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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 ___, Individually and on behalf of all others
12 similarly situated,

13 Plaintiff,

14 v.

15 AUTODESK, INC., ANDREW ANAGNOST,
16 and DEBORAH L. CLIFFORD,

17 Defendants.

No.

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

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiff ___ (“Plaintiff”), individually and on behalf of all other persons similarly
2 situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against
3 Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff
4 and Plaintiff’s own acts, and information and belief as to all other matters, based upon, among
5 other things, the investigation conducted by and through Plaintiff’s attorneys, which included,
6 among other things, a review of the Defendants’ public documents, public filings, wire and press
7 releases published by and regarding Autodesk, Inc. (“Autodesk” or the “Company”), and
8 information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary
9 support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

10 **NATURE OF THE ACTION**

11 1. This is a class action on behalf of persons or entities who purchased or otherwise
12 acquired publicly traded Autodesk securities between June 1, 2023 and April 16, 2024, inclusive
13 (the “Class Period”). Plaintiff seeks to recover compensable damages caused by Defendants’
14 violations of the federal securities laws under the Securities Exchange Act of 1934 (the
15 “Exchange Act”).

16 **JURISDICTION AND VENUE**

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

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

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

25 5. In connection with the acts, conduct and other wrongs alleged in this complaint,
26 Defendants (defined below), directly or indirectly, used the means and instrumentalities of
27

28

1 interstate commerce, including but not limited to, the United States mails, interstate telephone
2 communications and the facilities of the national securities exchange.

3 **PARTIES**

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

7 7. Defendant Autodesk describes itself as a “global leader in 3D design, engineering
8 and entertainment technology solutions, spanning architecture, engineering, construction,
9 product design, manufacturing, media, and entertainment. Our customers design, fabricate,
10 manufacture, and build anything by visualizing, simulating, and analyzing real-world
11 performance early in the design process. [. . .] Our professional software products are sold
12 globally through a combination of indirect and direct channels.”

13 8. Autodesk is incorporated in Delaware and its principal executive offices are
14 located at One Market Street, Ste. 400, San Francisco, California 94105. The Company’s
15 common stock trades on the NASDAQ exchange under the ticker symbol “ADSK.”

16 9. Defendant Andrew Anagnost (“Anagnost”) served as the Company’s Chief
17 Executive Officer (“CEO”) and President throughout the Class Period. Defendant Anagnost also
18 serves on the Board of Directors (the “Board”).

19 10. Defendant Deborah L. Clifford (“Clifford”) served as the Company’s Chief
20 Financial Officer (“CFO”) and Executive Vice President throughout the Class Period.

21 11. Defendant Anagnost and Clifford are collectively referred to herein as the
22 “Individual Defendants.”

23 12. Each of the Individual Defendants:

24 (a) directly participated in the management of the Company;

25 (b) was directly involved in the day-to-day operations of the Company at the highest
26 levels;

27 (c) was privy to confidential proprietary information concerning the Company and
28 its business and operations;

1 (d) was directly or indirectly involved in drafting, producing, reviewing and/or
2 disseminating the false and misleading statements and information alleged herein;

3 (e) was directly or indirectly involved in the oversight or implementation of the
4 Company's internal controls;

5 (f) was aware of or recklessly disregarded the fact that the false and misleading
6 statements were being issued concerning the Company; and/or

7 (g) approved or ratified these statements in violation of the federal securities laws.

8 13. The Company is liable for the acts of the Individual Defendants and its employees
9 under the doctrine of *respondeat superior* and common law principles of agency because all of
10 the wrongful acts complained of herein were carried out within the scope of their employment.

11 14. The scienter of the Individual Defendants and other employees and agents of the
12 Company is similarly imputed to Autodesk under *respondeat superior* and agency principles.

13 15. Defendant Autodesk and the Individual Defendants are collectively referred to
14 herein as "Defendants."

15
16 **SUBSTANTIVE ALLEGATIONS**

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

18 16. On June 1, 2023, Autodesk filed with the SEC its quarterly report on Form 10-Q
19 for the period ended April 30, 2023 (the "1Q24 Report"). Attached to the 1Q24 Report were
20 certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") signed by Defendants
21 Anagnost and Clifford attesting to the accuracy of financial reporting, the disclosure of any
22 material changes to the Company's internal control over financial reporting and the disclosure
23 of all fraud.

