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FILED
YOLO SUPERIOR COURT
OCT 14 2015
BY W. VAN DAM
DEPUTY

8 *Attorneys for Plaintiff*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF YOLO

11 DEBORAH ZELLER, derivatively on)
12 behalf of MARRONE BIO)
13 INNOVATIONS, INC.,)
14 Plaintiff,)

Case No. CV15-1423

**SHAREHOLDER DERIVATIVE
COMPLAINT**

15 vs.)

DEMAND FOR JURY TRIAL

16 PAMELA G. MARRONE, JAMES B.)
17 BOYD, DONALD J. GLIDEWELL,)
HECTOR ABSI, ELIN MILLER, DR.)
18 PAMELA CONTAG, TIM FOGARTY,)
19 SHAUGN STANLEY, GEORGE H.)
KERCKHOVE, LES LYMAN, RICH)
ROMINGER, and ERNST & YOUNG)
LLP,)

20 Defendants.)

21 - and -)

22 MARRONE BIO INNOVATIONS, INC.,)

23 Nominal Defendant)
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BY FAX

1 Plaintiff Deborah Zeller (“Plaintiff”), by and through the undersigned attorneys,
2 brings this action derivatively on behalf of nominal defendant Marrone Bio
3 Innovations, Inc. (“Marrone” or the “Company”) and alleges the following based upon
4 personal knowledge as to herself and her own acts, and information and belief as to all
5 other matters, based upon, *inter alia*, the investigation conducted by and through her
6 attorneys, which included, among other things, a review of the defendants’ public
7 documents, announcements made by defendants, United States Securities and
8 Exchange Commission (“SEC”) filings, wire and press releases published by and
9 regarding Marrone, and information readily obtainable on the Internet. Plaintiff
10 believes that substantial additional evidentiary support will exist for the allegations set
11 forth below after a reasonable opportunity for discovery.

12 **NATURE OF THE ACTION**

13 1. This is a shareholder derivative action brought on behalf of the Company
14 against the members of its Board of Directors (“Board”) seeking to remedy defendants’
15 breaches of fiduciary duties and other violations of the law that occurred from
16 approximately the fourth quarter of 2013 through the present (the “Relevant Period”).

17 2. Marrone makes bio-based pest management and plant health products.
18 Bio-based products are comprised of naturally occurring microorganisms, such as
19 bacteria and fungi, and plant extracts.

20 3. Marrone’s securities are traded on the NASDAQ under the symbol
21 “MBII”. Throughout the Relevant Period, the Individual Defendants (defined herein)
22 caused or allowed the Company in its public filings and press releases to issue false
23 and/or misleading statements, as well as omit to disclose material adverse facts about
24 the Company’s business operations and prospects. Specifically, the Individual
25 Defendants caused the Company to issue statements concerning Marrone’s revenue
26 and revenue recognition practices that were without any reasonable basis because, as
27 would later be admitted: (a) Marrone’s financial statements contained errors related to
28 the improper recognition of revenues; (b) the Company lacked adequate internal

1 controls over financial reporting; and (c) as a result of the foregoing, the Company's
2 financial statements were materially false and misleading at all relevant times.

3 4. On September 3, 2014, the Individual Defendants caused the Company to
4 file a Form 8-K with the SEC, announcing, among other things, that certain of its
5 previously issued financial statements should no longer be relied upon as being in
6 compliance with generally accepted accounting principles. In the September 3, 2014
7 Form 8-K, the Company stated, in pertinent part:

8 On September 3, 2014, we issued a press release announcing that our
9 board's Audit Committee has commenced an internal investigation after
10 learning of documents calling into question the recognition of revenue in
11 the fourth quarter of 2013 for an \$870,000 transaction. On September 2,
12 2014 the Audit Committee concluded, after consultation with
13 management, that our previously reported financial statements as of
14 December 31, 2013 and for the fiscal year ended December 31, 2013
15 included in the Company's Annual Report on Form 10-K for the year
16 ended December 31, 2013, the related report of the independent auditors
17 on those 2013 financial statements dated March 25, 2014, and the
18 unaudited interim financial statements included in the Company's
19 Quarterly Reports on Forms 10-Q for the quarters ended March 31, 2014
20 and June 30, 2014, should no longer be relied upon.

21 The Audit Committee of the Board of Directors of the Company and
22 Company management have discussed the foregoing matters with the
23 Company's independent registered public accounting firm, Ernst &
24 Young LLP.

25 5. On this news, the trading price of Marrone's shares fell \$2.50, or over
26 44%, to close at \$3.15 on September 3, 2014. Marrone has been subjected to securities
27 class action litigation as a result of defendants' wrongdoing.

28 6. Defendants' wrongful actions have caused the Company to suffer
substantial injury. The Individual Defendants were aware of the Company's policies
regarding accounting and revenue recognition and were at all times charged with
acting in the best interests of the Company and its shareholders yet they breached their
fiduciary duties by failing to properly oversee and manage the Company's accounting
policies and causing harm to the Company as detailed herein. The Individual
Defendants remain in breach of their fiduciary duties and absent Court intervention,
the Company will continue to be harmed.

JURISDICTION AND VENUE

1 7. The Court has jurisdiction over this action under CAL. CONST. art. VI,
2 § 10, because this case is a cause not given by statute to other trial courts. This action is
3 not removable to federal court. The amount in controversy as to the named Plaintiff
4 does not exceed \$75,000, exclusive of interest and costs and there is not complete
5 diversity of citizenship between the parties.

6 8. This Court has jurisdiction over Defendants because Marrone is
7 headquartered in Davis, California, and because Defendants conduct business in and
8 maintain operations in this County. Moreover, Defendants maintain sufficient
9 minimum contacts with California to render jurisdiction by this Court permissible
10 under traditional notions of fair play and substantial justice.

11 9. Venue is proper in this Court because the events and conduct at issue
12 took place in substantial part and have effect in this County, and because Marrone is
13 headquartered at 1540 Drew Avenue, Davis, California 95618.

14 10. Plaintiff has complied with all requirements under CAL. CORP. CODE
15 § 800.

PARTIES

I. Plaintiff

18 11. Plaintiff Deborah Zeller is a current Marrone shareholder and has been a
19 Company shareholder continuously throughout the Relevant Period.

II. Nominal Defendant

21 12. Nominal defendant Marrone Bio Innovations, Inc. provides bio-based
22 pest management and plant health products for the crop protection, water treatment,
23 and other target markets in the United States and internationally. Marrone is
24 headquartered in Davis, California and trades on the Nasdaq Global Market
25 (“NASDAQ”) under the ticker symbol “MBII.”

III. The Individual Defendants

27 13. Defendant Pamela G. Marrone (“P. Marrone”) is a director of Marrone
28 and served as the Company’s Chief Executive Officer (“CEO”) and President during the

1 Relevant Period. Due to her executive position at the Company P. Marrone had or
2 should have had access to internal corporate documents including non-public
3 information concerning the Company's revenue and revenue recognition policies.

4 14. Defendant James B. Boyd ("Boyd") is the Company's CFO. He has served
5 as Marrone's CFO since February 25, 2014. Boyd signed the June 2014 Registration
6 Statement. Boyd signed certifications pursuant to the Sarbanes-Oxley Act of 2002
7 ("SOX") attesting that Marrone's financial statements were accurate and that its
8 systems of internal controls were adequate.

9 15. Defendant Donald J. Glidewell ("Glidewell") served as the Company's
10 CFO until his resignation in March 2014. On November 7, 2013, the Company
11 announced that Glidewell would resign pursuant to a transition agreement between
12 Glidewell and the Company. On March 28, 2014, the Company announced that
13 Glidewell had resigned. Glidewell also signed SOX certifications attesting that
14 Marrone's financial statements were accurate and that its systems of internal controls
15 were adequate.

16 16. Defendant Hector Absi ("Absi") joined Marrone as the Company's Senior
17 Vice President of Commercial Operations in September 2012. Absi served as Marrone's
18 Chief Operating Officer ("COO") from January 2014 to August 22, 2014. Absi is
19 identified in the June 2014 Registration Statement as one of Marrone's executive
20 officers and key employees.

21 17. Defendant Elin Miller ("Miller") has served on the Board since 2011 and
22 therefore has been a Board member during the Relevant Period. Miller serves as
23 Chairperson of the Board. Due to her director position at the Company, Miller had or
24 should have had access to internal corporate documents including non-public
25 information concerning the Company's revenue and revenue recognition policies.

26 18. Defendant Dr. Pamela Contag ("Contag") is a Board member and has
27 therefore served on the Board during the Relevant Period. Due to her director position
28 at the Company, Contag had or should have had access to internal corporate

1 documents including non-public information concerning the Company's revenue and
2 revenue recognition policies.

