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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

██████████ Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AXESSTEL, INC., H. CLARK
HICKOCK, and PATRICK GRAY,

Defendants.

Case No.: '14CV1037 CAB BGS

CLASS ACTION

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

DEMAND FOR JURY TRIAL

1 Plaintiff [REDACTED] (“Plaintiff”), by and through his attorneys, alleges the
2 following upon information and belief, except as to those allegations concerning
3 Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and
4 belief is based upon, among other things, his counsel’s investigation, which
5 includes without limitation: (a) review and analysis of regulatory filings made by
6 AXESSTEL, INC. (“Axesstel” or the “Company”), with the United States
7 Securities and Exchange Commission (“SEC”); (b) review and analysis of press
8 releases and media reports issued by and disseminated by Axesstel; and (c) review
9 of other publicly available information concerning Axesstel.
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14 **NATURE OF THE ACTION AND OVERVIEW**

15 1. This is a class action on behalf of purchasers of Axesstel’s securities
16 between February 25, 2013 and March 31, 2014, inclusive (the “Class Period”),
17 seeking to pursue remedies under the Securities Exchange Act of 1934 (the
18 “Exchange Act”).
19

20 2. Axesstel is a provider of wireless voice, broadband access and
21 connected home solutions for the worldwide telecommunications market.
22 Axesstel’s product portfolio includes phones, wireline replacement terminals,
23 security alert systems, and 3G and 4G broadband gateway devices. These products
24 are used for voice calling, high-speed data access, and connected home
25 management services.
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1 3. On June 13, 2013, the Company disclosed a change in the Company's
2 sales leadership following the resignation of Axesstel's Chief Marketing Officer
3 ("CMO") and provided investors updated information about the Company's
4 anticipated second quarter performance and full year 2013 outlook. Specifically,
5 the Company disclosed that it was anticipating a weak second quarter due to
6 slower demand in Europe, product launches in Africa that were delayed to the
7 second quarter as a result of minor warranty issues, and a slower than expected
8 rollout of the Company's new products in 2013. Axesstel indicated that revenues
9 for the second quarter would fall substantially below first quarter revenue of \$10.1
10 million, and may be as low as \$2 million. Additionally, the Company indicated
11 that the Company's Chief Executive Officer ("CEO") would be taking over the
12 CMO's responsibilities.
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18 4. On this news, shares of Axesstel declined \$0.30 per share, nearly
19 30%, to close at \$0.71 per share on June 13, 2013, on unusually heavy volume.
20

21 5. Thereafter, on October 17, 2013, the Company disclosed that it had
22 terminated Axesstel's CEO and that the Company's revenues for the third quarter
23 of 2013 were approximately \$300,000, well short of the Company's initial
24 expectations. Moreover, Axesstel disclosed that the Company's accounts
25 receivables included approximately \$9 million of sales to customers in Africa,
26 which remained uncollected. The Company indicated that it was evaluating
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1 various alternatives for collection, including reserves against the accounts or in
2 some cases retaking possession of the product as inventory, and attempting to
3 resell the product to third parties.
4

5 6. On this news, shares of Axesstel declined \$0.15 per share, or 60%, to
6 close at \$0.10 per share on October 18, 2013, on unusually heavy volume.
7

8 7. On March 31, 2014, the Company revealed that Axesstel's
9 management had concluded that the previously issued financial statements
10 contained in the Company's Quarterly Reports on Form 10-Q for the quarters
11 ended March 31, 2013, June 30, 2013, and September 30, 2013, should no longer
12 be relied upon because of errors in those financial statements related to the
13 recognition of revenue from sales to two customers in the first quarter of 2013.
14 Axesstel informed investors that the decision had resulted from an investigation by
15 the Company's executive management, with the assistance of the audit committee
16 of the board of directors, outside counsel, and in consultation with the Company's
17 independent accountants. The investigation was purportedly commenced after
18 receipt of information that revenue had been recognized on two transactions prior
19 to the satisfaction of the necessary criteria for revenue recognition. For the two
20 orders in question, Axesstel indicated that the products were shipped and revenue
21 recognized prior to March 31, 2013, based on what certain sales employees
22 believed to be firm verbal commitments from two customers in Africa and that the
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1 products were never paid for by the customers and in the fourth quarter of 2013,
2 the products were returned by the customers and the accounts receivable were
3 written off. According to the Company, the investigation revealed that certain key
4 aspects of the sales to these two customers were not finalized at March 31, 2013,
5 including payment terms and marketing allowances and that, therefore, the revenue
6 associated with these potential sales should never have been recognized. As a
7 result, Axesstel indicated that it intended to restate its financial information for the
8 first three quarters of 2013 and that management had concluded that the
9 Company's internal control over financial reporting were not effective.
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14 8. On this news, shares of Axesstel declined \$0.01 per share, over 9%, to
15 close at \$0.10 per share on April 1, 2014, on unusually heavy volume.
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17 9. Throughout the Class Period, Defendants made false and/or
18 misleading statements, as well as failed to disclose material adverse facts about the
19 Company's business, operations, and prospects. Specifically, Defendants made
20 false and/or misleading statements and/or failed to disclose: (1) that the Company
21 was facing issues that were negatively impacting the rollout of Axesstel's new
22 Home Alert product line; (2) that, in the first quarter of 2013, certain aspects of
23 sales to two customers in Africa, including payment terms and market allowances,
24 were not finalized by the end of the quarter; (3) that the Company improperly
25 recognized revenue from these sales to the two customers in Africa in the first
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1 quarter of 2013 in violation of the Company's stated revenue recognition policy;
2 (4) that, as a result, the Company's revenue and financial results were overstated;
3 (5) that, as a result, the Company misrepresented the progress of the rollout of the
4 new Home Alert product line, as well as the true demand for the new product line;
5 (6) that the Company's financial statements were not prepared in accordance with
6 Generally Accepted Accounting Principles ("GAAP"); (7) that the Company
7 lacked adequate internal and financial controls; and (8) that, as a result of the
8 foregoing, the Company's financial statements and other statements about
9 Axesstel's business, operations, and prospects were materially false and misleading
10 at all relevant times and/or lacked a reasonable basis.

15 10. As a result of Defendants' wrongful acts and omissions, and the
16 precipitous decline in the market value of the Company's securities, Plaintiff and
17 other Class members have suffered significant losses and damages.

19 JURISDICTION AND VENUE

20 11. The claims asserted herein arise under Sections 10(b) and 20(a) of the
21 Exchange Act (15 U.S.C. §§78j(b) and 78t(a)) and Rule 10b-5 promulgated
22 thereunder by the SEC (17 C.F.R. § 240.10b-5).
23

24 12. This Court has jurisdiction over the subject matter of this action
25 pursuant to 28 U.S.C. §1331 and Section 27 of the Exchange Act (15 U.S.C.
26 §78aa).
27
28

1 13. Venue is proper in this Judicial District pursuant to 28 U.S.C.
2 §1391(b) and Section 27 of the Exchange Act (15 U.S.C. §78aa(c)). Substantial
3 acts in furtherance of the alleged fraud or the effects of the fraud have occurred in
4 this Judicial District. Many of the acts charged herein, including the preparation
5 and dissemination of materially false and/or misleading information, occurred in
6 substantial part in this Judicial District. Additionally, Axesstel's principle
7 executive offices are located within this Judicial District.
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11 14. In connection with the acts, transactions, and conduct alleged herein,
12 Defendants directly and indirectly used the means and instrumentalities of
13 interstate commerce, including the United States mail, interstate telephone
14 communications, and the facilities of a national securities exchange.
15

16 **PARTIES**
17

18 15. Plaintiff ██████████ as set forth in the accompanying certification,
19 incorporated by reference herein, purchased Axesstel securities during the Class
20 Period, and suffered damages as a result of the federal securities law violations and
21 false and/or misleading statements and/or material omissions alleged herein.
22

23 16. Defendant Axesstel is a Nevada corporation with its principal
24 executive offices located at 6815 Flanders Drive, Suite 210, San Diego, California
25 92121.
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1 17. Defendant H. Clark Hickock (“Hickock”) was, at all relevant times,
2 CEO of the Company until October 13, 2013, and was, at all relevant times, a
3
4 director of the Company until his resignation on October 17, 2013.

5 18. Defendant Patrick Gray (“Gray”) was, at all relevant times, Chief
6
7 Financial Officer (“CFO”) of Axesstel, and was, at all relevant times, CEO of the
8
9 Company since October 13, 2013.

