Joel A. Fleming, State Bar No. 281264
Jacob A. Walker, State Bar No. 271217
Block & Leviton LLP
155 Federal Street, Suite 400
Boston, MA 02110
(617) 398-5600 phone
joel@blockesq.com
jake@blockesq.com

Attorneys for Plaintiff Joseph Iuso

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Coordination Proceeding Special Title Rule (3.550) SNAP, INC. SECURITIES CASES This Document Relates To: *Iuso v. Snap Inc.*, *et al.*, Superior Court of California, County of San Mateo, No. 17CIV03710	JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4960 **IUSO'S FIRST AMENDED CLASS ACTION COMPLAINT** **Jury Trial Demanded**

Plaintiff, Joseph Iuso ("Plaintiff"), by and through Plaintiff's undersigned attorneys, based upon the independent investigation of counsel and information and belief, as well as allegations contained in a federal class action against Defendants, alleges, as follows, individually and on behalf of all persons or entities other than Defendants who purchased Snap, Inc. ("Snap" or the "Company")'s common stock pursuant to or traceable to Snap's Initial Public Offering (the "IPO") on March 1, 2017, against: Defendants Snap, Evan Spiegel ("Spiegel"), Robert Murphy ("Murphy", Andrew Vollero ("Vollero"), Joanna Coles ("Coles"), A.G. Lafley ("Lafley"), Mitchell Lasky ("Lasky"), Michael Lynton ("Lynton"), Stanley Meresman ("Meresman"), Scott D. Miller ("Miller"), Christopher Young ("Young"),[1] Morgan Stanley & Co. LLC ("Morgan Stanley"), Goldman, Sachs & Co. ("Goldman" or "Goldman Sachs")), J.P. Morgan Securities LLC ("JPMorgan" or "JPM"), Deutsche Bank Securities Inc. ("Deutsche Bank" or "DB"), Barclays Capital Inc. ("Barclays"), Credit Suisse Securities (USA) LLC ("CS" or "Credit Suisse"), and Allen & Company LLC ("Allen & Company").[2]

Introduction

1. Plaintiff, on behalf of the Class, brings claims against all Defendants for violations of Section 11 of the Securities Act of 1933 (the "Securities Act").

2. The issuance of Snap common stock in connection with the IPO was registered under the Securities Act of 1933, as amended, pursuant to Snap's registration statement on Form S-1 (File No. No. 333-215866) declared effective on March 1, 2017 (the "Registration Statement").

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[1] Collectively, Spiegel, Murphy, Vollero, Coles, Lafley, Lasky, Lynton, Meresman, Miller, and Young are the "Individual Defendants."

[2] Collectively, Goldman Sachs, Morgan Stanley, JPMorgan, Deutsche Bank, Barclays, Credit Suisse, and Allen & Company are the "Underwriter Defendants."

This case arises from untrue statements of material fact as well as the omission of other facts necessary in order to make statements contained in the Registration Statement not materially false or misleading.

3. Snap is a social media company whose main product is the mobile social media platform, Snapchat. Snapchat is a free picture-messaging application that allows users to send vanishing messages, known as "Snaps." Snapchat also enables users to combine different Snaps into a narrative "Story" and message one another using texts, images, and videos.

4. Because the Snapchat application is free to users, Snap derives nearly all its revenue from advertising. Snap's ability to produce advertising revenue is directly linked to its ability to maintain current users and to add new users.

5. Snap's IPO was hotly anticipated, particularly because big IPOs such as Snap's had declined by as much as 50% since 2015. Seeking a valuation between $25 and $30 billion, Snap's IPO had the potential to be the largest public offering of the year. Snap, however, was shrouded in secrecy. So much so that other than Snap's lead underwriters—Morgan Stanley and Goldman Sachs—none of the other underwriters were even given the opportunity to review and draft the Registration Statement ahead of the document becoming public. Underscoring the exceptional nature of this development, an equity capital markets lawyer at the firm Orrick Herrington & Sutcliffe LLP was quoted in *Reuters*, stating "I cannot imagine any other deal in which banks would let something like this happen." The attorney noted that banks have "commitment committees" to review IPO registration documents in order to ensure that disclosures on a company's business risks and accounting standard have been made properly before putting their name to the Registration Statement. The attorney further explained that "[c]ommitment committees are there

to keep bankers from making stupid mistakes, and to protect a bank's reputation." But no one wanted to miss out on Snap's big IPO, and the underwriters went along with Snap's demands for secrecy.

6. In the IPO, Snap sold its shares at $17.00 and raised $3.4 billion from public investors, hundreds of millions of which went to Snap's founders and other insiders. The syndicate of underwriters collectively made approximately $85 million in fees, and millions more from sales of shares held back in the offering. Following the IPO, Snap's stock price soared to a price of $29.44 per share.

7. Unbeknownst to investors, however, Snap's Registration Statement contained untrue statements of material fact and concealed material information about the Company's business and operations, including: (1) that the stock-based compensation expense that Snap would incur in the first quarter of 2017 would be approximately $300 million more than disclosed; (2) the known adverse impact that a direct competitor was having on Snap's user growth and engagement; and (3) the risks posed by real or perceived inaccuracies of Snap's user engagement metrics and internal control deficiencies, including the existence and nature of a sealed lawsuit filed by a former employee just months before the IPO.

8. Defendants are strictly liable for any and all material untrue statements or omissions contained in the Registration Statement. Furthermore, because this case involves a Registration Statement, Defendants also had an independent, affirmative duty, which they failed to fulfill, to: (1) disclose a "discussion of the most significant factors that make the offering speculative or risky," (Item 503 of SEC Reg. S-K, 17 C.F.R. § 229.503(c)); (2) to provide adequate disclosures about "any known trends or uncertainties that have had or that the registrant reasonably expects

will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations," (Item 303 of SEC Reg. S-K, 17 C.F.R. § 229.303(a)(3)(ii)); and (3) to disclose certain loss contingencies for issues where a material loss is "reasonably possible."

9. At the time of the IPO, Snap had all of the information necessary to calculate the stock-based compensation expense that it would incur in connection with the IPO. Yet the Registration Statement informed investors that this expense would be $1.7 billion. In fact, Snap disclosed on a Form 8-K filed with the SEC on May 10, 2017, that it actually incurred a stock-based compensation expense of approximately $2 billion.

10. Additionally, the Registration Statement made numerous statements concerning Snap's continuing growth and user engagement, as this was the central growth and value premise that Snap and its underwriters were touting to the market. Numerous graphs depicted continuous quarter-over-quarter growth through the end of 2016. Although Snap's user growth in the fourth quarter of 2016 had been "relatively flat" according to the Registration Statement, this was to be expected as Snap's user growth was "lumpy," and had to be viewed in context with "the accelerated growth in user engagement earlier in the year." Snap omitted user data metrics for the two months preceding the IPO.

11. By the time of the IPO, Snap's senior management was keenly aware that the trend in Snap's user metrics was due to the fact that Snap's principal competitor, Facebook, had successfully mimicked Snapchat's most popular features through its own Instagram "Stories"

function[3] and, by the time of the IPO, had eclipsed Snap's Daily Active Users ("DAU"), the principal metric that Snap attributed to its ability to successfully monetize its product.

