

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

BEN STENGER, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiff,

v.

UNDER ARMOUR, INC.

Serve On:

The Corporation Trust Incorporated  
351 West Camden Street  
Baltimore, Maryland 21201

KEVIN A. PLANK

c/o Under Armour, Inc.  
1020 Hull Street, 3<sup>rd</sup> Floor  
Baltimore, Maryland 21230

AND

LAWRENCE P. MOLLOY

c/o Under Armour, Inc.  
1020 Hull Street, 3<sup>rd</sup> Floor  
Baltimore, Maryland 21230

Defendants.

Case No. \_\_\_\_\_

CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF FEDERAL SECURITIES

**JURY TRIAL DEMANDED**

LEVI & KORSINSKY LLP T.212-363-7500 www.zlk.com

Plaintiff Ben Stenger (“Plaintiff”), by his attorneys, except for his own acts, which are alleged on knowledge, alleges the following based upon the investigation of counsel, which included a review of United States Securities and Exchange Commission (“SEC”) filings by Under Armour, Inc. (“Under Armour” or the “Company”), as well as regulatory filings and reports, securities analyst reports and advisories by the Company, press releases and other public statements issued by the Company, and media reports about the Company. Plaintiff believes that

additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery:

**NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of all investors who purchased or otherwise acquired Under Armour securities, between July 24, 2014 and January 30, 2017, inclusive (the “Class Period”), seeking remedies under the Securities Exchange Act of 1934 (the “Exchange Act”). Plaintiff’s claims are asserted against certain of Under Armour’s executive officers and directors.

2. Incorporated in 1996, Under Armour develops, markets and distributes branded performance apparel, footwear and accessories for men, women and youth. A large majority of Under Armour’s products are sold in North America and appeal to athletes and consumers with active lifestyles. The Company’s net revenues are generated primarily from the wholesale sales of its products to national, regional, independent and specialty retailers.

3. Under Armour is headquartered in Baltimore, Maryland and its common stock trades on the New York Stock Exchange (“NYSE”) under the ticker symbol “UA” (Class A stock) and “UAA” (Class C stock).

4. Throughout the Class Period, Under Armour and certain of its officers and directors made materially false and misleading statements regarding the Company’s business, operational and compliance policies. Specifically, Defendants failed to disclose that one of its largest wholesale retailers, The Sports Authority, was facing bankruptcy and, as a result of its high inventory levels at The Sports Authority, Under Armour was at risk of not meeting its revenue and profit margins.

5. On May 31, 2016, the Company issued a press release announcing that it was revising its previously issued outlook for the full year and second quarter of 2016. Therein, the Company stated:

During the first quarter of 2016, the Company became aware of the potential restructuring of The Sports Authority. As previously stated, *at that time the Company did not believe that the exposure to its receivables from The Sports Authority was materially impacted* and the Company announced its intention to continue to support The Sports Authority as it proceeded through its restructuring, including support through continued sales in 2016.

Given the recent decision of the bankruptcy court to approve the liquidation of The Sport Authority's business rather than a restructuring or sale of the ongoing business, *the Company now expects to recognize an impairment charge of approximately \$23 million related to The Sports Authority during the second quarter of 2016. In addition, due to the bankruptcy, the Company was only able to recognize \$43 million of the originally planned \$163 million in revenues with The Sports Authority for 2016.*

*As a result of this impairment as well as the loss of further planned sales to The Sports Authority, the Company now expects 2016 net revenues of approximately \$4.925 billion, representing growth of 24% over 2015, and 2016 operating income of approximately \$440 million to \$445 million.*

With regard to the second quarter of 2016, the Company continues to expect revenue growth to be in the high 20s percent range, consistent with previously issued guidance. However, *as a result of the impairment noted above, operating income is now expected to range from \$17 million to \$19 million, and the Company's tax rate for the second quarter is expected to be approximately 70%.*

Kevin Plank, Chairman and CEO of Under Armour, stated "While The Sports Authority's bankruptcy impacts our 2016 outlook, our brand's momentum is stronger than ever as we continue to see growth and increased demand across all categories and geographies. This one-time event will not impact our focus on making the best decisions for Under Armour through investments that protect and drive our growth."