24 17. The 1Q24 Report stated the following regarding internal controls:
25 We maintain "disclosure controls and procedures," as defined in Rule 13a-15(e) and 15d-
26 15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Our
27 disclosure controls and procedures are designed to ensure that information required to be
28 disclosed in our Exchange Act reports is (i) recorded, processed, summarized, and
reported within the time periods specified in the rules of the Securities and Exchange
Commission, and (ii) accumulated and communicated to Autodesk management,

1 including our CEO and CFO, to allow timely decisions regarding required disclosure.
2 We conducted an evaluation, under the supervision and with the participation of our CEO
3 and CFO, of the effectiveness of the design and operation of our disclosure controls and
4 procedures as of the end of the period covered by this Quarterly Report on Form 10-Q.
5 ***Based upon this evaluation, our CEO and CFO have concluded that our disclosure
6 controls and procedures were effective to meet the objective for which they were
7 designed and operated at the reasonable assurance level.***

8 Our disclosure controls and procedures include components of our internal control over
9 financial reporting. Our management, including our CEO and CFO, does not expect that
10 our disclosure controls and procedures or our internal control over financial reporting
11 will necessarily prevent all errors and all fraud. A control system, no matter how well
12 conceived and operated, can provide only reasonable, not absolute, assurance that the
13 objectives of the control system are met. Further, the design of a control system must
14 reflect the fact that there are resource constraints, and the benefits of controls must be
15 considered relative to their costs. Because of the inherent limitations in all control
16 systems, no evaluation of controls can provide absolute assurance that all control issues
17 and instances of fraud, if any, within Autodesk have been detected.

18 (Emphasis added).

19 18. The statement in ¶ 17 was materially false and misleading at the time it was made
20 because the Company lacked effective internal controls. This issue would eventually lead to the
21 delayed filing of the Company’s annual report for its 2024 Fiscal Year (the “2024 Annual
22 Report”)

23 19. On August 29, 2023, Autodesk filed with the SEC its quarterly report on Form
24 10-Q for the period ended July 31, 2023 (the “2Q24 Report”). Attached to the 2Q24 Report were
25 certifications pursuant to SOX signed by Defendants Anagnost and Clifford attesting to the
26 accuracy of financial reporting, the disclosure of any material changes to the Company’s internal
27 control over financial reporting and the disclosure of all fraud.

28 20. The 2Q24 Report stated the following regarding internal controls:
We maintain “disclosure controls and procedures,” as defined in Rule 13a-15(e) and 15d-
15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Our
disclosure controls and procedures are designed to ensure that information required to be
disclosed in our Exchange Act reports is (i) recorded, processed, summarized, and
reported within the time periods specified in the rules of the Securities and Exchange
Commission, and (ii) accumulated and communicated to Autodesk management,
including our CEO and CFO, to allow timely decisions regarding required disclosure.
We conducted an evaluation, under the supervision and with the participation of our CEO
and CFO, of the effectiveness of the design and operation of our disclosure controls and
procedures as of the end of the period covered by this Quarterly Report on Form 10-Q.

1 ***Based upon this evaluation, our CEO and CFO have concluded that our disclosure***
2 ***controls and procedures were effective to meet the objective for which they were***
3 ***designed and operated at the reasonable assurance level.***

4 Our disclosure controls and procedures include components of our internal control over
5 financial reporting. Our management, including our CEO and CFO, does not expect that
6 our disclosure controls and procedures or our internal control over financial reporting
7 will necessarily prevent all errors and all fraud. A control system, no matter how well
8 conceived and operated, can provide only reasonable, not absolute, assurance that the
9 objectives of the control system are met. Further, the design of a control system must
10 reflect the fact that there are resource constraints, and the benefits of controls must be
11 considered relative to their costs. Because of the inherent limitations in all control
12 systems, no evaluation of controls can provide absolute assurance that all control issues
13 and instances of fraud, if any, within Autodesk have been detected.

14 (Emphasis added).

