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20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA

22 Case No. 18-cv-4844-BLF

23 ECF CASE

24 **CONSOLIDATED CLASS ACTION**
25 **COMPLAINT FOR VIOLATIONS OF**
26 **THE FEDERAL SECURITIES LAWS**

27 DEMAND FOR JURY TRIAL

28 Dept: Courtroom 3, 5th Floor
Judge: Honorable Beth Labson Freeman

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1 Lead Plaintiff Union Asset Management Holding AG (“Lead Plaintiff”), by and through
2 its undersigned counsel, brings this action pursuant to Sections 10(b), 20(a), and 20A of the
3 Securities Exchange Act of 1934 (the “Exchange Act”), and U.S. Securities and Exchange
4 Commission (“SEC”) Rule 10b-5 promulgated thereunder, on behalf of itself and all other persons
5 or entities who purchased or otherwise acquired securities of Oracle Corporation (“Oracle” or the
6 “Company”) during the period from March 15, 2017 to June 19, 2018, inclusive (the “Class
7 Period”) and were damaged thereby (the “Class”). Lead Plaintiff alleges the following based upon
8 personal knowledge as to itself and its own acts and upon information and belief as to all other
9 matters. Lead Plaintiff’s information and belief is based on the ongoing investigation of its
10 undersigned counsel, including from the following sources: (i) Oracle’s public filings with the
11 SEC; (ii) research reports from securities and financial analysts; (iii) Company press releases and
12 reports; (iv) Company website and marketing materials; (v) news and media reports concerning
13 the Company and other facts related to this action; (vi) price and volume data for Oracle securities;
14 (vii) accounts from former Oracle employees, some of whom were afraid to provide Lead Counsel
15 with information for fear of retaliation by Oracle; (viii) documents obtained from the National
16 Economic Prosecutor’s Office of Chile (the “FNE”) concerning its investigation; and (ix)
17 additional materials and data concerning the Company and industry as identified herein. Lead
18 Counsel’s investigation into the factual allegations continues, and many of the relevant facts are
19 known only by the Defendants or are exclusively within their custody or control. Lead Plaintiff
20 believes that substantial additional evidentiary support is likely to exist for the allegations set forth
21 herein after a reasonable opportunity for discovery.

22 **I. INTRODUCTION**

23 1. Prior to the Class Period, Larry Ellison, Oracle’s founder and strategic visionary,
24 made a critical blunder by underestimating a fundamental shift in database technology that had
25 serious implications for Oracle’s revenue growth. By the time senior management recognized this
26 tactical error, Oracle was years behind its competitors in creating and selling the new technology,
27 causing its revenues to stagnate. In an effort to make up this ground, Oracle resorted to
28 systematically coercing and bribing its existing customers into making phony “purchases” of its

1 new product line. Throughout the Class Period, Defendants concealed these Company-wide sales
2 tactics from investors, and publicly reported explosive – but, unbeknownst to investors, artificial
3 – growth in Oracle’s critical new market. Defendants attributed this growth to supposedly
4 legitimate factors, such as the superiority of Oracle’s products and sales teams, while rebuffing
5 any questions about whether Oracle engaged in aggressive sales tactics to boost its new revenue
6 stream.

7 2. The truth, however, eventually emerged. By the end of the Class Period, customers
8 were refusing to renew the short-term subscriptions that had been pushed on them under duress,
9 and other customers were resisting the Company’s strong-arm tactics. Oracle’s sales growth
10 declined precipitously, revealing to the market that the Company’s previously-reported explosive
11 sales growth was neither genuine nor sustainable. The Company’s stock price plummeted. Shortly
12 thereafter, senior management announced that they would no longer disclose critical information
13 regarding Oracle’s faltering new business, causing the stock price to decline sharply again.

14 3. This securities fraud class action arises from misrepresentations by Oracle and its
15 senior executives concerning the most important initiative in Oracle’s history – its purported
16 transformation from a struggling “on-premises” database technology company into a high-growth
17 “cloud” computing enterprise. Historically, Oracle’s principal business was selling “on-premises”
18 database technology and software, which is installed and run within the physical confines of the
19 customer’s data center and computers. Several years before the Class Period, a new database
20 technology began to emerge as a challenger to Oracle’s historic business model – the “cloud.” As
21 the name suggests, cloud database technology was located remotely – in a “cloud computing
22 platform” established by the vendor – and was accessed by the customer via the internet.

23 4. In a critical strategic error, Oracle dismissed the cloud for years. Defendant Ellison
24 famously ridiculed cloud technology as “gibberish,” “idiocy,” and “nonsense.” However, the
25 cloud soon became an undeniable force in the database software field. Other companies, such as
26 Amazon and Microsoft, that quickly embraced the new technology, were soon generating billions
27 of dollars in quarterly cloud-related revenue, reporting enormous growth rates as high as 90%.

1 5. Meanwhile, Oracle’s on-premises business begin to stagnate and even decline. For
2 a company in the technology field – where revenue growth is king – a stagnating revenue stream
3 is tantamount to death in the eyes of the market. As one market commentator remarked, the “cloud
4 has become a matter of existential importance to Oracle as its legacy business of selling [on-
5 premises] software licenses and hardware products erodes.”

6 6. Oracle therefore embarked on a “pivot to the cloud” in an effort to surmount the
7 declines in its legacy business and remain relevant to investors. Given the stakes riding on this
8 initiative, Oracle shareholders and other stock market participants were keenly focused on Oracle’s
9 ability to transform itself into a cloud company. As Defendant Catz explained, Oracle’s “move to
10 cloud” was “the biggest and most important opportunity in our Company’s history.”

11 7. Oracle faced a basic problem, however. Having dismissed cloud technology for so
12 long, its cloud-based offerings lagged behind competitors, forcing Oracle to scramble to play catch
13 up. Nevertheless, Oracle assured investors that it had surmounted this problem by virtue of its
14 superior cloud products and sales operation.

15 8. On the first day of the Class Period, March 15, 2017, Defendants (falsely) assured
16 investors that Oracle had successfully turned the corner in its quest to remake itself as a cloud
17 company, with eye-popping results. That day, Oracle announced that its cloud revenue had jumped
18 110% year-over-year, to \$1.2 billion for the quarter. Defendant Safra Catz, Oracle’s co-CEO,
19 stated that Oracle was experiencing “hypergrowth ... in the cloud” and emphasized that “[o]ur
20 pivot to the cloud is now clearly in full swing.” Showing that Oracle’s cloud growth more than
21 made up for troubles in its legacy business, Catz asserted that “the increase in revenue from our
22 cloud business has overtaken new software license declines on an annual basis,” marking “a
23 significant milestone in our transformation.” Defendant Hurd emphasized that Oracle was now
24 “the fastest-growing scale cloud business in the world.”

25 9. A few months later, Oracle again delivered what appeared to be blockbuster results,
26 reporting that its quarterly cloud revenues had surged to \$1.4 billion. Defendant Catz again
27 underscored the central role of cloud growth in driving Oracle’s profitability, stating that “[t]his
28

1 cloud hypergrowth is expanding our operating margins,” and “[t]he cloud has become our
2 predominant growth vehicle.”

3 10. Defendants attributed Oracle’s remarkable cloud growth to Oracle’s superior
4 technology and sales force. Defendant Hurd, for instance, stated that Oracle’s outstanding results
5 were driven by the fact that “[w]e’re better” than competitors – “Our products are better. Our sales
6 force is better. Our ability to implement is better.” And when questions surfaced in the press
7 asking whether Oracle was boosting its cloud performance by engaging in aggressive sales tactics,
8 the Company denied them, calling such suggestions “inaccurate” “rumor” that was “absolutely not
9 true.”

10 11. The market reacted very favorably to Defendants’ statements. *Barron’s* reported
11 that Oracle “wowed Wall Street with a financial report that put to rest fears of the company being
12 rendered obsolete by cloud computing.” Another industry observer reported that analysts were
13 “ga-ga during the conference call following [Oracle’s earnings] report, responding to the results
14 with phrases such as ‘really phenomenal,’ ‘impressive,’ ‘very strong,’ and ‘really fabulous.’”

15 12. Oracle’s purported cloud “hypergrowth” drove the Company’s stock price from
16 \$42.79 just before the Class Period to a high of \$52.97 during the Class Period – an increase of
17 nearly 24%. As *Dow Jones Institutional News* reported, Oracle’s increasing share price was
18 “credited mostly to [Oracle’s] growing cloud business,” and “left the shares at 17 times adjusted
19 forward earnings – the highest multiple Oracle has fetched since 2008.”

20 13. Unfortunately for investors, a substantial portion of Oracle’s reported cloud
21 revenue and growth was artificial. As detailed herein, numerous former senior Oracle cloud sales
22 executives from across the globe reported that Oracle widely employed two tactics to generate
23 artificial cloud revenue.

24 14. First, Oracle employed a strategy called “Audit, Bargain, Close.” In order to coerce
25 cloud-based sales, Oracle would audit an on-premises customer for violations of its on-premises
26 software license. When it found violations, Oracle would threaten to impose large penalties unless
27 the customer agreed to purchase a short-term cloud subscription that the customer neither desired
28 nor intended to use.

1 15. Second, Oracle employed a tactic known as the attached deal. Oracle would offer
2 the customer a significant discount on the on-premises products that the customer wanted and
3 needed, provided the customer also purchased a short-term cloud subscription even if the
4 customer neither wanted nor intended to use the attached cloud product.

5 16. Oracle's use of these tactics was so widespread that its employees employed an internal
6 term for these transactions: "financially engineered deals." As detailed below, numerous former
7 Oracle cloud sales executives and employees at multiple locations across the world reported that
8 the majority of their team's sales, between 65% and 90%, were achieved using these improper
9 tactics.

10 17. Oracle's use of coercion and financial engineering to boost its cloud revenues
11 was highly misleading to investors. Purported "cloud" revenue generated through these deals was
12 artificial and unsustainable. Rather than truly purchasing cloud products through these
13 transactions, as Defendant led investors to believe, customers were simply purchasing a discount
14 on audit penalties or a discount on the on-premises products that they actually wanted. Although
15 these transactions were not true sales of cloud products, Oracle nonetheless touted the inflated
16 "cloud" revenues and growth metrics stemming from these tactics as proof of its seminal
17 transformation.

18 18. In late 2017, many of the cloud subscriptions paired out through these financially
19 engineered deals began to expire. As would be expected when initial sales are achieved through
20 coercion, very few of the customers on the receiving end of these engineered deals actually
21 zeroed and "less than 15%" according to knowledgeable witnesses renewed their cloud
22 subscription when the initial term expired.

23 19. Consequently, in December 2017, Oracle was forced to begin disclosing that its
24 cloud revenues were rapidly decelerating, thus revealing through a series of partial corrective
25 disclosures that Oracle's purported cloud transformation was not as represented. As detailed
26 herein, between December 14, 2017 and March 19, 2018, Oracle was forced to disclose that its
27 cloud revenue growth rate had fallen precipitously, declining from 58% to just 32% which was
28 far below the growth rates that its competitors were reporting.

1 31. Defendant Mark Hurd (“Hurd”) is, and was at all relevant times, co-Chief
2 Executive Officer of Oracle, as well as a member of the Company’s Board of Directors.
3 Previously, he served as the Company’s Co-President from September 2010 to September 2014.
4 As stated on Oracle’s website, Hurd “manages corporate direction and strategy at Oracle,
5 facilitating company activity in consulting, sales, marketing, alliances and channels, and support.”
6 Hurd’s personal webpage profile states that he “helped shift the long-term strategy of the company
7 toward the cloud.” During the Class Period, Hurd signed and certified each of the Company’s
8 quarterly and annual SEC filings, attesting to their purported accuracy. Hurd also regularly spoke
9 to investors about Oracle’s business and cloud growth, professing to have detailed knowledge of
10 those matters. Hurd has publicly touted how he “stay[s] close to the action,”² earning him the
11 description as an executive that “digs into details and is a hands on manager that examines every
12 alternative.”³

13 32. Defendant Lawrence J. Ellison (“Ellison”) is, and was at all relevant times, Oracle’s
14 Chief Technology Officer, as well as the Chairman of the Company’s Board of Directors. Ellison
15 co-founded Oracle in 1977, was its CEO until 2014, and served as the Company’s Chairman of
16 the Board of Directors from May 1995 to January 2004. The Company’s proxy statements state
17 that Ellison “continues to lead and oversee our product engineering, technology development and
18 strategy” and his “familiarity with and knowledge of [Oracle’s] technologies and product offerings
19 are unmatched.” Catz stated that Defendant Ellison “led the transformation to the cloud,” and is
20 still “in charge” at Oracle even after becoming the Company’s Chief Technology Officer in 2014,
21 noting “don’t let titles fool you.”⁴ During the Class Period, Ellison regularly spoke to investors
22 about Oracle’s business and cloud growth, professing to have detailed knowledge of these subjects.

23 33. Defendant Thomas Kurian (“Kurian”) served as Oracle’s President, Product
24 Development from January 2015 to September 2018. Kurian started working at Oracle in 1996,
25

26 ² Barb Darrow, “So, huge changes at Oracle with Ellison stepping down right? Wrong!” *Gigaom*,
(September 18, 2014).

27 ³ Paul R. La Monica, “HP’s Hurd mentality,” *CNN Money* (March 29, 2005).

28 ⁴ <https://www.youtube.com/watch?v=rh0denX3Bks>

1 holding various product management and development positions. Beginning in 2008, Kurian
2 reported directly to Ellison. According to his personal webpage profile, Kurian was responsible
3 for “[l]ead[ing] [the] transformation of Oracle’s products with [the] introduction of [a] leading
4 suite of Cloud Services over 10 years.” Kurian also spoke to investors about Oracle’s business
5 and cloud growth, professing to know what he was speaking about. Kurian’s colleagues described
6 him as a hands-on manager, stating that he “likes to get involved in the minutia of various projects”
7 and “does not sufficiently delegate responsibility.”⁵ On September 5, 2018, Oracle announced
8 that Defendant Kurian was taking a voluntary “leave of absence,” after which he resigned from
9 the Company.

10 34. Defendant Ken Bond (“Bond”) is, and was at all relevant times, Oracle’s Senior
11 Vice President of Investor Relations. Bond has served in this role since 2009. During the Class
12 Period, Bond regularly spoke to investors about Oracle’s business and the sources of its cloud
13 revenues, professing to be a reliable source of information. As Bond assured investors in
14 November 2017, “I’ve been doing this for a quite a while in Tech for a very long time,” after being
15 “I think here at Oracle 8, 9 years now.”⁶

16 35. Defendant Steve Miranda (“Miranda”) is, and was at all relevant times, Oracle’s
17 Executive Vice President, Oracle Applications Product Development. As stated on Oracle’s public
18 website, Defendant Miranda is “responsible for leading all aspects of product strategy, product
19 development, and product delivery for the entire portfolio of Oracle Applications.” Oracle’s
20 website further states that “Miranda’s primary focus is on delivering the industry’s most complete,
21 proven, and innovative set of cloud solutions.” Miranda has been with the Company since 1992,
22 holding a variety of leadership positions within the development organization. During the Class
23 Period, Miranda spoke to investors about Oracle’s business and cloud growth, professing to be a
24 reliable source of information.

