



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ARON ENGLISH and RICHARD
PEPPE, Individually and on Behalf of
All Similarly Situated Individuals,

Plaintiff,

v.

CHARLES K. NARANG, PAUL A.
DILLAHAY, JAMES P. ALLEN,
PAUL V. LOMBARDI, CINDY E.
MORAN, AUSTIN J. YERKS,
DANIEL R. YOUNG, CLOUD
INTERMEDIATE HOLDINGS, LLC,
CLOUD MERGER SUB, INC., and
H.I.G. CAPITAL, LLC,

Defendants.

C.A. No.

VERIFIED CLASS ACTION COMPLAINT

Plaintiffs Aron English and Richard Peppe (“Plaintiffs”), by their attorneys, alleges the following on information and belief, except as to the allegations specifically pertaining to Plaintiffs, which are based on personal knowledge.

NATURE OF THE ACTION

1. Plaintiffs bring this class action on behalf of themselves and all other former public stockholders of NCI, Inc. (“NCI” or the “Company”) in connection with the sale of NCI to affiliates of H.I.G. Capital, LLC (“H.I.G.”) through an all-

cash tender offer and subsequent short-form merger worth \$20.00 per share, or a total of approximately \$283 million (the “Acquisition”).

2. The Agreement and Plan of Merger (the “Merger Agreement”) by and between NCI and H.I.G. affiliates Cloud Intermediate Holdings, LLC (“Parent”) and Cloud Merger Sub, Inc. (“Merger Sub,” and together with Parent and H.I.G., the “H.I.G. Defendants”) was executed on July 2, 2017. The Acquisition was announced on July 3, 2017, prior to the opening of trading on NASDAQ. The tender offer commenced on July 17, 2017 and expired on August 11, 2017. The Acquisition was completed on August 15, 2017.

3. As alleged herein, the members of NCI’s board of directors (the “Board” or the “Individual Defendants”) breached their fiduciary duties to the Company’s public stockholders in connection with the Acquisition.

4. Originally formed as NCI Information Systems, Inc. in 1989 and reincorporated in Delaware in 2005, NCI was a leading provider of enterprise solutions and services to U.S. defense, intelligence, health, and civilian government agencies.¹

5. Throughout its entire existence—from 1989 through the completion of the Acquisition—NCI or its predecessor was controlled by Defendant Charles K.

¹ Unless otherwise indicated, Plaintiffs’ allegations with respect to NCI are based on facts known at the time of the Acquisition.

Narang (“Narang”). Narang founded NCI and was its majority stockholder from the beginning, holding approximately 83.5% of NCI’s voting power at the time of the Acquisition. Moreover, Narang served as NCI’s CEO from the Company’s inception until just a short time before the Acquisition, and he served as Chairman of the Board from inception through the completion of the Acquisition.

6. In addition to Narang’s voting power and managerial authority, which gave him the ability to constitute a Board of his choosing, Narang wielded control over NCI in various ways. For instance, Narang steered NCI business to a family-owned enterprise, which received millions of dollars from the Company, and Narang also caused NCI to employ multiple family members for excessive salaries.

7. In 2015, Narang, then 73 years-old, decided it was time to retire. But first he had to deal with a huge problem. Because Narang’s NCI shares represented the vast majority of his net worth, he needed liquidity to secure a stable retirement and for prudent estate planning.

8. Narang could not simply sell his stock on the open market without accepting a huge blockage discount—he tried, but the market reacted negatively every time Narang publicized any sale of his NCI shares through the filing of a Form 4 with the U.S. Securities and Exchange Commission (the “SEC”). Therefore, Narang hatched a plan to secure maximum liquidity for himself to the detriment of Plaintiffs and all of NCI’s public stockholders.

9. On July 29, 2015, Narang announced that he would step down as CEO, effective as of October 1, 2015. Narang lieutenant Brian J. Clark (“Clark”), who had worked at NCI under Narang since 2011, would assume the role of CEO. However, Narang would retain his position as Chairman of the Board, and he would continue to exert control over the Company vis-à-vis his controlling stake in the Company. (For reasons that remain unclear, Clark resigned in late 2016 and was succeeded by Paul A. Dillahay (“Dillahay”).)

10. In January 2016, soon after relinquishing his role as CEO, Narang oversaw the Board’s decision to hire two financial advisors—Wells Fargo Securities, LLC (“Wells Fargo”) and Stifel, Nicolaus & Company, Incorporated (“Stifel”)—to pursue a sale of the Company. The resulting process was deficient and reflected Narang’s fixed desire for liquidity.

11. After Wells Fargo and Stifel conducted a cursory and unproductive outreach in the first half of 2016, merger talks intensified in early 2017 when two H.I.G. representatives contacted NCI CEO Dillahay to express interest in buying NCI. H.I.G. followed up shortly thereafter offering to buy the Company for \$18.00 per share.

12. Over the next few months, neither the Board nor its two conflicted advisors—which had both done business with H.I.G.—solicited any further indications of interest. A handful of potential buyers reached out to NCI on an

unsolicited basis, but any resulting discussions terminated for the most part due to reasons unrelated to price. For instance, one potential buyer faced potential regulatory issues due to one of its other portfolio companies. In another case, a potential buyer required more information than NCI was willing to provide in order to submit an informed bid to buy the Company.

13. By contrast, H.I.G. was given preferential treatment through an extended exclusivity period and special access to key NCI customers. Notably, H.I.G. had conveyed to NCI management its intention to retain the Company's key employees. Potential strategic buyers (and financial buyers, too) were likely unable to make the same commitment, so the scales were likely tilted in favor of H.I.G. from the outset. Dillahay and his team, in fact, remain with NCI as the Company propels to new heights.

14. The process was further marred by the Board's conscious ignorance concerning NCI's true value. Specifically, NCI had always enjoyed superior rates of recompute success compared to its peers, and in early 2017 the Company announced specific plans to target larger, more valuable business opportunities. The market responded positively, and NCI's stock increased from \$12.20 per share on April 5, 2017 to \$21.10 per share on June 30, 2017, the last trading day before the Acquisition was announced.

15. Despite NCI's continued growth and positive outlook, the Board was dead-set on selling the Company. The Board even authorized NCI management to discuss an Acquisition price before either Wells Fargo or Stifel had discussed any financial analyses (even preliminary ones) with the Board. Indeed, according to the Schedule 14D-9 Solicitation/Recommendation Statement (the "14D-9"), the Board received no briefing whatsoever on any financial analyses until just two days before the Board voted to approve the Merger Agreement, long after the Board had proposed and all but agreed to H.I.G.'s \$20.00 per share offer.

16. As a result of Defendants' conflicts of interest and the resulting deficient process, which included no special committee or any other attempt to safeguard the process from conflicts, the Board agreed to an Acquisition that offered NCI stockholders grossly inadequate consideration. The Company was worth considerably more than \$20.00 per share based on, among other things:

- a. NCI's common stock was trading at \$21.15 per share on the same day H.I.G. offered \$20.00 per share to acquire NCI, and the Company's management gave no contemporaneous indication that NCI stock was overvalued (despite asserting at other times in the Company's history that its stock was undervalued);
- b. The financial analyses performed by Wells Fargo and Stifel support a higher value for NCI's shares;

- c. NCI historically enjoyed superior recompetete success rates;
- d. The consideration does not account for the potential embodied by the Company's plan for growth announced in April of 2017; and
- e. Post-Acquisition statements indicated that NCI could triple its earnings and more than double EBITDA within just a few years.

17. The Board members compounded their breaches by agreeing to deal protection measures that, in light of the stunted sales process, were unduly restrictive. In particular, the Merger Agreement included a “no solicitation” provision, a “matching rights” provision, and a termination fee exceeding \$11 million, which forced any competing bidder to pay an unreasonable premium. Moreover, Defendants and their affiliates, including family members, controlled roughly half of the Company's shares which could be tendered, thus ensuring that no other bidder would top H.I.G.'s offer and overruling any public stockholder opposition to the Acquisition.

18. To induce stockholders to tender their shares, the Individual Defendants further breached their fiduciary duties by misrepresenting and omitting material information in the 14D-9 filed with the SEC” on July 17, 2017. As detailed herein, the 14D-9 deprived NCI stockholders of their inviolable right to make an informed decision about whether to tender their shares of the Company's common stock in the

Acquisition and whether to seek appraisal by misrepresenting or omitting material information concerning (i) NCI's financial projections, (ii) the process leading up to the Acquisition, and (iii) potential conflicts of interest.

19. The Acquisition is subject to, and fails under, the "entire fairness" standard due to Narang's control over the Company, conflicts of interest with respect to the Acquisition, the lack of any prophylactic measures to safeguard against controller abuse and protect the public stockholders' interest, and the inadequate Acquisition price that resulted.

