

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

\_\_\_\_\_, Individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

TEXAS CAPITAL BANCSHARES, INC.,  
ROB C. HOLMES, and JULIE L.  
ANDERSON,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS

JURY TRIAL DEMANDED

Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants Texas Capital Bancshares, Inc. (“Texas Capital” or the “Company”) and certain of its officers and/or directors (“Defendants”), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through his attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, public filings with the U.S. Securities and Exchange Commission (“SEC”), wire and press releases published by and regarding Defendants, and information

readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

### **NATURE OF THE ACTION**

1. This is a class action on behalf of persons or entities who purchased or otherwise acquired publicly traded Texas Capital securities between February 9, 2021 and November 17, 2021, inclusive (the “Class Period”). Plaintiff seeks to recover compensable damages caused by Defendants’ violations of the federal securities laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

### **JURISDICTION AND VENUE**

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

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

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged misstatements entered and the subsequent damages took place in this judicial district.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

## PARTIES

6. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Texas Capital securities during the Class Period and was economically damaged thereby.

7. Defendant Texas Capital purports to operate an asset bank that caters to middle-market companies and wealthy individuals in Texas. Business loans are the biggest portfolio in the \$6 billion loan book, with almost 60% share, followed by commercial real estate at 30%. Texas Capital is incorporated in Delaware and its headquarters are located at 2000 McKinney Ave., Suite 700, Dallas, TX 75201. Texas Capital's securities trade on NASDAQ under the ticker symbol "TCBI".

8. Defendant Rob C. Holmes ("Holmes") has served as the Company's Chief Executive Officer ("CEO") throughout the Class Period.

9. Defendant Julie L. Anderson ("Anderson") has served as the Company's Chief Financial Officer ("CFO") throughout the Class Period.

10. Defendants Holmes and Anderson are collectively referred to herein as the "Individual Defendants."

11. Each of the Individual Defendants:

- (a) directly participated in the management of the Company;
- (b) was directly involved in the day-to-day operations of the Company at the highest levels;
- (c) was privy to confidential proprietary information concerning the Company and its business and operations;

- (d) was directly or indirectly involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;
- (e) was directly or indirectly involved in the oversight or implementation of the Company's internal controls;
- (f) was aware of or recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and/or
- (g) approved or ratified these statements in violation of the federal securities laws.

12. Texas Capital is liable for the acts of the Individual Defendants and its employees under the doctrine of *respondeat superior* and common law principles of agency because all of the wrongful acts complained of herein were carried out within the scope of their employment.

13. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to Texas Capital under *respondeat superior* and agency principles.

14. Defendants Texas Capital and the Individual Defendants are collectively referred to herein as "Defendants."

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

#### **A. Archegos**

15. Archegos Capital Management ("Archegos"), a family office investment fund, was founded and run by Sung Kook (a.k.a. Bill) Hwang ("Hwang"), a former portfolio manager of Tiger Asia Management, a hedge fund he also founded.

16. In 2012, Hwang pleaded guilty to insider trading and agreed to a \$44 million SEC fine. The SEC accused Hwang and his business of short-selling three Chinese bank stocks based on inside information—borrowing the shares, selling them high, and aiming to buy them back low and pocket the difference. In addition, according to the SEC, Hwang also received private shares of stock at a significant discount from the market price, allowing him to profit in even further illicit ways. Further, the SEC also said Hwang “attempted to manipulate the prices of publicly traded Chinese bank stocks in which Hwang’s hedge funds had substantial short positions by placing losing trades in an attempt to lower the price of the stocks and increase the value of the short positions.” All of this enabled Hwang and his fund to collect more in management fees from their investors.

17. Hwang launched the Archegos family office fund with \$200 million in 2013. By 2020, Hwang had grown the assets under management at Archegos to \$10 billion.

18. Archegos described itself as focused on public stocks in the U.S., China, Japan, South Korea, and Europe. Its assets of approximately \$10 billion included the likes of ViacomCBS Inc. (“ViacomCBS”), Discovery Inc., Farfetch Ltd., New York-listed Chinese tutoring company GSX Techedu Inc., Tencent Music Entertainment Group, Baidu Inc. (“Baidu”), IQIYI Inc., and, of particular relevance here, Texas Capital.