25
26
27 ⁵ Nadia Damouni, “Ellison’s backing helps Kurian’s star to rise at Oracle,” *Reuters* (January 11,
2015).

28 ⁶ Oracle Corp. at RBC Capital Markets TIMT Conference, November 8, 2017.

1 **V. SUMMARY OF THE FRAUD**

2 **A. Oracle Belatedly Pivots From Its Stagnating Legacy “On-Premises”**
3 **Business To Focus On The Growing “Cloud” Market**

4 38. For years, Oracle was a leader in the development and marketing of database
5 software and technology. Oracle achieved its past success by selling licenses for Oracle’s “on-
6 premises” database software and products. “On-premises” software – in contrast with “cloud-
7 based” software, discussed immediately below, is installed locally, on a licensee’s own computer
8 and maintained on the user’s own infrastructure and platforms. Through its sale of on-premises
9 products, Oracle became one of the most successful database technology and software companies
10 in the world.

11 39. Over the last decade, however, numerous competitors introduced database software
12 options that threatened to strip market share away from Oracle. Unlike Oracle, each of these
13 competitors’ new products were “cloud-based.” In contrast with “on-premises” software, “cloud-
14 based” software allows licensees to store and access data over the internet. Cloud-based products
15 have certain attractive features, including that its users do not need to build and maintain expensive
16 “on-premises” infrastructure and platforms.

17 40. In 2006, Amazon introduced its cloud-based software, Amazon Web Service, with
18 analysts applauding that “Amazon was one of the first companies to launch a [cloud] product for
19 the general public, and it continues to have one of the most sophisticated and elaborate set of
20 options.”⁸ Then, in 2008, Google followed suit and released Google Cloud Platform, which led
21 market commentators to proclaim that Google had instantly “become a player in the enterprise”
22 space.⁹ Finally, in 2010, Microsoft unveiled Azure, which *Forbes* heralded as providing “an
23 attractive migration path for existing Windows applications for customers who want the economic
24 or functional benefits of moving to Microsoft-hosted cloud servers.”¹⁰

25 _____
26 ⁸ Peter Wayner, “Cloud versus cloud: A guided tour of Amazon, Google, AppNexus, and GoGrid,”
InfoWorld (July 21, 2008).

27 ⁹ Jon Brodtkin, “10 cloud computing companies to watch,” *NetworkWorld* (May 18, 2009).

28 ¹⁰ “In Pictures: 10 Cloud Computing Leaders,” *Forbes* (June 4, 2010).

1 substantial cloud revenue each quarter and a growth rate in excess of 80%. Similarly, by the start
2 of the Class Period, Microsoft reported billions in revenue each quarter and a growth rate of 93%
3 for its cloud-based product, Azure.

4 45. Having bet the wrong way on the industry's future, Oracle was soon forced to
5 decide between becoming a declining on-premises company or reshaping itself as a cloud-based
6 business with prospects for significant growth. *Fortune* correctly framed the issue: "What do you
7 do when you are the best company in your industry but your industry is mired in a slump of
8 mediocre performance? That's the dilemma faced by Oracle," adding that the "meaty revenue pie
9 that is the enterprise-tech market... is shrinking slowly" due to cloud competition.¹⁴ Industry-
10 watchers referred to Oracle's situation as an "innovator's dilemma," which "describes how
11 successful companies that fail to adopt new technology or business models to meet customers'
12 future needs can quickly fall behind," noting that Oracle was "reluctant to make any wholesale
13 shift away from the on-premises model."¹⁵ Analysts believed the Company needed "an even more
14 radical and rapid organizational and cultural shift to 'cloud-first,'" rather than holding onto its
15 legacy businesses during the industry's shift to the cloud.¹⁶

16 46. Eventually, even Defendant Ellison could no longer deny that Oracle would need
17 to develop its own competitive cloud-based technology. Oracle, however, failed to grasp the
18 urgency of the situation, with Ellison stating in an October 2, 2012 CNBC interview that such
19 technology would be developed over the "next couple of years." In response, analysts noted at the
20 time that Oracle was "[c]ertainly" not as "cloud-based" as its competitors in the industry and that
21 its approach to cloud-based technology was "not all quite there yet."¹⁷ Market commentators
22
23

24 ¹⁴ Kevin Kelleher, "What kind of problem does Oracle have exactly?" *Fortune* (June 28, 2013).

25 ¹⁵ Jessica Twentyman, "Oracle and SAP are Big Software, but for how long?" *The Register* (May
26 13, 2013).

27 ¹⁶ John Freeman et al., "The Death Of The Commercial Database: Oracle's Dilemma," *Seeking
Alpha* (February 10, 2017).

28 ¹⁷ Josh Bersin, "Oracle Transformed – It's Now All about the Cloud," *Forbes* (October, 3 2012).

1 cloud.” Oracle denied these allegations. The Pacific Square Research report quoted an Oracle
2 spokesperson (i.e., Defendant Bond) as stating that these allegations were fictitious “*conspiracy*
3 *rumor*” that did not even warrant a substantive response, explaining:

4 Responding to *every rumor* is never a productive endeavor.... Only color I can add
5 is that if the *conspiracy rumor* were true, people would not use the cloud credit and
6 there would be no renewal or revenue growth as a new business would replace
cancelled business – not at all what we’re expecting.

7 66. Unknown to investors at the time, the accusations that Oracle deflected and
8 rebuffed as “conspiracy rumor” were, in fact, not “conspiracy rumor” at all. As discussed further
9 below, Oracle widely engaged in the very practices that its executives publicly shunned, and the
10 “revenue growth” that Oracle’s executives trumpeted each quarter as proof of Oracle’s success
11 was, in significant part, the artificial product of their coercive audits and unsustainable sales
12 practices.

13 **C. Throughout The Class Period, Defendants Report Astonishing Growth In**
14 **Oracle’s Cloud Business, Which They Attribute To Oracle’s Supposedly**
15 **Superior Cloud Products and Business Practices**

16 67. While denying that its cloud revenue was driven by abusive sales practices, Oracle
17 reported dramatic growth in its cloud business throughout the Class Period. Further rebutting any
18 charge that coercive tactics were driving its cloud revenue, Oracle attributed its ostensible success
19 to legitimate business factors, thus assuring investors that its revenue growth was genuine and
20 sustainable.

21 68. For instance, on March 15, 2017, the first day of the Class Period, Oracle issued its
22 earnings release for the third quarter of 2017, touting that cloud billings had jumped 110% year-
23 over-year (versus 39% year-over-year growth the prior quarter) to \$1.2 billion, driving overall
24 financial results higher. Defendant Catz stated in the release that Oracle was enjoying
25 “hypergrowth ... in the cloud,” called the Company’s growth rate “astonishing,” and stated that,
26 “*Our new, large, fast growing, high-margin cloud businesses are driving Oracle’s total revenue*
27 *and earnings up and improving nearly every important non-GAAP business metric you care to*
28 *inspect*; total revenue is up, margins are up, operating income is up, net income is up, EPS is up.”

1 that in our PaaS-IaaS business, we're not even at scale. *So as we really scale that up, profitability*
2 *is going to increase more quickly and revenues will be built on the base of another recurring*
3 *revenue -- of the recurring revenue business."*

4 76. Investors and analysts relied upon Defendants' assurances about Oracle's
5 purportedly tremendous cloud growth. For example, on June 22, 2017, *Business Insider* published
6 an article entitled "*Oracle's blow-out earnings caused over 20 Wall Street analysts to raise price*
7 *targets.*" The article reported, "*OracleCloud computing really is starting to breathe new life into*
8 *Oracle.* ... A sunny outlook caused the stock to hit a 52-week high of \$51.85 on Thursday before
9 settling down to about \$50 in the afternoon."

10 77. Also on June 22, 2017, Macquarie analysts again increased their price target,
11 writing, "Oracle reported its *best quarter in years* as we believe the company has weathered the
12 worst of its transition to the cloud Critical metrics like cloud ARR, license revenues, total
13 software revenues, billings, and margins all beat [consensus analyst estimates], making the quarter
14 *a solid turning point as management rounds the bend on a multiyear rapid cloud transition."*

15 78. In another June 22, 2017 report, William Blair analysts wrote, "At this point, it
16 appears that *Oracle has crossed the cloud chasm, which will lead to higher sustained revenue*
17 *growth . . . and double-digit non-GAAP EPS growth."*

18 79. Throughout the Class Period, Defendants continued to assure investors that the
19 Company's cloud growth was driven by a variety of legitimate business factors and conditions,
20 such as the quality of Oracle's cloud products and sales force, as well as the value and cost-saving
21 delivered to consumers. For example, when asked on a September 14, 2017 earnings call about
22 the reasons for Oracle's "momentum in [the] cloud portfolio," Defendant Hurd responded that the
23 Company's cloud growth was due to the fact that "[w]e're better – our products are better. Our
24 sales force is better. Our ability to implement is better. Our ability to do all of these things has just
25 continued to improve quarter by quarter by quarter, and it manifests itself in the type of results
26 we're talking about this afternoon."

27 80. Similarly, at a November 7, 2017 Sanford C. Bernstein Technology Innovation
28 Summit, Defendant Bond was asked about the "the real biggest driver you think of why [clients]

1 95. Next, Oracle LMS held an onsite (face-to-face) meeting with Denver on October
2 20, 2016. Consistent with reports by FE 1 that LMS did not close out sales-driven audits (but
3 simply let sales swoop in once the customer had been sufficiently intimidated), Oracle did not
4 deliver a final audit report to Denver detailing the manner in which the client was supposedly non-
5 compliant and demanding payment for those violations.

6 96. Instead, on November 28, 2016, Denver discussed “‘right sizing’ [Denver’s]
7 licensing agreement,” not with LMS, but with Richard Luby, an Oracle *sales manager*. In an
8 email dated December 2, 2016, Luby pressured Denver to quickly make a deal to resolve the audit,
9 telling Denver that further delay could result in a *tripling* of its audit penalties from approximately
10 \$3 million to “in excess of \$10M.” Specifically, Luby told Denver employees that the “sales group
11 at Oracle [originally] believed we could resolve CCD’s Oracle licensing issues for somewhere
12 between \$2.5-\$3M.” However, “[s]ince this time [Denver] sent LMS a detailed spreadsheet listing
13 [Denver’s] deployed Oracle environment, leading LMS to now believe the current over-
14 deployment would require in excess of \$10M to license. Our SVP has communicated extensively
15 this week with the LMS director on this issue, and has been struggling to secure LMS’ consent for
16 a \$3M agreement, but is only willing to do so if Denver is in agreement on the number.”

17 97. Significantly, after Denver expressed its willingness to accede to Oracle’s demands,
18 that sales manager told Denver that the sales team would arrange for LMS to put the audit on hold
19 while the sale was being negotiated: “Our Sr VP [of Oracle *sales*] *will be talking with Oracle LMS*
20 *today about holding/freezing the audit so we can go through this process*. He asked me if a 6
21 week freeze will be sufficient” However, according to Luby, LMS would only agree to a
22 freeze if Denver acted quickly on a deal. Specifically, Luby told Denver that LMS was “under
23 increased internal pressure due to earlier delays” and that LMS “followed up with our VP Brent
24 Mitchell agreeing to put their process on hold if the request goes to [Denver City] council before
25 the holidays.”

26 98. If Oracle’s aim were to bring Denver into compliance, it would have first completed
27 the audit before attempting to sell the client additional products in order to ensure that the client
28 was purchasing whatever it needed in order to “right size” its licenses. But Oracle was *not*

1 interested in bringing Denver into compliance – rather, it was interested in pushing cloud.
2 Accordingly, Oracle froze the Denver audit, pivoted to sales, and left the threat of an audit hanging
3 over the client while those sales negotiations were ongoing.

4 99. As noted above, at the time of the audit, Denver was strictly an on-premises
5 customer of Oracle’s and, as such, the audit concerned Denver’s use of on-premises software.
6 Accordingly, any legitimate “right sizing” of Oracle’s on-premises licensure should have involved
7 the acquisition of additional licenses for on-premises software. Instead, on December 22, 2016,
8 Oracle told Denver that it would be forced to pay an extra \$2 million to “right size” its *on-premises*
9 licensing, unless it “purchased” a one-year subscription to Oracle’s *cloud*. Specifically, Oracle
10 told Denver it had two options: pay \$8 million in additional fees without a cloud subscription
11 (including \$3 million for the license and the remainder for new support and existing support), or
12 pay \$6 million with a one-year cloud subscription (including only \$1.2 million for the license, \$1.7
13 million for cloud, and the remainder for support). *See* Figure 2, below.

14 100. Importantly, Oracle’s email explicitly states “Please note that the list of products
15 included within the [on-premises] Unlimited License Agreements (ULA) in both options is *exactly*
16 *the same*.” In other words, Denver would acquire *the same* on-premises licensing under *either*
17 option – the only difference was that Oracle would provide a \$2 million discount for “right-sizing”
18 those licenses if Denver agreed to nominally “buy” a one-year cloud subscription.

1 In exchange for a lowered price on these on-premises contracts, the customer “filled the difference
2 [between the full contract price and the discounted price] with cloud products.” Because the
3 customer’s on-premises support and maintenance costs were calculated based on the total value of
4 their on-premises licenses, the customer accepted the attached deal, since it would save on support
5 maintenance. FE 7 gave the following example: if a client had \$1 million worth of on-premises
6 licenses, but ended up paying \$900,000 through an attached deal, with the addition of \$100,000 in
7 cloud, this client would save more than \$20,000 per year in support costs. As FE 7 explained,
8 however, the problem was that because almost none of these customers ever wanted or needed
9 cloud services in the first place, they “never renewed the cloud portion of their deals. The products
10 did not work very well, and almost none of the customers actually wanted them. They simply
11 agreed to the attached deals for the discount on their licenses and maintenance costs.” FE 7 further
12 reported that customers were often told that they were receiving a free cloud subscription on top
13 of their on-premises renewal, while Oracle internally recorded the deal as a discounted on-
14 premises contract and a full-price cloud sale. FE 7 reported that 65% of his teams’ cloud sales
15 were made through engineered sales, including attached deals, and that at least half of his teams’
16 Paas and Iaas sales were attached deals.

17 117. FE 2, FE 3, and FE 4 all echoed FE 7’s description of the mechanics of Oracle’s
18 attached deals and the abysmal renewal rates associated with them. FE 3 stated that 90% of cloud
19 revenue in his territory was generated through attached deals. FE 3 stated that “[n]early every
20 [cloud] deal” FE 3 was involved with was an attached deal.

21 118. FE 4 likewise confirmed that attached deals were “commonplace,” though FE 4
22 said that most cloud sales were driven by “extortion” through the audit process, described above.
23 By using the attached deals, FE 4 explained, “[e]ssentially they were not growing their business
24 or building additional licenses, they were just shifting revenues from one set of books [on-premise]
25 to another [cloud].” Indeed, according to FE 4, Oracle knew that customers were going to just let
26 the cloud contract expire, and sales leadership often expressly communicated to customers that
27 they could “*wash [their] hands*” of cloud products after the contract expired but keep the other
28 reduced support costs for on-premise products.

