
ALEX EDMANS,

Plaintiff,

v.

BRETT A. HURT, STEPHEN R. COLLINS,
CHRISTOPHER A. PACITTI, NEERAJ
AGRAWAL, DEV C. ITTYCHERIA, EDWARD
B. KELLER, THOMAS J. MEREDITH,
ABHISHEK AGRAWAL, SYDNEY L. CAREY,
MICHAEL S. BENNETT, HEATHER J.
BRUNNER, BRYAN C. BARKSDALE, and
ERIN C. NELSON,

Defendants,

-and-

BAZAARVOICE, INC.,

Nominal Defendant.

IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS

JURY TRIAL DEMANDED

419th Judicial District

PLAINTIFF'S AMENDED PETITION

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TABLE OF CONTENTS

Page No.

DISCOVERY CONTROL PLAN	1
SUMMARY OF ACTION.....	1
THE PARTIES.....	5
A. Plaintiff	5
B. Nominal Defendant.....	5
C. Individual Defendants.....	5
DUTIES OF THE DEFENDANTS	8
SUBSTANTIVE ALLEGATIONS	10
A. Background of PRR Platforms	10
B. Defendants Pursue An Acquisition To “Eliminate” Bazaarvoice’s “Primary Competitor”.....	12
C. The Acquisition is Completed	20
D. The Acquisition is Disclosed	22
E. The Secondary Offering.....	25
F. The DOJ Sues Bazaarvoice.....	30
THE UNLAWFUL INSIDER TRADING.....	31
DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS	33
A. The Acquisition Was Not a Valid Exercise of Business Judgment	34
i. Hurt	35
ii. Pacitti	36
iii. Meredith.....	37
iv. A. Agrawal.....	39

v.	N. Agrawal.....	40
vi.	Ittycheria.....	41
vii.	Keller.....	43
viii.	Carey.....	43
ix.	Collins.....	45
B.	A Majority of the Board Engaged in Unlawful Insider Trading.....	47
i.	Pacitti.....	47
ii.	N. Agrawal.....	48
iii.	Hurt.....	49
iv.	Collins.....	49
v.	Ittycheria.....	50
vi.	Keller.....	51
C.	Additional Reason Demand is Excused.....	53
COUNT I	Breach of Fiduciary Duty – Insider Trading (Against the Insider Trading Defendants).....	53
COUNT II	Breach of Fiduciary Duty – Insider Trading (Against the Director Defendants) ..	54
COUNT III	Corporate Waste (Against the Director Defendants).....	55
	PRAYER FOR RELIEF.....	56
	JURY DEMAND.....	57

TO THE HONORABLE COURT, Plaintiff Alex Edmans (“Plaintiff”) files this Amended Petition on behalf of nominal defendant Bazaarvoice, Inc. against defendants Brett A. Hurt, Stephen R. Collins, Christopher A. Pacitti, Neeraj Agrawal, Dev C. Ittycheria, Edward B. Keller, Thomas J. Meredith, Abishek Agrawal, Sydney L. Carey, Michael S. Bennett, Heather J. Brunner, Bryan C. Barksdale, and Erin C. Nelson. Plaintiff alleges as follows:

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rules of Civil Procedure 190.4

SUMMARY OF ACTION

2. This is a shareholder derivative action on behalf of nominal defendant Bazaarvoice, Inc. (“Bazaarvoice” or “the Company”) against certain of Bazaarvoice’s officers and directors arising out of the Company’s acquisition of PowerReviews, Inc. (“PowerReviews”) on June 12, 2012 (the “Acquisition”).

3. In particular, this action alleges that defendants breached their fiduciary duties to the Company and its shareholders by: (a) knowingly approving a patently anticompetitive acquisition of the Company’s only meaningful competitor, thereby subjecting the Company to significant government scrutiny and liability; and (b) selling their personally-held shares of Company stock for proceeds of \$91 million based on material, nonpublic information concerning the effects and ramifications of the Acquisition.

4. Plaintiff did not make a pre-suit demand on Bazaarvoice’s board of directors (the “Board”) to pursue the claims alleged herein for breach of fiduciary duty and waste of corporate assets because such a demand would have been futile.

5. As detailed herein, a majority of the Board is incapable of making an independent and

disinterested decision to institute and vigorously prosecute this action, because:

- a) the Acquisition was not a valid exercise of business judgment because 8 of the 9 current members of the Board approved the Acquisition with actual knowledge of its anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice; and
- b) 6 of the 9 current members of the Board face a substantial likelihood of liability for unlawful insider trading for having sold personally held Bazaarvoice stock for proceeds of over \$89 million while in possession of material, nonpublic information concerning the Acquisition's anticompetitive purpose and the impending antitrust action by the United States Department of Justice ("DOJ").

6. When the Board announced its approval of the Acquisition on May 24, 2012, the Board publicly promoted it as a way to increase profits for Bazaarvoice by expanding its offerings and customer base and capitalizing on Bazaarvoice's and PowerReviews' existing technical expertise.

7. However, the Board chose to conceal its knowledge that the Acquisition was highly anticompetitive and that the Board had been focused intently on pursuing the Acquisition since 2011 for the sole purpose of eliminating all current and future market competition for Bazaarvoice.

8. As detailed herein, a plethora of internal documents and communications distributed by and among Bazaarvoice's officers and directors prior to the Board's approval of the Acquisition reveal in striking detail how the Board not only believed that the Acquisition was highly anticompetitive and would eliminate all market competition, but that the Board explicitly hailed the Acquisition's anticompetitive effects and its impact on Bazaarvoice's increased profitability.

9. Specifically, these internal documents and communications reveal the Board's undisclosed understanding that PowerReviews was Bazaarvoice's only "real" competitor and that the Acquisition would result in the elimination of all meaningful competition "in both the US and Europe," thereby leaving Bazaarvoice with "literally, no other competitors." In fact, defendants were so laser-focused on countering PowerReviews' market tactics that they devised a special Company-wide initiative to "defeat our only meaningful competitor" and "nuke them to high heaven." The

Board further boasted internally how approval of the Acquisition would “mak[e] future competition extremely difficult,” “[c]reate[] significant competitive barriers to entry,” “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion,” and give Bazaarvoice “complete control of most of the top 500 retailers.”

10. The Board’s internal manifest understanding that the Acquisition was anticompetitive was borne out when the Antitrust Division of the DOJ notified Bazaarvoice that it had begun an investigation into the anticompetitive effects of the Acquisition just two days after the Acquisition had been completed on June 12, 2012.

11. On January 10, 2013, the DOJ formally commenced a civil lawsuit against Bazaarvoice, alleging that the Acquisition was anticompetitive in violation of federal antitrust laws. A copy of the complaint filed by the DOJ in that action is attached hereto as Exhibit A. According to the DOJ’s press release announcing the lawsuit, “Bazaarvoice bought PowerReviews knowing that it was acquiring its most significant rival and hoping to benefit from diminished price competition.”

12. Accordingly, because the Acquisition was approved by the Board with actual knowledge of its anticompetitive purpose and that the ramifications of such an acquisition included violations of law and Bazaarvoice’s corporate governance policies (which expressly forbid the Board from entering into an anticompetitive agreement with any competitor), the Acquisition was not a valid exercise of business judgment.

13. In addition, Plaintiff also asserts claims against certain of the Company’s officers and directors for breaching their fiduciary duties of loyalty by selling over \$91 million worth of Bazaarvoice stock while in possession of material, nonpublic information concerning the Board’s and the officers’ undisclosed knowledge that the Acquisition was highly anticompetitive and the risks

faced by what would be uncovered during the DOJ's investigation.

14. As demonstrated by the voluminous internal documents and communications discussed herein, between the time the DOJ notified Bazaarvoice of its investigation into the Acquisition's anticompetitiveness and the DOJ's commencement of its antitrust lawsuit, a majority of the Board possessed material, adverse information that the DOJ had already obtained or would obtain damaging internal documents and communications evidencing the anticompetitive purpose and effect of the Acquisition. Thus, prior to the DOJ's commencement of its lawsuit and public disclosure of the extent of the Acquisition's anticompetitive effects, defendants possessed damning, nonpublic information and sold shares based on that knowledge.

15. On June 27, 2012 – just 15 days after the Acquisition closed – Bazaarvoice filed a Form S-1 Registration Statement and Prospectus with the U.S. Securities and Exchange Commission (“SEC”) for a secondary offering of 8.5 million shares of Bazaarvoice stock (the “Secondary Offering”), 6 million of which were offered by Bazaarvoice officers and directors who were privy to material, adverse nonpublic information, to be completed by July 31, 2012.

16. Having taken advantage of the Secondary Offering and sold their shares on the basis of material, adverse nonpublic information, a majority of the Board faces a substantial likelihood of liability for insider trading.

17. This action seeks disgorgement to Bazaarvoice of all unlawful insider trading proceeds and seeks to recoup losses that Bazaarvoice has sustained, and will continue sustaining, in connection with the DOJ's lawsuit against Bazaarvoice stemming from the Acquisition.

THE PARTIES

A. Plaintiff

18. Plaintiff Alex Edmans is a current holder of Bazaarvoice stock and has continuously held his shares since February 2010.

B. Nominal Defendant

19. Nominal Defendant Bazaarvoice is a Delaware corporation headquartered at 3900 N. Capital of Texas Highway, Suite 300, Austin, Texas 78746. It also has offices located in New York, San Francisco, Amsterdam, London, Munich, Paris, Stockholm, and Sydney.

20. Bazaarvoice is a Software as a Service (“Saas”) vendor that provides online solutions to manufacturers and retailers. Bazaarvoice’s product ratings and reviews (“PRR”) platforms collect and display consumer-generated feedback on a particular brand, product, or service such as consumer-generated ratings and reviews, questions and answers, stories, recommendations, photographs, videos, and other content. These platforms allow consumers to interact directly with manufacturers and retailers, and with other consumers, through online word of mouth. PRR has become a standard feature of the online shopping experience and indispensable for manufacturer and retailers.

C. Individual Defendants

21. Defendant Brett A. Hurt (“Hurt”) has been the Vice Chairman of the Board since November 4, 2012, and has served as a director since he co-founded Bazaarvoice in May 2005. Defendant Hurt was Bazaarvoice’s President and Chief Executive Officer (“CEO”) from May 2005 to November 4, 2012. Between the May 24, 2012 announcement of the Acquisition and the January 10, 2013 commencement of the DOJ’s lawsuit against Bazaarvoice (the “Relevant Period”), Hurt sold 102,308 shares of Bazaarvoice stock for proceeds of approximately \$1,499,063.

22. Defendant Stephen R. Collins (“Collins”) was appointed to succeed Hurt as President and CEO of Bazaarvoice on November 4, 2012, and was also appointed to the Board on that date. Defendant Collins also served as Bazaarvoice’s Chief Financial Officer (“CFO”) from September 2010 to January 24, 2013. During the Relevant Period, Collins sold 10,000 shares of Bazaarvoice stock for proceeds of approximately \$144,100.