19. Archegos took big, concentrated positions in these companies through financial instruments called “total return swaps,” whereby the underlying securities (stocks) are held by banks that broker the investments. The swaps allow investors such as Archegos to bet on stock price moves, often with high levels of leverage, without owning the underlying securities. Instead, banks buy and hold the stocks and give the fund a performance-related return. The fund secures the trades by giving the bank collateral, such as cash or equities.

20. These swaps also allow investors to take huge positions while posting limited funds up front, in essence borrowing from the bank, which, in turn, also enables investors the ability to maintain anonymity, even as Archegos, for example, was estimated to have had exposure to the economics of more than 10% of multiple companies' shares. Since investors holding more than 10% of a company's securities are deemed to be company insiders and are subject to additional regulations around disclosures and profits, these swaps were particularly beneficial to Hwang.

21. Moreover, Archegos utilized the leverage provided by its swaps strategy to gain exposure to more than \$50 billion worth of securities. Again, this strategy was designed in part to allow Hwang a means to avoid margin limits and regulatory disclosure requirements.

22. Unbeknownst to investors and regulators, several large brokerage banks, including Defendants, each had simultaneously allowed Archegos to take on billions of dollars of exposure to volatile equities through swaps contracts, dramatically elevating the risk posed by these concentrated positions.

#### **B. ViacomCBS's \$3 Billion Stock Offering Served as Archegos' Achilles Heel**

23. Hwang's swaps strategy began backfiring in March as the stock price of companies in which Archegos had significant exposure, including Baidu, which saw its shares dropping in value more than 20% from its February highs, and Farfetch, which experienced a 15% decline, began to sell off.

24. However, it was a March 23, 2021 announcement by ViacomCBS that ultimately swept out the rug from under Archegos. On that day, in what was perceived to be an effort to take advantage of its meteoric stock price rally, ViacomCBS announced a new \$3 billion offering to help fund investments in its streaming service, Paramount+, which had launched

earlier in the month.

25. According to later reports citing people familiar with the matter, this announcement put significant stress on Archegos, since news of the deal sparked a slide in ViacomCBS share price, adding to Archegos's mounting losses. In fact, according to the same report in *The Wall Street Journal* (published April 6, 2021), the fund had already started selling some of its position in ViacomCBS to try to offset losses, which only added pressure on the stock.

26. On March 24, 2021, ViacomCBS priced that offering. \$20 million shares of its Class B common stock were going to be made available at \$85 a share and 10 million shares of its 5.75% mandatory convertible preferred stock were going to be made available at \$100 a share. In addition, the underwriters, led by Defendants Morgan Stanley and Goldman Sachs (among others), were going to receive an option to purchase up to an additional 3 million Class B shares and up to an additional 1.5 million shares of mandatory convertible preferred stock. All told, ViacomCBS expected to raise \$3.06 billion if both options were exercised.

27. Unfortunately, not all were convinced that ViacomCBS deserved such a lofty valuation. For example, on March 25, 2021, one of Wall Street's most influential research firms, MoffettNathanson, published a report questioning the company's value, downgrading the stock to a "sell," and setting a price target of only \$55 per share, compared to the company's \$85 offer. "We never, ever thought we would see Viacom[CBS] trading close to \$100 per share," read the report, which was written by Michael Nathanson, a co-founder of the firm. "Obviously, neither did ViacomCBS's management," it continued, citing the new stock offering.

28. In the wake of that report, ViacomCBS's stock cratered, losing more than half its value in less than a week. Indeed, by the close of trading on Friday, March 26, 2021,

ViacomCBS was worth \$48 per share.

29. This proved to be extremely problematic for Archegos, which had traded ViacomCBS on margin (*i.e.*, with borrowed money). Because Archegos had to maintain a certain amount of collateral to satisfy its lenders, and since the value of ViacomCBS stock drastically declined, Archegos needed enough collateral to cover, or else a margin call (where the lender can force a sell-off of the stock to bring the investor back into compliance with margin requirements), could be triggered.

