Preferred Share was converted into Common Shares pursuant to the Series A-2 Certificate of Designation and such holder received the Common Share Offer Price for each Common Share issued upon such conversion (the greater of the foregoing clauses (A) and (B), or any other amount per Series A-2 Preferred Share paid pursuant to the Offer in accordance with the Merger Agreement, the “Series A-2 Offer Price” and, together with the Common Share Offer Price, the Series A Offer Price and the Series A-1 Offer Price, the “Offer Prices”), net to the seller in cash, without interest, on the terms and subject to the conditions set forth in the Merger Agreement (the “Series A-2 Offer” and, together with Common Share Offer, the Series A Offer and the Series A-1 Offer, the “Offer”), in each case, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated November 2, 2018 (the “Offer to Purchase”), and in the related Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(1)(A) and (a)(1)(B), respectively. This Schedule TO is being filed on behalf of NCR and Merger Sub. Unless otherwise indicated, references to sections in this Schedule TO are references to sections of the Offer to Purchase.

All the information set forth in the Offer to Purchase is incorporated by reference herein in response to Items 1 through 9 and Item 11 in the Schedule TO, and is supplemented by the information specifically provided in this Amendment. Capitalized terms used but not defined in this Amendment shall have the meanings assigned to such terms in the Schedule TO.

This Amendment is being filed to amend and supplement Item 11 as reflected below.

Item 11. Additional Information.

Regulation M-A Item 1011

The disclosure set forth in the Offer to Purchase under *Section 15 – “Certain Legal Matters; Regulatory Approvals” – Certain Litigation* is hereby amended and replaced with the following paragraphs:

“Certain Litigation

On November 12, 2018, a purported stockholder filed a lawsuit in the United States District Court for the District of Delaware, captioned Alvin Mittelstaed v. JetPay Corporation, et al., case no. 1:18-cv-01780-LPS (the “Mittelstaed Complaint”). The Mittelstaed Complaint names JetPay, the JetPay Board, Merger Sub and NCR as defendants. The Mittelstaed Complaint alleges that the defendants violated federal securities laws by filing, or causing JetPay to file, a Schedule 14D-9 Solicitation/Recommendation Statement in connection with the Offer that omits purportedly material information.

On November 13, 2018, a purported stockholder filed a putative class action lawsuit in the United States District Court for the District of Delaware, captioned Anthony Franchi v. JetPay Corporation, et al., no. 1:18-cv-01791-LPS (the “Franchi Complaint”). The Franchi Complaint names JetPay, the JetPay Board, Merger Sub and NCR as defendants. The Franchi Complaint alleges that the defendants violated federal securities laws by filing, or causing JetPay to file, a Schedule 14D-9 Solicitation/Recommendation Statement in connection with the Offer that omits purportedly material information.

The Mittelstaed Complaint and Franchi Complaint each seek, among other things, to enjoin the closing of the Offer, rescissory damages, and an award of attorneys’ fees and expenses.

The full complaints are attached hereto as Exhibit (a)(5)(E) and Exhibit (a)(5)(F).

Additional lawsuits arising out of or relating to the Offer and/or the Merger may be filed in the future. If additional similar complaints are filed, absent new or different allegations that are material, NCR will not necessarily disclose such additional filings.”

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented as follows:

Exhibit No.	
(a)(1)(A)	Offer to Purchase dated November 2, 2018.*
(a)(1)(B)	Form of Letter of Transmittal.*
(a)(1)(C)	Form of Notice of Guaranteed Delivery.*
(a)(1)(D)	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(E)	Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a)(1)(F)	Form of Summary Advertisement as published on November 2, 2018 in the New York Times.*
(a)(2)	Not applicable.
(a)(3)	Not applicable.
(a)(4)	Not applicable.
(a)(5)(A)	Joint Press Release issued by NCR and JetPay on October 22, 2018, incorporated herein by reference to Exhibit 99.1 to the Form 8-K filed by NCR on October 22, 2018.*
(a)(5)(B)	Transcript of Michael Hayford video e-mailed to JetPay employees on October 22, 2018, incorporated herein by reference to Exhibit 99.1 to the Schedule TO-C filed by NCR on October 22, 2018.*
(a)(5)(C)	Email to JetPay employees dated October 22, 2018., incorporated herein by reference to Exhibit 99.2 to the Schedule TO-C filed by NCR on October 22, 2018.*
(a)(5)(D)	Excerpt from Transcript of NCR Corporation’s Third Quarter 2018 Earnings Call on October 30, 2018, incorporated herein by reference to Exhibit 99.1 to Schedule TO-C filed by NCR on October 31, 2018.*

- (a)(5)(E) Complaint for Violation of the Securities Exchange Act of 1934, dated November 12, 2018 (Alvin Mittelstaed v. JetPay Corporation, et al., Case No. 1:18-cv-01780-LPS (D. Del.)).**
- (a)(5)(F) Complaint for Violation of the Securities Exchange Act of 1934, dated November 13, 2018 (Anthony Franchi v. JetPay Corporation, et al., Case No. 1:18-cv-01791-LPS (D. Del.)).**
- (b) Not applicable.
- (c) Not applicable.
- (d)(1) Agreement and Plan of Merger, dated as of October 19, 2018, by and among NCR Corporation, Orwell Acquisition Corporation and JetPay Corporation, incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by NCR on October 22, 2018.*
- (d)(2) Form of Tender and Support Agreement (Common Shares) by and among NCR Corporation, Orwell Acquisition Corporation and the stockholders party thereto, dated October 19, 2018, incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by NCR on October 22, 2018.*
- (d)(3) Form of Tender and Support Agreement (Series A Preferred Shares) by and among NCR Corporation, Orwell Acquisition Corporation, the stockholders party thereto and JetPay Corporation, dated October 19, 2018, incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by NCR on October 22, 2018.*
- (d)(4) Confidentiality Agreement, dated August 4, 2018, by and between NCR Corporation and JetPay Corporation.*
- (g) Not applicable.
- (h) Not applicable.

* Previously filed

** Filed herewith

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: November 16, 2018

NCR CORPORATION

By: /s/ Andre Fernandez
Name: Andre Fernandez
Title: Executive Vice President and Chief
Financial Officer

ORWELL ACQUISITION CORPORATION

By: /s/ Edward Gallagher
Name: Edward Gallagher
Title: President

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALVIN MITTELSTAED,

Plaintiff,

v.