10 19. Defendants Hickock and Gray are collectively referred to hereinafter
11 as the “Individual Defendants.” The Individual Defendants, because of their
12
13 positions with the Company, possessed the power and authority to control the
14
15 contents of Axesstel’s reports to the SEC, press releases and presentations to
16
17 securities analysts, money and portfolio managers and institutional investors, *i.e.*,
18
19 the market. Each defendant was provided with copies of the Company’s reports
20
21 and press releases alleged herein to be misleading prior to, or shortly after, their
22
23 issuance and had the ability and opportunity to prevent their issuance or cause
24
25 them to be corrected. Because of their positions and access to material non-public
26
27 information available to them, each of these defendants knew that the adverse facts
28
29 specified herein had not been disclosed to, and were being concealed from, the
30
31 public, and that the positive representations which were being made were then
32
33 materially false and/or misleading. The Individual Defendants are liable for the

1 false statements pleaded herein, as those statements were each “group-published”
2 information, the result of the collective actions of the Individual Defendants.
3

4 **SUBSTANTIVE ALLEGATIONS**

5 **Background**

6 20. Axesstel is a provider of wireless voice, broadband access and
7 connected home solutions for the worldwide telecommunications market.
8 Axesstel’s product portfolio includes phones, wireline replacement terminals,
9 security alert systems, and 3G and 4G broadband gateway devices. These products
10 are used for voice calling, high-speed data access, and connected home
11 management services.
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14 **Materially False and Misleading** 15 **Statements Issued During the Class Period**

16 21. The Class Period begins on February 25, 2013. On this day, the
17 Company issued a press release entitled, “Axesstel Completes Shipments of New
18 Wireless Home Alert Device.” Therein, the Company, in relevant part, stated:
19

- 20 - Expands product suite with wireless security alert systems
- 21 - Provides network operators with additional “cut the cord” revenue streams
- 22 - Diversifies customer base in Africa
- 23
- 24

25 Axesstel, Inc. (OTCQB:AXST), a leading provider of wireless voice,
26 broadband access and connected home solutions for the worldwide
27 telecommunications market, launched its new wireless security alert
28 systems by shipping approximately 40,000 AG50 Series Axesstel
Home Alerts to two different customers in Africa.

1 The AG50 Series Axesstel Home Alert System uses GSM technology
2 and has a built-in cellular module that can send an SMS or place a
3 phone call to up to 8 pre-assigned numbers. This affordable, easy-to-
4 set-up product can be used in homes or other locations for end-users
5 desiring a self-monitored alert notification system. An Axesstel Home
6 Alert utilizing CDMA technology is also available in the AX50
7 Series.

8 Clark Hickock, chief executive officer for Axesstel, stated: “The
9 launch of the Axesstel Home Alerts expands our suite of wire-line
10 replacement products and further establishes Axesstel as a leader in
11 developing 'cut the cord' devices. The security alert systems enable
12 network operators to offer new products to their entire subscriber
13 base, resulting in additional revenue without further incremental
14 investment, as well as attract new subscribers. We plan to release a
15 series of five Axesstel Home Alert security systems in key strategic
16 global markets. The security alert system product roadmap includes
17 advanced ‘all-in’ products incorporating voice, broadband access
18 capabilities and optional features enabling a wide array of connected
19 home applications. We are excited about the worldwide opportunities
20 for this product.”

21 **Benefits**

- 22 • Provides wireless alert notification with a built-in cellular
23 module that can send an SMS message or place a phone call to
24 up to 8 pre-assigned numbers when the sensor detects motion
- 25 • Uses an AC adaptor with a 9V backup battery that provides
26 continued functionality in the event of a power outage
- 27 • Arming and disarming can be triggered by keypad input or
28 remotely by sending an SMS
- Delivers an affordable solution, which is easy to set up,
configure and use

29 **Features**

- AG50 - 900MHz/1800MHz or 850MHz/1900MHz GSM/GPRS
- AX50 - 800MHz/1900MHz CDMA2000 1xRTT, IS95

- 1 • Call or SMS Alerting Numbers - Stores up to 8 pre-assigned
- 2 numbers
- 3 • Remote Arm/Disarm Capabilities
- 4 • 9 Multiple LED Indicators - Power, Battery, GSM or CDMA,
- 5 Setting/Register, Arming/Disarming, Zone Status Indicator 1-4
- 6 • Standard Telephone Keypad with Tactile Feel
- 7 • Audible Beeper for Programming Confirmation and Motion
- 8 Detection
- 9 • Panic Button for Emergency Situations
- 10 • Silent Alarm Capability
- 11 • 9 Volt Battery for Emergency Backup
- 12 • Low Battery Warning LED
- 13 • Tamper Prevention on Alert Panel and Motion Sensor
- 14 • Magnetic Contact Window/Door Sensors (optional)
- 15 • Configure up to 64 Sensors/Motion Detectors

16 22. On February 28, 2013, the Company issued a press release entitled,
17 “Axesstel Reports Fourth Quarter and Full Year 2012 Results.” Therein, the
18 Company, in relevant part, stated:
19

- 20 - Grows full year revenue to \$59.7 million; up 10% compared to 2011
- 21 - Achieves record gross margin of 26% for the year
- 22 - Posts record annual net income of \$4.3 million and EPS of \$0.16
- 23 - Records sixth consecutive quarter of profitability

24 Axesstel (OTCQB: AXST), a leading provider of wireless voice,
25 broadband access and connected home solutions to the worldwide
26 telecommunications market, reported results for its fourth quarter and
27 year ended December 31, 2012.

28 For the year ended December 31, 2012, Axesstel reported revenue of
\$59.7 million and net income of \$4.3 million, or \$0.16 per diluted
share. This compares to revenue of \$54.1 million and net income of
\$1.1 million, or \$0.05 per diluted share, for 2011.

Clark Hickock, CEO of Axesstel, stated, “Today we reported the most
profitable year in the company’s history. Overall, 2012 was our most

1 successful year ever as we posted records for several key financial
2 metrics: gross margins of 26%, operating income of \$4.7 million, net
3 income of \$4.3 million and EPS of \$0.16. We achieved our operating
4 goals for the year by reporting annual revenue growth of 10% and
5 achieving consistent quarterly profitability as we recorded our sixth
consecutive profitable quarter.”

6 Axesstel reported revenue of \$15.8 million for the fourth quarter of
7 2012. Net income for the period was \$824,000, or \$0.03 per diluted
8 share. This compares to revenue of \$16.9 million and net income of
9 \$1.0 million, or \$0.04 per diluted share, for the same period in the
prior year.

10 Hickock commented, “Contributing to the fourth quarter results were
11 sales from our existing Rev. B Wi-Fi gateway in Europe, which
12 delivered \$7.9 million in revenue and continues to be our number one
13 selling product globally. Sales of our wire-line replacement terminal
14 to Sprint contributed \$2.1 million in revenue and sales of our first new
15 wireless security alert notification systems to two different customers
in Africa totaled \$3.5 million in revenue.”

16 The company completed two transactions that bolstered its balance
17 sheet in 2012 and lowered its cost of borrowing. In September, it
18 entered into an agreement with Wistron Neweb Corporation (WNC)
19 to restructure an \$8.2 million past due account payable by paying
20 \$458,000 in cash and issuing a \$7.7 million non-interest bearing note
21 to WNC. The issuance of the note had a \$5.1 million positive impact
22 on working capital at December 31, 2012, as that amount was
23 reclassified from a current to long term liability. Also in September,
24 the company entered into a one year \$7.0 million credit facility with
Silicon Valley Bank. The new facility reduced the company’s cost of
25 borrowing to 6% to 7% at current market rates, compared to 16% to
26 24% under its prior facility.

27 ***Hickock continued, “Our 2012 results represent the successful
28 execution of our strategy to launch competitively-priced products,
aggressively reduce operating costs, and shift our customer focus to
servicing major carriers in specific markets. We have achieved a
significant turnaround and put the company on the right footing for
success in 2013 and beyond.”***

1
2 *“We are very excited about 2013 with the launch of our new dual-*
3 *mode gateway designed for the European market, which supports*
4 *both GSM and CDMA technologies in one device, and the upcoming*
5 *release of the next generation of our wire-line replacement*
6 *terminals for the North American market.”*

7 *“We also plan to release a series of five Axesstel Home Alert*
8 *security alert systems in key strategic global markets. The initial*
9 *product, which was launched in late 2012, provides basic wireless*
10 *alert functions and is being marketed to the Middle East, Africa and*
11 *Latin America. The second product provides similar functionality*
12 *and is planned for release in the United States. The third product*
13 *integrates the alert system with our wire-line replacement terminal*
14 *and incorporates “connected-home” applications and will be*
15 *targeted toward customers in the United States. The fourth and fifth*
16 *products combine security alert, voice, and high speed data*
17 *capabilities with a wide array of connected-home applications and*
18 *are targeted for sale in the US, Europe and Latin America. “*

19 *“In summary, we made significant progress in 2012 but we believe*
20 *the best is yet to come. We will focus on broadening our product,*
21 *geographic and customer platforms to continue our success in*
22 *2013,” Hickock concluded.*

23 * * *

24 **Recent Highlights**

- 25
- 26 • *Shipped the first product in a new line of Axesstel Home Alert*
27 *wireless security alert systems to two new customers in Africa.*
 - 28 • Became a partner on Deutsche Telekom’s M2M Marketplace, a
global online network dedicated to promoting adoption of M2M
products and solutions in the booming M2M market.
 - Launched its new SP100 Android smartphone.