1 119. FE 3 confirmed that “the cloud subscription involved in the [attached] deal was
2 only for one year of service. After that first year, most companies had no interest in renewing the
3 cloud services but were enjoying the decreased maintenance and service costs on their \$100,000
4 worth of [on-premises] software.” FE 3 corroborated reports by Oracle’s other former employees
5 that sales personnel explicitly agreed with customers that they would not need to use or renew the
6 cloud software as part of the attached deal. FE 3 reiterated that “[c]ustomers who were given this
7 deal did not renew the cloud subscriptions once they ran out,” and stated that FE 3 saw attached
8 deals renewed less than 15% of the time. FE 3 stated that periodic reports detailing cloud
9 utilization reviewed by FE 3 showed many of Oracle’s customers who took attached deals were
10 not using their cloud credits and had not even logged into their product. FE 7 stated that his teams
11 would review customer cloud usage reports and see that “ninety percent of our attached deals were
12 not using at all. I would say it was [throughout 2017 and 2018]. I had relationships with the other
13 sales territories,” including Austria, Poland, Russia, and Hungary, “and we were not an exception.”
14 FE 7 stated, “Almost no one was turning anything on. They weren’t using their [cloud] credits.”

15 120. FE 8 also corroborated these accounts, stating that it was “extremely common to
16 provide very steep discounts to on-premise licenses in exchange for a customer purchasing cloud
17 subscriptions,” estimating that more than 75% of his cloud revenue came from attached deals. FE
18 8 confirmed that both Oracle and the customers on the receiving end of the attached deals
19 understood that the cloud subscriptions would not be renewed after one year. FE 8 stated, “It just
20 wasn’t sustainable. Customers were purchasing a million dollars of cloud subscriptions but weren’t
21 planning on making that same purchase next year. They were not renewing.” FE 8 reported that
22 less than 10% of his clients renewed their cloud subscriptions at the same level they initially signed
23 up for. If a client renewed for half of what they had originally been sold, he would be “ecstatic,”
24 but even that was rare. Most just declined to renew any amount of cloud product. “They did it just
25 for the deal and then would not renew the next year.”

26 121. FE 2 likewise reported that FE 2 learned from speaking with customers and sales
27 personnel that, when speaking with customers, sales affirmatively acknowledged that the
28 customers would not renew their cloud subscriptions after a year in order to preserve the economic

1 attractiveness of the engineered deal, whether an ABC or an engineered deal. Indeed, FE 2
2 explained that given the structure of the attached deal, there was a strong economic incentive for
3 customers not to renew after the one year subscription was up, in order to maximize the benefit of
4 the continuing discount on maintenance costs for on-premises product.

5 122. FE 9 and FE 5, both Directors of Customer Success at Oracle from 2016 to 2018
6 and whose teams were responsible for customer adoption and expansions, related that many of the
7 cloud contracts were called “dead on arrivals” or “DOA,” because when it came time to renew, the
8 customers would refuse and, instead, say that they only bought the cloud product because they got
9 a discount on another product they actually wanted. According to both FE 9 and FE 5, at some
10 point Oracle changed the nomenclature from “dead on arrival” to “no plan adoption” or “financial
11 deal” because of the connotation that Oracle’s sales teams were selling products that were not
12 going to be used.

13 123. FE 5’s and FE 9’s group would reach out to customers approximately one quarter
14 before they were up for renewal to check on the health of the account. They would hear that the
15 customers had never used their cloud products. FE 9 explained that customers would tell FE 9’s
16 group that they had gotten cloud product in order to get a better deal on another product. FE 9
17 corroborated the accounts of other former employees and stated that a customer would be quoted
18 a high price for just an on-premises product and then quoted a lower price for the on-premises
19 product combined with cloud. The customer would take the second option because it was cheaper
20 even if they had no intention of using the cloud.

21 124. Enterprise Resource Planning (ERP) was one of Oracle’s most important cloud
22 products, with Defendant Hurd identifying it as the “most important application segment in the
23 world” and stating that “ERP is one of those [cloud products] that we’re particularly focused in on
24 here.” With regard to Oracle’s ERP cloud product, customers told FE 9’s group that they already
25 had an ERP system and did not want to use Oracle’s. FE 5 corroborated that customers would
26 admit that they had only purchased cloud, including ERP, to get a discount on on-premises
27 products. These customers, according to FE 5, “didn’t have any intention to use it. They were just
28 bundling it together to reduce their overall costs.” FE 5 described how a lot of the cloud contracts

1 major concern for investors is the long-term growth of cloud revenue, particularly the SaaS
2 business, given the revenue miss and lower guide.” *Dow Jones Newswires* also reported that
3 “Disappointment over Oracle results triggers downgrade, price cuts,” and “[a]nalysts were
4 sounding some alarm after Oracle Corp. literally clouded up the view on a vital metric for growth,
5 disappointing investors and analysts over both its results and forecast.”

6 157. Investors and analysts also connected the disclosure to Oracle’s sales practices,
7 including the *Business Insider*, which noted in a December 15, 2017 article that “there are some
8 signs that *some of Oracle’s customers are fed up with some of its hard-nosed sales tactics.*”
9 Additionally JMP analysts noted in a December 15, 2017 report that “*many customers are irate*
10 *with Oracle due to auditing practices* on the technology side of the business and have already
11 placed their bets on AWS, Microsoft Azure, or Google Cloud Platform.”

12 158. In response to Defendants’ disclosures, Oracle stock declined by approximately
13 4%, from \$50.19 per share on December 14, 2017, to close at \$48.30 per share on December 15.

14 2. On March 19, 2018, Oracle Reports That Its Cloud Growth Slowed 15 Even More Significantly

16 159. On March 19, 2018, Oracle issued its third quarter 2018 financial results, disclosing
17 that the Company’s cloud growth had slowed even more significantly to only 32%. Again,
18 Oracle’s reported cloud revenue growth stood in stark contrast to its competitors. In comparison,
19 for the same quarter, Microsoft announced cloud growth of 98% and Google experienced 85%
20 cloud revenue growth. Oracle’s cloud margins were again disappointing, coming in at 58.1%,
21 which is far from the 80% Defendants had assured investors Oracle would achieve. In addition,
22 Oracle admitted that it expected additional deceleration of the Company’s cloud business, with
23 Catz telling investors on the Company’s earnings call that cloud revenues are “expected to grow
24 19% to 23% in USD, 17% to 21% in constant currency,” well below the market’s expectations.

25 160. Analysts and commentators expressed deepening concern about Oracle’s cloud
26 business. For instance, in a March 20, 2018 article entitled “Oracle’s cloud biz heading in the
27 wrong direction right now,” *TechCrunch* reported that “Oracle’s cloud numbers could be reason
28 for concern [T]he general trend from Oracle seems contrary to the eye-popping growth

1 reported on June 19 that Oracle’s move was a “[r]adical change in disclosure,” while
2 Oppenheimer analysts reported on June 20 that the change was “a *red flag*” that “masks visibility
3 and raises concerns about the performance and trajectory of the cloud business.” JPMorgan
4 analysts similarly reported on June 20 that “*Oracle’s sudden decision to discontinue the*
5 *disclosure of detailed cloud revenue obfuscates one of the most important metrics to gauge the*
6 *cloud transition story.*” (emphasis in original).

7 171. Analysts also reported that Oracle’s stated rationale for the move – namely, that it
8 was hard to distinguish cloud revenue from more traditional on-premises revenue – was not
9 credible. For instance, *TechCrunch* reported on June 20, 2018 that John Dinsdale, an analyst with
10 Synergy Research, a firm that analyzes the cloud market, stated, “when a company chooses to
11 reduce the amount of financial detail it shares on its key strategic initiatives, that is not a good
12 sign. I think one of the justifications put forward is that is becoming difficult to differentiate
13 between cloud and non-cloud revenues. If that is indeed what Oracle is claiming, *I have a hard*
14 *time buying into that argument. Its competitors are all moving in the opposite direction.*”
15 Confirming the point, *TechCrunch* reported that “the bigger players have been more open about
16 this. For instance, in its most recent earnings report, Microsoft reported its Azure cloud revenue
17 grew 93 percent. Amazon reported its cloud revenue from AWS was up 49 percent to \$5.4 billion
18 in revenue, getting very specific about the revenue number.”

19 172. Other analysts agreed that Oracle’s explanation was not credible – and further
20 reported that Oracle’s radical disclosure change undermined Defendants’ prior statements. For
21 example, Deutsche Bank reported on June 20, 2018 that:

22 The decision to stop disclosing any key cloud metric is *at odds with Oracle’s own*
23 *multi-year effort to pitch itself as a leading cloud vendor* and materially limits
24 investor visibility into Oracle’s growth engine *We’re not convinced by*
25 *Oracle’s explanation that the on-premise and cloud boundaries are blurring. . . .*
This move implies that Oracle’s cloud growth is largely coming from existing
database/apps migrations, not new logos or workloads

26 173. Similarly, on June 20, 2018, JMP analysts reported that, “We think it is worth
27 remembering that, as little as three quarters ago on the F1Q18 earnings call, Oracle was focusing
28 investors on cloud growth.”

1 The issue with these two scenarios is that these deals do not represent customer
2 demand for Oracle's cloud solutions. ... These scenarios are what Oracle means
3 when they refer to cloud sales to existing on-prem customers as new workstreams.
4 It is code for an existing customer buying a cloud solution they did not require and
5 that is not replacing a current Oracle on-premise licenses product set. Oracle's hope
6 is that the customer will use the solution since they have the right to do so and will
7 hopefully find value and renew and expand the service in the future. This is a key
8 distinction between the true customer-driven demand vs. a coerced trial period that
9 may lead to demand.

10 177. As a result of Oracle's revelations that its cloud business growth had ground to a
11 near-halt, the price of Oracle stock fell approximately 7.5%, from \$46.27 per share on June 19,
12 2018 to \$42.82 per share on June 20, 2018, on high trading volume.

13 **VI. ADDITIONAL ALLEGATIONS OF SCIENTER**

14 178. Numerous facts, in addition to those discussed above, support a strong inference
15 that Defendants knew, or were deliberately reckless in not knowing, that Oracle's cloud growth
16 and revenues were fueled by the improper and extortionate sales and audit practices detailed below.

17 **A. Defendants Knew And Had Access To Information Undermining Their 18 Statements to Investors**

19 179. Defendants knew and had access to information demonstrating that Oracle
20 generated cloud revenue growth through audits and attached deals. As detailed above, numerous
21 former Oracle employees, including FE 1, FE 3, and FE 7 explained that Defendants Hurd and
22 Catz approved Oracle's engineered cloud deals through the DAS system. As these former Oracle
23 employees explained, entries on DAS made clear whether a cloud deal was closed using the ABC
24 scheme, as well as whether it was an attached deal. DAS entries specified whether a deal was
25 audit-driven, whether LMS was engaged as part of the sales process, and whether steep discounts
26 were requested as part of an attached deal. Moreover, multiple former Oracle employees
27 independently confirmed that Defendants Hurd or Catz had to sign off on large deals and deals
28 that included a steep discount, as virtually all attached deals did. FE 1 further stated that he would
see Hurd's and Catz's names on approvals of "compliance" deals in the DAS system and in
approval notifications that were released once Hurd or Catz signed off on the deal. Likewise, FE
3 stated that 80% of FE 3's engineered deals went to Hurd's office for approval and that he
personally had "audit cloud deals," clearly marked as such, that were approved by Hurd.

1 180. FE 1 also described presentations he prepared specifically for Hurd's consumption
2 that "would very clearly say that LMS was engaged" on cloud deals and that "they were
3 compliance deals." FE 2 similarly reported that presentations going to Hurd's direct reports
4 showed that 90-95% of the Company's North American cloud sales had no use cases associated
5 with them, demonstrating that they were not driven by actual customer need. FE 2 stated that
6 "[a]mong all of Hurd's direct reports, there was absolute awareness that there were issues with the
7 quality of the cloud revenue." FE 2 stated, "I saw presentations that went to Hurd's directs. I saw
8 the info they were receiving about deal quality and it was absolutely something that was
9 discussed."

10 **B. Prior To Making Their Class Period Misstatements And Omissions,**
11 **Defendants Were Informed Of Allegations That Oracle Generated**
12 **Artificial Cloud Revenues Through Coercive Audits And Sales Tactics**

13 181. Both prior to and during the Class Period, multiple sources informed Defendants of
14 Oracle's illicit audit and sales activities designed to inflate the Company's cloud revenues. For
15 example, as discussed above, on May 7, 2014, Clear Licensing representatives met with high-level
16 Oracle executives, including Oracle's Senior Director Global Operations within LMS, and
17 informed them of LMS's "questionable sales tactics," with "LMS activity leading to sales
18 engagement." See ¶56. Later, on November 3, 2014, Clear Licensing sent Oracle's Senior
19 Director Global Operations a written report providing the results of Clear Licensing's survey of a
20 hundred Oracle customers, together with summaries of customer accounts bolstering Clear
21 Licensing's findings of LMS's abusive audit and sales practices. *Id.* Thereafter, on January 6,
22 2015, after having received no meaningful response from the Company, Clear Licensing sent a
23 letter to Defendant Ellison and Oracle's Board, including Defendants Hurd and Catz, informing
24 them of the customer survey results, expressing concern that Oracle's audits were being used to
25 improperly generate cloud revenues, and warning them of Oracle's inability to meet its stated \$1
26 billion cloud sales target next year if these practices continued to go unaddressed. See ¶57.

27 182. Defendants also knew and had access to media reports published prior to and during
28 the Class Period, which the Company denied, detailing Oracle's coercive audit and sales practices.

1 For example, immediately following the public release of Clear Licensing’s January 6, 2015 letter,
2 multiple media outlets and commentators published follow-up articles and reports about Clear
3 Licensing Counsel’s “scathing report” and prediction “that Oracle will struggle to move to the
4 cloud unless it changes its ways.” *See* ¶59. Months later, the financial press published additional
5 reports recounting allegations from various sources, including unnamed Oracle customers, that the
6 Company was misusing its “audit” process to generate artificial cloud revenues, including
7 pressuring customers to buy “cloud products they don’t need.” *See* ¶60.

8 183. Defendants were further informed of allegations of Oracle’s coercive audit and
9 sales tactics prior to the Class Period through the Chilean regulator FNE’s comprehensive
10 investigation, which ultimately found that Oracle pushed cloud-based products to resolve audits
11 even when the customer did not want cloud. *See* ¶135-146. Specifically, in September 2015, the
12 FNE informed Oracle that it had opened an investigation into Oracle’s licensing and audit
13 practices. *See* ¶137. During its investigation FNE specifically asked Oracle for information
14 concerning its auditing practices and attached deals, including: (i) documents or internal
15 presentations related to sales as a result of an audit; (ii) policies related to the promotion of Oracle
16 products to customers negotiating with LMS; and (iii) information concerning the amount of sales
17 generated through audits or “true up” processes. *See* ¶140. That Defendants made their
18 misstatements and omissions in the midst of a regulatory investigation and in the face of specific
19 accusations of wrongdoing further supports the scienter inference.

20 **C. Defendants Specifically Denied The Allegations That They Were Using**
21 **Audits To Close Cloud Sales**

22 184. Both prior to and during the Class Period, Defendants were also directly asked
23 about allegations regarding the Company’s abusive sales and auditing practices to boost cloud
24 revenue, and in response, they denied that there was any misconduct and falsely attributed the
25 Company’s cloud business growth to legitimate business factors.