JETPAY CORPORATION, LAURENCE L. STONE,
DIANE FARO, DONALD J. EDWARDS,
ROBERT FRANFURT, STEVEN MICHIZENZI,
ROBERT METZGER, ORWELL ACQUISITION CORPORATION,
and NCR CORPORATION

Defendants.

Case No.:

COMPLAINT

DEMAND FOR JURY TRIAL

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff Alvin Mittelstaed ("Plaintiff"), by his undersigned attorneys, alleges upon information and belief, except for his own acts, which are alleged on knowledge, as follows:

INTRODUCTION

1. Plaintiff brings this action against JetPay Corporation ("JetPay" or the "Company") and JetPay's Board of Directors (collectively, the "Board" or the "Individual Defendants," as further defined below) for violations of Section 14(e) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78n(e) and 78t(a). Specifically, Defendants solicit the tendering of stockholder shares in connection with the proposed acquisition of the Company by Orwell Acquisition Corporation, a Delaware corporation ("Merger Sub") and a direct wholly owned subsidiary of NCR Corporation, a Maryland corporation ("Parent") (together with Merger Sub, "NCR"), through a recommendation statement filed with the U.S. Securities and Exchange Commission (the "SEC"), that omits material facts necessary to make the statements therein not false or misleading. Stockholders need this material information to decide whether to tender their shares or pursue their appraisal rights.

2. On October 22, 2018, the Company announced that it had entered into a definitive agreement (the "Merger Agreement"), by which NCR would commence a tender offer (the "Tender Offer") to acquire all of the outstanding shares of JetPay common stock for \$5.05 per share in cash (the "Merger Consideration"), in a transaction valued at approximately \$184 million (the "Proposed Transaction"). The Tender Offer, commenced on November 2, 2018, and is set to expire at 11:59 p.m., Philadelphia, Pennsylvania time, on December 4, 2018.

3. In connection with the commencement of the Tender Offer, on November 2, 2018, the Company filed a Recommendation Statement on Schedule 14D-9 (the "Recommendation Statement") with the SEC. The Recommendation Statement is materially deficient and misleading because, inter alia, it omits to disclose material information concerning: (i) the sales process leading up to the Proposed Transaction; (ii) JetPay's financial projections; (iii) the valuation analyses performed by JetPay's financial advisor FT Partners Securities ("FT Partners"); and (iv) conflicts of interest involving FT Partners. Without this material information, JetPay stockholders will be forced to decide whether or not to tender their shares based upon materially incomplete and misleading information. The failure to adequately disclose such material information constitutes a violation of §§ 14(e) and 20(a) of the Exchange Act.

4. For these reasons and as set forth in detail herein, the Individual Defendants have violated federal securities laws. Accordingly, Plaintiff seeks to enjoin the Proposed Transaction or, in the event the Proposed Transaction is consummated, recover damages resulting from the Individual Defendants' violations of these laws. Judicial intervention is warranted here to rectify existing and future irreparable harm to the Company's stockholders.

JURISDICTION AND VENUE

5. The claims asserted herein arise under §§ 14(e) and 20(a) of the Exchange Act, 15 U.S.C. § 78aa. The Court has subject matter jurisdiction pursuant to § 27 of the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. § 1331 (federal question jurisdiction).

6. The Court has personal jurisdiction over each of the Defendants because each conducts business in and maintains operations in this District or is an individual who either is present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because JetPay is incorporated in this District and each of the Individual Defendants, and Company officers or directors, either resides in this District or has extensive contacts within this District.

PARTIES

8. Plaintiff is, and has been at all relevant times, the owner of shares of JetPay common stock.

9. Defendant Laurence L. Stone ("Stone") is the Chairman of the Board of JetPay. He has been a member of the Company's Board of Directors since 2016.

10. Defendant Diane Faro ("Faro") is the Chief Executive Officer ("CEO") of JetPay. She has served as a director of the Company since 2014.

11. Defendant Donald J. Edwards ("Edwards") has served as a director of the Company since 2013.

12. Defendant Robert Frankfurt ("Frankfurt") has served as a director of the Company since 2017.

13. Defendant Steven M. Michienzi (“Michienzi”) has served as a director of the Company since 2013.

14. Defendant Robert Metzger (“Metzger”) has served as a director of the Company since 2017.

15. Defendants Metzger, Michienzi, Frankfurt, Edwards, Faro, and Stone are collectively referred to herein as the “Board” or the “Individual Defendants.”

16. Defendant JetPay, incorporated in Delaware, is a leading provider of vertically integrated solutions for businesses including card acceptance, processing, payroll, payroll tax filing, human capital management services, and other financial transactions. JetPay provides a single vendor solution for payment services, debit and credit card processing, ACH services, and payroll and human capital management needs for businesses throughout the United States. The Company also offers low-cost payment choices for the employees of these businesses to replace costly alternatives. The Company’s vertically aligned services provide customers with convenience and increased revenues by lowering payments-related costs and by designing innovative, customized solutions for internet, mobile, and cloud-based payments. The Company maintains its principal executive offices at 7450 Tilghman Street, Suite 170, Allentown, PA 18106. JetPay’s common stock is traded on the NASDAQ under the ticker symbol “JTPY.” Defendant JetPay and the Individual Defendants are referred to herein as the Defendants.”

17. Defendant Merger Sub, is a Delaware corporation and a direct wholly-owned subsidiary of Parent, and is a party to the Merger Agreement. Defendant Merger Sub is named as a defendant herein solely for the purpose of providing full and complete relief.

18. Defendant Parent is a leader in banking and commerce solutions, powering incredible experiences that make life easier. With its software, hardware, and portfolio of

services, NCR enables 760 million transactions daily across financial, retail, hospitality, travel, telecom and technology industries. NCR is headquartered in Atlanta, Ga., with 34,000 employees and does business in 180 countries. NCR is a trademark of NCR Corporation in the United States and other countries. Parent is named as a defendant herein solely for the purpose of providing full and complete relief.

FURTHER SUBSTANTIVE ALLEGATIONS

Company Background

19. On June 29, 2017, the Company entered into a confidentiality agreement with a private equity firm (“Party A”) in order to discuss potential opportunities involving the Company and Party A.

20. Discussions between the Company and Party A proceeded throughout the summer of 2017, and on September 15, 2017, Party A furnished to the Company an initial non-binding indication of interest to acquire the Company at an enterprise valuation of \$141 million, or \$2.50 per Common Share (the “Preliminary IOI”).