(Emphasis added).

1 23. On February 28, 2013, Axesstel filed its Annual Report with the SEC
2 on Form 10-K for the 2012 fiscal year. The Company's Form 10-K was signed by
3 Defendants Hickock and Gray, and reaffirmed the Company's financial results
4 previously announced that day. The Company's Form 10-K also contained
5 Sarbanes-Oxley required certifications, signed by Defendants Hickock and Gray,
6 who certified:
7

- 8 1. I have reviewed this Annual Report on Form 10-K of Axesstel,
9 Inc.;
- 10 2. Based on my knowledge, this report does not contain any
11 untrue statement of a material fact or omit to state a material
12 fact necessary to make the statements made, in light of the
13 circumstances under which such statements were made, not
14 misleading with respect to the period covered by this report;
- 15 3. Based on my knowledge, the financial statements, and other
16 financial information included in this report, fairly present in all
17 material respects the financial condition, results of operations
18 and cash flows of the Registrant as of, and for, the periods
19 presented in this report;
- 20 4. The Registrant's other certifying officer(s) and I are responsible
21 for establishing and maintaining disclosure controls and
22 procedures (as defined in Exchange Act Rules 13a-15(e) and
23 15d-15(e)) and internal controls over financial reporting (as
24 defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the
25 registrant and have:
 - 26 (a) Designed such disclosure controls and procedures, or
27 caused such disclosure controls and procedures to be
28 designed under our supervision, to ensure that material
 information relating to the Registrant, including its
 consolidated subsidiaries, is made known to us by others
 within those entities, particularly during the period in
 which this report is being prepared;

1 (b) Designed such internal control over financial reporting,
2 or caused such internal control over financial reporting to
3 be designed under our supervision, to provide reasonable
4 assurance regarding the reliability of financial reporting
5 and the preparation of financial statements for external
6 purposes in accordance with generally accepted
7 accounting principles;

8 (c) Evaluated the effectiveness of the small Registrant's
9 disclosure controls and procedures and presented in this
10 report our conclusions about the effectiveness of the
11 disclosure controls and procedures, as of the end of the
12 period covered by this report based on such evaluation;
13 and

14 (d) Disclosed in this report any change in the Registrant's
15 internal control over financial reporting that occurred
16 during the small business issuer's most recent fiscal
17 quarter (the Registrant's fourth fiscal quarter in the case
18 of an annual report) that has materially affected, or is
19 reasonably likely to materially affect, the Registrant's
20 internal control over financial reporting; and

21 5. The Registrant's other certifying officer(s) and I have disclosed,
22 based on our most recent evaluation of internal control over
23 financial reporting, to the Registrant's auditors and the audit
24 committee of the Registrant's board of directors (or persons
25 performing the equivalent functions):

26 (a) All significant deficiencies and material weaknesses in
27 the design or operation of internal control over financial
28 reporting which are reasonably likely to adversely affect
the Registrant's ability to record, process, summarize and
report financial information; and

(b) Any fraud, whether or not material, that involves
management or other employees who have a significant
role in the Registrant's internal control over financial
reporting.

1
2 24. On April 8, 2013, the Company issued a press release entitled,
3 “Axesstel Reports First Quarter 2013 Results.” Therein, the Company, in relevant
4 part, stated:
5

- 6 – Revenues of \$10.1 million –
- 7 – Record gross margin percentage of 29% –
- 8 – Net income of \$84,000 –
- 9 – New \$2.3 million three year term loan secured with Silicon Valley
10 Bank –

11 Axesstel (OTCQB: AXST), a leading provider of wireless voice,
12 broadband access and connected home solutions to the worldwide
13 telecommunications market, reported results for its first quarter ended
14 March 31, 2013.

15 ***Axesstel reported revenues for the first quarter of 2013 of \$10.1***
16 ***million and net income of \$84,000, or \$0.00 per diluted share. This***
17 ***compares to revenues of \$12.0 million and net income of \$472,000,***
18 ***or \$0.02 per diluted share, for the same period in the prior year.***

19 Clark Hickock, CEO of Axesstel, stated, “Revenue in the first quarter
20 was below our operating target, ***but we delivered strong performance***
21 ***on our new Home Alert products and our gross margin percentage.***
22 ***We sold over \$4.0 million of our new Home Alert security systems to***
23 ***new customers in the MEA region, which boosted our gross margin***
24 ***percentage to a record 29%. With tight control over operating***
25 ***expenses, we generated net income of \$84,000. We also improved***
26 ***our working capital position by \$95,000.”***

27 “Sales from our Rev. B Wi-Fi gateways contributed revenue of \$4.3
28 million, ***Home Alert security systems delivered \$4.0 million***, with
wireline replacement terminals contributing \$1.6 million and phones
adding \$0.2 million in revenue. We did not receive orders from two
significant customers for our top-selling gateway and wireline
replacement terminals during the quarter. However, in the second half
we expect overall sales for our existing gateway and new dual mode

1 gateway products to pick up as our European customers work through
2 inventory issues and complete homologation testing of new products.
3 While we did not receive any orders for wireline replacement
4 terminals from Sprint during the quarter, we had record sales of these
5 terminals to regional Tier 2 and 3 carriers in North America. Looking
6 ahead, we are working with Sprint and other national carriers to
7 develop products for launch in the second half of 2013. *We also*
8 *addressed a minor design issue in our newly-released Home Alert*
9 *security systems that caused a delay in collection of certain*
10 *outstanding accounts receivable as well as a slowdown in follow-on*
11 *orders for those products.”*

12 *“Our Home Alert product line is our initial entrance into the M2M*
13 *and connected home markets with a security application, giving*
14 *wireless network operators access to a new segment of these*
15 *markets. We are pleased with the interest we have received to date*
16 *and are excited about the new opportunities to broaden our product,*
17 *geographic and customer platforms. We are also launching the next*
18 *generation of our core gateway and wireline replacement terminal*
19 *products. Based on customer feedback, we expect those products to*
20 *be well received.”*

21 “As stated at the beginning of the year, our primary operating goals
22 for 2013 are to maintain consistent profitability and to increase
23 revenue by ten to fifteen percent year-over-year. As first quarter 2013
24 revenues were lower than expected, we now anticipate first half 2013
25 revenue to be lower than initially planned due to a slower rollout of
26 our new products in 2013, and delays in customer testing and
27 customer acceptance. The precise timing and success of these product
28 introductions will have a material impact on our full year results, and
the slower first half of the year will make it more difficult to meet our
goal for annual revenue growth. *We are releasing the next generation*
of our core products, as well as additions to our Home Alert
products. We believe we will be very well positioned for significant
growth in the second half of the year and beyond,” Hickock
concluded.

Financial Results

1
2
3 ***Revenues for the first quarter of 2013 were \$10.1 million, compared***
4 ***to \$12.0 million in the first quarter of 2012. Gross margin was \$3.0***
5 ***million, or 29 percent of revenue, for the first quarter compared to***
6 ***gross margin of \$3.2 million, or 26 percent of revenue, in the same***
7 ***period last year.*** First quarter 2013 operating expenses were \$2.7
8 million compared to \$2.3 million in the first quarter of 2012. Net
9 income for the quarter was \$84,000, or \$0.00 per diluted share,
10 compared to first quarter 2012 net income of \$472,000, or \$0.02 per
11 diluted share.

12
13 At March 31, 2013, cash and cash equivalents were \$2.2 million,
14 compared to \$1.9 million at December 31, 2012. Working capital was
15 a deficit of \$2.1 million at March 31, 2013, compared to working
16 capital deficit of \$2.2 million at December 31, 2012.

17
18 The company continues to fund its operating requirements through
19 cash flows from operations and bank financings. On March 27, 2013,
20 the company secured a three year \$2.3 million term loan with Silicon
21 Valley Bank. In April 2013, the company successfully renewed a one
22 year \$1.6 million term loan with a commercial bank in China.

23
24 Because of delayed customer collections from sales generated late in
25 the fourth quarter of 2012, the company's accounts receivable balance
26 increased significantly by \$6.7 million to \$21.9 million at March 31,
27 2013. The delay in collections necessitated increased borrowing under
28 the company's credit facility to help manage accounts payable to key
vendors. Borrowings from the company's bank line of credit were
\$6.0 million at March 31, 2013, against an aggregate borrowing limit
of \$7.0 million.

Pat Gray, chief financial officer, commented, ***“While receivables and
bank borrowings increased during the quarter, we continue to
maintain strong relationships with our key customers, vendors and
banks. Since the end of the quarter, we have received payments on
the accounts, and expect to collect the balances, and to pay down
corresponding bank balances to more traditional levels, over the
next several months.”***

1 As a result of these transactions, Axesstel ended the first quarter of
2 2013 with \$9.8 million in bank financings, including \$6.0 million
3 under the company's account receivable financing facility, and \$3.8
4 million under two term loans with commercial banks in the United
5 States and China.