15 21. The statement in ¶ 20 was materially false and misleading at the time it was made
16 because the Company lacked effective internal controls. This issue would eventually lead to the
17 delayed filing of the 2024 Annual Report.

18 22. On December 4, 2023, Autodesk filed with the SEC its quarterly report on Form
19 10-Q for the period ended October 31, 2023 (the “3Q24 Report”). Attached to the 3Q24 Report
20 were certifications pursuant to SOX signed by Defendants Anagnost and Clifford attesting to the
21 accuracy of financial reporting, the disclosure of any material changes to the Company’s internal
22 control over financial reporting and the disclosure of all fraud.

23 23. The 3Q24 Report stated the following regarding internal controls:
24 We maintain “disclosure controls and procedures,” as defined in Rule 13a-15(e) and 15d-
25 15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Our
26 disclosure controls and procedures are designed to ensure that information required to be
27 disclosed in our Exchange Act reports is (i) recorded, processed, summarized, and
28 reported within the time periods specified in the rules of the Securities and Exchange
 Commission, and (ii) accumulated and communicated to Autodesk management,
 including our CEO and CFO, to allow timely decisions regarding required disclosure.
 We conducted an evaluation, under the supervision and with the participation of our CEO
 and CFO, of the effectiveness of the design and operation of our disclosure controls and
 procedures as of the end of the period covered by this Quarterly Report on Form 10-Q.
 Based upon this evaluation, our CEO and CFO have concluded that our disclosure
 controls and procedures were effective to meet the objective for which they were
 designed and operated at the reasonable assurance level.

 Our disclosure controls and procedures include components of our internal control over
 financial reporting. Our management, including our CEO and CFO, does not expect that

1 our disclosure controls and procedures or our internal control over financial reporting
2 will necessarily prevent all errors and all fraud. A control system, no matter how well
3 conceived and operated, can provide only reasonable, not absolute, assurance that the
4 objectives of the control system are met. Further, the design of a control system must
5 reflect the fact that there are resource constraints, and the benefits of controls must be
6 considered relative to their costs. Because of the inherent limitations in all control
7 systems, no evaluation of controls can provide absolute assurance that all control issues
8 and instances of fraud, if any, within Autodesk have been detected.

9 (Emphasis added).

10 24. The statement in ¶ 23 was materially false and misleading at the time it was made
11 because the Company lacked effective internal controls. This issue would eventually lead to the
12 delayed filing of the 2024 Annual Report.

13 25. On February 29, 2024, Autodesk issued a press release entitled “AUTODESK,
14 INC. ANNOUNCES FISCAL 2024 FOURTH QUARTER AND FULL-YEAR RESULTS” (the
15 “2024 Results Announcement”). The 2024 Results Announcement stated the following results,
16 in pertinent part:

17 Autodesk, Inc. [. . .] today reported financial results for the fourth quarter and full year
18 of fiscal 2024.

19 **Fourth Quarter Fiscal 2024 Financial Highlights**

- 20 • Total revenue increased 11 percent to \$1.47 billion;
- 21 • GAAP operating margin was 21 percent, flat compared to the prior period;
- 22 • **Non-GAAP operating margin was 36 percent**, flat compared to the prior period;
- 23 • GAAP diluted EPS was \$1.31, Non-GAAP diluted EPS was \$2.09;
- 24 • Cash flow from operating activities was \$437 million; **free cash flow was \$427 million.**

25 (Emphasis added).

26 26. Upon information and belief, the figures presented in ¶ 25 for Non-GAAP
27 operating margin and free cash flow were materially false and misleading.

28 27. The statements contained in ¶¶ 17, 20, 23, and 25 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) Autodesk, Inc. lacked adequate internal
controls as a result of issues with its free cash flow and non-GAAP operating margin practices;

1 and (2) as a result, Defendants' statements about its business, operations, and prospects were
2 materially false and misleading and/or lacked a reasonable basis at all times.

