

1 *Attorney for Plaintiff*

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 THOMAS LIN, Individually and on
11 Behalf of All Others Similarly Situated,

12 Plaintiff,

13 v.

14 TMC THE METALS COMPANY INC.,
15 GERRARD BARON, and CRAIG
16 SHESKY,

17 Defendants.
18

Case No.

CLASS ACTION

COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS

DEMAND FOR JURY TRIAL

19
20 Plaintiff Thomas Lin (“Plaintiff”), individually and on behalf of all others
21 similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint
22 against Defendants, alleges the following based upon personal knowledge as to
23 Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters,
24 based upon, *inter alia*, the investigation conducted by and through Plaintiff’s
25 attorneys, which included, among other things, a review of the Defendants’ public
26 documents, conference calls and announcements made by Defendants, United
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1 States (“U.S.”) Securities and Exchange Commission (“SEC”) filings, wire
2 and press releases published by and regarding TMC the metals company Inc.
3 (“TMC” or the “Company”), analysts’ reports and advisories about the
4 Company, and information readily obtainable on the Internet. Plaintiff believes
5 that substantial, additional evidentiary support will exist for the allegations set
6 forth herein after a reasonable opportunity for discovery.

7 NATURE OF THE ACTION

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10 1. This is a federal securities class action on behalf of a class consisting
11 of all persons and entities other than Defendants that purchased or otherwise
12 acquired TMC securities between May 12, 2023 and March 25, 2024, both dates
13 inclusive (the “Class Period”), seeking to recover damages caused by Defendants’
14 violations of the federal securities laws and to pursue remedies under Sections 10(b)
15 and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule
16 10b-5 promulgated thereunder, against the Company and certain of its top officials.

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19 2. TMC is a deep-sea minerals exploration company focused on the
20 collection, processing, and refining of polymetallic nodules.

21
22
23 3. In February 2023, TMC and its wholly owned subsidiary, Nauru
24 Ocean Resources Inc. (“NORI”), entered into a strategic partnership with Low
25 Carbon Royalties Inc. (“LCR”) (the “LCR Partnership”). In a press release
26 discussing the terms of the LCR Partnership, TMC stated, in relevant part, that
27 “[t]he Company agreed with LCR to a purchase and sale agreement whereby LCR
28

1 acquired a 2.0% gross overriding royalty on [TMC's] NORI project area in
2 the Clarion Clipperton Zone of the Pacific Ocean” and, “[i]n consideration . . . ,
3 the Company received \$5,000,000 cash and an initial 35.0% equity interest in
4 LCR.”

5 4. Throughout the Class Period, Defendants made materially false and
6 misleading statements regarding the Company’s business, operations, and
7 compliance policies. Specifically, Defendants made false and/or misleading
8 statements and/or failed to disclose that: (i) TMC maintained deficient internal
9 controls over financial reporting; (ii) as a result, the Company inaccurately
10 classified the sale of future revenue attributable to the LCR Partnership as deferred
11 income rather than debt; (iii) the foregoing misclassification, when it became
12 known, would require TMC to restate one or more of its previously issued financial
13 statements; and (iv) as a result, Defendants’ public statements were materially false
14 and/or misleading at all relevant times.
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18 5. On March 25, 2024, TMC disclosed in a filing with the SEC that the
19 Company’s financial statements for the first three quarters of 2023 “should be
20 restated and, accordingly, should no longer be relied upon”, citing the “re-
21 evaluat[ion of] whether the offsetting entry to the proceeds it received from LCR
22 should be classified as debt or deferred income.” Further, TMC explained that,
23 “[a]s the transaction with LCR was considered an equity investment rather than a
24 sale transaction, the sale of future revenue will be reclassified as Royalty liability”
25 per appropriate accounting standards.
26
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1 6. On this news, TMC's stock price fell \$0.205 per share, or 13.23%, to
2 close at \$1.345 per share on March 26, 2024.

3
4 7. As a result of Defendants' wrongful acts and omissions, and the
5 precipitous decline in the market value of the Company's securities, Plaintiff and
6 other Class members have suffered significant losses and damages.