(Emphasis added).

6. The adjusted financial guidance caused Under Armour's stock to drop, from a closing price of \$37.73 on May 31, 2016 to a closing price of \$36.25 on June 1, 2016. Wall Street analysts also took notice, lowering their price targets on Under Armour's stock following the announcement.

7. On January 30, 2017, the Company issued a press release, filed on Form 8-K with the SEC, in which Defendant Kevin Plank ("Plank"), Under Armour's Chairman and Chief Executive Officer ("CEO") stated: "We are incredibly proud that in 2016, we once again posted record revenue and earnings, however, *numerous challenges and disruptions in North American retail tempered our fourth quarter results.*" (Emphasis added). Although the Company reported increased revenue of \$4.8 billion for the fourth quarter, this was significantly below the Company's October 25, 2016 guidance, which stated "based on current visibility, the Company continues to expect 2016 net revenues *of approximately \$4.925 billion.*" (Emphasis added.) The press release further announced that the Company's Chief Financial Officer ("CFO"), Defendant Chip Malloy, would be leaving the Company after only being there thirteen months "due to personal reasons."

8. On this news, Under Armour's stock price fell from a closing price of \$28.94 per share on January 30, 2017 to \$21.49 on January 31, 2017, a *drop of approximately 26%*.

9. Fortunately for Defendant Plank, he was well aware of the Company's financial position and, in April 2016, began selling his shares of Under Armour to prevent substantial individual losses.

10. As a result of Under Armour's wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and the Class purchased Under Armour securities at artificially inflated prices and thereby suffered significant losses and damages.

**JURISDICTION AND VENUE**

11. The federal law claims asserted herein arise under §§ 10(b) and 20(a) of the Exchange Act, 15 U.S.C. § 78j(b) and § 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. § 240.10b-5, as well as under the common law.

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

13. This Court has jurisdiction over each Defendant named herein because each Defendant is an individual who has sufficient minimum contacts with this District so as to render the exercise of jurisdiction by the District Court permissible under traditional notions of fair play and substantial justice.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and § 27 of the Exchange Act because many of the false and misleading statements were made in or issued from this District. Under Armour is headquartered in this District, with its principal place of business located at 1020 Hull Street, Baltimore, Maryland 21230.

**CONTROLLING PERSON ALLEGATIONS**

15. By reason of the Individual Defendants' positions with the Company as executive officers, the Individual Defendants possessed the power and authority to control the contents of Under Armour's quarterly reports, press releases, and presentations to securities analysts, money and portfolio managers, and institutional investors, i.e., the market. The Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions with the Company, and their access to material, non-public information available to them but not to the public, the

Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public, and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements pleaded herein.

### **PARTIES**

16. Plaintiff purchased Under Armour securities within the Class Period and, as a result, was damaged thereby. Plaintiff's certification evidencing his transactions is attached hereto.

17. Defendant Under Armour is a Maryland corporation with its headquarters located at 1020 Hull Street, Baltimore, Maryland 21230.

18. Defendant Plank is the Chairman and CEO of the Company.

19. Defendant Molloy was the CFO of the Company from January 2016 until his resignation on January 31, 2017.

### **SUBSTANTIVE ALLEGATIONS**

#### **A. Background**

20. Incorporated in 1996, Under Armour develops, markets and distributes branded performance apparel, footwear and accessories for men, women and youth. A large majority of Under Armour's products are sold in North America and appeal to athletes and consumers with active lifestyles. The Company's net revenues are generated primarily from the wholesale sales of its products to national, regional, independent and specialty retailers. The Sports Authority is one wholesale retailer that Under Armour sells its products through.

21. Under Armour is headquartered in Baltimore, Maryland and its common stock trades on the NYSE under the ticker symbol "UA" (Class A stock) and "UAA" (Class C stock).