3 19. Defendant Tim Fogarty ("Fogarty") has served on the Board since 2011
4 and therefore has served as a Board member during the Relevant Period. Fogarty
5 serves on the Board's Audit Committee. Fogarty is currently the Chief Financial Officer
6 and a Partner of the Contrarian Group, Inc., an investment and management company
7 which is also an investor in Marrone through its limited partnership, CGI Opportunity
8 Fund II, L.P. Fogarty has a degree in accounting and holds a California CPA license.
9 Due to his director position at the Company, including his role on the Audit
10 Committee, Fogarty had or should have had access to internal corporate documents
11 including non-public information concerning the Company's revenue and revenue
12 recognition policies.

13 20. Defendant Shaugn Stanley ("Stanley") has served as a Board member
14 since 2012 and therefore served on the Board during the Relevant Period. Stanley
15 serves as the Chairman of the Board's Audit Committee. Stanley is currently Senior
16 Managing Director at Stifel Financial. Stanley began his career as an accountant at
17 Deloitte. Stanley received a BBA in Accounting from Stephen F. Austin State
18 University, and is a licensed (inactive) Certified Public Accountant. Due to his director
19 position at the Company, including his role on the Audit Committee, Stanley had or
20 should have had access to internal corporate documents including non-public
21 information concerning the Company's revenue and revenue recognition policies.

22 21. Defendant George H. Kerckhove ("Kerckhove") joined the Board in July
23 2014 and therefore served on the Board during the Relevant Period. Due to his director
24 position at the Company, Kerckhove had or should have had access to internal
25 corporate documents including non- public information concerning the Company's
26 revenue and revenue recognition policies.

27 22. Defendant Les Lyman ("Lyman") serves as a Board member and
28 therefore has served as a Board member during the Relevant Period. Due to his

1 director position at the Company, Lyman had or should have had access to internal
2 corporate documents including non-public information concerning the Company's
3 revenue and revenue recognition policies.

4 23. Defendant Rich Rominger ("Rominger") serves as a Board member and
5 has served as a Board member during the Relevant Period. Rominger served as the
6 Chairman of the Board from 2008 through to 2013. Due to his director position at the
7 Company Rominger had or should have had access to internal corporate documents
8 including non-public information concerning the Company's revenue and revenue
9 recognition policies.

10 24. Defendant Ernst & Young LLP ("E&Y") is a limited liability partnership
11 headquartered in New York and one of the largest accounting firms in the United
12 States. E&Y serves as the Company's independent registered public accounting firm.
13 E&Y audited the Company's financial statements and its system of internal controls
14 over financial reporting for the years ended December 31, 2014, 2013, and 2012. E&Y's
15 audit opinion on the Company's financial statement for the year ended December 31,
16 2013 (the "2013 Financial Statement") was incorporated by reference into the June
17 2014 Registration Statement. On June 2, 2014, the Company filed E&Y'S consent to
18 include in the June 2014 Registration Statement E&Y's March 24, 2014 audit report on
19 the 2013 Financial Statement, among other statements and the Company's reference to
20 E&Y as an "Expert" in the June 2014 Registration Statement.

21 25. The defendants referenced above in ¶¶ 13–23 are sometimes referred to
22 herein as the "Individual Defendants."

23 **DUTIES OF THE INDIVIDUAL DEFENDANTS**

24 26. By reason of their positions as officers and directors of the Company, and
25 because of their ability to control the business and corporate affairs of the Company,
26 the Individual Defendants owed the Company and its shareholders the fiduciary
27 obligations of good faith, trust, loyalty, and due care, and were, and are, required to
28 use their utmost ability to control and manage the Company in a fair, just, honest, and

1 equitable manner. The Individual Defendants were, and are, required to act in
2 furtherance of the best interests of the Company and its shareholders so as to benefit
3 all shareholders equally, and not in furtherance of their personal interests or benefit.

4 27. Each director and officer of the Company owes (and/or formerly owed)
5 to Marrone and its shareholders the fiduciary duty to exercise good faith and diligence
6 in the administration of the affairs of the Company and in the use and preservation of
7 its property and assets, and the highest obligations of fair dealing. In addition, as
8 officers and directors of a publicly held company, the Individual Defendants had a duty
9 to promptly disseminate accurate and truthful information with regard to the
10 Company's revenue, margins, operations, performance, management, projections and
11 forecasts so that the market price of the Company's stock would be based on truthful
12 and accurate information.

13 28. The Individual Defendants, because of their positions of control and
14 authority as directors and/or officers of Marrone, were able to and did, directly and/or
15 indirectly, exercise control over the wrongful acts complained of herein, as well as the
16 contents of the various public statements issued by the Company. Because of their
17 executive, managerial and directorial positions with Marrone, each of the Individual
18 Defendants had access to adverse, non-public information about the financial
19 condition and operations of the Company.

20 29. At all times relevant hereto, each of the Individual Defendants was the
21 agent of the other Individual Defendants and of Marrone, and was at all times acting
22 within the course and scope of such agency.

23 30. To discharge their duties, the officers and directors of Marrone were
24 required to exercise reasonable and prudent supervision over the management,
25 policies, practices and controls of the financial affairs of the Company. By virtue of
26 such duties, the officers and directors of Marrone were required to, among other
27 things:

- 28 a) manage, conduct, supervise and direct the business affairs of

1 Marrone in accordance with all applicable laws;

2 b) neither violate nor knowingly permit any officer, director or
3 employee of Marrone to violate applicable laws, rules and regulations;

4 c) establish and maintain systematic and accurate/accounting
5 standard compliant records and reports of the business and affairs of Marrone and
6 procedures for the reporting of the business and affairs to the Board and to periodically
7 investigate, or cause independent investigation to be made of, said reports and
8 records;

9 d) neither engage in self-dealing nor knowingly permit any officer,
10 director or employee of Marrone to engage in self-dealing;

11 e) ensure that the Company complied with its legal obligations and
12 requirements, including acting only within the scope of its legal authority and
13 disseminating truthful and accurate/accounting standard compliant statements to the
14 SEC and the investing public;

15 f) conduct the affairs of the Company in an efficient, business-like
16 manner so as to make it possible to provide the highest quality performance of its
17 business, to avoid wasting the Company's assets, and to maximize the value of the
18 Company's stock;

19 g) properly and accurately guide investors regarding the true
20 financial condition of the Company at any given time, including making accurate
21 statements about the Company's financial results and prospects, and ensuring that the
22 Company maintained an adequate system of financial controls such that the
23 Company's financial reporting would be true and accurate at all times; and

24 h) remain informed of how Marrone conducted its operations, and,
25 upon receipt of notice or information of imprudent or unsound conditions or practices,
26 to make reasonable inquiry in connection therewith, and to take steps to correct such
27 conditions or practices and make such disclosures as necessary to comply with
28 applicable laws.

1 31. Each of the Individual Defendants, by virtue of his or her position as a
2 director and officer, owed to the Company and its shareholders the fiduciary duties of
3 loyalty, good faith, and the exercise of due care and diligence in the management and
4 administration of the affairs of the Company, as well as in the use and preservation of
5 its property and assets. The conduct of the Individual Defendants alleged herein
6 involves violations of their obligations as directors and officers of Marrone, the
7 absence of good faith on their part and a reckless disregard for their duties to the
8 Company and its shareholders. The Individual Defendants were aware or should have
9 been aware that this posed a risk of serious injury to the Company. The conduct of the
10 Individual Defendants, who were also officers and/or directors of the Company, has
11 been ratified by the remaining Individual Defendants who collectively comprised all of
12 Marrone's Board during the Relevant Period.

13 32. The Individual Defendants breached their duties of loyalty and good faith
14 by allowing Defendants to cause, or by themselves causing, the Company to
15 misrepresent its financial results and prospects, as detailed herein, and by failing to
16 prevent employees and/or officers of the Company from taking such illegal actions. In
17 addition, the Company is now the subject of at least one lawsuit alleging violations of
18 the federal securities laws, which necessitates that the Company incur excess costs
19 arising from the Individual Defendants' wrongful course of conduct.

20 33. Further, Marrone has established a code of business conduct and ethics
21 for Company employees and Board members to adhere to (the "Code"). The Code
22 states in pertinent part that:

23 It is the policy of Marrone Bio Innovations, Inc. (the "Company")
24 to conduct its affairs in accordance with all applicable laws, rules and
25 regulations of the countries in which it does business. This Code of
26 Business Conduct (this "Code") applies to the Company's employees,
27 officers and directors (collectively, "Company Personnel"). This Code also
28 applies to certain independent contractors, consultants and advisors who
work at the Company's facilities or on the Company's behalf, in which
case those persons will be notified and provided a copy of this Code. Such
persons will be deemed Company Personnel for purposes of this Code.

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This Code is designed to promote:

- honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- full, fair, accurate, timely and understandable disclosure in the reports and documents the Company files with, or submits to, the Securities and Exchange Commission and in other public communications made by the Company; ; [sic]
- compliance with applicable governmental laws, rules and regulations;
- the prompt internal reporting to the appropriate person of violations of this Code; and
- accountability for adherence to this Code.

