UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

________________, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. SYNACOR, INC., HIMESH BHISE, and WILLIAM J. STUART, Defendants.	**Case No.** **CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

CLASS ACTION COMPLAINT

Plaintiff ____________________ ("Plaintiff"), individually and on behalf of all other persons similarly situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Defendants, alleges the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff's attorneys, which included, among other things, a review of the Defendants' public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Synacor, Inc. ("Synacor" or the "Company"), analysts' reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of a class consisting of all persons other than Defendants who purchased or otherwise acquired Synacor securities between May 4, 2016 and March 15, 2018, both dates inclusive (the "Class Period"), seeking to recover

damages caused by Defendants' violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. Synacor operates as a technology development, multiplatform services, and revenue partner for video, Internet, and communications providers, as well as device manufacturers, governments, and enterprises.

3. Founded in 1998, the Company was formerly known as CKMP, Inc. and changed its name to Synacor in July 2001. Synacor is headquartered in Buffalo, New York, and its securities trade on the NASDAQ Global Market ("NASDAQ") under the ticker symbol "SYNC".

4. On May 4, 2016, Synacor announced that it had secured a three-year contract to host web and mobile services for AT&T Inc. ("AT&T" and the "AT&T Contract", respectively). The Company's press release announcing the contract stated in relevant part:

AT&T Awards Synacor Important Portal Services Contract

> May 4, 2016
>
> - *Synacor selected to provide portal services for AT&T customers that drive user engagement*
> - ***Expected revenues from the contract are ~$100M per year, after full product deployment in 2017***
> - *Early products to deploy in Q2 2016, with broader services slated to commence deployment in Q4 2016*
>
> BUFFALO, N.Y., May 04, 2016 (GLOBE NEWSWIRE) -- Synacor, Inc. (Nasdaq:SYNC), the trusted multiscreen technology and monetization partner for video, internet and communications providers, device manufacturers and enterprises, today announced that AT&T Inc. (NYSE:T), the largest pay TV provider in the United States, has awarded a portal services contract to Synacor.
>
> In partnership with AT&T, Synacor will

- Develop and manage innovative desktop and mobile portal services designed to drive user engagement
- Populate these experiences with rich content sourced from popular brands
- Monetize these experiences through search and advertising

> "We are honored to have been selected from among the contenders AT&T considered in their evaluation process," said Synacor CEO Himesh Bhise. "We are thrilled that AT&T will be using our managed portal services, mobile apps, and advertising solutions in this important initiative to deepen engagement with their customers. We already are developing initial products for deployment in 2016, and have started working on a next-gen product for 2017."
>
> (Emphasis added.)

5. Throughout the Class Period, Defendants made materially false and misleading statements regarding the Company's business, operational and compliance policies. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Synacor was unlikely to receive significant revenues from the AT&T Contract until 2018; (ii) as such, the Company's revenue forecasts issued during the Class Period were materially false and misleading; and (iii) as a result of the foregoing, Synacor shares traded at artificially inflated prices during the Class Period, and class members suffered significant losses and damages.

6. On August 9, 2017, post-market, Synacor issued a press release entitled "Synacor Exceeds Second-Quarter 2017 Financial Guidance; Remains on Path to '3/30/300,'" announcing its financial results for the quarter ended June 30, 2017. The press release stated in relevant part:

> "The joint AT&T-Synacor team has made the strategic decision to prioritize portal engagement right now over monetization. We are seeing the results of this focus in deeper engagement metrics. We are already generating revenue from this new consumer experience, but we expect that additional monetization tactics will be turned on at a more deliberate pace, which will result in a longer ramp to full monetization. As a result, ***a significant portion of the revenue that we were expecting in Q3 and Q4 this year is delayed to 2018, and we are adjusting our financial guidance for 2017 accordingly***. We believe that this engagement-focused strategy ultimately leads to a stronger, more sustainable business," concluded Bhise.
>
> Based on information available as of August 9, 2017, the Company is providing financial guidance for the third quarter and fiscal 2017 as follows:

- ***Q3 2017 Guidance***: Revenue for the third quarter of 2017 is projected to be in the range of $35.0 million to $40.0 million. The Company expects to report a net loss of $0.7 million to $3.0 million and adjusted EBITDA of $0.5 million to $2.5 million, which excludes stock-based compensation expense of $0.7 million to $0.8 million, depreciation and amortization of $2.2 million to $2.4 million and tax, interest expense and other income and expense of $0.3 million.