## B. Material Misstatements and Omissions during the Class Period

22. On June 5, 2014, Moody's Investors Service ("Moody's") downgraded The Sports Authority's ratings outlook from stable to negative. The reason for the change to negative was due, in part, to the "need for the company to address debt maturities well ahead of the obligations effectively becoming current in February 2015."

23. Shortly thereafter, on July 24, 2014, the Company issued a press release announcing second quarter financial and operating results. Under Armour failed to disclose that The Sports Authority was at risk of defaulting on its February debt, but instead, the Company reported net revenues increase of 34% to \$610 million and raised the Company's 2014 net revenue outlook to a range of \$2.98 billion to \$3.0 billion, compared to its prior outlook of \$2.88 billion to \$2.91 billion. The Company further raised its 2014 operating income outlook to a range of \$343 million to \$345 million, compared to its prior outlook of \$331 million to \$334 million.

24. Defendant Plank commented:

*The broad-based momentum that we have been experiencing recently showed no signs of stopping* during the second quarter. While we continued to add more dimension to our largest growth driver in Apparel, we were particularly encouraged by the brand response we are seeing in both our Footwear and International businesses. From our latest pinnacle football cleat, the Highlight ClutchFit, to the successful SpeedForm running initiative, our footwear is clearly resonating with consumers and we are well positioned to expand these platforms in the seasons ahead. In International, we are executing in all regions and are proud of key second quarter milestones such as our initial product launch in Brasil and partnering with key distributors to open the first Brand House stores in Panama, the Philippines and Singapore.

25. On February 20, 2015, Moody's cut its rating on The Sports Authority debt to deeper into junk bond status and warned that the chain could be less than one year from defaulting on its \$300 million loan. According to analyst Michael Zuccaro, "At these operating levels, Sport

Authority's capital structure is unsustainable over the longer term, and the risk of a default. . . is high." According to an article on CNN Money, The Sports Authority was facing increasing competition from Dick's Sporting Goods and was also struggling to keep up with online retailers such as Amazon.

26. Also, on February 20, 2015, Under Armour filed its annual report on Form 10-K ("2014 Annual Report") with the SEC announcing financial and operational results for the fiscal year ended December 31, 2014. While the 2014 Annual Report is completely silent as to The Sports Authority's dire position, it stated under "Risk Factors" that a "decline in sales to, or the loss of, one or more of our key customers could result in a material loss of net revenue and negatively impact our prospects for growth."

27. On February 22, 2016, the Company filed its annual report on Form 10-K ("2015 Annual Report"), acknowledging that The Sports Authority was going out of business but assuring investors that it would not impact the Company's financial outlook:

Subsequent to December 31, 2015, the Company became aware of the deteriorating financial condition of one of its wholesale customers, The Sports Authority. The Company's recorded reserve as of year-end materially reflects its best estimate, based on currently available information, of the ultimate recoverability of amounts due from this customer at December 31, 2015. As of December 31, 2015, the amount of this receivable totaled \$32.5 million. However, ***the Company does not currently believe that the exposure to its receivables as of December 31, 2015 is materially impacted by the developments related to The Sports Authority.*** If the financial condition of this customer continues to deteriorate, this could result in the Company recording additional reserves against the Company's receivables balance.

(Emphasis added).

28. The Company also recognized in its 2015 Annual Report that its relationships with its wholesalers, including The Sports Authority, was a vital component to its financial success and

sustained growth: “A decline in sales to, or loss of, one or more of [Under Armour’s] key customers could result in a material loss of net revenues and negatively impact [the Company’s] prospects for growth.”

