

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

JERAN BINNING, Derivatively on
Behalf of THE GOLDMAN SACHS
GROUP, INC.,

Plaintiff,

v.

ADEBAYO O. OGUNLESI, DAVID
A. VINIAR, JAMES A. JOHNSON,
WILLIAM W. GEORGE, CLAES
DAHLBÄCK, LAKSHMI N.
MITTAL, DEBORA L. SPAR, M.
MICHELE BURNS, MARK E.
TUCKER, PETER OPPENHEIMER,
and STEPHEN FRIEDMAN,

Defendants,

-and-

THE GOLDMAN SACHS GROUP,
INC., a Delaware corporation,

Nominal Defendant.

C. A. No.

**VERIFIED STOCKHOLDER DERIVATIVE COMPLAINT FOR BREACH
OF FIDUCIARY DUTY AND UNJUST ENRICHMENT**

Plaintiff, Jeran Binning ("Plaintiff") by his attorneys, submits this Verified Stockholder Derivative Complaint for Breach of Fiduciary Duty and Unjust Enrichment against the defendants named herein.

NATURE AND SUMMARY OF THE ACTION

1. This is a stockholder derivative action brought by Plaintiff on behalf of nominal defendant The Goldman Sachs Group, Inc. ("Goldman" or the "Company"). Plaintiff brings this action to halt defendants' illegal self-dealing. In particular, Goldman's Board of Directors (the "Board") has unfettered ability to

grant its members an unlimited amount of stock as part of their annual "compensation." The defendants have abused this power by paying themselves well beyond what could be considered reasonable or fair. In fact, over the past three years, Goldman has paid its non-executive directors on average almost \$240,000 more per director than the Company's self-selected peer group.¹ Due to large size of Goldman's Board, this excessive compensation has resulted in Goldman paying its non-executive directors millions of dollars more than they deserve.

2. The members of the Board are well aware of the unfairness of their compensation and that their unlimited power to set their own compensation is improper. In the Proxy, the Board disclosed it would now compensate directors with an annual restricted stock unit ("RSU") grant amount tied to a fixed-dollar amount to align its compensation practice with "the general market practice of awarding director compensation in fixed-dollar amounts." The fixed-dollar amount the Board selected for annual RSU grants is \$500,000—nearly twice what Goldman's peers pay their directors. The Board members did not seek to amend

¹ In the most recent Definitive Proxy Statement on Schedule 14A (the "Proxy") filed with the U.S. Securities and Exchange Commission on April 10, 2015, the Board claims that the Company's peers are JP Morgan Chase & Co., Bank of America Corporation, Citigroup Inc., and Morgan Stanley. Plaintiff does not concede that this is an appropriate peer group. However, even using defendants' self-selected peer group, Goldman's non-executive directors' compensation is blatantly unfair.

the Company's compensation plans to include the fixed-dollar amount or to set any limits for their compensation. Nor did the Board seek stockholder approval for the 2014 compensation disclosed in the Proxy. Thus, the Board retains the unfettered ability to simply change its approach to compensation or select a different, higher fixed-dollar amount. Further, if Goldman performs poorly, under this new stated compensation practice, the members of the Board will still receive \$500,000 worth of RSUs, in addition to whatever cash compensation and other benefits they receive. Accordingly, even Goldman's new stated compensation practice is manifestly unfair.

3. Plaintiff now brings this action to recoup the unfair excessive compensation the director defendants awarded themselves and impose meaningful restrictions on the Board's ability to award itself compensation going forward.

THE PARTIES

Plaintiff

4. Plaintiff was a stockholder of Goldman at the time of the wrongdoing complained of, has continuously been a stockholder since that time, and is a current Goldman stockholder.

Nominal Defendant

5. Nominal defendant Goldman is a Delaware Corporation with principal executive offices located at 200 West Street, New York, New York. Goldman is a

global investment banking, securities, and investment management firm that provides a wide range of financial services to a substantial and diversified client base that includes corporations, financial institutions, governments, and high-net-worth individuals.

