52. **False statement:** After releasing its financial guidance on January 11, 2011, Smith Micro attended the Needham Growth Stock Conference to discuss its fiscal year 2011 revenue guidance with investors, media representatives and analysts. The Individual Defendants attended the conference and spoke to investors. During the call, Smith represented the following:

Let's kind of stop for a second and talk about what were really some of the drivers and catalysts of 2010 and what do we see as being some of the significant drivers for the business in 2011. If we look at 2010, it was really all about 3G.

Yes, we got a little bit of help from 4G in the WiMAX area. As many of you know, *Verizon launched 4G in the month of December, so we got just a little help there as well.*

But really 4G wasn't the big play for 2010. It was continued deployment and greater penetration in the 3G world.

*As we look at 2011, however, this is where 4G starts to really kick in. We will have our first full quarter of 4G deployment with Verizon Wireless.*

And you know, a lot of our analysts, a lot of our investors are pretty excited about it, but I caution all of you not to get ahead of us. When you look at the 4G world, it's going to be a two to three-year rollout of 4G, and it's going to benefit us through that entire period of time. It's not just an event that happens this quarter never to be really focused on again.

This is a big deal. It is going to take time and it's going to yield all the results that all of you are looking for from the standpoint of the quality of our business, the growth of our business.

* * *

- 25 -
So when you view 4G, this is a very exciting and very powerful event, but it’s something that’s going to really be a catalyst for our business case throughout 2011 going into 2012 and 2013. This is a long-term play and we’re just starting with the first carrier.

* * *

We call this platform Smith Micro DNA, and this is a platform strategy that we will be continuing to bring to life throughout 2011. As a matter of fact, we announced a brand-new product for the Smith Micro DNA platform and that is our QuickLink Hotspot Manager and we announced that last week at CES. . . .

Hotspot Manager is a brand-new product. It’s a very exciting product. It will ship for the first time the end of the current quarter or early second quarter.

* * *

We gave you guidance last year of 125 to 135. Based on the fourth-quarter estimates that we’ve given you, we’re going to come in around $130 million for 2010. 2011 should look like $150 to $160 million.

* * *

We have some carriers that are ready to go and are actually naming the first devices that they want support for. We have other carriers that are a little bit earlier in the process and they’re still working through the benefits to be derived by offering up a hotspot manager.

But in all cases without exception, there are no carriers who look at the Hotspot Manager and say that’s nice, but we don’t need it. That’s never the case. They all see the benefits to be derived. So they’re all in different stages.
53. These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro’s operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record setting pace and the Company’s past results provided investors with a distorted picture of the Company’s potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company’s operations;

(c) due to a shift in the industry, dongles, PC cards and embedded modems were being displaced by mobile hotspots, tablets and Smartphones; Additionally, the mounting popularity of tablets, such as the IPad, over laptops further reduced demand for the Company’s core connectivity product. As a result of these shifting technological trends, demand for Smith Micro’s core connectivity software was dramatically reduced; and

(d) demand for Smith Micro’s new QuickLink Hotspot Manager and Mobile Network Directors products was not as immediate and robust as Defendants represented it would be. The Company represented that these new initiatives would ship by the end of the first quarter 2011, or early in the second quarter 2011.
Nonetheless, by the end of the third quarter 2011, the Company still had no customers for its newest offerings.

54. **False statement:** On February 8, 2011, Smith Micro issued a press release entitled “Smith Micro Software Suspends 2011 Annual Revenue Guidance,” announcing the suspension of its 2011 full-year revenue guidance. The Company further reported it expected revenue to be in the range of $15 to $20 million for the first quarter of 2011 due to an expected significant reduction in orders for its core connection manager product from its key customer. However, the Company expected orders would return to typical levels in future quarters. The release stated in part:

“The first half of 2011 is a time of exciting developments for the wireless industry. The rollout of new wireless networks are major new initiatives that take time to fully develop,” said William W. Smith, Jr., President and CEO of Smith Micro Software. “We believe that our customer relationships remain strong, and the current first quarter revenue impact is due primarily to the timing of new product roll-outs and sales of existing inventory.”