23. Defendant Christopher A. Pacitti (“Pacitti”) has been a member of the Board since 2005. At relevant times, Pacitti was a partner of Austin Ventures, which held approximately 15.5% of Bazaarvoice outstanding common stock. During the Relevant Period, Pacitti sold 3,832,210 shares of Bazaarvoice stock for proceeds of approximately \$56,180,020.

24. Defendant Neeraj Agrawal (“N. Agrawal”) has been a member of the Board since September 2007. At relevant times, N. Agrawal was a partner of Battery Ventures, which held approximately 8.4% of Bazaarvoice outstanding common stock. During the Relevant Period, N. Agrawal sold 2,084,674 shares of Bazaarvoice stock for proceeds of approximately \$30,561,320.

25. Defendant Abhishek Agrawal (“A. Agrawal”) has been a member of the Board since May 22, 2012. At relevant times, A. Agrawal was a principal in General Atlantic, a private equity firm focused on Internet and technology investments, which has held \$2.8 million shares of Bazaarvoice stock since March 31, 2012.

26. Defendant Dev C. Ittycheria (“Ittycheria”) has been a member of the Board since January 2010. At relevant times, Ittycheria was a partner with Greylock Partners, a venture capital firm. During the Relevant Period, Ittycheria sold 20,111 shares of Bazaarvoice stock for proceeds of approximately \$294,827.

27. Defendant Edward B. Keller (“Keller”) has been a member of the Board since May 2006. At relevant times, Keller was the CEO of Kelley Fay LLC, a marketing research and consulting

company focused on word-of-mouth marketing. During the Relevant Period, Keller sold 41,933 shares of Bazaarvoice stock for proceeds of approximately \$614,738.

28. Defendant Thomas J. Meredith (“Meredith”) has been Chairman of the Board since August 2011, and has been a director since August 2010. At relevant times, Meredith was the general partner of Meritage Capital, L.P., and investment firm.

29. Defendant Sydney L. Carey (“Carey”) has been a member of the Board since April 6, 2012. At relevant times, Carey was a senior executive of Tibco Software, Inc.

30. Defendant Michael S. Bennett (“Bennett”) was a member of the Board from February 15, 2011 to October 9, 2012. During the Relevant Period, Bennett sold 9,373 shares of Bazaarvoice stock for proceeds of approximately \$137,408.

31. Defendants Hurt, Collins, Pacitti, Ittycheria, Keller, Meredith, A. Agrawal, N. Agrawal, Carey, and Bennett are sometimes referred to herein as the “Director Defendants.”

32. The Director Defendants, minus defendant Bennett, (defendants Hurt, Collins, Pacitti, Ittycheria, Keller, Meredith, A. Agrawal, N. Agrawal and Carey), are collectively referred to hereinafter as the “Current Directors.”

33. Defendant Heather J. Brunner (“Brunner”) has served as Bazaarvoice’s Chief Operating Officer (“COO”) since July 2009. In her capacity as COO, Brunner managed all day-to-day operations, including providing guidance to all departments. During the Relevant Period, Brunner sold 68,811 shares of Bazaarvoice stock for proceeds of approximately \$1,011,761.

34. Defendant Erin C. Nelson (“Nelson”) has been Bazaarvoice’s Chief Marketing Officer since November 2010. On December 7, 2012, Bazaarvoice announced that defendant Nelson would be resigning from Bazaarvoice, effective March 2013. During the Relevant Period, Nelson sold 57,958 shares of Bazaarvoice stock for proceeds of approximately \$842,942.

35. Defendant Bryan C. Barksdale (“Barksdale”) has been Bazaarvoice’s General Counsel since August 2010 and has been its Secretary since February 2011. During the Relevant Period, Barksdale sold 8,067 shares of Bazaarvoice stock for proceeds of approximately \$121,005.

36. Defendants Hurt, Collins, Pacitti, N. Agrawal, Ittycheria, Keller, Bennett, Brunner, Nelson, and Barksdale are sometimes referred to herein as the “Insider Trading Defendants.”

DUTIES OF THE DEFENDANTS

37. By reason of their positions as officers, directors, and fiduciaries of Bazaarvoice and because of their ability to control its business and corporate affairs, each of the defendants owed Bazaarvoice and its shareholders fiduciary duties of care and loyalty in the management and administration of Bazaarvoice’s affairs, as well as in the use and preservation of Bazaarvoice’s property and assets. As such, defendants were required to act in furtherance of the best interests of Bazaarvoice and its shareholders and prohibited from engaging in self-dealing and unlawful corporate conduct, such as violations of the laws applicable to Bazaarvoice and its business.

38. In addition, as officers and/or directors of a publicly held company, the defendants had a duty to promptly disseminate complete, accurate, and truthful information regarding Bazaarvoice’s business, operations, management, and corporate conduct so that the market price of Bazaarvoice stock would be based on truthful and accurate information.

39. Under Bazaarvoice’s Corporate Governance Guidelines, “[t]he fundamental role of the members of the Board is to exercise their business judgment to act in what they reasonably believe to be the best interests of the Company and its stockholders. It is the duty of the Board to oversee the Chief Executive Officer and other senior management in the competent and ethical operation of the Company and to set the strategic direction of the Company.”

40. On February 13, 2012, the Board approved and adopted a Code of Business Ethics and

Conduct, applicable to all directors, officers, consultants, and employees of Bazaarvoice, including all of the defendants, to “deter wrongdoing and to promote” among other things, honest and ethical conduct; Fair dealing and the ethical handling of conflicts of interest; Full, fair, accurate, timely and understandable disclosure in reports the Company files with the SEC and in other public communications of the Company; compliance with applicable laws and governmental rules and regulations; Protection of Bazaarvoice’s legitimate business interests, including corporate opportunities, assets and confidential information.

41. In addition, the Code of Business Ethics and Conduct has a specific provision alerting all parties to antitrust compliance. The Code of Business Ethics and Conduct instructs:

The Company is committed to fair competition and adherence to antitrust laws. It is prohibited for you to enter into an agreement or understanding (written or oral, expressed, or implied) with any competitor concerning the following: prices, discounts or other terms or conditions of sale, profits or profit margins, costs, allocation of products or geographic markets, allocation of customers, limitations on production, boycotts of customers or suppliers, or bids or the intent to bid, or even to discuss or exchange information on these subjects. These are only some of the activities that could violate antitrust laws.

[emphasis supplied].

42. The Code of Business Ethics and Conduct also contains a provision prohibiting insider trading, which states as follows:

You are prohibited under both U.S. law and Company policy from purchasing or selling Company stock, directly or indirectly, on the basis of material, non-public information about the Company (also called “Insider Information”). Insider Information may include but is not limited to financial or business information (for example, non-public company earnings); operating developments; proposed corporate transactions and reorganizations. Any person possessing Insider Information about the Company must not engage in transactions involving Company securities (including any derivatives thereof) until this information has been released to the public and the market has an opportunity to absorb and react to it.

[emphasis supplied].

43. Bazaarvoice's Corporate Governance Guidelines further provide that "[t]he Board should ensure that there is no abuse of corporate assets or unlawful related party transactions."

44. The defendants, because of their positions of control and authority as directors and/or officers of Bazaarvoice, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein. The misconduct of the defendants involves a knowing and culpable violation of their obligations, the absence of good faith on their part, and a reckless disregard for the fiduciary duties owed to Bazaarvoice and its shareholders, which the defendants were aware or should have been aware posed a risk of serious injury to Bazaarvoice.

45. Because of their advisory, executive, managerial, and directorial positions with Bazaarvoice, each of the Director Defendants directly participated in the decision to enter into the Acquisition and to conceal material, adverse, nonpublic information relating to the anticompetitive effects of the Acquisition. In addition, each of the Insider Trading Defendants took advantage of material, adverse nonpublic information obtained as a result of their advisory, executive, managerial, and directorial positions with Bazaarvoice, and sold substantial numbers of shares of Bazaarvoice common stock during the Relevant Period.

46. At all relevant times, each of the defendants was the agent of each of the other defendants and of Bazaarvoice, and was acting within the course and scope of such agency.

SUBSTANTIVE ALLEGATIONS

A. Background of PRR Platforms

47. PRR encompasses online word of mouth feedback from consumers regarding their experiences with retail products. PRR platforms combine software and services to enable manufacturers and retailers to collect, organize, and display consumer-generated PRR online.

Manufacturers and retailers have come to view PRR as an indispensable feature of internet commerce because consumers shopping online desire and now expect to see authentic consumer feedback regarding products and services before making the purchasing decision.

48. PRR is displayed on a manufacturer's or retailer's website, allowing other consumers to read feedback from previous buyers before making a purchasing decision. PRR is valuable for manufacturers and retailers because it tends to increase sales, decrease product returns, improve a website's ranking by Internet search engines, and provide information regarding consumer sentiment. PRR platforms also offer moderation services, pursuant to which posted reviews are reviewed for content, and analytics, which provide statistical information concerning consumer sentiment.

49. PRR is either licensed from a commercial supplier like Bazaarvoice, or built in-house by the manufacturer or retailer. Bazaarvoice provides the market-leading PRR platform. Bazaarvoice charges its customers a subscription-based fee for its services, which can fall in the range of several hundred thousand dollars per year. Bazaarvoice uses what it calls a "value-based" pricing model, which contemplates pricing based on individually negotiated contracts, factoring in certain variables such as competing PRR solutions and budgetary constraints.

50. Bazaarvoice's network allows PRR content to be shared or "syndicated" between manufacturers and retailers. As more manufacturers sign up with Bazaarvoice, the Bazaarvoice network becomes more valuable to retailers because it allows them to gain access to a greater volume of PRR content received from manufacturers. Similarly, as more retailers sign up with Bazaarvoice, the Bazaarvoice network becomes more valuable for manufacturers because it allows them to syndicate content to a greater number of retail outlets. The feedback between manufacturers and retailers creates a network effect that is a significant competitive advantage for Bazaarvoice.

51. As alleged in more detail below, prior to the Acquisition, PowerReviews was

Bazaarvoice’s “only meaningful” and “real” competitor in the PRR Platforms market. PowerReviews originally operated based on a free services model supported by advertising, but thereafter transitioned to a subscription based license fee model and negotiated individual deals, just like Bazaarvoice. PowerReviews experienced rapid growth after switching to the license fee model, and competed aggressively with Bazaarvoice, particularly for retail clients. Prior to the Acquisition, most of Bazaarvoice’s retail deals involved having to compete with PowerReviews for the account.

52. In this regard, PowerReviews had numerous marquee retail customers such as Toys R Us and Staples. PowerReviews’ large retail customer base posed a unique competitive threat to Bazaarvoice’s syndication network because a PRR network becomes more valuable to manufacturers if the network can provide access to a large number of retailers.

B. Defendants Pursue an Acquisition to “Eliminate” Bazaarvoice’s “Primary Competitor”

53. Bazaarvoice began pursuing PowerReviews as an acquisition target in early 2011, and several rounds of negotiation occurred leading up to the eventual transaction in 2012. On each occasion, in examining the business rationale for the acquisition, Bazaarvoice focused primarily on the goal of eliminating PowerReviews as a competitor in order to diminish price competition. In an email chain between defendants Hurt and Collins dated March 6, 2011, defendant Collins wrote that an acquisition “is worth considering. To take out the only competitor we have”

54. During this time, PowerReviews also perceived itself as Bazaarvoice’s only competitor. For example, in an email dated April 19, 2011, Nadim Hossain (“Hossain”), PowerReviews’ Vice President of Retail Sales, described PowerReviews as “the #2 company in a two-horse race (with Bazaarvoice, out of Austin, TX).” He also described Bazaarvoice as “our #1 competitor.”