21. After the Company communicated its disappointment in the Preliminary IOI, Party A submitted a second indication of interest to acquire the Company for an enterprise value of \$149 million, or \$3.00 per Common Share (the “Second IOI”).

22. On October 30, 2017, Robert Frankfurt, an investment professional, was appointed to join then Board as an independent director. On November 20, 2017, Robert Metzger, a senior director and former investment banker at William Blair & Company, was appointed to the Board as an independent director.

23. On November 29, 2017, the Board constituted a special committee consisting of Messrs. Metzger and Frankfurt (the “Special Committee”) to consider strategic alternatives for the Company, including, but not limited to, any sale, merger or similar business combination involving the Company, such as the transaction contemplated by the Second IOI (a “Potential Transaction”).¹

¹ The Recommendation Statement notes that Metzger was appointed chairman of the Special Committee in light of his extensive mergers and acquisitions experience in the technology and financial sectors. The Special Committee was vested with the authority (i) to negotiate, or authorize others to negotiate, any offer made in connection with a Potential Transaction and, at any time that the Special Committee was considering such an offer, to solicit indications of interest from third parties and/or negotiate any other offers which would constitute an alternative to such Potential Transaction, (ii) to reject any offers relating to Potential Transactions which the Special Committee could not favorably recommend to the Board and (iii) to recommend to the Board any Potential Transaction that it had approved, subject to final approval by the Board.

24. On December 28, 2017, the Special Committee determined to engage FT Partners as its financial advisor and, after negotiating the engagement letter with FT Partners, on January 25, 2018 the Special Committee arranged for the execution of the FT Partners' engagement letter.

25. On January 13, 2018, at the direction of the Special Committee, FT Partners contacted Party A to resume a dialogue regarding the Second IOI and a Potential Transaction involving the Company. However, it quickly became apparent that Party A was unwilling to materially improve the financial terms of the Second IOI. As a result, FT Partners presented to the Special Committee a list of potential third party buyers developed in consultation with the chairman of the Special Committee.

26. In April 2018, FT Partners, at the direction of the Special Committee, began the process of contacting potential acquirers of the Company and, by June 27, 2018, FT Partners had contacted 43 prospective strategic acquirers and 27 financial sponsors at the direction of the Special Committee. Of these 70 companies that FT Partners contacted between April and mid-June 2018, 20 executed confidentiality agreements with the Company and 14 held a meeting with Company management or made arrangements for a meeting with Company management.

On April 20, 2018, the Company entered into a confidentiality agreement with a potential strategic buyer ("Party B"). Between May 1 and May 10, 2018, the Company entered into a confidentiality agreement with five additional potential strategic buyers ("Party C", "Party D", Party E", "Party F" and "Party G", respectively). Between May 17 and June 1, 2018, the Company entered into a confidentiality agreement with each of three additional potential strategic buyers and one financial sponsor ("Party H", "Party I", and "Party J", and "Party W" respectively). Finally, between June 1, 2018 and June 18, 2018, the Company entered into a confidentiality agreement with each of seven additional potential buyers ("Party K", "Party L", "Party M", "Party N", "Party O", "Party P" and "Party Q").

27. After the Company held preliminary discussions with each of the parties that entered into confidentiality agreements with the Company, FT Partners communicated by email to all of the approximately 25 remaining potential buyers to submit written, all-cash, preliminary proposals for the acquisition of the Company by the end of June 2018, with a target of June 22, 2018.

28. No written offers for the sale of the entire business were received on the preliminary bid deadline of June 22, 2018. However, between mid-June and mid-July 2018, representatives of Party W and Party K made a verbal offer to FT Partners to purchase a portion of the Company's assets.

29. On June 27, 2018, during a special meeting of the Board the Special Committee recommended that FT Partners continue to engage with prospective acquirers of the entire business while the Board and Special Committee considered other strategic alternatives, including the potential sale of the Company's payroll business.

30. On July 30, 2018, the Company entered into a confidentiality agreement with a financial sponsor ("Party S") and provided to Party S with access to evaluation materials regarding the Company. The following day, the Company entered into a confidentiality agreement with another financial sponsor ("Party R") and provided Party R with access to evaluation materials regarding the Company.

31. On August 4, 2018, the Company entered into a Confidentiality Agreement with NCR (the "NCR Confidentiality Agreement"). Shortly thereafter, evaluation materials regarding the Company, including access to the virtual data room, were shared with NCR and its representatives and an in-person meeting with the Company's management team was scheduled.

32. Between August 27 and August 28, 2018, the Company entered into confidentiality agreements with each of two additional financial sponsors ("Party T" and "Party U," respectively), and engaged in discussions concerning the Company and a Potential Transaction.

33. While these discussions were ongoing, on September 20, 2018, NCR submitted an initial indication of interest for the all-cash acquisition of the Company at a price of \$4.42 per Common Share (the "NCR Preliminary Offer").

34. On the evening of September 20, 2018, FT Partners presented an analysis of the NCR Preliminary Offer to the Special Committee, and also presented to the Special Committee background information regarding NCR and recent discussions with NCR, including NCR's indications that it could be in a position to enter into a definitive agreement within three to four weeks following the acceptance of the NCR Preliminary Proposal.

35. On September 26, 2018, FT Partners presented a summary of the NCR Preliminary Proposal to the Special Committee. Following the Special Committee's discussion of the NCR Preliminary Proposal, the Special Committee then asked FT Partners to engage in additional outreach to Party D, Party F, Party L and an additional financial sponsor ("Party V").

36. On September 30, NCR submitted to FT Partners a final, detailed indication of interest for the all-cash acquisition of the Company at a price of \$5.05 per Common Share (the "NCR Final Offer"). With this final offer in place, the parties and their respective representatives moved quickly to finalize the terms of the Merger Agreement.

37. On October 19, 2018, the Special Committee held a meeting with representatives of FT Partners at which time FT Partners presented its analysis of the financial terms of the Offer and that the consideration to be received by the holders of Common Shares pursuant to the Merger Agreement was fair, from a financial point of view, to the holders of Common Shares. Following this presentation, the Special Committee recommended that the Merger Agreement and the Transactions were advisable to the Company and its stockholders and recommended to the Board that the Board approve the Merger Agreement and the Transactions. Immediately following the meeting of the Special Committee, the Board convened and, following presentations by FT Partners, acting at the request of the Special Committee, approved the Merger Agreement and the Transactions contemplated thereby.

38. Following the meeting, the parties executed and delivered the Merger Agreement and other transaction documents. A joint press release announcing the transaction was issued prior to the opening of the U.S. stock market on October 22, 2018.