6 **Recent Highlights**

- 7
- 8 • *Sold \$4.0 million of new Home Alert systems in the first
9 quarter of 2013 totaling \$7.5 million over the past two
10 quarters since the product release.*
 - 11 • Secured a new three year \$2.3 million term loan with Silicon
12 Valley Bank.
 - 13 • Renewed its one year \$1.6 million term loan with a commercial
14 bank in China.
 - 15 • Amended its \$7.0 million accounts receivable credit facility to
16 reduce the interest rate on borrowings against eligible accounts
17 receivable.

18 (Emphasis added).

19 25. On May 14, 2013, Axesstel filed its Quarterly Report with the SEC on
20 Form 10-Q for the 2013 fiscal first quarter. The Company's Form 10-Q was
21 signed by Defendant Gray and reaffirmed the Company's financial results
22 previously announced that day. The Company's 10-Q also contained Sarbanes-
23 Oxley required certifications, signed by Defendants Hickock and Gray,
24 substantially similar to the certifications contained in ¶23, *supra*.

25 26. The above statements contained in ¶¶21-25 were materially false
26 and/or misleading when made because defendants failed to disclose or indicate the
27
28

1 following: (1) that the Company was facing issues that were negatively impacting
2 the rollout of Axesstel's new Home Alert product line; (2) that, in the first quarter
3 of 2013, certain aspects of sales to two customers in Africa, including payment
4 terms and market allowances, were not finalized by the end of the quarter; (3) that
5 the Company improperly recognized revenue from these sales to the two customers
6 in Africa in the first quarter of 2013 in violation of the Company's stated revenue
7 recognition policy; (4) that, as a result, the Company's revenue and financial
8 results were overstated; (5) that, as a result, the Company misrepresented the
9 progress of the rollout of the new Home Alert product line, as well as the true
10 demand for the new product line; (6) that the Company's financial statements were
11 not prepared in accordance with GAAP; (7) that the Company lacked adequate
12 internal and financial controls; and (8) that, as a result of the foregoing, the
13 Company's financial statements and other statements about Axesstel's business,
14 operations, and prospects were materially false and misleading at all relevant times
15 and/or lacked a reasonable basis.

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22 **The Truth Slowly Begins to Emerge**

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24 27. On June 13, 2013, the Company issued a press release entitled,
25 "Axesstel Provides Company Update." Therein, the Company, in relevant part,
26 stated:

27
28 – Changes sales leadership following Chief Marketing Officer
resignation–

- 1 – Delivers revenue expectations for the second quarter of 2013 –
2 – Continues to anticipate an improved second half –

3 Axesstel (OTCQB: AXST), a leading provider of wireless voice,
4 broadband access and connected home solutions to the worldwide
5 telecommunications market, ***provided updates on its sales leadership***
6 ***following the resignation of Henrik Hoeffner, its chief marketing***
7 ***officer, as well as its anticipated second quarter performance and***
8 ***full year 2013 outlook.***

9 Clark Hickock, the Company's chief executive officer, has been
10 increasingly active in key customer relationships and has assumed Mr.
11 Hoeffner's management responsibilities. The sales executives for each
12 of its four key regional markets now report directly to Mr. Hickock.
13 The Company has reached an agreement with Mr. Hoeffner to provide
14 advisory consulting services to transition key accounts and advance
15 key strategic opportunities.

16 "We want to thank Henrik for his service and contribution to
17 Axesstel," said Hickock. "He has been the consummate professional
18 and assembled a team of experienced and capable regional sales
19 executives who manage our day-to-day sales operations in North
20 America, Latin America, Europe and the Middle East and Africa. We
21 wish Henrik well."

22 ***The Company is anticipating a weak second quarter due to slower***
23 ***demand in Europe, product launches in Africa that were delayed to***
24 ***the second quarter as a result of minor warranty issues, and a***
25 ***slower than expected rollout of the Company's new products in***
26 ***2013. The Company believes that revenues for the second quarter***
27 ***will fall substantially below first quarter revenue of \$10.1 million,***
28 ***and may be as low as \$2 million.***

Hickock continued, "Our quarterly revenues have always been subject
to volatility based on the timing of large orders. ***The transition to our***
next generation product lines is moving slower than anticipated, but
we will work through these issues and expect our performance to
return to historic levels later in 2013. Despite what looks like a very
weak second quarter, we are continuing to receive positive feedback
from our customers about our new product lines, and expect that the

1 *second half of the year will show improved sales and results of*
2 *operations.”*

3 *“We are confident in our product strategies, including our entrance*
4 *into the rapidly growing M2M and connected home markets. We*
5 *expect to retain market share in Europe with our broadband*
6 *gateway devices and to expand our addressable market with the*
7 *recent launch of our dual-mode gateway device. We are adding*
8 *functionality to our next generation of wireline replacement*
9 *terminals for the North American market. We have multiple releases*
10 *scheduled for our Home Alert product line, targeted to address the*
11 *requirements of specific geographic regions or customers. Scheduled*
12 *for launch in North America later in 2013, we are putting Home Alert*
13 *products in the development lab with Sprint, and are working with*
14 *other carriers in North America and other regions. We need to get*
15 *these products completed, tested and released, but expect that the*
16 *Home Alert products will be one of our largest selling product lines.*
17 *We remain very excited about our future,” concluded Hickock.*

18 (Emphasis added).

19 28. On this news, shares of Axesstel declined \$0.30 per share, nearly
20 30%, to close at \$0.71 per share on June 13, 2013, on unusually heavy volume.

21 29. The above statements contained in ¶27 was materially false and/or
22 misleading when made because defendants failed to disclose or indicate the
23 following: (1) that the Company was facing issues that were negatively impacting
24 the rollout of Axesstel’s new Home Alert product line; (2) that, in the first quarter
25 of 2013, certain aspects of sales to two customers in Africa, including payment
26 terms and market allowances, were not finalized by the end of the quarter; (3) that
27 the Company improperly recognized revenue from these sales to the two customers
28 in Africa in the first quarter of 2013 in violation of the Company’s stated revenue

1 recognition policy; (4) that, as a result, the Company's revenue and financial
2 results were overstated; (5) that, as a result, the Company misrepresented the
3 progress of the rollout of the new Home Alert product line, as well as the true
4 demand for the new product line; (6) that the Company's financial statements were
5 not prepared in accordance with GAAP; (7) that the Company lacked adequate
6 internal and financial controls; and (8) that, as a result of the foregoing, the
7 Company's financial statements and other statements about Axesstel's business,
8 operations, and prospects were materially false and misleading at all relevant times
9 and/or lacked a reasonable basis.

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14 30. On August 13, 2013, the Company issued a press release entitled,
15 "Axesstel Reports Second Quarter 2013 Results." Therein, the Company, in
16 relevant part, stated:

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18 Axesstel (OTCQB: AXST), a leading provider of wireless voice,
19 broadband access and connected home solutions to the worldwide
20 telecommunications market, reported results for its second quarter
21 ended June 30, 2013.

22 Axesstel reported revenues for the second quarter of 2013 of \$1.2
23 million and net loss of \$2.5 million, or a loss of \$0.10 per diluted
24 share. This compares to revenues of \$15.5 million and net income of
25 \$896,000, or earnings of \$0.03 per diluted share, for the same period
26 in the prior year.

27 Clark Hickock, CEO of Axesstel, stated, "*The second quarter of*
28 *2013 was a 'perfect storm' for Axesstel, with several issues hitting us*
all at the same time. We experienced a drop in sales of our
traditional products, a delay in the launch of our new product lines,
and slow collection of receivables that impacted our cash and

1 *working capital position. While we did not anticipate the timing or*
2 *concurrency of these events, they are each known risks inherent to*
3 *our business, and we are aggressively managing our way through*
4 *them. At the same time, and despite the launch delays, our new*
5 *Home Alert products have generated opportunities that will be very*
6 *significant if we can convert them to firm orders.”*

7 “In Europe, our two largest gateway customers did not place any
8 significant orders during the second quarter. One of these customers
9 ordered their first half requirements in the first quarter and we expect
10 follow-on orders from this customer in the third quarter. We expect
11 full year orders from this customer to be comparable to last year. The
12 other principal customer for our gateway products experienced slower
13 than expected sell through of our gateway products during the first
14 half of 2013 and continues to work through accumulated inventory.
15 Although we anticipate additional orders once it corrects its inventory
16 levels, the yearly volume for this customer will fall significantly
17 below our original expectations for 2013.”

18 “In North America, we are transitioning our wireline replacement
19 terminal product line to next generation products. We have developed
20 the next generation version of our base terminal with improved
21 performance and a lower price point and are working to establish
22 market share for this product with carriers in North America. In
23 addition, we are nearing completion of a wireline replacement
24 terminal that incorporates some of the functions of our Home Alert
25 product line. We are working with Sprint and other customers on this
26 device. We expected orders for these products to commence in the
27 second quarter, but testing and launch have progressed slower than we
28 originally anticipated, and we now expect orders to commence in the
second half of 2013.”

