

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID ANDREWS, Individually and On Behalf Of
All Others Similarly Situated,

Plaintiff,

vs.

TAKE-TWO INTERACTIVE SOFTWARE, INC.,
PAUL EIBELER, KARL H. WINTERS, and GARY
LEWIS,

Defendants.

Case No.

CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS

JURY TRIAL DEMANDED

Plaintiff, David Andrews ("Plaintiff"), upon the investigation of Plaintiff's counsel, 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 Take-Two Interactive Software, Inc., ("Take-Two" or the "Company") Securities analysts' reports and advisories about the Company, and information readily available on the Internet.

NATURE OF THE ACTION

1. This is a federal class action on behalf of purchasers of the common stock of Take-Two Interactive Software, Inc., ("Take-Two" or the "Company") between October 25, 2004 and January 27, 2006 (the "Class Period") inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

2. Take-Two engages in publishing, developing, and distributing interactive entertainment software, hardware, and accessories. The Company publishes interactive software games for personal computers, video game consoles, and handheld platforms.

3. The complaint alleges that defendants' issued a series of false and misleading statements to the market artificially inflating the Company's stock. The defendants failed to disclose that their best-selling game, Grand Theft Auto: San Andreas, contained explicit and pornographic scenes to the powerful Entertainment Software Rating Board ("ESRB"), a private group that rates video games. Had ESRB been aware of the pornographic contents of the game, it would have assigned it a rating of "Adults Only 18+." The adults only rating would have restricted the distribution of the game. The major retail chains, such as Wal-Mart and Target, do not carry such games. As a result, when ESRB revised its rating on the game to "Adults Only 18+," the Company was forced to reduce its financial guidance.

4. More specifically, the Defendants failed to disclose the following materially adverse facts to the market: (1) that the Company's main, video game product; Grand Theft Auto: San Andreas, contained materials which mandated that the game be rated Adult-Only; (2) that as a consequence of the Adult-Only rating, many retailers refused to carry the game, thereby eroding the Company's profitability by significantly decreasing the Company's sales and earnings; (3) that the Company's accounts payable, inventory and cost of goods accounts, capitalized software development costs and amortization expense were misstated; (4) that the Company lacked adequate internal controls; (5) that the Company's failed to cooperate with or assist the Company's audit committee; and (6) as a result of the foregoing, Take-Two statements with respect to its future earning and guidance lacked in any reasonable basis when made.

5. Ten, on January 27, 2006, it was announced that the City Attorney for the City of Los Angeles filed an action against the Company and its subsidiary, Rockstar, in the Superior Court of the State of California alleging, among other things, that the Company and Rockstar violated

sections of the California Business and Professions Code by publishing untrue and misleading statements and engaging in unfair competition.

6. On this news, share of Take Two fell \$2.34 per share, or 13.74 per share, to close, on January 27, 2006, at \$14.69 per share.

JURISDICTION AND VENUE

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

8. This Court has jurisdiction over the subject matter of this action pursuant to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. § 1331.

9. 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). Many of the acts and transactions alleged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this Judicial District. Additionally, the Company maintains a principal executive office in this Judicial District.

10. 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 mails, interstate telephone communications and the facilities of the national Securities exchange.

PARTIES

11. Plaintiff, David Andrews, as set forth in the accompanying certification, incorporated by reference herein, purchased Take-Two Securities at artificially inflated prices during the Class Period and has been damaged thereby.

12. Defendant Take-Two is a Delaware corporation that has a principal executive offices located at 622 Broadway, New York, New York 10012.

13. Defendant Paul Eibeler ("Eibeler") was, at all relevant times, the Company's Chief Executive Officer.

14. Defendant Karl H. Winters ("Winters") was, at all relevant times, the Company's Chief Financial Officer.

15. Defendant Gary Lewis ("Lewis") was, until his resignation on January 6, 2006, the Company's Global Chief Operating Officer.

16. Defendants Eibeler, Winters and Lewis are collectively referred to herein as the "Individual Defendants." The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of Take-Two quarterly reports, press releases and presentations to Securities analysts, money and portfolio managers and institutional investors, i.e., the market. Each defendant was provided with copies of the Company's reports 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 cause them to be corrected. Because of their positions and access to material non-public information available to them but not to the public, each of these 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 which were being made were then materially false and misleading. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information, the result of the collective actions of the Individual Defendants.