26 185. As set forth above, prior to making their Class Period misstatements and omissions,
27 Defendants were informed by, among others, Clear Licensing, media reports and the FNE of
28 allegations of Oracle’s improper licensing and audit practices. However, with each of these

1 data, it is going to be difficult for investors to correctly appraise the more valuable recurring Cloud
2 business.”³⁸

3 195. Analysts’ contemporaneous reaction to Oracle’s about-face change in its financial
4 reporting further demonstrates its suspicious nature. William Blair concluded the change was “an
5 attempt to pull the proverbial wool over investors’ eyes—particularly related to cloud sales.”
6 Oppenheimer identified the reporting change as “a red flag” that “masks visibility and raises
7 concerns about the performance and trajectory of the cloud business.” JPMorgan similarly
8 characterized the change as an attempt to “obfuscate[] one of the most important metrics to gauge
9 the cloud transition story.” and *The Upper Edge* characterized the change as “suggest[ing] that
10 [Oracle] may have something to hide.” Analysts also correctly found Oracle’s stated rationale for
11 the move – i.e., that it is difficult to distinguish cloud revenue from traditional on-premises revenue
12 – dubious, stating that they had “a hard time buying into that argument” and that they were “not
13 convinced by Oracle’s explanation,” particularly given Oracle’s “multi-year effort to pitch itself
14 as a leading cloud vendor” and that Oracle’s cloud competitors were all reporting these figures.

15 **F. Defendants’ Statements Touting Oracle’s Cloud Growth Concerned The**
16 **Single Most Important Issue Facing The Company During The Class**
17 **Period**

18 196. Oracle’s “move to cloud” was, as Defendant Catz publicly told investors, “the
19 biggest and most important opportunity in our Company’s history.” Defendant Catz echoed these
20 sentiments at Oracle OpenWorld in the beginning of the Class Period, stating that “[m]oving to the
21 cloud [wa]s the single largest opportunity and we have to face it.”³⁹ Defendant Hurd likewise
22 stated that “[t]his movement to cloud, this is an inevitable destination as opposed to an interesting
23 turn,”⁴⁰ and that “[t]he move to the cloud is not just a technical thing; this is a business model,

24 _____
25 ³⁸ Jordan Novet, “Oracle Falls 7% After Company Reduced Visibility Into Its Cloud Business,”
CNBC (June 20, 2018).

26 ³⁹ Sohini Bagchi, “Digital India Driving Growth For Oracle: CEO Safra Catz,” *CXOtoday.com*
27 (May 9, 2017).

28 ⁴⁰ Stephanie Condon, “Oracle CEO Mark Hurd: AI Shouldn’t be a standalone application,” *ZDNet*
(October 2, 2017).

1 generational change about how we think about IT.”⁴¹ Defendant Hurd further stated that the cloud
2 market presented a “tremendous opportunity for us to grow and blow way past \$10 billion” in
3 revenue.⁴² Likewise, Defendant Ellison told investors during the Company’s November 2017
4 annual shareholders meeting that “[w]e expect the bulk of our business going forward, and the
5 bulk of our growth will be driven by our public cloud business.”

6 197. Oracle’s need to generate revenues through its new cloud offerings was particularly
7 acute because demand for its on premises products was declining. Wall Street recognized the
8 importance of Oracle’s transition to the cloud. As the USA Today explained, “Oracle’s future and
9 relevance [wa]s pinned on its ability to become a bigger player in cloud.”⁴³ In December 2017,
10 *Forbes* further described how “Oracle’s cloud segment has been the only revenue stream to witness
11 growth in recent years,” adding that the “trend is likely to continue in the coming years.”⁴⁴ Media
12 reports additionally stated that the “cloud has become a matter of existential importance to Oracle
13 as its legacy business of selling software licenses and hardware products erodes in the face of a
14 growing enterprise preference for usage-based application and infrastructure subscriptions.”⁴⁵
15 Analysts further explained that “[w]ithout aggressive action to significantly increase non-database
16 [i.e., cloud] revenue, we do not believe Oracle can offset the oncoming decline in commercial
17 database revenue fast enough to maintain its present valuation,” adding that “Oracle needs an even
18 more radical and rapid organizational and cultural shift toward ‘cloud-first.’”⁴⁶ Finally, further
19 demonstrating its importance to the Company and its investors, Oracle’s cloud revenues were
20

21 ⁴¹ “Mark Hurd Chief Executive Officer” Oracle NetSuite company profile.

22 ⁴² Anita Balakrishnan, “Oracle CEO pushes back on challenge from Salesforce: ‘Are you kidding
me?’” *CNBC* (May 4, 2017).

23 ⁴³ John Swartz, “Oracle’s Mark Hurd builds a cloud arsenal to take on Amazon,” *USA Today* (April
24 26, 2017).

25 ⁴⁴ Trefis Team, “Oracle Earnings Preview: Cloud-Based Segments To Continue To Drive
Growth,” *Forbes* (December 12, 2017).

26 ⁴⁵ Kurt Marko, “Oracle Cloud World epiphany: Focusing on applications and data, not
27 infrastructure. Yet.” *diginomica* (January 24, 2017).

28 ⁴⁶ John Freeman et al., “The Death Of The Commercial Database: Oracle’s Dilemma,” *Seeking
Alpha* (February 10, 2017).

1 discussed by Defendants and investors on every earnings call during the Class Period, occupying
2 the vast majority of the executives' discussion and analyst inquiry.

3 198. Given the "existential" import of cloud to Oracle and its future, Defendants knew
4 – or were deliberately reckless in not knowing – that its cloud revenues were driven by illusory
5 "sales" completed through coercive audits and attached deals.

6 **G. Defendants Stated That They Were Deeply Focused On Oracle's Cloud**
7 **Revenues**

8 199. Defendants stated that they were acutely focused on the Company's cloud revenues.
9 Beginning in late 2012, Defendant Ellison stated that "over the next couple of years senior
10 management down to individual programmers and sales people are focused on one thing: selling
11 applications in the cloud, selling our platform in the cloud and selling our infrastructure in the
12 cloud," echoing that the Company was "laser-light focused" on cloud.⁴⁷ A year later, Defendant
13 Hurd reinforced to investors that "[w]e are very focused on the cloud."⁴⁸ Once again, in 2016,
14 Defendant Catz told investors that, "as you know, our focus is now on cloud" and that "[w]e had
15 leading products to begin with, but we started and rewrote them all, focused exclusively – really
16 focused on the cloud." During the Class Period, the Company's executives continued to assure
17 investors that they were singularly focused on "cloud revenues," with Defendant Hurd telling
18 investors that his "focus" was on the "transformation to the cloud."⁴⁹ That Defendants were, by
19 their own admissions, "very focused" and "laser-focused" on the Company's cloud business and
20 revenues further strengthens the scienter inference.

21
22
23
24 ⁴⁷ Steffanie Marchese, "CNBC EXCLUSIVE: CNBC TRANSCRIPT: ORACLE CEO LARRY
25 ELLISON SITS DOWN ONE-ON-ONE WITH MARIA BARTIROMO TODAY ON CNBC,"
CNBC (October 2, 2012).

26 ⁴⁸ Rachel King, "Oracle's Hurd defends cloud strategy in light of exec shuffle," *ZDNet* (September
27 29, 2014).

28 ⁴⁹ Steven Bertoni, "PODCAST: Oracle CEO Mark Hurd On How A Tech Giant Can Stay Nimble
and Bet Big On Future Trends," *Forbes* (February 27, 2018).

1 **H. Defendant Kurian Sold Hundreds Of Millions Of Dollars' Worth Of Oracle**
 2 **Stock During The Class Period**

3 200. Defendant Kurian was, by his own account, responsible for leading Oracle's
 4 product transformation from on-site products to cloud services. See ¶33. At the same time that
 5 Defendants were touting the Company's cloud business, Kurian – who was deeply attuned to the
 6 true sources of Oracle's cloud revenues – was selling millions of his personal shares. Indeed,
 7 during the Class Period, Defendant Kurian exercised his options and sold nearly 4 million shares,
 8 reaping over **\$191 million** in gross proceeds from insider sales.

9 201. Defendant Kurian's sale transactions, which were made over the open market and
 10 not pursuant to any 10b5-1 plan, are set forth below:

Defendant	Transaction Dates	Shares Sold	Price Per Share	Total Value (\$)
KURIAN	07/18/17	750,000	\$50.46	\$37,843,275
KURIAN	01/18/18	1,500,000	\$50.29	\$75,433,950
KURIAN	01/18/18	200,000	\$50.29	\$10,057,860
KURIAN	04/23/18	137,843	\$46.13	\$6,358,698
KURIAN	04/26/18	300,000	\$46.06	\$13,818,000
KURIAN	04/27/18	25,600	\$46.06	\$1,179,136
KURIAN	04/30/18	57,155	\$46.00	\$2,629,130
KURIAN	05/02/18	91,888	\$45.85	\$4,213,065
KURIAN	05/02/18	253,877	\$45.85	\$11,640,260
KURIAN	05/03/18	333,637	\$45.15	\$15,063,711
KURIAN	05/04/18	300,000	\$45.15	\$13,545,000
Kurian Totals		3,950,000		\$191,782,084

21
 22
 23 202. Kurian's sales, both individually and collectively, were unusual and suspicious in
 24 size and timing. For instance, in the first transaction that occurred on July 18, 2017, Kurian sold
 25 750,000 shares at over \$50 per share, reaping over \$37.8 million in gross proceeds. The sale –
 26 which represented nearly 7% of Kurian's entire holdings – was made shortly after the Company
 27 announced positive fourth quarter fiscal year 2017 results on June 21, 2017, including that cloud
 28

1 revenues had increased by 58% to \$1.4 billion, that sent the Oracle's shares to a historic high for
2 the Company.

3 203. Similarly, with regard to the second transaction on January 18, 2018, Kurian sold
4 1.7 million shares again at a share price of over \$50 for gross proceeds of approximately \$85.5
5 million. This sale represented about 15% of Defendant Kurian's inventory at that time. The sale
6 was made toward the end of the third quarter of fiscal year 2018, the period for which Defendants
7 would later disclose – *after* Kurian unloaded his personal shares – that Oracle's cloud revenue
8 growth had stagnated and that the Company forecasted significantly slower sales growth for its
9 cloud business than its competitors. When Oracle ultimately revealed this negative news to
10 investors on March 19, 2018, the Company's shares plummeted by over 9.4% to \$47.05. Thus,
11 Defendant Kurian's January 18, 2018 sale allowed him to avoid this loss and instead cash out on
12 the artificially inflated stock price resulting from Defendants' misrepresentations and omissions.

13 204. Likewise, Kurian's flurry of sales made over the course of 10 trading days in late
14 April and early May 2018, amounted to 1.5 million shares, or 15.6% of Kurian's holdings, for
15 gross proceeds of over \$68 million. Defendant Kurian made these sales at the end of the fourth
16 quarter of fiscal year 2018, the period for which the public would later learn – *after* Kurian dumped
17 his personal shares on the market – that Oracle's cloud growth had been artificially inflated as a
18 result of the improper sales tactics described herein. Significantly, Kurian's sales were executed at
19 a weighted average price of \$45.63, a stark difference from the close price at the end of the Class
20 Period on June 20, 2018 of \$42.82, thereby yielding Kurian an additional several million dollars
21 as a result of Defendants' fraud.

22 205. Finally, Defendant Kurian's sales were inconsistent with his prior trading history.
23 Defendant Kurian sold a higher percentage of his available shares during the Class Period than in
24 the previous period of the same length. Indeed, Defendant Kurian sold **42.5%** of his available
25 shares during the Class Period – which was nearly three-times the percentage of shares that he sold
26 in the prior period of equal length. Specifically, during the prior period of the same length
27 (December 8, 2015 to March 14, 2017), Kurian sold only 1,104,300 shares, or **15.5%** of his
28 available shares, for gross proceeds of approximately \$45.7 million.

1 to how Oracle's cloud revenue was being generated by its sales team, including the volume of
2 Oracle's revenue generated through engineered deals such as Audit, Bargain, Close deals. *See*
3 ¶¶110-114, 133-34. Former employees similarly reported that presentations delivered and prepared
4 for Hurd made clear that Oracle was using engineered deals to drive cloud sales. These
5 presentations "would very clearly say that LMS was engaged" on cloud deals, that those deals
6 were "compliance deals," and that 90-95% of the Company's North American cloud sales had no
7 legitimate "use case." *Id.* In addition, Hurd was actively involved in reviewing and approving
8 specific sales transactions, including engineered deals. Former employees reported that Hurd
9 reviewed and approved sales in excess of \$5 million, as demonstrated by entries in Oracle's DAS
10 database and internal documents, and that those sales included engineered deals. *Id.* Former
11 employees stated that the DAS entries for deals approved by Hurd clearly indicated whether
12 approved deals were audit-driven or attached. *See* ¶¶110, 111, 134. In addition, in Hurd's role as a
13 Board Director, he corresponded with industry participants regarding Oracle's licensing, audit and
14 sales practices, and the letter from Clear Licensing's Counsel was addressed to him as a Board
15 member. *See* ¶¶57, 58. In addition, Hurd signed and certified the purported accuracy of each of
16 the Company's quarterly and annual filings during the Class Period.

17
18 (c) **Defendant Ellison** co-founded Oracle, was its longtime CEO and Board
19 Chairman, and continues to remain actively involved in the Company's day-to-day operations as
20 its Chief Technology Officer and one of its Board Directors. In public filings, Oracle states that
21 Ellison "continues to lead and oversee our product engineering, technology development and
22 strategy" and his "familiarity with and knowledge of [Oracle's] technologies and product offerings
23 are unmatched." Ellison's active involvement in designing and implementing Oracle's strategy to
24 transition its customers from on premise software products to the Company's cloud offerings is
25 confirmed by Defendant Catz who credited Ellison as "le[ading] the transformation to the cloud,"
26 and has stated that Ellison is still "in charge" at Oracle even after becoming the Company's CTO
27 in 2014, noting "don't let titles fool you." Ellison also regularly spoke to the financial press about
28 Oracle's pivot to the cloud. Ellison further claimed to have familiarity with the quality of and

1 customer experience with Oracle's cloud products. Ellison likewise regularly spoke about and
2 held himself out as knowledgeable to both investors and analysts about the Company's reported
3 financial results and forecasts, including Oracle's growth rates for its cloud business and drivers
4 for such growth, as well as customer renewal rates. Ellison also directed the manner in which
5 Oracle's financials would be reported, including making the decision to no longer separately report
6 cloud revenues in June 2018. In addition, in Ellison's role as a Board Director, Ellison
7 corresponded with industry participants regarding Oracle's licensing, audit and sales practices, and
8 the letter from Clear Licensing's Counsel was addressed to him. *See* ¶¶57, 58. In addition, Ellison
9 signed the Company's 2017 Annual Report as a member of the Company's Board of Directors.