7
8 **JURISDICTION AND VENUE**

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

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

15
16 10. Venue is proper in this Judicial District pursuant to Section 27 of the
17 Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b). Pursuant to TMC's
18 most recently filed Quarterly Report with the SEC, as of August 13, 2024, there
19 were 323,993,016 of the Company's common shares outstanding. TMC's securities
20 trade on the Nasdaq Global Select Market ("NASDAQ"). Accordingly, there are
21 presumably hundreds, if not thousands, of investors in TMC securities located
22 within the U.S., some of whom undoubtedly reside in this Judicial District. In
23 addition, Plaintiff resides in this Judicial District.

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26
27 11. In connection with the acts alleged in this complaint, Defendants,
28 directly or indirectly, used the means and instrumentalities of interstate commerce,

1 including, but not limited to, the mails, interstate telephone communications, and
2 the facilities of the national securities markets.

3
4 **PARTIES**

5 12. Plaintiff, as set forth in the attached Certification, acquired TMC
6 securities at artificially inflated prices during the Class Period and was damaged
7 upon the revelation of the alleged corrective disclosures.
8

9 13. Defendant TMC is a Canadian corporation with principal executive
10 offices located at 595 Howe Street, 10th Floor, Vancouver, British Columbia,
11 Canada. TMC's common stock trade in an efficient market on the NASDAQ under
12 the ticker symbol "TMC".
13

14 14. Defendant Gerrard Baron ("Baron") has served as the Company's
15 Chief Executive Officer at all relevant times.
16

17 15. Defendant Craig Shesky ("Shesky") served as the Company's Chief
18 Financial Officer at all relevant times.
19

20 16. Defendants Baron and Shesky are collectively referred to herein as the
21 "Individual Defendants".
22

23 17. The Individual Defendants possessed the power and authority to
24 control the contents of TMC's SEC filings, press releases, and other market
25 communications. The Individual Defendants were provided with copies of TMC's
26 SEC filings and press releases alleged herein to be misleading prior to or shortly
27 after their issuance and had the ability and opportunity to prevent their issuance or
28

1 to cause them to be corrected. Because of their positions with TMC, and their
2 access to material information available to them but not to the public, the Individual
3 Defendants knew that the adverse facts specified herein had not been disclosed to
4 and were being concealed from the public, and that the positive representations
5 being made were then materially false and misleading. The Individual Defendants
6 are liable for the false statements and omissions pleaded herein.
7
8

9 18. TMC and the Individual Defendants are collectively referred to herein
10 as “Defendants”.

11 SUBSTANTIVE ALLEGATIONS

12 Background

13
14 19. TMC is a deep-sea minerals exploration company focused on the
15 collection, processing, and refining of polymetallic nodules.
16

17 20. In February 2023, TMC and its wholly owned subsidiary, NORI,
18 entered into the LCR Partnership. In a press release discussing the terms of the
19 LCR Partnership, TMC stated, in relevant part, that “[t]he Company agreed with
20 LCR to a purchase and sale agreement whereby LCR acquired a 2.0% gross
21 overriding royalty on [TMC’s] NORI project area in the Clarion Clipperton Zone
22 of the Pacific Ocean” and, “[i]n consideration . . ., the Company received
23 \$5,000,000 cash and an initial 35.0% equity interest in LCR.”
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1 **Materially False and Misleading Statements Issued During the Class Period**

2 21. The Class Period begins on May 12, 2023, the day after TMC filed,
3 post-market, a Quarterly Report on Form 10-Q with the SEC, reporting the
4 Company's financial and operational results for the quarter ended March 31, 2023
5 (the "Q1 2023 10-Q"). In discussing the Company's strategic partnerships, the Q1
6 2023 10-Q stated, in relevant part:
7

8
9 The Company has accounted for the investment in Low Carbon
10 Royalties in accordance with ASC 323-10 and has thus applied the
11 equity method of accounting to this investment. When considering the
12 royalty liability instrument as well as the embedded repurchase
13 features, management has elected to account for the royalty liability
14 under the fair value option in accordance with ASC 825-10.