- ***Fiscal 2017 Guidance***: Revenue for the full year of 2017 is projected to be in the range of $140 million to $150 million, adjusted from the previous range of $160 million to $170 million. The Company expects to report a net loss in the range of $9.3 million to $13.9 million, from the previous range of a net loss of $2.8 million to $8.0 million and adjusted EBITDA in the range of $0.0 million to $4.0 million, from the previous range of $6.0 million to $10.0 million, which excludes stock-based compensation expense of $2.7 million to $2.9 million, depreciation and amortization of $8.8 million to $9.2 million, and tax, interest expense, capitalized software impairment, and other income and expense of $1.8 million. Net income and adjusted EBITDA guidance include customer-driven product development investment in advance of revenue.

(Emphasis added.)

7. On this news, Synacor's share price fell $1.15, or 32.39%, to close at $2.40 on August 10, 2017.

8. On March 15, 2018, post-market, Synacor held a conference call with analysts and investors to discuss the Company's fourth-quarter earnings. During the call, Defendant Bhise discussed the shortcomings of the AT&T contract, stating in relevant part:

> "As such, my second key message is that our 2018 guidance reflects the assumption that AT&T continues to prioritize customer experience. The ATT.net portal continues to successfully engage millions of consumers every month. In addition, the Synacor and the AT&T team are also using our platform to launch over 35 microsites that have promoted AT&T services and driven traffic to ATT.net.
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> But as we have discussed on prior calls, AT&T has chosen, at least for the near term, to prioritize consumer experience and engagement, and we are collaboratively working with them in achieving that goal.
>
> Given this focus, ***in the last three quarters of 2017, we generated approximately $25 million in revenue from AT&T***. We are expecting that AT&T will continue

> to focus on consumer experience, and as such, our 2018 guidance reflects the annualized 2017 run rate.
>
> ***Clearly, this forecast is below the $100 million annual revenue target that AT&T and Synacor announced*** when we first discussed the portal contract and was a critical element of Synacor's $300 million 2019 target.
>
> (Emphasis added.)

9. On this news, Synacor’s share price fell $0.30, or 14.63%, to close at $1.75 on March 16, 2018.

10. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline in the market value of the Company’s securities, Plaintiff and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

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

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

13. Venue is proper in this Judicial District pursuant to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. §1391(b). Synacor’s securities trade on the NASDAQ, located within this Judicial District.

14. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

15. Plaintiff, as set forth in the attached Certification, acquired Synacor securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

16. Defendant Synacor is incorporated in Delaware, with principal executive offices located at 40 La Riviere Drive, Suite 300, Buffalo, New York 14202. Synacor's securities trade on the NASDAQ under the ticker symbol "SYNC."

17. Defendant Himesh Bhise ("Bhise") has served as the Company's Chief Executive Officer and President since August 4, 2014.

18. Defendant William J. Stuart ("Stuart") has served as the Company's Chief Financial Officer since September 15, 2011.

19. The Defendants referenced above in ¶¶ 17-18 are sometimes referred to herein as the "Individual Defendants."

20. The Individual Defendants possessed the power and authority to control the contents of Synacor's SEC filings, press releases, and other market communications. The Individual Defendants were provided with copies of the Company's SEC filings and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or to cause them to be corrected. Because of their positions with the Company, and their access to material information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public, and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements and omissions pleaded herein.

SUBSTANTIVE ALLEGATIONS

Background

21. Synacor operates as a technology development, multiplatform services, and revenue partner for video, Internet, and communications providers, as well as device manufacturers, governments, and enterprises.