The Proposed Transaction

39. In a press release dated October 22, 2018, NCR announced that it had entered into a Merger Agreement with JetPay pursuant to which NCR will commence a Tender Offer to acquire all of the outstanding shares of JetPay for \$5.05 per share in cash.

40. The press release states in pertinent part:

ATLANTA and ALLENTOWN, Pa. – October 22, 2018 – NCR Corporation (NYSE: NCR) today announced a definitive agreement to acquire Allentown, Pa.-based JetPay (NASDAQ: JTPY), a provider of end-to-end payment processing and Human Capital Management solutions.

The transaction will be a cash tender offer of \$5.05 per JetPay share, which represents a multiple of 2.9 times 2018 consensus revenue forecast of \$63.4 million. The purchase price is approximately \$184 million and will be financed with a combination of cash on hand and existing capacity under NCR's revolving credit facility. The offer has been approved by each company's board of directors.

This acquisition will enable NCR to integrate a cloud-based payments platform into its enterprise point-of-sale (POS) solutions for retail and hospitality industries. It also accelerates NCR's strategy of increasing recurring revenue growth and expanding margins by enhancing its mix of software and services.

"The acquisition of JetPay is a key, strategic initiative that will enable NCR to create a full, end-to-end integrated payments offering for its enterprise-wide POS customers," said NCR President and Chief Executive Officer, Michael D. Hayford. "Enabling payments as part of our transactions is part of our long-term strategy to create integrated value for our clients."

"JetPay has always focused on taking great care of our customers, creating value for our stockholders, delivering innovative solutions, and expanding our market reach," said Diane Faro, Chief Executive Officer, JetPay. "This combination dramatically accelerates our capabilities across these initiatives. NCR's global footprint, brand recognition and track record of innovation will help us accelerate our strategic objectives and create even more value for our customers."

"NCR's acquisition of JetPay reflects an important trend in consolidation in the payments ecosystem. This acquisition allows NCR to couple stickier, feature-rich POS and payment acceptance applications with payment processing," said Rivka Gewirtz Little, Research Director, Worldwide Payment Strategies, IDC. "Additionally, both NCR and JetPay have provided services to the SMB market where retailers are likely to be open for the adoption of a unified POS and payments processing offering. This consolidated offering means maintaining simpler relationships with fewer vendors without compromising on features."

The transaction is anticipated to close by year-end, subject to regulatory approval and other customary closing conditions. The two companies anticipate a smooth transition for customers, channel partners and employees.

Two of JetPay's major stockholders, Flexpoint Ford, a private equity investment firm that specializes in the financial services and healthcare industries, and Larry Stone, a longstanding executive in the payment processing industry, have agreed to tender their shares in support of the transaction.

Financial Technology Partners LP and FTP Securities LLC acted as the financial and strategic advisor to the Special Committee of the Board of Directors of JetPay and Dechert LLP acted as legal advisors.

BofA Merrill Lynch acted as the financial and strategic advisor to the Board of Directors of NCR Corporation in connection with the transaction.

The Recommendation Statement Misleads JetPay Stockholders by Omitting Material Information

41. As noted previously, on November 2, 2018, the Company filed the Recommendation Statement with the SEC in support of the Tender Offer commenced by NCR. As alleged below and elsewhere herein, the Recommendation Statement contains material misrepresentations and omissions of fact that must be cured to allow JetPay stockholders to make an informed decision with regarding tendering their shares. Designed to convince shareholders to tender their shares, the Recommendation Statement is rendered misleading by the omission of critical information concerning: (i) the sales process leading up to the Proposed Transaction; (ii) JetPay's financial projections; (iii) the valuation analyses performed by FT Partners; and (iv) conflicts of interest involving FT Partners. This material information directly impacts the Company's expected future value as a standalone entity, and its omission renders the statements made materially misleading and, if disclosed, would significantly alter the total mix of information available to JetPay's stockholders.

Material Omissions Relating to the Sales Process

42. With regard to the omission of material information relating to the sale process leading up to the Proposed Transaction, the Recommendation Statement indicates that the Company entered into non-disclosure agreements with a number of potentially interested parties. Specifically, following the collapse of negotiations with Party A, the Recommendation Statement notes that JetPay entered into separate confidentiality agreements with NCR, Party B,

Party C, Party D, Party E, Party F, Party G, Party H, Party I, Party J, Party K, Party L, Party M, Party N, Party O, Party P, Party Q, Party R, Party S, Party T, Party U, and Party W in connection with discussions of a potential strategic transaction. However, the nature and extent of these agreements are not fully disclosed in the Recommendation Statement. Of particular importance to JetPay stockholders are details regarding the terms of these non-disclosure agreements, including whether they contain standstill and/or “don’t ask, don’t waive” (“DADW”) provisions that prohibit the any of these parties from making an unsolicited superior proposal to acquire JetPay.

43. Here, the complete absence of information regarding terms of the confidentiality agreements entered into by these entities is troubling. The Recommendation Statement notes that on August 4, 2018, NCR entered into a confidentiality agreement with the Company (the “NCR Confidentiality Agreement”). Recommendation Statement at 3. Under the NCR Confidentiality Agreement, NCR agreed to, among other things, (i) keep all non-public information concerning the Company confidential and to use such information solely for the purpose of evaluating a possible transaction with the Company. Furthermore, the Recommendation Statement also provides that the Parent Confidentiality Agreement contained certain customary “standstill” restrictions with respect to the Company for an eighteen-month period after the date of the Parent Confidentiality Agreement.

44. The presence of this language in the NCR Confidentiality Agreement indicates that some and/or all of the confidentiality agreements entered into between the interested entities and JetPay may have included standstill agreements. However, without further information concerning the presence of standstill provisions or DADW provisions, including whether those provisions had fallen away upon the execution of the Merger Agreement or were still in effect, JetPay stockholders are unable to properly evaluate the ability of these parties that earlier expressed interest in a potential strategic transaction to offer them a better deal. If the

confidentiality agreements contained standstill provisions or DADW provisions, then those bidders could only make a superior proposal by breaching the agreement, because in order to make the superior proposal, they would have to ask for a waiver, either directly or indirectly.