SUBSTANTIVE ALLEGATIONS

Background

17. Take-Two engages in publishing, developing, and distributing interactive entertainment software, hardware, and accessories. The Company publishes interactive software games for personal computers, video game consoles, and handheld platforms. It also publishes games developed internally and by third parties. The Company also distributes games for video game consoles and handheld platforms published internally and by third parties, as well as hardware and accessories manufactured by third parties. In addition, TTIS manufactures and markets video game accessories in Europe, North America, and the Asia Pacific region. It sells its software titles to retail outlets in North America and Europe through direct relationships with retail customers and third-party distributors.

Materially False and Misleading Statements Issued During the Class Period

18. On October 25, 2004, Take-Two issued a press release entitled "Rockstar Games Ships Grand Theft Auto: San Andreas for PlayStation®2." Therein, the Company, in relevant part stated:

Rockstar Games, the world-renowned publishing division of Take-Two Interactive Software, Inc. (NASDAQ: TTWO), is proud to announce that Grand Theft Auto: San Andreas has shipped to retail stores in North America. Developed by Rockstar North, Grand Theft Auto: San Andreas is available exclusively for the PlayStation®2 computer entertainment system. Grand Theft Auto: San Andreas will be in stores in Europe on October 29th, 2004.

Grand Theft Auto: San Andreas is the next installment in the gaming franchise that has sold over 32 million units to date, including over 13 million units of Grand Theft Auto: Vice City and over 11 million units of Grand Theft Auto 3.

19. On December 16, 2004, Take-Two issued a press release entitled "Take-Two Interactive Software, Inc. Reports Fourth Quarter And Fiscal 2004 Financial Results." Therein, the Company, in relevant part, stated:

Net sales for the fourth quarter ended October 31, 2004, which included the launch of the blockbuster title Grand Theft Auto: San Andreas for the PlayStation®2 computer entertainment system, were \$438.0 million compared to \$277.6 million for the same period a year ago. Net income for the quarter was \$62.6 million, which included a \$7.5 million accrual to establish a reserve in connection with the Company's SEC investigation as discussed below. Fourth quarter 2004 net income of \$62.6 million and diluted net income per share of \$1.36 compared to net income of \$26.3 million and diluted net income per share of \$0.58 the prior year.

Net sales for the fiscal year ended October 31, 2004 were \$1.13 billion compared to \$1.03 billion for fiscal 2003. Net income of \$65.4 million, including the \$7.5 million accrual related to the Company's SEC investigation, compared to \$98.1 million in net income last year, with diluted net income per share of \$1.43 compared to \$2.27 last year.

Fourth Quarter Highlights

Rockstar's Grand Theft Auto: San Andreas, released in late October for PlayStation 2, was a significant contributor to fourth quarter and fiscal year results. Created by the world-class developers Rockstar North, Grand Theft Auto: San Andreas was the top performing product in Take-Two's publishing business this quarter and fiscal year. According to NPDFunworldSM, Grand Theft Auto: San Andreas was the top selling PlayStation® 2 title in the United States in October and November.

Management Comments

Richard Roedel, Chairman and Chief Executive Officer, stated, "Fiscal 2004 was a rebuilding year for us, as we made key management additions and improved certain areas of our

distribution and publishing businesses. We achieved a number of important accomplishments in 2004 which make Take-Two a much stronger company going into 2005:

Grand Theft Auto: San Andreas was the largest videogame launch in Take-Two's history, further strengthening both our Rockstar label and the Company's financial position.

Paul Eibeler, President, added, "*We are entering fiscal 2005 in a strong, competitive position. With the tremendous success of Grand Theft Auto: San Andreas, Rockstar Games has magnified the power of the Grand Theft Auto brand, and they will continue to build on the franchise with the launch of Xbox and PC versions of Grand Theft Auto: San Andreas in June. Our product portfolio going into 2005, which includes titles based on a combination of proven franchises, new brands and licensed properties, is the strongest in the Company's history. Combined with the expansion of our management team and the strengthening of our internal operations, we believe we are building the foundation for long term, sustained growth in the interactive entertainment industry.*"

20. On December 22, 2004, Take-Two filed its annual report with the SEC on Form 10-K. The Company's Form 10-K reiterated its previously reported financial results, and included the following Sarbanes-Oxley required certifications, signed by defendants Winters and Eibeler:

