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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

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

13 Plaintiff,

14 v.

15 DAVE INC., JASON WILK, and KYLE
16 BEILMAN

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

12 **NATURE OF THE ACTION**

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14 1. This is a class action on behalf of persons or entities who purchased
15 or otherwise acquired publicly traded Dave Inc. securities, between March 13,
16 2022, and December 30, 2024, inclusive (the "Class Period"). Plaintiff seeks to
17 recover compensable damages caused by Defendants' violations of the federal
18 securities laws under the Securities Exchange Act of 1934 (the "Exchange Act").

19 **JURISDICTION AND VENUE**

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

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

26 4. Venue is proper in this judicial district pursuant to 28 U.S.C. §
27 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged
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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 (defined below), 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 Dave securities during the Class Period and was economically damaged thereby.

7. Defendant Dave Inc. operates a financial services platform through which it claims to provide a suite of financial products and services.

8. Dave is incorporated in California and its principal executive offices are located at 1265 South Cochran Avenue, Los Angeles, CA 90019.

9. The Company's Class A common stock trades on the Nasdaq exchange under the ticker symbol "DAVE", and its warrants trade on Nasdaq as "DAVEW".

10. Defendant Jason Wilk ("Wilk") is Dave's co-founder, Chief Executive Officer, President, and Chairman of the Board of Directors. He served in each of these roles at all times relevant to the complaint.

11. Defendant Kyle Beilman ("Beilman") is the Chief Financial Officer of Dave. He served in this role at all times relevant to the complaint.

12. Defendants Wilk and Beilman are collectively referred to herein as the "Individual Defendants."

13. Each of the Individual Defendants:

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

- 1 (b) was directly involved in the day-to-day operations of the Company at
2 the highest levels;
- 3 (c) was privy to confidential proprietary information concerning the
4 Company and its business and operations;
- 5 (d) was directly or indirectly involved in drafting, producing, reviewing
6 and/or disseminating the false and misleading statements and information
7 alleged herein;
- 8 (e) was directly or indirectly involved in the oversight or implementation
9 of the Company's internal controls;
- 10 (f) was aware of or recklessly disregarded the fact that the false and
11 misleading statements were being issued concerning the Company; and/or
12 (g) approved or ratified these statements in violation of the federal
13 securities laws.

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

18 15. The scienter of the Individual Defendants and other employees and
19 agents of the Company is similarly imputed to Dave under *respondeat superior*
20 and agency principles.

21 16. Defendant Dave and the Individual Defendants are collectively
22 referred to herein as "Defendants."

23 **SUBSTANTIVE ALLEGATIONS**

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

25 17. As a public company, Dave is required to file periodic financial
26 statements and other materials with the Securities and Exchange Commission of
27 the United States ("SEC").
28

18. On March 25, 2022, the Company filed with the SEC its Annual Report on Form 10-K for the fiscal year ended December 31, 2021 (the “2021 10-K”).”

19. The 2021 10-K states:

If we are unable to acquire new Members and retain our current members or sell additional functionality and services to them, our revenue growth will be adversely affected.

Our member subscriptions are open-ended arrangements that can be terminated by the Member without penalty at any time. For us to maintain or improve our operating results, it is important that our Members continue to maintain their subscriptions on the same or more favorable terms. We cannot accurately predict renewal or expansion rates given the diversity of our member base in terms of size, industry, and geography. Our renewal and expansion rates may decline or fluctuate as a result of several factors, including member spending levels, member satisfaction with our platform, decreases in the number of Members, pricing changes, competitive conditions, the acquisition of our Members by other companies, and general economic conditions. If our Members do not renew their subscriptions, or if they reduce their usage of our platform, our revenue and other operating results will decline and our business will be adversely affected. If our renewal or expansion rates fall significantly below the expectations of the public market, securities analysts, or investors, the trading price of our common stock would likely decline.

20. This statement was false or materially misleading because it failed to disclose that 1) members were unable to cancel the subscriptions at their convenience; 2) members were signed up for subscriptions without their knowledge; and 3) subscription renewal and expansion rates were artificially inflated by these factors, rather than the factors listed.