45. Thus, the omission of this information renders the descriptions of the confidentiality agreements that the Company entered into materially incomplete and misleading, as the failure to disclose the existence of standstill and DADW provisions creates the false impression that any of the parties who signed non-disclosure agreements could have made a superior proposal. Clearly, any reasonable JetPay shareholder would deem the fact that the most likely potential topping bidder in the marketplace may be precluded from making a superior offer as significant information. Furthermore, any references to these interested entities walking away from the bidding process at various points of the sale process are also misleading, as they give the impression that these entities are no longer interested in a potential transaction with JetPay when it is more likely that their inability to re-engage is the result of provisions and restrictions in the confidentiality agreements.

46. Accordingly, without further information regarding the terms of the confidentiality agreements, the Company's stockholders are being misled into assuming that these other entities, which were actively interested in acquiring the Company, and had already elected to submit a bid to acquire the Company, could make an offer to acquire the Company if they so choose – when they may be contractually precluded from doing so. It is therefore vital that JetPay stockholders are provided with the material information regarding the terms of the confidentiality agreements.

Potential Conflicts on the Part of FT Partners

47. With regard to the potential conflicts of interest faced by FT Partners, the Recommendation Statement fails to adequately disclose material information concerning the prior relationship between the financial advisor and NCR.

48. As a result of the central role played by investment banks in the evaluation, exploration, selection, and implementation of strategic alternatives, full disclosure of investment banker compensation and all potential conflicts is necessary for stockholders to have a materially complete sense of the conflicts of interests operating in the background. As noted on Page 30 of the Recommendation Statement:

FT Partners has not provided other financial advisory or financing services to the Company and its affiliates in the two-year period prior to the date of its opinion. FT Partners may seek to, in the future, provide financial advisory and financing services to the Company, Parent or entities that are affiliated with the Company or Parent and their respective affiliates, for which FT Partners would expect to receive compensation. In the ordinary course of business, FTP Securities, FT Partners and their affiliates may trade or hold securities of the Company or the Parent and/or their respective affiliates for FTP Securities' and FT Partners' own account and, accordingly, may at any time hold long or short positions in those securities.

49. This statement is materially misleading. A financial advisor's own proprietary financial interest in a transaction must be carefully considered when assessing how much credence to give its analyses and opinions. While the Recommendation Statement notes the past relationship between FT Partners and JetPay, the Recommendation Statement omits to disclose the past relationship between FT Partners and NCR. Here, reasonable shareholder would want to know what important economic motivations that the advisor, employed by a board to assess the fairness of the merger to the shareholders, might have. Accordingly, the Recommendation Statement must disclose whether FT Partners performed any work for NCR for which it received any fees. Without full disclosure of any past work done by FT Partners for NCR in the last two years, and any fees received for such work, stockholders may be materially misled as to FT Partners's potential conflicts of interest.

Material Omissions Concerning the Company's Financial Projections

50. With respect to JetPay's projected financial information, the Recommendation Statement omits material information pertaining to the financial projections, and the valuation analyses performed by the Board's financial advisor in connection with the Proposed Transaction.

51. As disclosed in the Recommendation Statement, in connection with its evaluation of the mergers, certain non-public projected financial data relating to the Company for the years 2018 through 2023 was prepared between February and May 2018 by or at the direction of, and approved for FT Partners' use by, management of the Company (the "Projections"). The Projections were provided to potential acquirors (including NCR), to the Special Committee and Board to assist the Board in its evaluation of the proposed Offer and the Merger, and to FT Partners who were authorized to rely upon the Projections in providing financial advice to the Special Committee in connection with the Offer and the Merger. However, the prospective financial information provided in the Recommendation Statement fails to disclose the company's unlevered free cash flow. Free cash flow is one of the most important metrics that a stockholder can use to ascertain the operating value of a company, and its use in a number of valuation analyses is central to valuing a company, especially in the context of a merger.

52. In detailing FT Partners' Discounted Cash Flow Analysis ("DCF") of JetPay, the Recommendation Statement notes that FT Partners "performed a discounted cash flow analysis of the Company by calculating the estimated present value of the unlevered free cash flows (see the section entitled "*Item 4.—The Solicitation or Recommendation—Certain Projections*") that

the Company had forecasted to generate for the period from December 31, 2018 through December 31, 2023 based on management's projections[.]” Recommendation Statement at 27. However, the unlevered free cash flows are not included in JetPay's Projections. Furthermore, despite FT Partners performing a DCF analyses using the Projections, the Recommendation Statement fails to disclose the actual cash flow projections that were calculated and used in the analysis.

53. Absent further disclosures, JetPay stockholders are being misled as to the Boards' decision to shield values for free cash flow, one of the most important metrics that a stockholder can use to ascertain the operating value of a company, from stockholders.

Material Omissions Concerning the Financial Analyses of JetPay

54. With respect North Point's financial analyses of the Proposed Transaction, the Recommendation Statement details the financial advisor's fairness opinion and the various valuation analyses performed to render such opinion, but omits to disclose necessary underlying data, support for conclusions, or the existence of, or basis for, underlying assumptions.

55. Specifically, with respect to FT Partners' *Selected Precedent Transactions Analysis*, the Recommendation Statement omits to disclose the individual multiples and financial metrics for each transaction observed by FT Partners in its analysis.

56. Furthermore, FT Partners' *Discounted Cash Flow Analysis* is missing several key components that FT Partners used in its analysis. Specifically, with respect to FT Partners' *Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclose: (i) the inputs and assumptions comprising FT Partners' multiples, which were derived based on certain precedent transactions and comparable public companies; (ii) the inputs and assumptions comprising FT Partners' analysis of JetPay's Weighted Average Cost of Capital (“WACC”) that

were used in the selection of discount rates of 15.0% to 21.0%; and (iii) the calculated unlevered free cash flows used by FT Partners in the analysis and all underlying line items. In light of the fact that the \$5.05 Merger Consideration is at the low end to the implied equity value per Common Share reference range that FT Partners calculated for the Company, this information is necessary so that JetPay stockholders can evaluate the work performed by FT Partners.

57. When a bankers' endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses are crucial to a fair presentation of the material facts. Furthermore, the disclosure of projected financial information provides stockholders with the best basis to project the future financial performance of a company, and allows stockholders to understand the financial analyses performed by the company's financial advisor in support of its fairness opinion. Here, the Projections, which had been disclosed to potential bidders in the sales process, were provided to shareholders but the Recommendation Statement omits to detail the cash flow projections that were actually used in the DCF analysis. This information is therefore material, and must be disclosed if JetPay stockholders are to make a fully informed decision. The omission of this information renders the statements made concerning the financial advisor's analyses and opinions materially misleading.