55. These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro’s operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record setting pace and the
Company's past results provided investors with a distorted picture of the Company's potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company's operations; and

(c) the inventory issue was not a temporary hiccup but rather it was due to a secular shift away from dongles and embedded modems and towards mobile hotspots. Demand for Smith Micro's core connectivity software would not return to normal levels.

56. \textbf{False statement:} After announcing the suspension of its 2011 full-year revenue guidance on February 8, 2011, Smith Micro hosted a conference call for analysts, media representatives and investors. The Individual Defendants attended the conference and spoke to investors. During the call, Smith represented the following:

We attribute the change in this order pattern to be due to factors primarily tied to this customer currently carrying a sufficient level of mobile broadband device inventory that is used in conjunction with our Connection Manager, which we now believe should sustain them through the first quarter.

Another impacting factor driving this deep reduction in orders is tied to the market timing for the rollout of new products, which we previously expected to launch in time to drive new Q1 sales. It is now expected that orders to support anticipated new mobile broadband devices will likely not take place until Q2.

As a result of these developments, we see our first-quarter sales being impacted materially, and management now expects revenues for the first quarter to be in the range of $15 million to $20 million. This anticipated change in our previous Q1 expectations will impact our 2011
full-year revenue, and thus we are suspending full-year revenue guidance.

We intend to provide further updates for Q2 guidance as we gain more clarity on the ordering cycle. **We anticipate that this lower level of orders is likely to be a one-time event, and we should see order patterns for our software begin to normalize sometime during Q2.**

**We see reason to believe that the sales of broadband services generated by our customer in Q1, coupled with the launch of new product offerings and the increased excitement for 4G mobile broadband service, will drive more normal ordering that will help get our growth patterns back to more typical levels.**

The coming wave of 4G services and network rollouts will provide further opportunity for Smith Micro and will drive long-term growth trends. We have strong customer relationships and a broad portfolio of products and technologies to serve our customers in expanded ways.

* * *

We believe that our strong relationships with our customers, our robust product portfolio, and the cyclical trend for 4G services will serve to continue to drive outstanding results for our Company in the long run. We are committed to getting back on track to delivering robust quarterly results for our shareholders.

57. These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro's operations. The Company reported a strong upward revenue
trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double-digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets, and Smartphones and away from dongles, PC cards, and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record-setting pace and the Company's past results provided investors with a distorted picture of the Company's potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company's operations; and

(c) demand for Smith Micro's new QuickLink Hotspot Manager and Mobile Network Directors products was not as immediate and robust as Defendants represented it would be. The Company represented that these new initiatives would ship by the end of the first quarter 2011, or early in the second quarter 2011. Nonetheless, by the end of the third quarter 2011, the Company still had no customers for its newest offerings.

58. On this news, Smith Micro's stock plummeted $4.56 per share to close at $8.50 per share on February 9, 2011, a one-day decline of near 35% on high volume. Nonetheless, Smith Micro's share price remained artificially inflated due to Defendants' continued misrepresentations and denials.

Fourth Quarter 2010

59. False statement: On February 24, 2011, Smith Micro issued a press release entitled "Smith Micro Software Reports Record Fourth Quarter And Fiscal Year 2010 Financial Results," announcing its fourth quarter 2010 financial results. The Company reported net income of $5.8 million, or $0.16 diluted EPS, and revenue of $35.3 million for the quarter ended December 31, 2010. This represented an 18%
increase in revenue over the amount reported in the same quarter of the prior year. Additionally, the Company reported net income of $12.3 million, or $0.36 diluted EPS, and revenue of $130.5 million for the full year 2010. This represented a year over year increase in revenue of 21.6%. The release stated in part:

“Our solid fourth quarter performance contributed to closing out fiscal 2010 as a very strong year where we achieved both record revenues and profitability,” said William W. Smith Jr., President and CEO of Smith Micro Software. “In addition to delivering outstanding financial results, during the year we embarked on several key new initiatives within the Company designed to put us in position to capture new opportunities emerging with the rapid adoption of broadband mobile data services along with the deployments of 4G next generation wireless networks.”