20. For these reasons, and as set forth in detail herein, Plaintiffs seek to recover damages resulting from the defendants' breaches of their fiduciary duties.

JURISDICTION AND VENUE

21. The Court has jurisdiction over all parties to this action, and venue is proper in this Court. Plaintiffs have consented to the jurisdiction of the Court; NCI, H.I.G., Parent, and Merger Sub are Delaware entities; and the Individual Defendants are subject to the jurisdiction of this Court by virtue of being members of the Board.

PARTIES

22. Plaintiffs were owners of NCI common stock at all relevant times.

23. Defendant Narang founded NCI's predecessor and wholly owned subsidiary, NCI Information Systems, Inc., in 1989. Narang served as the Chairman of the Board of NCI, and he also served as NCI's CEO from the Company's

beginning until October 1, 2015. Narang continued to serve as the Chairman of the Board of NCI until the Acquisition was completed. As a result of the Acquisition, Narang was expected to receive more than \$92 million from the immediate receipt of cash from the sale of his illiquid shares of NCI stock. In addition, the Narang Family Trust, which was set up to benefit members of Narang's family, was expected to receive another \$29 million, bringing the Narang's combined return to \$121 million. In its 2017 Annual Proxy Statement (as well as all of NCI's prior annual proxy statements), the Company admitted that Narang was not independent.

24. Defendant Dillahay served as NCI's President and CEO and as a member of the Board from October 31, 2016 through the completion of the Acquisition. As a result of the Acquisition, Dillahay was scheduled to receive more than \$10 million in Acquisition-related payments, which include his lucrative "golden parachute" of more than \$6.5 million. In its final annual proxy before the Acquisition, NCI admitted that Dillahay was not independent.

25. Defendant James P. Allen ("Allen") served as a member of the Board from October 2004 through the completion of the Acquisition. As a result of the Acquisition, Defendant Allen was scheduled to receive approximately \$467,000 from cashing out his personal NCI equity holdings and approximately \$166,000 from the immediate vesting or acceleration of his equity awards.

26. Defendant Paul V. Lombardi (“Lombardi”) had been a director of NCI since October 2004. As a result of the Acquisition, Defendant Lombardi was scheduled to receive approximately \$80,000 from cashing out his personal NCI equity holdings and approximately \$526,000 from the immediate vesting or acceleration of his equity awards.

27. Defendant Cindy E. Moran (“Moran”) had been a director of NCI since June 2015. As a result of the Acquisition, Defendant Moran was scheduled to receive approximately \$6,700 from cashing out her personal NCI equity holdings and approximately \$125,000 from the immediate vesting or acceleration of her equity awards.

28. Defendant Austin J. Yerks (“Yerks”) had been a director of NCI since June 2013. As a result of the Acquisition, Defendant Yerks was scheduled to receive approximately \$287,000 from the immediate vesting or acceleration of his equity awards.

29. Defendant Daniel R. Young (“Young”) had been a director of NCI since January 2005. As a result of the Acquisition, Defendant Young was scheduled to receive \$360,000 from cashing out his personal NCI equity holdings and approximately \$526,000 from the immediate vesting or acceleration of his equity awards.

30. Defendant H.I.G. is a global private equity investment firm with \$24 billion of equity capital under management. H.I.G. is a Delaware limited liability company and is headquartered in Miami, FL, with its principal executive offices at 1450 Brickell Avenue, Miami, FL.

31. Defendant Parent is a Delaware limited liability company with its headquarter is located at 1001 Pennsylvania Avenue, NW, Washington, DC.

32. Defendant Merger Sub is a Delaware corporation and a wholly owned subsidiary of Parent.

33. Defendants Narang, Dillahay, Allen, Lombardi, Moran, Yerks, and Young are collectively referred to herein as the “Individual Defendants.” Defendants H.I.G., Parent, and Merger Sub are collectively referred to herein as the “H.I.G. Defendants.” The Individual Defendants and the H.I.G. Defendants are collectively referred to as “Defendants.”

CLASS ACTION ALLEGATIONS

34. Plaintiffs bring this action pursuant to Rule 23 of the Rules of the Court of Chancery, on behalf of themselves and all persons who owned shares of NCI common stock at any point in time from July 3, 2017 through August 15, 2017, excluding Defendants and their affiliates (the “Class”). This action is properly maintainable as a class action for the reasons set forth below.

35. The Class is so numerous that joinder of all members is impracticable. As of June 29, 2017, referred to in the Merger Agreement as the “Capitalization Date,” there were 10,033,534 shares of Class A NCI Common Stock issued and 9,116,817 shares of Class A NCI Common Stock outstanding.

36. There are questions of law and fact that are common to the Class, including:

- a. Whether the Individual Defendants breached their fiduciary duties in connection with the Acquisition;
- b. Whether the Individual Defendants adequately disclosed all material information concerning the Acquisition;
- c. Whether any of the Individual Defendants aided and abetted the Board’s breaches of their fiduciary duties; and
- d. Whether Plaintiffs and the other members of the Class sustained damages, and if so, what is the proper measure of damages.

37. Plaintiffs’ claims are typical of the claims of the other members of the Class, and Plaintiffs are not subject to any atypical claims or defenses.

38. Plaintiffs are committed to prosecuting this action, have no conflicts of interest, and have retained competent counsel experienced in litigation of this nature. Accordingly, Plaintiffs are adequate representatives of the Class and will fairly and adequately protect the interests of the Class.

39. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class, which would (i) establish incompatible standards of conduct for Defendants, or (ii) as a practical matter, be dispositive of the interests of the other members not party to the adjudications, substantially impairing or impeding their ability to protect their interests. Moreover, questions of law or fact common to class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

SUBSTANTIVE ALLEGATIONS

NCI's Formation

40. In 1989, Defendant Narang established NCI Information Systems, Inc., a Virginia corporation.

41. In 2005, as part of a plan to take the company public, NCI was incorporated in Delaware in July, and in September NCI acquired NCI Information Systems, Inc.

42. On October 24, 2015, NCI completed its initial public offering (the "IPO"). After NCI completed its IPO, Narang owned or controlled approximately 92.5% of the combined voting power and the equivalent of 56.8% of the outstanding shares of NCI's common stock (compared to owning 100% of the stock pre-IPO).

43. At all relevant times, including through the completion of the Acquisition, NCI maintained its principal executive offices at 11730 Plaza America Drive Reston, VA. NCI's common stock was traded on the NYSE under the ticker symbol "NCIT."

Overview of NCI's Business

44. NCI stated in public filings, including in its most recent Form 10-K, filed with the SEC on March 31, 2017 (the "2017 10-K"), that it was "a leading provider of enterprise solutions and services to U.S. defense, intelligence, health and civilian government agencies."

45. NCI further stated in the 2017 10-K:

We have the expertise and proven track record to solve our customers' most important and complex mission challenges through technology and innovation. Our team of highly skilled professionals focuses on delivering cost-effective solutions and services in the areas of agile development and lean software O&M; big data and data analytics; cybersecurity and information assurance; engineering and logistics; IT infrastructure optimization and service management; and health and program integrity. We are focused on reshaping the way services and solutions are delivered to our customers in order to proactively understand and meet their mission needs and enable them to rapidly adapt to dynamic environments.

46. According to the 2017 10-K, NCI's IT and professional services and solutions included the following "six core service offerings":

- a. Big Data and Data Analytics: Mission-oriented intelligence-to-operations initiatives that reduce time and turn data into actionable information.
- b. Cybersecurity and Information Assurance: Information assurance and cybersecurity initiatives that support business objectives, compliance requirements and risk management.
- c. Engineering and Logistics: Innovative engineering and logistics solutions enabling affordability, effectiveness and mission readiness anywhere in the world.
- d. IT Infrastructure Optimization and Service Management: Enterprise-class, bare-metal virtualization solutions focused on procuring capacity services and EaaS requirements in a fiscally-strained environment.
- e. Health and Program Integrity: Solutions that enable efficient information sharing, reduce paperwork collection and control efforts, and improve healthcare quality for our government customers.

47. According to the 2017 10-K, NCI's customers included a diverse base of Federal Government defense, intelligence, and civilian agencies. For the year ended December 31, 2016, approximately 57% of NCI's revenue was generated from DoD and Intelligence agency customers, and approximately 43% of the Company's revenue was generated from Federal civilian agency customers.

48. Indeed, "[s]ubstantially all of [NCI's] revenue was derived from contracts with the U.S. Federal Government, directly as a prime contractor or as a subcontractor."