58. Without such undisclosed information, JetPay stockholders cannot evaluate for themselves whether the financial analyses performed by the financial advisor was based on reliable inputs and assumptions or whether they were prepared with an eye toward ensuring that a positive fairness opinion could be rendered in connection with the Proposed Transaction. In other words, full disclosure of the omissions identified above is required in order to ensure that stockholders can evaluate the extent to which North Point's opinions and analyses should factor into their decision whether to tender their shares or seek appraisal.

59. Based on the foregoing, the Recommendation Statement violates Section 14 of the Exchange Act and applicable SEC regulations by materially misleading JetPay stockholders. JetPay public shareholders lack critical information necessary to evaluate the Proposed Transaction. Moreover, without the key financial information and related disclosures, JetPay public shareholders cannot gauge the accuracy and reliability of the financial analyses performed by North Point, and whether they can reasonably rely on North Point's fairness opinion.

60. Without disclosure of the above referenced information, the Recommendation Statement violates SEC regulations and materially misleads JetPay stockholders. Accordingly, Plaintiff seeks, among other things, the following relief: (i) enjoinder of the Proposed Transaction; or (ii) rescission of the Proposed Transaction in the event that it is consummated and to recover damages resulting from Defendants' misconduct.

CLAIMS FOR RELIEF

COUNT I

Claims Against All Defendants for Violations of § 14(e) of the Securities Exchange Act of 1934

61. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

62. Section 14(e) of the Exchange Act provides that it is unlawful "for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading..." 15 U.S.C. § 78n(e).

63. As discussed above, JetPay filed and delivered the Recommendation Statement to its stockholders, which defendants knew or recklessly disregarded contained material omissions and misstatements as set forth above.

64. Defendants violated § 14(e) of the Exchange Act by issuing the Recommendation Statement in which they made untrue statements of material facts or failed to state all material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with the tender offer commenced in conjunction with the Proposed Transaction. Defendants knew or recklessly disregarded that the Recommendation Statement failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

65. The Recommendation Statement was prepared, reviewed and/or disseminated by defendants. It misrepresented and/or omitted material facts, in connection with the Merger as set forth above.

66. In so doing, defendants made untrue statements of material facts and omitted material facts necessary to make the statements that were made not misleading in violation of § 14(e) of the Exchange Act. By virtue of their positions within the Company and/or roles in the process and in the preparation of the Recommendation Statement, defendants were aware of this information and their obligation to disclose this information in the Recommendation Statement.

67. The omissions and incomplete and misleading statements in the Recommendation Statement are material in that a reasonable stockholder would consider them important in deciding whether to tender their shares or seek appraisal. In addition, a reasonable investor would view the information identified above which has been omitted from the Recommendation Statement as altering the "total mix" of information made available to stockholders.

68. Defendants knowingly or with deliberate recklessness omitted the material information identified above from the Recommendation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the Proposed Transaction, they allowed it to be omitted from the Recommendation Statement, rendering certain portions of the Recommendation Statement materially incomplete and therefore misleading.

69. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of their entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer.

COUNT II

Against the Individual Defendants for Violations of § 20(a) of the 1934 Act

70. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

71. The Individual Defendants acted as controlling persons of JetPay within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as officers and/or directors of JetPay and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Recommendation Statement, they 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 that plaintiff contends are false and misleading.

72. Each of the Individual Defendants was provided with or had unlimited access to copies of the Recommendation Statement alleged by Plaintiff 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 them to be corrected.

73. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Recommendation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly involved in the making of the Recommendation Statement.

74. By virtue of the foregoing, the Individual Defendants violated Section 20(a) of the 1934 Act.

75. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14 of the 1934 Act and Rule 14d-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act. As a direct and proximate result of defendants' conduct, Plaintiff is threatened with irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against defendants jointly and severally, as follows:

- (A) declaring that the Recommendation Statement is materially false or misleading;
- (B) enjoining, preliminarily and permanently, the Proposed Transaction;
- (C) in the event that the transaction is consummated before the entry of this Court's final judgment, rescinding it or awarding Plaintiff rescissory damages;
- (D) directing that Defendants account to Plaintiff for all damages caused by them and account for all profits and any special benefits obtained as a result of their breaches of their fiduciary duties.

(E) awarding Plaintiff the costs of this action, including a reasonable allowance for the fees and expenses of Plaintiff's attorneys and experts; and

(F) granting Plaintiff such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: November 12, 2018

O'KELLY ERNST & JOYCE, LLC

/s/ Ryan M. Ernst

Ryan M. Ernst (#4788) 901 N. Market St., Suite 1000
Wilmington, DE 19801
Telephone: (302) 778-4000
Facsimile: (302) 295-2873
Email: rernst@oelegal.com

OF COUNSEL:

LEVI & KORSINSKY LLP

Donald J. Enright
Elizabeth K. Tripodi 1101 30th Street, N.W., Suite 115
Washington, D.C. 20007
Telephone: (202) 524-4290
Facsimile: (202) 333-2121
Email: denright@zlk.com
etripodi@zlk.com

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ANTHONY FRANCHI, Individually and On
Behalf of All Others Similarly Situated,
Plaintiff,
v.
JETPAY CORPORATION, LAURENCE L.
STONE, DIANE FARO, DONALD J.
EDWARDS, ROBERT FRANKFURT,
STEVEN M. MICHIEZI, ROBERT
METZGER, NCR CORPORATION, and
ORWELL ACQUISITION CORPORATION,
Defendants.
Case No.
JURY TRIAL DEMANDED
CLASS ACTION

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, inter alia, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from a proposed transaction announced on October 22, 2018 (the "Proposed Transaction"), pursuant to which JetPay Corporation ("JetPay" or the "Company") will be acquired by NCR Corporation ("Parent") and Orwell Acquisition Corporation ("Merger Sub," and together with Parent, "NCR").

2. On October 19, 2018, JetPay's Board of Directors (the "Board" or "Individual Defendants") caused the Company to enter into an agreement and plan of merger (the "Merger Agreement") with NCR. Pursuant to the terms of the Merger Agreement, Merger Sub commenced a tender offer (the "Tender Offer") to acquire all of JetPay's outstanding common stock for \$5.05 per share in cash. The Tender Offer is set to expire on December 4, 2018.

3. On November 2, 2018, defendants filed a Solicitation/Recommendation Statement (the “Solicitation Statement”) with the United States Securities and Exchange Commission (“SEC”) in connection with the Proposed Transaction.

4. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(e), 14(d), and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Solicitation Statement.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(e), 14(d), and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391 because a substantial portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of JetPay common stock.