*“Finally, the rollout of our new Home Alert product line has
progressed slower than originally anticipated. We have experienced
some of the normal issues associated with the transition to a new
product category. A minor warranty issue in the first quarter
delayed the product launch in Africa. We corrected that issue in the
second quarter. Those units are now being moved into the channel
and are expected to launch during the third quarter, which should
result in follow-on orders from those customers in Africa later in the*

1 *second half of 2013. We are also continuing to demonstrate our*
2 *Home Alert products to carriers in North America, Europe, and*
3 *Latin America and are receiving significant interest. Testing and*
4 *product launch have progressed slower than anticipated, but interest*
5 *in the product line remains high, and we expect orders to come in*
6 *later in the third quarter or fourth quarter of the year.* Due to the
7 elongated sales cycles with Tier 1 carriers in North America, we are
8 pursuing an additional path to bring our new Home Alert product line
9 directly to retail outlets through various mobile virtual network
10 operators. This strategy allows for a more streamlined certification
11 process, thereby quickening time to market.”

12 “We are not going to minimize the significance of our first half
13 operating results. The net loss has had a significant impact on our
14 working capital position. *Nonetheless, we continue to have*
15 *confidence in our long term strategic direction. We expect orders for*
16 *our gateway and Home Alert products to build in the third quarter.*
17 *We continue to receive high customer interest in our Home Alert*
18 *products and are pursuing significant opportunities for this new*
19 *product line which, if successful, could result in a strong fourth*
20 *quarter. We continue to believe our new Home Alert product line,*
21 *along with our new gateway and advanced terminal products,*
22 *position the company well for growth in late 2013 and beyond,”*
23 *Hickock concluded.*

24 Financial Results

25 Revenues for the second quarter of 2013 were \$1.2 million, compared
26 to \$15.5 million in the second quarter of 2012. Gross margin was
27 \$335,000, or 28 percent of revenue, for the second quarter compared
28 to gross margin of \$3.6 million, or 23 percent of revenue, in the same
period last year. Second quarter 2013 operating expenses were \$2.9
million compared to \$2.3 million in the second quarter of 2012. Net
loss for the quarter was \$2.5 million, or a loss of \$0.10 per diluted
share, compared to second quarter 2012 net income of \$896,000, or
earnings of \$0.03 per diluted share.

For the six months ended June 30, 2013, the company reported
revenue of \$11.3 million and gross margin of 29 percent, compared to
\$27.6 million and 25 percent, respectively, for the first half of 2012.

1 Net loss for the first half of 2013 was \$2.4 million, or a loss of \$0.10
2 per diluted share, compared to a net income of \$1.4 million, or
3 earnings of \$0.05 per diluted share, in the first half of 2012.

4 At June 30, 2013, cash and cash equivalents were \$76,000, compared
5 to \$1.9 million at December 31, 2012. Working capital was a deficit
6 of \$4.8 million at June 30, 2013.

7 Pat Gray, chief financial officer, commented, *“The reduction in cash
8 is due in part to slow collection of accounts receivable. We started
9 the quarter with \$21.9 million of accounts receivable. We finished
10 the quarter with an account receivable balance of \$15.2 million, of
11 which, \$12.2 million was past due. We collected \$7.7 million of
12 accounts receivable during the quarter and an additional \$3.0
13 million to date in the third quarter. We expect to collect the
14 remaining receivables in the second half of 2013.”*

15 The company has traditionally funded its operating requirements
16 through cash flows from operations and bank financings. Axesstel
17 ended the second quarter of 2013 with \$6.0 million in bank
18 financings, including \$2.1 million under the company’s account
19 receivable financing facility, and \$3.9 million under two term loans
20 with commercial banks in the United States and China. The recent net
21 loss caused an event of default under the Company’s \$2.25 million
22 term loan facility, and the company is working with the bank on a
23 forbearance arrangement and restructured repayment arrangement.
24 Consequently, the company has reclassified the long term portion of
25 the term loan to a short term liability at June 30, 2013.

26 (Emphasis added).

27 31. On August 13, 2013, Axesstel filed its Quarterly Report with the SEC
28 on Form 10-Q for the 2013 fiscal second quarter. The Company’s Form 10-Q was
signed by Defendant Gray, and reaffirmed the Company’s financial results
previously announced that day. The Company’s 10-Q also contained Sarbanes-

1 Oxley required certifications, signed by Defendants Hickock and Gray,
2 substantially similar to the certifications contained in ¶23, *supra*.
3

4 32. The above statements contained in ¶¶30-31 were materially false
5 and/or misleading when made because defendants failed to disclose or indicate the
6 following: (1) that the Company was facing issues that were negatively impacting
7 the rollout of Axesstel's new Home Alert product line; (2) that, in the first quarter
8 of 2013, certain aspects of sales to two customers in Africa, including payment
9 terms and market allowances, were not finalized by the end of the quarter; (3) that
10 the Company improperly recognized revenue from these sales to the two customers
11 in Africa in the first quarter of 2013 in violation of the Company's stated revenue
12 recognition policy; (4) that, as a result, the Company's revenue and financial
13 results were overstated; (5) that, as a result, the Company misrepresented the
14 progress of the rollout of the new Home Alert product line, as well as the true
15 demand for the new product line; (6) that the Company's financial statements were
16 not prepared in accordance with GAAP; (7) that the Company lacked adequate
17 internal and financial controls; and (8) that, as a result of the foregoing, the
18 Company's financial statements and other statements about Axesstel's business,
19 operations, and prospects were materially false and misleading at all relevant times
20 and/or lacked a reasonable basis.
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1 33. On October 17, 2013, Axesstel filed a Current Report with the SEC on
2 Form 8-K. Therein, the Company, in relevant part, stated:
3

4 **Item 5.02. Departure of Directors or Certain Officers; Election**
5 **of Directors; Appointment of Certain Officers; Compensatory**
6 **Arrangements of Certain Officers.**

7 On October 13, 2013, our Board of Directors appointed Patrick Gray,
8 our current Chief Financial Officer, to the additional role of Chief
9 Executive Officer, effectively immediately. Mr. Gray has been our
10 Chief Financial Officer since 2007. Additional information
11 concerning Mr. Gray's background and experience can be found in
12 our definitive proxy statement on Schedule 14A filed with the SEC on
13 April 30, 2013.

14 Mr. Gray succeeds Mr. Clark Hickock. *On October 14, 2013, our*
15 *Board of Directors provided Mr. Hickock with notice of its election*
16 *to terminate his employment agreement with the company, dated*
17 *June 7, 2012, without cause, in accordance with its terms.* Under
18 that employment agreement, Mr. Hickock is entitled to 30 days notice
19 of termination and to payment of certain severance compensation.

20 On October 17, 2013, Mr. Hickock gave notice of his resignation as a
21 member of our Board of Directors effective immediately.

22 **Item 8.01. Other Events.**

23 In connection with our quarterly report on form 10-Q for the period
24 ended June 30, 2013, we stated "We expect that our third quarter
25 operations will improve as compared to the second quarter, but not to
26 historic levels. Customer interest suggests that, if we can convert
27 identified opportunities to firm orders, we could have a strong fourth
28 quarter."

 Our revenues for the third quarter of 2013 were approximately
 \$300,000, well short of our initial expectations. We expected sales of
 our gateway products in Europe to pick up during the third quarter.
 We did receive an order from one of our two major European
 customers, but that order is for delivery in the fourth quarter of 2013

1 and first quarter of 2014. The second major customer is not expected
2 to place additional orders until 2014. We also expected to generate
3 revenue from sales of our Home Alert product line. We have been
4 working with carriers and retailers in North America and other
5 regions, but we did not complete any material sales during the quarter.
6 We have a some backlog of orders entering the fourth quarter.
7 However, we do not expect our fourth quarter revenues to reach the
8 levels we experienced in 2011 and 2012.

9 We used cash collected from accounts receivable to fund operations
10 during the third quarter. We began the quarter with \$15.1 million of
11 accounts receivable, and collected \$4.0 million of those accounts
12 during the quarter. ***The remaining \$11.1 million of accounts
13 receivable includes approximately \$9.0 million of sales to customers
14 in Africa. Those accounts are aging and we are evaluating various
15 alternatives for collection, including reserves against the accounts
16 or in some cases retaking possession of the product as inventory,
17 and attempting to resell the product to third parties.***

18 (Emphasis added).

19 34. On this news, shares of Axesstel declined \$0.15 per share, or 60%, to
20 close at \$0.10 per share on October 18, 2013, on unusually heavy volume.

21 35. On November 19, 2013, Axesstel filed its Quarterly Report with the
22 SEC on Form 10-Q for the 2013 fiscal second quarter. The Company's Form 10-Q
23 was signed by Defendant Gray. The Company's 10-Q also contained Sarbanes-
24 Oxley required certifications, signed by Defendant Gray, substantially similar to
25 the certifications contained in ¶23, *supra*.