49. Also in the 2017 10-K, the Company characterized its "significant long-term strategic initiatives" as including:

- a. achieving annual organic revenue growth by deploying internal resources and forming tactical and strategic relationships while better leveraging key differentiators across NCI;
- b. achieving annual revenue and EBITDA growth both organically and through targeted mergers and acquisitions;
- c. achieving disciplined and targeted growth in the federal market by enhancing our business development capabilities and past performance metrics;
- d. achieving long-term improvement in our operating income margin through solid contract execution, growth in higher-

margin business areas, and ongoing improvement in our infrastructure and related business processes; and

- e. disciplined deployment of our cash resources and use of our capital structure to enhance growth and shareholder value through acquisitions, internal growth initiatives, stock repurchases, dividends and other uses as conditions warrant.

50. NCI has demonstrated strong profitability, recording multimillion dollar net income for most of its history as a public company. Indeed, except for when it recorded a one-time goodwill impairment charge in 2012, NCI has posted a substantial profit every single year since it went public in 2005. Moreover, as alleged herein, NCI's future business prospects were quite promising, with revenue and profit likely to grow substantially in the coming years.

Defendant Narang Controlled NCI

51. From the very beginning, Narang has exercised complete domination and control over NCI's affairs through his share ownership and managerial power.

52. Narang controlled all of NCI's (and previously, NCI Information Systems, Inc.'s) stock through the IPO, and he controlled a supermajority of NCI's voting power for the entirety of NCI's public existence. Specifically, as of when the Acquisition was announced, Narang owned 117,659 shares, or 1.3%, of the

Company's Class A shares, and he owned 4.5 million, or 100%, of NCI's Class B shares.

53. Class A shares carry one vote per share, while Class B shares carry 10 votes per share. Class B shares are convertible on a one-for-one basis into Class A common stock.

54. Based on the foregoing, while Narang held approximately 34% of NCI's total number of shares of stock, Narang controlled 83.5% of the Company's total voting power, thus giving Narang absolute power over the constitution of the Board and, thus, all major and minor actions taken by or with respect to the Company.

55. As NCI itself acknowledged in its 2017 10-K:

Mr. Narang, our founder and Chairman, controls the Company, and his interests may not be aligned with yours.

As of December 31, 2016, Mr. Narang, our founder and Chairman, through his beneficial ownership of 4,500,000 shares of our Class B common stock and 117,659 shares of our Class A common stock, owned or controlled approximately 84% of the combined voting power and approximately 34% of the outstanding shares of the common stock. Accordingly, Mr. Narang controls the vote on all matters submitted to a vote of our stockholders. As long as Mr. Narang beneficially owns the majority of the voting power of our common stock, he will have the ability—without the consent of our public stockholders—to elect all members of our board of directors and to control our management and affairs. Mr. Narang's voting control may have the effect of preventing or discouraging transactions involving a change in control, including proxy contests, tender offers, mergers, or other purchases of the capital stock of the Company, regardless of whether a premium is offered over then-current market prices.

(Bold and italics in original.)

56. In addition to Narang's own substantial holdings, the Narang Family Trust, which upon information and belief was formed and maintained to benefit Narang's family members, controlled 1,412,000, or 15.6%, of the Company's Class A shares. Accordingly, while Narang did not have direct control over the shares owned by the Narang Family Trust, Narang very likely enjoyed some direct or indirect influence over the actions of the Narang Family Trust with respect to NCI.

57. Narang also exerted managerial control over NCI. He served as the Company's Chairman from inception through the completion of the Acquisition, and he served as NCI's CEO from inception until shortly before the Acquisition.

58. Narang's dominion over NCI is also evidenced by his ability and tendency to steer business towards his family members.

59. For example, NCI's annual proxy disclosures show that Narang directed business and paid millions of dollars to Renegade Technologies, Inc. ("Renegade"), a government contractor that is wholly owned by Rajiv Narang, Defendant Narang's son. Notably, Renegade was formerly known as Net Commerce Corporation, which Defendant Narang himself owned before NCI went public. Indeed, Narang's control of NCI and ownership of Net Commerce Corporation placed Narang on both sides of transactions involving NCI and Net Commerce

Corporation, but he transferred control of the company to his son effective April 1, 2014 as part of his plan to take NCI public.

60. Over the years, NCI disclosed that it paid nearly \$9 million to Renegade, as summarized below:

Payment to Renegade Technologies, Inc. (formerly known as Net Commerce Corporation)	
2005	\$1,100,000
2006	\$281,000
2007	\$88,000
2008	\$552,000
2009	\$546,000
2010	\$922,000
2011	\$765,000
2012	\$900,000
2013	\$700,000
2014	\$1,100,000
2015	\$700,000
2016	\$1,100,000
Total:	\$8,754,000

61. The trend of increasing payments to Renegade underscores the Board's growing unwillingness or inability to fulfill their fiduciary duties and safeguard against Narang's conflicts of interest.²

62. Narang also wielded his influence over NCI and the Board to hire his relatives for various positions at the Company. Between 2006 and 2016, an undisclosed number of Narang's relatives were each paid annual compensation of

² The fact that NCI made payments totaling \$1.1 million in 2005 is not inconsistent with Narang's increasing influence over the directors because NCI only became a public company at the end of October 2005.

up to \$120,000. Specifically, the 2017 Proxy Statement stated, “In addition, certain other relatives of Charles K. Narang work for us. In all these cases, the amount of annual compensation paid to each such family member for fiscal year 2016 was less than \$120,000.”

Narang Decides to Liquidate His Holdings

63. In 2015, when he was approximately 73 years-old, Narang decided to wind down his day-to-day involvement in NCI and step down from his role as the CEO. Nevertheless, Narang retained his shares and his position as the Chairman of the Board and persisted in asserting power and control for a period of time.³

64. Prior to the Acquisition, nearly all of Narang’s wealth derived from his equity interest in NCI. He had no other discernible significant business interests, and Plaintiff’s counsel’s public records searches did not reveal any extensive real estate holdings. In short, Narang’s net worth was extremely concentrated in NCI stock.

65. Because of Narang’s control over a substantial portion of the Company’s stock, as well as NCI’s status as a small-cap company, Narang’s holdings were largely illiquid.

³ Even after Narang stepped down as the CEO, Narang’s relatives continued their employment at NCI, and NCI continued to direct business and payment to Renegade.

66. In accordance with a prudent approach to retirement, Narang needed to secure and diversify his assets.

67. As a general matter, although retirement planning professionals may recommend a range of asset allocations for retirees, even the most aggressive strategies vehemently discourage allocating virtually all of one's wealth into a small-cap company that even described its own stock as "volatile."

68. As NCI stated in the 2017 10-K:

The stock market in general has been highly volatile. As a result, the market price of our Class A common stock is likely to be similarly volatile, and investors in our Class A common stock may experience a decrease in the value of their stock, including decreases unrelated to our operating performance or prospects. The price of our Class A common stock could be subject to wide fluctuations in response to a number of factors, including those listed in this "Risk Factors" section.

69. Moreover, based on the occasionally inconsistent performance of NCI's stock price during the years leading up to the Acquisition, it would have been unsuitable for Narang to have left the bulk of his net worth tied up in NCI stock.

70. As longtime NCI Chairman and CEO, Narang was acutely aware of the long-term behavior of the Company's stock price.

71. In addition to the wealth management considerations (*i.e.*, Narang not putting his entire nest egg in the NCI basket), numerous tax and estate planning considerations also required Narang to seek liquidity for his shares of NCI, including but not limited to creating liquidity to satisfy any potential tax burden while also

trying to avoid the blockage discount that would inevitably apply if Narang's shares had to be sold expediently.⁴

72. Had Narang attempted to sell all of his shares on the open market at once, or even over a period of months, he would have incurred a massive blockage discount—perhaps as high as 45%—and would have sacrificed tens of millions of dollars off even the pre-Acquisition stock price.

73. In fact, NCI and Narang recognized through the years that his stake was effectively illiquid. NCI's 2017 10-K, as well as the Form 10-K filed with the SEC for dating back at least to 2010, expressly acknowledged: "The market price of our common stock could drop significantly if Mr. Narang sells his interests in the Company or is perceived by the market as intending to sell them."

74. Despite this admonition, Narang did, in fact, attempt to sell some of his shares on the open market beginning in late 2015.⁵ Of note, prior to 2015, Narang had not sold any NCI shares since April of 2009.

⁴ Plaintiffs are mindful of the sensitive nature of planning for various scenarios. Nonetheless, the desire to avoid a huge financial pitfall can provide tremendous motivation to do (or refrain from doing) something.

⁵ Plaintiffs surmise this was through a 10b5-1 trading plan set up in or around 2015 with a sell limit of \$15.00 per share, but these facts can be confirmed during discovery.