12. The Instagram Stories function represented an existential threat to Snap. According to a description of confidential witness statements provided by plaintiffs' counsel in the related federal class action (the "Federal Action")[4] based on the same underlying facts, there was widespread concern expressed by Snap's sales force to senior management that advertisers were skeptical of Snap's continued value proposition given Instagram's growth. Indeed, by the time of Snap's IPO, even though Instagram's Stories had launched barely six months earlier, it had eclipsed Snap's user base and was on a trajectory to vastly outnumber Snap's users within months. Instagram's competition was the focus of a company-wide meeting held in January 2017 where, in an extensive Q&A session, Snap's senior management fielded numerous questions from Snap's beleaguered sales team about Instagram's competition. Instagram's extremely adverse and highly negative impact on Snap's user growth and engagement was not disclosed in the Registration Statement and this omission rendered the Company's statements about user growth and engagement and the potential impact of competition from other products materially false and misleading. As would be revealed shortly after the IPO, Instagram Stories was eviscerating Snap's user growth and Snap's growth had effectively stalled.

13. Additionally, a former Snap employee and whistleblower, Anthony Pompliano, filed a lawsuit against Snap on January 4, 2017 in Los Angeles Superior Court. The complaint was

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[3] Instagram is a wholly owned subsidiary of Facebook.

[4] *In re Snap Inc. Sec. Litig.*, No. 2:17-cv-03679-SVW-AGR (Dkt. No. 67) (C.D. Cal. Nov. 1, 2017).

heavily redacted and largely under seal. On January 18, 2017, two weeks after Pompliano filed suit and less than two months before Snap's IPO, Snap moved to keep Pompliano's complaint under seal, thus preventing potential investors from learning the details of the allegations. Although the existence of the lawsuit was reported in the press, Snap emphatically dismissed the action as that of "a disgruntled employee fired for poor performance" whose claims "were without merit." On April 4, 2017, it was reported that Pompliano had moved to unseal his complaint. The report revealed that Pompliano alleged that Snap had misrepresented details about the popularity of its application to investors in the IPO. On this news, Snap's share price fell approximately 7.3%.

14. As would later be revealed, Pompliano alleged that he had been recruited from Facebook in September 2015 to help lead Snap's user growth. Upon joining the Company, he immediately set about evaluating Snap's user metrics and their reporting. Pompliano alleged that he uncovered egregious deficiencies in the controls over Snap's reporting of user metrics. His analysis revealed that Snap's 2015 metrics were overstated and he brought this to the attention of senior management. In response, Pompliano alleged that he was asked to present his findings to Snap executives, including Spiegel. Spiegel purportedly dismissed Pompliano's concerns and ended the meeting by telling other Snap executives to "fix the problem." Pompliano alleged that he was then swiftly terminated, and that Snap's senior management began to discredit him in the industry after his departure.

15. An investor reviewing the Registration Statement would never have known of the existence of Pompliano's lawsuit. It was not disclosed in the section of the Registration Statement titled "Pending Matters" even though that section listed other lawsuits against Snap. The Registration Statement acknowledged that "real or perceived inaccuracies in [Snap's user] metrics

may seriously harm and negatively affect our reputation and our business." Thus, an investor trying to understand Snap's risk disclosures could never have understood that this particular risk had already manifested itself, as described in Pompliano's complaint, which both challenged the reliability of Snap's reported metrics and also claimed credit for requiring the restatement of Snap's 2015 user metrics.

16. Without disclosing Pompliano's lawsuit, the Registration Statement disclosed that Snap had restated its 2015 user growth data. In April of 2017, however, Pompliano's complaint was unsealed, and the public learned that Snap's need to restate its 2015 user metrics was among the numerous deficiencies that Pompliano had brought to Snap's attention. The revelation that Pompliano's allegations were grounded in fact, and not just the allegations of a former disgruntled employee, shocked investors. As one market commentator writing for *Fortune* observed, "[f]or investors, though, whether or not Snap exaggerated the user number matters less at this point than the fact that Pompliano's lower number turned out to be right."

17. Following the Pompliano revelations, investors learned the true impact of Instagram on Snap's growth as well as that the Registration Statement had falsely understated the stock-based compensation expenses in connection with the IPO. On May 10, 2017, Snap reported its first quarterly results as a public company, disclosing that stock-based compensation expenses were actually about $2 billion ($300 million higher than the figure given in the Registration Statement) and that Snap experienced only modest growth in the key performance metric, DAU, which the Registration Statement had highlighted as vital to the Company's success. Market commentators uniformly attributed Snap's slowing user growth to direct competition from

Instagram. As one commentator wrote, "Compared to early 2016, this growth rate sucks, and the change correlates with the rise of Instagram Stories."

18. In response to this news, Snap's share price dropped nearly 21% in a single day to close at $18.05 on May 11, 2017. Snap's share price continued to decline and closed at $12.60 per share on the date the initial complaint in this Action was filed.

19. As has become clear, Snap's secrecy and the peculiar timing of its IPO in comparison to other tech start-ups was a race to capitalize on the market's misconception that Snap was a viable and growing company before the truth about the actual threat Instagram posed became known. The only winners were the insiders who sold tens of millions of shares to unsuspecting investors and the underwriters who reaped immense fees.

20. On June 8, 2018, the United States District Court for the District of California denied the defendants' motion to dismiss the plaintiffs' complaint in the Federal Action, which included Section 11 claims based on material misrepresentations and omissions contained in the Registration Statement regarding the risks posed by Instagram's Stories feature as well as Snap's failure to disclose the existence of the Pompliano complaint.

21. On November 9, 2018, the judge in the Federal Action entered a Scheduling Notice revealing that a sealed motion filed two days earlier had been filed by "the government."[5] After the close of trading on November 13, 2018, Reuters published an exclusive story revealing that Snap had received subpoenas from both the U.S. Department of Justice and the SEC regarding its March 2017 IPO. Snap commented, "[w]hile we do not have complete visibility into these

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[5] Federal Action, Docket No. 171.

investigations, our understanding is that the DOJ is likely focused on IPO disclosures relating to competition from Instagram." On this news, Snap shares fell nearly 3.5% to close at $6.48 per share on November 14, 2018.

22. Following the Reuters report, the LA Times published an article on the investigations, in which a former federal prosecutor noted that "the Justice Department's involvement suggests criminal—not just civil—charges could come as a result[.]" According to an article published in the Wall Street Journal on December 23, 2018, "Federal Bureau of Investigation agents about a year ago showed up unannounced on the doorsteps of former employees of Snap to question them about how Snap collected and reported user statistics . . . Former employees have also met with Justice Department attorneys[.]"Plaintiff, on behalf of himself and other Class members who acquired the Company's shares pursuant to or traceable to the IPO, now seeks a recovery for the damages suffered as a result of Defendants' violations of the Securities Act.

The Parties

23. Plaintiff, a resident of New York, purchased 78 shares of Snap common stock on March 3, 2017 and 83 shares of Snap common stock on April 6, 2017 and suffered harm when the price of those shares declined following the corrective disclosures described below. Plaintiff sold all 161 shares on November 29, 2017 at an average of $13.54 per share, representing a loss.

24. Defendant Snap is a public corporation organized under the laws of Delaware. Its principal executive offices are located at 63 Market Street, Venice, California 90291. Snap trades on the New York Stock Exchange.

25. Defendant Evan Spiegel is Snap's Chief Executive Officer and a Director. Spiegel signed the Registration Statement.

26. Defendant Robert Murphy is Snap's Chief Technology Officer and a Director. Murphy signed the Registration Statement.

27. Defendant Andrew Vollero is Snap's Chief Financial Officer and signed the Registration Statement.

28. Defendant Joanna Coles is a Snap Director and signed the Registration Statement.

29. Defendant A.G. Lafley is a Snap Director and signed the Registration Statement.

30. Defendant Mitchell Lasky is a Snap Director and signed the Registration Statement. On information and belief, Mr. Lasky resides in Atherton, California, and is employed by Benchmark Capital, located in Woodside, California.