10
11 (d) **Defendant Kurian** by his own account, "led [the] transformation of
12 Oracle's products with [the] introduction of leading suite of Cloud Services over 10 years." Market
13 commentators similarly recognized Kurian's critical role in Oracle's cloud transition, noting
14 "Kurian's chief responsibility has been to transition Oracle's traditional software -- which usually
15 sits on corporate clients' own servers -- to the cloud-computing age."⁵⁰ Kurian was actively
16 involved in carrying out the day-to-day business associated with Oracle's cloud products. Kurian's
17 colleagues described him as a hands-on manager, stating that he "likes to get involved in the
18 minutia of various projects" and "does not sufficiently delegate responsibility." *See* ¶33. Kurian
19 also dictated the new features Oracle added to existing cloud products. At press and industry
20 conferences, Kurian frequently spoke about and held himself out as knowledgeable about the
21 Company's cloud business, including its business partners, "tremendous growth," existing demand
22 and new customers.

23 (e) **Defendant Bond** oversaw Oracle's investor relations and regularly spoke
24 to investors about Oracle's business and the sources of its cloud revenues, including the driving
25 factors for customers switching from on-premises to cloud, Oracle's cloud growth and customer
26 renewals. Bond also repeatedly discussed and held himself out as knowledgeable about the

27
28 ⁵⁰ "Oracle's Kurian Is Said to Be at Odds With Ellison on Cloud," *DataCenter Knowledge* (Sep.
12, 2018).

1 propriety of Oracle’s licensing, auditing and sales practices, including by continually responding
2 to media reports and analyst inquiries regarding the Company using audits to boost cloud sales.

3 (f) **Defendant Miranda** was directly involved in operations, reporting, and
4 investor relations, as well as executing on the Company’s strategic initiatives with respect to its
5 cloud product suite. The Company’s website acknowledges that Miranda was “responsible for
6 leading all aspects of product strategy, product development, and product delivery for the entire
7 portfolio of Oracle Applications.” Oracle’s website further states that “Miranda’s primary focus
8 is on delivering the industry’s most complete, proven, and innovative set of cloud solutions.”
9 Miranda also publicly claimed to have knowledge about the quality and features of Oracle’s cloud
10 products. Miranda also frequently spoke to investors about Oracle’s cloud business, professing to
11 know the reasons why customers were purportedly choosing Oracle’s cloud products.
12

13 208. The Executive Defendants’ deep involvement in the Company’s operations and
14 cloud business in addition to the many other factors discussed above further strengthens their
15 scienter inference.

16 **VII. DEFENDANTS’ MATERIALLY FALSE AND MISLEADING STATEMENTS AND**
17 **OMISSIONS**

18 **A. Defendants’ Materially False and Misleading Statements and Omissions**
19 **During Oracle’s Fiscal Third Quarter 2017**

20 209. The Class Period begins on March 15, 2017. On that day, Oracle issued a press
21 release announcing its financial results for the third quarter of fiscal year 2017, and filed that press
22 release with the SEC on Form 8-K. The press release stressed the Company’s growing cloud
23 revenue, stating that, “Total Cloud Revenues, including infrastructure as a service (IaaS), were
24 \$1.2 billion, up 62% in U.S. dollars [year-over-year] and up 63% in constant currency.”

25 210. Oracle’s March 15, 2017 press release also quoted Catz, who emphasized Oracle’s
26 “hypergrowth” in cloud – including 85% for two key cloud businesses, SaaS and PaaS – and the
27 positive impact of this volume growth on “nearly every important non-GAAP business metric,”
28 including both cloud and total margins:

1 The *hyper-growth we continue to experience in the cloud has rapidly drive both*
 2 *our SaaS and PaaS businesses to scale* [O]ur SaaS and PaaS businesses grew
 3 at the *astonishing rate of 85%* in Q3. . . . *Our new, large, fast growing, high-*
 4 *margin cloud businesses are driving Oracle’s total revenue and earnings up and*
 5 *improving nearly every important non-GAAP business metric you care to inspect;*
 6 total revenue is up, margins are up, operating income is up, net income is up, EPS
 7 is up. Take a look. Q3 was a very strong quarter.

8 211. These statements were materially false and misleading when made. It was
 9 misleading for Defendants to report that Oracle’s cloud revenues were \$1.2 billion, and to state
 10 that Oracle’s cloud business had experienced “hypergrowth,” including 62% growth in total cloud
 11 revenue year -over-year and “astonishing” 85% year-over-year growth in SaaS and PaaS while
 12 failing to disclose that: (1) a material portion of the cloud revenue was produced through
 13 “financially engineered deals” created by Oracle’s use of the coercive “Audit, Bargain, Close” and
 14 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
 15 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
 16 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
 17 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
 18 was not sustainable.

19 212. Also on March 15, 2017, Oracle held its fiscal third quarter 2017 earnings
 20 conference call. On that call, Catz trumpeted Oracle’s achievement of a key milestone in cloud,
 21 namely that cloud growth was now outpacing declines in the legacy on-premises business:

22 Our pivot to the cloud is now clearly in full swing. *We continue to see outside*
 23 *growth rates in our cloud business, especially when compared with our key*
 24 *competitors who are all seeing slowing growth; but more importantly, the increase*
 25 *in revenue from our cloud business has overtaken new software license declines*
 26 *on an annual basis*

27 213. On that same call, Hurd also highlighted Oracle’s cloud growth, stating, “Cloud
 28 revenue was up 72% and were now at an annualized \$5 billion run rate SaaS/PaaS revenue
 29 was up 86%.” Hurd further stated that Oracle was “*the fastest-growing scale cloud business in*
 30 *the world . . .*”

31 214. Finally, on Oracle’s March 15, 2017 earnings call, Ellison also told investors that
 32 Oracle’s cloud business was “growing rapidly.” Ellison stated, “*SaaS and PaaS are large, rapidly*
 33 *growing businesses for us. Together SaaS and PaaS grew 85% this past quarter,* but soon

1 infrastructure as a service will be growing even faster, and before long infrastructure as a service
2 will become Oracle's largest cloud business. In summary, *all of Oracle's cloud businesses are*
3 *growing rapidly*"

4 215. These statements were materially false and misleading when made. It was
5 misleading for Defendants to state that Oracle was seeing "outside growth rates in its cloud
6 business," was "the fastest-growing scale cloud business in the world," and was "growing rapidly,"
7 and to report revenue growth rates noted above, while failing to disclose that (1) a material portion
8 of the cloud revenue was produced through "financially engineered deals" created by Oracle's use
9 of the coercive "Audit, Bargain, Close" and "attached" deal tactics; (2) the revenue produced
10 through these deals was artificial because it did not result from true purchases of Oracle's cloud
11 products, but rather resulted from clients purchasing a discount on audit penalties or on-premises
12 products; and (3) consequently, a material portion of the reported cloud revenue and revenue
13 growth did not consist of true cloud sales, and was not sustainable.

14 216. Analysts and investors reacted positively to Defendants' misleading statements
15 about Oracle's cloud growth. For instance, a Cannacord analyst report dated March 15, 2017,
16 stated that "Oracle, as it always does, spoke bullishly about its push into IaaS to counter Amazon
17 and for now investors are believers." A Macquarie analyst report dated March 15, 2017 stated that
18 "Oracle reported a solid third quarter, one of its best reports in years, even as the co. heads towards
19 the tipping point in its cloud transition when cloud growth and margin scale are offsetting declines
20 in new license revenues." Similarly, a Barclays analyst report dated March 16, 2017 stated "An
21 Inflection Point? Oracle has had a tough transition to the cloud. However, management is now
22 guiding for double-digit EPS growth in FY18 (partly helped by cost benefits from the recent
23 hardware restructuring) and talks about increasing momentum around its IaaS business." A BTIG
24 analyst report dated March 16, 2017 stated of Oracle's delivered strong F3Q17 results, that "we
25 are continuing to see signs that we are at a material inflection point" in the Company's transition
26 to cloud, and we "expect to see meaningful earnings growth in FY18 for the first time in three
27 fiscal years" as a result of Oracle's "strong cloud revenue growth."

1 217. As a result of Defendants’ representations, Oracle’s stock price significantly
2 increased from \$41.70 on March 15, 2017 to \$44.29 on March 16, 2017. Deutsche Bank reported
3 on March 16, 2017 that “[t]he *key catalyst* for the after-market rally in the stock is the Cloud
4 growth.”

5 218. On March 17, 2017, Oracle filed its financial results for the third quarter of fiscal
6 2017 with the SEC on Form 10-Q. Oracle’s March 17, 2017 Form 10-Q was signed by Defendants
7 Catz and Hurd. The Form 10-Q reported that total cloud revenues for the three months ended
8 February 28, 2017 were \$1.189 billion, and for the nine months ended February 28, 2017 were
9 \$3.211 billion.

10 219. These statements were materially false and misleading when made. It was
11 misleading for Defendants to report total cloud revenues for the three months ended February 28,
12 2017 were \$1.189 billion and for the nine months ended February 28, 2017 were \$3.211 billion,
13 while failing to disclose that: (1) a material portion of the cloud revenue was produced through
14 “financially engineered deals” created by Oracle’s use of the coercive “Audit, Bargain, Close” and
15 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
16 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
17 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
18 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
19 was not sustainable.

20 220. On May 4, 2017, Oracle held a press conference announcing the addition of new
21 partners to its Oracle Network Cloud Service, during which Defendant Kurian told investors that
22 Oracle “continue[s] to see tremendous growth across our cloud business.” Defendant Kurian was
23 quoted in a related press release from the same day as stating that “[w]e continue to see tremendous
24 growth across our cloud business.”

25 221. These statements were materially false and misleading when made. It was
26 misleading for Defendant Kurian to state that Oracle “continue[s] to see tremendous growth across
27 our cloud business” while failing to disclose that: (1) a material portion of the cloud revenue was
28 produced through “financially engineered deals” created by Oracle’s use of the coercive “Audit,

1 Bargain, Close” and “attached” deal tactics; (2) the revenue produced through these deals was
2 artificial because it did not result from true purchases of Oracle’s cloud products, but rather
3 resulted from clients purchasing a discount on audit penalties or on-premises products; and
4 (3) consequently, a material portion of the reported cloud revenue and revenue growth did not
5 consist of true cloud sales, and was not sustainable.

6 222. Additionally, on May 9, 2017, Defendant Bond presented at the Jefferies
7 Technology Group Investor Conference. Defendant Bond told investors that Oracle’s cloud growth
8 was driven by customers “willingly making a choice” to abandon a multi-vendor IT strategy and
9 consolidate their IT needs in Oracle, stating that “[a]s we move to cloud, the first thing that we see
10 is we start to address more of the customer spend. The customers are willingly making a choice,
11 where they’re forgoing their traditional multi-vendor strategy, spending money on software, then
12 another vendor for hardware, another for labor and so on to going to a single vendor. And that
13 product provider, in the case it’s Oracle, it does mean a fairly significant uplift in revenue for
14 Oracle.” Defendant Bond also told investors that “[t]he good news” was that “growth in cloud is
15 actually getting bigger.”

16 223. These statements were materially false and misleading when made. It was
17 misleading for Defendant Bond to state that Oracle’s cloud growth was being driven by “customers
18 [] willingly making a choice” to abandon a “multi vendor strategy” to consolidate with Oracle, and
19 that these customer decisions were creating a “significant uplift in revenue for Oracle,” without
20 disclosing that: (1) a material portion of Oracle’s cloud revenue was driven by “financially
21 engineered deals” that were based on Oracle’s use of the coercive “Audit, Bargain, Close” and
22 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
23 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
24 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
25 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
26 was not sustainable.

27 224. Defendant Bond was also asked by an analyst to “give us some sort of indication
28 as to what percentage of revenue and margin is associated with auditing practices of customers.”

1 **B. Defendants’ Materially False And Misleading Statements And Omissions**
2 **During Oracle’s Fiscal Fourth Quarter 2017**

3 227. On June 21, 2017, Oracle issued a press release announcing its fiscal fourth quarter
4 and full year 2017 results, and filed that press with the SEC on Form 8-K. The press release
5 emphasized that Oracle’s year-over-year cloud fourth quarter cloud revenues had increased
6 dramatically, stating that, “Total cloud revenues *were up 58%* [year-over-year] to \$1.4 billion, and
7 non-GAAP total cloud revenues *were up 64%* [year-over-year] to \$1.4 billion.” The press release
8 further highlighted that the Company’s year-over-year cloud full-year cloud revenues had also
9 increased dramatically, stating that, “Total cloud revenues *were up 60%* [year-over-year] to \$4.6
10 billion. Non-GAAP cloud revenues *were up 66%* [year-over-year] to \$4.7 billion.”

11 228. These statements were materially false and misleading when made. It was
12 misleading for Oracle to report that totally quarterly cloud revenues were up 58% to \$1.4 billion,
13 and total annual cloud revenues were up 60% to \$4.6 billion, without disclosing that: (1) a material
14 portion of Oracle’s cloud revenue was driven by “financially engineered deals” that were based on
15 Oracle’s use of the coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue
16 produced through these deals was artificial because it did not result from true purchases of Oracle’s
17 cloud products, but rather resulted from clients purchasing a discount on audit penalties or on-
18 premises products; and (3) consequently, a material portion of the reported cloud revenue and
19 revenue growth did not consist of true cloud sales, and was not sustainable.

20 229. The June 21, 2017 press release also quoted Catz, who stressed the “rapid adoption”
21 of Oracle’s cloud products and the “hyper-growth” of its business: “Our fourth quarter results
22 were very strong as revenue growth and earnings per share both substantially exceeded the high
23 end of guidance. . . . *We continue to experience rapid adoption of the Oracle Cloud led by the*
24 *75% growth in our SaaS business in Q4. This cloud hyper-growth is expanding our operating*
25 *margins*, and we expect earnings per share growth to accelerate in fiscal 2018.”

26 230. In that same press release, Hurd trumpeted the Company’s cloud revenues, and, in
27 particular, that Oracle had delivered on its ambitious promise to deliver \$2 billion in annual
28 recurring revenue for the 2017 fiscal year – with most of it supposedly booked during the Class

1 Period. This achievement marked another critical milestone in Oracle’s cloud transition that
2 persuaded investors the Company’s pivot to cloud was complete. “We sold \$855 million of new
3 annually recurring cloud revenue (ARR) in Q4, **putting us over our \$2 billion ARR bookings goal**
4 **for fiscal year 2017 We also delivered over \$1 billion in quarterly SaaS revenue for the first**
5 **time.** Next year is going to be even better. We expect to sell a lot more than \$2 billion in new cloud
6 ARR in fiscal year 2018.”

7 231. These statements were materially false and misleading when made. It was
8 misleading for Defendants to state that Oracle was experiencing “rapid adoption” of its cloud
9 products, “hyper-growth” of its cloud business, and to emphasize the purportedly ballooning cloud
10 sales figures set forth above, while failing to disclose that: (1) a material portion of Oracle’s cloud
11 revenue was driven by “financially engineered deals” that were based on Oracle’s use of the
12 coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue produced through
13 these deals was artificial because it did not result from true purchases of Oracle’s cloud products,
14 but rather resulted from clients purchasing a discount on audit penalties or on-premises products;
15 and (3) consequently, a material portion of the reported cloud revenue and revenue growth did not
16 consist of true cloud sales, and was not sustainable.