Mr. Smith concluded, “We are encouraged by the early response to some of our key initiatives such as our Quicklink Mobile Hotspot Manager powered by our SODA (Secure on-Device API) that will bring a new level of manageability to the mobile hotspot users experience while enabling carriers and device manufacturers with increased efficiencies and velocity to market with these exciting new products.”

These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro’s operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the
Company. Nonetheless, given shifting industry trends towards mobile hotspot
devices, tablets and Smartphones and away from dongles, PC cards and embedded
modems, as well as growing competition in the connection manager market, the
Company would be unable to maintain its growth at this record setting pace and the
Company’s past results provided investors with a distorted picture of the Company’s
potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network
was not providing Smith Micro with additional opportunities for growth but rather it
was having a disastrous impact on the Company’s operations; and

(c) demand for Smith Micro’s new QuickLink Hotspot Manager and
Mobile Network Directors products was not as immediate and robust as Defendants
represented it would be. The Company represented that these new initiatives would
ship by the end of the first quarter 2011, or early in the second quarter 2011.
Nonetheless, by the end of the third quarter 2011, the Company still had no customers
for its newest offerings.

61. **False statement:** After issuing its fourth quarter 2010 results on
February 24, 2011, Smith Micro hosted a conference call for analysts, media
representatives and investors. The Individual Defendants attended the conference and
spoke to investors. During the call, Smith represented the following:

We are pleased to report another great quarter with solid financial results
and outstanding fiscal year performance. *We’ve posted our seventh
consecutive quarter of revenue growth generating the highest quarterly
revenue results in our company’s history of $35.3 million.* This
represents an improvement of $5.6 million over Q4 2009 or an 18.8%
increase in revenue over the same period last year.

*   *   *

- 33 -
We see the road ahead holding great possibilities for further growth as many exciting transitions taking place in the mobile one wireless industry unfold. We have embarked on a new era of broadband mobile internet service with 4G and LTE coming to life at the end of the year. We see new products and form factors poised to drive adoption of mobile internet services at a level never before seen. *Each day seems to bring new developments and Smith Micro is in a great position to capitalize on many of the emerging opportunities.*

* * *

While we see laptops with embedded modems, USB downloads and other mobile broadband modems as key drivers to our success for the future, we are busy innovating and improving and preparing to deliver new solutions that will make the connectivity experience on Smartphones, tablets and mobile hot spots even more compelling. *The key initiative in this area is our quick link Mobile Hotspot Manager powered by Smith Micro SODA or Secure On-Device API.* The Hot Spot Manager technology enables ways to manage a mobile hot spot whether on a Smartphone or a tablet or a self-contained hot spot modem with fine granularity and robust security for each connected end point.

* * *

We had an absolutely tremendous 2010, and we are excited about our business prospects in 2011 and beyond.

We are really just at the beginning of the 4G mobile internet revolution, and we are poised to participate in expanding ways. *The launch of these new high speed networks will enable new subscribers, connected devices and business models that will benefit from our lineup of products and technology.* We are focused on continuing to
innovate, execute and getting back to an exciting growth and profitability in the near term.