21. The 2021 10-K further stated the following:

1 ***If we fail to offer high-quality customer support, or if our support is***
2 ***more expensive than anticipated, our business and reputation could***
3 ***suffer.***

4 Our Members rely on our customer support services to resolve issues
5 and realize the full benefits provided by our platform. High-quality
6 support is also important for the renewal and expansion of our
7 subscriptions with existing Members. We primarily provide customer
8 support over chat and email. If we do not help our Members quickly
9 resolve issues and provide effective ongoing support, or if our support
10 personnel or methods of providing support are insufficient to meet the
11 needs of our Members, our ability to retain Members, increase
12 adoption by our existing Members and acquire new Members could be
13 harmed. If we are not able to meet the customer support needs of our
14 Members by chat and email during the hours that we currently provide
15 support, we may need to increase our support coverage and provide
16 additional phone-based support, which may reduce our profitability.

17 22. This statement was false or materially misleading because it failed to
18 disclose that Dave was knowingly and purposefully providing poor and inadequate
19 customer support services in an effort to retain deceptively obtained subscription
20 revenue, tip revenue, and fee revenue.

21 23. The 2021 10-K contains a section titled *Regulatory Environment*,
22 which lists the various federal consumer protection statutes and regulations that
23 apply to it, including the Federal Trade Commission Act (“FTC Act”).

24 24. The Regulatory Environment section of the 2021 20-K was false or
25 materially misleading because it failed to disclose that 1) Dave was knowingly
26 violating Section 5(a) of the FTC Act; 2) Dave was knowingly violating the
27 Restore Online Shoppers' Confidence Act (“ROSCA”).

28 25. On March 13, 2023, the Company filed with the SEC its Annual
Report on Form 10-K for the fiscal year ended December 31, 2022 (the “2022 10-
K”).”

26. The 2022 10-K stated the following:

1 Tips for the year ended December 31, 2022 were \$62.0 million, an
2 increase of \$16.8 million, or 37%, from \$45.1 million for the year
3 ended December 31, 2021. The increase was primarily attributable to
4 increases in total advance volume from approximately \$1,413 million
5 to approximately \$2,709 million year over year along with average
6 advance amounts that increased from \$104 to \$144 as of the years
7 ended December 31, 2021 and 2022, respectively. Tips tend to increase
8 as advance volume increases, but may not always trend ratably as tips
9 often vary depending on the total amount of the advance. The
10 percentage of Members that chose to leave a tip decreased slightly for
the year ended December 31, 2022 as compared to the year ended
December 31, 2021. The average amount of tip Members chose to
leave increased for the year ended December 31, 2022 as compared to
the year ended December 31, 2021.

11 27. This statement was false or materially misleading because it failed to
12 disclose that 1) Dave induces app users to pay a “tip” on Dave’s cash advances by
13 using a deceptive interface that does not offer a clear way to avoid tipping; 2)
14 Dave’s app falsely represents to consumers that the company will purchase or pay
15 for a certain number of meals for needy children based on the size of a customer’s
16 tip, while in reality Dave keeps the vast majority of tips for itself; and 3) the
17 increase in tip revenue was a product of these factors.

18 28. The 2022 10-K also stated the following:

19 Subscriptions for the year ended December 31, 2022 were \$19.1
20 million, an increase of \$1.9 million, or 11%, from \$17.2 million for the
21 year ended December 31, 2021. The increase was primarily
22 attributable to higher subscription engagement with Members on our
23 platform.

24 29. This statement was false or materially misleading because it failed to
25 disclose that 1) members were unable to cancel the subscriptions at their
26 convenience; 2) members were signed up for subscriptions without their
27 knowledge; and 3) the increase in subscriptions was a product of these factors.

1 30. The 2022 10-K contains a section titled *Regulatory Environment*,
2 which lists the various federal consumer protection statutes and regulations that
3 apply to it, including the Federal Trade Commission Act (“FTC Act”).

4 31. The Regulatory Environment section of the 2022 20-K was false or
5 materially misleading because it failed to disclose that 1) Dave was knowingly
6 violating Section 5(a) of the FTC Act; 2) Dave was knowingly violating ROSCA.

7 32. On March 5, 2024, the Company filed with the SEC its Annual Report
8 on Form 10-K for the fiscal year ended December 31, 2023 (the “2023 10-K”).

9 33. The 2023 10-K stated the following:

10 Subscriptions for the year ended December 31, 2023 were \$21.5
11 million, an increase of \$2.3 million, or 12%, from \$19.1 million for the
12 year ended December 31, 2022. The increase was primarily
13 attributable to an increase in paying Members on our platform.

14 34. This statement was false or materially misleading because it failed to
15 disclose that 1) members were unable to cancel the subscriptions at their
16 convenience; 2) members were signed up for subscriptions without their
17 knowledge; and 3) the increase in subscriptions was a product of these factors.