17 232. Also on June 21, 2017, Oracle held its fiscal fourth quarter and full year 2017
18 earnings call with investors. On that call, Catz told investors, “As you can see, we had a
19 tremendous quarter in just about every way, as cloud revenue, new software license and earnings
20 were all much better than expected. **The adoption by our customers of our products and services**
21 **is at an all-time high The cloud has become our predominant growth vehicle.”** Catz further
22 stated, “our tremendous growth resulted in SaaS revenue crossing the \$1 billion a quarter threshold
23 in Q4, having grown 76% in constant currency Cloud PaaS and IaaS revenue for the quarter
24 were \$403 million, up 45% from last year.” Catz further reported that “Total cloud revenues in the
25 quarter were \$1.4 billion, up 66% from last year,” and that “cloud billings grew 42% in U.S. dollars
26 this quarter.”

27 233. Similarly, Hurd highlighted Oracle’s growing cloud bookings, stating, “cloud
28 bookings, \$855 million. **It’s the best quarter we have ever had. It’s up 43% over what was a very**

1 reported cloud growth was driven by a short-term, “1-year” spike in revenue, but rather was built
2 on a base of “recurring revenue”:

3 ***So this is absolutely not a 1-year phenomena.*** In fact, what you should see, as this
4 goes on, is we will have less drag from the transition and the base will continue to
5 grow. And so this should really accelerate. And understand that in our PaaS-IaaS
6 business, we’re not even at scale. ***So as we really scale that up, profitability is
going to increase more quickly and revenues will be built on the base of another
recurring revenue – of the recurring revenue business.***

7 237. These statements were materially false and misleading when made. It was
8 misleading for Defendants Catz to emphasize the quality and sustainability of Oracle’s cloud
9 revenue, and state that the Company’s cloud growth was “absolutely not a 1-year phenomena,”
10 without disclosing that: (1) a material portion of Oracle’s cloud revenue was driven by “financially
11 engineered deals” that were based on Oracle’s use of the coercive “Audit, Bargain, Close” and
12 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
13 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
14 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
15 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
16 was not sustainable.

17 238. Analysts and investors reacted positively to Oracle’s announcement. *Tech Trader*
18 *Daily* reported on June 22, 2017 that analysts were “ga-ga during the conference call following the
19 report, responding to the results with phrases such as ‘really phenomenal,’ ‘impressive,’ ‘very
20 strong,’ and ‘really fabulous.’” In a June 26, 2017 article, *Barron’s* stated that Oracle “last week
21 wowed Wall Street with a financial report that put to rest fears of the company being rendered
22 obsolete by cloud computing.” On June 22, 2017, BTIG analysts reported that “Oracle delivered
23 excellent F4Q17 results with on-premise license to cloud transition now charging ahead at full
24 steam” and “it’s now clear that we’re at a material inflection point and a trendline has formed.”
25 On June 22, 2017 *Business Insider* article noted that “OracleCloud computing really is starting to
26 breathe new life into Oracle. The company had a blow-out Q4 2017 earnings Wednesday thanks
27 to 58% year-over-year growth for the quarter in cloud. A sunny outlook caused the stock to hit a
28 52-week high of \$51.85 on Thursday[.]”

1 239. As a result of Oracle’s disclosures, Oracle’s stock price increased from \$45.07 on
2 June 21, 2017 to \$48.93 on June 22, 2017. This included an increase of more than 10% in after-
3 hours trading, which *Dow Jones Institutional News* called “the stock’s biggest one-day gain in
4 two-and-a-half years, following a strong earnings report for its fiscal fourth quarter credited mostly
5 to its growing cloud business. That left the shares at 17 times adjusted forward earnings – the
6 highlight multiple Oracle has fetched since 2008.”

7 240. On June 27, 2017, Oracle filed its financial results for the fiscal year ended May
8 31, 2017 with the SEC on Form 10-K, which was signed by Defendants Catz and Hurd. The Form
9 10-K reported that total cloud revenues for the year ended May 31, 2017 was \$4.57 billion

10 241. This statement was materially false and misleading when made. It was misleading
11 for Defendants to report total cloud revenues for the year ended May 31, 2017 as \$4.57 billion
12 while failing to disclose that: (1) a material portion of the cloud revenue was produced through
13 “financially engineered deals” created by Oracle’s use of the coercive “Audit, Bargain, Close” and
14 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
15 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
16 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
17 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
18 was not sustainable.

19 **C. Defendants’ Materially False And Misleading Statements And Omissions**
20 **During Oracle’s Fiscal First Quarter 2018**

21 242. On September 14, 2017, Oracle issued a press release announcing its fiscal first
22 quarter 2018 results, and filed that press with the SEC on Form 8-K. The press release reported
23 substantial increases in Company’s year-over-year cloud growth, emphasizing that “Total Cloud
24 Revenues were up 51% [year-over-year] to \$1.5 billion.” The Company also highlighted to
25 investors that SaaS revenues were up 62% year-over-year to \$1.1 billion and PaaS and IaaS
26 revenues were up 28% year-over-year to \$400 million. In addition, Catz highlighted to investors
27 that Oracle was continuing to experience “sustained hyper-growth” in its cloud business: “*The*
28

1 *sustained hyper-growth in our multi-billion dollar cloud business continues to drive Oracle's*
2 *overall revenue and earnings higher and higher . . .”*

3 243. These statements were materially false and misleading when made. It was
4 misleading for Defendants to report that “Total Cloud Revenues were up 51% to \$1.5 billion,” and
5 state that Oracle’s cloud business was experiencing “sustained hyper-growth” that was driving
6 Oracle’s revenue and earnings higher, while failing to disclose that: (1) a material portion of
7 Oracle’s cloud revenue was driven by “financially engineered deals” that were based on Oracle’s
8 use of the coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue produced
9 through these deals was artificial because it did not result from true purchases of Oracle’s cloud
10 products, but rather resulted from clients purchasing a discount on audit penalties or on-premises
11 products; and (3) consequently, a material portion of the reported cloud revenue and revenue
12 growth did not consist of true cloud sales, and was not sustainable.

13 244. Also on September 14, 2017, Oracle held its fiscal first quarter 2018 earnings call
14 with investors. On that call, Catz stressed the “very, very strong” customer adoption of Oracle’s
15 cloud products and stated that this drove the Company’s outstanding revenue and earnings results:
16 “[a]s you can see, we had another good quarter. *Customer adoption of our cloud products and*
17 *services continue to be very, very strong*, and our on-premise business remains very resilient. The
18 result was that total revenue were at the high end of my guidance, and earnings per share beat my
19 guidance by \$0.01.”

20 245. Hurd also trumpeted Oracle’s cloud growth during Oracle’s September 14, 2017
21 earnings call with investors. Hurd stated, “Cloud revenue up 51% now at a \$6 billion annual run
22 rate.” Defendant Hurd stated that SaaS revenue was “up 61%, as Safra said, accelerating from 55%
23 growth last year” and that with regard to PaaS, Oracle’s “revenue was up 28%.” Defendant Hurd
24 then highlighted Oracle’s cloud bookings by stating, “[o]ur cloud bookings were executing well
25 on a very big and growing pipeline. . . Revenue growth now at an annualized rate of \$6 billion or
26 growth rate of 51%, and we are the fastest growing cloud company at scale.”

27 246. These statements were materially false and misleading when made. It was
28 misleading for Catz to state that “[c]ustomer adoption of our cloud products and services continue

1 to be very, very strong” and for Hurd to state that Oracle was “the fastest growing cloud company
2 at scale,” and to report the revenue figures and growth rates set forth above, while failing to
3 disclose that: (1) a material portion of Oracle’s cloud revenue was driven by “financially
4 engineered deals” that were based on Oracle’s use of the coercive “Audit, Bargain, Close” and
5 “attached” deal tactics; (2) the revenue produced through these deals was artificial because it did
6 not result from true purchases of Oracle’s cloud products, but rather resulted from clients
7 purchasing a discount on audit penalties or on-premises products; and (3) consequently, a material
8 portion of the reported cloud revenue and revenue growth did not consist of true cloud sales, and
9 was not sustainable.

10 247. On that same call, a Macquarie analyst noted Oracle’s “momentum in [the] cloud.”
11 Defendant Hurd responded, attributing Oracle’s success to its superior products, implementation,
12 and salesforce: “just sort of every aspect of selling in the cloud, I think the company holistically is
13 getting better at. We’re better -- our *products* are better. Our *sales force* is better. Our *ability to*
14 *implement* is better. Our ability to do all of these things has just continued to improve quarter by
15 quarter by quarter, and it manifests itself in the type of results we’re talking about this afternoon.”

16 248. These statements were materially false and misleading when made. It was
17 misleading for Hurd to Defendants to state that Oracle’s cloud growth was driven by its superior
18 products, implementation, and salesforce while failing to disclose that: (1) a material portion of
19 Oracle’s cloud revenue was driven by “financially engineered deals” that were based on Oracle’s
20 use of the coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue produced
21 through these deals was artificial because it did not result from true purchases of Oracle’s cloud
22 products, but rather resulted from clients purchasing a discount on audit penalties or on-premises
23 products; and (3) consequently, a material portion of the reported cloud revenue and revenue
24 growth did not consist of true cloud sales, and was not sustainable.

25 249. Following Defendants’ statements, on September 14, 2017, MUFG analysts
26 reported that “the company had a solid quarter as it continues its transition to the cloud. We note
27 the company’s sustained a 50+% year-over-year (YoY) cloud revenue growth rates have persisted
28 even as cloud revenues passed \$1B in FY 2Q17.” A September 15, 2017 Cowen report noted that

1 “ORCL beat across the board, with total Cloud growth of 51%[.]” A September 15, 2017 Credit
2 Suisse report stated that “[w]e maintain our Outperform rating and \$62 target price following better
3 than expected F1Q results, with organic cc revenue growth accelerating to ~3.5% y/y, its best rate
4 in 2 years.”

5 250. On September 18, Oracle filed its fiscal first quarter 2018 financial results with the
6 SEC on Form 10-Q, which was signed by Defendants Catz and Hurd. In that Form 10-Q, Oracle
7 reported that total cloud revenues were \$1.467 billion for the three months ended August 31, 2017.

8 251. These statements were materially false and misleading when made. It was
9 misleading for Defendants to report that total cloud revenues were \$1.467 billion for the three
10 months ended August 31, 2017 while failing to disclose that: (1) a material portion of Oracle’s
11 cloud revenue was driven by “financially engineered deals” that were based on Oracle’s use of the
12 coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue produced through
13 these deals was artificial because it did not result from true purchases of Oracle’s cloud products,
14 but rather resulted from clients purchasing a discount on audit penalties or on-premises products;
15 and (3) consequently, a material portion of the reported cloud revenue and revenue growth did not
16 consist of true cloud sales, and was not sustainable.

17 252. On October 5, 2017, Defendants Bond, Hurd, Catz, Miranda, and Kurian, among
18 other Oracle senior executives participated in Oracle’s OpenWorld Financial Analyst Meeting.
19 During that meeting, Defendant Miranda highlighted the reasons that Oracle’s customers were
20 choosing cloud. First, Miranda highlighted Oracle SaaS’s speed, stating “[w]hat do we hear from
21 our customers as far as the reasons why they choose us over competition? First and foremost,
22 across the board, *most customers today are moving to SaaS for speed*. It’s all about speed of
23 innovation, speed of reaction, speed of either disrupting others in their industry or speed to be
24 avoided in that disruption.” Second, Defendant Miranda highlighted that Oracle had the
25 “broadest” and “best” set of solutions, stating “[n]ext and probably what gets overlooked is though
26 *we have the broadest, it doesn’t mean we don’t have the best of breed in every solution going*
27 *forward*.” Third, Miranda stressed Oracle’s “global reach” of its products supporting globalization
28 and broader infrastructure, stating “our global reach, not only the global reach in terms of the

1 breadth of Oracle’s products and supporting globalizations and local rules and regulations, but the
2 global reach of our broader infrastructures: Oracle’s consulting, Oracle’s partners, the training that
3 we can afford, the language we can do, support that can take global customers – really aligned for
4 global customers today but also customers who are expanding globally.” Fourth, Miranda
5 highlighted that the benefits for customers included “us doing the labor and hosting things” and
6 that “we think it’s more secure because we keep you always up to date. And we enhance the
7 technology . . . [s]o there’s substantial benefits.” Miranda concluded by stating that “just
8 functionally, the speed of innovation is unmatched Today, in our SaaS ERP and SaaS HR and
9 SaaS CRM, we update 100% of our customers twice a year. And the importance of that is really
10 borne out over the last couple of years.”

11 253. These statements were materially false and misleading when made. It was
12 misleading for Defendant Miranda to state that Oracle’s speed, “broadest” and “best” set of
13 solutions, “global reach,” product updates, and “speed of innovation” were causing Oracle’s
14 customers to adopt the Company’s cloud products, while failing to disclose that: (1) a material
15 driver of Oracle’s cloud sales to on-premises customers was Oracle’s use of the coercive “Audit,
16 Bargain, Close” and “attached” deal tactics to create “financially engineered deals;” and (2) in
17 these deals, the on-premises customers were not truly purchasing Oracle’s cloud products, but
18 rather were purchasing a discount on audit penalties or on-premises products.

19 254. At a November 7, 2017 Sanford C. Bernstein Technology Innovation Summit,
20 Defendant Bond made additional false and misleading statements regarding the drivers of Oracle’s
21 cloud revenue growth. Specifically, Bond was asked about the “revenue impact of a client moving
22 from an on-prem revenue license to cloud” and the “driver, the real biggest driver you think of
23 why they would be moving on-premise to SaaS.” Defendant Bond responded that Oracle’s
24 customers were moving from on-premises to cloud for two reasons. First, because “*by moving*
25 *on-premise loads to cloud, you’re going to see a reduction of total cost of ownership,*” *i.e.*, the
26 cloud product was less expensive. “That’s the first primary advantage.” Second, “*You’ll also see*
27 *customers who want to move toward cloud for what I’ll call an innovation advantage,*” *i.e.*, the
28 cloud product made technology updates easier to install. Bond summed up: “*So from a cost*

1 *standpoint as well as an innovation standpoint, there's a lot to like about cloud for the customer.*
2 *And I think this is one of the biggest drivers of why you're seeing customers really excited about*
3 *this even if it's still early."*

4 255. These statements were materially false and misleading when made. It was
5 misleading for Defendant Bond to state that the drivers of Oracle's customers moving from on-
6 premises to the cloud was a "reduction of total cost of ownership" and "an innovation advantage,"
7 while failing to disclose that: (1) a material driver of Oracle's cloud sales to on-premises customers
8 was Oracle's use of the coercive "Audit, Bargain, Close" and "attached" deal tactics to create
9 "financially engineered deals;" and (2) in these deals, the on-premises customers were not truly
10 purchasing Oracle's cloud products, but rather were purchasing a discount on audit penalties or
11 on-premises products.