15 22. Further, with respect to the Company's disclosure controls and
16 procedures, the Q1 2023 10-Q stated, in relevant part:

17 Disclosure controls and procedures are controls and other
18 procedures that are designed to ensure that information required to be
19 disclosed in our reports filed or submitted under the Exchange Act is
20 recorded, processed, summarized and reported, within the time periods
21 specified in the SEC's rules and forms. Disclosure controls and
22 procedures include controls and procedures designed to ensure that
23 information required to be disclosed in our reports filed under the
24 Exchange Act is accumulated and communicated to management,
25 including our Chief Executive Officer and Chief Financial Officer, to
26 allow timely decisions regarding required disclosure. ***Based on the
27 evaluation of our disclosure controls and procedures, our Chief
28 Executive Officer and Chief Financial Officer concluded that our
disclosure controls and procedures were effective as of March 31,
2023.***¹

¹ All emphases included herein are added unless otherwise indicated.

1 23. Appended to the Q1 2023 10-Q as an exhibit was a signed certification
2 pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) by the Individual Defendants,
3 attesting that “the information contained in the [Q1 2023 10-Q] fairly presents, in
4 all material respects, the financial condition and results of operations of the
5 Company.”
6

7
8 24. On August 14, 2023, TMC filed a Quarterly Report on Form 10-Q with
9 the SEC, reporting the Company’s financial and operational results for the quarter
10 ended June 30, 2023 (the “Q2 2023 10-Q”). In discussing the Company’s strategic
11 partnerships, the Q2 2023 10-Q stated, in relevant part:
12

13 The Company has accounted for the investment in Low Carbon
14 Royalties in accordance with ASC 323-10 and has thus applied the
15 equity method of accounting to this investment. When considering the
16 royalty liability instrument as well as the embedded repurchase
17 features, management has elected to account for the royalty liability
18 under the fair value option in accordance with ASC 825-10.

19 25. Further, with respect to the Company’s disclosure controls and
20 procedures, the Q2 2023 10-Q stated, in relevant part:

21 Disclosure controls and procedures are controls and other
22 procedures that are designed to ensure that information required to be
23 disclosed in our reports filed or submitted under the Exchange Act is
24 recorded, processed, summarized and reported, within the time periods
25 specified in the SEC’s rules and forms. Disclosure controls and
26 procedures include controls and procedures designed to ensure that
27 information required to be disclosed in our reports filed under the
28 Exchange Act is accumulated and communicated to management,
including our Chief Executive Officer and Chief Financial Officer, to
allow timely decisions regarding required disclosure. ***Based on the
evaluation of our disclosure controls and procedures, our Chief***

1 *Executive Officer and Chief Financial Officer concluded that our*
2 *disclosure controls and procedures were effective as of June 30, 2023.*

3 *Changes in Internal Control over Financial Reporting*

4 There were no changes in our internal control over financial
5 reporting that occurred during the three months ended June 30,
6 2023 that have materially affected, or are reasonably likely to
7 materially affect, our internal control over financial reporting.

8 26. Appended to the Q2 2023 10-Q as an exhibit was a signed certification
9 pursuant to SOX by the Individual Defendants, attesting that “the information
10 contained in the [Q2 2023 10-Q] fairly presents, in all material respects, the
11 financial condition and results of operations of the Company.”

12
13 27. On November 9, 2023, TMC filed a Quarterly Report on Form 10-Q
14 with the SEC, reporting the Company’s financial and operational results for the
15 quarter ended September 30, 2023 (the “Q3 2023 10-Q”). In discussing the
16 Company’s strategic partnerships, the Q3 2023 10-Q stated, in relevant part:
17

18 The Company has accounted for the investment in Low Carbon
19 Royalties in accordance with ASC 323-10 and has thus applied the
20 equity method of accounting to this investment. When considering the
21 royalty liability instrument as well as the embedded repurchase
22 features, management has elected to account for the royalty liability
under the fair value option in accordance with ASC 825-10.

23 28. Further, with respect to the Company’s disclosure controls and
24 procedures, the Q3 2023 10-Q stated, in relevant part:
25

26 Disclosure controls and procedures are controls and other
27 procedures that are designed to ensure that information required to be
28 disclosed in our reports filed or submitted under the Exchange Act is
recorded, processed, summarized and reported, within the time periods

1 specified in the SEC’s rules and forms. Disclosure controls and
2 procedures include controls and procedures designed to ensure that
3 information required to be disclosed in our reports filed under the
4 Exchange Act is accumulated and communicated to management,
5 including our Chief Executive Officer and Chief Financial Officer, to
6 allow timely decisions regarding required disclosure. ***Based on the
7 evaluation of our disclosure controls and procedures, our Chief
8 Executive Officer and Chief Financial Officer concluded that our
9 disclosure controls and procedures were effective as of September 30,
10 2023.***

Changes in Internal Control over Financial Reporting

11 There were no changes in our internal control over financial
12 reporting that occurred during the three months ended September
13 30, 2023 that have materially affected, or are reasonably likely
14 to materially affect, our internal control over financial reporting.