Defendants

6. Defendant Adebayo O. Ogunlesi ("Ogunlesi") is Goldman's Lead Director and has been since July 2014 and a director and has been since October 2012. Defendant Ogunlesi is also Chairman of Goldman's Corporate Governance and Nominating Committee and has been since July 2014 and a member of that committee and has been since October 2012. Defendant Ogunlesi is an ex-officio member of Goldman's Compensation Committee and has been since March 2015 and was a member of that committee from October 2012 to March 2015. Goldman paid defendant Ogunlesi the following compensation as a director:

Fiscal Year	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$600,304	\$10,000	\$600,304
2013	\$590,687	-	\$590,687
2012	\$124,512	-	\$124,512

7. Defendant David A. Viniar ("Viniar") is a Goldman director and has been since January 2013. Defendant Viniar was also Goldman's Executive Vice President and Chief Financial Officer from May 1999 to January 2013; Head of Operations, Technology, Finance, and Services Division from December 2002 to

January 2013; Head of the Finance Division and Co-Head of Credit Risk Management and Advisory and Firmwide Risk from December 2001 to December 2002; and Co-Head of Operations, Finance and Resources from March 1999 to December 2001. Goldman paid defendant Viniar the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$75,000	\$500,019	\$20,000	\$575,019
2013	\$68,750	\$457,188	\$20,000	\$525,938

8. Defendant James A. Johnson ("Johnson") is a Goldman director and has been since May 1999. Defendant Johnson is also Chairman of Goldman's Compensation Committee and a member of the Corporate Governance and Nominating Committee and has been since at least April 2011. Goldman paid defendant Johnson the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	-	\$600,304	\$20,000	\$600,304
2013	-	\$598,999	-	\$598,999
2012	\$100,000	\$423,030	-	\$523,030
2011	-	\$383,801	\$20,000	\$383,801

9. Defendant William W. George ("George") is a Goldman director and has been since December 2002. Defendant George is also a member of Goldman's Compensation Committee and Corporate Governance and Nominating Committee

and has been since at least April 2011. Goldman paid defendant George the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	-	\$600,304	\$20,000	\$600,304
2013	-	\$598,999	\$20,000	\$598,999
2012	\$75,000	\$425,146	\$20,000	\$500,146
2011	-	\$358,729	\$20,000	\$358,729

10. Defendant Claes Dahlbäck ("Dahlbäck") is a Goldman director and has been since June 2003. Defendant Dahlbäck is also a director of Goldman Sachs International, a subsidiary of Goldman. Defendant Dahlbäck is a member of Goldman's Corporate Governance and Nominating Committee and has been since at least April 2011 and was a member of the Compensation Committee from at least April 2011 to March 2015. Goldman paid defendant Dahlbäck the following compensation as a director:

Fiscal Year	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$575,189	\$25,000	\$575,189
2013	\$573,895	\$25,000	\$573,895
2012	\$498,048	\$14,583	\$498,048
2011	\$358,729	-	\$358,729

11. Defendant Lakshmi N. Mittal ("Mittal") is a Goldman director and has been since June 2008. Defendant Mittal is also a member of Goldman's Compensation Committee and Corporate Governance and Nominating Committee

and has been since at least April 2011. Goldman paid defendant Mittal the following compensation as a director:

Fiscal Year	Stock Awards Paid for Services Provided in:	Total
2014	\$575,819	\$575,819
2013	\$573,895	\$573,895
2012	\$498,048	\$498,048
2011	\$358,729	\$358,729

12. Defendant Debora L. Spar ("Spar") is a Goldman director and has been since June 2011. Defendant Spar is also a member of Goldman's Compensation Committee and Corporate Governance and Nominating Committee and has been since June 2011. Goldman paid defendant Spar the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$75,000	\$500,019	\$2,500	\$575,019
2013	\$75,000	\$498,750	-	\$573,750
2012	\$75,000	\$423,030	\$9,000	\$498,030
2011	-	\$209,315	-	\$209,315

13. Defendant M. Michele Burns ("Burns") is a Goldman director and has been since October 2011. Defendant Burns is also a member of Goldman's Compensation Committee and Corporate Governance and Nominating Committee and has been since October 2011. Goldman paid defendant Burns the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
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2014	\$100,000	\$500,019	\$20,000	\$600,019
2013	\$100,000	\$498,750	\$20,000	\$598,750
2012	-	\$514,828	\$20,000	\$514,828
2011	-	\$89,739	\$20,000	\$89,739