9. Defendant JetPay is a Delaware corporation and maintains its principal executive offices at 7450 Tilghman Street, Allentown, Pennsylvania 18106. JetPay’s common stock is traded on the NasdaqCM under the ticker symbol “JTPY.” JetPay is a party to the Merger Agreement.

10. Defendant Laurence L. Stone is Chairman of the Board of the Company.
11. Defendant Diane Faro is Chief Executive Officer (“CEO”) and a director of the Company.
12. Defendant Donald J. Edwards is a director of the Company.
13. Defendant Robert Frankfurt is a director of the Company.
14. Defendant Steven M. Michienzi is a director of the Company.
15. Defendant Robert Metzger is a director of the Company.
16. The defendants identified in paragraphs 10 through 15 are collectively referred to herein as the “Individual Defendants.”
17. Defendant Parent is a Maryland corporation and a party to the Merger Agreement.
18. Defendant Merger Sub is a Delaware corporation, a wholly-owned subsidiary of Parent, and a party to the Merger Agreement.

CLASS ACTION ALLEGATIONS

19. Plaintiff brings this action as a class action on behalf of himself and the other public stockholders of JetPay (the “Class”). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.
20. This action is properly maintainable as a class action.
21. The Class is so numerous that joinder of all members is impracticable. As of October 18, 2018, there were approximately 15,524,770 shares of JetPay common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

22. Questions of law and fact are common to the Class, including, among others, whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

23. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

24. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for defendants, or adjudications that would, as a practical matter, be dispositive of the interests of individual members of the Class who are not parties to the adjudications or would substantially impair or impede those non-party Class members' ability to protect their interests.

25. Defendants have acted, or refused to act, on grounds generally applicable to the Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on behalf of the Class is appropriate.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

26. JetPay is a leading provider of vertically integrated solutions for businesses including card acceptance, processing, payroll, payroll tax filing, human capital management services, and other financial transactions.

27. JetPay provides a single vendor solution for payment services, debit and credit card processing, ACH services, and payroll and human capital management needs for businesses throughout the United States.

28. The Company also offers low-cost payment choices for the employees of these businesses to replace costly alternatives.

29. The Company's vertically aligned services provide customers with convenience and increased revenues by lowering payments-related costs and by designing innovative, customized solutions for internet, mobile, and cloud-based payments.

30. On October 19, 2018, JetPay's Board caused the Company to enter into the Merger Agreement with NCR. Pursuant to the terms of the Merger Agreement, Merger Sub commenced the Tender Offer to acquire all of JetPay's outstanding common stock for \$5.05 per share in cash.

31. According to the press release announcing the Proposed Transaction:

NCR Corporation (NYSE: NCR) today announced a definitive agreement to acquire Allentown, Pa.-based JetPay (NASDAQ: JTPY), a provider of end-to-end payment processing and Human Capital Management solutions.

The transaction will be a cash tender offer of \$5.05 per JetPay share, which represents a multiple of 2.9 times 2018 consensus revenue forecast of \$63.4 million. The purchase price is approximately \$184 million and will be financed with a combination of cash on hand and existing capacity under NCR's revolving credit facility. The offer has been approved by each company's board of directors.

This acquisition will enable NCR to integrate a cloud-based payments platform into its enterprise point-of-sale (POS) solutions for retail and hospitality industries. It also accelerates NCR's strategy of increasing recurring revenue growth and expanding margins by enhancing its mix of software and services. . . .

The transaction is anticipated to close by year-end, subject to regulatory approval and other customary closing conditions. The two companies anticipate a smooth transition for customers, channel partners and employees.

Two of JetPay's major stockholders, Flexpoint Ford, a private equity investment firm that specializes in the financial services and healthcare industries, and Larry Stone, a longstanding executive in the payment processing industry, have agreed to tender their shares in support of the transaction.

The Solicitation Statement Omits Material Information, Rendering It False and Misleading

32. Defendants filed the Solicitation Statement with the SEC in connection with the Proposed Transaction.

33. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading.

34. The Solicitation Statement omits material information regarding the Company's financial projections and the analyses performed by the Company's financial advisor in connection with the Proposed Transaction, FTP Securities LLC ("FTP Securities").

35. With respect to the Company's financial projections, the Solicitation Statement fails to disclose: (i) unlevered free cash flows and all underlying line items; (ii) all line items used to calculate EBITDA; and (iii) a reconciliation of all non-GAAP to GAAP metrics.

36. With respect to FTP Securities' Discounted Cash Flow Analysis, the Solicitation Statement fails to disclose: (i) the unlevered free cash flows used by FTP Securities in the analysis and all underlying line items; (ii) the terminal values of the Company; and (iii) the net operating losses observed by FTP Securities in the analysis.

37. With respect to FTP Securities' Selected Precedent Transactions Analysis, the Solicitation Statement fails to disclose the individual multiples and financial metrics for the transactions observed by FTP Securities in the analysis.

38. With respect to FTP Securities' analysis of acquisition premiums, the Solicitation Statement fails to disclose the transactions observed by FTP Securities in the analysis as well as the premiums paid in such transactions.

39. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion. Moreover, when a banker's endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed.

40. Additionally, the Solicitation Statement fails to disclose whether the Company entered into any confidentiality agreements that contained standstill and/or "don't ask, don't waive" provisions that are or were preventing the counterparties from submitting superior offers to acquire the Company.

41. Without this information, stockholders may have the mistaken belief that, if these potentially interested parties wished to come forward with a superior offer, they are or were permitted to do so, when in fact they are or were contractually prohibited from doing so.

42. The omission of the above-referenced material information renders the Solicitation Statement false and misleading, including, *inter alia*, the following section of the Solicitation Statement: The Solicitation or Recommendation.

43. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company's stockholders.

COUNT I

(Claim for Violation of Section 14(e) of the 1934 Act Against Defendants)

44. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

45. Section 14(e) of the 1934 Act states, in relevant part, that:

It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

46. Defendants disseminated the misleading Solicitation Statement, which contained statements that, in violation of Section 14(e) of the 1934 Act, in light of the circumstances under which they were made, omitted to state material facts necessary to make the statements therein not misleading.

47. The Solicitation Statement was prepared, reviewed, and/or disseminated by defendants.

48. The Solicitation Statement misrepresented and/or omitted material facts in connection with the Proposed Transaction as set forth above.

49. By virtue of their positions within the Company and/or roles in the process and the preparation of the Solicitation Statement, defendants were aware of this information and their duty to disclose this information in the Solicitation Statement.