31. Defendant Michael Lynton is a Snap Director and signed the Registration Statement.

32. Defendant Stanley Meresman is a Snap Director and signed the Registration Statement.

33. Defendant Scott D. Miller is a Snap Director and signed the Registration Statement.

34. Defendant Christopher Young is a Snap Director and signed the Registration Statement.

35. Defendant Morgan Stanley & Co. LLC acted as an underwriter in the IPO.

36. Defendant Goldman, Sachs & Co. acted as an underwriter in the IPO.

37. Defendant J.P. Morgan Securities LLC acted as an underwriter in the IPO.

38. Defendant Deutsche Bank Securities Inc. acted as an underwriter in the IPO.

39. Defendant Barclays Capital Inc. acted as an underwriter in the IPO.

40. Defendant Credit Suisse Securities (USA) LLC acted as an underwriter in the IPO.

41. Defendant Allen & Company LLC acted as an underwriter in the IPO.

Jurisdiction and Venue

42. This Court has jurisdiction over this action as Snap has substantial and continuous business contacts with California.

43. Venue is proper in the Superior Court for the County of Los Angeles because Defendant Snap, Inc. maintains its principal place of business and executive offices in Venice, California. On March 3, 2018, the Judicial Council of California issued an Order Assigning Coordination Trial Judge, in which this Action and another were coordinated to the Los Angeles Superior Court.

44. This court has subject-matter jurisdiction over claims arising under the Securities Act of 1933. *See* 15 U.S.C. § 77v(a).

Factual Allegations

A. Snap Issued and The Individual Defendants Signed the Registration Statement; The Underwriter Defendants Acted As Underwriters

45. The Registration Statement was issued by Snap.

46. The Registration Statement was signed by each of the Individual Defendants.

47. The Registration Statement listed each of the Underwriter Defendants as an underwriter and subscribing for the following number of shares:

Underwriter	Number of Shares
Morgan Stanley & Co. LLC	60,484,615
Goldman, Sachs & Co.	49,600,000
J.P. Morgan Securities LLC	26,500,000
Deutsche Bank Securities Inc.	20,000,000
Barclays Capital Inc.	12,000,000
Credit Suisse Securities (USA) LLC	6,153,846
Allen & Company LLC	14,000,000

B. The Registration Statement Misstated Snap's Stock-Based Compensation Expenses Associated with the IPO

48. The Registration Statement stated that Snap would incur a stock-based compensation expense of "**approximately $1.7 billion** … in the quarter of our initial public offering in connection with the CEO award and the vesting of RSUs subject to a performance condition and for which the service-based vesting condition was satisfied as of December 31, 2016."

49. The Registration Statement stated further that the stock-based compensation expense to be incurred in the quarter of its public offering would consist of:

(1) a "stock-based compensation expense of **approximately $1.1 billion** associated with outstanding RSUs subject to a performance condition for which the service-based vesting condition was satisfied as of December 31, 2016 and which we will recognize on the effectiveness of our registration statement in connection with this offering"; and

(2) a "CEO award compensation expense of $624.8 million, based on the initial public offering price of $17.00 per share."

50. In other words, at the time of the IPO, Defendants had all of the information necessary to calculate the stock-based compensation expense that would be incurred in the quarter

of the IPO and the Registration Statement informed investors that the amount of that expense would be approximately $1.7 billion.

51. In fact, the Registration Statement understated the stock-based compensation expense by almost $300 million.

52. After the close of trading on May 10, 2017, Snap filed a Form 8-K attaching a press release announcing its financial results for the quarter ended March 31, 2017. In the press release, Snap announced a net loss for the quarter of over $2.2 billion and stated that the "Net loss for Q1 2017 includes **$2.0 billion of stock-based compensation expense**, primarily due to the recognition of expense related to RSUs with a performance condition satisfied on the effectiveness of the registration statement for our initial public offering."

53. On May 11, 2017, Snap filed a Form 10-Q for the quarter ended March 31, 2017. In that Form 10-Q, Snap recognized a stock-based compensation expense of approximately $2 billion, which it described as caused by a "**$1.9 billion** increase in stock-based compensation expense primarily related to the CEO award and the recognition of expense related to RSUs with a performance condition satisfied on the effectiveness of the registration statement for our IPO.".

54. The Form 10-Q disclosed that "on the effectiveness of the registration statement for our IPO, we recognized **$1.3 billion** in stock-based compensation expense" and that "[i]n addition, on the closing of the IPO, our CEO received an RSU award, or CEO award, for 37.4 million shares of Series FP preferred stock, which automatically converted into an equivalent number of shares of Class C common stock on the closing of the IPO. … In the three months ended March 31, 2017, the stock-based compensation expense recognized related to the CEO award was $636.6 million[.]"

C. The Registration Statement Failed to Disclose the Impact of Competition from Instagram "Stories"

55. As set forth in the Registration Statement, Snap's Daily Active User metric ("DAU"), was a "critical component" of the Company's revenues and growth. Specifically, Snap's "ecosystem of users, advertisers, and partners depends on the engagement of our user base." If Snap failed to "retain current users or add new users, or if [its] users engage less with Snapchat, [its] business would be seriously harmed." Likewise, the Registration Statement acknowledged that the Company's business "w[ould] suffer" if Snap was "unable to successfully grow [its] user base and further monetize [its products]."

56. Highlighting the importance of Snap's DAU metric, the Registration Statement explained "[w]e assess the health of our business by measuring Daily Active Users because we believe that this metric is the most reliable way to understand engagement on our platform[,]" which, in turn, "influences our advertising inventory." The Registration Statement also provided that "[s]ubstantially all of our revenue is generated from third parties advertising on Snapchat, a trend that we expect to continue. For the years ended December 31, 2015 and 2016, advertising revenue accounted for 98% and 96% of total revenue, respectively." Moreover, despite the fact that Snap had "recently tried to establish longer-term advertising commitments with advertisers, most advertisers do not have long-term advertising commitments with us[.]" In other words, if Snap failed to maintain current users and add new users, the resulting decline in advertising revenues "could seriously harm [its] business."

57. Recognizing the importance of the DAU metric to potential investors, the Registration Statement trumpeted Snap's DAU and its historical growth rate, noting "[o]n average 158 million people use Snapchat daily, and over 2.5 billion Snaps are created every day."

The Registration Statement further proclaimed that the "158 million Daily Active Users on average in the quarter ended December 31, 2016," represented "an increase of 48% as compared to our Daily Active Users in the quarter ended December 31, 2015."

58. Although the Registration Statement disclosed that "[t]he rate of net additional Daily Active Users was relatively flat in the early part of the quarter ended December 31, 2016," it assured potential investors that DAU growth "accelerated in the month of December."

59. The Registration Statement attributed the "relatively flat" DAU growth in the quarter ended December 31, 2016 to the fact that Snap "**historically experienced lumpiness in the growth of our Daily Active Users**" and that the issue was "**primarily related to accelerated growth in user engagement earlier in the year**, diminished product performance, and increased competition." Snap qualified, however, that "[w]e believe that diminished product performance and increased competition especially impacted the growth of our Daily Active Users outside of North America and Europe."

60. The Registration Statement emphasized that with respect to DAU growth in its core developed markets in North America and Europe, the slowing growth in DAU was a function of "increased user engagement." According to the Registration Statement: "[t]he rate of net additional Daily Active Users accelerated in the first half of 2016 compared to the second half of 2015, largely due to increased user engagement from product launches and increased adoption rates among older demographics." This "higher baseline of Daily Active Users heading into the third and fourth quarters," made "incremental net additions within these quarters [] more difficult even with strong year-over-year growth."