14. Defendant Mark E. Tucker ("Tucker") is a Goldman director and has been since November 2012. Defendant Tucker is also a member of Goldman's Corporate Governance and Nominating Committee and has been since November 2012 and was a member of the Compensation Committee from November 2012 to March 2015. Goldman paid defendant Tucker the following compensation as a director:

Fiscal Year	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$575,189	\$20,000	\$575,189
2013	\$573,895	\$10,000	\$573,895
2012	\$83,055	-	\$83,055

15. Defendant Peter Oppenheimer ("Oppenheimer") is a Goldman director and has been since March 2014. Defendant Oppenheimer is also a member of Goldman's Corporate Governance and Nominating Committee and has been since March 2014 and was a member of the Compensation Committee from March 2014 to March 2015. Goldman paid defendant Oppenheimer the following compensation as a director:

Fiscal Year	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2014	\$491,940	\$20,000	\$491,940

16. Defendant Stephen Friedman ("Friedman") was a Goldman director from April 2005 to May 2013. Defendant Friedman also served in various other positions at The Goldman Sachs Group, L.P., Goldman Sachs's predecessor, from 1966 to 1994, including as Senior Partner and Chairman of the Management Committee. Defendant Friedman was a member of Goldman's Compensation Committee and Corporate Governance and Nominating Committee from at least April 2011 to May 2013. Goldman paid defendant Friedman the following compensation as a director:

Fiscal Year	Fees Paid for Services Provided in:	Stock Awards Paid for Services Provided in:	All Other Compensation	Total
2013	\$249,480	-	-	\$249,480
2012	-	\$523,148	-	\$523,148
2011	-	\$383,801	\$20,000	\$383,801

17. The defendants identified in ¶¶6-16 are referred to herein as the "Director Defendants" or "Individual Defendants."

GOLDMAN'S EQUITY INCENTIVE PLAN GIVES THE DIRECTOR DEFENDANTS CARTE BLACHE TO SET THEIR OWN COMPENSATION

18. On April 1, 2003, the Company's stockholders approved the Amended and Restated Stock Incentive Plan (the "2003 SIP"). The 2003 SIP was allegedly adopted to "attract, retain, and motivate officers, directors, employees ... to compensate them for their contributions to the long-term growth and profits of the

Firm and to encourage them to acquire a proprietary interest in the success of the Firm."

19. The 2003 SIP gave the Board power to appoint a committee to administer the plan. The committee of the Board had complete discretion over the administration of the 2003 SIP, including who would receive awards under the 2003 SIP, how many awards, and on what terms. The only limits on the amount of stock the Board's committee could grant as awards were: (i) the total amount of stock available to be issued under the 2003 SIP (250 million); and (ii) as of the 2008 fiscal year, the committee of the Board could only grant to a participant awards equal to 5% of the Company's outstanding stock. As of February 12, 2012, there were approximately 495 million shares of Goldman stock outstanding. Accordingly, the only applicable limit was that the committee of the Board could not grant more than 24.75 million shares, which was worth approximately \$2.8 billion at this time. Accordingly, there were no true limits under the 2003 SIP.²

20. The director compensation in 2012 was set by the Compensation Committee. The Compensation Committee in 2012 consisted of all the non-

² The Board amended and restated the 2003 SIP in 2008. The amendments did not contain any material changes. The Board also adopted a "Long-term Performance Incentive Plan" on December 17, 2010 (the "LTIP"). The LTIP provides the committee of the Board's selection to administer it, including granting awards under the LTIP, setting the terms of those awards, and amend any rules relating to the LTIP. There are no limitations on the amount of awards the committee can award directors.

executive directors of the Board. Accordingly, the non-executive directors of the Board set the amount of compensation that they would receive.

21. In 2013, the Company's stockholders approved the Amended and Restated Stock Incentive Plan (the "2013 SIP"). The 2013 SIP again gave sole administrative power to a committee appointed by the Board. The only limit contained in the 2013 SIP is the limit on the total amount stock available for issuance as awards, which is sixty million shares, currently worth \$12 billion. The Compensation Committee granted director compensation for 2013 and 2014 under the 2013 SIP, which continued to consist of all the non-executive directors of the Board.