55. On April 21, 2011, Bazaarvoice co-founder Brant Barton (“Barton”) sent an email to defendants Hurt, Collins, Brunner and Barksdale regarding an acquisition of PowerReviews, saying

that “taking out one of your biggest competitors can be game-changing.” According to Barton, “we will be able to retain an extremely high percentage of PR’s customers due to scarce/low-quality alternatives” and achieve “elimination of our primary competitor in both the US and Europe.”

56. Barton went on to list the “Pros” of such a deal, including “relief from the price erosion that Sales experiences in 30-40% of deals . . . of up to 15-30%.” Barton also stated that “the market will place a premium on us having such a dominant market position, which is a powerful competitive moat.” Barton observed that Bazaarvoice could then “migrate” PowerReviews customers to itself, and that an acquisition would be a “preemptive defensive strategy that prevents them from being acquired by a larger competitor that could use their scale and reach to disrupt us.” Barton reported that defendants Hurt and Collins, Chief Revenue Officer Michael Osborne (“Osborne”) and Chief Strategy Officer Mike Svatek (“Svatek”) were all “supportive” of the idea.

57. Indeed, Osborne agreed with Barton’s view of the market. He wrote an email to Barton on April 24, 2011, stating, “[i]f we buy them [PowerReviews] it changes everything for our model . . . Because 10-20% price erosion will disappear . . . Because this is competitively HUGE”

58. On May 4, 2011, in an email to the Board, defendant Hurt advised of an upcoming meeting between himself, Barton, defendant Collins and senior PowerReviews executives to explore an acquisition. Defendant Hurt wrote that “[p]otentially taking out our only competitor, who is both suppressing our price points (by as much as 15% according to Osborne) . . . could be a highly strategic move” In his notes from the meeting, Barton wrote that the transaction would enable Bazaarvoice to “avoid margin erosion” caused by “tactical ‘knife-fighting’ over competitive deals.”

59. Like Bazaarvoice, PowerReviews also believed the merger would allow Bazaarvoice to raise prices. In May 2011, PowerReviews’ then-CEO, Pehr Luedtke (“Luedtke”) wrote to defendant Hurt, stating that one of the obvious benefits of a merger was “margin expansion.” Luedtke later

testified in the DOJ litigation that one of the ways margins expand is through the elimination of competitive discounting that occurred between Bazaarvoice and PowerReviews. Luedtke recognized that Bazaarvoice would likely be willing to pay a premium to acquire PowerReviews because it would allow Bazaarvoice to eliminate the “knife fighting” between the two companies.

60. On May 20, 2011, defendant Collins circulated a presentation consisting of several slides to defendant Hurt entitled “May 2011 Board Update – M&A,” created for Board review. This presentation had a section named “Specific Opportunities” and began with a discussion of a PowerReviews acquisition. According to the presentation, a PowerReviews acquisition would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing pressure.”

61. On June 8, 2011, Svatek, the Chief Strategy Officer, wrote an email stating that Bazaarvoice was “seeing new competitive pressure from PowerReviews.” According to Svatek, “they are threatening our syndication network by offering to import P&G reviews as well as other major manufacturers into their major retailers like Drugstore.com and Staples.” Svatek described this matter as creating a “sense of urgency” for Bazaarvoice.

62. On June 21, 2011, Bazaarvoice employee Shawn Gaide (“Gaide”) wrote an email regarding a particular account, stating that “[PowerReviews’] place in this deal was mainly a lever to knock us down on price . . . as it is in many of our deals.”

63. In July 2011, Paul Dodd (“Dodd”), Bazaarvoice’s Vice President for Retail Sales, prepared an analysis concluding that price competition from PowerReviews cost Bazaarvoice significant revenue losses. Dodd’s analysis compared Bazaarvoice’s “value-based” price for its PRR platform to that of PowerReviews’ PRR platform observed by Bazaarvoice sales people in the market place, concluding that Bazaarvoice stood to lose millions of dollars in revenues to PowerReviews. Dodd concluded that competitive pressure from PowerReviews resulted in average price concessions

of more than 70% in competitive sales opportunities. He recommended that Bazaarvoice acquire PowerReviews to “remov[e] a parasite competitor” from the market.

64. Similarly, in July 2011, Bazaarvoice employees described PowerReviews as an “ankle-biter that cause[d] price pressure in deals.” At this time, Dodd also stated that PowerReviews had adopted a “scorched earth” approach to pricing which “force[d] all of [Bazaarvoice’s] current prospects and customers to at least understand how and why there is such a delta in price.”

65. In addition to pricing, PowerReviews also threatened Bazaarvoice’s syndication network. In July 2011, PowerReviews announced the Open Social Commerce Network, offering a free one-year trial to syndication customers in an attempt to diminish Bazaarvoice’s network advantage. PowerReviews’ “open” syndication offering posed a significant threat to Bazaarvoice because it would facilitate syndication between manufacturers that were not PowerReviews customers (including Bazaarvoice customers) and retailers using the PowerReviews platform.

66. Bazaarvoice’s Vice President of Product Strategy, Erin Defossé (“Defossé”), followed these developments, and in a July 2011 email described to defendant Hurt and other executives how Bazaarvoice would respond to PowerReviews’ free syndication. In the DOJ litigation, defendant Hurt testified that PowerReviews’ new tactic was a “call to action.” When apprised of PowerReviews’ initiative and Bazaarvoice’s response, defendant Collins suggested to defendant Hurt that Bazaarvoice could compete against and “crush” PowerReviews, or “damnit let’s just buy them now.”

67. In July 2011, Svatek, the Chief Strategy Officer, expressed concern that Bazaarvoice was “seeing new competitive pressure” from PowerReviews through an “aggressive blitz campaign.” Svatek believed Bazaarvoice needed to “eradicate” PowerReviews, and he proposed an “aggressive” approach to “unseat” PowerReviews from three of its largest accounts. According to Svatek, “whatever the package, I want to screw PR and out them on their heels by wrecking a few of their big

accounts and getting us a couple supernodes. You in? Let's crush [PowerReviews]."

68. Similarly, in a July 26, 2011 email to the 'Executive Team,' Defossé stated: "We need to signal to [PowerReviews] that we are not going to stand by while they do their shenanigans and that we have the wherewithal to absorb some pain in return for handing them major client losses if we so choose to." In addition, in a further display of Bazaarvoice's concerns regarding increased competition from PowerReviews, in a July 29, 2011 email to defendants Brunner and Nelson, defendant Hurt noted the impact of PowerReviews on Bazaarvoice, calling PowerReviews "our biggest competitor" which was conducting a "direct frontal attack" on Bazaarvoice.

69. Furthermore, an August 4, 2011 presentation emailed by Defossé to the 'Product Strategy' team called PowerReviews a "competitive threat" and conceded that PowerReviews had disrupted new sales, including "[l]owering price floors" and causing "revenue erosion." Defossé recommended a counterattack, which she illustrated with images of a skull superimposed on a mushroom cloud, and messages to "surgically strike" PowerReviews and "nuke them to high heaven."

70. In August 2011, Bazaarvoice launched "Project Menlogeddon" (named after Menlo Ventures, a significant PowerReviews investor) to respond to the heightened competition from PowerReviews, which was "aggressively going after our existing customer base" with a "multi pronged attack." Defendant Collins described Project Menlogeddon as "a special project to defeat our only meaningful competitor. . . ." Project Menlogeddon specifically targeted PowerReviews and represented a Company-wide effort, involving various corporate departments. Defossé recommended that the mascot for Project Menlogeddon be the AC-130 military ground attack aircraft because "[i]t is badass and frankly very intimidating."

71. Pursuant to Project Menlogeddon, Bazaarvoice sought to counter the PowerReviews assault by "building moats" around its own biggest customers and enticing large PowerReviews

customers to switch to Bazaarvoice. As defendant Nelson, put it: “Important we show that we’ve got a plan of action that’s broad and bold[;] Take their top customers[;] Build moats around our top clients[;] Take their data[;] Shake their confidence[.]” As part of its plan to “[t]ake it to PowerReviews” Bazaarvoice would go after “marquee” PowerReviews customers “at all costs.”

72. Project Menlogeddon was a unique corporate initiative and no similar plan existed to counter other competitors. In an August 27, 2011 “Menlogeddon Update” email, Defossé wrote that “the BV battleship (or AC-130 gunship, rather) and its guns have kicked in and lead rain is starting to drop on PR” In an email to defendant Hurt dated September 7, 2011, defendant Collins described PowerReviews as “our only meaningful competitor.” In an email to defendant Collins dated September 8, 2011, defendant Hurt described PowerReviews as “our only real current competitor.”

73. Even as they maneuvered aggressively to counter PowerReviews, defendants continued to explore an acquisition. In October 2011, in an email chain including Barton and defendant Hurt, defendant Collins wrote: “[h]ow much longer does it take us to win deals because [PowerReviews is] out there and how much does the price competition impair our long-term value as a company?” Defendant Collins further expressed concern about being “outflanked by a hungry competitor” who is forced to be “more innovative” and “faster.”

74. In that same October 2011 email, defendant Collins also stated that he expected a combined company would have “literally, no other competitors,” and the “share of the IR 500 [a ranking of the 500 largest Internet retailers in North America] would move close to 50% in absolute terms and higher in retail sales coverage.” He anticipated “[p]ricing accretion due to combination.” He also expected a merger to “help us to focus 100% on our strategy without the whipsaw effect of reacting to a feisty competitor.”

75. On October 18, 2011, in an email copying defendants Pacitti, Ittycheria, Keller, N. Agrawal, Meredith, and Brunner, defendant Hurt stated, “There is no doubt that PowerReviews brings our pricing down” and “they are a thorn in our side, no doubt about it.”

76. In an email chain dated October 25, 2011, defendant Hurt circulated information concerning Bazaarvoice’s “battle cards.” These battle cards were side-by-side analyses of Bazaarvoice’s and its competitors’ offerings. In its battle card analyzing PowerReviews, Bazaarvoice said that “PowerReviews appears in many sales cycles in the US and their summary pitch is that they do everything BV does but at a lower price” and that “[f]or enterprise clients and head-to-head capabilities, PR’s price is typically between 1/3 and 2/3 of BV’s price.” In an email on that same date, defendant Hurt described PowerReviews as “our fiercest competitor.”

77. In an email chain dated October 27, 2011, defendant Hurt wrote to Board observer Mitchell Green (“Green”) of Eastern Advisors, an investment firm, that PowerReviews had just competed with Bazaarvoice on an important new account, and had forced Bazaarvoice to make a “material” concession on price to win the deal. When Green suggested in a responding email “just buy ‘em,” defendant Hurt responded “I plan to when I build the case, timing is not right now.”