The Company has established standards for behavior that affect the Company, and Company Personnel must comply with those standards. The Company promotes ethical behavior and encourages Company Personnel to talk to supervisors, managers, the Company’s Chief Compliance Officer, or other appropriate personnel when in doubt about the best course of action in a particular situation. Anyone aware of a situation that he or she believes may violate or lead to a violation of this Code should follow the guidelines under “Compliance and Reporting” below. . . .

34. Similarly, the Company has established an Audit Committee charter (the “Audit Committee Charter”). Defendants Fogarty and Stanley serve on the Audit Committee. The Audit Committee Charter states, in pertinent part:

The audit committee (the “Committee”) of the Board of Directors (the “Board”) of Marrone Bio Innovations, Inc., a Delaware corporation (the “Company”), is appointed by the Board for the purpose of overseeing the Company’s accounting and financial reporting processes and the audits of the Company’s financial statements. In so doing, the Committee shall endeavor to maintain free and open communication between the Company’s directors, independent registered public accounting firm and financial management.

* * *

In fulfilling its purposes as stated in this Charter, the Committee shall undertake the specific duties and responsibilities listed below and such other duties and responsibilities as the Board shall from time to time prescribe, and shall have all powers necessary and proper to fulfill all such

1 duties and responsibilities. Subject to applicable Board and stockholder
2 approvals, the Committee shall:

3 **A. Financial Statement & Disclosure Matters**

4 1. Review the policies and procedures adopted by the Company to
5 fulfill its responsibilities regarding the fair and accurate presentation of
6 financial statements in accordance with generally accepted accounting
7 principles (“GAAP”) and applicable rules and regulations of the U.S.
8 Securities and Exchange Commission (the “SEC”) and NASDAQ;

9 2. Oversee the Company’s accounting and financial reporting
10 processes;

11 3. Oversee audits of the Company’s financial statements;

12 4. Review with the Company’s independent registered public
13 accounting firm, management and internal auditors any information
14 regarding “second” opinions sought by management from any other
15 accounting firm with respect to the accounting treatment of a particular
16 event or transaction;

17 5. Review and discuss reports from the Company’s independent
18 registered public accounting firm regarding: (a) all critical accounting
19 policies and practices to be used by the Company; (b) all alternative
20 treatments of financial information within GAAP that have been
21 discussed with management, including ramifications of the use of such
22 alternative disclosures and treatments and the treatment preferred by the
23 independent registered public accounting firm; and (c) other material
24 written communications between the independent registered public
25 accounting firm and management, such as any management letter or
26 schedule of unadjusted differences;

27 6. Review all certifications required to be made by the Company’s
28 principal executive officer and principal financial officer in connection
with the Company’s periodic reports under the Act or pursuant to
Sections 302 and 906 of the Sarbanes-Oxley Act;

7. Review with management and the Company’s independent
registered public accounting firm the Company’s financial statements
(including disclosures made under “Management’s Discussion and
Analysis of Financial Condition and Results of Operations”) prior to the
filing with the SEC of any report containing such financial statements;

8. If deemed appropriate, recommend to the Board that the
Company’s audited financial statements be included in its annual
report on Form 10-K for the last fiscal year;

9. Prepare and approve the report required by the rules of the SEC to
be included in the Company’s annual proxy statement in accordance with
the requirements of Item 7(d)(3)(i) of Schedule 14A and Item 407 of
Regulation S-K.

1 35. In committing the wrong-doing as alleged in detail herein, the Individual
2 Defendants were in violation of the terms of the Code, and therefore in breach of their
3 fiduciary duties as directors of Marrone owed to the Company's shareholders.
4 Similarly, in committing the wrong-doing as alleged herein, defendants Fogarty and
5 Stanley were in violation of the terms of the Audit Committee Charter, and therefore in
6 breach of the fiduciary duties owed to the shareholders of Marrone.

7 **CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION**

8 36. In committing the wrongful acts alleged herein, the Individual
9 Defendants have pursued, or joined in the pursuit of, a common course of conduct, and
10 have acted in concert with, and conspired with one another in furtherance of their
11 common plan or design. In addition to the wrongful conduct herein alleged as giving
12 rise to primary liability, the Individual Defendants further aided and abetted and/or
13 assisted each other in breach of their respective duties.

14 37. During all times relevant hereto, the Individual Defendants collectively
15 and individually initiated a course of conduct that was designed to and did: (a) conceal
16 the fact that the Company was improperly misrepresenting its financial results in order
17 to allow Marrone to artificially inflate the price of the Company's shares; (b) maintain
18 the Individual Defendants' executive and directorial positions at Marrone and the
19 profits, power and prestige that the Individual Defendants enjoyed as a result of these
20 positions; and (c) deceive the investing public, including shareholders of Marrone,
21 regarding the Individual Defendants' management of Marrone's operations, and the
22 Company's financial health and stability specifically related to the Company's
23 financials that had been misrepresented by defendants during the Relevant Period.

24 38. In furtherance of this plan, conspiracy and course of conduct, the
25 Individual Defendants collectively and individually took the actions set forth herein.

26 39. The Individual Defendants engaged in a conspiracy, common enterprise
27 and/or common course of conduct commencing by at least March 6, 2014, and
28 continuing thereafter. During this time, the Individual Defendants caused the

1 Company to conceal the true facts that Marrone was misrepresenting its financial
2 results and violating applicable laws. In addition, the Individual Defendants caused to
3 be disseminated false statements about Marrone's financial performance and business
4 prospects as alleged herein.

5 40. The purpose and effect of the Individual Defendants' conspiracy,
6 common enterprise, and/or common course of conduct was, among other things: (a) to
7 disguise the Individual Defendants' breaches of fiduciary duties, abuse of control, gross
8 mismanagement, waste of corporate assets and unjust enrichment; (b) to conceal
9 adverse information concerning the Company's operations, financial condition and
10 business prospects including at a time when, as discussed below, the Company
11 undertook a public offering of its securities; and (c) to artificially inflate the price of
12 Marrone's common stock so they could protect and enhance their executive and
13 directorial positions as well as the substantial compensation and prestige they
14 obtained as a result thereof.

15 41. The Individual Defendants accomplished their conspiracy, common
16 enterprise and/or common course of conduct by causing the Company to purposefully,
17 recklessly or negligently misrepresent its financial results. Because the actions
18 described herein occurred under the authority of the Board, each of the Individual
19 Defendants was a direct, necessary and substantial participant in the conspiracy,
20 common enterprise and/or common course of conduct complained of herein.

21 42. Each of the Individual Defendants aided and abetted and rendered
22 substantial assistance in the wrongs complained of herein. In taking such actions to
23 substantially assist the commission of the wrongdoing complained of herein, each
24 Individual Defendant acted with knowledge of the primary wrongdoing, substantially
25 assisted the accomplishment of that wrongdoing, and was aware of his or her overall
26 contribution to and furtherance of the wrongdoing.

27 ///

28 ///

SUBSTANTIVE ALLEGATIONS

I. Background of the Company

43. Headquartered in Davis, California, Marrone makes bio-based pest management and plant health products. According to the Company's most recent annual proxy filed with the SEC, the Company makes "bio-based pest management and plant health products." Bio-based products are purportedly comprised of naturally occurring microorganisms, such as bacteria and fungi, and plant extracts. The Company further purports to "target the major markets that use conventional chemical pesticides, including certain agricultural and water markets, where our bio-based products are used as substitutes for, or in connection with, conventional chemical pesticides." In addition, the Company purports to "target new markets for which there are no available conventional chemical pesticides, the use of conventional chemical products may not be desirable or permissible because of health and environmental concerns or the development of pest resistance has reduced the efficacy of conventional chemical pesticides."

44. According to a prospectus filed with the SEC by the Company on June 6, 2014 for the public offering of shares of Marrone common stock, the Company's common stock has been listed on the NASDAQ since August 2, 2013, prior to which time, there was no public market for the Company's stock.

II. The Individual Defendants Caused Marrone to Make Materially False and Misleading Statements During the Relevant Period

45. On March 6, 2014, the Individual Defendants caused Marrone to issue a press release announcing results for the fourth quarter and fiscal year ended December 31, 2013. For the quarter, Marrone reported revenues of \$6 million, representing growth of 106%. Revenue for the full year 2013 was reported at \$14.5 million, representing growth of 104%. The March 6, 2014 press release contained additional statements from defendants pertaining to the Company's fourth quarter and fiscal 2013 performance, including in relevant part:

"Our robust fourth quarter results capped a transformative year for Marrone Bio Innovations," said Pam Marrone, Chief Executive Officer of

1 Marrone Bio Innovations. "I am extremely pleased with the progress we
2 have achieved in 2013. We continued to broaden our sales into high value
3 specialty crops, launched into row crops in North America and also
4 extended our commercial reach across the globe. Our commercial success
5 in the fourth quarter as well as our numerous scientific and operational
6 milestones in 2013 underscore our confidence that we will continue to
7 lead the shift to biologically-based alternatives for pest management and
8 plant health."