22. The Board plans to continue the practice of setting its own pay without any limitation into perpetuity. The Company's most recent Proxy describes a single change to the Compensation Committee's compensation practices. In 2014, the Compensation Committee, with Board approval, stated that it would change its practice of awarding 3,000 RSUs per year to a fixed-dollar award of \$500,000 in RSUs to each non-executive director. The Board stated that this change aligns its non-executive members' compensation with "the general market practice of awarding director compensation in fixed-dollar amounts." This equity grant is in addition to the cash compensation and other benefits the non-executive directors receive. Notably, the Board did not seek stockholder approval

of this change. Further, the Board did not seek stockholder approval to put any specific limits on the amount of compensation the non-executive directors of the Board could award themselves. Accordingly, the Compensation Committee could change its practices at any time.

23. Nor is pegging the amount of compensation members of the Board receive in stock to a set value fair to stockholders. By setting the amount of RSUs at a value of \$500,000, even if the Company's stock market performs poorly, the non-executive directors will still receive the same basic amount of compensation. More, as explained below, this amount is plainly excessive compared to Goldman's peers.

THE BOARD AWARDS ITSELF EXCESSIVE COMPENSATION

24. In breach of their fiduciary duties, the Director Defendants took advantage of their ability to set their own compensation to grant themselves excessive compensation. Since 2012, the Compensation Committee has paid itself nearly \$240,000 more on average than directors in the Company's peer group. The following table shows the Company's non-executive director compensation compared to the Compensation Committee's self-selected peer group:

Company Name	2014 Average Comp	2013 Average Comp	2012 Average Comp
<i>THE GOLDMAN SACHS GROUP INC</i>	<i>\$586,352</i>	<i>\$583,291</i>	<i>\$511,901</i>
BANK OF AMERICA CORP	\$308,234	\$315,412	\$280,471
JPMORGAN CHASE & CO	\$374,750	\$307,813	\$278,194
MORGAN STANLEY	\$347,652	\$348,118	\$345,833

CITIGROUP INC	\$314,375	\$315,250	\$314,722
PEER GROUP AVERAGE	\$336,253	\$321,648	\$304,805
DIFFERENCE	\$250,099	\$261,643	\$207,096

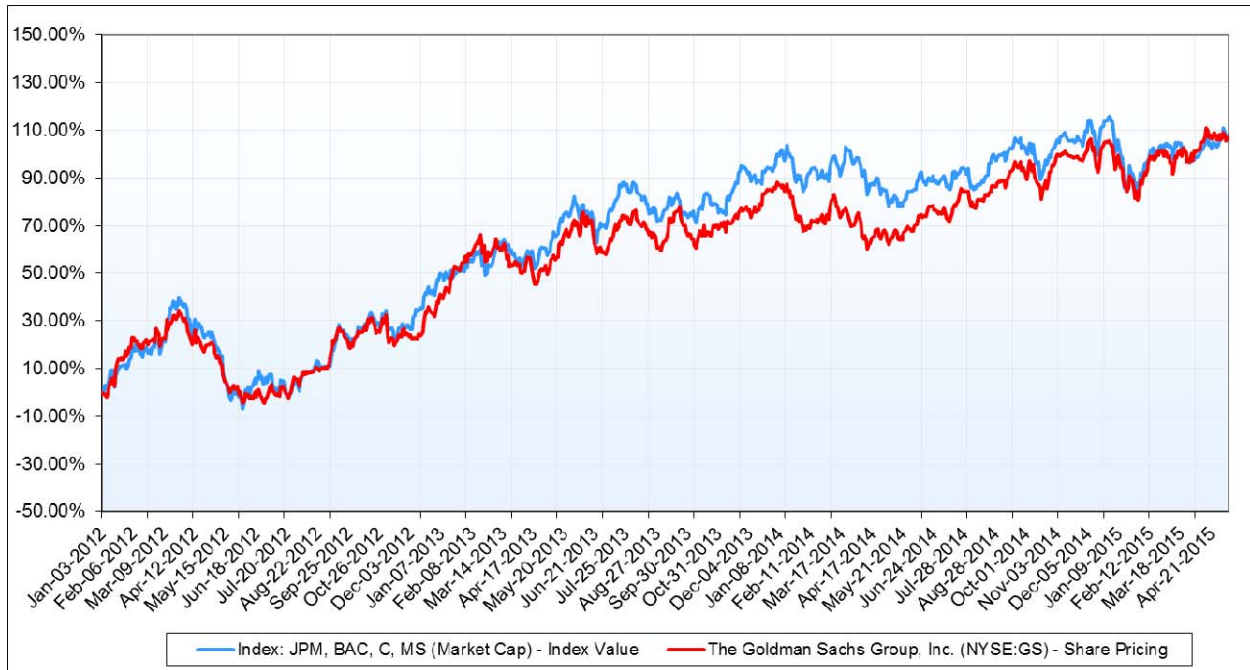
25. The following table shows the excessive compensation that each defendant director received for each full year of Board service:³