78. A November 17, 2011 email from defendant Hurt to defendants Collins, Pacitti, N. Agrawal, and Meredith stated that a PowerReviews transaction would leave “[n]o meaningful direct competitor” in a “winner-take-all game.” According to the email, “there is no other U.S. competitor with more than 10 clients.” Given that another “well-capitalized player” could swoop in to buy PowerReviews, “leaving them out there is a significant risk.” Furthermore, the “cost in time and money to displace” PowerReviews from major accounts would be a “very big number.”

79. Defendant Hurt even suggested that market domination and destroying competition was a desirable objective: “And because network economics drive a winner-take-all outcome, I do not

believe having a direct competitor makes us a better company and more competitive.” This was because “the marketplace does not desire the competition because they value reach at scale.”

According to defendant Hurt, “potential benefits” of an acquisition included:

- “No meaningful direct competitor. Shortened sales cycles, less pricing dilution.”
- “Dramatic increase in reach and overall market shares making future competition extremely difficult and will increase switching costs.”
- “Help us to focus 100% on our strategy without the whipsaw effect of reacting to a competitor that will only be focused on disrupting our lead position as the market is not likely to support two players.”

80. On December 9, 2011, Bazaarvoice held a meeting with PowerReviews. Afterwards, defendant Collins wrote a briefing memorandum for the Board in which he summarized the benefits of a deal, including the ability to “eliminat[e] feature driven one-upmanship and tactical competition on retail.” Defendant Collins also noted that the acquisition would “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” After a transaction, defendant Collins believed the combined company would have “[c]lear market leadership with almost 50% of the IR500 and influence over \$80BB in US online retail sales or nearly half of all U.S. online retail sales.”

81. Shortly after the December 9, 2011 meeting, defendant Pacitti passed along defendant Collins’ observation to his partners at Austin Ventures, a substantial Bazaarvoice shareholder, adding that “[PowerReviews is] the only other credible player in the space. Buying them removes any cheap entry point for a future competitor It improves our pricing power (they are the low cost alternative) and gives us complete ownership of the category and data asset.”

82. Similarly, in a December 14, 2011 email, defendant Pacitti wrote: “We may have the opportunity to acquire our largest competitor PowerReviews.” The email further stated that

PowerReviews was “the only other credible player in the space.”

83. At this time, Bazaarvoice placed merger discussions on hold to conduct its IPO. Bazaarvoice filed the final amendment to its S-1 registration statement with the SEC on February 9, 2012. Significantly, the Form S-1, signed by each of the Director Defendants except A. Agrawal and Carey, identified only two firms by name in its discussion of the Company’s “direct and indirect” competitors: PowerReviews and Reviewworld, the parent company of Reevoo, a European company. At this time, however, according to evidence presented in the DOJ litigation, Reevoo’s U.S. sales force consisted of one employee and one subcontractor who both worked out of their homes.

84. In connection with its IPO, Bazaarvoice executives prepared comments for presentations to analysts as part of its IPO “roadshow.” Those comments stated that the Company “believe[s] the barriers to entry are very high in our current market” and that the “most significant barriers to entry” are “[Bazaarvoice’s] network, connecting retailers and brands It would be very difficult, and one could argue almost impossible, for a competitor to replicate our network of both retailers and brands given the lead we have and the value we are providing.”

C. The Acquisition is Completed

85. After the February 23, 2012 IPO, Bazaarvoice resumed negotiations to acquire PowerReviews in April 2012.

86. At that time, PowerReviews executives prepared a presentation in which they described the effects of a transaction with Bazaarvoice. Those effects included:

- “Monopoly in the market”
- “More predictable revenue growth (less competition)”
- “Better monetization w/o pricing pressure”
- “Not having us in the hands of a competitor, especially one with deep pockets and existing

channels”

- “Removing competitor clears up [Bazaarvoice’s] story to customers, analysts, employees.”

87. In an April 6, 2012 presentation on the proposed acquisition, Luedtke stated that there was “wide recognition” that Bazaarvoice and PowerReviews were a “duopoly” in the PRR market.

88. By May 2012, Bazaarvoice executives prepared a due diligence memorandum for the Board, recommending that the Company acquire PowerReviews. The due diligence memorandum noted Bazaarvoice’s goal to “becom[e] the de facto solution for retailers to capture and use digital word-of-mouth across online, mobile, and in-store channels” and recited that the transaction:

“accelerates this strategy in two ways. First, [PowerReviews’] customer base includes 86 IR500 retailers who have resisted becoming Bazaarvoice customers despite significant attempts to displace [PowerReviews] from these accounts. It is unlikely that we can attract these retailers to our platform in the foreseeable future nor without significant cost. Estimated costs to acquire the [PowerReviews] customer base is \$32-50m with a substantial percentage of that being attributed to displacing them in large accounts . . . Further, by addressing the mid-market, **Bazaarvoice blocks market entry by competitors and therefore we “cover our flank” to ensure our retail business is protected from direct competition and premature price erosion The addition of major retail hubs such as Staples and Toys R Us strengthens our value proposition to brands and further increases the switching costs, and therefore deepens our protective moat, for brands and retailers alike.**”

[emphasis supplied].

89. By late May of 2012, the Board discussed a presentation regarding the acquisition of PowerReviews. The presentation emphasized the “[e]nhanced value of network economics” and that “[a] combined entity would command 49% of the Internet Retailer 500 . . . [t]he other remaining IR 500 generally have an internal solution or no solution at all A combined entity would influence 52% of the U.S. online retail sales” The presentation also identified as likely benefits “Foregone Customer Acquisition Costs” including the “cost premium to achieve competitive steals which if, on

average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.”

90. The Acquisition was subsequently voted on and approved by the Board. On May 23, 2012, defendant A. Agrawal wrote in an email: “this is a good long term acquisition as it eliminates the largest competitor for BV on the retail side and basically gives it complete control of most of the top 500 retailers” As Barton later wrote in an email to a colleague: “don’t know if you saw it, but last Thursday we announced the acquisition of PowerReviews, our primary competitor.” And a PowerReviews board member noted that “post this combination, there is a network effect between the brands and the retailers that will be nearly impossible for someone to break.”

D. The Acquisition is Disclosed

91. On May 24, 2012, Bazaarvoice issued a press release announcing the Acquisition, in which defendant Collins described the effects of the Acquisition as a way to increase Bazaarvoice’s customer base, and more efficiently utilize their technology:

Because online word of mouth content is so critical to consumers’ purchasing decisions, brands place tremendous value on the consumer reach we provide through the Bazaarvoice network, and the acquisition of PowerReviews will significantly extend this reach. Our combined company will count nearly half of the Internet Retailer 500 retailers as clients, which will enhance our ability to deliver value to brands of all sizes and across all geographies and allow us to meaningfully increase our consumer reach to more than 1.8 billion visitors each month across our combined Internet Retailer 500 clients alone. The bottom line is that this combination will help us create more value for retailers and brands and consumers, as well.

92. Defendant Hurt stated:

We are entering a new era where business growth is a direct result of your ability to connect with customers in the ways that are most meaningful to them. The insights derived from these conversations help leaders accelerate business growth, speed up the innovation cycle and drive brand equity through a consistent and authentic brand experience. Together, our companies can create tremendous value for retailers and brands and help us to achieve our purpose of putting the voice of consumers at the center of their business. We are incredibly excited about the opportunity to work together with PowerReviews as part of the Bazaarvoice family.

93. The press release further stated:

The acquisition will establish Bazaarvoice in the small to medium sized market and expands the Bazaarvoice network to over 1,800 clients globally, including nearly half of the Internet Retailer 500 companies. The expanded client base will create new opportunities to syndicate authentic online word of mouth content across an expanded global network and enhance the ability of both brands and retailers to connect directly with their customers to generate new insights into consumer sentiment.

* * *

By leveraging the best of each company's technology platform, content and data, the combined company can more efficiently and effectively serve clients across segments of the market based on size and geography. Bazaarvoice's technology platform is highly customizable and focused on larger online retailers and brands, while the technology platform of PowerReviews provides a self-service turnkey solution that is often more appealing to medium and smaller sized online retailers.

94. The May 24, 2012 announcement was the first in a string of highly positive statements released by the Company regarding the Acquisition, which had the effect of increasing the stock price. Upon announcement of the Acquisition on May 24, 2012, Bazaarvoice common stock closed at a trading price of \$15.12 per share, up 26% from its IPO price of \$12.00 per share.

95. On June 6, 2012, Bazaarvoice issued a press release announcing its financial results for the fiscal fourth quarter and fiscal year ended April 30, 2012. In the June 6, 2012 press release, defendant Hurt again hyped the Acquisition:

The fourth quarter marked a strong finish to fiscal 2012. Our momentum is being driven by the expanding reach and capabilities of our platform, the combination of which delivers significant value to our retail and brand customers. Online word of mouth content already plays a critical role in consumers' purchasing decisions, and we believe that we are still in the early stages of transforming the \$12 trillion retail industry.

We believe that the recent announcement of our intention to acquire PowerReviews will establish Bazaarvoice in the small to medium sized market and expands the Bazaarvoice network to over 1,800 clients globally, including nearly half of the Internet Retailer 500 companies. Looking forward, we expect the expanded client base will create new opportunities to syndicate authentic

online word of mouth content across an expanded global network and enhance the ability of both brands and retailers to connect directly with their customers to generate new insights into consumer sentiment.

96. Significantly, Bazaarvoice announced the Acquisition on May 24, 2012, without having notified or provided any information to either the Federal Trade Commission (“FTC”) or DOJ regarding the pendency of the Acquisition.

97. On June 11, 2012, Bazaarvoice filed its Annual Report Form 10-K with the SEC. The Form 10-K confirmed that the Acquisition was expected to close during Bazaarvoice’s fiscal first quarter ending July 31, 2012. In the Form 10-K, Bazaarvoice described the anticipated effect of the Acquisition as follows: “We believe that the proposed acquisition of PowerReviews, Inc., which was announced on the Form 8-K filed with the Securities and Exchange Commission on May 24, 2012, will represent a material increase in the number of clients we serve.” The 10-K further described the potential acquisition as “an attractive opportunity to expand our business.”

98. On June 12, 2012, Bazaarvoice issued a press release announcing the completion of the Acquisition. According to the press release, the Acquisition was valued at \$168.2 million, based on the closing share price of Bazaarvoice common stock on June 12, 2012. The press release stated:

The addition of the client base of PowerReviews expands the Bazaarvoice network to more than 1,800 clients globally, including nearly half of the Internet Retailer 500 ranking of top U.S. online retailers. The expanded network creates new opportunities for retailers and brands to syndicate authentic online word-of-mouth content to a greater number of consumers around the world, influencing purchases online, on mobile devices and in the store. It also enhances the ability of both brands and retailers to connect directly with their customers to generate new insights into consumer sentiment.

The acquisition, and resulting combination of technology platforms, allows Bazaarvoice to more effectively and efficiently serve all segments of the market irrespective of size and geography. The Bazaarvoice technology platform is highly customizable and focused on larger online retailers and global brands. The PowerReviews technology platform is oriented to mid-sized and smaller retailers and provides a self-service, turnkey and low cost of ownership technology

solution that, when combined with the Bazaarvoice platform, gives Bazaarvoice options to expand quickly, such as into emerging markets around the world.