26 36. The statements contained in ¶¶33 and 35 were materially false and/or
27 misleading when made because defendants failed to disclose or indicate the
28 following: (1) that the Company was facing issues that were negatively impacting

1 the rollout of Axesstel's new Home Alert product line; (2) that, in the first quarter
2 of 2013, certain aspects of sales to two customers in Africa, including payment
3 terms and market allowances, were not finalized by the end of the quarter; (3) that
4 the Company improperly recognized revenue from these sales to the two customers
5 in Africa in the first quarter of 2013 in violation of the Company's stated revenue
6 recognition policy; (4) that, as a result, the Company's revenue and financial
7 results were overstated; (5) that, as a result, the Company misrepresented the
8 progress of the rollout of the new Home Alert product line, as well as the true
9 demand for the new product line; (6) that the Company's financial statements were
10 not prepared in accordance with GAAP; (7) that the Company lacked adequate
11 internal and financial controls; and (8) that, as a result of the foregoing, the
12 Company's financial statements and other statements about Axesstel's business,
13 operations, and prospects were materially false and misleading at all relevant times
14 and/or lacked a reasonable basis.

21 **Disclosures at the End of the Class Period**

22 37. On March 31, 2014, the Company filed a current report with the SEC
23 on Form 8-K. Therein, the Company, in relevant part, stated:
24

25 **Item 2.02. Results of Operations and Financial Condition.**

26 We are announcing our preliminary unaudited results of operations for
27 the fourth quarter of 2013 and for the year ended December 31, 2013.
28

1 *Revenues for the fourth quarter were approximately \$800,000. For*
2 *the year ended December 31, 2013, revenues were approximately*
3 *\$8.6 million. As discussed in Item 4.02 below, we are restating our*
4 *financial statements for the first quarter of 2013, which we believe*
5 *will result in a \$3.9 million reduction in revenue for that period and*
6 *for the year ended December 31, 2013.*

7 *We anticipate a net loss for the year of approximately \$10.0 million.*
8 *The net loss may increase, depending on the final determination of*
9 *inventory reserves.*

10 We finished the year with cash and cash equivalents of \$10,000 and a
11 working capital deficit of approximately \$12.0 million, subject to
12 possible increase depending on final determination of inventory
13 reserves. *The low revenues and continued slow collection of*
14 *accounts receivable have significantly constrained our cash*
15 *resources. We remain in default under our \$2.3 million Loan and*
16 *Security Agreement with Silicon Valley Bank. Our \$1.6 million term*
17 *loan with Bank of Communications, Ltd. in China comes due in*
18 *April 2014. We are currently negotiating an extension of the term of*
19 *that loan, but have not reached agreement for any extension at this*
20 *time. We continue to be significantly past due to our contract*
21 *manufacturers in China. Those manufacturers have restricted their*
22 *credit terms with us.*

23 Our fourth quarter revenue resulted from sales of our gateway
24 products to a customer in Europe. We will generate some additional
25 sales to this customer during the first quarter of 2014. However, this
26 customer and our other key European customer for our gateway
27 products plan to transition their networks to 4G during calendar 2014.
28 There are a number of competitors offering gateway products for 4G
networks and, as a result, we are not anticipating significant orders for
our traditional gateway products in 2014. We are focusing our efforts
on sales of our Home Alert products, particularly in North America.

**Item 4.02. Non-Reliance on Previously Issued Financial
Statements or a Related Auditor Report or Completed Interim
Review.**

1 ***On March 27, 2014, executive management of our Company***
2 ***concluded that the previously issued unaudited financial statements***
3 ***contained in our quarterly report on Form 10-Q for the quarter***
4 ***ended March 31, 2013, and the two subsequent unaudited quarterly***
5 ***reports on Form 10-Q in 2013 for the periods ended June 30, 2013***
6 ***and September 30, 2013 (collectively the “Prior Periods”), should no***
7 ***longer be relied upon because of errors in those financial***
8 ***statements. The errors relate to the recognition of revenue from***
9 ***sales to two customers in the first quarter of 2013. In addition to the***
10 ***financial statements of the Prior Periods, related press releases***
11 ***furnished on current reports on Form 8-K, reports and stockholder***
12 ***communications describing our financial statements for the Prior***
13 ***Periods should no longer be relied upon.***

14 ***The conclusion that the financial statements for the Prior Periods***
15 ***cannot be relied upon is the result of an investigation by our***
16 ***executive management, with the assistance of the audit committee of***
17 ***our board of directors, our outside counsel, and in consultation with***
18 ***our independent accountants. The investigation commenced***
19 ***following the recent receipt of information that revenue was***
20 ***recognized on two transactions prior to the satisfaction of necessary***
21 ***criteria for revenue recognition. Our policy is to recognize revenue***
22 ***from product sales when the risks of loss and title pass to the***
23 ***customer, assuming all other revenue recognition criteria are met.***
24 ***Depending on the terms of sale, title and risk of loss pass on delivery***
25 ***to the common carrier on shipment, or on delivery to the customer’s***
26 ***facility. For the two orders in question, products were shipped and***
27 ***revenue recognized prior to March 31, 2013, based on what certain***
28 ***of our sales employees believed to be firm verbal commitments from***
29 ***two customers in Africa. The products were never paid for by the***
30 ***customers and in the fourth quarter of 2013, the products were***
31 ***returned by the customers and the accounts receivable were written***
32 ***off. However, our recent investigation revealed that certain key***
33 ***aspects of the sales to these two customers were not finalized at***
34 ***March 31, 2013, including payment terms and marketing***
35 ***allowances. Therefore, the revenue associated with these potential***
36 ***sales should never have been recognized.***

37 ***Preliminary indications are that the impact to the Prior Periods of***
38 ***correcting the errors in revenue recognition will be to decrease***

1 *revenue for the quarter ended March 31, 2013 and for the nine*
2 *month period ended September 30, 2013 by approximately \$3.9*
3 *million, with corresponding decreases in operating income and net*
4 *income, and an increase in total stockholders' deficit.* We are
5 continuing to evaluate the total amount of the adjustments and the
6 specific impact on each period covered by the restatement, which may
7 result in an increase or decrease in previously reported amounts for
8 the Prior Periods.

9 *We intend to include restated financial information for the first*
10 *three quarterly periods in our Annual Report on Form 10-K for the*
11 *year ended December 31, 2013, to reflect the resulting adjustments*
12 *in revenues, net loss, and additional non-cash items in our financial*
13 *statements.* As a result of the restatement of our interim results, as
14 well as delays in completing our audit as a result of our limited
15 financial resources, we do not expect to file our Annual Report on
16 Form 10-K by the March 31, 2014 filing deadline. We currently
17 expect to file our Annual Report on form 10-K in early May 2014.

18 We have considered the effect of the restatement on our prior
19 conclusions of the adequacy of our internal controls over financial
20 reporting at the end of each of the applicable restatement periods. *As a*
21 *result of the errors described above, management has concluded*
22 *that the Company's internal control over financial reporting were*
23 *not effective to a reasonable assurance as of the ends of each of the*
24 *periods covered by the restatement.* We will amend any disclosures
25 pertaining to our evaluation of such controls and procedures as
26 appropriate in connection with the Annual Report on Form 10-K. We
27 have subsequently designed and implemented new internal controls
28 and procedures to strengthen our internal controls over financial
reporting specifically with regard to the determination of revenue
recognition. With these changes now in place, management believes
that our internal controls over financial reporting are effective at the
“reasonable assurance” level.

(Emphasis added).

38. On this news, shares of Axesstel declined \$0.01 per share, over 9%, to
close at \$0.10 per share on April 1, 2014, on unusually heavy volume.