61. Similarly, with respect to "diminished product performance," the Registration Statement falsely assured prospective investors that these non-specific technical issues were primarily responsible for any observed slowdown in Snap's user growth, and further that these issues were localized outside of Snap's core North American and European markets, stating that "in mind-2016, we launched several products and released multiple updates, which introduced a number of technical issues that diminished the performance of our application. We believe these performance issues resulted in a reduction in the growth of our Daily Active Users, particularly among Android users." Snap added, "We believe that the effect of some of these factors is amplified in countries outside of North America and Europe due to infrastructure and user behavior."

62. The Registration Statement minimized the impact that competition had on its DAU metric, merely noting that "we also saw increased competition both domestically and internationally in 2016, as many of our competitors launched products with similar functionality to ours." But the Registration Statement falsely assured investors that any impact on Snap's user growth and engagement caused by increased competition was a hypothetical risk rather than a concealed reality.

63. For example, in discussing potential "Risk Factors" that could "seriously harm[]" the Company, the Registration Statement provided that "We anticipate that our Daily Active Users growth rate will decline over time **if** the size of our active user base increases or we achieve higher market penetration rates," and noted that "[o]ur Daily Active Users **may** not continue to grow."

64. Similarly, the Company disclosed the "**risk**" that "[o]ur business is highly competitive," but couched this "risk" in hypothetical terms by stating that "[i]f we are not able to maintain or improve our market share, our business **could** suffer." In the same vein, the Registration Statement acknowledged the importance of DAU-based advertising revenue, but explained that "advertising revenue **could be** seriously harmed by" "competitive developments."

65. Under "factors that could negatively affect user retention, growth, and engagement," the Registration Statement noted that "our competitors **may** mimic our products and therefore harm our user engagement and growth." The Registration Statement also noted that "[o]ur competitors **may** develop products, features, or services that are similar to ours or that achieve greater market acceptance."

66. The Registration Statement only contained a single disclosure regarding Instagram Stories, and even this was framed in hypothetical terms: "Instagram, a subsidiary of Facebook, recently introduced a 'stories' feature that largely mimics our Stories feature and **may be** directly competitive."

67. The carefully worded statements regarding Snap's DAU growth and potential risks thereto were materially false and misleading because rather than being hindered by historical "lumpiness" or a "higher baseline," Snap's DAU growth rate had, in fact, already been significantly diminished by the launch of Facebook's Instagram Stories.

68. The detrimental impact resulting from Instagram Stories was well-known to Defendants by the time of Snap's IPO. The Federal Complaint detailed information from confidential witnesses who were represented to have provided information to counsel in that case. Specifically, the Federal Complaint alleged:

FE 1[6] revealed that from the second and third quarters of 2016 until the time FE 1 left Snap in the first quarter of 2017, there was ongoing concern within Snap regarding Instagram and its effect on Snap's ability to compete for advertisers. FE 1 described how sales teams were nervous because Instagram came up in conversations with Snap's major advertising clients and the concern about Instagram was always in the background in such conversations. FE 1 stated that it was known internally at Snap that Facebook was spending a lot of money on Instagram in order to compete with Snapchat. FE 1 revealed that after Instagram launched its Stories function, concerns about Instagram and Snap's ability to compete specifically came up in the sales team's conversations with advertisers.

FE 1 stated that in light of Instagram's release of Stories, Snap's pitch to advertisers centered on Snapchat's authenticity. FE 1 added that advertisers were told that Snapchat was on an upward trajectory and the advertisers wouldn't want to miss the chance to get in on it. FE 1 noted that these claims were often met with skepticism.

FE 1 explained that the sales team's concerns were relayed to Snap's executive management. FE 1 stated that sales personnel told Snap's executive management that Snap had to respond to Instagram's Stories launch and asked what they should say to advertisers. In response, Snap released a statement internally to the Company's employees responding to this concern. FE 1 stated that this statement by executive management simply touted Snap's ability to innovate and minimized the risk of competition.

FE 2[7] described a January 2017 company-wide meeting held in an airplane hangar in Santa Monica, which FE 2 characterized as an attempt to host an Apple-style town hall for all employees. At the company-wide meeting, Spiegel held a Q&A session in which he fielded numerous questions from Snap employees concerned about the Company's ability to compete with Facebook's Instagram and the negative sentiment about Snapchat expressed to sales staff from advertisers. FE 2 recalled that these concerns were met with a dismissive attitude and a vague call to execute on the Company's strategy and not worry about Facebook. Spiegel's views were later summarized in a company-wide memo from Spiegel that sought to rebut the concerns expressed by employees about the impact of competition from Facebook.

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[6] According to the Federal Complaint: Former Employee 1 is a former Regional Director of Sales and Marketing who worked at Snap between mid-2015 and early-2017. FE 1 supervised a team of approximately 12 employees whose job it was to pitch Snapchat to major advertisers in order to sell ad space.

[7] According to the Federal Complaint: Former Employee 2 is a former salesperson in Brand Partnerships at Snapchat. FE 2 worked in a regional office of approximately 10 employees between January and June 2017.

> FE 2 revealed that in contrast to management's dismissive attitude, Snap sales personnel were left to convince skeptical advertisers of the value of investing in Snap's platform, whose effectiveness was unproven, instead of Facebook or Instagram, with which advertisers were familiar and more confident in their return on investment. FE 2 revealed that in light of the consistent concerns expressed by Snap's advertising customers about the value of Snap's platform, Snap's internal sales projections and assumptions about their ability to grow and monetize their platform were unreasonable. For example, FE 2 revealed that sales teams in different regions, including Dallas, New York, and Chicago were unable to meet the Company's sales targets, which assumed continued exponential growth.

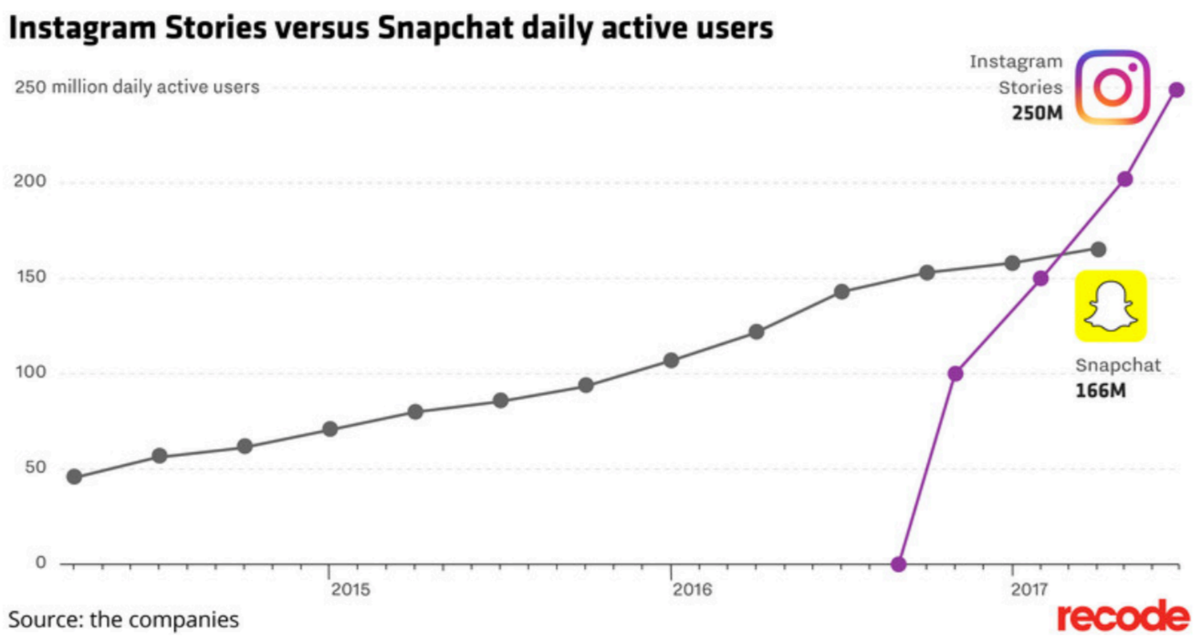
69. News reports published after the IPO corroborated the accounts of the confidential witnesses—that there was widespread anxiety over Snap's inability to compete with Facebook. For example, a *Business Insider* profile of Spiegel published in August 2017 revealed:

> Around the time of Snap's initial public offering in early March, employees got a rare chance to ask the CEO, Evan Spiegel, anything on their minds.
>
> Unlike the "town hall" meetings at Google, Facebook, and other tech companies, the Q&A at Snap was a written affair. Using a shared document, employees submitted questions to the company's 27-year-old leader.
>
> The result revealed a common anxiety: About one dozen of the questions were a variation of whether employees should worry about Snapchat's competitors, particularly Facebook and Instagram, which appeared to be crimping Snapchat's rapid growth.