99. Significantly, Bazaarvoice announced completion of the Acquisition without having first notified or provided any information to either the FTC or DOJ regarding the details of the Acquisition.

100. Upon announcement of completion of the Acquisition, Bazaarvoice common stock traded at a closing price of \$17.20 per share on June 12, 2012, reaching a trading high of \$20.20 per share a week later on June 19, 2012, up 68% from the IPO price of \$12.00 per share. Defendants' disclosures obscured the anticompetitive intent and effect of the Acquisition.

E. The Secondary Offering

101. On June 27, 2012, Bazaarvoice filed a Form S-1 Registration Statement and Prospectus with the SEC for a Secondary Offering of 8.5 million shares of Bazaarvoice common stock for certain insider shareholders. Of the 8.5 million shares authorized by the Secondary Offering, 6.8 million shares were to be sold by certain insiders, including the defendants.

102. The S-1 disclosed that the DOJ's Antitrust Division had notified Bazaarvoice that it had "opened a preliminary investigation to determine whether the [PowerReviews] acquisition violated Section 7 of the Clayton Act, 15 U.S.C. Section 18, and that, "if the DOJ determines our acquisition of PowerReviews violates the Section 7 of the Clayton Act, we could be required to divest part, or all, of PowerReviews' operations and assets. As a result, this investigation could have a material adverse effect on our operating results and could materially impact our business strategy going forward."

103. However, notwithstanding the DOJ investigation, the S-1 did not disclose the nonpublic material, adverse information known by the defendants who sold their shares in the Secondary Offering regarding the blatantly anticompetitive intent and effect of the Acquisition, and the paper trail of incriminating evidence in the Company's files being produced to the DOJ which corroborated the

precise conduct targeted by the DOJ's investigation. Instead, as before, the S-1 described the effects of the Acquisition only in terms of Bazaarvoice's ability to expand its client base and to cut costs: "[w]e believe that the acquisition will establish us with small and medium-size businesses and further expand the reach and value of our network. We also expect to achieve significant cost synergies by combining the operations of PowerReviews with our own."

104. Following the announcement of the Secondary Offering, Bazaarvoice continued to tout the anticipated positive impact of the Acquisition on Bazaarvoice's ability to grow its customer base and cut costs, while failing to disclose its anticompetitive intent and effect. Given that the DOJ had commenced its investigation, these disclosures were, at least, highly misleading.

105. For example, on July 5, 2012, Bazaarvoice issued a press release entitled "Bazaarvoice, Inc. Announces Updated Guidance to Reflect the Acquisition of PowerReviews, Inc." The press release increased Bazaarvoice's earnings guidance, announcing that revenue for the fiscal first quarter ending July 31, 2012 was expected to be in the range of \$33.5 million to \$34.0 million, compared to prior guidance of \$32.5 million to \$33.0 million. In addition, Bazaarvoice raised its 2013 guidance, announcing that revenue for fiscal year ending April 30, 2013 was now expected to be in the range of \$149.0 million to \$152.0 million, compared to prior guidance of \$137.0 million to \$139.0 million.

106. Even as the DOJ was commencing an investigation of the Acquisition and was threatening to seek to undo it, the July 5, 2012, press release made clear that the positive increases in guidance were made "[s]olely as a result of the acquisition of PowerReviews." [emphasis supplied]. Bazaarvoice's common stock closed trading on July 5, 2012 at \$18.64 per share.

107. On July 12, 2012, Bazaarvoice filed a Form S-1/A Registration Statement with the SEC, reiterating its expectation that the Acquisition would enable Bazaarvoice to grow its client base, while cutting costs. On July 23, 2012, Bazaarvoice completed the Secondary Offering. According to

their Form 4 reports filed with the SEC, seven of Bazaarvoice’s directors and officers, who are among the defendants herein, sold 6,066,297 shares in the Secondary Offering, yielding proceeds of approximately \$88,931,914. The defendants’ reported sales are set forth in the following table:

Defendant	Number of Shares Offered	Price	Proceeds
N. Agrawal	2,084,674	\$14.66	\$30,561,321
Ittycheria	20,111	\$14.66	\$294,827
Keller	41,933	\$14.66	\$614,738
Pacitti	3,832,210	\$14.66	\$56,180,199
Bennett	9,373	\$14.66	\$137,408
Brunner	60,011	\$14.66	\$881,227
Nelson	17,885	\$14.66	\$262,194
TOTAL	6,066,297		\$88,931,914

108. Bazaarvoice continued to attribute the Company’s future prospects to the Acquisition. On September 6, 2012, Bazaarvoice issued a press release announcing its financial results for the fiscal first quarter of 2013, ended July 31, 2012. In the September 6, 2012 press release, defendant Hurt again hyped the Acquisition, announcing the “operational integration” of PowerReviews, and that in connection with the Acquisition, “we expanded the types of clients that we serve.”

109. In its Form 10-Q report filed with the SEC on September 10, 2012, Bazaarvoice reiterated its description of the Acquisition as enabling it to “expand[] the types of clients that we serve,” and stated that it expected that the Acquisition “will enhance the Company’s product offering and delivery.” The 10-Q further stated:

Through our acquisition of PowerReviews, we added approximately 300 active enterprise clients, approximately 800 active network clients and 81 new employees to our business. We believe that the acquisition will establish us with small and medium-size businesses and further expand the reach and value of our

network. We also expect to achieve significant cost synergies by combining the operations of PowerReviews with our own.

110. Furthermore, the 10-Q provided:

Our revenue increased by \$13.6 million, or 61.5%, for the three months ended July 31, 2012 compared to the three months ended July 31, 2011. Of this increase, \$8.0 million was generated from 58.5% increase in the number of new clients utilizing our platforms during the period as we continued to increase the market penetration of our solutions, as well as the revenue contribution from our new clients related to our recent acquisition of PowerReviews. The remaining \$5.6 million increase was generated from existing clients, primarily from a combination of strong client retention, which was 89.2% for the twelve months ended July 31, 2012, and from increasing revenue per client (in thousands), which was \$38.2 for the three months ended July 31, 2012 and \$36.0 for the three months ended July 31, 2011.

111. With respect to the DOJ investigation, the 10-Q stated as follows:

Because the investigation is in an early stage, it is not possible to reliably predict the outcome of the investigation. Therefore, the Company cannot currently estimate the loss, if any, associated with the investigation.

112. Shortly thereafter, certain of the Company's officers and directors sold more of their personal stockholdings, as follows:

Insider Trading Defendant	Date Sold	Shares Sold	Sale Price Per Share	Proceeds
Hurt	10/16/12	30,171	\$14.93	\$450,453
	10/17/12	55,742	\$14.55	\$811,046
	10/18/12	<u>16,395</u>	\$14.49	<u>\$237,564</u>
		102,308		\$1,499,063
Collins	10/16/12	7,500	\$14.98	\$112,350
	11/1/12	<u>2,500</u>	\$12.70	<u>\$31,750</u>
		10,000		\$144,100
Brunner	10/16/12	8,800	\$15.00	\$132,000
Nelson	10/16/12	30,519	\$14.91-\$15.00	\$456,000
	10/17/12	1,554	\$14.69	\$22,828
	11/1/12	<u>8,000</u>	\$12.74	<u>\$101,920</u>
		40,073		\$580,748
Barksdale	10/16/12	8,067	\$15.00	\$121,005
TOTAL		169,248		\$2,476,916

113. On November 5, 2012, Bazaarvoice filed a Form 8-K report with the SEC, announcing the abrupt resignation of defendant Hurt as President and CEO, and the appointment of defendant Collins to those roles. The abruptness of this change in roles was further highlighted by the fact that Bazaarvoice did not simultaneously appoint a new CFO to replace defendant Collins. Instead, defendant Collins continued to serve in that role until January 23, 2013.

114. On November 26, 2012, Bazaarvoice issued a press release, and filed a corresponding Form 10-Q with the SEC on December 5, 2012, announcing its financial results for the quarterly period ended October 31, 2012. For the fiscal second quarter, Bazaarvoice reported revenue of \$38.6 million, an increase of 54% from the same quarterly period in 2011.

115. In the press release, defendant Collins continued to tout the Acquisition less than two months before the DOJ sued Bazaarvoice, stating:

We entered the year with a plan to position the business to take advantage of the enormous opportunities as a result of exciting trends in social, ecommerce and big data. Our plans centered on furthering our lead position in online retail globally, investing in R&D to enhance our platform to a true self-service model and expanding our capabilities into retail shopper media. ***We are extremely gratified that we have now achieved all of these critical strategic objectives with the expansion of our network through the acquisition of PowerReviews, the enhancement of our technology platform with the release of Conversations 2.0 and our entry into shopper media through our recent acquisition of Longboard Media. With these achievements, we are confident that Bazaarvoice is well positioned to build momentum going forward.***

[emphasis supplied].

116. On December 5, 2012, Bazaarvoice filed its Form 10-Q quarterly report with the SEC for the quarter ending October 31, 2012. In the 10-Q, Bazaarvoice reiterated its expectation that the PowerReviews' acquisition would enable Bazaarvoice to expand its client base to small and medium-sized businesses and further expand the reach and value of its network, as well as to experience significant cost savings. The 10-Q also reiterated the statement contained in its prior quarterly report

regarding the DOJ's investigation: "Due to the early stages of the investigation, it is not possible to reliably predict the outcome of the investigation. Therefore, the Company cannot currently make a reasonable estimate of the possible loss or range of loss as a result of the investigation."

F. The DOJ Sues Bazaarvoice

117. On January 10, 2013, the DOJ issued a press release entitled "Justice Department Files Antitrust Lawsuit Against Bazaarvoice Inc. Regarding the Company's Acquisition of PowerReviews Inc.: Lawsuit Seeks to Restore Competition in Market for Product Ratings and Reviews Platforms Sold to Retailers and Manufacturers." The press release announced that the DOJ had filed suit against Bazaarvoice in the Northern District of California, alleging that the Acquisition violated Section 7 of the Clayton Act. The DOJ's complaint requested the Court order "Bazaarvoice to divest assets, whether possessed originally by PowerReviews, Bazaarvoice, or both, sufficient to create a separate, distinct, and viable competing business that can replace PowerReviews' competitive significance in the marketplace."

118. In the DOJ's January 10, 2013 press release, Bill Baer, Assistant Attorney General in charge of the DOJ's Antitrust Division, stated:

Bazaarvoice bought PowerReviews *knowing that it was acquiring its most significant rival* and hoping to benefit from diminished price competition. Without competitive pressure from PowerReviews, Bazaarvoice will be able to increase prices to retailers and manufacturers for its product ratings and reviews platform. *This lawsuit seeks to prevent one firm from dominating the product rating and review platforms market*, and demonstrates that transactions that are not reported to us are not immune from scrutiny.

[emphasis supplied].

The press release further stated that the lawsuit "demonstrates that transactions that are not reported to us are not immune from scrutiny."