29. On March 2, 2016, The Sports Authority filed for Chapter 11 bankruptcy, announcing that it would seek to sell or close about 140 stores, or nearly one-third of its locations, after failing to keep up with customer trends. In a statement issued by The Sports Authority CEO Michael E. Foss, The Sports Authority “intend[ed] to use the Chapter 11 process to streamline and strengthen [its] business both operationally and functionally so that [it has] the financial flexibility to continue to make necessary investments in [its] operations.” The Sports Authority’s bankruptcy petition, however, evidenced a much bleaker picture, listing Under Armour as the unsecured creditor with the *eighth highest unsecured claim* against The Sports Authority in the amount of **\$23,168,557**; ranking as the second highest Trade Debt holder behind only Nike USA, Inc.

30. On March 4, 2016, the Company issued a press release, stating:

Based on current visibility, the Company continues to expect 2016 net revenues of approximately \$4.95 billion, representing growth of 25% over 2015, and 2016 operating income of approximately \$503 million, representing growth of 23% over 2015, in line with the financial targets outlined in the Company’s recent earnings release issued on January 28, 2016.

The Sports Authority is a longstanding customer of the Company, and the Company intends to support them as they proceed through their restructuring. The Company plans to offset the impact of the bankruptcy on the Company’s full year 2016 results through continued sales to The Sports Authority and sales through other channels and customers. *In addition, although the Company does not currently believe that the exposure to its receivables from The Sports Authority is materially impacted by these developments, the Company will continue to monitor the proceedings and its related impact during the first quarter of 2016.*

(Emphasis added).

31. On April 21, 2016, the Company issued a press release announcing first quarter earnings for 2016. Defendant Plank painted an optimistic future for the Company:

For the past 24 consecutive quarters or six years, we have driven net revenue growth above 20% and we are incredibly proud of our start to 2016 with first quarter net revenue growth of 30%. The strong results posted this quarter truly demonstrate the balanced growth of our brand across product categories, channels and geographies. It also showcases our heightened focus on providing better service across our distribution channels, ensuring that our consumer consistently finds the newest, most premium product from us wherever they shop. In footwear, this includes the remarkable success of the Stephen Curry signature basketball line, as well as the exciting launches of our first smart running shoe and our new line of Jordan Spieth inspired golf shoes. Combined with the introductions of premium apparel technologies like Microthread and CoolSwitch, we will continue to drive elevated innovation and excitement to the athlete throughout the remainder of 2016.

\* \* \*

This year marks our 20th year in business, which is a great milestone for our company. Our robust growth this quarter demonstrates the power of our brand with growth coming from every part of our business. Our ability to adapt in a rapidly changing environment has been a critical part of our success and fuels our inspiration to create game-changing products that solve problems and enrich consumers' lives. *With this unrelenting consumer focus and ongoing investment, we are setting the foundation for our growth story over the next 20 years.*

(Emphasis added).

32. On April 26, 2016, representatives of The Sports Authority again appeared in Bankruptcy court, this time indicating that a reorganization of that company would not be feasible and that it would instead seek a liquidation sale. The Bankruptcy Court approved this request on May 24, 2016, entering an order approving the liquidation of The Sports Authority's assets pursuant to the bankruptcy code.

### C. The Truth Emerges

33. On May 31, 2016, the Company issued a press release announcing that it was revising its previously issued outlook for the full year and second quarter of 2016. Therein, the Company stated:

During the first quarter of 2016, the Company became aware of the potential restructuring of The Sports Authority. As previously stated, at that time the Company did not believe that the exposure to its receivables from The Sports Authority was materially impacted and the Company announced its intention to continue to support The Sports Authority as it proceeded through its restructuring, including support through continued sales in 2016.