Materially False and Misleading Statements Issued During the Class Period

22. The Class Period begins on May 4, 2016, when Synacor issued a press release, attached as Exhibit 99.1 to Form 8-K filed with the SEC, entitled "AT&T Awards Synacor Important Portal Services Contract," announcing a partnership with AT&T. The press release stated in relevant part:

> - *Synacor selected to provide portal services for AT&T customers that drive user engagement*
> - *Expected revenues from the contract are ~$100M per year, after full product deployment in 2017*
> - *Early products to deploy in Q2 2016, with broader services slated to commence deployment in Q4 2016*
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> BUFFALO – May 4, 2016 – Synacor, Inc. (Nasdaq:SYNC), the trusted multiscreen technology and monetization partner for video, internet and communications providers, device manufacturers and enterprises, today announced that AT&T Inc. (NYSE:T), the largest pay TV provider in the United States, has awarded a portal services contract to Synacor.
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> In partnership with AT&T, Synacor will
>
> - Develop and manage innovative desktop and mobile portal services designed to drive user engagement
> - Populate these experiences with rich content sourced from popular brands
> - Monetize these experiences through search and advertising
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> "We are honored to have been selected from among the contenders AT&T considered in their evaluation process," said Synacor CEO Himesh Bhise. "We are thrilled that AT&T will be using our managed portal services, mobile apps, and advertising solutions in this important initiative to deepen engagement with their customers. We already are developing initial products for deployment in 2016, and have started working on a next-gen product for 2017."

23. On May 10, 2016, Synacor issued a press release entitled "Synacor Beats Q1 2016 Guidance, Grows Margins, Wins AT&T Contract, Sets $300 Million Revenue Target," discuss in detail the AT&T Contract. The press release stated in relevant part:

> "We begin 2016 with another successful quarter for Synacor - delivering significant year-over-year growth, expanding margins, and achieving several important milestones," said Synacor CEO Himesh Bhise. "We are honored to have been selected from among the many contenders to provide AT&T with portal services. In addition, we continue to make strong progress in adding and renewing customers to our portal, advertising, email, and video platforms."
>
> "In less than two years, Synacor has undergone a massive transformation that has positioned us to compete effectively in several high-growth digital markets. Today, we have an enviable global customer base, a compelling and broad portfolio of products, and an advertising platform at scale. Our new contract win with AT&T is not only validation of our transformation, but is also an indicator and accelerator of our future growth and underpins our confidence to achieve our new long-term financial target of $300 million in revenue and $30 million in adjusted EBITDA in 2019," Bhise continued.
>
> ***Recent Highlights***
>
> - Signed a multi-year portal services agreement with AT&T, which is ***expected to reach approximately $100 million of annual revenues after full product deployment is achieved in 2017***
> - Introduced a new "Path to 3/30/300" financial plan targeting annual revenue of $300 million and adjusted EBITDA of $30 million in 2019
> - Closed on the acquisition of digital advertising pioneer Technorati, providing a leading programmatic advertising platform to Synacor
> - Added and renewed customers: deployed Cloud ID for a prominent fiber ISP, executed a three-year email renewal with a major service provider, expanded the relationship with K-Opticom, and migrated the Markas Besar Polri, Indonesia's police force, to the Zimbra email collaboration platform.

(Emphasis added.)

24. On May 16, 2016, Synacor filed a quarterly report on Form 10-Q with the SEC, announcing the Company's financial and operating results for the quarter ended March 31, 2016 (the "1Q 2016 10-Q"). For the quarter, Synacor reported a net loss of $1.57 million, or $0.05 per

diluted share, on revenue of $30.26 million, compared to a net loss of $1.07 million, or $0.04 per diluted share, on revenue of $26.73 million for the same period in the prior year.

25. In the 1Q 2016 10-Q, the Company stated in relevant part:

> On May 4, 2016, the Company announced it had entered into a three-year agreement with AT&T Services, Inc. (or "AT&T") to provide Managed Portals and Advertising solutions for use by AT&T's consumers. The Company expects that certain products will be deployed under this contract in the second quarter of 2016, with full deployment expected in early 2017. The Company expects that revenue attributable to AT&T will account for a substantial portion of its revenue beginning in 2017.

26. The 1Q 2016 10-Q contained signed certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") by the Individual Defendants, stating that the information contained in the 1Q 2016 10-Q "fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc."