119. Upon news of the filing of the DOJ's lawsuit, Bazaarvoice's stock dropped 25% from

\$8.90 per share on January 9, 2013 to \$6.65 per share on January 11, 2013, wiping out nearly \$200 million of market value. At that point, the value of Bazaarvoice stock had declined 64% since its July 5, 2012 trading price of \$18.64 per share and 45% since Bazaarvoice's IPO.

120. The antitrust trial began on September 23, 2013 and concluded on October 15, 2013. At trial, the DOJ argued that (a) Bazaarvoice and PowerReviews were each other's "closest rivals;" (b) Bazaarvoice acquired PowerReviews to "end the rivalry and insulate itself from future competition;" and (c) no other firm "has replaced, or is likely to replace, the lost competition." According to the DOJ, "the merger eliminated price and innovation competition" and "entry or repositioning has not happened and is unlikely." The DOJ further argued that the relevant market is "product ratings and reviews platforms used by retailers and manufacturers with U.S.-facing websites" and that the Acquisition "greatly increased concentration in an already concentrated market and *is presumed illegal.*" (emphasis supplied).

THE UNLAWFUL INSIDER TRADING

121. As a result of their positions as officers and/or directors of Bazaarvoice, the Insider Trading Defendants each knew and had access to material, adverse, nonpublic information about the Acquisition, including the true reason behind Bazaarvoice's interest and pursuit of the Acquisition and its significant anticompetitive effects on the market.

122. As alleged herein, the Insider Trading Defendants each knew or had access to this information via meetings held by the Board and committees thereof, presentations made to the Board by Bazaarvoice's senior executives, and access to internal corporate documents concerning the anticompetitive reasons for the Acquisition, numerous e-mail communications between members of the Board and senior Bazaarvoice executives concerning same, and other information provided by Bazaarvoice to and from corporate officers and directors.

123. Notwithstanding their access to and knowledge of this material, adverse, nonpublic information and their corresponding duties to refrain from selling shares of Bazaarvoice stock prior to disclosure of the adverse material facts set forth herein, the Insider Trading Defendants collectively sold 6,235,445 shares of Bazaarvoice stock for proceedings of approximately \$91,407,184.

124. These stock sales are summarized in the following chart:

Insider Trading Defendant	Date Sold	Shares Sold	Sale Price Per Share	Proceeds
Hurt	10/16/12	30,171	\$14.93	\$450,453
	10/17/12	55,742	\$14.55	\$811,046
	10/18/12	<u>16,395</u>	\$14.49	<u>\$237,564</u>
		102,308		\$1,499,063
Collins	10/16/12	7,500	\$14.98	\$112,350
	11/1/12	<u>2,500</u>	\$12.70	<u>\$31,750</u>
		10,000		\$144,100
Pacitti	7/23/12	3,832,210	\$14.66	\$56,180,020
N. Agrawal	7/23/12	2,084,674	\$14.66	\$30,561,320
Keller	7/23/12	41,933	\$14.66	\$614,738
Ittycheria	7/23/12	20,111	\$14.66	\$294,827
Bennett	7/23/12	9,373	\$14.66	\$137,408
Brunner	7/23/12	60,011	\$14.66	\$879,761
	10/16/12	<u>8,800</u>	\$15.00	<u>\$132,000</u>
		68,811		\$1,011,761
Nelson	7/23/12	17,885	\$14.66	\$262,194
	10/16/12	30,519	\$14.91-\$15.00	\$456,000
	10/17/12	1,554	\$14.69	\$22,828
	11/1/12	<u>8,000</u>	\$12.74	<u>\$101,920</u>
		57,958		\$842,942
Barksdale	10/16/12	8,067	\$15.00	\$121,005
TOTAL		6,235,445		\$91,407,184

125. These sales were coordinated and unusual in timing and amount. In addition, several of these trades amounted to material percentages of that defendant's ownership in Bazaarvoice common stock. For example, according to the corresponding Form 4 filed with the SEC by each Insider

Trading Defendant in connection with the above sales:

- Defendant Bennett's sale of 9,373 shares on July 23, 2012 represented 100% of his holdings in Bazaarvoice common stock, at that time.
- Defendant Brunner's sale of 60,111 shares on July 23, 2012 represented 82% of her holdings in Bazaarvoice common stock, at that time.
- Defendant Nelson's sale of 17,855 shares on July 23, 2012 represented 69% of her holdings in Bazaarvoice common stock, at that time.
- Defendant Barksdale's sale of 8,067 shares on October 18, 2012 represented 44% of his holdings in Bazaarvoice common stock, at that time.
- Defendant N. Agrawal's sale of 6,235,445 shares on July 23, 2012 represented 26% of his holdings in Bazaarvoice common stock, at that time.
- Defendant Pacitti's sale of 3,832,210 shares on July 23, 2012 represented 26% of his holdings in Bazaarvoice common stock, at that time.
- Defendant Keller's sale of 41,933 shares on July 23, 2012 represented 22% of his holdings in Bazaarvoice common stock, at that time.

126. As detailed above, at the time of these sales, each of the Insider Trading Defendants was in possession of material, adverse, nonpublic information relating to the Acquisition's anticompetitive intent and DOJ's investigation and imminent lawsuit for conduct that the Board already deemed to be anticompetitive.

127. The timing of these coordinated sales allowed the Insider Trading Defendants to sell their shares of Bazaarvoice stock at per share prices ranging between \$12.70 and \$15.00, at a time when the market price of Bazaarvoice securities was artificially inflated by the defendants' concealment of material, adverse, nonpublic information, and their continued positive statements between May 24, 2012, when the Acquisition was first announced, through December 5, 2012, the last date a disclosure was made prior to the DOJ complaint being filed.

DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

128. Plaintiff brings this action derivatively on behalf of Bazaarvoice to redress injuries suffered, and to be suffered, by Bazaarvoice as a direct result of violations of the breaches of fiduciary duty and waste of corporate assets alleged herein. Bazaarvoice is named as a nominal defendant solely in a derivative capacity.

129. Plaintiff will adequately and fairly represent the interests of Bazaarvoice in enforcing and prosecuting its rights and has hired experienced counsel. Plaintiff was a shareholder of Bazaarvoice at the time of the wrongdoing complained of, has continuously been a shareholder since that time, and is a current Bazaarvoice shareholder.

130. Bazaarvoice is controlled by its Board, which at the time this action was commenced, consisted of nine members, all of whom are named as the Current Directors herein: defendants Hurt, Collins, Pacitti, Meredith, A. Agrawal, N. Agrawal, Ittycheria, Keller, and Carey.

131. Plaintiff has not made any demand on the present Board to institute this action, and a demand is not necessary, because such a demand would have been futile.

132. As alleged herein, a majority of the Board is incapable of making an independent and disinterested decision to institute and vigorously prosecute this action, because:

- a) the Acquisition was not a valid exercise of business judgment because 8 of the 9 current members of the Board approved the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice; and
- b) 6 of the 9 current members of the Board face a substantial likelihood of liability for unlawful insider trading for having sold personally held Bazaarvoice stock for proceeds of over \$89 million while in possession of material, nonpublic information relating to the Acquisition's anticompetitive intent and DOJ's investigation and imminent lawsuit for conduct that the Board already deemed to be anticompetitive.

A. The Acquisition Was Not a Valid Exercise of Business Judgment

133. At the time the Acquisition was approved, the Board consisted of the following 8 Current Directors: Hurt, Pacitti, Meredith, A. Agrawal, N. Agrawal, Ittycheria, Keller, and Carey. (Current Director Collins was not appointed to the Board until after the Acquisition was approved). For the reasons described below, demand is excused as to each of these Current Directors because their pursuit and approval of the Acquisition was not a valid exercise of business judgment.

i. Hurt:

134. As President and CEO of Bazaarvoice leading up to the Acquisition, defendant Hurt was a primary advocate and driver of the Acquisition and participated directly in the negotiations with PowerReviews. In violation of the Code of Business Ethics and Conduct's strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Hurt voted to approve the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant Hurt's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On March 6, 2011, defendant Hurt received an email from defendant Collins in which defendant Collins recommended that Bazaarvoice should consider acquiring PowerReviews "[t]o take out the only competitor we have..." (¶ 53);
- On April 21, 2011, Bazaarvoice's co-founder Barton sent an email to defendant Hurt stating that an acquisition of PowerReviews would enable Bazaarvoice to achieve "elimination of our primary competitor in both the US and Europe." (¶ 55);
- On May 4, 2011, defendant Hurt sent an email to the entire Board advising it that acquiring PowerReviews would "[p]otentially tak[e] out our only competitor." (¶ 58);
- On May 20, 2011, defendant Hurt received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a "[s]trategic [o]pportunity" for Bazaarvoice because it would "eliminate [Bazaarvoice's] primary competitor, thereby reducing comparative pricing." (¶ 60);
- On September 8, 2011, defendant Hurt sent an email to defendant Collins acknowledging that PowerReviews was "our only real current competitor." (¶ 72);
- On November 17, 2011, defendant Hurt sent an email to defendants Pacitti, N. Agrawal, and Meredith asserting that other than PowerReviews, "there is no other U.S. competitor with more than 10 clients" and identifying several "potential benefits" of acquiring PowerReviews, such as leaving Bazaarvoice with "[n]o meaningful direct competitor" and "making future competition extremely difficult." (¶¶ 78-79);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after

which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Hurt, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);

- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Hurt, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- Additional documents and communications authored, received, and/or reviewed by Hurt in which the anticompetitive intent and effects of the Acquisition were discussed with other Bazaarvoice officers and directors. (¶¶ 56, 59, 66, 68, 73, 75-77, 88, and 89).

135. Accordingly, defendant Hurt’s approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

136. Demand on defendant Hurt is therefore excused.

ii. Pacitti:

137. In violation of the Code of Business Ethics and Conduct’s strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Pacitti voted to approve the Acquisition with actual knowledge of the Acquisition’s anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant Pacitti’s bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition’s anticompetitive goals and benefits of eliminating Bazaarvoice’s only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant Pacitti received an email from defendant Hurt advising him that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);
- On May 20, 2011, defendant Pacitti received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a “[s]trategic

[o]pportunity” for Bazaarvoice because it would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing.” (¶ 60);

- On November 17, 2011, defendant Pacitti received an email from defendant Hurt in which defendant Hurt asserted that other than PowerReviews, “there is no other U.S. competitor with more than 10 clients” and identified several “potential benefits” of acquiring PowerReviews, such as leaving Bazaarvoice with “[n]o meaningful direct competitor” and “making future competition extremely difficult.” (¶¶ 78-79);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Pacitti, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Pacitti, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- In May 2012, defendant Pacitti and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

138. Accordingly, defendant Pacitti’s approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

139. Demand on defendant Pacitti is therefore excused.

iii. Meredith:

140. In violation of the Code of Business Ethics and Conduct’s strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Meredith voted to approve the Acquisition with actual knowledge of the Acquisition’s anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice.

Defendant Meredith's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant Meredith received an email from defendant Hurt advising him that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);
- On May 20, 2011, defendant Meredith received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a “[s]trategic [o]pportunity” for Bazaarvoice because it would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing.” (¶ 60);
- On November 17, 2011, defendant Meredith received an email from defendant Hurt in which defendant Hurt asserted that other than PowerReviews, “there is no other U.S. competitor with more than 10 clients” and identified several “potential benefits” of acquiring PowerReviews, such as leaving Bazaarvoice with “[n]o meaningful direct competitor” and “making future competition extremely difficult.” (¶¶ 78-79);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Meredith, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Meredith, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- In May 2012, defendant Meredith and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

141. Accordingly, defendant Meredith's approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business

judgment.