70. Consistent with the accounts of former Snap employees, the report revealed that Spiegel minimized the risk of competition from Instagram, dismissing the concerns of his employees:

> Spiegel's responses were short, and the one-word answer "no" was all that was written next to some of the queries, according to multiple people with knowledge of the document. Other answers of Spiegel's explained how employees should not think about the competition and should instead focus on delivering the best products and on innovating.

71. Indeed, upon Instagram's launch of its "Stories" feature, Snap observed an immediate drop in new downloads of its application. By the time of the offering, Instagram's Stories feature had as many daily active users as Snap. The following graph, published in an article on the website *Recode*, illustrates the instantaneous impact that Instagram Stories had on Snap's Daily Active Users:



72. In April 2017, shortly after the IPO, *Forbes* published an article revealing the harsh blow that Instagram Stories dealt to Snap's user growth, reporting:

> Snapchat has reigned kin[g] of ephemeral video since its founding, but Instagram recently steeped in to take its shot. In August 2016, years after Snapchat first released Stories, Instagram released its own version with Instagram Stories. This allowed users to share multiple photos and videos in a slideshow format. It was basically a clone of Snapchat Stories, but even though it was later to the party, engagement quickly started to tip in Instagram's favor.
>
> A report on TechCrunch found that Snapchat Stories view counts dipped by 15-40 percent after Instagram Stories launched, and posting volume declined as well. Meanwhile, Instagram view counts soared, and most influencers have seen engagement rates that are 3-5x higher on Instagram than on Snapchat. Within six months, Instagram Stories hit 150 million daily users, which is only slightly less than

> the number of daily active users for Snapchat's entire app. In early April, Facebook announced that Instagram Stories had reached 200 million daily active users (DAUs) and the media quickly piped to say that Instagram had "officially crushed Snapchat" and Snapchat was "dead."

73. Thus, rather than the hypothetical possibility of competition by Instagram to which the Registration Statement vaguely referred, Facebook had in fact "develop[ed] products, features, or services" specifically designed to mimic Snap's features and directly compete with Snap. Moreover, Instagram's rapid growth in its DAU in a matter of a few months to reach the number of users Snap had achieved in two years represented an existential threat to Snap.

74. Despite this known trend, the statements in the Registration Statement created a materially false impression that the Company's DAU would continue to grow even in the face of serious competition that was then-affecting the Company.

75. The Registration Statement's concealment of the impact that Instagram Stories was having on Snap's user growth and engagement was revealed on May 10, 2017, when Snap announced its financial results for the first quarter of 2017—Snap's first as a public company. In a press release filed after the close of trading, Snap reported that "DAUs grew from 122 million in Q1 2016 to 166 million in Q1 2017, an increase of 36% year-over-year. DAUs increased 5% quarter-over-quarter, from 158 million in Q4 2016."

76. In combination with the revelation that Snap's stock-based compensation expense in connection with the IPO had been understated in the Registration Statement by nearly $300 million, the news of Snap's disappointing user growth caused Snap's share price to decline nearly 21% from a closing price of $22.98 on May 10, 2017, to close at $18.05 per share the following day.

77. Commentators were quick to attribute Snap's user growth woes to competition from Instagram Stories. For example, *VentureBeat* reported on May 10, 2017 that "Facebook's

plan worked: Snapchat hits 166 million users, 34 million fewer than Instagram Stories." The report noted, "Compared to early 2016, this growth rate sucks, and the change correlates with the rise of Instagram Stories."

78. Moreover, Item 503 of SEC Reg. S-K, requires the registrant to disclose, among other things, a "discussion of the **most significant factors that make the offering speculative or risky**." 17 C.F.R. § 229.503(c). Item 503 also requires that registrants "[e]xplain how the risk affects the issuer or the securities being offered."

79. As set forth above, the Registration Statement omitted material information regarding the effect of Facebook's competing product, Instagram Stories, on Snap's user growth and engagement. These omissions constituted "significant factors" that made the IPO "risky or speculative," as demonstrated by the Registration Statement's disclosures regarding material risks that could pose serious threats to the Company, including the risk that if Snap failed to add new users, or if its users engaged less, its "business would be seriously harmed."

80. As a result, Defendants had a duty to disclose these currently-known, adverse factors that made the IPO risky. Defendants failed to disclose the nature and magnitude of Snap's risk from competition by Instagram, and gave no meaningful indications of the Company's real vulnerabilities to perceived inaccuracies in its user engagement metrics. Because the Registration Statement failed to make the requisite disclosures, Defendants violated Item 503.

81. In addition, pursuant to Item 303 of SEC Reg. S-K (17 C.F.R. § 229.303), and the SEC's related interpretive releases, issuers are required to disclose "any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable

or unfavorable impact on net sales or revenues or income from continuing operations." 17 C.F.R. § 229.303(a)(3)(ii).

82. In May 1989, the SEC issue an interpretive release on Item 303, stating:

> Required disclosure is based on currently known trends, events and uncertainties that are reasonably expected to have material effects, such as: A reduction in the registrant's product prices; erosion in the registrant's market share; changes in insurance coverage; or the likely non-renewal of a material contract.
>
> * * *
>
> A disclosure duty exists where a trend, demand, commitment, event or uncertainty is both presently known to management and reasonably likely to have material effects on the registrant's financial condition or results of operation.

83. The SEC's Interpretive Release also provided a test for determining whether disclosure under Item 303(a) is required:

> Where a trend, demand, commitment, event or uncertainty is known, management must make two assessments:
>
> (1) Is the known trend, demand, commitment, event or uncertainty likely to come to fruition? If management determines that it is not reasonably likely to occur, no disclosure is required.
>
> (2) If management cannot make that determination, it must evaluate objectively the consequences of the known trend, demand, commitment, event or uncertainty, on the assumption that it will come to fruition. Disclosure is then required unless management determines that a material effect on the registrant's financial condition or results of operations is not reasonably likely to occur.

84. The Registration Statement failed to disclose material information regarding known trends and uncertainties pursuant to Item 303. As alleged herein, the Registration Statement disclosed that Facebook had launched Instagram Stories, designed to mimic Snapchat Stories, but misled investors by stating that Instagram Stories *may* be directly competitive, rather than informing investors that Instagram Stories was already causing a materially unfavorable impact on Snap's user growth and engagement and, consequently, its ability to monetize its platform.

85. As Snap disclosed in the Registration Statement, Snap's DAU was a "critical component" to the Company's revenue and growth. According to the Registration Statement, Snap "assess[ed] the health of [its] business by measuring Daily Active Users" as its "ecosystem of users, advertisers, and partners depend[ed] on the engagement of [its] user base." Thus, if Snap failed to retain current users or add new users, or if its users engaged less, its "business would be seriously harmed." As a result, Defendants had a duty to disclose the known, adverse trend posed by competition from Instagram's Stories, and failed to comply with Item 303 in failing to do so.