27. On August 3, 2016, Synacor issued a press release entitled "Synacor Delivers 23% Revenue Growth, Advances on Path to '3/30/300,'" announcing the Company's financial results for the quarter ended June 30, 2016. The press release stated in relevant part:

> "We delivered another strong quarter for Synacor with significant year-over-year revenue growth and adjusted EBITDA that exceeded our previously announced guidance," said Synacor CEO Himesh Bhise. "We are pleased with our progress in preparing to support our AT&T business and are advancing in line with our plans for deployment over 2017."
>
> "We remain confident in the foundation that we have laid for future growth. Our continued trajectory toward $300 million in revenue in three years is reflected in the demonstrated progress we are making against our 2016 strategic objectives," Bhise concluded.

28. On August 15, 2016, Synacor filed a quarterly report on Form 10-Q with the SEC, announcing the Company's financial and operating results for the quarter ended June 30, 2016 (the "2Q 2016 10-Q"). For the quarter, Synacor reported a net loss of $2.76 million, or $0.09 per

diluted share, on revenue of $30.48 million, compared to a net loss of $1.08 million, or $0.04 per diluted share, on revenue of $24.72 million for the same period in the prior year.

29. In the 2Q 2016 10-Q, the Company stated in relevant part:

> We anticipate that search activity and search revenue will increase in the future due to our three-year portal services contract with AT&T Services, Inc., or AT&T, to provide Managed Portals and Advertising solutions for use by AT&T's customers. We and AT&T entered into the portal services contract in May 2016 and we expect to complete deploying our solutions in the first half of 2017. In addition, we expect a future increase of search activity on smartphones and tablets as we believe our continuing investment in our next-generation Managed Portals and Advertising experiences will allow us to compete more effectively for search activity on smartphones and tablets.

30. The 2Q 2016 10-Q contained signed certifications pursuant to SOX by the Individual Defendants, stating that the information contained in the 2Q 2016 10-Q "fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc."

31. On November 14, 2016, Synacor issued a press release entitled "Synacor Exceeds Guidance, Delivers 20% Revenue Growth in Third Quarter 2016 as Path to '3/30/300' Remains on Track," announcing the Company's financial results for the quarter ended September 30, 2016. The press release stated in relevant part:

> "We delivered another solid quarter, exceeding our guidance and achieving double-digit top-line growth, margin expansion and growth in recurring and fee-based revenue," said Synacor CEO Himesh Bhise. "We are making great strides in advancing our technology and products, in particular this quarter, with our AT&T partnership, Zimbra Open Source and Cloud ID offerings.
>
> "We remain well positioned in the growing digital markets that we serve and are on track to deliver on our target of $300 million in revenue and $30 million in adjusted EBITDA in 2019," said Bhise.

32. On November 14, 2016, Synacor filed a quarterly report on Form 10-Q with the SEC, announcing the Company's financial and operating results for the quarter ended September 30, 2016 (the "3Q 2016 10-Q"). For the quarter, Synacor reported a net loss of $3.37 million, or

$0.11 per diluted share, on revenue of $31.72 million, compared to a net loss of $930,000, or $0.03 per diluted share, on revenue of $26.35 million for the same period in the prior year.

33. In the 3Q 2016 10-Q, the Company stated in relevant part:

> We anticipate that search activity and search revenue will increase in the future due to our three-year portal services contract with AT&T Services, Inc., or AT&T, to provide Managed Portals and Advertising solutions for use by AT&T's customers. We and AT&T entered into the portal services contract in May 2016 and we expect to complete deploying our solutions in the second half of 2017. In addition, we expect a future increase of search activity on smartphones and tablets as we believe our continuing investment in our next-generation Managed Portals and Advertising experiences will allow us to compete more effectively for search activity on smartphones and tablets.

34. The 3Q 2016 10-Q contained signed certifications pursuant to SOX by the Individual Defendants, stating that the information contained in the 3Q 2016 10-Q "fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc."