15 29. Appended to the Q3 2023 10-Q as an exhibit was a signed certification
16 pursuant to SOX by the Individual Defendants, attesting that “the information
17 contained in the [Q3 2023 10-Q] fairly presents, in all material respects, the
18 financial condition and results of operations of the Company.”

19 30. The statements referenced in ¶¶ 21-29 were materially false and
20 misleading because Defendants made false and/or misleading statements, as well as
21 failed to disclose material adverse facts about the Company’s business, operations,
22 and compliance policies. Specifically, Defendants made false and/or misleading
23 statements and/or failed to disclose that: (i) TMC maintained deficient internal
24 controls over financial reporting; (ii) as a result, the Company inaccurately
25 classified the sale of future revenue attributable to the LCR Partnership as deferred
26 income rather than debt; (iii) the foregoing misclassification, when it became
27
28

1 known, would require TMC to restate one or more of its previously issued financial
2 statements; and (iv) as a result, Defendants’ public statements were materially false
3 and/or misleading at all relevant times.
4

5 **The Truth Emerges**

6 31. On March 25, 2024, TMC disclosed in a filing on Form 8-K with the
7 SEC that the Company’s financial statements for the first three quarters of 2023
8 “should be restated and, accordingly, should no longer be relied upon.”
9 Specifically, TMC stated, in relevant part:
10

11 (a) On March 22, 2024, the Audit Committee (the “Audit
12 Committee”) of the Board of Directors (the “Board”) of the Company
13 and the Board, after discussions with Ernst & Young LLP, the
14 Company’s independent registered public accounting firm, and the
15 Company’s legal advisors, concluded that the Company’s previously
16 issued financial statements (i) for the three months ended March 31,
17 2023 contained in its Quarterly Report on Form 10-Q for the quarter
18 ended March 31, 2023 as filed with the Securities and Exchange
19 Commission (the “SEC”) on May 11, 2023, (ii) the six months ended
20 June 30, 2023 contained in its Quarterly Report on Form 10-Q for the
21 quarter ended June 30, 2023 as filed with SEC on August 14, 2023 and
22 (iii) the nine months ended September 30, 2023 contained in its
23 Quarterly Report on Form 10-Q for the quarter ended September 30,
24 2023 as filed with SEC on November 9, 2023 (the “Previous Financial
25 Statements”) should be restated and, accordingly, should no longer be
26 relied upon.

27 ***

28 As will be disclosed in the Company’s Annual Report on Form
10-K for the year ended December 31, 2023 expected to be filed with
the SEC on March 25, 2024 (the “2023 Annual Report”) [. . .],
Quarterly Financial Data (Unaudited) Restatement of Previously Issued
Financial Statements, to the audited consolidated financial statements
included in the 2023 Annual Report when available - and as will be

1 discussed on the Company's conference call for the fourth quarter and
2 full year ended December 31, 2023 to be held on March 25, 2024, *the*
3 *right to royalty payments underlying the NORI asset (sale of future*
4 *revenue) amounting to \$14 million was considered as the transfer*
5 *(sale) of a non-financial asset in the Previous Financial Statements.*
6 *In preparing the Previous Financial Statements, the Company*
7 *derecognized the capitalized exploration contract related to the NORI*
8 *project amounting to \$0.25 million and recorded the remaining value*
9 *of the non-financial asset received amounting to \$13.75 million as a*
10 *gain on disposition. In connection with the preparation of the*
11 *financial statements for the year ended December 31, 2023 and a re-*
12 *evaluation of Accounting Standards Codification 470, Debt ("ASC*
13 *470"), by the Company, the Company concluded that the sale of*
14 *future revenue falls within the scope of ASC 470 and, as a result, the*
15 *Company re-evaluated whether the offsetting entry to the proceeds it*
16 *received from LCR should be classified as debt or deferred income.*
17 *As the transaction with LCR was considered an equity investment*
18 *rather than a sale transaction, the sale of future revenue will be*
19 *reclassified as Royalty liability, as per ASC 470, in the Company's*
20 *2023 financial statements for the year ended December 31, 2023 to be*
21 *included in the 2023 Annual Report. Factors that also influenced this*
22 *reclassification included the Company's continued significant*
23 *involvement in generating future cash flows from operations and the*
24 *fact that the earnings process implied in this transaction had not been*
25 *completed. As a result, the Company will restate the Previous*
26 *Financial Statements in the 2023 Annual Report.*