62. These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro's operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record setting pace and the Company's past results provided investors with a distorted picture of the Company's potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company's operations;

(c) due to a shift in the industry, dongles, PC cards and embedded modems were being displaced by mobile hotspots, tablets and Smartphones; Additionally, the mounting popularity of tablets, such as the IPad, over laptops further reduced demand for the Company's core connectivity product. As a result of these shifting technological trends, demand for Smith Micro's core connectivity software was dramatically reduced;

(d) while Smith Micro's connection management software was included on 3G mobile hotspot devices offered by Verizon in order to assist with the activation of the device, the Company's software would not similarly be included on
4G devices as Verizon’s 4G mobile hotspot devices were redesigned so Smith Micro’s connection manager software was no longer necessary in order to activate the devices; Moreover, Smith Micro’s market share for its core product was eroding due to increased competition in the connection management industry from SmartCom, Green Packet and Synchronoss; and

(e) demand for Smith Micro’s new QuickLink Hotspot Manager and Mobile Network Directors products was not as immediate and robust as Defendants represented it would be. The Company represented that these new initiatives would ship by the end of the first quarter 2011, or early in the second quarter 2011. Nonetheless, by the end of the third quarter 2011, the Company still had no customers for its newest offerings.

63. **False statement:** On February 25, 2011, Smith Micro filed its Form 10-K with the SEC for the fourth quarter and full-year of 2010. The Form 10-K affirmed the previously announced financial results. The Form 10-K further contained certifications from the Individual Defendants in compliance with §§302 and 906 of the Sarbanes-Oxley Act of 2002. Included in the certifications were statements by the Individual Defendants asserting that they had reviewed the Company’s Form 10-K and that the public report “does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which statements were made, not misleading.”

64. The Form 10-K further stated in pertinent part:

**Item 7. MANAGEMENT’S DISCUSSION AND ANALYSIS**

**OF FINANCIAL CONDITION AND RESULTS OF OPERATION**

* * *

**Revenues.** Revenues of $130.5 million for fiscal year 2010 increased $23.2 million, or 21.6%, from $107.3 million for fiscal year 2009. Wireless revenues of $118.7 million increased $29.3 million, or
32.7%, primarily due to new connectivity and security product licenses of $16.5 million, increased visual voicemail and push-to-talk revenues of $8.4 million and new device solutions and multimedia revenues of $4.4 million.

65. The statements made by Defendants in the Form 10-K for the fourth quarter and full-year of 2010 as outlined above were each materially false and/or misleading when made. Defendants knew or recklessly disregarded, but fail to disclose the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro's operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record setting pace and the Company's past results provided investors with a distorted picture of the Company's potential growth and were not indicative of future operations;

(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company's operations;

(c) due to a shift in the industry, dongles, PC cards and embedded modems were being displaced by mobile hotspots, tablets and Smartphones; Additionally, the mounting popularity of tablets, such as the iPad, over laptops further reduced demand for the Company's core connectivity product. As a result of these
shifting technological trends, demand for Smith Micro’s core connectivity software was dramatically reduced; and

(d) while Smith Micro’s connection management software was included on 3G mobile hotspot devices offered by Verizon in order to assist with the activation of the device, the Company’s software would not similarly be included on 4G devices as Verizon’s 4G mobile hotspot devices were redesigned so Smith Micro’s connection manager software was no longer necessary in order to activate the devices; Moreover, Smith Micro’s market share for its core product was eroding due to increased competition in the connection management industry from SmartCom, Green Packet and Synchronoss.

66. False statement: On March 9, 2011, Smith Micro attended a Wedbush Morgan Securities Technology, Media & Telecommunications: Management Access Conference call with analysts, investors and the media. Defendant Schmidt attended the conference. During the conference, Schmidt represented the following:

One is we’ve got a very solid core product, that’s our Connection Management Suite. This product has been with us since 2002. It’s basically our bread-and-butter. Going forward into 2011, it’s key for us to keep this product relevant and also push it out to different markets.