35. On March 15, 2017, Synacor issued a press release entitled "Synacor Reports 16% Revenue Growth for 2016 and Announces Guidance of About 30% Growth for 2017," announcing the Company's financial results for the quarter and year ended December 31, 2016. The press release stated in relevant part:

> "We are seeing strong market validation of Synacor's portal, email, advertising and video products," said Synacor CEO Himesh Bhise. "We continue to make excellent progress toward the launch and deployment of the AT&T portal, and we announced several new customer wins in email and video.
>
> "We begin 2017 a stronger Synacor, well positioned in attractive and growing digital markets. We expect accelerated revenue growth of about 30% this year, as we continue to progress on our Path to 3/30/300."
>
> ***Recent Highlights***
>
> - ***Made excellent progress on plan to launch the new AT&T desktop and mobile web portal in the first half of 2017, and deployment will be completed through 2017.***

***

Guidance

Based on information available as of March 15, 2017, Synacor is providing financial guidance for fiscal 2017 and the first quarter of fiscal 2017 as follows:

- ***Fiscal 2017 Guidance***: ***Revenue for the full year of 2017 is projected to grow 26% to 33% to be in the range of $160.0 million to $170.0 million.*** Synacor expects to report a net loss in the range of $2.8 million to $8.0 million and adjusted EBITDA in the range of $6.0 million to $10.0 million, which excludes stock-based compensation expense of $2.8 million to $3.2 million, depreciation and amortization of $8.8 million to $9.6 million, and tax, interest expense and other income and expense of $1.2 million.

- ***Q1 2017 Guidance***: Revenue for the first quarter of 2017 is projected to be in the range of $26.0 million to $28.0 million. Synacor expects to report a net loss of $6.2 million to $7.5 million and adjusted EBITDA of $(3.0) million to $(4.0) million, which excludes stock-based compensation expense of $0.7 million to $0.8 million, depreciation and amortization of $2.2 million to $2.4 million and tax, interest expense and other income and expense of $0.3 million.

Net Income and adjusted EBITDA guidance for the first quarter and fiscal year 2017 reflect a portion of the $10 million investment planned from the second quarter of 2016 through the first quarter of 2017 to deploy portal services for AT&T.

(Emphasis added.)

36. On March 22, 2017, Synacor filed an annual report on Form 10-K with the SEC, announcing the Company's financial and operating results for the quarter and year ended December 31, 2016 (the "2016 10-K"). For fiscal year 2016, Synacor reported a net loss of $10.74 million, or $0.36 per diluted share, on revenue of $127.37 million, compared to a net loss of $3.47 million, or $0.12 per diluted share, on revenue of $110.25 million for fiscal year 2015.

37. In the 2016 10-K, the Company stated in relevant part:

During 2016, Managed Portals and Advertising revenue was $74.9 million, a decrease of 4% compared to $78.3 million in 2015. Search revenue decreased by $15.4 million, or 49%, in 2016 compared to 2015. We believe the decrease was due to lower search activity associated with the increased usage of competitor search tools on other devices, such as tablets and smartphones, generally across

> the consumer base. In addition, a portion of the decrease was due to the residual effect of the placement of our Managed Portals on the second tab of the default Windows 8 internet browser by our consumer electronics customers. Further, upgrades to the Windows 10 operating system default to Microsoft's latest Edge browser and displace users' previous browser settings including default homepages, which can also lead to decreased search and digital advertising revenue.
>
> We anticipate that search activity and our search revenue will increase in 2017 when our AT&T portal services are deployed. In addition, we anticipate search activity will increase on smartphones and tablets in the future and we believe our continuing investment in our next-generation Managed Portals and Advertising solutions will allow us to compete more effectively for search activity on smartphones and tablets.

38. The 2016 10-K contained signed certifications pursuant to SOX by the Individual Defendants, stating that the information contained in the 2016 10-K "fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc."

39. On May 10, 2017, Synacor issued a press release entitled "Synacor Delivers on First-Quarter 2017 Financial Guidance; Achieves Milestones on Path to 3/30/300," announcing the Company's financial results for the quarter ended March 31, 2017. The press release stated in relevant part:

> "We continue to see strong customer affirmation of Synacor platforms, as we renew and expand key current relationships and win new customers. And I'm pleased to announce that the new ATT.net portal is live and the phased rollout is well underway," said Synacor CEO Himesh Bhise.
>
> "In April, we strengthened our balance sheet with $20 million in capital from an equity offering in order to execute on our strong growth pipeline. We remain well positioned to deliver on our target of $300 million in revenue and $30 million in adjusted EBITDA in 2019," said Bhise.
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> ***
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> Based on information available as of May 10, 2017, the Company is providing financial guidance for the second quarter and fiscal 2017 as follows:
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> - ***Q2 2017 Guidance:*** Revenue for the second quarter of 2017 is projected to be in the range of $28.0 million to $30.0 million. The Company expects to report a net loss of $3.2 million to $5.0 million and adjusted EBITDA

of ($1.5) million to $0.0 million, which excludes stock-based compensation expense of $0.7 million to $0.8 million, depreciation and amortization expense of $2.2 million to $2.4 million and tax, interest expense and other income and expense of approximately $0.3 million.