9 46. On March 25, 2014, the Individual Defendants caused Marrone to file an
10 annual report Form 10-K with the SEC which was signed by defendants P. Marrone
11 and Glidewell, and reiterated the Company's previously announced quarterly and
12 annual financial results and financial position. In addition, the March 25, 2014 Form
13 10-K contained SOX certifications signed by defendants P. Marrone and Glidewell,
14 stating that the financial information contained in the March 25, 2014 Form 10-K was
15 accurate and disclosed any material changes to the Company's internal control over
16 financial reporting. The Form 10-K was also signed by all of the Company's directors at
17 the time, including defendants Miller, Contag, Fogarty, Lyman, Rominger, and
18 Stanley.

19 47. Moreover, the March 25, 2014 Form 10-K contained the following
20 materially false and/or misleading language pertaining to the Company's revenue
21 recognition policies:
22

23 ***Revenue Recognition***

24 The Company recognizes revenues when persuasive evidence of an
25 arrangement exists, delivery and transfer of title has occurred or services
26 have been rendered, the price is fixed or determinable, and collectability
27 is reasonably assured, unless contractual obligations, acceptance
28 provisions or other contingencies exist. If such obligations or provisions
exist, revenue is recognized after such obligations or provisions are
fulfilled or expire.

48. On March 28, 2014, the Individual Defendants caused Marrone to
announce that defendant Glidewell had resigned from Marrone.

49. On May 13, 2014, the Individual Defendants caused Marrone to issue a
press release announcing financial results for the first quarter ended March 31, 2013.
Marrone reported revenues for the first quarter 2014 of \$2.8 million, compared to \$2.7

1 million for the first quarter of 2013, purportedly in-line with the Company's
2 expectations.

3 50. On May 15, 2014, the Individual Defendants caused Marrone to file a
4 Form 10-Q with the SEC which was signed by defendant Boyd, and reiterated the
5 Company's previously announced quarterly financial results and financial position. In
6 addition, the Form 10-Q contained signed SOX certifications by defendants P. Marrone
7 and Boyd, stating that the financial information contained in the Form 10-Q was
8 accurate and disclosed any material changes to the Company's internal control over
9 financial reporting.

10 51. Moreover, the first quarter Form 10-Q contained the following materially
11 false and/or misleading language pertaining to the Company's revenue recognition
12 policies:

13 ***Revenue Recognition***

14 The Company recognizes revenues when persuasive evidence of an
15 arrangement exists, delivery and transfer of title has occurred or services
16 have been rendered, the price is fixed or determinable, and collectability
17 is reasonably assured, unless contractual obligations, acceptance
18 provisions or other contingencies exist. If such obligations or provisions are
19 fulfilled or expire.

20 52. On May 16, 2014, the Individual Defendants caused Marrone to
21 announce the filing of a registration statement with the SEC on Form S-1 (the
22 "Registration Statement") for a public offering of up to \$35 million of common stock to
23 be sold by the Company and selling stockholders. The Registration Statement covered
24 shares Marrone may sell to the underwriters under a 30-day option to purchase
25 additional shares. The Registration Statement was declared effective on June 5, 2014.

26 53. The Registration Statement/Form S-1 filed by the Company with the SEC
27 on May 16, 2014 referenced Company financial information as of March 31, 2014 and
28 year end 2013, and included the following statements concerning the preparation of its
financial information:

1 **2. Significant Accounting Policies**

2 ***Basis of Presentation***

3 The condensed consolidated financial statements include the accounts of
4 the Company and its wholly-owned subsidiary. All significant
5 intercompany balances and transactions have been eliminated in
6 consolidation.

7 The accompanying financial information as of March 31, 2014 and for
8 the three months ended March 31, 2014 and 2013 have been prepared
9 by the Company, without audit, in accordance with generally accepted
10 accounting principles in the United States (GAAP) and applicable rules
11 and regulations of the Securities and Exchange Commission regarding
12 interim financial reporting. Certain information and note disclosures
13 normally included in the financial statements prepared in accordance
14 with GAAP have been condensed or omitted pursuant to such rules
15 and regulations. However, the Company believes that the disclosures are
16 adequate to make the information presented not misleading. The
17 information included in this quarterly report on Form 10-Q should be
18 read in conjunction with the consolidated financial statements and
19 accompanying notes included in our Annual Report on Form 10-K for the
20 fiscal year ended December 31, 2013.

21 54. Thereafter, on June 5, 2014, the Individual Defendants caused Marrone
22 to announce the pricing of 4,500,000 shares of its common stock at \$9.50 per share in
23 a follow-on public offering. Marrone stated in a press release that it would sell
24 3,900,000 shares in the offering and the remaining 600,000 shares would be sold by
25 an existing stockholder, Syngenta Ventures Pte. LTD. In addition, the Company
26 announced that the underwriters had a 30-day option to purchase up to 675,000
27 additional shares of common stock from Marrone and that the Company would not
28 receive the proceeds from the sale of shares by the selling stockholder.

 55. On June 11, 2014, the Individual Defendants caused Marrone to
 announce the closing of the follow-on offering. The Company stated that the net
 proceeds received from this offering would be approximately \$40.0 million, after
 deducting estimated underwriting discounts and commissions and estimated offering
 expenses.

 56. On August 7, 2014, the Individual Defendants caused Marrone to issue a
 press release announcing the Company's financial results for the second quarter ended

1 June 30, 2014. Marrone reported revenues for the second quarter of \$3.6 million,
2 compared to \$4.5 million in the second quarter of 2013. The August 7, 2014 press
3 release also stated that, “[A]s a result of the impact of bad weather on the year and the
4 late Tuesday resignation of its COO, the Company is unable to give annual guidance at
5 this time, but may be able to provide annual guidance at a later date.”

6 57. Also on August 7, 2014, the Individual Defendants caused Marrone to
7 announce the resignation of its COO, defendant Absi.

8 58. The following day, August 8, 2014, the trading price of the Company’s
9 stock decreased to as low as \$5.31 per share on heavy trading volume. Nevertheless,
10 the trading price of the Company’s stock was still artificially inflated because the
11 Individual Defendants continued to misrepresent the Company’s revenue recognition
12 policies.

13 59. On August 13, 2014, the Individual Defendants caused Marrone to file a
14 Form 10-Q with the SEC which was signed by defendant Boyd, and which reiterated
15 the Company’s previously announced quarterly financial results and financial position.
16 In addition, the Form 10-Q contained signed SOX certifications by defendants P.
17 Marrone and Boyd, stating that the financial information contained in the Form 10-Q
18 was accurate and disclosed any material changes to the Company’s internal control
19 over financial reporting.

20 60. Moreover, the August 13, 2014 second quarter Form 10-Q contained the
21 following materially false and/or misleading language pertaining to the Company’s
22 revenue recognition policies:

23 ***Revenue Recognition***

24 The Company recognizes revenues when persuasive evidence of an
25 arrangement exists, delivery and transfer of title has occurred or services
26 have been rendered, the price is fixed or determinable, and collectability
27 is reasonably assured, unless contractual obligations, acceptance
28 provisions or other contingencies exist. If such obligations or provisions
are fulfilled or expire.

61. The statements referenced above regarding the Company’s financial

1 statements, revenue and revenue recognition were materially false and/or misleading
2 because they misrepresented and failed to disclose the following adverse facts
3 pertaining to the Company's business, operations, and prospects, which were known to
4 the Individual Defendants or recklessly disregarded by them. Specifically, the
5 Individual Defendants made false and/or misleading statements and/or failed to
6 disclose that: (a) Marrone's financial statements contained errors related to the
7 improper recognition of revenues; (b) the Company lacked adequate internal controls
8 over financial reporting; and (c) as a result of the foregoing, the Company's financial
9 statements were materially false and misleading at all relevant times.

10 **III. The Truth Begins to Emerge**

11 62. On September 3, 2014, the Company issued a press release and filed a
12 Form 8-K with the SEC announcing that certain of its previously issued financial
13 statements should no longer be relied upon as being in compliance with generally
14 accepted accounting principles. In the September 3, 2014 Form 8-K, the Company
15 stated, in part:

16 **Item 4.02. Non-Reliance on Previously Issued Financial 17 Statements or a Related Audit Report or Completed Interim Review.**

18 On September 3, 2014, we issued a press release announcing
19 that our board's Audit Committee has commenced an internal
20 investigation after learning of documents calling into question the
21 recognition of revenue in the fourth quarter of 2013 for an \$870,000
22 transaction. On September 2, 2014 the Audit Committee concluded,
23 after consultation with management, that our previously reported
24 financial statements as of December 31, 2013 and for the fiscal year
25 ended December 31, 2013 included in the Company's Annual Report
26 on Form 10-K for the year ended December 31, 2013, the related
27 report of the independent auditors on those 2013 financial statements
28 dated March 25, 2014, and the unaudited interim financial statements
included in the Company's Quarterly Reports on Forms 10-Q for the
quarters ended March 31, 2014 and June 30, 2014, should no longer be
relied upon.