* * *

Briefly mentioned that we are a leader in the space. We’ve been – it’s been our bread and butter for the last seven years. When we look forward, we know we have to add more value to stay relevant in the market and actually push our product into the customers. Some of our key products that we’re going to be offering here in 2011 and beyond include global network director. It’s basically a unique software that allows the carrier, if you will, to offload traffic off of, let’s say, it’s 3G network or 4G network to Wi-Fi or basically seeing the switch from 4G
to 3G to Wi-Fi without breaking the session, very important given what
we’re seeing as far as consumption of bandwidth out in the market. New
product for us this year; probably later this year it will be released.

* * *

Finally, a key product for us that we expect to launch here in the
second half of the year is Mobile Hotspot Manager. This is the key
product that gets us on the tablet space. We’re marketing it as QuickLink
Mobile Hotspot Manager.

* * *

2011, 4G is here. Verizon launched their 4G network in the last
part of fourth quarter. We expect to see AT&T out there. The WiMAX
people were out and setting footprints in 2010. It’s going to be a great
era, again driving higher speeds, new license opportunities for Smith
Micro. If someone switches from a 3G card to a 4G card, for our
customers that we have in place it’s a new license for us. So, expect to
see an upgrade cycle occur throughout 2011 and 2012.

* * *

Immediate market drivers; in 2010 we saw 3G primarily driving
the market. All the way through Q3, our sales were primarily –
supporting 3G-type devices. 4G, we saw a minor impact by WiMAX and
then just basically a month’s worth at Verizon launch in our fourth
quarter. Looking at 2011, 4G is going to be key.

* * *

So the question again is that the current hiccup, if you will, across
ecosystem, is it a demand issue or is it basically enterprise is coming in
slow? We feel definitely this is a timing, a launch dynamic that—we’ve
seen it before. This one just seems to be pretty significant obviously.
Enterprises, we did expect to come in late in the game, perhaps second half of the year or so. That’s not a surprise. But otherwise, I think what we’re seeing is a lot of marketing congestion. Again, in terms of Verizon, they’ve got the iPhone out; all the marketing dollars are basically supporting that launch.

* * *

So the question is, looking at, let’s say, the Androids and the phones that are capable of being a hotspot, did that have any impact on our current quarter guidance, and is that a problem in the future?

*As far as the current period guidance, Q1 2011 guidance, it does not affect that whatsoever.* This we’re working through is kind of an industry-wide phenomenon right now, which is I think more attributable to choppiness of the 4G launch.

67. These statements were false and/or misleading when made. Defendants knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) they had failed to disclose known trends and uncertainties as required by SEC regulations concerning the effect the transition from 3G to 4G would have on Smith Micro’s operations. The Company reported a strong upward revenue trend, reporting five consecutive quarters of record revenue growth and numerous quarters of double digit growth. The Company assured investors this trend would continue as the transition from 3G to 4G would be a major catalyst for growth for the Company. Nonetheless, given shifting industry trends towards mobile hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, as well as growing competition in the connection manager market, the Company would be unable to maintain its growth at this record setting pace and the Company’s past results provided investors with a distorted picture of the Company’s potential growth and were not indicative of future operations;
(b) the transition in the wireless industry from a 3G to a 4G network was not providing Smith Micro with additional opportunities for growth but rather it was having a disastrous impact on the Company’s operations;

c) due to a shift in the industry, dongles, PC cards and embedded modems were being displaced by mobile hotspots, tablets and Smartphones; Additionally, the mounting popularity of tablets, such as the IPad, over laptops further reduced demand for the Company’s core connectivity product. As a result of these shifting technological trends, demand for Smith Micro’s core connectivity software was dramatically reduced;

(d) the inventory issue was not a temporary hiccup but rather it was due to a secular shift away from dongles and embedded modems and towards mobile hotspots. Demand for Smith Micro’s core connectivity software would not return to normal levels; and

(e) demand for Smith Micro’s new QuickLink Hotspot Manager and Mobile Network Directors products was not as immediate and robust as Defendants represented it would be. The Company represented that these new initiatives would ship by the end of the first quarter 2011, or early in the second quarter 2011. Nonetheless, by the end of the third quarter 2011, the Company still had no customers for its newest offerings.