3 **THE TRUTH BEGINS TO EMERGE**

4 28. On April 1, 2024, after the market closed, the Company filed with the SEC a late
5 filing notice on Form 12b-25 (also known as Form NT 10-K). It stated the following:

6 Autodesk, Inc. [. . .] is unable to file its Annual Report on Form 10-K for the year ended
7 January 31, 2024 [. . .] within the prescribed time period, without unreasonable effort or
8 expense. After the Company's earnings release on February 29, 2024, information was
9 brought to the attention of management, which promptly informed the Audit Committee
10 (the "Committee") of the Board of Directors of the Company, *that caused the*
11 *Committee to commence an internal investigation with the assistance of outside*
12 *counsel and advisors, regarding the Company's free cash flow and non-GAAP*
13 *operating margin practices*. The Committee is comprised entirely of outside
14 "independent directors" as defined by the Nasdaq Stock Market listing standards. The
15 investigation is ongoing and all parties are working diligently to complete the
16 investigation. *The Company has voluntarily contacted the Securities and Exchange*
17 *Commission [. . .] to advise it that an internal investigation is ongoing, and the*
18 *Committee intends to provide additional information to the Commission as the*
19 *investigation proceeds*. The Company needs further time to assist the Committee in its
20 investigation and to review its practices in this regard.

21 The Company currently does not believe that any of the matters under investigation affect
22 any previously issued financial statements or the information in the Company's earnings
23 release on February 29, 2024. *The Company currently expects to file the Form 10-K*
24 *within the 15-day extension period prescribed by Rule 12b-25 under the Securities*
25 *Exchange Act of 1934, as amended*.

26 (Emphasis added).

27 29. On this news, the price of Autodesk stock fell \$10.73 per share, or 4.13%, to close
28 at \$248.71 on April 2, 2024.

29 30. On April 16, 2024, after the market closed, the Company issued a press release
entitled "Autodesk provides update on delayed Form 10-K filing." It revealed that the Company
would not be able to file its 10-K within the 15-day extension period, as discussed in ¶ 28, stating
the following:

30 *The Company will not file its Annual Report on Form 10-K for the year ended January*
31 *31, 2024 (the "Form 10-K") within the 15-day extension period contemplated by*
32 *Rule 12b-25(b) under the Securities Exchange Act of 1934, as amended, due to the*
33 *ongoing investigation. Accordingly, the Company expects to receive a notice from The*
34 *Nasdaq Stock Market ("Nasdaq") that it is not in compliance with the timely filing*

1 *requirement for continued listing under Nasdaq Listing Rule 5250(c)(1).* Such
2 notification letter is not expected to have an immediate effect on the listing or trading of
the Company's common stock on the Nasdaq Global Select Market.

3 *In accordance with Nasdaq's listing rules, the Company will have 60 calendar days*
4 *after the receipt of a notification letter from Nasdaq to submit a plan of compliance to*
5 *Nasdaq addressing how the Company intends to regain compliance with Nasdaq's*
6 *listing rules,* and Nasdaq will have the discretion to grant the Company up to 180
7 calendar days from the due date of the Form 10-K to regain compliance. The Company
8 intends to take the necessary steps to regain compliance with Nasdaq's listing rules as
soon as practicable.

(Emphasis added).

9 31. On this news, the price of Autodesk stock fell \$13.32 per share, or 5.83%, to close
10 at \$214.92 on April 17, 2024. The next day, it fell a further \$4.29 per share, or 1.99%, to close
11 at \$210.63 on April 18, 2024.

12 32. As a result of Defendants' wrongful acts and omissions, and the precipitous
13 decline in the market value of the Company's common shares, Plaintiff and other Class members
14 have suffered significant losses and damages.

15 **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

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

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

1 35. Plaintiff's claims are typical of the claims of the members of the Class as all
2 members of the Class are similarly affected by Defendants' wrongful conduct in violation of
3 federal law that is complained of herein.

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

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

- 10 • whether the Exchange Act was violated by Defendants' acts as alleged herein;
- 11 • whether statements made by Defendants to the investing public during the Class
12 Period misrepresented material facts about the business and financial condition of the
13 Company;
- 14 • whether Defendants' public statements to the investing public during the Class
15 Period omitted material facts necessary to make the statements made, in light of the
16 circumstances under which they were made, not misleading;
- 17 • whether the Defendants caused the Company to issue false and misleading filings
18 during the Class Period;
- 19 • whether Defendants acted knowingly or recklessly in issuing false filings;
- 20 • whether the prices of the Company securities during the Class Period were
21 artificially inflated because of the Defendants' conduct complained of herein; and
- 22 • whether the members of the Class have sustained damages and, if so, what is the
23 proper measure of damages.