Goldman Sachs (GS) Director Compensation					
Board Member	Fees Paid in Cash	Stock Awards	Total	Average Peer Compensation	Compensation Damages
2012					
Burns	\$ -	\$514,828	\$514,828	\$304,805	\$210,023
Dahlbäck	\$ -	\$498,048	\$498,048		\$193,243
Friedman	\$ -	\$523,148	\$523,148		\$218,343
George	\$75,000	\$425,146	\$500,146		\$195,341
Johnson	\$100,000	\$423,030	\$523,030		\$218,225
Mittal	\$ -	\$498,048	\$498,048		\$193,243
Schiro	\$ -	\$539,928	\$539,928		\$235,123
Spar	\$75,000	\$423,030	\$498,030		\$193,225
Total	\$250,000	\$3,845,206	\$4,095,206		n/a
Average	\$31,250	\$480,651	\$511,901	n/a	\$207,096
2013					
Burns	\$100,000	\$498,750	\$598,750	\$269,234	\$277,102
Dahlbäck	\$ -	\$573,895	\$573,895		\$252,247
George	\$ -	\$598,999	\$598,999		\$277,351
Johnson	\$ -	\$598,999	\$598,999		\$277,351
Mittal	\$ -	\$573,895	\$573,895		\$252,247
Ogunlesi	\$ -	\$590,687	\$590,687		\$269,039
Schiro	\$ -	\$624,103	\$624,103		\$302,455
Spar	\$75,000	\$498,750	\$573,750		\$252,102
Tucker	\$ -	\$573,895	\$573,895		\$252,247
Viniar	\$68,750	\$457,188	\$525,938		\$204,290
Total		\$5,589,161	\$5,832,911		n/a

³ The following table only includes the compensation for directors when they served an entire year in order to accurately compare the yearly compensation of the Company's directors and its peers.

	\$243,750				
Average	\$24,375	\$558,916	\$583,291	n/a	\$261,643
2014					
Burns	\$100,000	\$500,019	\$600,019	\$329,256	\$263,766
Dahlbäck	\$ -	\$575,189	\$575,189		\$238,936
George	\$ -	\$600,304	\$600,304		\$264,051
Johnson	\$ -	\$600,304	\$600,304		\$264,051
Mittal	\$-	\$575,819	\$575,819		\$239,566
Ogunlesi	\$ -	\$600,304	\$600,304		\$264,051
Spar	\$75,000	\$500,019	\$575,019		\$238,766
Tucker	\$ -	\$575,189	\$575,189		\$238,936
Viniar	\$75,000	\$500,019	\$575,019		\$238,766
Total	\$250,000	\$5,027,166	\$5,277,166		n/a
Average	\$27,778	\$558,574	\$586,352	n/a	\$250,099
Total Compensation Damages					\$6,524,086

26. The Individual Defendants' excessive compensation is unwarranted. While the Company's stock has admittedly increased substantially over the past three years, it is moving in union with Goldman's peer group, as shown by the following graph:



27. Absent court intervention, the Director Defendants will continue paying themselves this excessive amount of compensation.

DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

28. Plaintiff brings this action derivatively in the right and for the benefit of Goldman to redress injuries suffered, and to be suffered, by Goldman as a direct result of breaches of fiduciary duty and unjust enrichment.