Given the recent decision of the bankruptcy court to approve the liquidation of The Sport Authority's business rather than a restructuring or sale of the ongoing business, ***the Company now expects to recognize an impairment charge of approximately \$23 million related to The Sports Authority during the second quarter of 2016. In addition, due to the bankruptcy, the Company was only able to recognize \$43 million of the originally planned \$163 million in revenues with The Sports Authority for 2016.***

***As a result of this impairment as well as the loss of further planned sales to The Sports Authority, the Company now expects 2016 net revenues of approximately \$4.925 billion, representing growth of 24% over 2015, and 2016 operating income of approximately \$440 million to \$445 million.***

With regard to the second quarter of 2016, the Company continues to expect revenue growth to be in the high 20s percent range, consistent with previously issued guidance. However, ***as a result of the impairment noted above, operating income is now expected to range from \$17 million to \$19 million, and the Company's tax rate for the second quarter is expected to be approximately 70%.***

Kevin Plank, Chairman and CEO of Under Armour, stated "While The Sports Authority's bankruptcy impacts our 2016 outlook, our brand's momentum is stronger than ever as we continue to see growth and increased demand across all categories and geographies. This one-time event will not impact our focus on making the best decisions for Under Armour through investments that protect and drive our growth."

(Emphasis added).

34. The adjusted financial guidance caused Under Armour's stock to drop from a closing price of \$37.73 on May 31, 2016 to a closing price of \$36.25 on June 1, 2016. Wall Street analysts also took notice, lowering their price targets on UA's stock following the announcement.

35. On July 26, 2016, however, the Company issued a press release announcing second quarter earnings for 2016, which did not divulge the impact of The Sports Authority's bankruptcy on the Company. Plank stated:

The strong broad-based results posted this quarter highlight the continued demand for the Under Armour brand around the world. It also underscores the importance of diversifying our business and driving a sharper point of view with our consumers wherever they shop. In our largest category of apparel we continue to add more dimension with a sport category focus and we remain incredibly proud of the success of our international and footwear growth drivers. With the opening of 60 new international Under Armour stores so far this year, including doors on two new continents this quarter, our international business continues to expand and to resonate with the global athlete. The Stephen Curry signature line has continued to drive strong momentum for the brand and our pinnacle football product, the Highlight Cleat, continues to lead the market.

\* \* \*

In 2016, our ability to position the brand to capture the changing expectations of the consumer requires Under Armour to extend and grow in new and different ways. The authenticity we have gained with the athlete over the past 20 years has positioned Under Armour to widen our access through categories, channels, and geographies. Starting with our launch this fall of Under Armour Sportswear, which we are calling UAS, we will continue to find new opportunities to bring more consumers into the Under Armour Brand, whether that is through compelling flagship retail, new partners in wholesale, or on a digital platform. We remain focused on making all athletes better and driving consistent revenue growth quarter after quarter. I am proud of what the team has accomplished so far this year and am incredibly excited about the future of Under Armour for the rest of 2016 and beyond

36. During the second quarter investor earnings call. Defendant Molloy stated:

Now moving onto our guidance for the remainder of 2016. Based on our current visibility, *we continue to expect 2016 net revenues of*

*approximately \$4.925 billion, representing growth of 24%, and operating income in the range of approximately \$440 million to \$445 million, representing growth of 8% to 9%.* Gross margins for the full year are expected to be down slightly compared to last year and based on our outlook of \$4.925 billion in revenues, SG&A is still expected to grow approximately 28% as we remain focused on making the right investments today to drive our long-term global success.

\* \* \*

For the third quarter, *we expect revenues to grow approximately 20% as we begin to lap our strategies to better service our customers and as we navigate through the impact of the Sports Authority liquidation.* In addition, we expect our gross margin percentage to decline slightly compared to the prior year. For the third quarter, we expect operating income in the range of \$180 million to \$185 million, representing 5% to 8% growth versus the prior year.

(Emphasis added).

37. On October 25, 2016, the Company issued a press release announcing third quarter and full year results. Defendant Plank continued to hide the impact of The Sports Authority's bankruptcy, stating:

*Under Armour is a growth company and our ambitions for the Brand have never been higher. This marks our 26th consecutive quarter of 20+% revenue growth demonstrating the strength of the Under Armour Brand.* From the Olympic Games in Rio to the launch of Under Armour Sportswear at New York Fashion Week, the Under Armour Brand continues to extend its reach to new consumers while remaining authentic and rooted in sport. In the third quarter, our key strategies and investments to diversify our portfolio on a global scale were evident across categories, channels, and geographies. In running, we experienced strong global demand for our Slingride and Bandit 2 footwear styles, showcasing the continued expansion of our premium \$100+ footwear offerings. Within direct-to-consumer we launched three new e-commerce sites, bringing our total to 30 global sites, as we focus on expanding brand experience and premium offerings for consumers wherever they shop. And finally, we hosted our second tour through Asia with Stephen Curry, where the Brand continues to resonate and drive incredible momentum in new markets.