The Audit Committee of the Board of Directors of the Company
and Company management have discussed the foregoing matters with
the Company's independent registered public accounting firm, Ernst &
Young LLP.

1 63. On this news, the trading price of the Company's shares fell \$2.50, or
2 over 44%, to close at \$3.15 on September 3, 2014.

3 64. On September 8, 2014, the Company and defendant P. Marrone, as well
4 as two of the Company's officers were sued for violations of the federal securities laws.

5 65. On February 4, 2015, the Company announced that the investigation into
6 the Company's historical accounting practices was substantially complete. According
7 to a press release later filed with the SEC on Form 8-K, the Company had improperly
8 recognized revenue for certain of the Company's historical sales transactions with its
9 distributors. The press release announced that:

10 [t]he principal findings of the Committee were that (i) certain employees
11 did not share with the Company's finance department or the external
12 auditors certain important transactional terms, (ii) certain sales
13 personnel executed inaccurate "sales representation" letters, which are
14 intended to inform the Company's finance department and the external
15 auditors of any commitments not included on a customer purchase order
16 provided to the finance department, and (iii) certain employees
17 mischaracterized expenses related to agreements to pay for the storage
18 and freight fees associated with certain transactions.

16 66. The Company also stated that:

17 [i]n light of the [Audit] Committee's findings, management of the
18 Company is evaluating the necessity, nature and scope of any
19 restatements to any of its previously filed financial statements. Due to the
20 ongoing nature of this evaluation, the Company cannot at this time
21 provide an estimate of the timing, extent, or effect of any such
22 restatement.

21 67. On April 17, 2015, the Company announced further results from the
22 Audit Committee's investigation into Marrone's historical accounting and revenue
23 recognition practices. The Company stated, in a report filed with the SEC on Form 8-K,
24 that:

25 [T]he Audit Committee concluded, after consultation with management,
26 that in addition to the 2013 Fiscal Year and 2014 Quarterly Financial
27 Statements, the Company's previously reported unaudited interim
28 financial statements as of and for the three months, the three and six
months and the three and nine months ended March 31, 2013, June 30,
2013 and September 30, 2013, respectively, should no longer be relied
upon. Although the Company expects to restate certain of its previously

1 filed financial statements, the Company's evaluation process is ongoing;
2 accordingly, the Company cannot at this time provide an estimate of the
3 timing, extent, or effect of such restatement.

4 68. On May 18, 2015, the Company filed a Form NT 10-Q with the SEC
5 indicating that the Company was still not able to file its Form 10-Q for Q1 2015. In the
6 filing, the Company stated:

7 "As previously reported, the Audit Committee (the "Committee") of
8 Marrone Bio Innovations, Inc. (the "Company") in September 2014
9 commenced an internal investigation regarding certain accounting
10 matters, and announced that it had concluded, after consultation with
11 management, that the Company's previously reported financial
12 statements as of December 31, 2013 and for the fiscal year ended
13 December 31, 2013, the related report of the independent auditors on
14 those 2013 financial statements dated March 25, 2014, and the unaudited
15 interim financial statements as of and for the three months and the three
16 and six months ended March 31, 2014 and June 30, 2014, respectively,
17 should no longer be relied upon. Following the February 2015 completion
18 of the internal investigation, in April 2015, the Company announced that
19 the Committee concluded, after consultation with management, that in
20 addition to the foregoing, the Company's previously reported unaudited
21 interim financial statements as of and for the three months, the three and
22 six months and the three and nine months ended March 31, 2013, June
23 30, 2013 and September 30, 2013, respectively, also should no longer be
24 relied upon (all such statements together, the "Reported Financial
25 Statements").

26 "Management of the Company has been evaluating the necessity, nature and
27 scope of any restatements to any of its previously filed financial statements
28 based on the findings and conclusions of the Committee's internal investigation.
29 Principally, the Committee determined that as a result of the failure of certain
30 employees to share with the Company's finance department or the external
31 auditors important transaction terms with distributors, including "inventory
32 protection" arrangements that would permit the distributors to return to the
33 Company certain unsold products, the Company inappropriately recognized
34 revenue for certain historical sales transactions with these distributors prior to
35 satisfying the criteria for revenue recognition required under U.S. Generally
36 Accepted Accounting Principles ("GAAP").

37 "Accordingly, the Company's management has been evaluating all distributor
38 sales transactions during the periods referenced above on a customer-by-
39 customer and transaction-by-transaction basis, including relevant documents
40 and seeking any details of any other undocumented arrangements or
41 commitments. With respect to each individual transaction, the Company's
42 management is evaluating relevant facts and circumstances to apply its revenue
43 recognition policy. With respect to many transactions, to permit the Company
44 to determine both (i) the appropriate methodology for accounting for those

1 transactions and (ii) the appropriate timing and quantification of any product
2 revenues arising from those transactions, the Company has sought to obtain
3 additional information from certain of its distributors – including information
regarding the distributors’ sales to end users of the products the Company
shipped to the distributor.

4 “In light of the nature and complexity of this ongoing process, while the
5 Company anticipates that it will restate the Reported Financial Statements, the
6 Company has not yet made any definitive conclusions regarding the nature,
7 scope and specific financial impacts of such restatements, and cannot at this
8 time provide an estimate of extent or effect of such restatements. Until the
9 evaluation is finished, the Company is not able to complete and file the financial
10 statements to be included in its Quarterly Report on Form 10-Q for the three
months ended March 31, 2015 (the “Form 10-Q”) by the due date of May 15,
2015 or to announce financial results in a manner required by GAAP for any
fiscal period as to which the Company has not yet provided financial results (the
“Unreported Periods”).

11 69. On the release of this news, the price of the Company’s common stock fell
12 from \$2.94 to \$2.36, on unusually heavy volume. The price continued to decline in the
13 days following the May 18, 2015 announcement, dropping to \$1.94 on May 22, 2015.

14 70. Thereafter, on July 9, 2015, the Company announced that it had
15 improperly recognized revenue on a “sell-in” rather than a “sell-through” basis during
16 the Relevant Time Period.

17 71. Specifically, in a report filed with the SEC on Form 8-K, Marrone
18 explained that the Company’s financial statements during the Relevant Period, as well
19 as certain financial statements that the Company has yet to report, are:

20 expected to be presented using a “sell-through” method as to some or all
21 distributors rather than the “sell-in” method previously used by the
22 Company. In general, under the “sell-through” method sales by the
23 Company to distributors would not be recognized as product revenues
24 until the distributors sell the product through to end-users, rather than at
25 the time of the initial sale to the distributors under the “sell-in” method.
26 The Company is evaluating the appropriate application of the sell-through
method including the particular distributors and applicable periods as to
which the Company would apply the sell-through method. The principal
impact of switching from a “sell-in” to a “sell-through” method is that
product revenues with respect to the applicable distributors are expected
to be deferred to later periods.

27 72. The Company further stated that:
28

1 [i]n addition to the expected change in methodology from “sell-in” to
2 “sell-through” for sales to distributors, and the resulting deferral in
3 revenue recognition to later periods, the Company also expects to
4 recognize, in the aggregate, approximately \$1.7-2.0 million less in product
5 revenues than previously reported for 2013 and the first six months of
6 2014 because certain distributors have returned (or are in the process of
7 returning) product to the Company pursuant to “inventory protection”
8 rights.

9 73. In light of the foregoing, the Company’s financial statements referenced
10 above were each false and/or misleading statements of material fact when made
11 because the financial statements materially misstated product revenues by improperly
12 or prematurely recognizing revenue. The statements referenced above were inaccurate
13 statements of material fact when made for the additional reason that the Company’s
14 distributors did in fact have protection rights that would allow them to return
15 Marrone’s products to the Company, thereby precluding immediate revenue
16 recognition.

17 74. As of October 5, 2015, the Company still had not yet restated its financial
18 results or timely filed its SEC filings, and the Company’s stock was still trading at just
19 \$2.24 per share.

20 75. As a result of the Individual Defendants’ wrongful acts and
21 omissions, and the precipitous decline in the market value of the Company’s
22 securities, Plaintiff and the Company’s other public shareholders have suffered
23 significant losses and damages.

24 76. The Individual Defendants, by their fiduciary duties of care, good faith
25 and loyalty, owe and owed Marrone and its shareholders a duty to ensure that the
26 Company’s public statements fairly presented, in all material respects, Marrone, as
27 well as issues material to the Company’s management, internal controls, disclosures
28 and operations. Further, as members of the Audit Committee, defendants Fogarty
and Stanley had a special duty to know and understand the information
published in the Company’s financial statements and to ensure that the Company
had proper internal controls and reporting systems.