142. Demand on defendant Meredith is therefore excused.

iv. A. Agrawal:

143. In violation of the Code of Business Ethics and Conduct's strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, A. Agrawal voted to approve the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant A. Agrawal's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On May 23, 2012, defendant A. Agrawal, former Principal at global equity firm General Atlantic, sent an email to Anton Levy, Managing Director at General Atlantic, in which A. Agrawal informed Levy of the Board's approval of the Acquisition and intention to announce the Acquisition tomorrow post-close. In that email, A. Agrawal boasted how the Acquisition "is a good long term acquisition as it eliminates the largest competitor for BV on the retail side and basically gives it complete control of most of the top 500 retailers." (¶ 90);
- On May 4, 2011, defendant A. Agrawal received an email from defendant Hurt advising him that acquiring PowerReviews would "[p]otentially tak[e] out our only competitor." (¶ 58);
- On May 20, 2011, defendant A. Agrawal received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a "[s]trategic [o]ppportunity" for Bazaarvoice because it would "eliminate [Bazaarvoice's] primary competitor, thereby reducing comparative pricing." (¶ 60);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant A. Agrawal, summarizing the benefits of acquiring PowerReviews, which included the ability to "[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice's] flank." (¶ 80);

- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant A. Agrawal, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- In May 2012, defendant A. Agrawal and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

144. Accordingly, defendant A. Agrawal’s approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

145. Demand on defendant A. Agrawal is therefore excused.

v. N. Agrawal:

146. In violation of the Code of Business Ethics and Conduct’s strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, N. Agrawal voted to approve the Acquisition with actual knowledge of the Acquisition’s anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant N. Agrawal’s bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition’s anticompetitive goals and benefits of eliminating Bazaarvoice’s only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant N. Agrawal received an email from defendant Hurt advising him that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);
- On May 20, 2011, defendant N. Agrawal received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a

“[s]trategic [o]ppportunity” for Bazaarvoice because it would “eliminate [60] primary competitor, thereby reducing comparative pricing.” (¶ 60);

- On November 17, 2011, defendant N. Agrawal received an email from defendant Hurt in which Hurt asserted that other than PowerReviews, “there is no other U.S. competitor with more than 10 clients” and identified several “potential benefits” of acquiring PowerReviews, such as leaving Bazaarvoice with “[n]o meaningful direct competitor” and “making future competition extremely difficult.” (¶¶ 78-79);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant N. Agrawal, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant N. Agrawal, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- In May 2012, defendant N. Agrawal and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

147. Accordingly, defendant N. Agrawal’s approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

148. Demand on defendant N. Agrawal is therefore excused.

vi. Ittycheria:

149. In violation of the Code of Business Ethics and Conduct’s strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Ittycheria voted to approve the Acquisition with actual knowledge of the Acquisition’s anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition

for Bazaarvoice. Defendant Ittycheria's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant Ittycheria received an email from defendant Hurt advising him that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);
- On May 20, 2011, defendant Ittycheria received a presentation from Collins which cited an acquisition of PowerReviews as being a “[s]trategic [o]pportunity” for Bazaarvoice because it would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing.” (¶ 60);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Ittycheria, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Ittycheria, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and
- In May 2012, defendant Ittycheria and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

150. Accordingly, defendant Ittycheria's approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

151. Demand on defendant Ittycheria is therefore excused.

vii. Keller:

152. In violation of the Code of Business Ethics and Conduct's strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Keller voted to approve the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant Keller's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications he authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant Keller received an email from defendant Hurt advising him that acquiring PowerReviews would "[p]otentially tak[e] out our only competitor." (¶ 58);
- On May 20, 2011, defendant Keller received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a "[s]trategic [o]pportunity" for Bazaarvoice because it would "eliminate [Bazaarvoice's] primary competitor, thereby reducing comparative pricing." (¶ 60);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Keller, summarizing the benefits of acquiring PowerReviews, which included the ability to "[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice's] flank." (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Keller, which recommended that the Board approve an acquisition of PowerReviews in order to "block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion." (¶ 88); and
- In May 2012, defendant Keller and the rest of the Board discussed a presentation in which "Foregone Customer Acquisition Costs" of a PowerReviews acquisition were identified, including the "cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million." (¶ 89).

153. Accordingly, defendant Keller's approval of the Acquisition with knowledge of its

anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

154. Demand on defendant Keller is therefore excused.

viii. Carey:

155. In violation of the Code of Business Ethics and Conduct's strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor, Carey voted to approve the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Defendant Carey's bad faith approval of the Acquisition is evidenced by the myriad of internal documents and communications Carey authored, reviewed and/or received, in which the Acquisition's anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. Specifically:

- On May 4, 2011, defendant Carey received an email from defendant Hurt advising him that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);
- On May 20, 2011, defendant Carey received a presentation from defendant Collins which cited an acquisition of PowerReviews as being a “[s]trategic [o]pportunity” for Bazaarvoice because it would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing.” (¶ 60);
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, including defendant Carey, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80);
- In May 2012, Bazaarvoice executives prepared a due diligence memorandum that was provided to the Board, including defendant Carey, which recommended that the Board approve an acquisition of PowerReviews in order to “block[] market entry by competitors and therefore cover our flank to ensure our retail business is protected from direct competition and premature price erosion.” (¶ 88); and

- In May 2012, defendant Carey and the rest of the Board discussed a presentation in which “Foregone Customer Acquisition Costs” of a PowerReviews acquisition were identified, including the “cost premium to achieve competitive steals which if, on average, was 25% to 50% equates to an aggregate cost of \$40 to \$50 million.” (¶ 89).

156. Accordingly, defendant Carey’s approval of the Acquisition with knowledge of its anticompetitive intent and effects was not carried out in good faith and not a valid exercise of business judgment.

157. Demand on defendant Carey is therefore excused.

ix. Collins

158. Although defendant Collins did not serve on the Board at the time of the Acquisition, as CFO of Bazaarvoice leading up to the Acquisition, defendant Collins was a primary advocate and driver of the Acquisition and participated directly in the negotiations with PowerReviews, in violation of the Code of Business Ethics and Conduct’s strict mandate of antitrust compliance and prohibition against entering into an anticompetitive agreement with any competitor. Defendant Collins is not disinterested and independent for the purpose of considering a pre-suit demand because Collins authored, reviewed and/or received a myriad of documents and communications in which the Acquisition’s anticompetitive goals and benefits of eliminating Bazaarvoice’s only significant competitor were comprehensively detailed. These documents and communications were disseminated to and from Bazaarvoice’s other officers and directors, including the Current Directors. Specifically:

- On March 6, 2011, defendant Collins sent defendant Hurt an email in which defendant Collins recommended that Bazaarvoice should consider acquiring PowerReviews “[t]o take out the only competitor we have....” (¶ 53);
- On April 21, 2011, Barton sent an email to defendant Collins stating that an acquisition of PowerReviews would enable Bazaarvoice to achieve “elimination of our primary competitor in both the US and Europe.” (¶ 55);
- On May 4, 2011, defendant Hurt sent an email to the entire Board, advising it of an upcoming meeting involving defendants Hurt and Collins, and Barton,

and PowerReviews senior executives and stating that acquiring PowerReviews would “[p]otentially tak[e] out our only competitor.” (¶ 58);

- On May 20, 2011, defendant Collins circulated a presentation to the Board which cited an acquisition of PowerReviews as being a “[s]trategic [o]pportunity” for Bazaarvoice because it would “eliminate [Bazaarvoice’s] primary competitor, thereby reducing comparative pricing.” (¶ 60);
- In August 2011, defendant Collins explicitly referred to PowerReviews as Bazaarvoice’s “only meaningful competitor.” (¶ 70);
- On September 7, 2011, defendant Collins sent an email to defendant Hurt in which he described PowerReviews as “our only meaningful competitor.” (¶ 72);
- On September 8, 2011, defendant Hurt sent an email to defendant Collins acknowledging that PowerReviews was “our only real current competitor.” (¶ 72);
- In October 2011, defendant Collins sent an email to senior executives at Bazaarvoice advising them that there were “literally, no other competitors” in the market other than PowerReviews. (¶ 74); and
- On December 9, 2011, Bazaarvoice held a meeting with PowerReviews, after which, defendant Collins wrote a briefing memorandum that was provided to the Board, summarizing the benefits of acquiring PowerReviews, which included the ability to “[c]reate[] significant competitive barriers to entry and protect[] [Bazaarvoice’s] flank.” (¶ 80).

159. Moreover, in an email sent by Barton to defendant Collins, Hurt, Brunner, and Barksdale regarding an acquisition of PowerReviews, Barton identified certain “Pros” of the acquisition, such as providing Bazaarvoice with “a dominant market position” and specifically reported that defendant Collins was “supportive” of an acquisition.

160. Demand on defendant Collins is therefore excused.

B. A Majority of the Board Engaged in Unlawful Insider Trading

161. Demand is also excused for the additional reason that a majority of the Board is not disinterested and cannot exercise independent business judgment, because 6 of the 9 Current Directors (Pacitti, N. Agrawal, Hurt, Collins, Ittycheria, and Keller) face a substantial likelihood of liability for

engaging in insider trading for having sold \$89 million of personally held stock while in possession of material, nonpublic information relating to the Acquisition's anticompetitive intent and DOJ's investigation and impending lawsuit.

i. Pacitti:

162. During the time period between the Board's approval of the Acquisition and the DOJ's commencement of its lawsuit and public disclosure of the true extent of the Acquisition's anticompetitive effects, defendant Pacitti sold personally held shares of Bazaarvoice stock for proceeds of **\$56 million** while in possession of adverse material, nonpublic information. At the time of his sales, Pacitti had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. At the time of his sales, Pacitti also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ's investigation.

163. Instead of disclosing this nonpublic information regarding the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor or that such information had been provided to the DOJ in connection with its investigation, Pacitti sold his shares at artificially inflated prices of over \$14.00 per share. After Pacitti had already sold his shares, the DOJ formally commenced its lawsuit and the extent of the Acquisition's anticompetitive effects finally became publicly known, causing Bazaarvoice stock price to plummet in value down to approximately \$6.00 per share.

164. Defendant Pacitti's sales violated the Code of Business Ethics and Conduct's strict

prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to “proposed corporate transactions.”

165. Defendant Pacitti thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

ii. N. Agrawal:

166. During the time period between the Board’s approval of the Acquisition and the DOJ’s commencement of its lawsuit and public disclosure of the true extent of the Acquisition’s anticompetitive effects, defendant N. Agrawal sold personally held shares of Bazaarvoice stock for proceeds of **\$30 million** while in possession of adverse material, nonpublic information. At the time of his sales, N. Agrawal had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition’s anticompetitive goals and effects of eliminating Bazaarvoice’s only significant competitor were comprehensively detailed. At the time of his sales, N. Agrawal also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ’s investigation.