75. However, as NCI's numerous annual reports foretold, the market generally reacted negatively to Narang's stock sales, as well as to news that Narang was selling Company shares derived from Narang's filing of a Form 4 with the SEC.

76. Realizing that selling his equity interest in NCI in the open market would mean that he had to sell at a deep discount, Narang's only viable path to liquidity was to seek a cash acquisition of NCI that would provide himself with much needed liquidity. Accordingly, as discussed below, Narang leveraged his power to orchestrate a sale of the Company through a process that began in mid-2015.

Narang and the Board Oversaw a Deficient Process to Sell the Company

77. In the July 29, 2015 press release announcing Narang's decision to step down as CEO, incoming CEO Clark stated:

We remain confident in NCI's future prospects and we have the capital, liquidity and the right team in place to execute our existing business plan.

At the same time, we also intend to explore new strategic avenues for the company that could accelerate the realization of value for our stockholders as we await the award of meaningful new business opportunities. These include acquisitions and other options. We expect to update everyone on our progress when appropriate.

78. What followed was an inadequate process that catered to the interests of Narang as well as NCI's remaining directors and officers, who stood to gain immensely from the Acquisition.

79. Effective October 1, 2015, Narang stepped down as the Company's CEO, and Clark took his place. At that stage, Clark was already a longtime ally of Narang. Specifically, Clark had been president of NCI since January 2012 and was elected to NCI's Board in February 2012. From April 2011 until December 2011, he served as executive vice president, chief financial officer, and treasurer. Moreover, Clark stood to gain over \$3 million from the sale of the Company from the vesting and acceleration of equity awards and cash severance entitlement. As such, Clark was financially aligned with Narang in wanting to sell NCI.

80. In late 2015, almost immediately after Narang transitioned out of (and Clark transitioned into) the role as NCI's CEO, the Narang-led Board began the process of retaining financial advisors to steer the Company toward a sale. To that end, upon information and belief, Narang or the Board engaged in conversations with Wells Fargo and Stifel in late 2015.

81. On January 16, 2016, the Narang-led Board caused the Company to engage both Wells Fargo and Stifel to begin the process of trying to sell NCI.

82. The 14D-9 states that the Board decided at that juncture to pursue a sale "in light of significant consolidation in the government services industry," but this is contrary to both the aforementioned allegations regarding Narang's interest in selling the Company as well as NCI's own public statements about its competitive positioning and prospects for growth, as alleged herein.

83. In the first half of 2016, Wells Fargo and Stifel contacted various potential buyers to gauge their interest in acquiring the Company. Only one party—referred to in the 14D-9 as “Party A,” a private equity firm—emerged as a serious bidder, but Party A subsequently withdrew from the process after conducting due diligence because of regulatory concerns related to another company in its investment portfolio.

84. On October 16, 2016, NCI unexpectedly announced that Clark, who had served as the Company’s CEO for barely a year, was resigning purportedly “to pursue other opportunities” This appears to be mere pretext, however, as Clark does not seem to have pursued any other opportunities. His LinkedIn profile, <https://www.linkedin.com/in/brian-clark-2285912> (last visited Mar. 3, 2018), still lists his position as Chief Executive Officer & President at NCI, Inc.

85. In the press release announcing the CEO transition, Narang said, “I look forward to working with Paul,” which reflected a shared view of NCI’s future.

86. In November 2016 and January 2017, representatives of NCI received unsolicited communications from H.I.G., which expressed interest in meeting with Dillahay to discuss a potential business relationship.

87. Knowing that H.I.G. and its affiliates have a history of retaining existing management after acquisitions,⁶ NCI's management was particularly interested in selling NCI to H.I.G. to continue receiving lucrative compensation through their employment in the new entity.

88. On January 23, 2017, NCI announced that it had commenced an internal investigation upon discovering that its former controller, Jon Frank, had embezzled nearly \$20 million from the Company from January 2010 through January 2017. NCI stated that it believed that Mr. Frank acted alone and found no evidence that any other NCI employee was aware of or colluded in the embezzlement of Company funds, and it found no evidence of any unlawful activity apart from that associated with Mr. Frank's embezzlement.

89. On February 22, 2017, H.I.G. reinitiated contact with NCI as H.I.G.'s Charles Mills and Jeff Kelly contacted Dillahay to discuss NCI's business operations and to express that H.I.G. wanted to buy NCI. The 14D-9 fails to disclose whether, and the extent to which, Dillahay engaged in discussions with H.I.G.'s representatives concerning post-close employment opportunities at this juncture.

⁶ H.I.G. routinely retained management in connection with acquisitions, including with the recent acquisitions of Vantage Specialty Chemicals, Wastequip, and TRAKAmerica, to name just a few.

90. There is no indication from the 14D-9 or any other public filing that Dillahay apprised the Board of H.I.G.'s outreach.

91. On March 8, 2017, H.I.G.'s Mills and Kelly again contacted Dillahay, this time to convey H.I.G.'s initial proposal to acquire NCI for \$18.00 per share. The 14D-9 fails to disclose whether, and the extent to which, Dillahay engaged in discussions with H.I.G.'s representatives concerning post-close employment opportunities at this juncture.

92. On March 10, 2017, NCI received an indication of interest in buying the Company from a private equity firm referred to in the 14D-9 as "Party C" worth \$19.00 per share. The 14D-9 implies that Party C submitted its indication of interest prior to engaging in any discussions with NCI management and before conducting any due diligence.

93. That same day, although the 14D-9 is unclear on whether any actual meeting took place, the Board apparently instructed Dillahay to contact H.I.G. to advise H.I.G. of the existence of another buyer (*i.e.*, Party C) and to instruct H.I.G. to increase its offer to \$20 per share. The Board appears to have countered H.I.G.'s previous proposal without formally meeting, without consulting either Stifel or Wells Fargo, and without undertaking any financial analyses concerning whether \$20.00 per share reflected a fair price for NCI's shares. Indeed, the uninformed

nature of the Board's instruction to Dillahay reflected Narang's unfettered desire to sell the Company.

94. Three days later, on March 13, 2017, H.I.G.'s Mills and Kelly contacted Dillahay by telephone to advise him that H.I.G. would be willing to increase its offer to between \$19.00 per share and \$21.00 per share. On March 15, 2017, H.I.G. memorialized this proposal in a letter to Dillahay. The 14D-9 fails to disclose whether, and the extent to which, Dillahay engaged in discussions with H.I.G.'s representatives concerning post-close employment opportunities at this juncture.

95. On March 16, 2017, Party C submitted a revised non-binding indication of interest in which it proposed to acquire NCI for \$20.00 per share.

96. On March 17, 2017, the Board met, with Wells Fargo and Stifel attending, to discuss the status of discussions with H.I.G. and Party C. Despite Dillahay having already conveyed to H.I.G. that it would need to offer \$20 per share, neither Stifel nor Wells Fargo presented any financial analyses concerning either the (in)adequacy of H.I.G.'s and Party C's respective proposals or what a fair price for NCI would be.

97. Between March 23, 2017 and March 31, 2017, Dillahay had discussions with the founder of Party C about NCI's potentially acquiring an entity separately controlled by Party C's founder (the "Party C Founder Affiliate") in a mixed cash and stock transaction.

98. But at a meeting held on March 29, 2017, the Board vetoed acquiring the Party C Founder Affiliate based on financial concerns despite the fact that neither Stifel nor Wells Fargo attended the Board meeting and, thus, could not have provided the Board any financial advice. Notably, this Party C Founder Affiliate transaction would have been inconsistent with Narang's desire to liquidate his holdings.

NCI Announces a Strategic Growth Plan

99. On April 5, 2017, NCI announced its earnings for the full year and fourth quarter ended December 31, 2016. During a conference call to discuss the Company's results, Dillahay discussed a strategic growth plan during his first investor conference call, also held on April 5, 2017.

100. The strategic turnaround plan focused on three issues: (1) ensuring that NCI's personnel are well-equipped and suited to execute NCI's service-oriented business; (2) increasing operational performance to improve margins; and (3) overhaul the business pipeline to focus on larger, more profitable opportunities.

Dillahay elaborated on the growth plan's three components, as follows:

- a. ***People***: "Since we are a services business, it's essentially important for us to invest in our people, providing highly skilled, motivated and passionate employees committed to our customers' mission is key to our success. We are in the process of recalibrating our corporate culture to reward our highest performing team members and give them the tools they need to do even better."

- b. **Performance:** “I am implementing plans to drive operational excellence into our programs and back office, focused on agility and continuous improvement which will enhance contract performance and improve our future margins. Additionally, as we improve our BD process to differentiate our offerings, we will be able to use levers other than price to win new work.”