IV. The Officer Defendants Benefitted from the Wrongdoing

77. Defendants P. Marrone, Boyd, Glidewell, and Absi were executive officers and employees of the Company during the Relevant Period.

78. Such defendants directly participated in the wrongdoing alleged herein, including preparation and dissemination of the Company's false accounting entries, accounting treatment, financial statements, SEC filings, and press releases.

79. As a result of such defendants' wrongdoing, Marrone's revenues, profits, and other financial metrics were artificially inflated during the Relevant Period.

80. Defendants P. Marrone, Boyd, Glidewell, and Absi were compensated, at least in part, during the Relevant Period based on Marrone's revenues, profits, and other financial metrics tied to Marrone's performance. Because of defendants' wrongdoing, such revenues, profits, and other financial metrics were inflated. As a result, the defendants were paid more compensation than they should have been paid.

81. As an example, Marrone filed a Proxy Statement with the SEC on April 25, 2014. In the Proxy Statement, Marrone provided some information about the compensation of defendants. The following details were provided:¹

NAME	YEAR	SALARY (\$)	BONUS (\$)	OPTION AWARDS (\$) ⁽¹⁾	NON-EQUITY INCENTIVE PLAN COMPENSATION (\$)	ALL OTHER COMPENSATION (\$) ⁽²⁾	TOTAL (\$)
Pamela G. Marrone, Ph.D	2013	250,000	25,835 ⁽⁴⁾	1,014,461	60,023	11,206	1,361,525
	2012	250,000	—	452,144	75,375	11,804	789,323
	2011	220,833	—	66,146	34,642 ⁽³⁾	10,307	331,928
Donald J. Glidewell	2013	209,583	—	5,032	50,320	8,086	273,021
	2012	175,000	—	335,067	38,763	7,320	556,150
	2011	116,641	—	87,155	14,930	2,856	221,582
Hector Absi	2013	213,542	25,000 ⁽⁴⁾	395,739	49,668	29,006	712,955
	2012	52,038	10,000 ⁽⁵⁾	323,750	11,527	7,458	404,773

¹ Defendant Boyd was not included in the chart because the chart concerns 2013 compensation, and Boyd did not join Marrone until on or about February 26, 2014. Upon information and belief, Boyd earned some incentive-based compensation, or compensation tied to Marrone's financial performance, in 2014. However, since Marrone has not filed its 2014 Proxy Statement with the SEC yet, such information is within the exclusive possession and knowledge of Marrone and Plaintiff needs discovery in order to learn the details of Boyd's compensation during the Relevant Period. Marrone did disclose that Boyd was paid a salary of \$250,000 in 2014 and is entitled to participate in the Company's normal compensation programs for executive officers, and that he is entitled to certain severance payments if the Company fires him without cause, including six months' salary and certain other benefits.

1 ***Non-Equity Incentive Awards***

2 We structure our annual non-equity incentive awards to reward named executive officers for the successful
3 performance of our company as a whole and of each participating named executive officer as an individual. For
4 the 2013 fiscal year, our compensation committee established a bonus plan available to all of our executive
5 officers and other key employees. The bonus plan provides for a target cash award of up to 30% of the named
6 executive officer's salary, with 75% of the target award based upon the achievement of company-wide goals, and
7 25% of the target award based upon the achievement of individual goals. The progress of the goals is tracked by
8 the compensation committee on a quarterly basis. Each company-wide goal and individual goal received a
9 weighting, such that a named executive officer would receive a portion of the target non-equity incentive award
10 for each goal achieved. The company-wide goals were based on our forecasts and plans for fiscal year 2013 and
11 took into account factors, including net revenues objectives, based on anticipated timing and volume of new
12 customer activity, and product development events such as completion of development work and EPA submissions
13 for new products, processing international registrations and introduction of products into new markets. Based
14 upon these factors, the compensation committee determined that 73% of the company-wide goals were achieved
15 in 2013. Therefore, the executive officers were entitled to 55% of their target bonuses based on upon the
16 company-wide goals component.

17 In addition to the company-wide goals, 25% of each named executive officer's 2013 bonus target was
18 comprised of achievement of individual goals. The 2013 individual goals for each named executive officer were
19 based on the following factors:

20 Pamela G. Marrone, Ph.D. Dr. Marrone was evaluated on the basis of the overall performance of our
21 company, including the success of the IPO and the extent to which we were successful in achieving net revenues
22 goals, developing strategic collaborations, product development, commercialization targets, geographical
23 expansion, organizational development and growth. The board determined that Dr. Marrone achieved 100% of
24 her individual goals (representing 25% of her aggregate bonus target) for an aggregate non-equity incentive award
25 equal to 80% of her bonus target (with 55% of this award based on the achievement of 73% of the company-wide
26 goals).

27 Donald J. Glidewell. Under the terms of the transition agreement with Mr. Glidewell, Mr. Glidewell was
28 entitled to receive 100% of his individual goals (representing 25% of his aggregate bonus target) for an aggregate
non-equity incentive award equal to 80% of his bonus target (with 55% of this award based on the achievement of
73% of the company-wide goals).

Hector Absi. Mr. Absi was evaluated on the achievement of certain revenues and business development
goals. He was determined to have achieved 90% of his individual goals (representing 23% of his aggregate bonus
target) for an aggregate non-equity incentive award equal to 78% of his bonus target (with 55% of this award
based on the achievement of 73% of the company-wide goals).

29 **DERIVATIVE ALLEGATIONS**

30 **82.** Plaintiff brings this action derivatively in the right and for the benefit of
31 Marrone to redress injuries suffered, and to be suffered, by Marrone as a direct result
32 of the breaches of fiduciary duties, abuse of control, gross mismanagement, waste of
33 corporate assets and unjust enrichment, as well as the aiding and abetting thereof, by
34 the Individual Defendants. Marrone is named as a nominal defendant solely in a
35 derivative capacity. This is not a collusive action to confer jurisdiction in this Court
36 that it would not otherwise have.

1 83. Plaintiff will adequately and fairly represent the interests of Marrone and
2 its shareholders in enforcing and prosecuting its rights.

3 84. Plaintiff is an owner of Marrone common stock and owned such stock at
4 all times relevant to the Individual Defendants' wrongful course of conduct alleged
5 herein.

6 85. At the time that this action was commenced, the Board consisted of the
7 following eight individuals: defendants P. Marrone, Miller, Contag, Fogarty, Stanley,
8 Kerckhove, Lyman, and Rominger.

9 86. As a result of the facts set forth herein, Plaintiff did not made any
10 demand on the Board to institute this action against the Individual Defendants. Such
11 demand would have been a futile and useless act with respect to each and every one of
12 the Individual Defendants because they are incapable of making an independent and
13 disinterested decision to institute and vigorously prosecute this action for the reasons
14 set forth below.

15 87. The entire Board has demonstrated its inability to act in compliance with
16 their fiduciary obligations and/or to sue themselves and/or their fellow directors and
17 allies in the top ranks of the Company for the violations of law complained of herein.
18 Every Board member is in violation of their fiduciary duties to Marrone's shareholders,
19 as described herein, and every Board member is in violation of the Code. Indeed
20 defendants P. Marrone, Miller, Contag, Fogarty, Lyman, Rominger, and Stanley
21 approved and signed Marrone's March 25, 2014 Form 10-K, which contained false and
22 misleading information. Therefore, no reasonable Marrone stockholder would
23 reasonably believe that a majority of the members of the Board would be able to
24 independently and properly consider a demand in good faith and, accordingly, demand
25 is excused.

26 88. Every member of the Board declined to inform themselves of misconduct
27 complained of herein, even when they had a reasonable basis to believe that further
28 investigation was warranted, as is evidenced for example by the resignation of Absi in

1 August 2014, the inability of the Company to provide annual guidance at the same
2 time, and the following significant decline of the trading price of the Company's stock.
3 Thus, demand is excused.

4 89. Defendants Fogarty and Stanley are members of the Audit Committee
5 and therefore had a clear duty to be kept informed about the Company's accounting
6 procedures, and yet just as clearly they disregarded such duties. Defendants Fogarty
7 and Stanley have violated the terms of the Audit Committee Charter. Stanley's
8 violations are particularly egregious in light of the fact that he is well versed on revenue
9 recognition issues as a Certified Public Accountant. As such, defendants Fogarty and
10 Stanley are incapable of disinterestedly and independently considering a demand to
11 commence and vigorously prosecute this action.

12 90. Defendant Fogarty is also currently the Chief Financial Officer and a
13 Partner of the Contrarian Group, Inc., an investment and management company which
14 is also an investor in Marrone through its limited partnership, CGI Opportunity Fund
15 II, L.P. Because of his role at the Contrarian Group and its investment in Marrone,
16 Fogarty faces conflicts of interest in any demand to bring suit in this case.