19 32. On this news, TMC's stock price fell \$0.205 per share, or 13.23%, to
20 close at \$1.345 per share on March 26, 2024.

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

1 **SCIENTER ALLEGATIONS**

2 34. During the Class Period, Defendants had both the motive and
3
4 opportunity to commit fraud. They also had actual knowledge of the misleading
5
6 nature of the statements they made, or acted in reckless disregard of the true
7
8 information known to them at the time. In so doing, Defendants participated in a
9
10 scheme to defraud and committed acts, practices, and participated in a course of
11
12 business that operated as a fraud or deceit on purchasers of the Company’s securities
13
14 during the Class Period.

15 **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

16 35. Plaintiff brings this action as a class action pursuant to Federal Rule of
17
18 Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who
19
20 purchased or otherwise acquired TMC securities during the Class Period (the
21
22 “Class”); and were damaged upon the revelation of the alleged corrective
23
24 disclosures. Excluded from the Class are Defendants herein, the officers and
25
26 directors of the Company, at all relevant times, members of their immediate families
27
28 and their legal representatives, heirs, successors or assigns and any entity in which
29
30 Defendants have or had a controlling interest.

31 36. The members of the Class are so numerous that joinder of all members
32
33 is impracticable. Throughout the Class Period, TMC securities were actively traded
34
35 on the NASDAQ. While the exact number of Class members is unknown to
36
37 Plaintiff at this time and can be ascertained only through appropriate discovery,
38

1 Plaintiff believes that there are hundreds or thousands of members in the proposed
2 Class. Record owners and other members of the Class may be identified from
3 records maintained by TMC or its transfer agent and may be notified of the
4 pendency of this action by mail, using the form of notice similar to that customarily
5 used in securities class actions.
6

7
8 37. Plaintiff's claims are typical of the claims of the members of the Class
9 as all members of the Class are similarly affected by Defendants' wrongful conduct
10 in violation of federal law that is complained of herein.
11

12 38. Plaintiff will fairly and adequately protect the interests of the members
13 of the Class and has retained counsel competent and experienced in class and
14 securities litigation. Plaintiff has no interests antagonistic to or in conflict with
15 those of the Class.
16

17 39. Common questions of law and fact exist as to all members of the Class
18 and predominate over any questions solely affecting individual members of the
19 Class. Among the questions of law and fact common to the Class are:
20

- 21 • whether the federal securities laws were violated by Defendants' acts
22 as alleged herein;
- 23 • whether statements made by Defendants to the investing public
24 during the Class Period misrepresented material facts about the
25 business, operations and management of TMC;
- 26 • whether the Individual Defendants caused TMC to issue false and
27 misleading financial statements during the Class Period;
28

- 1 • whether Defendants acted knowingly or recklessly in issuing false
2 and misleading financial statements;
- 3 • whether the prices of TMC securities during the Class Period were
4 artificially inflated because of the Defendants' conduct complained
5 of herein; and
- 6 • whether the members of the Class have sustained damages and, if so,
7 what is the proper measure of damages.