18 35. The 2023 10-K contains a section titled *Regulatory Environment*,
19 which lists the various federal consumer protection statutes and regulations that
20 apply to it, including the Federal Trade Commission Act (“FTC Act”) and ROSCA.

21 36. The Regulatory Environment section of the 2023 20-K was false or
22 materially misleading because it failed to disclose that 1) Dave was knowingly
23 violating Section 5(a) of the FTC Act; 2) Dave was knowingly violating the
24 ROSCA.

25 37. The Company filed Quarterly Reports on Form 10-Q (the “10-Qs”)
26 for the following dates:

27 (a) May 13, 2022

28 (b) August 22, 2022

1 (c) November 14, 2022

2 (d) May 9, 2023

3 (e) August 8, 2023

4 (f) November 7, 2023

5 (g) May 7, 2024

6 (h) August 6, 2024

7 (i) November 12, 2024

8 38. Each of the 10-Qs, as well as Dave's 10-Ks for the fiscal years 2021,
9 2022, and 2023, (the 10-Ks) contain Dave's reporting of service-based revenue,
10 including revenue from processing fees, tips, and subscriptions.

11 39. The service-based revenue numbers reported in each of the 10-Qs and
12 the 10-Ks were false or materially misleading because it failed to disclose that 1)
13 tip revenue was inflated by Dave's misrepresentations to its members regarding
14 the need to tip, and the distribution of tips to charity; and 2) subscription revenue
15 was inflated because members were unable to cancel the subscriptions at their
16 convenience and members were signed up for subscriptions without their
17 knowledge.

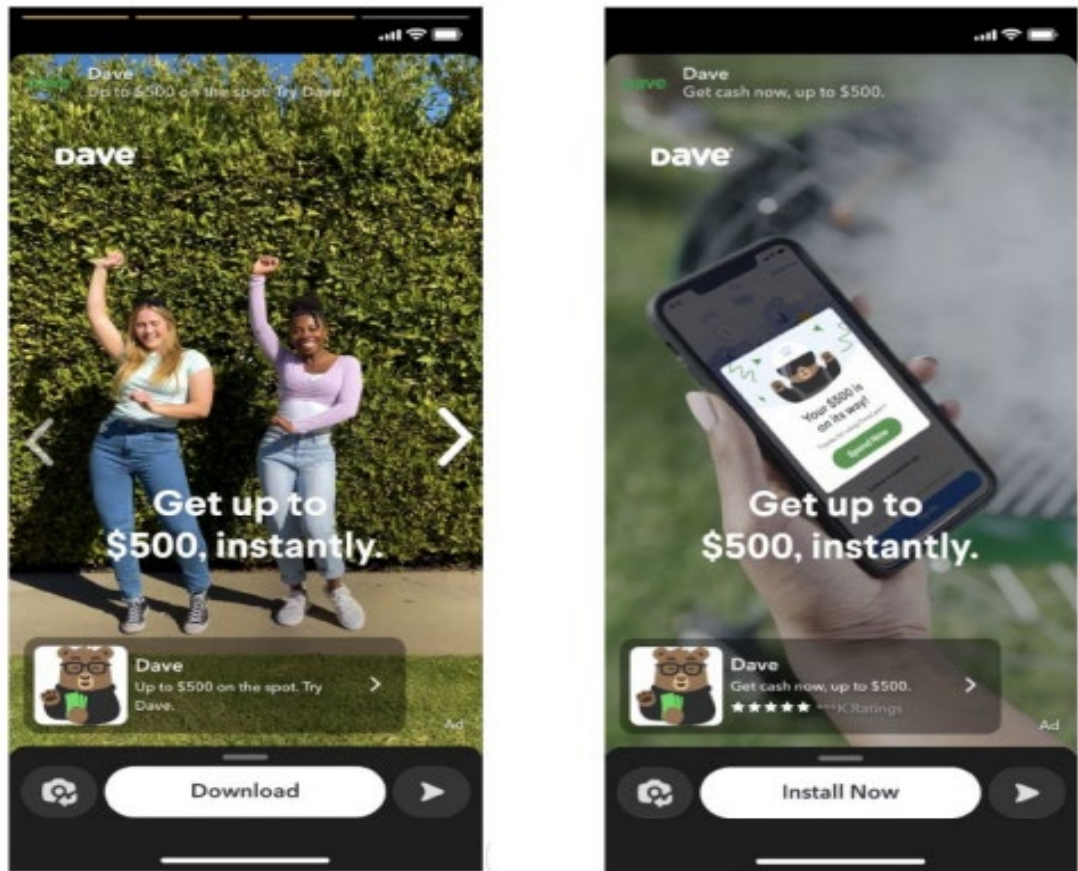
18 40. In addition to their SEC filings, Defendants made false and
19 misleading statements to the public through other means.