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

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

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

16 40. Based on the foregoing, the market for the Company's securities promptly
17 digested current information regarding the Company from all publicly available sources and
18 reflected such information in the prices of the shares, and Plaintiff and the members of the Class
19 are entitled to a presumption of reliance upon the integrity of the market.

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

24 **COUNT I**

25 **For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder**

26 **Against All Defendants**

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

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

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

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

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

16 46. Defendants acted with scienter in that they knew that the public documents and
17 statements issued or disseminated in the name of the Company were materially false and
18 misleading; knew that such statements or documents would be issued or disseminated to the
19 investing public; and knowingly and substantially participated, or acquiesced in the issuance or
20 dissemination of such statements or documents as primary violations of the securities laws.
21 These defendants by virtue of their receipt of information reflecting the true facts of the
22 Company, their control over, and/or receipt and/or modification of the Company's allegedly
23 materially misleading statements, and/or their associations with the Company which made them
24 privy to confidential proprietary information concerning the Company, participated in the
25 fraudulent scheme alleged herein.

26 47. Individual Defendants, who are the senior officers of the Company, had actual
27 knowledge of the material omissions and/or the falsity of the material statements set forth above,
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1 and intended to deceive Plaintiff and the other members of the Class, or, in the alternative, acted
2 with reckless disregard for the truth when they failed to ascertain and disclose the true facts in
3 the statements made by them or any other of the Company's personnel to members of the
4 investing public, including Plaintiff and the Class.

5 48. As a result of the foregoing, the market price of the Company's securities was
6 artificially inflated during the Class Period. In ignorance of the falsity of Defendants' statements,
7 Plaintiff and the other members of the Class relied on the statements described above and/or the
8 integrity of the market price of the Company's securities during the Class Period in purchasing
9 the Company's securities at prices that were artificially inflated as a result of Defendants' false
10 and misleading statements.

11 49. Had Plaintiff and the other members of the Class been aware that the market price
12 of the Company's securities had been artificially and falsely inflated by Defendants' misleading
13 statements and by the material adverse information which Defendants did not disclose, they
14 would not have purchased the Company's securities at the artificially inflated prices that they
15 did, or at all.

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

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

22 **COUNT II**

23 **Violations of Section 20(a) of the Exchange Act**

24 **Against the Individual Defendants**

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

27 53. During the Class Period, the Individual Defendants participated in the operation
28 and management of the Company, and conducted and participated, directly and indirectly, in the

1 conduct of the Company's business affairs. Because of their senior positions, they knew the
2 adverse non-public information about the Company's false financial statements.

3 54. As officers of a publicly owned company, the Individual Defendants had a duty
4 to disseminate accurate and truthful information with respect to the Company's' financial
5 condition and results of operations, and to correct promptly any public statements issued by the
6 Company which had become materially false or misleading.

7 55. Because of their positions of control and authority as senior officers, the
8 Individual Defendants were able to, and did, control the contents of the various reports, press
9 releases and public filings which the Company disseminated in the marketplace during the Class
10 Period concerning the Company's results of operations. Throughout the Class Period, the
11 Individual Defendants exercised their power and authority to cause the Company to engage in
12 the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling
13 persons" of the Company within the meaning of Section 20(a) of the Exchange Act. In this
14 capacity, they participated in the unlawful conduct alleged which artificially inflated the market
15 price of the Company's securities.

16 56. By reason of the above conduct, the Individual Defendants are liable pursuant to
17 Section 20(a) of the Exchange Act for the violations committed by the Company.

18 **PRAYER FOR RELIEF**

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

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

24 (b) awarding damages in favor of Plaintiff and the other Class members against all
25 Defendants, jointly and severally, together with interest thereon;

26 (c) awarding Plaintiff and the Class reasonable costs and expenses incurred in this
27 action, including counsel fees and expert fees; and

28

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

3 **JURY TRIAL DEMANDED**

4 Plaintiff hereby demands a trial by jury.

5
6 Dated:

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