- c. **Pipeline:** “When I reviewed our recent organic growth rate challenges, it was clear our pipeline was insufficiently mature to achieve sustained profitable growth. . . . Our prioritized pipeline now has fewer but larger and more complex opportunities. For example, in 2016, NCI bid roughly 90 contracts valued at approximately \$1 billion. In 2017, we plan to pursue close to 70 opportunities valued at approximately \$1.7 billion. These metrics represent a sea change for NCI, and we expect to see meaningful results within 12 to 18 months. . . . In addition to larger opportunities, the pipeline is now aligned with key elements of our strategy that focus on bids that incorporate NCI’s capabilities on an enterprise-wide basis as opposed to a siloed set of capabilities. And it expands our footprint with existing customers”

101. Dillahay explained:

Our prioritized pipeline now has fewer but larger and more complex opportunities. For example, in 2016, NCI bid roughly 90 contracts valued at approximately \$1 billion. In 2017, we plan to pursue close to 70 opportunities valued at approximately \$1.7 billion. These metrics represent a sea change for NCI, and we expect to see meaningful results within 12 to 18 months.

102. NCI’s stock price immediately jumped (and continued to increase through the announcement of the Acquisition).

Defendants Conclude the Process at a Discount to NCI's Trading Price

103. Meanwhile, despite NCI's recent announcement and the positive response from the stock market, Defendants continued with their plan to sell the Company.

104. On the morning of April 19, 2017, Dillahay received a call from a representative of Party A, the private equity firm that had held discussions regarding a potential acquisition of NCI the previous year. Later that same day, Party A submitted an indication of interest to acquire NCI for \$20.00 per share in cash.

105. Also on April 19, 2017, NCI received an updated offer from H.I.G. worth \$19.00 per share in cash, and a proposal from Party C to acquire NCI for \$20.00 per share in cash and requesting exclusivity.

106. On April 20, 2017, the Board held a meeting that was attended by members of NCI management as well as by Wells Fargo and Stifel. According to the 14D-9, however, despite previously signaling to H.I.G. that the Board would accept \$20.00 per share, Wells Fargo and Stifel did not discuss any financial analyses concerning either the (in)adequacy of H.I.G., Party A's, and Party C's respective proposals or what a fair price for NCI would be.

107. On April 24, 2017, Dillahay and NCI's chief financial officer had a dinner meeting with representatives of a leading provider of IT services to the U.S. Government ("Party E"). Upon information and belief, Dillahay told Party E that it

would need to move quickly if it wanted to buy NCI. The very next day, Party E hastily submitted a non-binding indication of interest with a price range between \$18.00 and \$20.00 per share.

108. During this period—March and April of 2017—NCI also received inquiries from other potential buyers, but in each case they were shut out of the process.

109. With respect to a private equity firm referred to in the 14D-9 as “Party B,” talks broke down because NCI was a potential competitor with a government contracting company in which Party B held a minority interest (the “Party B Affiliate”).

110. With respect to an engineering services firm referred to as “Party D,” Dillahay simultaneously represented that NCI was not for sale but also commanded Party D to move quickly if it wanted to submit a proposal. Party D submitted a proposal that valued NCI at a valuation range of \$200 million to \$235 million. The 14D-9 is silent, however, on whether that represented equity or enterprise value, as well as whether Party D contemplated acquiring NCI for cash, stock, or mixed consideration. If stock was a major component of Party D’s offer, that would have precluded Narang from cashing out.

111. On May 10, 2017 and May 11, 2017, NCI management hosted presentations for representatives of H.I.G., Party A, Party C, and Party E. Shortly

thereafter, H.I.G. increased its bid to \$20.00 per share, while the remaining parties withdrew from the process.

112. Party A, a potential financial buyer, stated that it was concerned about risk associated with the recompetete process. NCI did not, however, invite Party A to hold talks with any of the Company's customers to get more comfortable with NCI's recompetete positioning.

113. Party C, another potential financial buyer, stated that it was concerned about risk associated with the recompetete process and over uncertainty about the timing of implementation of the Company's strategic turnaround plan. NCI did not, however, invite Party C to hold talks with any of the Company's customers to get more comfortable with NCI's recompetete positioning.

114. Party E, the potential strategic buyer, stated that its calculation of synergies was lower than previously expected and that it could not bid on NCI without receiving more information about NCI's business. NCI declined to provide any further information about its business to enable Party E to continue on in the process.

115. Meanwhile, H.I.G. expressed similar concerns, but NCI dealt with its preferred bidder in a very different manner. In particular, H.I.G. requested exclusivity, including multiple extensions, and the Board freely complied. H.I.G.

also requested special access to sensitive information pertaining to NCI's business, and the Board freely granted that as well.

116. Specifically, on May 27, 2017, NCI granted H.I.G. exclusivity through June 13, 2017. In connection with the exclusivity agreement, NCI agreed to pay H.I.G.'s expenses if NCI pursued an alternative transaction. This is particularly egregious given that neither Stifel nor Wells Fargo had presented any financial analyses—at least based on a strict reading of the 14D-9—concerning the adequacy of H.I.G.'s offer of \$20.00 per share.

117. On June 13, 2017, because H.I.G. had not completed its due diligence, the Board agreed to extend the exclusivity period from June 13, 2017 to June 18, 2017. The fact that the Individual Defendants allowed H.I.G. to extend the exclusivity period to June 18, 2017—without any additional consideration—supports that the Individual Defendants already considered H.I.G.'s offer as a “done deal.”

118. H.I.G.'s exclusivity formally expired on June 18, 2017, but the Board continued to grant *de facto* exclusivity by declining to contact any potential buyers despite no longer facing any financial penalty for doing so.

119. Moreover, regarding special access, H.I.G. asked to speak directly with some of NCI's customers, without any representative from NCI participating on the calls. This unbridled access gave H.I.G. a decisive informational advantage over any

other potential buyer, and it also threatened NCI's standing with key customers in the event that the Company did not agree to a deal with H.I.G. Indeed, H.I.G. has subsequently taken additional steps to move into the governmental contracting space, and it could have benefited from the access it was granted to NCI's important customers.

120. During the formal and *de facto* exclusivity period, NCI's stock continued to rise, and the Board even acknowledged that H.I.G.'s offer fell short of the Company's public stock price. H.I.G., however, knew that it had no competitive threat once exclusivity was granted, so it declined to increase its bid and the Board capitulated.

121. On June 26, 2017, H.I.G. notified NCI that it was prepared to move forward to acquire NCI at \$20.00 per share despite the fact that the NCI's shares were trading at \$21.15 on the same day and would represent acquiring NCI at a discount. The Board, thus, knowingly accepted selling the Company at a discount to NCI's then current trading price.

122. The Board, NCI management, H.I.G., Stifel, and Wells Fargo spent the next few days cementing a deal.

123. On June 26, 2017, a representative of Wells Fargo contacted a representative of H.I.G. to inform it that NCI was proposing transaction and retention bonuses for certain key employees in the aggregate amount of

approximately \$1.75 million. Suspiciously, the 14D-9 makes no mention whatsoever of any prior Board meeting where this was raised, much less discussed or approved.

124. On June 27, 2017, the NCI Board met to discuss the Acquisition. For the first time during the entire process that began in mid-2015, apparently, Wells Fargo and Stifel presented a summary of preliminary financial analyses concerning the consideration being offered by H.I.G.

125. The 14D-9 contains no information about any Board discussion regarding the aforementioned “transaction and retention bonuses.” Nonetheless, at odds with the 14D-9’s description of the Board’s June 27 meeting, Wells Fargo, purportedly “at the request of the Board,” contacted a representative of H.I.G. to inform it that the aggregate amount of the proposed transaction and retention bonuses would be \$1.25 million, which amount included transaction bonuses for each of Dillahay, Lucas J. Narel (“Narel”), and Michele R. Cappello (“Cappello”) in the amounts of \$300,000, \$100,000, and \$100,000, respectively.

126. On June 28, 2017, NCI’s non-employee Board members (*i.e.*, everyone but Dillahay) met in executive session and approved an additional per meeting fee for directors of \$3,500 to compensate themselves for having to spend some time to sell the Company.

127. On June 29, 2017, the NCI Board met to consider the approval of the merger agreement and the transactions contemplated thereby. At that meeting, Wells Fargo and Stifel discussed financial analyses they had performed concerning the supposed fairness of the \$20.00 per share being offered by H.I.G.

128. Despite the fact that the H.I.G.'s June 26, 2017 offer was lower than the trading price of NCI's shares, Wells Fargo and Stifel rendered their respective paid-for fairness opinions on H.I.G.'s below-market \$20.00 per share offer. Before concluding the meeting, the Board voted to enter into the Merger Agreement.