- ***Fiscal 2017 Guidance***: As announced earlier, revenue for the full year of 2017 is projected to be in the range of $160.0 million to $170.0 million. The Company expects to report a net loss in the range of $2.8 million to $8.0 million and adjusted EBITDA in the range of $6.0 million to $10.0 million, which excludes stock-based compensation expense of $2.8 million to $3.2 million, depreciation and amortization expense of $8.8 million to $9.6 million, and tax, interest expense and other income and expense of $1.2 million.

40. On May 15, 2017, Synacor filed a quarterly report on Form 10-Q with the SEC, announcing the Company's financial and operating results for the quarter ended March 31, 2017 (the "1Q 2017 10-Q"). For the quarter, Synacor reported a net loss of $6.66 million, or $0.21 per diluted share, on revenue of $26.54 million, compared to a net loss of $1.57 million, or $0.05 per diluted share, on revenue of $30.26 million for the same period in the prior year.

41. In the 1Q 2017 10-Q, the Company stated in relevant part:

> We anticipate that both search and digital advertising activity and revenue will increase substantially in future quarters due to our three-year portal services contract with AT&T Services, Inc., or AT&T, to provide Managed Portals and Advertising solutions for use by AT&T's consumers. We entered into the portal services contract with AT&T in May 2016 and we expect to complete deploying our solutions in mid-2017. In addition, we expect a future increase of search activity on smartphones and tablets as we believe our continuing investment in our next-generation Managed Portals and Advertising experiences will allow us to compete more effectively for search activity on smartphones and tablets.

42. The 1Q 2017 10-Q contained signed certifications pursuant to SOX by the Individual Defendants, stating that the information contained in the 1Q 2017 10-Q "fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc."

43. The statements referenced in ¶¶ 22-42 were materially false and misleading because Defendants made false and/or misleading statements, as well as failed to disclose

material adverse facts about the Company's business, operational and compliance policies. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Synacor was unlikely to receive significant revenues from the AT&T Contract until 2018; (ii) as such, the Company's revenue forecasts issued during the Class Period were materially false and misleading; and (iii) as a result of the foregoing, Synacor shares traded at artificially inflated prices during the Class Period, and class members suffered significant losses and damages.

The Truth Begins to Emerge

44. On August 9, 2017, post-market, Synacor issued a press release entitled "Synacor Exceeds Second-Quarter 2017 Financial Guidance; Remains on Path to '3/30/300,'" announcing its financial results for the quarter ended June 30, 2017. The press release stated in relevant part:

> "The joint AT&T-Synacor team has made the strategic decision to prioritize portal engagement right now over monetization. We are seeing the results of this focus in deeper engagement metrics. We are already generating revenue from this new consumer experience, but we expect that additional monetization tactics will be turned on at a more deliberate pace, which will result in a longer ramp to full monetization. As a result, ***a significant portion of the revenue that we were expecting in Q3 and Q4 this year is delayed to 2018, and we are adjusting our financial guidance for 2017 accordingly***. We believe that this engagement-focused strategy ultimately leads to a stronger, more sustainable business," concluded Bhise.
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> Based on information available as of August 9, 2017, the Company is providing financial guidance for the third quarter and fiscal 2017 as follows:
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> - ***Q3 2017 Guidance***: Revenue for the third quarter of 2017 is projected to be in the range of $35.0 million to $40.0 million. The Company expects to report a net loss of $0.7 million to $3.0 million and adjusted EBITDA of $0.5 million to $2.5 million, which excludes stock-based compensation expense of $0.7 million to $0.8 million, depreciation and amortization of $2.2 million to $2.4 million and tax, interest expense and other income and expense of $0.3 million.
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> - ***Fiscal 2017 Guidance***: ***Revenue for the full year of 2017 is projected to be in the range of $140 million to $150 million, adjusted from the previous range of $160 million to $170 million.*** The Company expects to report a net loss in the range of $9.3 million to $13.9 million, from the previous range of a net loss of $2.8 million to $8.0 million and adjusted