D. The Registration Statement Failed to Disclose the Fact of and Nature of Allegations in the Pompliano Complaint

1. Pompliano's Allegations

86. On January 4, 2017, less than two months before Snap's IPO, Pompliano filed a complaint against Snap in Los Angeles Superior Court for various causes of action pertaining to his employment at Snap. The complaint was filed under seal, with only a heavily-redacted version available to the public.

87. Pompliano alleged that Snap lured him away from his position at Facebook in order to lead Snap's new "growth initiative." Throughout the hiring process, Pompliano met with Snap's senior executives, who assured him that Snap was committed to implementing a robust growth strategy, despite their prior refusal to do so. To convince Pompliano to leave Facebook, Snap executives highlighted that Snap was experiencing double-digit month-over-month growth in DAUs, and that the Company was the fastest social media platform to acquire 100 million DAUs. Pompliano soon learned that these representations were false.

88. Pompliano recounts that once he arrived at Snap, he immediately set about analyzing Snap's user data. On his second day, Pompliano met with two of Snap's data analysts,

Jie Liu and Ben Wu, both of whom he knew as former Facebook analysts. Liu and Wu explained Snapchat's "institutional aversion" to analyzing user data, and explained that when Snap did run data test, the results were "completely unreliable." They provided Pompliano with several examples of the problems present at Snap. For example, in measuring DAUs, Snap relied on two different figures being generated from two different programs and data sets—neither of which was accurate. Upon reviewing the results from the two programs, Pompliano found that the first showed only 97 million DAUs, while the second showed only 95 million DAUs, less than the 100 million DAU figure that Snap had represented to Pompliano.

89. In response, Pompliano ran tests to verify all of Snap's user metrics. The results of Pompliano's analysis were shocking. For example, Pompliano discovered that Snap's purported double-digit month-over-month DAU growth rate was actually often flat, or at times ranged from only 1%-4% per quarter during the nine-month period from January 1, 2015 to September 1, 2015. Other inaccuracies uncovered by Pompliano included Snap's "registration flow completion rate" (the percentage of users who complete the Snapchat registration process), which Snap had informed investors, advertisers, and the press was at 87%, was actually less than 40%. Likewise, Snap's "user retention rate" (the percentage of users who continue using the app after 7 days) had been represented to be approximately 40%, when the data showed that Snap's retention rate was actually closer to 20%.

90. Pompliano was concerned, as he had seen hard copies of marketing brochures used to solicit advertisers that represented that Snap had over 100 million DAUs. He reported his concerns to Snap's Vice President of Communications, Jill Hazelbaker, who informed Pompliano that she was aware of the issue and had repeatedly raised it internally, but Snap had ignored her.

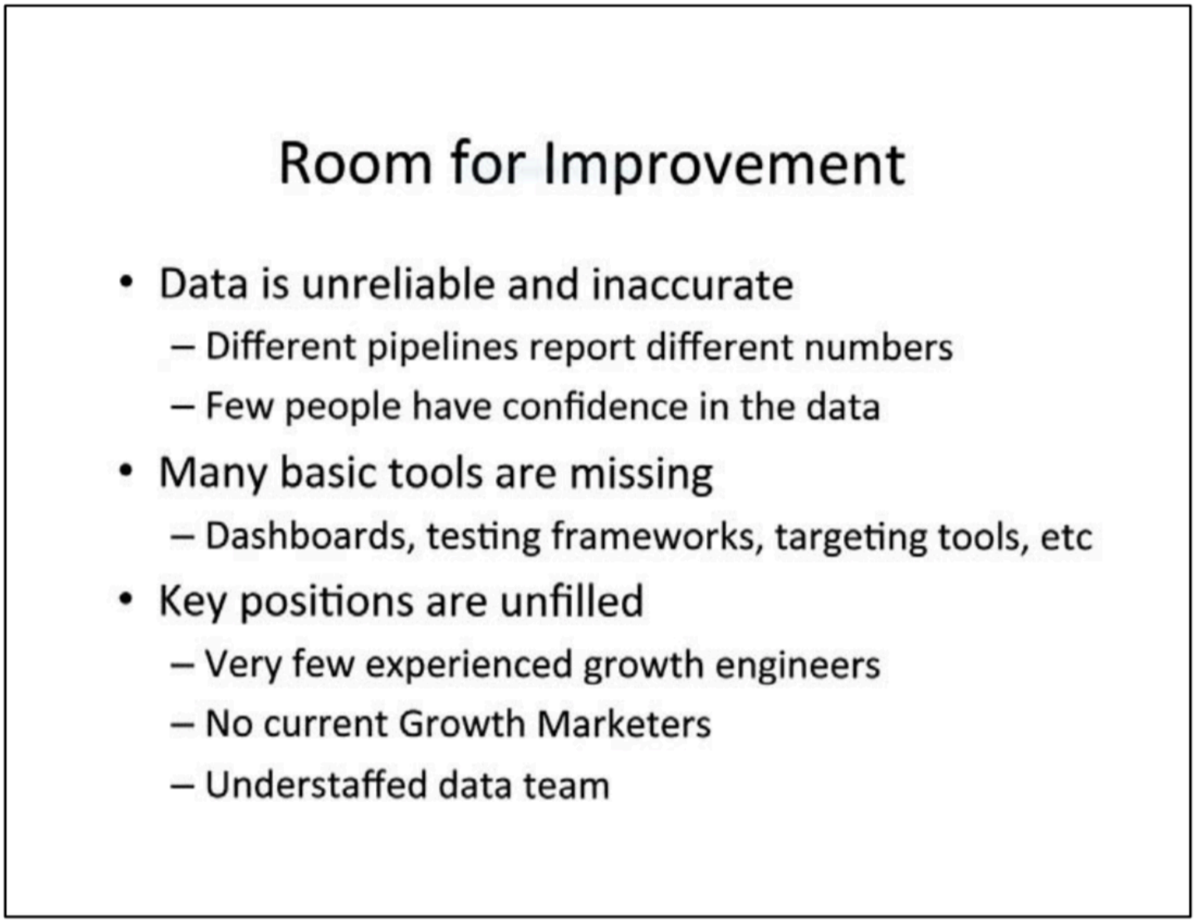
91. Next, Pompliano brought the issue to Snap's Chief Strategy Officer, Imran Khan, who agreed to arrange a meeting with Spiegel so that Pompliano could present his findings. Pompliano created a presentation, and circulated drafts to a number of analysts and Snap executives to confirm the underlying data.

92. Pompliano met with Spiegel and other Snap executives on September 11, 2015. Pompliano alleged that Spiegel was "enraged throughout the meeting and refused to listen to anything Mr. Pompliano said, constantly cutting him off and summarily dismissing his points." Spiegel purportedly told Pompliano that it was "no big deal" that Snap's public statements regarding its DAUs were false. Spiegel abruptly ended the meeting and told other Snap executives to "fix the problem."

93. During the week of September 14, 2015, Pompliano also spoke with Snap's then-Chief Financial Officer, Andrew Vollero. Vollero allegedly told Pompliano that he understood that the metrics Snapchat had been using were wrong, and therefore their representations were inaccurate and should be corrected.

94. In response to Spiegel's directive to "fix the problem," Snap's senior management instructed Pompliano to prepare a second presentation that would provide solutions to the problems facing Snap's user data metrics. He sent a final draft of the presentation to Spiegel, who criticized the findings. The next day, Pompliano was called to a meeting where he was summarily terminated. According to Pompliano, Snap then took preemptive measures to discredit him by telling high-ranking executives in the industry that Pompliano was terminated three weeks into his tenure at Snap because he was incompetent.