8 40. A class action is superior to all other available methods for the fair and
9 efficient adjudication of this controversy since joinder of all members is
10 impracticable. Furthermore, as the damages suffered by individual Class members
11 may be relatively small, the expense and burden of individual litigation make it
12 impossible for members of the Class to individually redress the wrongs done to
13 them. There will be no difficulty in the management of this action as a class action.
14
15

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

- 18 • Defendants made public misrepresentations or failed to disclose
19 material facts during the Class Period;
- 20 • the omissions and misrepresentations were material;
- 21 • TMC securities are traded in an efficient market;
- 22 • the Company's shares were liquid and traded with moderate to heavy
23 volume during the Class Period;
- 24 • the Company traded on the NASDAQ and was covered by multiple
25 analysts;
- 26
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- 1 • the misrepresentations and omissions alleged would tend to induce a
2 reasonable investor to misjudge the value of the Company's
3 securities; and
- 4 • Plaintiff and members of the Class purchased, acquired and/or sold
5 TMC securities between the time the Defendants failed to disclose or
6 misrepresented material facts and the time the true facts were
disclosed, without knowledge of the omitted or misrepresented facts.

7 42. Based upon the foregoing, Plaintiff and the members of the Class are
8 entitled to a presumption of reliance upon the integrity of the market.
9

10 43. Alternatively, Plaintiff and the members of the Class are entitled to the
11 presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens*
12 *of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as
13 Defendants omitted material information in their Class Period statements in
14 violation of a duty to disclose such information, as detailed above.
15

16 **COUNT I**

17 **(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated** 18 **Thereunder Against All Defendants)**

19
20 44. Plaintiff repeats and re-alleges each and every allegation contained
21 above as if fully set forth herein.
22

23 45. This Count is asserted against Defendants and is based upon Section
24 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
25 thereunder by the SEC.
26

27 46. During the Class Period, Defendants engaged in a plan, scheme,
28 conspiracy and course of conduct, pursuant to which they knowingly or recklessly

1 engaged in acts, transactions, practices and courses of business which operated as a
2 fraud and deceit upon Plaintiff and the other members of the Class; made various
3 untrue statements of material facts and omitted to state material facts necessary in
4 order to make the statements made, in light of the circumstances under which they
5 were made, not misleading; and employed devices, schemes and artifices to defraud
6
7 in connection with the purchase and sale of securities. Such scheme was intended
8 to, and, throughout the Class Period, did: (i) deceive the investing public, including
9 Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and
10 maintain the market price of TMC securities; and (iii) cause Plaintiff and other
11 members of the Class to purchase or otherwise acquire TMC securities and options
12 at artificially inflated prices. In furtherance of this unlawful scheme, plan and
13 course of conduct, Defendants, and each of them, took the actions set forth herein.
14
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17 47. Pursuant to the above plan, scheme, conspiracy and course of conduct,
18 each of the Defendants participated directly or indirectly in the preparation and/or
19 issuance of the quarterly and annual reports, SEC filings, press releases and other
20 statements and documents described above, including statements made to securities
21 analysts and the media that were designed to influence the market for TMC
22 securities. Such reports, filings, releases and statements were materially false and
23 misleading in that they failed to disclose material adverse information and
24 misrepresented the truth about TMC's finances and business prospects.
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1 48. By virtue of their positions at TMC, Defendants had actual
2 knowledge of the materially false and misleading statements and material omissions
3 alleged herein and intended thereby to deceive Plaintiff and the other members of
4 the Class, or, in the alternative, Defendants acted with reckless disregard for the
5 truth in that they failed or refused to ascertain and disclose such facts as would
6 reveal the materially false and misleading nature of the statements made, although
7 such facts were readily available to Defendants. Said acts and omissions of
8 Defendants were committed willfully or with reckless disregard for the truth. In
9 addition, each Defendant knew or recklessly disregarded that material facts were
10 being misrepresented or omitted as described above.

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

20 50. The Individual Defendants are liable both directly and indirectly for
21 the wrongs complained of herein. Because of their positions of control and
22 authority, the Individual Defendants were able to and did, directly or indirectly,
23 control the content of the statements of TMC. As officers and/or directors of a
24 publicly-held company, the Individual Defendants had a duty to disseminate timely,
25 accurate, and truthful information with respect to TMC's businesses, operations,
26 future financial condition and future prospects. As a result of the dissemination of
27
28

1 the aforementioned false and misleading reports, releases and public statements, the
2 market price of TMC securities was artificially inflated throughout the Class Period.