30. On March 27, 2021, it was reported that Archegos failed to cover and, as a result, had to liquidate more than \$20 billion of its leveraged equity positions on Friday, March 26, 2021.

**Materially False and Misleading  
Statements Issued During the Class Period**

31. The Class Period begins on February 9, 2021, when Texas Capital filed its Form 10-K annual report with the SEC for the fiscal year ended December 31, 2020 (“2020 10-K”). Attached to the 2020 10-K were certifications pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) signed by Defendants Holmes and Anderson attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company’s internal control over financial reporting and the disclosure of all fraud.

32. The 2020 10-K included a “Risk Factors” section, which included, *inter alia*, factors such as Liquidity Risks, Market Risks, and Operational Risks. Not included, however, was the significant position that Archegos held in Texas Capital, either directly or through swaps, and the risks posed by the highly leveraged ownership structure.

33. On February 11, 2021, Texas Capital filed a Form S-3ASR Automatic Shelf Registration (“Shelf Registration”) with the SEC. Included in the Shelf Registration was a

section titled “Risk Factors”. The Risk Factors section incorporated by reference the “Risk Factors” section from the 2020 10-K. The Shelf Registration did not disclose the risk posed by Archegos’ outsized position in the Company.

34. On February 26, 2021, Texas Capital filed a Form 424B2 with the SEC, completing a secondary public offering of depositary shares, with each depositary share representing a 1/40th ownership interest in the Company’s Series B Preferred Stocks. Morgan Stanley served as the primary underwriter for the offering. Texas Capital offered 12,000,000 depositary shares, and underwriters had the option to purchase up to an additional 1,800,000 depositary shares. Each depositary share was sold for \$25.00, and Texas Capital earned \$300,000,000 from the offering, before underwriting discount and commissions and before the exercise of the option.

35. The Form 424B2 included a “Risk Factors” section. The “Risk Factors” failed to mention Archegos’ position in the Company, and the associated risks posed by Archegos’ highly leveraged ownership structure.

36. The statements contained in ¶¶31-35 were materially false and/or misleading because they misrepresented and failed to disclose the following adverse facts pertaining to the Company’s business, operations and prospects, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (1) Texas Capital knew, but failed to disclose, that Archegos, primarily through total return swaps, held as much as 20% of Texas Capital’s outstanding shares; (2) Texas Capital’s price shares were inflated due to Archegos’ position in the Company, and a sudden sell-off by Archegos or its brokers would result in a severe and rapid share price collapse; (3) Texas Capital knew, but failed to disclose, the aforementioned risks involved with

having an outsized portion of its shares being held as swaps by Archegos; (4) Texas Capital took advantage of the Company's inflated share price to raise money from investors; (5) as a result, Defendants' statements about its business, operations, and prospects, were materially false and misleading and/or lacked a reasonable basis at all relevant times.

### **THE TRUTH BEGINS TO EMERGE**

37. On March 26, 2021, in connection with Archegos' unravelling, Texas Capital's share prices began a precipitous decline. At the time, however, it was unknown exactly why Texas Capital share prices were in decline, as the Company's connection to Texas Capital was not widely known.

38. Some sources suspected a connection between Texas Capital and Archegos. For example, on March 29, 2021, an article titled "Why the Stock of Texas Capital Bancshares Took a Hit Today" was published on the NASDAQ website. In relevant part, the article stated:

"There is also the possibility the stock's decline had something to do with the mess surrounding Archegos Capital, after the firm got hammered by a \$20 billion margin call on Friday.

The firm Nomura, which reportedly did some business with Archegos and is owed about \$2 billion from the firm, owns nearly 2.2 million shares in Texas Capital Bancshares."

39. Rather than addressing the unraveling share price, Texas Capital continued to remain silent regarding its close ties to Archegos.

40. From March 26, 2021 to March 29, 2021, the next trading day, Texas Capital share prices dropped by \$8.50, or over 10%, closing on March 29, 2021 at \$69.00.