50. The omissions in the Solicitation Statement are material in that a reasonable shareholder will consider them important in deciding whether to tender their shares in connection with the Proposed Transaction. In addition, a reasonable investor will view a full and accurate disclosure as significantly altering the total mix of information made available.

51. Defendants knowingly or with deliberate recklessness omitted the material information identified above in the Solicitation Statement, causing statements therein to be materially incomplete and misleading.

52. By reason of the foregoing, defendants violated Section 14(e) of the 1934 Act.

53. Because of the false and misleading statements in the Solicitation Statement, plaintiff and the Class are threatened with irreparable harm.

54. Plaintiff and the Class have no adequate remedy at law.

COUNT II

(Claim for Violation of 14(d) of the 1934 Act Against Defendants)

55. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

56. Section 14(d)(4) of the 1934 Act states:

Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

57. Rule 14d-9(d) states, in relevant part:

Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

Item 8 requires that directors must “furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.”

58. The Solicitation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits the material facts set forth above, which renders the Solicitation Statement false and/or misleading.

59. Defendants knowingly or with deliberate recklessness omitted the material information set forth above, causing statements therein to be materially incomplete and misleading.

60. The omissions in the Solicitation Statement are material to plaintiff and the Class, and they will be deprived of their entitlement to make a fully informed decision with respect to the Proposed Transaction if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer.

61. Plaintiff and the Class have no adequate remedy at law.

COUNT III

**(Claim for Violation of Section 20(a) of the 1934 Act
Against the Individual Defendants and NCR)**

62. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

63. The Individual Defendants and NCR acted as controlling persons of JetPay within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as directors of JetPay and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they 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 that plaintiff contends are false and misleading.

64. Each of the Individual Defendants and NCR was provided with or had unlimited access to copies of the Solicitation Statement alleged by plaintiff 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 them to be corrected.

65. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Solicitation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly connected with and involved in the making of the Solicitation Statement.

66. NCR also had direct supervisory control over the composition of the Solicitation Statement and the information disclosed therein, as well as the information that was omitted and/or misrepresented in the Solicitation Statement.

67. By virtue of the foregoing, the Individual Defendants and NCR violated Section 20(a) of the 1934 Act.

68. As set forth above, the Individual Defendants and NCR had the ability to exercise control over and did control a person or persons who have each violated Section 14(e) of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act.

69. As a direct and proximate result of defendants' conduct, plaintiff and the Class are threatened with irreparable harm.

70. Plaintiff and the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

A. Enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;

C. Directing the Individual Defendants to file a Solicitation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

D. Declaring that defendants violated Sections 14(e), 14(d), and 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

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

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: November 13, 2018

RIGRODSKY & LONG, P.A.

OF COUNSEL:

RM LAW, P.C.

Richard A. Maniskas
1055 Westlakes Drive, Suite 300
Berwyn, PA 19312
Telephone: (484) 324-6800
Facsimile: (484) 631-1305
Email: rm@maniskas.com

By: /s/ Gina M. Serra

Brian D. Long (#4347)
Gina M. Serra (#5387)
300 Delaware Avenue, Suite 1220
Wilmington, DE 19801
Telephone: (302) 295-5310
Facsimile: (302) 654-7530
Email: bdl@rl-legal.com
Email: gms@rl-legal.com

Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS ANTHONY FRANCHI</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Gina M. Serra, RIGRODSKY & LONG, P.A. 300 Delaware Avenue, Suite 1220, Wilmington, DE 19801 (302) 295-5310</p>	<p>DEFENDANTS JETPAY CORPORATION, LAURENCE L. STONE, DIANE FARO, DONALD J. EDWARDS, ROBERT FRANKFURT, STEVEN M. MICHENZI, ROBERT METZGER, NCR CORPORATION, et al.</p> <p>County of Residence of First Listed Defendant <u>Lehigh County, PA</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td colspan="2">Citizen of This State</td> <td colspan="2">Incorporated or Principal Place of Business In This State</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td colspan="2">Citizen of Another State</td> <td colspan="2">Incorporated and Principal Place of Business In Another State</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td colspan="2">Citizen or Subject of a Foreign Country</td> <td colspan="2">Foreign Nation</td> </tr> </table>	PTF	DEF	PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of This State		Incorporated or Principal Place of Business In This State		<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen of Another State		Incorporated and Principal Place of Business In Another State		<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	Citizen or Subject of a Foreign Country		Foreign Nation	
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Citizen or Subject of a Foreign Country		Foreign Nation																											

[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act
			IMMIGRATION
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions
			PROPERTY RIGHTS
			<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
			SOCIAL SECURITY
			<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			OTHER STATUTES
			<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District (specify)
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §§ 78n(d), 78n(e), 78t(a), and 17 C.F.R. 240.14d-9

Brief description of cause:
Violation of Sections 14(e), 14(d), and 20(a) of the 1934 Act and Rule 14a-9

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE Unassigned DOCKET NUMBER 1:18-cv-01780

DATE 11/13/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Gina M. Serra

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Print

Save As...

Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment)”.
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an “X” in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date. Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

CERTIFICATION OF PLAINTIFF

I, Anthony Franchi (“Plaintiff”), hereby declare as to the claims asserted under the federal securities laws that:

1. Plaintiff has reviewed the complaint and authorizes its filing.
2. Plaintiff did not purchase the security that is the subject of this action at the direction of Plaintiff’s counsel or

in order to participate in any private action.

3. Plaintiff is willing to serve as a representative party on behalf of the class, either individually or as part of a group, and I will testify at deposition or trial, if necessary. I understand that this is not a claim form and that I do not need to execute this Certification to share in any recovery as a member of the class.

4. Plaintiff’s purchase and sale transactions in the JetPay Corporation (NasdaqCM: JTPY) security that is the subject of this action during the class period is/are as follows:

PURCHASES

Buy Date	Shares	Price per Share
6/21/18	55	\$2.10

SALES

Sell Date	Shares	Price per Share

Please list additional transactions on separate sheet of paper, if necessary.

5. Plaintiff has complete authority to bring a suit to recover for investment losses on behalf of purchasers of the subject securities described herein (including Plaintiff, any co-owners, any corporations or other entities, and/or any beneficial owners).

6. During the three years prior to the date of this Certification, Plaintiff has not moved to serve as a representative party for a class in an action filed under the federal securities laws.

7. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff'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.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of November, 2018.

/s/ Anthony Franchi
Anthony Franchi