1 **AXESSTEL'S VIOLATION OF GAAP RULES**
2 **IN ITS FINANCIAL STATEMENTS**
3 **FILED WITH THE SEC**

4 35. These financial statements and the statements about the Company's
5 financial results were false and misleading, as such financial information was not
6 prepared in conformity with GAAP, nor was the financial information a fair
7 presentation of the Company's operations due to the Company's improper
8 recording of revenue, in violation of GAAP rules.
9

10 36. GAAP are those principles recognized by the accounting profession as
11 the conventions, rules and procedures necessary to define accepted accounting
12 practice at a particular time. Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) states
13 that financial statements filed with the SEC which are not prepared in compliance
14 with GAAP are presumed to be misleading and inaccurate. Regulation S-X
15 requires that interim financial statements must also comply with GAAP, with the
16 exception that interim financial statements need not include disclosure which
17 would be duplicative of disclosures accompanying annual financial statements. 17
18 C.F.R. § 210.10-01(a).
19
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21

22 37. The fact that Axesstel announced that it intends to restate its financial
23 statements, and informed investors that these financial statements should not be
24 relied upon is an admission that they were false and misleading when originally
25 issued (APB No.20, 7-13; SFAS No. 154, 25).
26
27
28

1 38. Given these accounting irregularities, the Company announced
2 financial results that were in violation of GAAP and the following principles:
3

4 (a) The principle that “interim financial reporting should be based
5 upon the same accounting principles and practices used to prepare annual financial
6 statements” was violated (APB No. 28, 10);
7

8 (b) The principle that “financial reporting should provide
9 information that is useful to present to potential investors and creditors and other
10 users in making rational investment, credit, and similar decisions” was violated
11 (FASB Statement of Concepts No. 1, 34);
12

13 (c) The principle that “financial reporting should provide
14 information about the economic resources of Axesstel, the claims to those
15 resources, and effects of transactions, events, and circumstances that change
16 resources and claims to those resources” was violated (FASB Statement of
17 Concepts No. 1, 40);
18

19 (d) The principle that “financial reporting should provide
20 information about Axesstel’s financial performance during a period” was violated
21 (FASB Statement of Concepts No. 1, 42);
22

23 (e) The principle that “financial reporting should provide
24 information about how management of Axesstel has discharged its stewardship
25
26
27
28

1 responsibility to owners (stockholders) for the use of Axesstel resources entrusted
2 to it” was violated (FASB Statement of Concepts No. 1, 50);
3

4 (f) The principle that “financial reporting should be reliable in that
5 it represents what it purports to represent” was violated (FASB Statement of
6 Concepts No. 2, 58-59);
7

8 (g) The principle that “completeness, meaning that nothing is left
9 out of the information that may be necessary to insure that it validly represents
10 underlying events and conditions” was violated (FASB Statement of Concepts No.
11 2, 79); and
12

13 (h) The principle that “conservatism be used as a prudent reaction
14 to uncertainty to try to ensure that uncertainties and risks inherent in business
15 situations are adequately considered” was violated (FASB Statement of Concepts
16 No. 2, 95).
17

18
19 39. The adverse information concealed by Defendants during the Class
20 Period and detailed above was in violation of Item 303 of Regulation S-K under
21 the federal securities law (17 C.F.R. §229.303).
22

23 **CLASS ACTION ALLEGATIONS**
24

25 40. Plaintiff brings this action as a class action pursuant to Federal Rule of
26 Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who
27 purchased Axesstel securities between February 25, 2013 and March 31, 2014,
28

1 inclusive (the “Class Period”) and who were damaged thereby. Excluded from the
2 Class are Defendants, the officers and directors of the Company, at all relevant
3 times, members of their immediate families and their legal representatives, heirs,
4 successors or assigns and any entity in which Defendants have or had a controlling
5 interest.
6
7

8 41. The members of the Class are so numerous that joinder of all
9 members is impracticable. Throughout the Class Period, Axesstel securities were
10 actively traded and quoted on the OTCQB, a highly efficient marketplace. While
11 the exact number of Class members is unknown to Plaintiff at this time and can
12 only be ascertained through appropriate discovery, Plaintiff believes that there are
13 hundreds or thousands of members in the proposed Class. Hundreds of thousands
14 of Axesstel shares were traded publicly during the Class Period, demonstrating an
15 active and broad market for Axesstel stock and permitting a strong presumption of
16 an efficient market. Record owners and other members of the Class may be
17 identified from records maintained by Axesstel or, its transfer agent and may be
18 notified of the pendency of this action by mail, using the form of notice similar to
19 that customarily used in securities class actions.
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25 42. Plaintiff’s claims are typical of the claims of the members of the Class
26 as all members of the Class are similarly affected by Defendants’ wrongful
27 conduct in violation of federal law that is complained of herein.
28

1 43. Plaintiff will fairly and adequately protect the interests of the
2 members of the Class and has retained counsel competent and experienced in class
3 and securities litigation.
4

5 44. Common questions of law and fact exist as to all members of the
6 Class and predominate over any questions solely affecting individual members of
7 the Class. Among the questions of law and fact common to the Class are:
8

9 (a) whether the federal securities laws were violated by Defendants' acts
10 as alleged herein;
11

12 (b) whether statements made by Defendants to the investing public during
13 the Class Period omitted and/or misrepresented material facts about the business,
14 operations, management, and prospects of Axesstel; and
15

16 (c) to what extent the members of the Class have sustained damages and
17 the proper measure of damages.
18

19 45. A class action is superior to all other available methods for the fair
20 and efficient adjudication of this controversy since joinder of all members is
21 impracticable. Furthermore, as the damages suffered by individual Class members
22 may be relatively small, the expense and burden of individual litigation make it
23 impossible for members of the Class to individually redress the wrongs done to
24 them. There will be no difficulty in the management of this action as a class
25 action.
26
27
28

UNDISCLOSED ADVERSE FACTS

1
2
3 46. The market for Axesstel securities was open, well-developed and
4 efficient at all relevant times. As a result of these materially false and misleading
5 statements, and failures to disclose, Axesstel securities traded at artificially inflated
6 prices during the Class Period. Plaintiff and other members of the Class purchased
7 or otherwise acquired Axesstel securities relying upon the integrity of the market
8 price of the Company's securities and market information relating to Axesstel, and
9 have been damaged thereby.
10
11

12 47. During the Class Period, Defendants materially misled the investing
13 public, thereby inflating the price of Axesstel securities, by publicly issuing false
14 and/or misleading statements and/or omitting to disclose material facts necessary
15 to make Defendants' statements, as set forth herein, not false and/or misleading.
16 Said statements and/or omissions were materially false and/or misleading in that
17 they failed to disclose material adverse information and/or misrepresented the truth
18 about the Company, its business, operations, management, and prospects, as
19 alleged herein.
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23 48. At all relevant times, the material misrepresentations and/or omissions
24 particularized in this Complaint directly or proximately caused or were a
25 substantial contributing cause of the damages sustained by Plaintiff and other
26 members of the Class. As described herein, during the Class Period, Defendants
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28

1 made or caused to be made a series of materially false and/or misleading
2 statements about Axesstel's business, operations, management, and prospects.
3
4 These material misstatements and/or omissions had the cause and effect of creating
5 in the market an unrealistically positive assessment of the Company and its
6 business and operations, thus causing the Company's securities to be overvalued
7 and artificially inflated at all relevant times. Defendants' materially false and/or
8 misleading statements during the Class Period resulted in Plaintiff and other
9 members of the Class purchasing the Company's securities at artificially inflated
10 prices, thus causing the damages complained of herein.
11
12

13 LOSS CAUSATION

14
15 49. Defendants' wrongful conduct, as alleged herein, directly and
16 proximately caused the economic loss suffered by Plaintiff and the Class.
17

18 50. During the Class Period, Plaintiff and the Class purchased Axesstel
19 securities at artificially inflated prices and were damaged thereby. The price of the
20 Company's securities significantly declined when the misrepresentations made to
21 the market, and/or the information alleged herein to have been concealed from the
22 market, and/or the effects thereof, were revealed, causing investors' losses.
23
24

25 SCIENTER ALLEGATIONS

26 51. As alleged herein, Defendants acted with scienter in that Defendants
27 knew that the public documents and statements issued or disseminated in the name
28

1 of the Company were materially false and/or misleading; knew that such
2 statements or documents would be issued or disseminated to the investing public;
3
4 and knowingly and substantially participated or acquiesced in the issuance or
5 dissemination of such statements or documents as primary violations of the federal
6 securities laws. As set forth elsewhere herein in detail, Defendants, by virtue of
7 their receipt of information reflecting the true facts regarding Axesstel, his control
8 over, and/or receipt and/or modification of Axesstel allegedly materially
9 misleading misstatements and/or their associations with the Company which made
10 them privy to confidential proprietary information concerning Axesstel,
11 participated in the fraudulent scheme alleged herein.
12
13
14

15 **APPLICABILITY OF PRESUMPTION OF RELIANCE**
16 **(FRAUD-ON-THE-MARKET DOCTRINE)**

17 52. The market for Axesstel securities was open, well-developed and
18 efficient at all relevant times. As a result of the materially false and/or misleading
19 statements and/or failures to disclose, Axesstel securities traded at artificially
20 inflated prices during the Class Period. Plaintiff and other members of the Class
21 purchased or otherwise acquired the Company's securities relying upon the
22 integrity of the market price of Axesstel securities and market information relating
23 to Axesstel, and have been damaged thereby.
24
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27 53. During the Class Period, the artificial inflation of Axesstel's stock was
28 caused by the material misrepresentations and/or omissions particularized in this

1 Complaint causing the damages sustained by Plaintiff and other members of the
2 Class. As described herein, during the Class Period, Defendants made or caused to
3 be made a series of materially false and/or misleading statements about Axesstel's
4 business, operations, management, and prospects. These material misstatements
5 and/or omissions created an unrealistically positive assessment of Axesstel and its
6 business, operations, management, and prospects, thus causing the price of the
7 Company's securities to be artificially inflated at all relevant times, and when
8 disclosed negatively affected the value of the Company stock. Defendants'
9 materially false and/or misleading statements during the Class Period resulted in
10 Plaintiff and other members of the Class purchasing the Company's securities at
11 such artificially inflated prices, and each of them has been damaged as a result.