### **THE TRUTH FULLY EMERGES**

41. On November 17, 2021, before markets opened, *Bloomberg* published an article titled "Bill Hwang Made a Huge, Secret Bank Bet Before Archegos Collapse". The article

detailed the relationship between Archegos and Texas Capital, and how Archegos secretly built up its position in Texas Capital. In relevant part, the article said:

But buried in the billions Bill Hwang wagered and lost, the man behind *Archegos Capital Management used derivatives to secretly build a more-than 20% stake in [Texas Capital]*, right under the noses of financial watchdogs, according to people with knowledge of the situation. That sent the stock on a wild surge, and when Archegos collapsed, a dramatic plunge.

What's more, *Archegos and the bank had private conversations about a significant investment that wasn't revealed to other shareholders*, said the people, asking not to be identified because they weren't authorized to speak publicly. *As the stock soared, executives at the Dallas-based lender raised record new capital from unwitting investors.*

\* \* \*

Archegos's enablers -- the prime brokers who effectively helped Hwang gamble away his fortune -- showed up in filings as owners of more than a quarter of the outstanding shares by the end of 2020. They included Credit Suisse Group AG, where executives grew uneasy after discovering their firm alone owned 9% of a regional U.S. bank, and *Morgan Stanley, which in the midst of the stock's surge helped Texas Capital raise more money.*

\* \* \*

*In late 2020, Texas Capital's stock soared as Archegos built a position that would peak somewhere above 20% of the shares*, two people familiar with the matter said. In addition to using swaps, *Archegos also bought some stock directly. But because that portion of the wager was shy of a 5% stake, the family office concluded that it didn't need to disclose it.*

\* \* \*

*Archegos told Texas Capital's management that it was building a stake in the bank both directly and through swaps*, though it's unclear whether the amount was specified, the people said. The spokesperson for Texas Capital declined to comment on whether the bank knew the full extent of Archegos's wager or sought to find out.

\* \* \*

*"Everyone knew about the positions of Archegos" and its status as a large shareholder*, said [Jody] Grant, the Texas Capital founder, who said he spoke with executives at both firms. Still, he said he was led to believe that the stake

was less than 10%.

Grant who stepped down as CEO more than a decade ago, said he remains close with management and holds the bank's stock. He emphasized that talks with Hwang's family office were friendly and that it expressed support for the bank's current managers. "They didn't attempt to assert influence."

\* \* \*

*While Archegos's wagers sent the stock price on a tear, Texas Capital didn't publicly address the family office's role and why a slate of prime brokers was suddenly appearing on the list of its largest holders.* Some analysts and investors attempted to explain the mysterious move by pointing to the appointment of JPMorgan Chase & Co. banker Rob Holmes as Texas Capital's new chief in January -- the third man to lead the bank in under two years.

*Then in February, the Dallas lender sought to bolster its capital, tapping Morgan Stanley -- also listed among its biggest holders -- to help raise \$300 million, largely from retail investors. The preferred-share fundraising was the biggest in the history of the regional bank.*

Just before that deal closed, the SEC published fresh guidance to companies looking to raise money in the wake of recent stock jumps, underscoring that executives should flag any risks to investors.

***"In general, a public company raising capital is under an affirmative obligation to disclose risk factors,"*** said Joshua Mitts, an associate professor at Columbia Law School. If management knows there is one large investor whose buying spree is temporarily inflating the stock price, and doesn't disclose it, then that could spell trouble, he said.

(Emphasis added.)

42. On this news, Texas Capital shares fell \$1.04 per share, or 1.6%, to close at \$61.60 per share on November 17, 2021, damaging investors.

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

## **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

44. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons other than defendants who acquired Texas Capital securities publicly traded on NASDAQ during the Class Period, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of Texas Capital, members of the Individual Defendants' immediate families and their legal representatives, heirs, successors or assigns and any entity in which Officer or Director Defendants have or had a controlling interest.

45. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Texas Capital securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds, if not thousands of members in the proposed Class.

46. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is complained of herein.

47. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

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

- whether the Exchange Act were violated by Defendants' acts as alleged herein;

- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the financial condition and business of Texas Capital;
- whether Defendants' public statements to the investing public during the Class Period omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- whether the Defendants caused Texas Capital to issue false and misleading filings during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false filings;
- whether the prices of Texas Capital securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

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

50. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Texas Capital securities met the requirements for listing, and were listed and actively traded on the NASDAQ, an efficient market;
- As a public issuer, Texas Capital filed periodic public reports;
- Texas Capital regularly communicated with public investors via established market communication mechanisms, including through the regular dissemination of press releases via major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;
- Texas Capital's securities were liquid and traded with moderate to heavy volume during the Class Period; and
- Texas Capital was followed by a number of securities analysts employed by major brokerage firms who wrote reports that were widely distributed and publicly available.

51. Based on the foregoing, the market for Texas Capital securities promptly digested current information regarding Texas Capital from all publicly available sources and reflected such information in the prices of the securities, and Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

52. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information as detailed above.

**COUNT I**  
**For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder**  
**Against All Defendants**

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

54. This Count is asserted against Defendants is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

55. During the Class Period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

56. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

- employed devices, schemes and artifices to defraud;
- made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Texas Capital securities during the Class Period.

57. Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of Texas Capital were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated, or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the securities laws.

These defendants by virtue of their receipt of information reflecting the true facts of Texas Capital, their control over, and/or receipt and/or modification of Texas Capital's allegedly materially misleading statements, and/or their associations with the Company which made them privy to confidential proprietary information concerning Texas Capital, participated in the fraudulent scheme alleged herein.

58. Individual Defendants, who are the senior officers and/or directors of the Company, had actual knowledge of the material omissions and/or the falsity of the material statements set forth above, and intended to deceive Plaintiff and the other members of the Class, or, in the alternative, acted with reckless disregard for the truth when they failed to ascertain and disclose the true facts in the statements made by them or other Texas Capital personnel to members of the investing public, including Plaintiff and the Class.

59. As a result of the foregoing, the market price of Texas Capital securities was artificially inflated during the Class Period. In ignorance of the falsity of Defendants' statements, Plaintiff and the other members of the Class relied on the statements described above and/or the integrity of the market price of Texas Capital securities during the Class Period in purchasing Texas Capital securities at prices that were artificially inflated as a result of Defendants' false and misleading statements.

60. Had Plaintiff and the other members of the Class been aware that the market price of Texas Capital securities had been artificially and falsely inflated by Defendants' misleading statements and by the material adverse information which Defendants did not disclose, they would not have purchased Texas Capital securities at the artificially inflated prices that they did, or at all.

61. As a result of the wrongful conduct alleged herein, Plaintiff and other members of the Class have suffered damages in an amount to be established at trial.

62. By reason of the foregoing, Defendants have violated Section 10(b) of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the plaintiff and the other members of the Class for substantial damages which they suffered in connection with their purchase of Texas Capital securities during the Class Period.

## **COUNT II**

### **Violations of Section 20(a) of the Exchange Act Against the Individual Defendants**

63. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

64. During the Class Period, the Individual Defendants participated in the operation and management of Texas Capital, and conducted and participated, directly and indirectly, in the conduct of Texas Capital's business affairs. Because of their senior positions, they knew the adverse non-public information about Texas Capital's misstatement of revenue and profit and false financial statements.

65. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Texas Capital's financial condition and results of operations, and to correct promptly any public statements issued by Texas Capital which had become materially false or misleading.

66. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which Texas Capital disseminated in the marketplace during the Class Period concerning Texas Capital's results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Texas Capital to engage in

the wrongful acts complained of herein. The Individual Defendants therefore, were “controlling persons” of Texas Capital within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Texas Capital securities.

67. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Texas Capital.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for judgment and relief as follows:

(a) declaring this action to be a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and designating plaintiff’s counsel as Lead Counsel;

(b) awarding damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, together with interest thereon;

awarding plaintiff and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) awarding plaintiff and other members of the Class such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.