129. On July 2, 2017, NCI and H.I.G. affiliates Parent and Merger Sub executed the Merger Agreement.

Summary of the Acquisition

130. On July 3, 2017, prior to the opening of trading on NASDAQ, NCI issued a press release announcing the execution of the merger agreement under which H.I.G., through Parent and Merger Sub, would acquire all of the outstanding shares of NCI's common stock for \$20.00 per share through an all-cash tender offer. In total, the Acquisition was worth approximately \$283 million to NCI stockholders.

131. The financing for the Acquisition came from KKR Credit Advisors (US) LLC, which would cover up to 70% of the total cost of the Acquisition.

132. Wells Fargo and Stifel acted as NCI's financial advisors.

133. The tender offer commenced on July 17, 2017 and expired on August 11, 2017. The Acquisition was completed on August 15, 2017.

The Acquisition Resulted from Extensive Conflicts of Interest

134. The Acquisition was plagued by numerous conflicts of interest, including (i) Narang's aforementioned desire for liquidity, (ii) NCI management's interest in post-close arrangements, (iii) the directors' and officers' interests in lump-sum Acquisition-related payments, and (iv) lucrative arrangements for the Company's two financial advisors.

135. Narang faced a liquidity issue as most of his assets were tied up as equity interest in NCI. Narang, knowing that selling his equity interest for his need of cash in the open market means that he will sell at a discount, wielded his control over NCI and the Board to sell NCI.

136. Despite being the Chairman of the Board and obliged to abide by his fiduciary duties to all shareholders of NCI, Narang abused his control over NCI and the Board to put his interest above all else to cash out his illiquid positions at the public stockholders' expense.

137. The Individual Defendants, who have demonstrated their willingness to accommodate Narang's desires over the years (*see supra*, at ¶¶ 58-62), acquiesced again to provide Narang with much needed liquidity for his shares of NCI stock.

138. NCI management was also conflicted because they knew that H.I.G. has demonstrated through its previous acquisitions that it routinely keeps management in place to facilitate the execution of the in-place business plan. H.I.G. conveyed that it intended to retain Dillahay and the rest of his management team to carry out the Company's long-term plan once the Acquisition was completed.

139. However, despite the potential conflicts of interest affecting both Narang and Dillahay, the Board apparently had no discussions—and certainly took no action—about establishing a special committee to guard against deleterious self-interest.

140. NCI's officers and directors were also incentivized to pursue a deal because they were to receive a total of over \$122,063,040 million in special benefits—not available to ordinary stockholders—for cashing out massively illiquid positions, from special Acquisition-related bonuses, golden parachute packages, and equity awards that will be fully vested and cashed out in connection with the Acquisition.

141. The below chart details the breakdown of what the directors would have received from the Acquisition:

	ACQUISITION-RELATED PAYMENTS						2016 AMT.
	From Shares Held	Stock Options	Restricted Stock	Golden Parachute	Special Bonuses	Total Per Director	
Charles K. Narang	\$92,353,180	—	—	—	\$3,500	\$92,356,680	\$142,200
James P. Allen	\$466,640	\$166,034	—	—	\$3,500	\$636,174	\$135,200
Paul V. Lombardi	\$80,000	\$526,150	—	—	\$3,500	\$609,650	\$108,700
Cindy E. Moran	\$6,700	\$125,350	—	—	\$3,500	\$135,550	\$324,500
Austin J. Yerks	—	\$286,750	—	—	\$3,500	\$290,250	\$114,700
Daniel R. Young	\$360,000	\$526,150	—	—	\$3,500	\$889,650	\$181,200
Paul A. Dillahay	\$425,060	\$2,187,500	\$1,333,340	\$6,510,902	\$300,000	\$10,756,802	\$493,686 ⁷
Michele R. Cappello	\$69,540	\$1,606,950	\$800,000	\$4,325,400	\$100,000	\$6,901,890	\$527,013
Lucas J. Narel	\$454,620	\$2,959,500	\$800,000	\$5,172,274	\$100,000	\$9,486,394	\$479,424
TOTAL	\$94,215,740	\$8,384,384	\$2,933,340	\$16,008,576	\$521,000	\$122,063,040	\$2,012,937

142. In addition, the Board retained financial advisors, Wells Fargo and Stifel, that were incapable of rendering an impartial opinion on the Acquisition because of their own conflicts of interest, including relationships H.I.G.

143. Wells Fargo and Stifel were incentivized by the terms of their respective engagements to advise the Board that the Acquisition was fair to the

⁷ This reflects Dillahay's 2016 compensation, excluding equity awards that would not have vested or become freely alienable for years. Dillahay's salary is \$500,000. Including equity awards, Dillahay's total compensation for 2016 was \$2,788,686.

common stockholders. Specifically, in exchange for serving as the Board's financial advisor and rendering a fairness opinion, Wells Fargo stood to receive \$500,000 simply for issuing a fairness opinion, but it was to earn an additional \$2.25 million if the Acquisition was completed. Similarly, Stifel was entitled to \$375,000 based on its issuance of a fairness opinion, and it were to receive approximately \$1.7 million more upon completion of the Acquisition.

144. Furthermore, Wells Fargo and Stifel sought to encourage NCI to enter into the Merger Agreement with H.I.G. due to their past dealings. For example, Wells Fargo recently provided financing to an H.I.G. affiliate in connection with the acquisition of The Newark Group, Inc., and Wells Fargo has previously acted as a senior lender to other H.I.G. portfolio companies. Separately, Stifel recently advised H.I.G. on the acquisition of a portfolio of compensation product offerings from IBM Corporation.

145. As the foregoing demonstrates, the Acquisition was the product of various conflicts of interest.

The Acquisition Offered Stockholders Inadequate Consideration

146. The \$20.00 per share offered by H.I.G. and accepted by the Board provided NCI stockholders with inadequate value.

147. *First*, the Company's shares traded higher than the Acquisition price just days before it was announced. After NCI announced its "strategic turnaround

plan” in April 2017, which included focusing on winning larger contracts and improving operational efficiencies, the Company’s stock price grew steadily, trading above \$20.00 per share for almost all of June 2017 and reaching a high of \$21.20 per share on June 30, 2017, the last trading day before the Acquisition was announced. The Acquisition represented a discount of approximately 4.3% at the time of the Acquisition. Notably, whereas NCI had from time to time stated that its stock was undervalued, the Company said nothing about it being overvalued in mid-2017 until it sought to sell the Company to H.I.G.

148. *Second*, the financial analyses allegedly supporting the Acquisition price relied on financial inputs that did not appear to contemplate the results of NCI’s “strategic turnaround plan.” The underlying assumptions on which Wells Fargo, Stifel, and the Board relied in advocating for the Acquisition are inconsistent with NCI’s own statements regarding the turnaround plan and the types of bids and contracts the Company expected to participate in. For example, during the first quarter of 2017, Wells Fargo and Stifel emphasized NCI’s risk in bidding and winning government contracts based on its analysis of the government services industry despite Dillahay’s Q1 earnings call where he disclosed that NCI’s turnaround plan was being successfully implemented. Further, the pessimistic assumptions are also challenged by NCI’s Corporate SVP of Business Development statement in the Q1 earnings call, which stated, in regard to NCI’s pipeline, NCI is

“trending in the right direction” to “hav[ing] more volume and qualification” in 2018 and 2019.

149. *Third*, the financial analyses allegedly supporting the Acquisition price relied on financial inputs that overstated the risk of losing valuable contracts through the recompetete process. Contrary to the overstated recompetete risk relied in the financial analyses, NCI’s management had touted its recompetete win rates prior to the Acquisition. For example, during the Q4 2016 earnings call, Dillahay stated that “NCI’s win rates and recompetetes have been 90-plus percent, exceeding the industry average of around 65%.”

150. *Fourth*, separate from the credibility of the inputs themselves, NCI’s financial advisors performed analyses that conflicted with NCI’s own public statements about the trajectory of the Company’s business. In particular, Wells Fargo and Stifel both performed a DCF analysis using the perpetuity growth rate method, which assumes stable and steady growth. As Company representatives stated, however, the strategic turnaround plan was not expected to begin generating returns for at least a couple years, and it was extremely unlikely that its impacts would have normalized by 2021, the end of the projections period. Moreover, and for similar reasons, Wells Fargo and Stifel erred in relying on 2017-based multiples in their respective Selected Public Companies Analysis and Selected Companies

Analysis. Nonetheless, even these analyses supported values for NCI that exceeded the Acquisition price.

151. *Fifth*, even with the flawed inputs and approaches to financial valuation, Stifel's DCF analyses using the terminal multiple method yielded a valuation range of \$20.26 to \$21.65 per share, which fully exceeded the Acquisition price.

152. Based on the foregoing, the \$20.00 per share Acquisition price did not adequately compensate NCI stockholders for the value of their investment.