1. I have reviewed this Annual Report on Form 10-K for the year ended October 31, 2004 of Take-Two Interactive Software, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

21. On March 3, 2005, Take- Two issued a press release entitled "Take-Two Interactive Software, Inc. Reports First Quarter Fiscal 2005 Financial Results." Therein, the Company, in relevant part, stated:

Net sales for the first quarter were \$502.5 million compared to \$375.5 million for the first quarter of fiscal 2004, an increase of 34%. Net income for the quarter rose to \$55.2 million, a 74% increase from net income of \$31.8 million during the same period last year. Diluted earnings per share of \$1.19 increased 70% from \$0.70 per diluted share in the prior year's first quarter.

Take-Two generated approximately \$185 million in cash flow from operations in the quarter, bringing the Company's cash position to approximately \$303 million as of January 31, 2005.

Take-Two attributed the sharply higher first quarter results primarily to continued strong consumer demand for its Grand Theft Auto: San Andreas title, as well as robust sales of the 2K Sports line of products and improved performance of the Company's Jack of All Games distribution business.

Rockstar Games

Rockstar's Grand Theft Auto: San Andreas, released in late October for the PlayStation®2 computer entertainment system,

was a significant contributor to the first quarter results. Created by the world-class developers Rockstar North, Grand Theft Auto: San Andreas was the top performing product in Take-Two's publishing business in the quarter. According to NPDFunworldSM, Grand Theft Auto: San Andreas was the top selling PlayStation® 2 title in the United States in each of the four months since its release. The Company's life to date sales of Grand Theft Auto: San Andreas through the end of the first quarter have exceeded 12 million units.

Management Comments

Paul Eibeler, President and Chief Executive Officer, stated, "Fiscal 2005 is off to a great start. We are extremely pleased with the continued success of Grand Theft Auto: San Andreas and Rockstar's plans to extend the reach of this blockbuster title to multiple platforms and the Asian market later this year. Additionally, we have made significant progress in diversifying our business, building our product pipeline and adding to our sports game development capabilities. We will continue to leverage our internal resources and invest in new opportunities, including extending our content to new hardware platforms. With our strong performance in the first quarter and our rapidly expanding portfolio of proven franchises, new brands and licensed properties, Take-Two is positioned for significant annual growth."

22. On March 10, 2005, Take-Two filed its quarterly report with the SEC on Form 10-Q. The Company's Form 10-Q reaffirmed the Company's previously announced financial results and included the following Sarbanes-Oxley required certifications, signed by defendants Eibeler and Winters:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended January 31, 2005 of Take-Two Interactive Software, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all

material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

23. On June 2, 2005, Take-Two issued a press release entitled "Take-Two Interactive Software, Inc. Reports Second Quarter Fiscal 2005 Financial Results." Therein, the Company, in relevant part, stated:

Net sales in the second quarter increased 45% to \$222.1 million, compared to \$153.4 million in the second quarter of fiscal 2004. Net loss for the quarter was \$8.2 million, compared to a net loss of \$14.6 million last year, with a net loss of \$(0.12) per share compared to a net loss per share of \$(0.22) last year.

Net sales for the six months ended April 30, 2005 increased 37% to \$724.5 million, compared to \$528.9 million for the same period a year ago. Net income for the first six months more than doubled to \$47.1 million from net income of \$17.2 million in the comparable period last year. Diluted earnings per share of \$0.67 increased 168% from \$0.25 per diluted share in the prior year's first six months.

Take-Two attributed its increased second quarter sales to the launch of Midnight Club 3: DUB Edition for PlayStation®2 and Xbox® and Major League Baseball 2K5 for PlayStation® 2 and Xbox, as well as continued consumer demand for its Grand Theft Auto: San Andreas title for PlayStation® 2.

Management Comments

Paul Eibeler, President and Chief Executive Officer, stated, "We were pleased with the performance of our second quarter releases, as well as the continued success of Grand Theft Auto: San Andreas. Additionally, having just returned from E3, we are excited about our future. Rockstar, 2K Games, 2K Sports and Global Star showcased a diverse assortment of over 25 games across all genres, platforms and demographic appeal to much critical and consumer acclaim."