\* \* \*

Over the past twenty years we have established ourselves as a premium global brand with a track record of strong financial results. ***Looking back over the past nine months, it has never been more evident that we are at a pivotal moment in time, where the investments we are making today will fuel our growth and drive our industry leadership position for years to come.*** As a growth company with an expanding global footprint and businesses like footwear and women's each approaching a billion dollars this year, we have never been more focused on the long-term success of our Brand

(Emphasis added).

38. The Company further stated: “Based on current visibility, the Company continues to expect 2016 net revenues of approximately \$4.925 billion, representing growth of 24% over 2015, and 2016 operating income of \$440 million to \$445 million, representing growth of 8% to 9% over 2015. Below the operating line, the Company expects interest expense of approximately \$30 million, an effective full year tax rate of approximately 35.5%, and fully diluted weighted average shares outstanding of approximately 446 million.”

39. The full truth was finally revealed on January 30, 2017, when the Company issued a press release, filed on Form 8-K with the SEC, in which Defendant Plank stated: “We are incredibly proud that in 2016, we once again posted record revenue and earnings, however, ***numerous challenges and disruptions in North American retail tempered our fourth quarter results.***” (Emphasis added). Although the Company reported increased revenue of \$4.8 billion for the fourth quarter, this was significantly below the Company’s October 25, 2016 guidance, which stated “based on current visibility, the Company continues to expect 2016 net revenues ***of approximately \$4.925 billion.***” (Emphasis added.) The press release further announced that Defendant Chip Malloy would be leaving his position as CFO the Company after only thirteen months “due to personal reasons.”

40. On this news, Under Armour's stock price fell from a closing price of \$28.94 per share on January 30, 2017 to \$21.49 on January 31, 2017, a *drop of approximately 26%*.

41. As a result of Under Armour's wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and the Class purchased Under Armour securities at artificially inflated prices and thereby suffered significant losses and damages.

#### **D. Defendant Plank and Other Insider Stock Sales**

42. Fortunately for Defendant Plank and other Company insiders, they were well aware of the Company's financial position and, in April 2016, began selling their shares of Under Armour to prevent any substantial individual losses.

43. On April 25 and 26, 2016, the day before and day that The Sports Authority representatives announced before the Bankruptcy Court that it would instead seek a liquidation of that company rather than a reorganization, multiple Under Armour insiders sold large blocks of Under Armour stock, earning themselves millions of dollars. Specifically, Company insiders and their affiliates sold approximately \$98 million in Under Armour Common A and Common C stock between April 25, 2016 and April 29, 2016. Defendant Plank, alone, sold approximately \$88 million in Class C common stock, either directly or indirectly. Class C common stock has no voting rights, except in limited circumstances.

44. Defendant Plank's sales were unusual compared to his prior purchases. Specifically, in April 2014 and 2015, Defendant Plank exercised options and disposed of and acquired shares. To the contrary, in April 2016, Defendant Plank only disposed of his stock.

#### **ADDITIONAL SCIENTER ALLEGATIONS**

45. As alleged herein, Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting the true facts regarding Under Armour, their control over, and/or receipt and/or modification of Under Armour's allegedly materially misleading statements and/or their associations with the Company which made them privy to confidential proprietary information concerning Under Armour, participated in the fraudulent scheme alleged herein.