16 54. At all relevant times, the market for Axesstel securities was an
17 efficient market for the following reasons, among others:

19 (a) Axesstel stock met the requirements for quotation and/or listing, and
20 was quoted and/or listed and actively traded and/or quoted on the OTCQB, a
21 highly efficient marketplace;

23 (b) As a regulated issuer, Axesstel filed periodic public reports with the
24 SEC;

26 (c) Axesstel regularly communicated with public investors *via* established
27 market communication mechanisms, including through regular dissemination of
28

1 press releases on the national circuits of major newswire services and through
2 other wide-ranging public disclosures, such as communications with the financial
3 press and other similar reporting services; and

4
5 (d) Axesstel was followed by securities analysts employed by major
6 brokerage firms who wrote reports about the Company, and these reports were
7 distributed to the sales force and certain customers of their respective brokerage
8 firms. Each of these reports was publicly available and entered the public
9 marketplace.
10
11

12 55. As a result of the foregoing, the market for Axesstel securities
13 promptly digested current information regarding Axesstel from all publicly
14 available sources and reflected such information in Axesstel's stock price. Under
15 these circumstances, all purchasers of Axesstel securities during the Class Period
16 suffered similar injury through their purchase of Axesstel securities at artificially
17 inflated prices and a presumption of reliance applies.
18
19
20

21 **NO SAFE HARBOR**

22 56. The statutory safe harbor provided for forward-looking statements
23 under certain circumstances does not apply to any of the allegedly false statements
24 pleaded in this Complaint. The statements alleged to be false and misleading herein
25 all relate to then-existing facts and conditions. In addition, to the extent certain of
26 the statements alleged to be false may be characterized as forward looking, they
27
28

1 were not identified as “forward-looking statements” when made and there were no
2 meaningful cautionary statements identifying important factors that could cause
3 actual results to differ materially from those in the purportedly forward-looking
4 statements. In the alternative, to the extent that the statutory safe harbor is
5 determined to apply to any forward-looking statements pleaded herein, Defendants
6 are liable for those false forward-looking statements because at the time each of
7 those forward-looking statements was made, the speaker had actual knowledge that
8 the forward-looking statement was materially false or misleading, and/or the
9 forward-looking statement was authorized or approved by an executive officer of
10 Axesstel who knew that the statement was false when made.

15 **FIRST CLAIM**
16 **Violation of Section 10(b) of**
17 **The Exchange Act and Rule 10b-5**
18 **Promulgated Thereunder Against All Defendants**

19 57. Plaintiff repeats and realleges each and every allegation contained
20 above as if fully set forth herein.

21 58. During the Class Period, Defendants carried out a plan, scheme and
22 course of conduct which was intended to and, throughout the Class Period, did: (i)
23 deceive the investing public, including Plaintiff and other Class members, as
24 alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase
25 Axesstel securities at artificially inflated prices. In furtherance of this unlawful
26 scheme, plan and course of conduct, defendants, and each of them, took the actions
27
28

1 set forth herein.

2 59. Defendants (i) employed devices, schemes, and artifices to defraud;
3
4 (ii) made untrue statements of material fact and/or omitted to state material facts
5 necessary to make the statements not misleading; and (iii) engaged in acts,
6
7 practices, and a course of business which operated as a fraud and deceit upon the
8
9 purchasers of the Company's securities in an effort to maintain artificially high
10
11 market prices for Axesstel securities in violation of Section 10(b) of the Exchange
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13 Act and Rule 10b-5. All Defendants are sued either as primary participants in the
14
15 wrongful and illegal conduct charged herein or as controlling persons as alleged
16
17 below.

18 60. Defendants, individually and in concert, directly and indirectly, by the
19
20 use, means or instrumentalities of interstate commerce and/or of the mails, engaged
21
22 and participated in a continuous course of conduct to conceal adverse material
23
24 information about Axesstel's business, operations, management, and prospects, as
25
26 specified herein.

27 61. These defendants employed devices, schemes and artifices to defraud,
28
29 while in possession of material adverse non-public information and engaged in
30
31 acts, practices, and a course of conduct as alleged herein in an effort to assure
32
33 investors of Axesstel's value and performance and continued substantial growth,
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35 which included the making of, or the participation in the making of, untrue

1 statements of material facts and/or omitting to state material facts necessary in
2 order to make the statements made about Axesstel and its business, operations,
3 management, and prospects, in light of the circumstances under which they were
4 made, not misleading, as set forth more particularly herein, and engaged in
5 transactions, practices and a course of business which operated as a fraud and
6 deceit upon the purchasers of the Company's securities during the Class Period.
7
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9 62. Each of the Individual Defendants' primary liability, and controlling
10 person liability, arises from the following facts: (i) the Individual Defendants were
11 high-level executives and/or directors at the Company during the Class Period and
12 members of the Company's management team or had control thereof; (ii) each of
13 these defendants, by virtue of their responsibilities and activities as a senior officer
14 and/or director of the Company, was privy to and participated in the creation,
15 development and reporting of the Company's internal budgets, plans, projections
16 and/or reports; (iii) each of these defendants enjoyed significant personal contact
17 and familiarity with the other defendants and was advised of, and had access to,
18 other members of the Company's management team, internal reports and other
19 data and information about the Company's finances, operations, and sales at all
20 relevant times; and (iv) each of these defendants was aware of the Company's
21 dissemination of information to the investing public which they knew or recklessly
22 disregarded was materially false and misleading.
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1 63. The Defendants had actual knowledge of the misrepresentations
2 and/or omissions of material facts set forth herein, or acted with reckless disregard
3 for the truth in that they failed to ascertain and to disclose such facts, even though
4 such facts were available to them. Such defendants' material misrepresentations
5 and/or omissions were done knowingly or recklessly and for the purpose and effect
6 of concealing Axesstel business, operations, management and prospects from the
7 investing public and supporting the artificially inflated price of its securities. As
8 demonstrated by Defendants' overstatements and/or misstatements of the
9 Company's business and operations throughout the Class Period, Defendants, if
10 they did not have actual knowledge of the misrepresentations and omissions
11 alleged, were reckless in failing to obtain such knowledge by deliberately
12 refraining from taking those steps necessary to discover whether those statements
13 were false or misleading.
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19 64. As a result of the dissemination of the materially false and/or
20 misleading information and/or failure to disclose material facts, as set forth above,
21 the market price of Axesstel securities was artificially inflated during the Class
22 Period. In ignorance of the fact that market prices of the Company's securities
23 were artificially inflated, and relying directly or indirectly on the false and
24 misleading statements made by Defendants, or upon the integrity of the market in
25 which the securities trades, and/or in the absence of material adverse information
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28

1 that was known to or recklessly disregarded by Defendants, but not disclosed in
2 public statements by Defendants during the Class Period, Plaintiff and the other
3 members of the Class acquired Axesstel securities during the Class Period at
4 artificially high prices and were damaged thereby.
5

6
7 65. At the time of said misrepresentations and/or omissions, Plaintiff and
8 other members of the Class were ignorant of their falsity, and believed them to be
9 true. Had Plaintiff and the other members of the Class and the marketplace known
10 the truth regarding the problems that Axesstel was experiencing, which were not
11 disclosed by Defendants, Plaintiff and other members of the Class would not have
12 purchased or otherwise acquired their Axesstel securities, or, if they had acquired
13 such securities during the Class Period, they would not have done so at the
14 artificially inflated prices which they paid.
15
16
17

18 66. By virtue of the foregoing, Defendants have violated Section 10(b) of
19 the Exchange Act and Rule 10b-5 promulgated thereunder.
20

21 67. As a direct and proximate result of Defendants' wrongful conduct,
22 Plaintiff and the other members of the Class suffered damages in connection with
23 their respective purchases and sales of the Company's securities during the Class
24 Period.
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1 presumed to have had the power to control or influence the particular transactions
2 giving rise to the securities violations as alleged herein, and exercised the same.
3

4 71. As set forth above, Axesstel and the Individual Defendants each
5 violated Section 10(b) and Rule 10b-5 by their acts and/or omissions as alleged in
6 this Complaint. By virtue of their positions as controlling persons, the Individual
7 Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct
8 and proximate result of Defendants' wrongful conduct, Plaintiff and other
9 members of the Class suffered damages in connection with their purchases of the
10 Company's securities during the Class Period.
11
12

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

16 (a) Determining that this action is a proper class action under Rule 23 of
17 the Federal Rules of Civil Procedure;
18

19 (b) Awarding compensatory damages in favor of Plaintiff and the other
20 Class members against all defendants, jointly and severally, for all damages
21 sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial,
22 including interest thereon;
23

24 (c) Awarding Plaintiff and the Class their reasonable costs and expenses
25 incurred in this action, including counsel fees and expert fees; and
26

27 (d) Such other and further relief as the Court may deem just and proper.
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JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: April 24, 2014

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