The Board Agreed to Overly Preclusive Deal Protection Measures

153. The Board agreed to numerous anticompetitive deal protection measures in the Merger Agreement, which benefited H.I.G. to the detriment of NCI's public stockholders.

154. The Board agreed to a "No Solicitation" provision in the Merger Agreement that prohibited the Company from soliciting alternative proposals.

155. Moreover, the Merger Agreement contained a highly restrictive "fiduciary out" provision that permitted the Board to withdraw its approval of the Acquisition under extremely limited circumstances, further granting H.I.G. a "matching right" with respect to any superior proposal made to the Company.

156. The Merger Agreement also contained a "Termination Fee" provision of more than \$11 million, which represented approximately 4% of the implied

enterprise value of the Acquisition; thus, forcing any competing bidder to pay an unreasonable premium for the right to provide the Company's stockholders with a superior offer.

157. In addition to the deal protection measures contained in the Merger Agreement, Narang entered into a tender and support agreement with H.I.G. on July 2, 2017 to tender all of his shares to H.I.G. NCI's remaining directors and management also indicated their intent to tender their shares to H.I.G. As a group, the directors and officers of NCI committed to tendering approximately 35% of the outstanding shares of NCI to H.I.G., essentially blocking any other potential buyers from pursuing NCI. Taking into account the additional 1.4 million (equating to approximately 15.6%) of shares held by the Narang Family Trust, Defendants and their affiliates held half of NCI's stock, thus giving them control over all voting and non-voting matters and, thus, veto power over any other deal.

158. Moreover, because the 14D-9 is silent on the scope of any confidentiality agreements entered into in connection with the process, the confidentiality agreements NCI entered into with other potential buyers might have restricted those parties from submitting a topping offer after H.I.G.'s \$20.00 per share offer was announced. Specifically, the 14D-9 alludes to confidentiality agreements which NCI entered into with Party A, the Party A Affiliate, and Party E, but the 14D-9 does not specify whether the confidentiality agreements included

“standstill” provisions. And in fact, Section 5.4(a) of the Merger Agreement expressly provides: “The Company shall not grant any waiver or release under any standstill provision or waive or otherwise modify the rights or obligations of any Person under any confidentiality agreement except as would be inconsistent with the Company Board’s fiduciary duties to the Company’s stockholders under applicable Law.”

159. These deal protection measures are unduly preclusive, and the 14D-9 expressly acknowledges the chilling effect these measures were likely to have: “The NCI Board considered the risk that various provisions of the Merger Agreement, including the requirement that NCI must pay to Parent a break-up fee of \$11,256,000 if the Merger Agreement is terminated in connection with a superior proposal, may discourage other parties potentially interested in an acquisition of, or combination with, NCI from pursuing that opportunity.”

Defendants Misrepresented and Omitted Material Information

160. On July 17, 2017, the Board caused NCI to file the 14D-9 with the SEC. On July 21, 2017, July 27, 2017, July 31, 2017, August 2, 2017, and August 14, 2017, NCI filed Amendments Nos. 1 through 5, respectively, to the 14D-9. As detailed below, the 14D-9 (inclusive of any amendments thereto) misrepresented and omitted material information concerning the Acquisition, thereby preventing NCI’s public stockholders from making an informed decision of

whether to tender their shares and whether to exercise their appraisal rights under Section 262 of the Delaware General Corporation Law.

161. *First*, the 14D-9 materially misrepresents NCI’s financial outlook disclosing financial projections that understated the Company’s upside and overstated certain risk factors.

162. The 14D-9, including amendments thereto, contained the following financial projections for NCI (the “Company Projections”)⁸:

	2017E	2018P	2019P	2020P	2021P
Revenue	344.1	367.2	397.3	435.7	448.8
Operating Costs & Expenses	319.4	339.6	366.4	400.2	410.3
Net Income	14.7	16.5	18.5	21.4	23.2
EBIT	24.7	27.6	30.8	35.5	38.5
Adjusted Diluted EPS	1.06	1.19	1.32	1.51	1.63
Adjusted EBITDA	31.6	34	37.1	41.9	44.4
Free Cash Flow	25.8	25.1	25.7	26	29.4

163. The Company Projections forecast a CAGR for revenue of just 6.9%.

164. Regarding the Board’s and both financial advisors’ reliance on these Company Projections, the 14D-9 provided:

- a. As part of the Board’s purported reasons for recommending that NCI stockholders tender their shares: “*Operating and Financial Condition and Prospects*. The NCI Board considered . . . the future growth prospects of NCI, including the Company Projections (as defined and described below), and assessed a range of possible values to our stockholders associated with

⁸ The following table is Plaintiffs’ own aggregation of the figures disclosed in the 14D-9 and any amendment thereto.

continuing to operate NCI as an independent publicly-traded company. The NCI Board discussed and deliberated at length with respect to NCI's . . . current financial prospects and risks associated with achieving and executing upon NCI's operating plan"

- b. As further part of the Board's purported reasons for recommending that NCI stockholders tender their shares: "***Financial Advisors' Opinions***. The NCI Board considered the financial analyses reviewed and discussed with the NCI Board by representatives of Wells Fargo Securities as well as the oral opinion of Wells Fargo Securities rendered to the NCI Board on June 29, 2017 The NCI Board also considered the financial analyses reviewed and discussed with the NCI Board by a representative of Stifel, as well as the oral opinion of Stifel rendered to the NCI Board on June 29, 2017" Notably, both Wells Fargo and Stifel performed financial analyses that accepted and relied upon NCI's financial projections, as noted below.
- c. In the section summarizing Wells Fargo's financial analyses: "In arriving at its opinion, Wells Fargo Securities . . . [r]eviewed certain other information relating to NCI, including the Company Projections (as defined below) setting forth financial forecasts for NCI for the fiscal years ended December 31, 2017 through December 31, 2021 prepared and provided to Wells Fargo Securities by the management of NCI, as adjusted, based on discussions with management of NCI; [s]poke with the management of NCI regarding the business and prospects of NCI; [and] [c]onsidered certain financial and stock market data of NCI and compared that data with similar data for other companies with publicly traded equity securities in businesses that Wells Fargo Securities deemed relevant"
- d. In the section summarizing Stifel's financial analyses: "In rendering its opinion, Stifel, among other things, . . . reviewed certain non-publicly available information concerning NCI, including internal financial analyses and forecasts prepared by NCI's management, and held discussions with NCI's senior management regarding recent developments"

165. The 14D-9 further provides:

“The Company Projections were developed to facilitate our strategic discussions and for use by the NCI Board in connection with its evaluation of the Transactions compared to continuing as a stand-alone company.”

166. Clearly, the Company Projections disclosed in the 14D-9 were not prepared as part of an ongoing, non-Acquisition related review of the Company’s long-term prospects, but they were provided to Wells Fargo and Stifel, as well as to NCI’s stockholders, as purportedly representing the Company’s financial future.

167. In breach of their fiduciary duties, however, the Individual Defendants misled Plaintiff and all other similarly situated NCI stockholders by peddling Company Projections that grossly understated NCI’s long-term prospects and overstated the Company’s purported risks.

168. With respect to NCI’s prospects, the Company publicly disclosed on April 5, 2017 a strategic plan for growth that had three components, discussed above at ¶¶ 99-102.

169. During the same April 5, 2017 call, Dillahay underscored that NCI possessed a lot of untapped potential:

As I started the meeting with—as I started meeting with customers, I recognize that the dedication and responsiveness of NCI’s employees were instrumental in developing meaningful and enduring customer relationships. The company’s breadth of IDIQ and GWAC contracts are an untapped potential for future growth. And most importantly, the company’s outstanding technical pedigree aligns with our desire to

compete in the high-end solutions and services market, specifically, our differentiated agile software development and lean O&M capabilities.

170. Dillahay also noted improving market conditions that bode well for

NCI's success:

We see an improving budget for our addressable markets. Over the last few years, defense budgets have bottomed out and the requested budgets for government fiscal years '16 through '18 were planned to show 3% growth before supplementals.

The Trump administration campaigned on further increasing defense spending, and the preliminary budget request of \$574 billion for fiscal year '18 reflects that objective. . . . The Trump administration's focus on expanding the size of the military and modernization should create a positive market environment and aligns very well with our portfolio of business.

Most importantly, our core customers, such as the Army, are expected to see increased spending to expand force structure, improve readiness and improve capabilities. Given the rapid pace of technology change, the government will need more information technology modernization. This also plays directly into our capabilities and contract vehicles, and we are ready to help our customers achieve their goals.