> EBITDA in the range of $0.0 million to $4.0 million, from the previous range of $6.0 million to $10.0 million, which excludes stock-based compensation expense of $2.7 million to $2.9 million, depreciation and amortization of $8.8 million to $9.2 million, and tax, interest expense, capitalized software impairment, and other income and expense of $1.8 million. Net income and adjusted EBITDA guidance include customer-driven product development investment in advance of revenue.

(Emphasis added.)

45. On this news, Synacor's share price fell $1.15, or 32.39%, to close at $2.40 on August 10, 2017.

46. On March 15, 2018, post-market, Synacor held a conference call with analysts and investors to discuss the Company's fourth-quarter earnings. During the call, Defendant Bhise discussed the shortcomings of the AT&T contract, stating in relevant part:

> "As such, my second key message is that our 2018 guidance reflects the assumption that AT&T continues to prioritize customer experience. The ATT.net portal continues to successfully engage millions of consumers every month. In addition, the Synacor and the AT&T team are also using our platform to launch over 35 microsites that have promoted AT&T services and driven traffic to ATT.net.
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> But as we have discussed on prior calls, AT&T has chosen, at least for the near term, to prioritize consumer experience and engagement, and we are collaboratively working with them in achieving that goal.
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> Given this focus, ***in the last three quarters of 2017, we generated approximately $25 million in revenue from AT&T***. We are expecting that AT&T will continue to focus on consumer experience, and as such, our 2018 guidance reflects the annualized 2017 run rate.
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> ***Clearly, this forecast is below the $100 million annual revenue target that AT&T and Synacor announced*** when we first discussed the portal contract and was a critical element of Synacor's $300 million 2019 target.
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> (Emphasis added.)

47. On this news, Synacor's share price fell $0.30 or 14.63%, to close at $1.75 on March 16, 2018.

48. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

49. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Synacor securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are Defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

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

51. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

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

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

- whether the federal securities laws were violated by Defendants' acts as alleged herein;

- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Synacor;

- whether the Individual Defendants caused Synacor to issue false and misleading financial statements during the Class Period;

- whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;

- whether the prices of Synacor securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and

- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

54. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

55. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;
- Synacor securities are traded in an efficient market;
- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NASDAQ and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold Synacor securities between the time the Defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

56. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

57. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

<u>COUNT I</u>

(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)

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

59. This Count is asserted against Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

60. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Synacor securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire Synacor securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

61. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for Synacor securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Synacor's finances and business prospects.

62. By virtue of their positions at Synacor , Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants

acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to Defendants. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, each Defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

63. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As the senior managers and/or directors of Synacor, the Individual Defendants had knowledge of the details of Synacor's internal affairs.

64. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of Synacor. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to Synacor's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of Synacor securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning Synacor's business and financial condition which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired Synacor securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants, and were damaged thereby.

65. During the Class Period, Synacor securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of Synacor securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of Synacor securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of Synacor securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

66. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

67. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

COUNT II

(Violations of Section 20(a) of the Exchange Act Against The Individual Defendants)

68. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

69. During the Class Period, the Individual Defendants participated in the operation and management of Synacor, and conducted and participated, directly and indirectly, in the conduct of Synacor's business affairs. Because of their senior positions, they knew the adverse non-public information about Synacor's misstatement of income and expenses and false financial statements.

70. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Synacor's financial condition and results of operations, and to correct promptly any public statements issued by Synacor which had become materially false or misleading.

71. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which Synacor disseminated in the marketplace during the Class Period concerning Synacor's results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Synacor to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of Synacor within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Synacor securities.

72. Each of the Individual Defendants, therefore, acted as a controlling person of Synacor. By reason of their senior management positions and/or being directors of Synacor, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, Synacor to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of Synacor and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

73. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Synacor.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;

B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;

C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.

Dated: April 4, 2018