24. On June 9, 2005, Take-Two filed its quarterly report with the SEC on Form 10-Q. The Company's Form 10-Q reaffirmed the Company's previously announced financial results and included the following Sarbanes-Oxley required certifications, signed by defendants Eibeler and Winters:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended April 30, 2005 of Take-Two Interactive Software, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

25. On July 20, 2005, Take-Two issued a press release entitled "Take-Two Interactive Software, Inc. Announces Conclusion of ESRB Investigation." Therein, the Company announced that the ESRB had changed the "rating of the Grand Theft Auto: San Andreas on all platforms from "Mature 17+" (M) to "Adults Only 18+" (AO) because of the so-called "hot coffee mod," an unauthorized third party modification that alters the retail version of the game." More specifically, the Company, in its press release, stated:

Rockstar Games has ceased manufacturing of the current version of the title and will begin working on a version of the game with enhanced security to prevent the "hot coffee" modifications. This version will retain the original ESRB M-rating and is expected to be available during the Company's fourth fiscal quarter. Rockstar Games will be providing AO labels for retailers who wish to continue to sell the current version of the title.

As a result of the re-rating of the game, Take-Two is lowering guidance for the third fiscal quarter ending July 31, 2005 to \$160 to \$170 million in net sales and a net loss per share of \$(0.40) to \$(0.45) to provide reserves for the value of the title's current North American retail inventory. Accordingly, guidance for the fiscal year ending October 31, 2005 is also being lowered to \$1.26 to \$1.31 billion in net sales and \$1.05 to \$1.12 in diluted earnings per share.

26. On July 29, 2005, Take-Two issued a press release entitled "Take-Two Interactive Software, Inc. Announces that Australian Rating Board Revokes Classification for Grand Theft Auto: San Andreas." Therein, the Company revealed that "Australia's Office of Film and Literature Classification (OFLC), the Australian entity responsible for rating films and video

games, has revoked the classification of Grand Theft Auto: San Andreas. As a result of this decision, the game is now unclassified in Australia, and cannot be sold, advertised or distributed in that country.”

27. On September 7, 2005, Take-Two issued a press release entitled “Take-Two Interactive Software, Inc. Reports Third Quarter Fiscal 2005 Financial Results.” Therein, the Company, in relevant part, stated:

Net sales in the third quarter increased 6% to \$169.9 million, compared to \$160.9 million in the third quarter of fiscal 2004. Net loss for the quarter was \$28.8 million, compared to a net loss of \$14.4 million last year, with a net loss of \$(0.41) per share compared to a net loss per share of \$(0.21) last year.

Net sales for the nine months ended July 31, 2005 increased 30% to \$894.4 million, compared to \$689.7 million for the same period a year ago. Net income for the first nine months increased to \$18.3 million from net income of \$2.7 million in the comparable period last year. Diluted earnings per share of \$0.26 increased from \$0.04 per diluted share in the prior year’s first nine months.

Take-Two attributed its increased third quarter sales to the launch of Grand Theft Auto: San Andreas for Xbox and PC and Midnight Club 3: DUB Edition for the PSP™, along with the release of Charlie and the Chocolate Factory on multiple platforms and Sid Meier’s Pirates! for Xbox.

The Company initiated its stock repurchase program during the third quarter and completed the entire \$25 million program shortly after the end of the quarter. Approximately 925,000 shares were purchased at an average price of \$26.96 per share.

Guidance

Take-Two is updating its fiscal 2005 guidance primarily to reflect the movement of Bully for PlayStation® 2 and Xbox out of the current fiscal year to provide additional development time for the title, the movement of the Japanese launch of Grand Theft Auto: San Andreas for PlayStation® 2 out of the current fiscal year, and the movement of Sid Meier’s Civilization IV for PC from fiscal 2006 into fiscal 2005. The Company now expects \$1.22 to \$1.27 billion in net sales

and \$0.85 to \$0.90 in diluted net income per share for the fiscal year ending October 31, 2005.

Take-Two is issuing initial guidance for fiscal 2006, excluding the estimated impact from adoption of FASB 123@:

For the fiscal year ending October 31, 2006, \$1.4 to \$1.5 billion in net sales and \$1.25 to \$1.55 in diluted net income per share.

For the first quarter ending January 31, 2006, \$350 to \$400 million in net sales and \$0.14 to \$0.20 in diluted net income per share.