171. In addition to revealing his plans for NCI's growth, Defendant Dillahay expressed confidence in the Company's ability to execute the plan:

In summary, I believe we have the elements needed to achieve these goals. As was stated in today's press release, I saw the ingredients of an outstanding company shortly after I walked in the door. With the changes I've discussed, I am confident that NCI will deliver market-leading growth for shareholders, provide rewarding careers for our employees and deliver mission excellence to our customers.

172. Dillahay also discussed the anticipated timing for seeing the impact of the strategic growth plan:

With the government under continuing resolution for almost half of fiscal year '17 and the natural lag between budget appropriations and the actual flow of cash on projects, the market growth should be more visible in fiscal year '18 and beyond.

173. Despite the Company's focus on winning new, larger awards, at no point in time did the Company ever suggest that it would not seek to continue providing services to preexisting customers.

174. Indeed, despite the 14D-9's reference to re-compete risk related to existing customers, Dillahay's statements during the April 5, 2015 conference call demonstrate that NCI's re-compete risk was minimal, thus suggesting continued commitment to retaining existing business. Dillahay explained, "NCI's win rates and recompetes have been 90-plus percent, exceeding the industry average of around 65%." This is consistent with prior statements, including by former CEO Clark during the third quarter 2016 earnings call, held on October 26, 2016: "And we've been able to retain that work. And our re-compete rate is very, very high, I think, relative to industry."

175. Progress noted during the following quarter—when NCI's Board and management had already all but agreed to a deal at \$20.00 per share—reflected enhanced prospects for the Company.

176. During NCI's next earnings call, held on May 9, 2017, Dillahay doubled down on his confidence NCI's growth prospects and the likelihood of achieving the goals of its strategic growth plan, highlighting "the progress we're making in implementing the strategic turnaround plan"

177. During the May 9, 2019 call, Dillahay also commented on the Company's pipeline expansion since the earnings call just one month earlier: "our total 3-year pipeline increased from \$4 billion to \$4.3 billion and our qualified portion has grown from \$2 billion to \$2.4 billion and now consists of a greater weighting of higher probability opportunities that extend our capabilities with current customers."

178. The foregoing demonstrates that NCI was poised for growth that exceeded what was conveyed by the Company Projections.

179. In addition to NCI's projected top-line revenue growth being misleadingly low, Defendants used forecasted free cash flow that reflected unreasonably inefficient growth. Specifically, the ratio of projected revenue to free cash flow in 2017 is 13.3x, whereas it rises to 15.3x in 2021.

180. Post-Acquisition statements also demonstrate that Defendants deliberately suppressed the Company Projections to show an unreasonably pessimistic view of NCI's future. Specifically, in an article published on October 10, 2017, Dillahay boasted about his plans to triple NCI's earnings in just

three years. Moreover, Dillahay discussed an ambitious goal for 2020: growing EBITDA from \$30 million (approximately 2017 levels) to \$100 million. This represents more than double the estimate for 2020 Adjusted EBITDA contained in the Company Projections.

181. The Company Projections also appear to exclude any organic growth due to NCI's foray into artificial intelligence-enabled services. Specifically, at least as early as October, NCI launched a pilot program to bring a partner's commercial AI product into the federal marketplace. This program was likely already in the planning stages and should have been included (but likely wasn't) in the Company Projections.

182. Based on the foregoing, the Company Projections and the various disclosures related thereto were materially misleading.

183. *Second*, the 14D-9 omits material concerning when, and the extent to which, discussions occurred regarding post-close employment opportunities for NCI management.

184. A Form 8-K that NCI filed with the SEC on August 15, 2017 states that Dillahay, Narel, and Cappello would continue their employment in the post-Acquisition entity as the Chief Executive Officer and President, Executive Vice President, Chief Financial Officer and Treasurer, and General Counsel and Corporate Secretary, respectively. In short, they would retain their jobs.

185. Prior to the Acquisition, NCI management already knew that H.I.G. routinely retains the existing management team to continue executing the business plans in place.

186. Further, H.I.G. likely conveyed that it intended to keep Dillahay and the management team once the Acquisition was completed.

187. Indeed, upon information and belief, through its plan to retain management following the Acquisition, H.I.G. caused NCI management, including primarily Defendant Dillahay, to favor H.I.G. as a potential buyer because of management's interest in post-Acquisition employment, consulting, and other opportunities.

188. On March 8 and 13, 2017, H.I.G. representatives directly contacted Dillahay to convey their proposals to buy NCI, during which time they were free to discuss post-close employment opportunities

189. Nevertheless, 14D-9 fails to disclose any discussion regarding NCI management's post-close employment opportunities.

190. The discussions regarding post-close employment opportunities of NCI management are material omissions because the terms and conditions of the continued employment would show the extent of the management's conflict in the Acquisition.

191. *Third*, the 14D-9 omits material concerning potential conflicts of interest affecting NCI's financial advisors. Specifically, as alleged herein, both Wells Fargo and Stifel had previously performed work for H.I.G. or one of its portfolio entities. The 14D-9, however, contains no disclosure regarding the financial advisors' potential conflicts, including:

- a. The amount of remuneration received by Wells Fargo and Stifel from H.I.G. (and its affiliates) in connection with any engagement over the three years leading up to the Acquisition;
- b. Whether the Board was informed of Wells Fargo and Stifel's historical ties to H.I.G. before instructing management to engage Wells Fargo and Stifel;
- c. Wells Fargo's recent financing to an H.I.G. affiliate in connection with the acquisition of The Newark Group, Inc.;
- d. Wells Fargo's previous lending to other H.I.G. portfolio companies; and
- e. Stifel's recent advisement to H.I.G. on the acquisition of a portfolio of compensation product offerings from IBM Corporation.

192. Absent such information, the Acquisition was consummated without the Company's stockholders being fully informed, providing them with grossly inadequate consideration as a result.

193. Accordingly, Plaintiffs and all similarly situated NCI stockholders were injured as a result of Defendants' misconduct.

CAUSES OF ACTION

COUNT I

For Breach of Fiduciary Duties (Against the Individual Defendants)

194. Plaintiffs repeat and re-allege each and every allegation set forth above as if fully set forth herein.

195. The Individual Defendants have violated their fiduciary duties owed to the public stockholders of NCI and have acted to put their personal interests ahead of the interests of the Company's public stockholders, or acquiesced in those actions by fellow defendants.

196. The Individual Defendants failed to take adequate measures to ensure that the interests of NCI's stockholders were properly protected. The Individual Defendants sanctioned a process and price that was not entirely fair. Furthermore, the Individual Defendants failed to disclose material information in the 14D-9.

197. In selling the Company, the Individual Defendants failed to take reasonable efforts to maximize the value of the Company for the benefit of NCI's

public stockholders, instead accepting grossly inadequate consideration; thus, breaching their fiduciary duties owed to the Company's public stockholders.

198. The Board also failed to disclose material information concerning the Acquisition, thus rendering the Company's stockholders unable to make an informed decision whether to tender their shares and whether to seek appraisal.

199. By the acts, transactions, and course of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, unfairly deprived Plaintiffs and the other members of the Class of the true value of their NCI investment.

200. As a result of the actions of the Individual Defendants, Plaintiffs and the Class have been harmed in that they did not receive the fair value in consideration for their ownership of NCI.

COUNT II

For Aiding and Abetting Breaches of Fiduciary Duties (Against H.I.G., Parent, and Merger Sub)

201. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

202. Defendants H.I.G., Parent, and Merger Sub have aided and abetted the Individual Defendants in the aforesaid breaches of their fiduciary duties.

203. Such breaches of fiduciary duties could not and would not have occurred but for the conduct of Defendants H.I.G., Parent, and Merger Sub, which, therefore, have aided and abetted such breaches in connection with the Acquisition.

204. As a result of the unlawful actions of Defendants H.I.G., Parent, and Merger Sub, Plaintiff and the other members of the Class will be irreparably harmed in that they will not receive the true value for NCI's assets and business.

205. As a result of this conduct, Plaintiffs and the other members of the Class have been damaged in that they have been prevented from obtaining a fair price for their NCI shares.

206. Plaintiffs and other members of the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment and relief as follows:

- a. Ordering that this action may be maintained as a class action and certifying Plaintiffs as the Class representatives and Plaintiffs' counsel as Class counsel;
- b. Declaring and decreeing that the Acquisition was entered into in breach of the fiduciary duties of the Individual Defendants, aided and abetted by the H.I.G., Parent, and Merger Sub, and was therefore unlawful and unenforceable;
- c. Awarding Plaintiffs the remedy of *quasi* appraisal;

- d. Awarding damages to Plaintiffs and the Class;
 - e. Awarding Plaintiffs the costs of this action, including reasonable allowance for Plaintiffs' attorneys' and experts' fees; and
- F. Granting such other and further relief as this Court may deem just and proper.

Dated: March 28, 2018

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