20 41. On March 24, 2023, TechCrunch, and online technology news
21 publication, published an article titled "The story of how Dave took the long road
22 to become a neobank."

23 42. In the article, Wilk is quoted as saying that "Our anchor feature that
24 disrupted overdraft fees is our Extra Cash product, which lets people borrow small
25 amounts of money and now get up to a \$500 cash advance [that limit was increased
26 from \$250 to \$500 last summer) with up to 14 days to pay it back, with no late fees
27 and no interest." (errors in original)

43. This statement was materially false and misleading because it failed to disclose that 1) Defendants actually very rarely offer consumers anywhere near the advertised \$500; 2) Defendants often do not offer any cash advance at all; and 3) Defendants charge an “express fee” to get cash advances instantly that they do not clearly disclose before consumers give the app access to their bank accounts.

44. Furthermore, Dave frequently published advertisements which state that consumers can get up to \$500 immediately after downloading the app, such as in the following examples:



45. These advertisements, as well as other similar advertisements, were materially false and misleading because they failed to disclose that 1) Defendants actually very rarely offer consumers anywhere near the advertised \$500; 2)

Defendants often do not offer any cash advance at all; and 3) Defendants charge an “express fee” to get cash advances instantly that they do not clearly disclose before consumers give the app access to their bank accounts.

THE TRUTH EMERGES

46. The truth emerged after market close on Dec. 30, 2024, when the Department of Justice (“DOJ”) issued a press release (the “Release”) in which it announced a “civil enforcement action against Dave Inc. (Dave) and its co-founder, President, Chief Executive Officer and Chairman of the Board of Directors, Jason Wilk, for alleged violations of the FTC Act and the Restore Online Shoppers’ Confidence Act (ROSCA).”

47. Per the Release, “the government’s lawsuit alleges that the defendants misled consumers by deceptively advertising Dave’s cash advances, charging hidden fees, misrepresenting how Dave uses customers’ tips and charging recurring monthly fees without providing a simple mechanism to cancel them.”

48. The Release further detailed the allegations in the underlying Complaint, writing that:

Dave and Wilk market their app as instantly providing consumers “up to \$500” without any hidden fees. The complaint alleges that the defendants actually very rarely offer consumers anywhere near the advertised \$500, often do not offer any cash advance at all, and charge an “express fee” to get cash advances instantly that they do not clearly disclose before consumers give the app access to their bank accounts. The lawsuit further alleges that the defendants induce app users to pay a sizeable “tip” on Dave’s cash advances by using a deceptive interface that does not offer a clear way to avoid tipping. According to the complaint, Dave’s app falsely represents to consumers that the company will purchase or pay for a certain number of meals for needy children based on the size of a customer’s tip, while in reality Dave keeps the vast majority of tips for itself and donates only a nominal sum to charity that is insufficient to purchase the stated number of meals. Finally, the complaint alleges that the defendants have violated ROSCA by enrolling their customers in automatically recurring

1 monthly membership fees without clearly and conspicuously
2 disclosing material transaction terms and without providing a simple
3 mechanism for consumers to cancel those recurring fees.

4 49. Finally, the Release noted that the complaint “seeks unspecified
5 amounts of consumer redress and monetary civil penalties from the defendants and
6 a permanent injunction to prohibit them from engaging in future violations,” and
7 that “it amends and replaces an earlier complaint that FTC filed, which named only
8 Dave as a defendant and did not seek any civil penalties.”

9 50. On this news, the price of Dave Inc. stock fell by approximately
10 8.5% to close at \$86.92 on December 31, 2024.

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

14 **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

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

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

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

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

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

- 13 • whether the Exchange Act was violated by Defendants' acts as alleged
14 herein;
- 15 • whether statements made by Defendants to the investing public during
16 the Class Period misrepresented material facts about the business and
17 financial condition of the Company;
- 18 • whether Defendants' public statements to the investing public during
19 the Class Period omitted material facts necessary to make the statements
20 made, in light of the circumstances under which they were made, not
21 misleading;
- 22 • whether the Defendants caused the Company to issue false and
23 misleading filings during the Class Period;
- 24 • whether Defendants acted knowingly or recklessly in issuing false
25 filings;

- whether the prices of the Company 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.