29. Plaintiff will adequately and fairly represent the interests of Goldman in enforcing and prosecuting its rights.

30. Plaintiff was a stockholder of Goldman at the time of the wrongdoing complained of, has continuously been a stockholder since that time, and is a current Goldman stockholder.

31. The current Board of Goldman consists of the following fourteen individuals: defendants Burns, Dahlbäck, George, Johnson, Mittal, Ogunlesi, Oppenheimer, Spar, Tucker, and Viniar and non-defendants Lloyd C. Blankfein ("Blankfein"), Gary D. Cohn ("Cohn"), Mark Flaherty and Mark O. Winkleman. Plaintiff has not made any demand on the present Board to institute this action because such a demand is excused.

32. Because defendants Burns, Dahlbäck, George, Johnson, Mittal, Ogunlesi, Oppenheimer, Spar, Tucker, and Viniar, a majority of the Board, awarded and received the challenged compensation pursuant to an incentive plan that contains no limits on their compensation, let alone meaningful ones, they stand on both sides of the compensation awards. Thus, they derived a personal financial benefit from and had a direct interest in the transactions at issue in this case. Because they stand on both sides of the challenged compensation awards and received personal financial benefits from those awards, defendants Burns, Dahlbäck, George, Johnson, Mittal, Ogunlesi, Oppenheimer, Spar, Tucker, and Viniar lack disinterest, excusing a demand, and they will have the burden of proving the entire fairness of their compensation.

33. Non-defendants Blankfein and Cohn are executives at the Company and thus dependent on defendants Burns, Dahlbäck, George, Johnson, Mittal, Ogunlesi, Oppenheimer, Spar, Tucker, and Viniar for their compensation.

Blankfein and Cohn will not vote to initiate litigation against these defendants and thus risk their future substantial remuneration.

FIRST CAUSE OF ACTION

Against the Individual Defendants for Breach of Fiduciary Duty

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

35. The Individual Defendants and each of them, violated their fiduciary duty of loyalty by awarding and/or receiving excessive and improper compensation at the expense of the Company.

36. As a direct and proximate result of the Individual Defendants' breaches of their fiduciary obligations, Goldman has sustained significant damages, as alleged herein. As a result of the misconduct alleged herein, these defendants are liable to the Company.

37. Plaintiff, on behalf of Goldman, has no adequate remedy at law.

SECOND CAUSE OF ACTION

Against the Individual Defendants for Unjust Enrichment

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

39. By their wrongful acts and omissions, the Individual Defendants were unjustly enriched at the expense of and to the detriment of Goldman. The

Individual Defendants were unjustly enriched as a result of the compensation and director remuneration they received while breaching fiduciary duties owed to Goldman.

40. Plaintiff, as a stockholder and representative of Goldman, seeks restitution from these defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and other compensation obtained by these defendants, and each of them, from their wrongful conduct and fiduciary breaches.

41. Plaintiff, on behalf of Goldman, has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of Goldman, demands judgment as follows:

A. Against all of the defendants and in favor of the Company for the amount of damages sustained by the Company as a result of the defendants' breaches of fiduciary duties and unjust enrichment;

B. Directing Goldman to take all necessary actions to reform and improve its corporate governance and internal procedures to comply with applicable laws and to protect Goldman and its stockholders from a repeat of the damaging events described herein. In particular, the Board must reform the 2013 SIP so that it contains meaningful limits on the amount of stock that it is able to pay itself and then present such a change to the stockholders for a vote;

C. Extraordinary equitable and/or injunctive relief as permitted by law, equity, and state statutory provisions sued hereunder, including attaching, impounding, imposing a constructive trust on, or otherwise restricting the proceeds of defendants' trading activities or their other assets so as to assure that Plaintiff on behalf of Goldman has an effective remedy;

D. Awarding to Goldman restitution from defendants, and each of them, and ordering disgorgement of all profits, benefits, and other compensation obtained by the defendants;

E. Awarding to Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

F. Granting such other and further relief as the Court deems just and proper.

Dated: June 9, 2015

COOCH AND TAYLOR, P.A.

/s/Blake A. Bennett

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