#### **LOSS CAUSATION AND ECONOMIC LOSS**

46. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the Company's stock price, and operated as a fraud or deceit on acquirers of the Company's securities. As detailed above, when the truth about Under Armour's misconduct was revealed, the value of the Company's securities declined precipitously as the prior artificial inflation no longer propped up its stock price. The decline in Under Armour's share price was a direct result of the nature and extent of Defendants' fraud finally being revealed to investors and the market. The timing and magnitude of the common stock price decline negates any inference that the loss suffered by Plaintiff and other members of the Class was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to the Defendants' fraudulent conduct. The economic loss, i.e., damages, suffered by Plaintiff and other Class members, was a direct result of Defendants' fraudulent scheme to artificially inflate the Company's stock price and the subsequent significant

decline in the value of the Company's share, price when Defendants' prior misrepresentations and other fraudulent conduct was revealed.

47. At all relevant times, Defendants' materially false and misleading statements or omissions alleged herein directly or proximately caused the damages suffered by the Plaintiff and other Class members. Those statements were materially false and misleading through their failure to disclose a true and accurate picture of Under Armour's business, operations and financial condition, as alleged herein. Throughout the Class Period, Defendants publicly issued materially false and misleading statements and omitted material facts necessary to make Defendants' statements not false or misleading, causing Under Armour's securities to be artificially inflated. Plaintiff and other Class members purchased Under Armour's securities at those artificially inflated prices, causing them to suffer the damages complained of herein.

**PRESUMPTION OF RELIANCE; FRAUD-ON-THE-MARKET**

48. At all relevant times, the market for Under Armour securities was an efficient market for the following reasons, among others:

- (a) Under Armour securities met the requirements for listing, and were listed and actively traded on the NYSE, a highly efficient market;
- (b) During the Class Period, Under Armour securities were actively traded, demonstrating a strong presumption of an efficient market;
- (c) As a regulated issuer, Under Armour filed with the SEC periodic public reports during the Class Period;
- (d) Under Armour regularly communicated with public investors via established market communication mechanisms;
- (e) Under Armour was followed by securities analysts employed by major brokerage

firms who wrote reports that were distributed to the sales force and certain customers of brokerage firms during the Class Period. Each of these reports was publicly available and entered the public marketplace; and

(f) Unexpected material news about Under Armour was rapidly reflected in and incorporated into the Company's stock price during the Class Period.

49. As a result of the foregoing, the market for Under Armour securities promptly digested current information regarding Under Armour from all publicly available sources and reflected such information in Under Armour stock price. Under these circumstances, all purchasers of Under Armour securities during the Class Period suffered similar injury through their purchase of Under Armour's securities at artificially inflated prices, and a presumption of reliance applies.

50. Alternatively, reliance need not be proven in this action because the action involves omissions and deficient disclosures. Positive proof of reliance is not a prerequisite to recovery pursuant to ruling of the United States Supreme Court in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972). All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered the omitted information important in deciding whether to buy or sell the subject security. Here, the facts withheld are material because an investor would have considered the Company's net losses and adequacy of internal controls over financial reporting when deciding whether to purchase and/or sell stock in Under Armour.

**NO SAFE HARBOR; INAPPLICABILITY OF BESPEAKS CAUTION  
DOCTRINE**

51. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the material misrepresentations and omissions alleged in this Complaint.

52. To the extent certain of the statements alleged to be misleading or inaccurate may be characterized as forward looking, they were not identified as "forward-looking statements" when made

and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

53. Defendants are also liable for any false or misleading “forward-looking statements” pleaded because, at the time each “forward-looking statement” was made, the speaker knew the “forward-looking statement” was false or misleading and the “forward-looking statement” was authorized and/or approved by an executive officer of Under Armour who knew that the “forward-looking statement” was false. Alternatively, none of the historic or present-tense statements made by the defendants were assumptions underlying or relating to any plan, projection, or statement of future economic performance, as they were not stated to be such assumptions underlying or relating to any projection or statement of future economic performance when made, nor were any of the projections or forecasts made by the defendants expressly related to or stated to be dependent on those historic or present-tense statements when made.