12 **D. Defendants' Materially False And Misleading Statements And Omissions**
13 **During Oracle's Fiscal Second Quarter 2018**

14 256. On November 15, 2017, Oracle held its Annual Meeting of Stockholders.
15 Defendants continued to discuss Oracle's explosive cloud growth at that meeting. Ellison stated,
16 "Where we deliver *the applications in the public cloud is growing very, very, very rapidly* and
17 really subsuming, taking over our application business *Our SaaS applications business has*
18 *been growing in excess of 50%, been growing very, very, very rapidly."*

19 257. These statements were materially false and misleading when made. It was
20 misleading for Defendant Ellison to state that Oracle's SaaS business "has been growing in excess
21 of 50%" and "very, very rapidly," while failing to disclose that: (1) a material portion of Oracle's
22 cloud revenue was driven by "financially engineered deals" that were based on Oracle's use of the
23 coercive "Audit, Bargain, Close" and "attached" deal tactics; (2) the revenue produced through
24 these deals was artificial because it did not result from true purchases of Oracle's cloud products,
25 but rather resulted from clients purchasing a discount on audit penalties or on-premises products;
26 and (3) consequently, a material portion of the reported cloud revenue and revenue growth did not
27 consist of true cloud sales, and was not sustainable.
28

1 258. As discussed above, on December 14, 2017, the corrective disclosure period began.
2 On that day, Oracle held its fiscal second quarter 2018 earnings call with investors. Oracle reported
3 slowing cloud growth in the second quarter of 2018 that missed market expectations, and provided
4 guidance for the further slowing of cloud growth that also fell below market expectations. These
5 occurrences were a function of the fact that the Company was finding it increasingly difficult to
6 use the ABC tactic or attached deals to push its cloud products on customers who did not want
7 them, and customers were not renewing the ABC or attached deals they had previously been
8 pushed into. This partially revealed to the market that the Company's cloud revenue was
9 unsustainable. As a result of Defendants' announcements, Oracle's stock price dropped
10 approximately 4%, from \$50.19 per share on December 14, 2017, to close at \$48.30 per share on
11 December 15, 2017.

12 259. Nevertheless, Defendants made a number of soothing statements that continued to
13 conceal the full truth from investors and partially mollified their concern about Oracle's cloud
14 business.

15 260. On the December 14, 2017 earnings call, Catz told investors that total cloud
16 revenues in the quarter were \$1.5 billion, up 39% from the previous year, and stated that "[c]loud
17 SaaS revenue for the quarter were \$1.1 billion, up 47% from last year. Fusion cloud revenue was
18 56% for the quarter. Cloud PaaS and IaaS revenue for the quarter was \$398 million, up 20% from
19 last year." Catz also told investors that "[a]s for cloud margins, our SaaS business continues to
20 scale and grow, and the gross margin has expanded to 66%, up from 59% last Q2."

21 261. Catz further told investors that "[c]ustomer adoption of our cloud products and
22 services continues to be very strong, and what we have called our on-premise business remains
23 robust. Bottom line, our transition to the to the cloud is going well."

24 262. These statements were materially false and misleading when made. It was
25 misleading for Defendant Catz to report that "customer adoption of our cloud products" "continues
26 to be very strong" and that the "transition to the cloud is going well," and to report the revenue
27 metrics set forth above, while failing to disclose that: (1) a material portion of Oracle's cloud
28 revenue was driven by "financially engineered deals" that were based on Oracle's use of the

1 coercive “Audit, Bargain, Close” and “attached” deal tactics; (2) the revenue produced through
2 these deals was artificial because it did not result from true purchases of Oracle’s cloud products,
3 but rather resulted from clients purchasing a discount on audit penalties or on-premises products;
4 and (3) consequently, a material portion of the reported cloud revenue and revenue growth did not
5 consist of true cloud sales, and was not sustainable.

6 263. On Oracle’s December 14, 2017 earnings call, a MoffettNathanson analyst asked
7 Defendants to explain why cloud revenue growth was slowing and, specifically, whether customers
8 were not deploying Oracle cloud products: “I think what some of us are trying to reconcile is, is
9 the cloud guidance is a little bit slower than it has been. So it looks like something might be
10 decelerating a little bit. And I just wanted to understand, is there a gap as people maybe buy licenses
11 on-prem, and then maybe it’s a quarter or 2 before they deploy in the cloud?” Catz responded by
12 falsely denying that customers were not declining to deploy cloud products, but were, rather,
13 strategically timing that deployment and “moving to [Oracle’s] cloud when it makes sense for
14 them.”

15 264. Addressing the same analyst question about the cause of Oracle’s revenue
16 slowdown, Ellison also falsely stated that the slowdown was merely due to the fact that “a lot of
17 customers are waiting for” Oracle’s next generation cloud product, “the Autonomous Database,”
18 a cloud database that uses machine learning to reduce the need for periodic maintenance, “just to
19 become available.”

20 265. These statements were materially false and misleading when made. It was
21 misleading for Defendants to state that any slowdown in revenue or delay in deployment was due
22 to “customers “waiting for the Autonomous Database just to become available,” or to customer’s
23 strategic deployment decisions, when in truth, the deceleration of cloud revenue was caused by the
24 fact that Oracle was finding it increasingly difficult to use the ABC tactic or attached deals to push
25 its cloud products on customers who did not want them, and customers were not renewing the
26 ABC or attached deals they had previously been pushed into.

27 266. In response to analyst questions about “competitors and surveys saying customers
28 are moving off Oracle,” Ellison denied that customers were “moving off Oracle,” instead

1 challenging the analyst to “go ahead. You tell me who’s moving off of Oracle.” Hurd also
2 responded to the same question by stating that “I’d like to just go back to the math and just go back
3 to the numbers, right? I mean, we’ve got sort of every other database being used, just in share
4 terms, is ours. And when you see us throwing up yet again another growth rate above market, it’s
5 just any of these sort of stories, anecdotes -- by the way, I’ve heard them for 7 years, right, that --
6 yes and predates me. So everyone’s, ‘Oh, everyone’s moving off the Oracle Database. . . I’d just
7 love somebody show up with something more than a story. Just show up with a number . . .
8 certainly, nobody gaining share over us . . . when you just look at overall numbers, we’re gaining
9 share in Database.’”

10 267. These statements were materially false and misleading when made. It was
11 misleading for Defendants to state that Oracle customers were not “moving off [] Oracle” and to
12 emphasize Oracle’s “growth rate above market,” while failing to disclose that a material portion
13 of Oracle’s cloud customers were declining to renew the “financially engineered deals” that were
14 based on Oracle’s use of the coercive “Audit, Bargain, Close” and “attached” deal tactics.

15 **E. Defendants’ Materially False And Misleading Statements And Omissions**
16 **During Oracle’s Fiscal Third Quarter 2018**

17 268. On March 19, 2018, Oracle held its fiscal third quarter 2018 earnings call with
18 investors. As discussed above, Oracle reported even more significant slowdowns in its cloud
19 revenue and margin growth than it had in December 2017, again missing market expectations, and
20 provided guidance for further slowing cloud growth below market expectations. These occurrences
21 were a function of the fact that the Company was finding it increasingly difficult to use the ABC
22 tactic or attached deals to push its cloud products on customers who did not want them, and
23 customers were not renewing the ABC or attached deals they had previously been pushed into.
24 This partially revealed to the market that the Company’s cloud revenue was unsustainable. As a
25 result of Defendants’ announcements, Oracle’s stock price declined nearly 10%, from \$51.95 per
26 share on March 19, 2018 to \$47.05 per share on March 20, 2018.

27 269. Nevertheless, as before, Defendants made a number of soothing statements that
28 continued to conceal the full truth from investors and partially mollified their concern about

1 Oracle's cloud business. For instance, Defendants assured investors that Oracle's cloud renewal
2 rates remained highly positive and would drive additional revenue expansion. Ellison stated, "the
3 combination of faster sales and higher renewal rates should dramatically increase our growth rate
4 in our SaaS business."

5 270. Ellison also attributed the decline in Oracle's cloud revenue growth to Oracle's
6 "bring your own license" or BYOL program. "BYOL" allowed clients to purchase software
7 licenses that could be flexibly used in whatever medium the customer chose, either cloud or on-
8 premises. Thus, if customers had existing Oracle software licenses for other Oracle legacy services,
9 customers could reuse them when subscribing to Oracle PaaS.

10 271. Ellison stated, "Let me try to be clear about this, as I can be. With BYOL, when
11 someone brings their database to the cloud, some of that database -- some of that revenue goes into
12 license and someone -- some of that revenue goes into cloud. Without BYOL, if we didn't have
13 BYOL and someone -- an Oracle customer went to the cloud, 100% of the revenue would go to
14 the cloud. So there's no question, BYOL has lowered our cloud revenue and increased our license
15 revenue."

16 272. These statements were materially false and misleading when made. It was
17 misleading for Ellison to attribute the decline in Oracle cloud revenue growth to its BYOL
18 program, when, in truth, the deceleration was caused by the fact that Oracle was finding it
19 increasingly difficult to use the ABC tactic or attached deals to push its cloud products on
20 customers who did not want them, and customers were not renewing the ABC or attached deals
21 they had previously been pushed into.

22 273. Additionally, on May 22, 2018, in response to a report by *The Information* that
23 Oracle customers were resisting the Company's efforts to use audits to drive cloud deals, the
24 Company put out a response that:

25 Oracle, like virtually every other software company, conducts software audits in
26 limited circumstances to ensure that our products are used as licensed. We pride
27 ourselves in providing our existing 400,000 customers a variety of options to move
28 to the cloud when they are ready. Oracle is grateful to its large and growing
customer base and has no reason to resort to scare tactics to solicit business. We are
disappointed that ***The Information is presenting inaccurate accounts regarding a***

1 *handful of customers, based on anonymous sources or competitors who seek to*
2 *enhance their own consulting services.*

3 274. These statements were materially false and misleading when made. It was
4 misleading for Oracle to deny that Oracle used audits to drive cloud sales, and state that Oracle
5 had “no reason to resort to scare tactics to solicit business,” without disclosing that a material
6 portion of Oracle’s cloud revenue was, in fact, driven by “financially engineered deals” that were
7 based on Oracle’s use of the coercive “Audit, Bargain, Close” tactic.

8 **VIII. LOSS CAUSATION**

9 275. The artificial inflation created by Defendants’ alleged misrepresentations and
10 omissions regarding Oracle’s cloud sales and revenue were removed from Oracle’s share price in
11 direct response to information revealed in a series of disclosures. As set forth below, these
12 disclosures divulged information that gradually corrected Defendants’ prior misrepresentations
13 and omissions of material fact and/or disclosed facts Defendants misrepresented and omitted that
14 were a substantial factor in causing investors’ economic loss.

15 276. On December 14, 2017, after the market closed, Defendants issued Oracle’s second
16 quarter 2018 financial results and disclosed that Oracle revenue growth had decelerated, growing
17 by less than 40%. The Company also reported significantly lower cloud growth estimates, stating
18 it expected only mid-20% growth the following quarter – a marked decline.

19 277. Following these revelations, the price of Oracle stock declined by approximately
20 4%, from \$50.19 per share on December 14, 2017, to close at \$48.30 per share on December 15,
21 on high trading volume of 75,176,000 shares versus the class period average of 14,856,931 shares.

22 278. The market connected these disclosures to Oracle’s sales practices. For example, a
23 *Business Insider* article dated December 15, 2017 noted that “there are some signs that some of
24 Oracle’s customers are fed up with some of its hard-nosed sales tactics.” Additionally, JMP
25 analysts noted in a December 15, 2017 report that “many customers are irate with Oracle due to
26 auditing practices on the technology side of the business and have already placed their bets on
27 AWS, Microsoft Azure, or Google Cloud Platform.”

28 279. Defendants, however, prevented the stock from falling further by falsely stating that
“customer adoption of our cloud products” “continues to be very strong” and that the “transition

1 to the cloud is going well.” Defendants further told investors that the cloud margins had
2 underperformed because, “a lot of customers are waiting for the Autonomous Database just to
3 become available.” Defendants’ damage control worked. For example, a December 15, 2017
4 Jefferies report entitled “Patience Grasshopper” stated that “[w]e understand investor frustration
5 with the unwinding complexity of this model as it evolves, but we continue to believe that the
6 business momentum in the field continues to build and this will translate into meaningful cash
7 flow growth over time.”

8 280. On March 19, 2018, after the market closed, Oracle issued its third quarter 2018
9 financial results, again disclosing that the Company’s cloud growth had slowed even more
10 significantly to only 32%. Oracle admitted that it expected further deceleration of the Company’s
11 cloud business, with Catz telling investors on the Company’s earnings call that cloud revenues are
12 “expected to grow 19% to 23% in USD, 17% to 21% in constant currency,” well below the
13 market’s expectations.

14 281. In response to the Company’s March 19, 2018 disclosures, Oracle stock declined
15 nearly 10%, falling from \$51.95 per share on March 19 to \$47.05 per share on March 20, on high
16 volume of 68,601,000 shares.

17 282. The market connected these disclosures to Oracle’s undisclosed financially
18 engineered deals and extortive tactics. For example, a JMP analyst report dated March 20, 2018
19 highlighted Oracle’s “cloud weakness,” including that there were “fundamental challenge[s]” in
20 the Company’s cloud business, such as “Oracle’s auditing mentality compared to the ‘partner
21 friendly’ nature of cloud platforms such as Amazon.” And, in the months following this partial
22 corrective disclosure, investors’ questions about Oracle’s coercive sales practices intensified. For
23 example, in a May 21, 2018 article entitled “Oracle’s Strong Arm Cloud Tactics – the 2018
24 Model,” *Forbes* reported that Oracle was using its “‘Audit Bargain Close’ playbook” “to pressure
25 customers into cloud adoption” and in a May 22, 2018 article, *The Information* reported that large
26 Oracle customers were resisting the Company’s efforts to use audits to drive cloud deals.

27 283. Defendants, however, prevented the stock from falling further by issuing a number
28 of soothing statements to investors. For example, Defendants attributed the falling cloud revenue

1 growth to Oracle's BYOL program, with Ellison stating that "there's no question, BYOL has
2 lowered our cloud revenue and increased our license revenue." Again, Defendants' assurances
3 worked. For example, on March 19, 2018, MUFG analysts issued a report entitled "BYO License
4 Artificially Dampens Cloud Growth: Thesis Still Intact."

5 284. On June 14, 2018, JPMorgan issued a report announcing it was downgrading Oracle
6 shares to Neutral based on the results of "large-scale CIO survey," in which the analysts ask "CIOs
7 to rank the top 8 or 9 IT mega-vendors in terms of who will be most critical and indispensable to
8 their IT environment in the future." JPMorgan reported that while in the past Oracle "has been
9 stable and received ~11% of the votes," the Company's standing in this latest poll dropped by more
10 than 40% to 6.5%. JPMorgan connected this drop in CIO ranking to Oracle's coercive practices,
11 stating that reasons that CIOs moved away from Oracle included that they "do not like Oracle's
12 business practices and difficulty of working with them in the past." Investors were focused on this
13 article. For example, Data Centre stated in a June 15, 2018 article that the JP Morgan report "may
14 come as no surprise to customers who have long been frustrated with Oracle's strong-arm tactics
15 to get them to shift to the fluffy stuff, as the legacy database vendor becomes increasingly desperate
16 to catch up to other cloud vendors."

17 285. On this news, the price of Oracle stock fell approximately 5%, from \$48.27 per
18 share on June 13, 2018 to \$45.90 per share on June 14, 2018, on high trading volume of 37,001,300
19 shares.