17 91. Defendant P. Marrone is not independent because she is interested in the
18 subject of this lawsuit. As alleged herein, P. Marrone received excessive and unjust
19 compensation during the Relevant Period as a result of Marrone's false financial
20 statements and accounting fraud, since P. Marrone's compensation was based in part
21 on the revenues and profits earned by the Company. P. Marrone thus is incapable of
22 considering a demand to bring suit in this case because if claims were brought against
23 P. Marrone, she would have to return significant compensation she earned during the
24 Relevant Period. P. Marrone is thus financially interested in the subject of this action
25 and incapable of objectively considering a demand.

26 92. Moreover, the Company admits in its SEC filings that defendant P.
27 Marrone is not independent because her principal professional occupation is her
28 employment with Marrone as its President and CEO, pursuant to which she has

1 received and continues to receive compensation and other benefits. Thus, defendant P.
2 Marrone lacks independence rendering her incapable of impartially considering a
3 demand to commence and vigorously prosecute this action.

4 93. The Board has also admitted that defendant Lyman is not independent.
5 In the Company's Proxy Statement filed with the SEC on April 25, 2014, the Company
6 admitted that "the board of directors determined that each of its non-employee
7 members was independent **except for Les Lyman.**" (emphasis added). Indeed, the
8 Proxy further demonstrates Lyman's lack of independence and objectivity by noting
9 that Lyman "is the chairman and significant indirect shareholder of The Tremont
10 Group, Inc. During the year ended December 31, 2013, The Tremont Group, Inc.
11 purchased \$1,446,000 of our products for further distribution and resale. As of
12 December 31, 2013, we had outstanding accounts receivable due from The Tremont
13 Group, Inc. of \$903,000, all of which are due in April 2014. Although we anticipate
14 sales of our products to The Tremont Group, Inc. to continue through 2014, we cannot
15 estimate the amount of those sales."

16 94. Because of such financial interests, Lyman is not independent and
17 objective and cannot objectively consider a demand. Indeed, because Lyman's
18 company is a re-seller of the Company's products, and the Company has admitted to
19 wrongdoing regarding recognition of revenue based on transactions with its customers,
20 Lyman and his company could be involved in the improper revenue recognition
21 practices. At a minimum, they could be called to testify at trial regarding the
22 Company's revenue practices and the manner in which The Tremont Group resold the
23 Company's products and when Marrone recognized revenue based on such
24 transactions. Thus, Lyman cannot independently consider a demand to bring suit
25 against himself or any other member of the Board in this case.

26 95. Each member of the Board faces a substantial likelihood of liability for
27 breaching their fiduciary duties of loyalty and good faith as alleged herein, and are
28

1 therefore incapable of disinterestedly and independently considering a demand to
2 commence and vigorously prosecute this action.

3 96. Each member of the Board faces the possibility of liability for alleged
4 violations of the federal securities laws in relation to the Company's accounting
5 procedures and public disclosures, and is therefore incapable of disinterestedly and
6 independently considering a demand to commence and vigorously prosecute this
7 action.

8 97. If Marrone's officers and directors are protected against personal liability
9 for their acts of mismanagement, abuse of control, and breaches of fiduciary duties
10 alleged in this complaint by directors and officers ("D&O") liability insurance, they
11 caused the Company to purchase that insurance for their protection with corporate
12 funds, *i.e.*, monies belonging to the shareholders. Upon information and belief, the
13 D&O insurance policies covering the Individual Defendants in this case contain
14 provisions that eliminate coverage for any action brought directly by Marrone against
15 the Individual Defendants, known as the "insured versus insured exclusion." As a
16 result, if the Director Defendants were to sue themselves or certain of the officers of
17 Marrone, there would be no D&O insurance protection. On the other hand, if the suit is
18 brought derivatively, as this action is brought, such insurance coverage exists and will
19 provide a basis for the Company to effectuate recovery. Therefore, the Board cannot be
20 expected to file the claims asserted in this derivative lawsuit because such claims
21 would not be covered under Marrone's D&O insurance policy.

22 98. Although Marrone has been and will continue to be exposed to
23 significant losses due to the Individual Defendants' wrongdoing, the Board has not
24 filed any lawsuits against any directors or officers who were responsible for the losses.
25 Thus, the Director Defendants are breaching their fiduciary duties to the Company and
26 face a substantial likelihood of liability for their breaches. Indeed, the Director
27 Defendants are more interested in protecting themselves than they are in protecting
28 Marrone by bringing this action. Thus, demand on the Board is futile.

1 principles and when put on notice of problems with the Company's operations,
2 exercise good faith in taking appropriate action to address the problems identified.

3 106. The Individual Defendants intentionally or recklessly ignored the
4 problems with Marrone's internal controls and practices and procedures and failed to
5 make a good faith effort to correct these problems or prevent their recurrence.

6 107. As a direct and proximate result of the Individual Defendants'
7 foregoing breaches of fiduciary duties, the Company has sustained damages.

8 **COUNT III**

9 **Breach of the Duty of Honest Services Against P. Marrone, Boyd, Glidewell, and Absi**

10 108. Plaintiff incorporates by reference and realleges each and every
11 allegation contained above, as though fully set forth herein.

12 109. This claim is brought derivatively on behalf of the Company against
13 Defendants P. Marrone, Boyd, Glidewell, and Absi for breach of their undivided duty of
14 loyalty to their employer.

15 110. P. Marrone, Boyd, Glidewell and Absi were employees of the Company
16 during the Relevant Period.

17 111. P. Marrone, Boyd, Glidewell and Absi breached their duty of loyalty to
18 the Company by not acting solely in the Company's interests in performing their
19 employment duties.

20 112. Those breaches of duty consisted of the conduct alleged in this complaint
21 including, without limitation, their conduct in causing the Company to misstate its
22 financial results, misstate the fact that the Company maintained adequate internal
23 controls, and cause the Company to make other false and misleading statements
24 during the Relevant Period. Defendants benefitted from their wrongdoing because they
25 received compensation that was directly tied to the Company's financial performance,
26 which was greater than it would have been absent the defendants' wrongful conduct.

27 113. The Company was harmed by these defendants' breaches of the
28 undivided duty of loyalty.

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COUNT VI
Professional Negligence and Accounting Malpractice
Against E&Y

123. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

124. E&Y issued “clean” or unqualified opinions on Marrone’s financial statements for fiscal years 2012 through 2014, stating that those financial statements were presented in accordance with GAAP based on E&Y’s audits which were performed in accordance with Generally Accepted Auditing Standards (“GAAS”). GAAS, as approved and adopted by the American Institute of Certified Public Accountants (“AICPA”), governs the conduct of audit engagements.

125. The objective of audits of financial statements by an independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations and cash flows in conformity with GAAP. The auditor’s report is the medium through which the auditor expresses his or her opinion or, if circumstances require, disclaims an opinion. In either case, the auditor states that the audit has been in accordance with GAAS. These standards required the auditor to state whether, in his or her opinion, the financial statements are presented in accordance with GAAP and to identify those circumstances in which such principles have not been consistently observed in the preparation of the financial statements of the current period in relation to those of the preceding period.

126. GAAS are comprised of ten general standards. The independent auditor is responsible for compliance with GAAS in an audit engagement. As set forth below, these standards to a great extent are interrelated and interdependent:

(a) General Standards

(i) The audit is to be performed by a person or persons having adequate technical training and proficiency as an auditor.

1 (ii) In all matters relating to the assignment, independence in mental
2 attitude is to be maintained by the auditor or auditors.

3 (iii) Due professional care is to be exercised in the performance of the
4 audit and the preparation of the report.

5 **(b) Standards of Fieldwork**

6 (iv) The work is to be adequately planned and assistants, if any, are to
7 be properly supervised.

8 (v) A sufficient understanding of the internal control structure is to be
9 obtained to plan the audit and to determine the nature, timing, and extent of
10 tests to be performed.

11 (vi) Sufficient competent evidential matter is to be obtained through
12 inspection, observation, inquiries, and confirmations to afford a reasonable
13 basis for an opinion regarding the financial statements under audit.

14 **(c) Standards of Reporting**

15 (vii) The report shall state whether the financial statements are
16 presented in accordance with GAAP.

17 (viii) The report shall identify those circumstances in which such
18 principles have not been consistently observed in the current period in
19 relation to the preceding period.

20 (ix) Informative disclosures in the financial statements are to be
21 regarded as reasonably adequate unless otherwise stated in the report.

22 (x) The report shall either contain an expression of opinion regarding
23 the financial statements, taken as a whole, or an assertion to the effect that an
24 opinion cannot be expressed. When an overall opinion cannot be expressed, the
25 reasons therefore should be stated. In all cases where an auditor's name is
26 associated with financial statements, the report should contain a clear-cut
27 indication of the character of the auditor's work, if any, and the degree of
28 responsibility the auditor is taking.