57. 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.

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

- the Company's shares met the requirements for listing, and were listed and actively traded on NASDAQ, an efficient market;
- as a public issuer, the Company filed periodic public reports;
- the Company 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;
- the Company's securities were liquid and traded with moderate to heavy volume during the Class Period; and
- the Company was followed by a number of securities analysts who wrote reports that were widely distributed and publicly available.

59. Based on the foregoing, the market for the Company's securities promptly digested current information regarding the Company from all publicly

1 available sources and reflected such information in the prices of the shares, and
2 Plaintiff and the members of the Class are entitled to a presumption of reliance
3 upon the integrity of the market.

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

9
10 **COUNT I**
11 **For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder**
12 **Against All Defendants**

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

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

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

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

- 26 • employed devices, schemes and artifices to defraud;
- 27 • made untrue statements of material facts or omitted to state material
28 facts necessary in order to make the statements made, in light of the
circumstances under which they were made, not misleading; or

- 1 • engaged in acts, practices and a course of business that operated as a
2 fraud or deceit upon plaintiff and others similarly situated in connection with
3 their purchases of the Company's securities during the Class Period.

4 65. Defendants acted with scienter in that they knew that the public
5 documents and statements issued or disseminated in the name of the Company
6 were materially false and misleading; knew that such statements or documents
7 would be issued or disseminated to the investing public; and knowingly and
8 substantially participated, or acquiesced in the issuance or dissemination of such
9 statements or documents as primary violations of the securities laws. These
10 defendants by virtue of their receipt of information reflecting the true facts of the
11 Company, their control over, and/or receipt and/or modification of the Company's
12 allegedly materially misleading statements, and/or their associations with the
13 Company which made them privy to confidential proprietary information
14 concerning the Company, participated in the fraudulent scheme alleged herein.

15 66. Individual Defendants, who are the senior officers of the Company,
16 had actual knowledge of the material omissions and/or the falsity of the material
17 statements set forth above, and intended to deceive Plaintiff and the other members
18 of the Class, or, in the alternative, acted with reckless disregard for the truth when
19 they failed to ascertain and disclose the true facts in the statements made by them
20 or any other of the Company's personnel to members of the investing public,
21 including Plaintiff and the Class.

22 67. As a result of the foregoing, the market price of the Company's
23 securities was artificially inflated during the Class Period. In ignorance of the
24 falsity of Defendants' statements, Plaintiff and the other members of the Class
25 relied on the statements described above and/or the integrity of the market price of
26 the Company's securities during the Class Period in purchasing the Company's
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1 securities at prices that were artificially inflated as a result of Defendants' false and
2 misleading statements.

3 68. Had Plaintiff and the other members of the Class been aware that the
4 market price of the Company's securities had been artificially and falsely inflated
5 by Defendants' misleading statements and by the material adverse information
6 which Defendants did not disclose, they would not have purchased the Company's
7 securities at the artificially inflated prices that they did, or at all.

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

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

15 **COUNT II**
16 **Violations of Section 20(a) of the Exchange Act**
17 **Against the Individual Defendants**

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

20 72. During the Class Period, the Individual Defendants participated in the
21 operation and management of the Company, and conducted and participated,
22 directly and indirectly, in the conduct of the Company's business affairs. Because
23 of their senior positions, they knew the adverse non-public information about the
24 Company's business practices.

25 73. As officers of a publicly owned company, the Individual Defendants
26 had a duty to disseminate accurate and truthful information with respect to the
27 Company's financial condition and results of operations, and to correct promptly
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1 any public statements issued by the Company which had become materially false
2 or misleading.

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

13 75. By reason of the above conduct, the Individual Defendants are liable
14 pursuant to Section 20(a) of the Exchange Act for the violations committed by the
15 Company.

16 **PRAYER FOR RELIEF**

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

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

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

25 (c) awarding Plaintiff and the Class reasonable costs and expenses
26 incurred in this action, including counsel fees and expert fees; and
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1 (d) awarding Plaintiff and other members of the Class such other and
2 further relief as the Court may deem just and proper.

3 **JURY TRIAL DEMANDED**

4 Plaintiff hereby demands a trial by jury.
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