20 286. On June 19, 2018, Oracle held its fourth quarter 2018 earnings call with investors
21 after the market closed. On that call, Oracle shocked the market by announcing that it would no
22 longer separately report financial results for its cloud business, and would, instead, consolidate
23 those financial results into a combined "Cloud Services and License Support" line item so that
24 investors could no longer see them. In addition, Catz disclosed that total cloud revenue growth for
25 the quarter had come in at just 21%.

26 287. On this news, the price of Oracle stock fell approximately 7.5%, from \$46.27 per
27 share on June 19, 2018 to \$42.82 per share on June 20, 2018, on high trading volume of 59,129,000
28 shares.

1 288. The market immediately connected the June 19, 2018 disclosure and the decrease
2 in transparency with “red flags” at Oracle. For example, JMP reported that the dramatic
3 deceleration in Oracle’s cloud growth was driven by the Company’s treatment of its customers
4 and that an industry contact told them that “*No one is re-upping. There was a big incentive to sell
5 cloud – it was attached to contracting docs. Buy off but then it’s up to you to use it. There was
6 no customer success to say, ‘Hey, you bought this, now let’s get value from it.’*” Similarly, *The
7 Upper Edge* reported on June 27, 2018 that “[m]any analysts are speculating that the timing of this
8 change [in financial reporting], and the fact that Oracle is being evaluated based on its cloud
9 growth, suggests that it may have something to hide” and noted that Oracle’s “Cloud Deals [were]
10 Manufactured by Duress.”

11 289. All told, the stock declined 19% percent from its Class Period high of \$52.97 to
12 \$42.82 on June 20, 2018.

13 290. Defendants’ wrongful conduct, as alleged herein, directly and proximately caused
14 the damages suffered by Lead Plaintiff and other Class members. Had Defendants disclosed
15 complete, accurate, and truthful information concerning these matters during the Class Period,
16 Lead Plaintiff and other Class members would not have purchased or otherwise acquired Oracle’s
17 securities or would not have purchased or otherwise acquired these securities at the artificially
18 inflated prices that they paid. It was also foreseeable to Defendants that misrepresenting and
19 concealing these material facts from the public would artificially inflate the price of Oracle
20 securities and that the ultimate disclosure of this information, or the materialization of the risks
21 concealed by Defendants’ material misstatements and omissions would cause the price of Oracle
22 securities to decline.

23 **IX. THE INAPPLICABILITY OF THE STATUTORY SAFE HARBOR**

24 291. Oracle’s “Safe Harbor” warnings accompanying its forward-looking statements
25 issued during the Class Period were ineffective to shield those statements from liability.

26 292. Defendants are also liable for any false or misleading forward-looking statements
27 pleaded herein because, at the time each such statement was made, the speaker knew the statement
28 was false or misleading and the statement was authorized and/or approved by an executive officer

1 of Oracle who knew that the statement was false. None of the historic or present tense statements
2 made by Defendants were assumptions underlying or relating to any plan, projection, or statement
3 of future economic performance, as they were not stated to be such assumptions underlying or
4 relating to any projection or statement of future economic performance when made, nor were any
5 of the projections or forecasts made by Defendants expressly related to, or stated to be dependent
6 on, those historic or present tense statements when made.

7 **X. THE PRESUMPTION OF RELIANCE**

8 293. At all relevant times, the market for Oracle stock was an efficient market for the
9 following reasons, among others:

10 (a) Oracle stock met the requirements for listing, and was listed and actively
11 traded on NYSE, a highly efficient and automated market;

12 (b) As a regulated issuer, Oracle filed periodic public reports with the SEC and
13 NYSE;

14 (c) Oracle regularly and publicly communicated with investors via established
15 market communication mechanisms, including through regular disseminations of press releases on
16 the national circuits of major newswire services and through other wide-ranging public disclosures,
17 such as communications with the financial press and other similar reporting services; and

18 (d) Oracle was followed by several securities analysts employed by major
19 brokerage firm(s) who wrote reports which were distributed to the sales force and certain
20 customers of their respective brokerage firm(s). Each of these reports was publicly available and
21 entered the public marketplace.

22 294. As a result of the foregoing, the market for Oracle stock promptly digested current
23 information regarding Oracle from all publicly available sources and reflected such information in
24 the price of Oracle stock. Under these circumstances, all purchasers of Oracle stock during the
25 Class Period suffered similar injury through their purchase of Oracle stock at artificially inflated
26 prices and the presumption of reliance applies.

27 295. A Class-wide presumption of reliance is also appropriate in this action under the
28 Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972),

1 because the Class' claims are grounded on Defendants' material omissions. Because this action
2 involves Defendants' failure to disclose material adverse information regarding revenue growth in
3 Oracle's cloud segment—information that Defendants were obligated to disclose—positive proof
4 of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be
5 material in the sense that a reasonable investor might have considered them important in making
6 investment decisions. Given the importance of Oracle's cloud business, as set forth above, that
7 requirement is satisfied here.

8 **XI. CLASS ALLEGATIONS**

9 296. Lead Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal
10 Rules of Civil Procedure on behalf of all persons who purchased Oracle stock during the Class
11 Period (the "Class"). Excluded from the Class are Defendants and their families, directors, and
12 officers of Oracle and their families and affiliates.

13 297. The members of the Class are so numerous that joinder of all members is
14 impracticable. The disposition of their claims in a class action will provide substantial benefits to
15 the parties and the Court. Oracle has approximately 3.59 billion shares of stock outstanding, owned
16 by at least hundreds or thousands of investors.

17 298. Questions of law and fact common to the members of the Class which predominate
18 over questions which may affect individual Class members include:

- 19 (a) Whether Defendants violated the Exchange Act;
- 20 (b) Whether Defendants omitted and/or misrepresented material facts;
- 21 (c) Whether Defendants' statements omitted material facts necessary in order
22 to make the statements made, in light of the circumstances under which they were made, not
23 misleading;
- 24 (d) Whether Defendants knew or recklessly disregarded that their statements
25 and/or omissions were false and misleading;
- 26 (e) Whether Defendants' misconduct impacted the price of Oracle stock;
- 27 (f) Whether Defendants' conduct caused the members of the Class to sustain
28 harm; and

1 (g) The extent of harm sustained by Class members and the appropriate
2 measure of harm.

3 299. Plaintiff's claims are typical of those of the Class because Plaintiff and the Class
4 sustained harm from Defendants' wrongful conduct.

5 300. Plaintiff will adequately protect the interests of the Class and has retained counsel
6 experienced in class action securities litigation. Plaintiff has no interests which conflict with those
7 of the Class.

8 301. A class action is superior to other available methods for the fair and efficient
9 adjudication of this controversy.

10 **XII. CLAIMS BROUGHT PURSUANT TO THE EXCHANGE ACT**

11 **COUNT I**

12 **For Violations Of Section 10(b) Of The Exchange Act And**
13 **SEC Rule 10b-5 Promulgated Thereunder**
14 **(Against All Defendants)**

15 302. Lead Plaintiff repeats and realleges each and every allegation contained above as if
16 fully set forth herein.

17 303. This Count is asserted on behalf of all members of the Class against Defendants for
18 violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b) and Rule 10b-5 promulgated
19 thereunder, 17 C.F.R. § 240.10b-5.

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

24 305. Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 in that they:
25 (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material
26 facts or omitted to state material facts necessary in order to make the statements made, in light of
27 the circumstances under which they were made, not misleading; and/or (c) engaged in acts,
28 practices, and a course of business that operated as a fraud or deceit upon Lead Plaintiff and others

1 similarly situated in connection with their purchases of Oracle common stock during the Class
2 Period.

3 306. Defendants, individually and in concert, directly and indirectly, by the use of means
4 or instrumentalities of interstate commerce and/or of the U.S. mails, engaged and participated in a
5 continuous course of conduct that operated as a fraud and deceit upon Lead Plaintiff and the Class;
6 made various untrue and/or misleading statements of material facts and omitted to state material
7 facts necessary in order to make the statements made, in light of the circumstances under which
8 they were made, not misleading; made the above statements intentionally or with a deliberately
9 reckless disregard for the truth; and employed devices and artifices to defraud in connection with
10 the purchase and sale of Oracle common stock, which were intended to, and did deceive the
11 investing public, including Lead Plaintiff and the Class, regarding, among other things, the reasons
12 for Oracle's cloud revenues and growth.

13 307. Defendant Oracle is liable for all materially false and misleading statements made
14 during the Class Period, as alleged above. The Executive Defendants, as top executive officers of
15 the Company during their respective tenures, are liable as direct participants in the wrongs
16 complained of herein. The Executive Defendants are liable for the false and misleading statements
17 they personally made and/or signed, as alleged above.

18 308. As described above, Defendants acted with scienter throughout the Class Period, in
19 that they acted either with intent to deceive, manipulate, or defraud, or with deliberate recklessness.
20 The misrepresentations and omissions of material facts set forth herein, which presented a danger
21 of misleading buyers or sellers of Oracle stock, were either known to the Defendants or were so
22 obvious that the Defendants should have been aware of them.

23 309. Lead Plaintiff and the Class have suffered damages in that, in reliance on the
24 integrity of the market, they paid artificially inflated prices for Oracle common stock, which
25 inflation was removed from its price when the true facts became known. Lead Plaintiff and the
26 Class would not have purchased Oracle common stock at the prices they paid, or at all, if they had
27 been aware that the market price had been artificially and falsely inflated by these Defendants'
28 misleading statements.

1 purporting accuracy. In September 2014, Ellison described Catz as “[v]ery details-oriented,” “the
2 No. 2 person for some time,” and “our first- ever, de facto chief operating officer.”

3 316. Defendant Hurd is, and was at all relevant times, co-Chief Executive Officer of
4 Oracle, as well as a member of the Company’s Board of Directors. As stated on Oracle’s website,
5 Hurd “manage[d] corporate direction and strategy at Oracle, facilitating company activity in
6 consulting, sales, marketing, alliances and channels, and support.” Hurd’s personal page states
7 that he “helped shift the long-term strategy of the company toward the cloud” and “[a]dapting to
8 this new business model.” During the Class Period, Hurd signed and certified each of the
9 Company’s quarterly and annual SEC filings, attesting to their purporting accuracy.

10 317. Defendant Ellison is, and was at all relevant times, Oracle’s Chief Technology
11 Officer, as well as the Chairman of the Company’s Board of Directors. The Company’s proxy
12 statements state that Ellison “continues to lead and oversee our product engineering, technology
13 development and strategy” and his “familiarity with and knowledge of [Oracle’s] technologies and
14 product offerings are unmatched.” According to Catz, Defendant Ellison “led the transformation
15 to the cloud,” and is still “in charge” at Oracle even after becoming the Company’s CTO in 2014,
16 noting “don’t let titles fool you.” In addition, Ellison signed the Company’s 2017 Annual Report
17 as a member of the Company’s Board of Directors.

18 318. As a result of the foregoing, each of these Defendants, as a group and individually,
19 were controlling persons of Oracle within the meaning of Section 20(a) of the Exchange Act.

20 319. As set forth above, Oracle violated Section 10(b) of the Exchange Act by its acts
21 and omissions as alleged in this Complaint.

22 320. By virtue of their positions as controlling persons of Oracle and as a result of their
23 own aforementioned conduct, Defendants Catz, Hurd, and Ellison are liable pursuant to Section
24 20(a) of the Exchange Act, jointly and severally with, and to the same extent as, the Company is
25 liable under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, to Lead
26 Plaintiff and the other members of the Class who purchased or otherwise acquired Oracle common
27 stock. As detailed above, during the respective times these Defendants served as officers and/or
28

1 directors of Oracle, each of these Defendants was culpable for the material misstatements and
2 omissions made by Oracle.

3 321. As a direct and proximate result of these Defendants' conduct, Lead Plaintiff and
4 the other members of the Class suffered damages in connection with their purchase or acquisition
5 of Oracle common stock.

6 COUNT III

7 For Violation Of Section 20A Of The Exchange Act 8 (Against Defendant Kurian)

9 322. Lead Plaintiff repeats and realleges each and every allegation contained above as if
10 fully set forth herein.

11 323. This Count is asserted pursuant to Section 20A of the Exchange Act against
12 Defendant Kurian on behalf of all persons who purchased Oracle common stock
13 contemporaneously with any sales of Oracle common stock by Defendant Kurian during the Class
14 Period.

15 324. As set forth in the paragraphs above, and as further set forth in the chart below,
16 Defendant Kurian committed underlying violations of Section 10(b) and Rule 10b-5 thereunder by
17 selling Oracle common stock while in the possession of material, adverse, nonpublic information
18 about, among other things, the Company's misleading cloud sales practices and revenue. This
19 conduct violated Section 20A of the Exchange Act.

20 Defendant	Transaction Dates	Shares Sold	Price Per Share	Total Value (\$)
21 KURIAN	07/18/17	750,000	\$50.46	\$37,843,275
22 KURIAN	01/18/18	1,500,000	\$50.29	\$75,433,950
23 KURIAN	01/18/18	200,000	\$50.29	\$10,057,860
24 KURIAN	04/23/18	137,843	\$46.13	\$6,358,698
25 KURIAN	04/26/18	300,000	\$46.06	\$13,818,000
26 KURIAN	04/27/18	25,600	\$46.06	\$1,179,136
27 KURIAN	04/30/18	57,155	\$46.00	\$2,629,130
28 KURIAN	05/02/18	91,888	\$45.85	\$4,213,065

Defendant	Transaction Dates	Shares Sold	Price Per Share	Total Value (\$)
KURIAN	05/02/18	253,877	\$45.85	\$11,640,260
KURIAN	05/03/18	333,637	\$45.15	\$15,063,711
KURIAN	05/04/18	300,000	\$45.15	\$13,545,000
Kurian Totals		3,950,000		\$191,782,084

325. Lead Plaintiff purchased shares of Oracle common stock contemporaneously with certain sales of Oracle common stock made by Defendant Kurian while he was in possession of material, adverse, nonpublic information, as set forth in the chart below. These sales and purchases were contemporaneous within the meaning of Section 20A of the Exchange Act.

Defendants' Open Market Sales				Lead Plaintiff's Purchases		
Defendant	Sale Date	Shares Sold	Price	Purchase Date	Shares Purchased	Price
Kurian	7/18/17	750,000	\$50.46	7/19/17	205,000	\$50.99
					115,800	\$50.99
					28,000	\$50.99
					3,600	\$50.99
					2,600	\$50.99
				7/28/17	48,000	\$50.18
Kurian	1/18/18	1,500,000	\$50.29	1/22/18	10,000	\$50.45
Kurian	1/18/18	200,000	\$50.29			

326. Numerous other Class members also purchased Oracle common stock contemporaneously with Defendant Kurian's sales of stock during the Class Period based on material, adverse, nonpublic information.

327. By virtue of his knowledge of material, adverse, nonpublic information, Defendant Kurian was duty bound not to benefit therefrom, a duty which he violated by selling his shares at inflated prices.

328. Accordingly, under Section 20A of the Exchange Act, Defendant Kurian is liable to Lead Plaintiff and the Class for all profits gained and losses avoided as a result of his stock sales.

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CERTIFICATE OF SERVICE

I, John Rizio-Hamilton, hereby certify that on March 8, 2019, I caused a true and correct copy of the foregoing CONSOLIDATED CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS to be filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ John Rizio-Hamilton
JOHN RIZIO-HAMILTON

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