95. On May 16, 2017, Pompliano also filed a federal whistleblower complaint against Snap in the United States District Court for the Central District of California. The complaint included an un-redacted version of page 4 of the presentation that he had given to Spiegel and other Snap executives:



96. As alleged in Pompliano's federal complaint:

> [Pompliano's] presentation to Snapchat identified the underlying problem in clear terms: the data upon which Snapchat relied (and which it was disseminating to advertisers and investors, among others) was "unreliable and inaccurate." In the interests of preventing future harm to Snapchat, the presentation confronted Snapchat's senior management with the undeniable truth that Snapchat's own data was internally contradictory, Snapchat was missing basic measurement tools, key positions on Snapchat's growth team were still unfilled, and that "[f]ew people ha[d] confidence in [Snapchat's] data."

2. The Registration Statement Fails to Disclose the Pompliano Allegations

97. The Registration Statement emphasized the importance of lawsuits to the Company by disclosing to potential investors that "[f]rom time to time, we are involved in class-action lawsuits and other litigation matters that are expensive and time-consuming. If resolved adversely, lawsuits and other litigation matters could seriously harm our business." In particular, the Registration Statement explained:

> Any such negative outcome could result in payments of substantial monetary damages or fines, or changes to our products or business practices, and accordingly our business could be seriously harmed. Although the results of lawsuits and claims cannot be predicted with certainty, we do not believe that the final outcome of those matters that we currently face will seriously harm our business.

98. Highlighting the significance of lawsuits to the Company, the Registration Statement specifically disclosed the existence of two lawsuits under a section titled "Pending Matters." The first disclosed lawsuit was brought in September 2015 and involved a claim that Snap improperly used the plaintiffs' images. The second was a personal injury lawsuit filed in April 2016 which had been dismissed. Yet, the Registration Statement failed to disclose the existence and substance of Pompliano's state court claims against the Company—which, at the time of the IPO, had been filed under seal, with material information redacted from public view.

99. As set forth above, Pompliano's complaint revealed a systemic failure in Snapchat's internal controls and computation of critical user metrics, and alleged that these problems persisted until the IPO. More specifically, Pompliano claimed that Snap's user data was unreliable and inaccurate, and that Snap had misled advertisers and investors.

100. Snap recognized the importance of accuracy in its DAU metrics as demonstrated by the disclosure that "[o]ur user metrics . . . are subject to inherent challenges in measurement,

and **real or perceived inaccuracies in those metrics may seriously harm and negatively affect our reputation and our business**" in the "Risk Factors" section of the Registration Statement. Indeed, without disclosing the existence of Pompliano' complaint, the Registration Statement attempted to clarify Snap's historical data analytics by stating:

> In the past we have relied on third-party analytics providers to calculate our metrics, but today we rely primarily on our analytics platform that we developed and operate. . . . Additionally, to align our pre-June 2015 Daily Active Users with this new methodology, we reduced our pre-June 2015 Daily Active Users by 4.8%, the amount by which we estimate the data generated by the third party was overstated. Since this adjustment is an estimate, the actual pre-June 2015 Daily Active Users may be higher or lower than our reported numbers. As a result, our metrics may not be comparable to prior periods.

101. The reliability of Snap's third-party analytics and the adjustment that Snap asserted it had made to the 2015 DAU metrics were precisely the facts that Pompliano asserted that he had identified and raised with Snap's senior managers in 2015 and had been fired in retaliation for raising those very concerns. A reasonable investor would have wanted to know that (i) such allegations had been made; and (ii) the very employee that had brought these issues to Snap's attention was alleging that he had been fired in retaliation for doing so.

102. The Registration Statement's failure to disclose the existence and substance of Pompliano's allegations and the ongoing controversy surrounding the reliability of Snap's user metrics rendered many of its statements materially misleading. For instance, Pompliano's allegations raised "perceived" if not "real" concerns about the accuracy of Snap's user metrics, which, according to the Registration Statement, posed a serious threat to the Company. Snap's failure to disclose Pompliano's allegations rendered its disclosures regarding historical user data incomplete and misleading.

103. Moreover, because the material allegations contained in Pompliano's complaint were redacted from public view, potential investors had no way of learning about the allegations in order to make an independent assessment of the claims. Although the lawsuit was reported in the press, Snap emphatically dismissed the lawsuit as that of "a disgruntled employee fired for poor performance" and whose claims "were without merit." Making matters worse, Snap moved to keep the Pompliano complaint sealed on January 18, 2017, less than two weeks after it was filed and months before the IPO—thereby ensuring that potential investors would not learn of Pompliano's allegations. In any event, the Registration Statement unequivocally directed potential investors not to rely on any outside information: "**You should rely only on statements made in this prospectus in determining whether to purchase our shares, not on information in public media that is published by third parties.**"

104. In addition, Item 503 of Regulation S-K required the registrant to disclose a "discussion of the **most significant factors that make the offering speculative or risky**." 17 C.F.R. § 229.503(c). Item 503 also required the Registration Statement to "[e]xplain how the risk affects the issuer or the securities being offered. The Registration Statement clearly explained how the risk of "real or perceived inaccuracies" in Snap's user metrics could seriously harm its business. By failing to disclose the existence and nature of Pompliano's lawsuit, however, Defendants failed to fulfill their duty under Item 503, as even if Snap disputed Pompliano's allegations, the allegations still represented "real or perceived inaccuracies," which Snap acknowledged could seriously harm its business.

105. Plus, as discussed above, Item 303 of Regulation S-K required the registrant to disclose events or uncertainties that have had or are reasonably likely to have a material favorable

or unfavorable impact on net sales or revenues or income from continuing operations. The Registration Statement disclosed that "real or perceived inaccuracies" in Snap's user metrics may seriously harm the Company's reputation and business. Defendants therefore had an affirmative duty to disclose the known uncertainty posed by Pompliano's allegations that Snap's user engagement metrics were unreliable, particularly in light of the fact that the Registration Statement confirmed one of Pompliano's core allegations: Snap had been forced to restate its historical DAU numbers due to its reliance on third party measurement applications it knew to be false. As a result, Defendants failed to comply with Item 303.

106. Defendants further had a duty to disclose the existence and nature of Pompliano's allegations under ASC 450. ASC 450 governs the disclosure and accrual of contingencies by public companies in their periodic reports and registration statements filed with the SEC. If the likelihood of a material loss is "reasonably possible," i.e. more likely than remote, but less likely than probable, and the amount of the reasonably possible loss is estimable, then a company must disclose the nature of the contingency and also provide an estimate of the amount or range of the loss. If the reasonably possible loss is not estimable, then a company must disclose the nature of the contingency and describe why it is unable to estimate of the amount of the loss.

107. Under ASC 450, the Registration Statement's failure to disclose Pompliano's complaint in its discussion of litigation-related risks facing the Company was a material omission. Given that, according to the Registration Statement, "real or perceived inaccuracies in [Snap's user] metrics may seriously harm and negatively affect our reputation and our business," Pompliano's allegations posed a risk of material loss that was at least reasonably probable, regardless of whether Snap disputed Pompliano's claims.

108. Moreover, California Labor Code § 1504, pursuant to which Pompliano brought his initial complaint, provides for treble damages. In addition to such damages, Pompliano sought punitive damages for his alleged wrongful termination. Given that at the time of the IPO, Snap was losing money, the likelihood of a material loss as a result of his complaint was "reasonably possible." Therefore, Defendants also violated ASC 450 by failing to disclose the existence of Pompliano's complaint and the underlying facts.

E. Plaintiff and Other Class Members Were Damaged by the Misstatements

109. Snap shares were sold in the IPO at $17.00 per share.

110. On April 4, 2017, it was reported that Pompliano had moved to unseal his complaint. The report noted that according to newly-released details, "[c]urrently redacted portions of Pompliano's lawsuit contain user metrics that he claims are different from what Snap told investors and the press ahead of its February IPO." The next day, Snap's shares fell approximately 6.5% to close at $20.14 per share.