The Company's diluted earnings/(loss) per share for all periods above do not include the impact of adopting FASB 123@, requiring the expensing of employee stock options. With the adoption of FASB 123@ beginning on November 1, 2005, the Company's estimated diluted net income per share guidance will be \$1.05 to \$1.30 for the fiscal year ending October 31, 2006 and \$0.10 to \$0.15 for the first quarter ending January 31, 2006.

Management Comments

Paul Eibeler, President and Chief Executive Officer, stated, "Take-Two is in an excellent competitive position as our industry enters its next cycle of growth. We have a high quality line-up that is the most diverse in our history-- including the latest versions of established franchises, as well as newer titles that will become tomorrow's hits. Our Rockstar, 2K Games, 2K Sports and Global Star labels are building a product pipeline that will appeal to a broad range of consumers."

Mr. Eibeler continued, "We are particularly excited about the capabilities of the next generation hardware, which play to our strength--the ability to produce creative and engaging games that generate enthusiastic responses from gamers and reviewers alike. And, we have the financial and operational resources to capitalize on the opportunities presented by the current installed base and the millions of next generation console and handheld units that will be added in the coming months and years."

28. On September 8, 2005, Take-Two filed its quarterly report with the SEC on Form 10-Q. The Company's Form 10-Q reaffirmed the Company's previously announced financial

results and included the following Sarbanes-Oxley required certifications, signed by defendants Eibeler and Winters:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended July 31, 2005 of Take-Two Interactive Software, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

29. The statements contained in ¶¶ 18-28 were materially false and misleading when made because defendants failed to disclose or indicate the following: (1) that the Company's main, video game product; Grand Theft Auto: San Andreas, contained materials which mandated that the game be rated Adult-Only; (2) that as a consequence of the Adult-Only rating, many

retailers refused to carry the game, thereby eroding the Company's profitability by significantly decreasing the Company's sales and earnings; (3) that the Company's accounts payable, inventory and cost of goods accounts, capitalized software development costs and amortization expense were misstated; (4) that the Company lacked adequate internal controls; (5) that the Company's failed to cooperate with or assist the Company's audit committee; and (6) as a result of the foregoing, Take-Two statements with respect to its future earning and guidance lacked in any reasonable basis when made.

Truth Begins to Emerge

30. On January 5, 2006, Take-Two issued a press release entitled "Take-Two Interactive Software, Inc. Announces Preliminary and Unaudited Fiscal 2005 Financial Results."

Therein, the Company, in relevant part, stated:

New York, NY -- January 5, 2006 -- Take-Two Interactive Software, Inc. (NASDAQ:TTWO) today announced preliminary and unaudited financial results of \$1.2 billion in net sales and diluted net income per share of \$0.53 for its fiscal year ended October 31, 2005 and \$308 million in net sales and \$0.27 in diluted net income per share for its fiscal 2005 fourth quarter. These figures are considered preliminary due to the need for additional time to complete the Company's year-end results, including its assessments required for its first year of reporting under Section 404 of the Sarbanes-Oxley Act.

Take-Two expects to file its Form 10-K within the timeframe required by the Securities and Exchange Commission. The Company's diluted earnings per share for the periods above do not include the impact of adopting FASB 123®, requiring the expensing of employee stock options beginning on November 1, 2005.

Guidance

Take-Two is revising its fiscal 2006 first quarter guidance to reflect the continued retail weakness for video game software during the holiday selling season in both North America and Europe, as well as the movement into the second quarter of Top Spin 2 for the Xbox 360™ video game and entertainment system from Microsoft,

Nintendo DS™ and Game Boy® Advance and College Hoops 2K6 for the Xbox 360 to provide additional development time. The Company now expects \$230 to \$250 million in net sales and a net loss per share for the first quarter ending January 31, 2006.

Due to the continued uncertainties related to the retail environment and the timing and consumer acceptance of new video game hardware and software, as well as the timing of the Company's new product releases during 2006, Take-Two is not providing financial guidance for the fiscal year ending October 31, 2006, but now expects net revenue and earnings per share for fiscal 2006 to be significantly below the financial guidance previously provided by the Company and current analyst consensus estimates.

31. On January 5, 2006, *Reuters* published an article entitled "Take-Two warns on 2006 profit, shares tumble." The article, in relevant part, read:

The results fell short of analysts' average forecast for a profit of 28 cents a share, but beat the consensus revenue target of \$290.6 million, according to Reuters Estimates.