68. False statement: On March 14, 2011, Smith Micro attended a Lazard Capital Markets Technology & Media Conference call with analysts, investors and the media. Defendant Smith attended the conference. During the conference, Smith represented the following:

[Analyst] . . . Q1, you had a little bit of a hiccup. You ran into a situation where a customer had an – you had an inventory backlog issue at a key customer.

* * *

- 41 -
[Smith] So I mean what happened was it was really a kind of a perfect storm, and without really going into who the carrier was and – because it’s doesn’t really matter. It’s just one of those phenomenons that happens. We go through a process. We’ve done it for years, where we go through a forecasting process. We – the individual sales teams representing individual carriers come up with their forecast. They worked that forecast through the Smith Micro Executive Team. We asked a lot of questions. But when it gets all set and done, they then take their forecast back to the carrier and vet it with the carrier, all that was done. That has served us very, very well.

* * *

But we’re able to work our way through it and we were able to figure out what had happened and we started to figure out why it happened. They got caught in the transition between 3G and 4G, some of their competition really stole some of the thunder by coming out and announcing that they already had 4G and it was called HSPA+, and we can argue whether that is or isn’t, but that’s not the question. The real issue is that the consumer thought it was, and so – and by the way they had HSPA+ in a fairly broad swath of their network.

This customer was launching LTE and LTE was in 30 some odd airports and in a number of cities and it was relatively small. And so it made it impossible for them to go back and really market hard 3G services, because everybody else is marketing 4G and yet they couldn’t really market on a national basis 4G because they weren’t there yet, and as we result we ended up with this problem.

* * *

- 42 -
Hopefully, if everything plays out the way we think it will, we can start to see a resumption of sales to this carrier in a more meaningful way in second quarter and give us back probably something if we’re lucky close to breakeven, and by third and fourth quarter get back to more of a normal deal flow. And when that happens frankly, third and fourth quarter could be sequentially up from the same quarters the prior year. But unfortunately, the 2011 numbers are pretty well blown and there is no way we can beat what we did in 2010, because we have such a slow start in the first quarter. So, that’s really[

* * *

[Analyst:] But one question I have around that, what gives you confidence that you’re going to get back to a more normalized level that this isn’t really a product transition issue where you’re designed out so to speak, for lack of a better word[.]

[Smith] Yeah.

[Analyst] And that you’re going to get back to, is this carrier gone to 4G and you’ve got a product to go there or how[.]

[Smith] We already have products to go in there.

[Analyst] Okay.

[Smith] They already are in, and so that’s the last of the problems that we worry about. I think the issue for us is that we disappointed street and we have to earn back the right to thump our chest and say, look how good we are. So, we’re – and we’ll do that.

[Analyst] What would be the normalized growth rate of Smith Micro apart for that issue and then maybe ... ?

[Smith] Yeah, if you look at it – if you look at the guidance that we gave, frankly we thought that guidance was very doable and we
thought $150 million or $160 million coming off of $130 million and
start to forecast that up and $150 million to $160 million was basically
looking at the start of deployment of 4G in a meaningful way, but also
making certain assumptions. We assumed that it would start slow and
build over the time.

* * *

And generally speaking, we still really feel very bullish about our
business case, but we did have a hiccup.

69. These statements were false and/or misleading when made. Defendants
knew or recklessly disregarded, but failed to disclose, the following true facts:

(a) the inventory issue was not a temporary hiccup but rather it was
due to a secular shift away from dongles and embedded modems and towards mobile
hotspots. Demand for Smith Micro’s core connectivity software would not return to
normal levels.