### **CLASS ACTION ALLEGATIONS**

54. Plaintiff brings this action on behalf of all individuals and entities who purchased or otherwise acquired Under Armour securities on the public market during the Class Period, and were damaged, excluding the Company, the defendants and each of their immediate family members, legal representatives, heirs, successors or assigns, and any entity in which any of the defendants have or had a controlling interest (the “Class”).

55. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Under Armour securities were actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Under Armour or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in

securities class actions. Upon information and belief, these shares are held by thousands if not millions of individuals located geographically throughout the country and possibly the world. Joinder would be highly impracticable.

56. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by the defendants' respective wrongful conduct in violation of the federal laws complained of herein.

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

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

- a. whether the federal securities laws were violated by the defendants' respective acts as alleged herein;
- b. whether the defendants acted knowingly or with deliberate recklessness in issuing false and misleading financial statements;
- c. whether the price of Under Armour securities during the Class Period was artificially inflated because of the defendants' conduct complained of herein; and
- d. whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

59. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden

of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

**COUNT I**  
**(Violation of Section 10(b) and Rule 10b-5 Against All Defendants)**

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

61. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (1) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (2) cause Plaintiff and other members of the Class to purchase Under Armour securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, each of the Defendants took the actions set forth herein.

62. Defendants: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business that operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Under Armour securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

63. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Under Armour as specified herein.

64. These Defendants employed devices, schemes, and artifices to defraud while in possession of material adverse non-public information, and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Under Armour's value and performance and continued substantial growth, which included the making of, or participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Under Armour and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business that operated as a fraud and deceit upon the purchasers of Under Armour securities during the Class Period.

65. Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (1) Individual Defendants were high-level executives, directors, and/or agents at the Company during the Class Period and members of the Company's management team or had control thereof; (2) each Individual Defendant, by virtue of the Individual Defendant's responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal affairs; (3) each Individual Defendant enjoyed significant personal contact and familiarity with the other Individual Defendant and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's internal affairs at all relevant times; and (4) each Individual Defendant was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

66. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Under Armour's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' misstatements of the Company's business affairs throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

67. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Under Armour's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Under Armour's publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the common stock trades, and/or on the absence of material adverse information that was known to or recklessly disregarded by Defendants but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired Under Armour's securities during the Class Period at artificially high prices and were or will be damaged thereby.

68. At the time of said misrepresentations and omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding Under Armour's financial

results and its adverse position with its retail foreign exchange customers, which was not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their Under Armour securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices that they paid.

69. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

70. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

71. This action was filed within two years of discovery of the fraud and within five years of Plaintiff's purchases of securities giving rise to the cause of action.

## **COUNT II**

### **(The Individual Defendants Violated Section 20(a) of the Exchange Act)**

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

73. The Individual Defendants acted as controlling persons of Under Armour within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, agency, ownership and contractual rights, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements that Plaintiff contends are false and misleading. The Individual Defendants provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements

alleged by Plaintiff to have been misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or to cause the statements to be corrected.

74. In particular, each of these Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

75. As set forth above, the Individual Defendants each violated Section 10(b), and Rule 10b-5 promulgated thereunder, by their acts and omissions as alleged in this Complaint.

76. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Individual Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

77. This action was filed within two years of discovery of the fraud and within five years of Plaintiff's purchases of securities giving rise to the cause of action.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- (a) Determining that this action is a proper class action, certifying Plaintiff as class representative under Federal Rule of Civil Procedure 23 and Plaintiff's counsel as class counsel;
- (b) Awarding compensatory damages in favor of Plaintiff and the other members of the Class against all Defendants, jointly and severally, for all damages sustained as a result of the defendants' wrongdoing, in an amount to be proven

at trial, including interest thereon;

- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees;
- (d) Granting extraordinary equitable and/or injunctive relief as permitted by law; and
- (e) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a jury trial.

Dated: March 2, 2017

**LEVI & KORSINSKY LLP**

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