Citing continued weak holiday video game sales in both North America and Europe, as well as the delay into the second quarter of versions of its "Top Spin 2" and "College Hoops 2K6" games, Take-Two forecast \$230 million to \$250 million in net sales and a net loss for the first-quarter ending January 31.

On October 31, Take-Two had forecast first-quarter revenue of \$300 million to \$350 million and a profit of 4 cents to 10 cents per share.

Take-Two declined to issue a forecast for fiscal 2006 due to continued uncertainty about retail appetite for new video game hardware and software, as well as the timing of its new product releases.

The company said it expected net revenue and earnings per share for its fiscal year ending October 2006 to be "significantly below the financial guidance previously provided by the company and current analyst consensus estimates."

Last summer, Take-Two was forced to pull "Grand Theft Auto: San Andreas" from store shelves following the discovery of sex scenes

that could be unlocked and viewed with a program downloaded from the Web. The debacle was blamed for the company's third quarter net loss of \$28.8 million, which was double the loss posted in the year-earlier period.

Shares of Take-Two fell to \$16.95 in after-hours trading from their Nasdaq close of \$18.47. The stock is down 11 percent since the company issued a separate profit and revenue warning on October 31.

32. On January 18, 2006, Take-Two filed with the SEC a notice of late filing for its annual report on Form 10-K. The notice, in relevant part, read:

While management has not yet completed its assessment of the Registrant's internal control over financial reporting, the Registrant's management has concluded, as of the date of this filing, that the following material weaknesses existed as of October 31, 2005. A material weakness is a control deficiency, or a combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

The Registrant did not maintain effective controls over the existence and valuation of its accounts payable related to inventory purchases. Specifically, the Registrant did not maintain effective controls to identify analyze and reconcile- amounts related to inventory purchases included in accounts payable to underlying supporting documentation. This control deficiency resulted in audit adjustments to the 2005 annual consolidated financial statements. In addition, this control deficiency could result in a misstatement of the accounts payable, inventory or cost of goods accounts or related disclosures that would result in a material misstatement of the annual or interim financial statements that would not be prevented or detected. Accordingly, management has determined that this control deficiency constitutes a material weakness.

- The Registrant did not maintain effective controls over the accuracy of the amortization of its capitalized software development costs. Specifically, the Registrant did not have effective controls to accurately prepare and review inputs to a spreadsheet application used to calculate amortization expense related to capitalized software development costs. This control deficiency resulted in audit adjustments to the 2005 annual consolidated financial statements. In addition, this control deficiency could result in a misstatement of the capitalized software development costs or amortization expense or

related disclosures that would result in a material misstatement of the annual or interim financial statements that would not be prevented or detected. Accordingly, management has determined that this control deficiency constitutes a material weakness.

33. On January 25, 2006, Take-Two filed with the SEC a Current Report on Form 8-K. Therein, the Company disclosed the resignation of board member and audit committee chairperson Barbara Kaczynski. The Company's Form 8-K included the following letter from Kaczynski's attorney:

As you know, we have just been retained to represent Barbara Kaczynski. I write in response to your email of Friday, January 20, 2006, to Ms. Kaczynski, regarding her resignation from the board of directors of Take-Two Interactive Software, Inc. ("Take-Two").

Your email seeks confirmation from Ms. Kaczynski that her resignation from Take-Two's board was not due to a disagreement with management of the type requiring disclosure under Item 5.02(a) of S.E.C. Form 8-K. Your email further asks Ms. Kaczynski to approve draft language describing the circumstances surrounding her resignation, which language the company intends to include in its upcoming Form 8-K disclosure.

Ms. Kaczynski does not know whether her resignation is of a type requiring disclosure under SEC rules and she does not feel able to express a view with respect to the language the Company intends to include in its Form 8-K disclosure about the resignation.

However, she is able to express to you directly the reasons why she resigned. During Ms. Kaczynski's tenure as a board member and chair of the audit committee, several matters requiring the board's attention caused Ms. Kaczynski concern. These matters included Take Two's discovery of illicit images depicted in its "Grand Theft Auto" videogame, the Federal Trade Commission's investigation of Take-Two following that discovery, and various SEC inquiries directed at Take-Two and its employees.