THE TRUTH EMERGES

70. Then, on May 4, 2011, Smith Micro issued a press release entitled “Smith
Micro Software Reports 2011 First Quarter Financial Results,” announcing its first
quarter 2011 financial results, reporting a net loss of ($7.8 million), or ($0.22) diluted
EPS. The Company further reported revenue of $17.8 million for the first quarter
ended March 31, 2011, in sharp contrast to revenue of $29.9 million that Smith Micro
reported for the first quarter of 2010. Additionally, the Company reported revenue
guidance for the second quarter of 2011 would be in the range of $15 to $20 million.
The Company further indicated it had no customers for its QuickLink Hotspot
Manager and Mobile Network Director products.

71. Additionally, Defendants acknowledged in the May 4, 2011 conference
call, the 4G mobile hotspot devices were redesigned so Smith Micro’s connection
manager software was no longer necessary in order to activate the devices.
72. On this news, Smith Micro's stock declined $1.60 per share to close at $5.66 per share on May 5, 2011, a one-day decline of 22% on high volume.

73. On May 5, 2011, Jefferies issued an analyst report that stated in part: Management cited a combination of inventory workdown at Verizon and slow sales of 4G dongles. Smith Micro's software is used to manage Verizon's 3G USB dongles and hotspots as well as the 4G dongles. Verizon recently launched 4G mobile hotspots from Samsung and Novatel with the Samsung product receiving the vast majority of Verizon's marketing attention. *We had hoped that Smith Micro's software would be deployed with these products, but Verizon instead opted for phone activation.*

74. On May 5, 2011, Brigantine Advisors issued an analyst report, which stated in part:

*Reducing estimates.* In light of the lower-than-expected guidance and apparent lack of interest in 4G services within the enterprise sector, we are more comfortable with lower estimates and have reduced our FY11 estimates to $87.3M and ($0.25) down from $108.0M and $0.12. We are introducing FY12 estimates but have very little confidence in them given the unsettled nature of the situation at Verizon. *In addition, Smith has said that it has no customers for its new Hotspot Management software or its new Network Director software,* but expects to have announcements in short order. *The lack of customers for these new products clouds longer-term visibility as these new products are needed to offset the waning use of USB modems and related connectivity software (about 90% of 1Q11 sales) upon which Smith currently relies.*

75. On May 5, 2011, Dougherty & Company LLC issued an analyst report, which stated in part:
Based on weak Q211 guidance, Smith Micro’s business in 1H11 is nearly half the level it was in 1H10. *And this comes at a time that 4G was supposed to be sending it to new heights.* There are a myriad of reasons: poor initial 4G modem sell-through, a lack of carrier marketing, technology displacement (Wi-Fi pucks and smartphones as hotspots) and increasing competition.

While management believes the core connectivity business has hit a trough and will pick back up, it was very noncommittal on the level of the recovery. Due to this lack of visibility, we are cutting our estimates once more.

76. Thereafter, in a conference call held on August 2, 2011, Defendants acknowledged that the change and transition in the industry posed a threat to the Company’s business and that mobile hotspots and Smartphones were impacting the company’s business. The conference call provided in part:

[Analyst] I have a follow-up question. At the start of the year, you recognized an inventory problem at your largest customer, Verizon. At that point you thought maybe a Q2, a late Q2 recovery. Now it’s looking like a Q3 recovery. What’s different in the inventory, given that Verizon’s commentary that they are selling pretty well these dongles and other units. What’s different now, or what’s causing the recovery to take longer than you expected.

[Smith] Well, first off, we didn’t identify that customer as you just did so, I’ll just keep it to that. But, secondarily, I think that you have seen a transition that is caused by a technology change away from embedded modules and embedded devices towards mobile Hotspots. That is eating into the market share that we would normally service. So, that’s really the driver.
77. Ultimately, in a conference call held on November 2, 2011, Defendants admitted that the problems that Smith Micro experienced in the first quarter 2011 related to Verizon was not simply a minor “inventory issue” or a “hiccup” like defendants claimed it was. The conference call provided in part:

[Analyst] As you look back over the last year, at the start of the year you felt like you had more of an inventory issue. How much do you think that it was still an inventory versus just the new dynamics of the connectivity moving to phones and tablets and other types of devices?