3
4 In ignorance of the adverse facts concerning TMC's business and financial
5 condition which were concealed by Defendants, Plaintiff and the other members of
6 the Class purchased or otherwise acquired TMC securities at artificially inflated
7 prices and relied upon the price of the securities, the integrity of the market for the
8 securities and/or upon statements disseminated by Defendants, and were damaged
9 thereby.
10

11
12 51. During the Class Period, TMC securities were traded on an active and
13 efficient market. Plaintiff and the other members of the Class, relying on the
14 materially false and misleading statements described herein, which the Defendants
15 made, issued or caused to be disseminated, or relying upon the integrity of the
16 market, purchased or otherwise acquired shares of TMC securities at prices
17 artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other
18 members of the Class known the truth, they would not have purchased or otherwise
19 acquired said securities, or would not have purchased or otherwise acquired them
20 at the inflated prices that were paid. At the time of the purchases and/or acquisitions
21 by Plaintiff and the Class, the true value of TMC securities was substantially lower
22 than the prices paid by Plaintiff and the other members of the Class. The market
23 price of TMC securities declined sharply upon public disclosure of the facts alleged
24 herein to the injury of Plaintiff and Class members.
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1 52. By reason of the conduct alleged herein, Defendants knowingly or
2 recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act
3 and Rule 10b-5 promulgated thereunder.
4

5 53. As a direct and proximate result of Defendants' wrongful conduct,
6 Plaintiff and the other members of the Class suffered damages in connection with
7 their respective purchases, acquisitions and sales of the Company's securities
8 during the Class Period, upon the disclosure that the Company had been
9 disseminating misrepresented financial statements to the investing public.
10

11
12 **COUNT II**

13 **(Violations of Section 20(a) of the Exchange Act Against the Individual**
14 **Defendants)**

15 54. Plaintiff repeats and re-alleges each and every allegation contained in
16 the foregoing paragraphs as if fully set forth herein.
17

18 55. During the Class Period, the Individual Defendants participated in the
19 operation and management of TMC, and conducted and participated, directly and
20 indirectly, in the conduct of TMC's business affairs. Because of their senior
21 positions, they knew the adverse non-public information about TMC's
22 misstatement of income and expenses and false financial statements.
23

24 56. As officers and/or directors of a publicly owned company, the
25 Individual Defendants had a duty to disseminate accurate and truthful information
26 with respect to TMC's financial condition and results of operations, and to correct
27
28

1 promptly any public statements issued by TMC which had become materially false
2 or misleading.

3
4 57. Because of their positions of control and authority as senior officers,
5 the Individual Defendants were able to, and did, control the contents of the various
6 reports, press releases and public filings which TMC disseminated in the
7 marketplace during the Class Period concerning TMC's results of operations.
8 Throughout the Class Period, the Individual Defendants exercised their power and
9 authority to cause TMC to engage in the wrongful acts complained of herein. The
10 Individual Defendants, therefore, were "controlling persons" of TMC within the
11 meaning of Section 20(a) of the Exchange Act. In this capacity, they participated
12 in the unlawful conduct alleged which artificially inflated the market price of TMC
13 securities.
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17 58. Each of the Individual Defendants, therefore, acted as a controlling
18 person of TMC. By reason of their senior management positions and/or being
19 directors of TMC, each of the Individual Defendants had the power to direct the
20 actions of, and exercised the same to cause, TMC to engage in the unlawful acts
21 and conduct complained of herein. Each of the Individual Defendants exercised
22 control over the general operations of TMC and possessed the power to control the
23 specific activities which comprise the primary violations about which Plaintiff and
24 the other members of the Class complain.
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1 59. By reason of the above conduct, the Individual Defendants are liable
2 pursuant to Section 20(a) of the Exchange Act for the violations committed by
3 TMC.
4

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:
7

8 A. Determining that the instant action may be maintained as a class action
9 under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as
10 the Class representative;
11

12 B. Requiring Defendants to pay damages sustained by Plaintiff and the
13 Class by reason of the acts and transactions alleged herein;
14

15 C. Awarding Plaintiff and the other members of the Class prejudgment
16 and post-judgment interest, as well as their reasonable attorneys' fees, expert fees
17 and other costs; and
18

19 D. Awarding such other and further relief as this Court may deem just and
20 proper.
21

22 **DEMAND FOR TRIAL BY JURY**

23 Plaintiff hereby demands a trial by jury.

24 Dated: November 8, 2024
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