167. Instead of disclosing this nonpublic information regarding the Acquisition’s anticompetitive goals and effects of eliminating Bazaarvoice’s only significant competitor or that such information had been provided to the DOJ in connection with its investigation, N. Agrawal sold his shares at artificially inflated prices of over \$14.00 per share.

168. Defendant N. Agrawal’s sales violated the Code of Business Ethics and Conduct’s strict prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to “proposed corporate transactions.”

169. Defendant N. Agrawal thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

iii. Hurt:

170. During the time period between the Board's approval of the Acquisition and the DOJ's commencement of its lawsuit and public disclosure of the true extent of the Acquisition's anticompetitive effects, defendant Hurt sold personally held shares of Bazaarvoice stock for proceeds of \$1.5 million while in possession of adverse material, nonpublic information. At the time of his sales, Hurt had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. At the time of his sales, Hurt also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ's investigation.

171. Instead of disclosing this nonpublic information regarding the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor or that such information had been provided to the DOJ in connection with its investigation, Hurt sold his shares at artificially inflated prices of over \$14.00 per share.

172. Defendant Hurt's sales violated the Code of Business Ethics and Conduct's strict prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to "proposed corporate transactions."

173. Defendant Hurt thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

iv. Collins:

174. During the time period between the Board's approval of the Acquisition and the DOJ's commencement of its lawsuit and public disclosure of the true extent of the Acquisition's anticompetitive effects, defendant Collins sold personally held shares of Bazaarvoice stock for proceeds of \$144,100 while in possession of adverse material, nonpublic information. At the time of his sales, Collins had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. At the time of his sales, Collins also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ's investigation.

175. Instead of disclosing this nonpublic information regarding the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor or that such information had been provided to the DOJ in connection with its investigation, Collins sold his shares at artificially inflated prices of over \$14.00 per share.

176. Defendant Collins' sales violated the Code of Business Ethics and Conduct's strict prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to "proposed corporate transactions."

177. Defendant Collins thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

v. Ittycheria:

178. During the time period between the Board's approval of the Acquisition and the DOJ's

commencement of its lawsuit and public disclosure of the true extent of the Acquisition's anticompetitive effects, defendant Ittycheria sold personally held shares of Bazaarvoice stock for proceeds of \$295,000 while in possession of adverse material, nonpublic information. At the time of his sales, Ittycheria had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. At the time of his sales, Ittycheria also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ's investigation.

179. Instead of disclosing this nonpublic information regarding the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor or that such information had been provided to the DOJ in connection with its investigation, Ittycheria sold his shares at artificially inflated prices of over \$14.00 per share.

180. Defendant Ittycheria's sales violated the Code of Business Ethics and Conduct's strict prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to "proposed corporate transactions."

181. Defendant Ittycheria thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

vi. Keller:

182. During the time period between the Board's approval of the Acquisition and the DOJ's commencement of its lawsuit and public disclosure of the true extent of the Acquisition's anticompetitive effects, defendant Keller sold personally held shares of Bazaarvoice stock for

proceeds of \$615,000 while in possession of adverse material, nonpublic information. At the time of his sales, Keller had authored, reviewed and/or received a myriad of internal, nonpublic documents and communications in which the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor were comprehensively detailed. At the time of his sales, Keller also had knowledge of material, nonpublic information that the DOJ already had obtained, or soon would obtain, these same internal documents and communications, which openly referred to efforts by the Board to destroy competition, halt price erosion, and block market entry; the precise anticompetitive conduct that was the target of the DOJ's investigation.

183. Instead of disclosing this nonpublic information regarding the Acquisition's anticompetitive goals and effects of eliminating Bazaarvoice's only significant competitor or that such information had been provided to the DOJ in connection with its investigation, Keller sold his shares at artificially inflated prices of over \$14.00 per share.

184. Defendant Keller's sales violated the Code of Business Ethics and Conduct's strict prohibition against selling Company stock on the basis of material, nonpublic information about the Company, including information relating to "proposed corporate transactions."

185. Defendant Keller thus faces a substantial likelihood of liability for insider trading, thereby excusing demand.

186. Furthermore, none of the Current Directors did anything to prevent the insider trading engaged in by the other Insider Trading Defendants. Instead, all of the Current Directors signed the June 27, 2012 S-1, filed in connection with the Secondary Offering, and approved consummation of the Secondary Offering shortly after the Acquisition, despite the fact that the Current Directors knew that the Insider Trading Defendants who were selling shares in the Secondary Offering were trading with knowledge of material, adverse nonpublic information regarding the Acquisition's

anticompetitive goals and benefits of eliminating Bazaarvoice's only significant competitor.

C. Additional Reason Demand is Excused

187. The Current Directors are further disabled from considering a demand due to the subject matter of the pending DOJ lawsuit. The DOJ's lawsuit and this action both allege that the Current Directors knowingly and in bad faith approved the Acquisition with actual knowledge of the Acquisition's anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice. Thus, the Current Directors Board are not disinterested and cannot exercise independent business judgment on the issue of whether to prosecute those claims in this action, while the same Current Directors are already defending themselves against the same allegations in the DOJ's action. Demand is therefore excused.

COUNT I

**Breach of Fiduciary Duty – Insider Trading
(Against the Insider Trading Defendants)**

188. Plaintiff repeats and re-alleges the allegations above as if fully set forth herein.

189. By reason of their positions as directors and/or officers of Bazaarvoice, the Insider Trading Defendants owed Bazaarvoice a fiduciary duty of loyalty, which precludes them from misusing nonpublic corporate information for personal gain.

190. At the time that they sold their shares of Bazaarvoice stock, each of the Insider Trading Defendants had access to and knowledge of highly material, adverse, nonpublic information concerning the Acquisition's anticompetitive purpose and the DOJ's investigation and imminent lawsuit for conduct that the Board already deemed to be anticompetitive.

191. The Insider Trading Defendants knew or should have known that public disclosure of this information would adversely affect the market price of Bazaarvoice stock.

192. As detailed above, the Insider Trading Defendants derived over \$91 million in proceeds

from their insider trading while in possession of material, adverse, nonpublic information.

193. Because it is inequitable for a fiduciary to profit from their personal use of nonpublic corporate information, equity requires the Insider Trading Defendants to disgorge these unlawful profits for the benefit of Bazaarvoice.

COUNT II

Breach of Fiduciary Duty (Against the Director Defendants)

194. Plaintiff repeats and re-alleges the allegations above as if fully set forth herein.

195. As officers and/or directors of Bazaarvoice, each of the Director Defendants owed Bazaarvoice and its shareholders the fiduciary obligations of loyalty and care. The Director Defendants were and are required to act in furtherance of the best interests of Bazaarvoice and its shareholders so as to benefit all shareholders equally and not in furtherance of their personal interest or benefit.

196. In approving the Acquisition, each of the Director Defendants breached his fiduciary duties of loyalty and care owed to Bazaarvoice and its shareholders. As detailed above, the Director Defendants pursued and approved the Acquisition with actual knowledge of its anticompetitive effects and with the deliberate intent to unlawfully eliminate all market competition for Bazaarvoice.

197. Although the Acquisition did not meet the “size of transaction” threshold under the Clayton Act, the Director Defendants knew or should have known that the Acquisition was blatantly anticompetitive and was intended to eliminate all market competition for Bazaarvoice, and thus knew or should have known that the Acquisition should have been reported to the DOJ and FTC prior to being consummated. The Director Defendants’ failure to notify and provide information to the FTC and DOJ prior to completing the Acquisition has resulted in exposing Bazaarvoice to legal and regulatory liability, including the DOJ’s lawsuit.

198. The actions of the Director Defendants could not have been a good faith exercise of prudent business judgment to protect and promote Bazaarvoice's corporate interests.

199. As a direct and proximate result of the Director Defendants' breaches of fiduciary duties, Bazaarvoice has already sustained substantial damages as a result of the Acquisition and will continue to sustain substantial damages resulting from the DOJ's antitrust lawsuit against Bazaarvoice.

COUNT III

Corporate Waste (Against the Director Defendants)

200. Plaintiff repeats and re-alleges the allegations above as if fully set forth herein.

201. By failing to properly consider the interests of Bazaarvoice and its public shareholders, the Director Defendants have caused Bazaarvoice to waste valuable corporate assets.

202. The Director Defendants entered into the Acquisition despite their knowledge or reckless disregard of the anticompetitive effects of the Acquisition and how it would expose Bazaarvoice to legal liability for violating the antitrust laws. As a consequence of the Director Defendants' misconduct, Bazaarvoice has suffered significant harm and will continue to sustain substantial damages resulting from the DOJ's antitrust lawsuit against Bazaarvoice.

203. On December 5, 2012, Bazaarvoice announced that it had already incurred \$0.9 million in expenses related to the DOJ's lawsuit since the DOJ had announced its investigation into the Acquisition. During Bazaarvoice's third quarter earnings conference call held on February 21, 2013, Collins responded to an analyst's question about the impact of the DOJ lawsuit on Bazaarvoice's operations by stating that "we're spending a lot of money with lawyers. So I'd rather spend that on our clients and on our sales people for sure." Furthermore, on February 26, 2013, Bazaarvoice announced that its trial with the DOJ is scheduled to begin on September 10, 2013, and Bazaarvoice

“expect[s] to continue to incur expenses on this matter.” Additionally, in its most recent Form 10-K, filed with the SEC on July 3, 2013, Bazaarvoice acknowledged that, as a result of the DOJ litigation, “there may be an exposure to loss in excess of the amount accrued and such amounts could be material.”

204. Furthermore, if the DOJ’s lawsuit is successful, it would require Bazaarvoice to pay additional costs and fees to the United States and to divest PowerReviews’ operations and assets, sufficient to create a separate, distinct, and viable competing business that can replace PowerReviews’ competitive significance in the marketplace.

205. For the reasons detailed above, the Director Defendants’ decision to approve the Acquisition was so egregious or irrational that it could not have been based on a valid assessment of Bazaarvoice’s best interests. As set forth above, no reasonable person acting in good faith could conclude that the Acquisition was in the best interests of Bazaarvoice.

206. As a result of the foregoing, Bazaarvoice has been damaged and the Director Defendants are liable to Bazaarvoice.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of Bazaarvoice, demands judgment as follows:

- A. Determining that this suit is a proper derivative action and certifying Plaintiff as an appropriate representative of Bazaarvoice for said action;
- B. Declaring that the defendants have violated their fiduciary duties to Bazaarvoice and its shareholders;
- C. Requiring the Insider Trading Defendants to disgorge their ill-gotten gains;

D. Awarding Bazaarvoice the damages sustained by Bazaarvoice as a result of the defendants' breaches of fiduciary duties and waste of corporate assets, in an amount to be determined at trial, together with pre-judgment and post-judgment interest;

E. Equitable and/or injunctive relief as permitted by law, equity, and state statutory provisions sued hereunder, including attaching, impounding, imposing a constructive trust on, or otherwise restricting defendants' assets so as to assure that Plaintiff has an effective remedy;

F. Awarding Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

G. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

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Date: November 22, 2013