[Smith] If there was -- if we talked about an inventory issue, that reflected the move to mobile hotspots of different types, so that the sales of USB devices just plain slowed down. We don’t see a inventory issue as we sit here right now. What we see is a market that has gotten a lot smaller and – but will continue for some period of time, and a new market opportunity going forward for different types of software.

SMITH MICRO FAILED TO DISCLOSE KNOWN TRENDS AND UNCERTAINTIES

78. The Defendants caused Smith Micro to fail to disclose known trends and uncertainties related to the effect the transition from 3G to 4G would have on the Company’s operations in violation of SEC regulations. Defendants repeatedly hyped its strong quarter over quarter record revenue growth, assuring investors that the revenue trend would continue as the transition from 3G to 4G would be a major catalyst for growth for Smith Micro. Defendants further downplayed the risks surrounding growing competition in the connection management market and shifting industry trends towards hotspot devices, tablets and Smartphones and away from dongles, PC cards and embedded modems, which utilized core connection management products.

79. Under SEC Regulations, Item 7 of Form 10-K and Item 2 of Form 10-Q, Management’s Discussion and Analysis of Financial Condition and Results of
Operations ("MD&A") requires the issuer to furnish information required by Item 303 of Regulation S-K (17 C.F.R. §229.303). In discussing results of operations, Item 303 of Regulation S-K requires the registrant to "[d]escribe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations."

80. The instructions to paragraph 303(a) further state: "[t]he discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results . . . ."

81. In addition, in its May 18, 1989 Interpretive Release No. 34-26831, the SEC has indicated that registrants should employ the following two-step analysis in determining when a known trend or uncertainty is required to be included in the MD&A disclosure pursuant to Item 303 of Regulation S-K: "[a] disclosure duty exists where a trend, demand, commitment, event or uncertainty is both presently known to management and reasonably likely to have material effects on the registrant’s financial condition or results of operation."

82. The MD&A requirements are intended to provide, in one section of a filing, material historical and prospective textual disclosure enabling investors and other users to assess the financial condition and results of operations of the registrant, with particular emphasis on the registrant’s prospects for the future. As Concept Release on MD&A, Securities Act of 1933 ("Securities Act"), Release No. 33-6711, 1987 SEC LEXIS 2001, at *6-*7 (Apr. 24, 1987), states:

The Commission has long recognized the need for a narrative explanation of the financial statements, because a numerical presentation and brief accompanying footnotes alone may be insufficient for an investor to judge the quality of earnings and the likelihood that past performance is indicative of future performance. MD&A is intended to
give the investor an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company.

83. Section 229.303 (Item 303) MD&A states:

To the extent that the financial statements disclose material increases in net sales or revenues, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services being sold or to the introduction of new products or services.

84. And the instructions to paragraph 303(a) further state: "[w]here the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes shall be described to the extent necessary to an understanding of the registrant’s businesses as a whole . . . ."

85. According to MD&A, Securities Act Release No. 6349 (Sept. 28, 1981), "[i]t is the responsibility of management to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company."

86. Nonetheless, in violation of both Generally Accepted Accounting Principles ("GAAP") and SEC rules, Smith Micro’s Form 10-Q for the third quarter 2010 and its Form 10-K for year end 2010, failed to disclose known trends and uncertainties related to Smith Micro’s operations. Defendants caused Smith Micro to misrepresent the effect the transition from 3G to 4G would have on the Company’s operations and further caused Smith Micro to minimize the Company’s risk exposure to shifting industry trends and increased competition in the market.

87. Defendants failed to disclose known trends and uncertainties in violation of SEC regulations by not providing full and adequate disclosures. Defendants’ failure provided investors with a false and misleading depiction of the Company’s operations.