1 127. E&Y's audits of Marrone's financial statements issued between 2012 and
2 2014 violated each of the general standards set forth above.

3 128. E&Y is one of the largest accounting firms in the U.S. E&Y was the
4 auditor of Marrone's financial statements during the Relevant Period, and was paid to
5 review the quarterly financial statements of Marrone. E&Y audited Marrone's financial
6 statements issued between 2012 and 2014, and issued the audit opinions stating that
7 those financial statements were fairly presented in accordance with GAAP, and that
8 E&Y had audited those financial statements in accordance with GAAS. Both of those
9 statements were false. E&Y either knew or should have been aware of facts that
10 undeniably precluded it from making those statements at the time they were made.
11 Marrone's financial statements and E&Y's opinions on them were then used by
12 Marrone with E&Y's consent to publicly disseminate Marrone's financial results in the
13 filing of Marrone's Form 10-K and Forms 10-Q with the SEC.

14 129. E&Y was negligent in failing to comply with GAAS as Marrone's outside
15 auditor. E&Y issued unqualified opinions stating that the financial statements of
16 Marrone were fairly presented in accordance with GAAP, when E&Y was aware of or
17 should have been aware of facts and circumstances that undermined such unqualified
18 opinions and rendered them false and misleading.

19 130. In the course of performing audit services, E&Y reasonably could have
20 obtained evidential matter revealing Marrone's improper revenue recognition, but
21 improperly failed to require Marrone to correct or adjust its financial statements or
22 make disclosure of such facts. As a result of its investigations and audit work, E&Y
23 reasonably should have known that the reports and financial statements described
24 herein were materially false and misleading or negligently disregarded facts that
25 showed that all such statements were materially false and misleading.

26 131. Because: (a) E&Y spoke regularly with Marrone's Board and Audit
27 Committee members who were knowledgeable about the undisclosed payments; and
28 (b) E&Y attended certain of Marrone's Board and Audit Committee meetings where

1 legal compliance was discussed, E&Y knew or negligently disregarded facts that
2 indicated that E&Y should have: (i) qualified its opinions on Marrone's financial
3 statements for fiscal years 2012 through 2014; or (ii) required Marrone to correct or
4 adjust its financial statements; or (iii) refused to give opinions in light of the materially
5 adverse effects of the undisclosed facts about Marrone's financial condition. The failure
6 to make such qualification, correction, modification, or withdrawal was a violation of
7 GAAS.

8 132. E&Y also failed to require Marrone to disclose material adverse facts and
9 allowed Marrone to make material misrepresentations to its shareholders and to the
10 investing public.

11 133. E&Y violated GAAS General Standard No. 3, which requires that due
12 professional care must be exercised by the auditor in performance of the examination
13 and the preparation of the audit report.

14 134. E&Y violated GAAS Standard of Field Work No. 2, which requires the
15 auditor to make a proper study of existing internal controls, to determine whether
16 reliance thereon was justified, and if such controls are not reliable, to expand the
17 nature and scope of the auditing procedures to be applied. E&Y reasonably should have
18 known that Marrone's internal controls were insufficient yet still failed to expand the
19 auditing procedures.

20 135. E&Y violated GAAS Standard of Field Work No. 3, which requires
21 sufficient competent evidential matter be obtained through inspection, observation,
22 inquiries and confirmations to afford a reasonable basis for an opinion to be issued on
23 the subject financial statements. E&Y failed to obtain sufficient competent evidential
24 matter as to Marrone's accounting and disclosure practices related to revenue
25 recognition.

26 136. E&Y violated GAAS Standard of Reporting No. 1, which requires the
27 audit report to state whether the financial statements are presented in accordance with
28 GAAP. E&Y's opinions falsely represented that Marrone's financial statements

1 complied with GAAP, when E&Y knew or negligently disregarded that those
2 statements did not for the reasons herein alleged.

3 137. E&Y violated GAAS Standard of Reporting No. 4, which requires, when
4 an opinion on the financial statements as a whole cannot be expressed, that the
5 reasons be stated. E&Y should have either stated that no opinion could be issued by
6 them on Marrone's financial statements or issued an adverse opinion stating that the
7 financial statements were not fairly presented.

8 138. E&Y violated Standard of Field Work No. 1 and the standards set forth in
9 AU sections 310, 320 and 327 by, among other things, failing to adequately plan its
10 audit and properly supervise the work of its assistants so as to establish and carry out
11 procedures reasonably designed to search for and detect the existence of errors and
12 irregularities that would have a material effect upon the financial statements.

13 139. E&Y violated SAS No. 1 and AU Section 230 in that it failed to perform its
14 examination with an attitude of professional skepticism and, in connection with the
15 audits of Marrone's financials, ignored numerous "red flags" that would reasonably
16 have led to the discovery of the improper revenue recognition.

17 140. Defendant E&Y violated AU section 316.20, which requires that
18 additional procedures should be performed when evaluation at the financial-statement
19 level indicates significant risk.

20 141. As a result of the foregoing, E&Y's certification of Marrone's financial
21 statements issued in 2012 through 2014 falsely represented that the statements were
22 audited pursuant to GAAS and that Marrone's financial statements were presented in
23 conformity with GAAP. E&Y knew that such certification was false and misleading
24 because, as detailed herein: (a) E&Y knew or was negligent in not knowing that
25 Marrone's financial statements violated GAAP; and (b) E&Y knew those statements
26 had not complied with GAAS.

27 142. As a result of the services rendered to Marrone, E&Y's personnel were
28 present or should have been present at Marrone's corporate headquarters and major

1 operating offices and examined or participated, or should have examined and
2 participated, in reviews, investigations and audit procedures regarding the financial
3 condition, business operations and financial, accounting and management-control
4 systems of Marrone. In the course of performing such services, E&Y had virtually
5 unlimited access to substantial evidential matter revealing the adverse facts about the
6 Company's compliance with finance reporting requirements and laws and the finances
7 of Marrone, but improperly failed to require adjustment for or disclosure of such facts.

8 143. E&Y: (a) knew or was negligent in not knowing of the material, adverse,
9 non-public information about the financial statements of Marrone, which was not
10 disclosed; and (b) participated in drafting, reviewing and/or approving the misleading
11 statements, releases, reports and other representations regarding Marrone's financial
12 condition, including its Form 10-K and Forms 10-Q during the Relevant Period.

13 144. In performing auditing and accounting services on behalf of Marrone and
14 engaging in the wrongful acts alleged herein, E&Y knew or should have known that its
15 client would, and did, transmit false and misleading financial information to the
16 investing public. However, E&Y failed to discharge its duties in adherence to GAAP
17 and GAAS to detect errors and irregularities and/or failed to require correction and
18 disclosure of these errors and irregularities.

19 145. In performing the auditing and accounting services to Marrone in the
20 manner alleged herein, E&Y owed a duty to Marrone and its shareholders to use such
21 skill, care and diligence as other members of its profession commonly exercised. E&Y,
22 however, breached such duty by committing the wrongful acts and conduct alleged
23 herein.

24 146. Marrone relied to its detriment on E&Y and was damaged thereby.

25 147. As a direct, foreseeable, and proximate result of E&Y's professional
26 negligence and accounting malpractice, Marrone was damaged.

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COUNT VII
Aiding and Abetting Breaches of Fiduciary Duties
Against E&Y

148. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

149. E&Y aided and abetted the Individual Defendants in breaching their fiduciary obligations owed to Marrone resulting in the wrongdoing and damages to the Company. E&Y knew or should have known that Marrone's financial statements for fiscal years 2012 through 2014 were materially false and misleading. E&Y also knew, or should have known, that the false and misleading information would be used, in whole or in part, by Marrone to prepare their publicly reported financial results and financial statements. Nevertheless, E&Y actively prepared the false and misleading information and thereby aided and abetted the Individual Defendants' breaches of fiduciary duties and their violation of their duty of candor to Marrone shareholders complained of herein.

150. As a direct, foreseeable, and proximate result of E&Y's aiding and abetting of the Individual Defendants' breaches of fiduciary duties, Marrone has been damaged.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

(a) Against all of the Individual Defendants and E&Y and in favor of the Company for the amount of damages sustained by the Company as a result of the Individual Defendants' breaches of fiduciary duties;

(b) Awarding to Marrone restitution from the Individual Defendants and E&Y, and each of them, and ordering disgorgement of all profits, benefits and other compensation obtained by the Individual Defendants and E&Y;

(c) Awarding to Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses;

1 (d) Ordering Marrone to implement enhanced corporate governance and
2 internal control procedures including appointing additional independent directors to
3 the Board, bringing all filings with the SEC current forthwith, and initiating
4 appropriate tests and then strengthening the Company's internal audit and control
5 functions; and

6 (e) Granting such other and further relief as the Court deems just and
7 proper.

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff demands a trial by jury on all issues so triable.

10 Dated: October 13, 2015

Respectfully submitted,

BOTTINI & BOTTINI, INC.

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