111. On May 10, 2017, Snap issued a press release announcing a net loss of approximately $2.2 billion for the quarter ended March 31, 2017. The majority of the loss was attributed to the stock-based compensation expense incurred in connection with the IPO, which was actually $2 billion instead of the $1.7 billion previously disclosed in the Registration Statement. The press release also announced disappointing user growth for the quarter of only 5% quarter-over-quarter. The next day, Snap's shares fell approximately 21% on unusually heavy volume—representing a loss of over $700 million for the Class. Market commentators attributed Snap's slowing user growth to direct competition from Instagram. For example, a report by *VentureBeat* noted that "Snapchat added 5 million users in Q4 2016, and just a little more in Q1 2017 (8 million).

Compared to early 2016, this growth rate sucks, and the change correlates with the rise of Instagram Stories."

112. On this news, Snap's share price declined by $4.93 per share, or approximately 21%, from a closing price of $22.98 on May 10, 2017, to a closing price of $18.05 per share on May 11, 2017.

113. On June 7, 2017, it was reported that based on data from SensorTower, a firm that tracks app analytics, worldwide downloads of Snapchat for the months of April and May 2017 were down 22% from the year prior. An analyst report issued on this date noted that "By comparison, Instagram downloads have demonstrated YoY growth, suggesting that competitive pressures may be intensifying for Snap, challenging the platform's ability to attract and retain new users."

114. On this news, Snap's share price fell approximately 7.4%.

115. On July 11, 2017, Morgan Stanley downgraded Snap's stock and lowered its price target by 42% to $16, below the IPO valuation. In support of its decision, Morgan Stanley cited the SensorTower download data, commenting that Morgan Stanley was "lowering [its] forward DAU estimates given this data," which it viewed as a "troubling directional trend[] which causes us to lower our DAU outlook."

116. On this news, Snap's share price fell $1.52 per share, or approximately 8.9%, from a closing price of $16.99 on July 10, 2017, to close at $15.47 per share on July 11, 2017.

117. On August 10, 2017, Snap reported DAU growth of only 4% quarter-over-quarter, a second consecutive quarter of disappointing user growth. Market commentary attributed Snap's disappointing DAU growth to competition from Facebook. For example, on August 10,

2017, Fortune reported that "Snap Inc. reported a lower-than-expected number of daily active users for Snapchat, its popular messaging app, for the second quarter as the company grapples with stiff competition from Facebook."

118. On this news, Snap's share price declined $1.94 per share, or approximately 14%, from a closing price of $13.77 on August 10, 2017, to close at $11.83 per share on August 11, 2017.

119. On November 9, 2018, the judge in the Federal Action entered a Scheduling Notice revealing that a sealed motion filed two days earlier had been filed by "the government."[8] After the close of trading on November 13, 2018, Reuters published an exclusive story revealing that Snap had received subpoenas from both the U.S. Department of Justice and the SEC regarding its March 2017 IPO. Snap commented, "[w]hile we do not have complete visibility into these investigations, our understanding is that the DOJ is likely focused on IPO disclosures relating to competition from Instagram."

120. On this news, Snap shares fell nearly 3.5% to close at $6.48 per share on November 14, 2018.

121. These events, among others, revealed to the market that the Registration Statement contained false statements and omissions of material fact. The losses incurred by Plaintiff and the Class were directly attributable to the material misstatements included in the Registration Statement regarding Snap's stock-based compensation expense, the impact of Instagram Stories on Snap's Daily Active Users, and the failure to disclose the existence and nature of the Pompliano complaint.

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[8] Federal Action, Docket No. 171.

122. On the last trading day before this Action was filed, August 11, 2017, Snap stock closed at $12.58 per share.

F. Other Recent Developments

123. On October 3, 2017, at Vanity Fair's New Establishment Summit in Beverly Hills, Spiegel acknowledged that Snap failed to effectively communicate with its investors, stating:

> Going public was really the right thing for the company, and certainly the right thing at the time. . . . One of the things I did underestimate was how much more important communication becomes . . . When you go public you need to explain to a huge new investor base . . . how your business works.

124. On June 7, 2018, the United States District Court for the District of California denied the defendants' motion to dismiss the Federal Complaint, which included Section 11 claims based on material misrepresentations and omissions contained in the Registration Statement regarding the risks posed by Instagram's Stories feature as well as Snap's failure to disclose the existence of the Pompliano complaint. *In re Snap Inc. Sec. Litig.*, 2:17-cv-03679-SVW-AGR (C.D. Cal. Jun. 7, 2018) (ECF No. 92) (finding that regardless of whether the plaintiffs' Section 11 allegations sounded in fraud or not, the Instagram and Pompliano misstatements were pled with enough specificity to satisfy Rule 9(b)'s heightened pleading standards.").

Class Action Allegations

125. Plaintiff brings this action individually and as a class action on behalf of all persons or entities other than Defendants who purchased Snap's common stock pursuant to or traceable to Snap's Initial Public Offering (the "IPO") on March 1, 2017.

126. This action is properly maintainable as a class action.

127. The Class is so numerous that joinder of all members is impracticable. One hundred and forty-five million shares were sold by Snap in the IPO. Consequently, the number of

Class members is believed to be in the thousands and are likely scattered across the United States. Moreover, damages suffered by individual Class members may be small, making it overly expensive and burdensome for individual Class members to pursue redress on their own.

128. There are questions of law and fact that are common to the Class and that predominate over questions affecting any individual Class member. The common questions include, inter alia:

a. whether the Registration Statement contained untrue statements of material fact;

b. whether the Individual Defendants signed the Registration Statement; and

c. whether the Underwriter Defendants acted as underwriters.

129. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class.

130. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature, and will fairly and adequately protect the interests of the Class.

131. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants; or adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

132. There will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

133. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

134. **Count One**

Violation of Section 11 of the Securities Act
Against All Defendants

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

136. The Registration Statement contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted material facts required to be stated therein.

137. The Company is the issuer of the securities purchased by Plaintiff and the Class. As such, the Company is strictly liable for the untrue statements of material facts contained in the Registration Statement and the failure of the Registration Statement to be complete and accurate.

138. The Individual Defendants each signed the Registration Statement or authorized the signing of the Registration Statement on their behalf.

139. The Underwriter Defendants each served as underwriters in connection with the Offering.

140. By reason of the conduct herein alleged, each Defendant named herein violated Section 11 of the Securities Act.

141. Plaintiff acquired Snap common stock pursuant or traceable to the Registration Statement used for the IPO, and without knowledge of the material omissions or misrepresentations alleged herein.

142. Plaintiff and the Class have sustained damages because they purchased Snap stock at an inflated price, which declined in value as a result of the corrective disclosures detailed herein.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

1. Ordering that this action may be maintained as a class action and certifying Plaintiff as Class representatives and their counsel as Class counsel for actual damages and such other relief as the court deems appropriate;

2. For pre-judgment and post-judgment interest on any such monetary relief

3. For reasonable attorneys' fees and costs;

4. For costs of suit herein; and

5. For such further relief as this Court may deem just and proper.

Demand for a Jury Trial

Plaintiff hereby demands a trial by jury on all counts so triable.

February 25, 2019

BLOCK & LEVITON LLP

Joel A. Fleming (CA Bar No. 281264)
Jacob A. Walker (CA Bar No. 271217)
155 Federal Street, Suite 400
Boston, MA 02110
(617) 398-5600 phone
jake@blockesq.com
joel@blockesq.com

Counsel for Plaintiff