More recently, in connection with preparation of the 10-K and its late filing, Ms. Kaczynski's concerns have risen significantly because of what she views as an increasingly unhealthy relationship between senior management and the board of directors. In her experience, management's interactions with the board were characterized by a

lack of cooperation and respect. Moreover, Ms. Kaczynski felt that management failed to keep the board informed of important issues facing the company or failed to do so in a timely fashion. In these circumstances, Ms. Kaczynski decided to resign her position as a member of the board.

34. On January 27, 2006, Associated Press published an article entitled "Attorney Sues 'Grand Theft Auto' Makers." Therein, the Company, in relevant part, stated:

The city attorney's office has sued the makers of "Grand Theft Auto: San Andreas" for allegedly hiding pornographic material inside the video game, officials said.

Rocky Delgadillo said his office sued Rockstar Games and its parent company, Take-Two Interactive Software Inc., for making misleading statements in marketing the game and engaging in unfair competition.

A telephone call made after business hours to a Take-Two spokesman in New York was not returned.

The game, released in October 2004, features characters that commit crimes such as murder, drug dealing and pimping. The game also had an embedded "mini game" in which characters could engage in explicit sexual acts.

The industry board that rates video games gave it a mature rating but would have given it an adults-only rating if it knew of the explicit content, Delgadillo said.

The game's rating was later changed and retailers, including Wal-Mart Stores Inc., Target Corp. and Best Buy Co., pulled copies from their store shelves.

But the game was re-rated only after more than 12 million units had been sold, generating about \$600 million in retail sales. The city attorney's office estimated that more than 200,000 units have been sold to date in California, generating more than \$10 million in retail sales.

"Businesses have an obligation to truthfully disclose the content of their products -- whether in the food we eat or the entertainment we consume," Delgadillo said.

The lawsuit, filed in Los Angeles Superior Court, was part of an ongoing investigation into the marketing of video games, authorities said. The game also spurred several states to crack down on sales of mature-rated games to minors.

Delgadillo is seeking civil penalties from Rockstar Games Take-Two Interactive. He also is requesting that Take-Two and Rockstar take action to ensure full disclosure to consumers about the content of their video games.

35. In response to the unfolding event, on January 27, 2006, Banc of America analyst Gary Cooper downgraded Take-Two's stock to "sell" from "neutral." Also, January 27, 2006, the Street.com published an article entitled "Tough Times for Take-Two Interactive." The article in relevant part read:

Cooper cited a number of reasons for his downgrade, among them: accounting and governance problems at the company, the potential for an investigation by the Securities and Exchange Commission and an accounting restatement, the rapid rate at which the company is burning cash, and his expectation that the company's earnings will be lower than expected because of a delay in releasing the next major version of its Grand Theft Auto series.

"TTWO is not well-run, overly dependent on one product and will likely have to raise additional capital," said Cooper. Because of these factors, despite his downgrade, "our new price target ... may still prove aggressive," added Cooper, whose firm has done investment banking for Take-Two in the last year.

"We are unable to determine who is actively at the helm of the company," Cooper said. "We believe the board of directors is weak as evidenced by a lack of managerial changes despite 13 pre-announcements, earnings estimate revisions or outright earnings [misses] in the past 10 quarters."

Additionally, the delay in the filing of the annual report, added to Kaczynski's statements about SEC inquiries and the timing of certain insider sales last year, adds to Cooper's suspicions that the SEC may launch a full-bore investigation into the company.

36. On this news, share of Take Two fell \$2.34 per share, or 13.74 per share, to close, on January 27, 2006, at \$14.69 per share.

Post-Class Period Statements

37. On January 28, 2005, the New York Post published an article entitled "Take Two Talks". The article, in relevant part, read:

Banc of America Securities analyst Gary Cooper yesterday put out a "sell" rating on Take Two, sending its shares down 13 percent to \$14.69.

Citing what he argued was the likelihood of additional SEC probes into management's stock sales last summer, Cooper said Take Two's corporate governance was in free fall.

"We believe the board of directors is weak, as evidenced by a lack of managerial changes despite 13 pre-announcements, earnings estimate revisions or outright earnings [misses] in the past 10 quarters," Cooper wrote.

What may prove to be the biggest blow yet to Take Two occurred when audit committee chairwoman Barbara Kaczynski abruptly resigned Wednesday night.

Kaczynski, the former CFO of the NFL, wrote a stinging letter faulting management's candor and competence and referring to continuing SEC inquiries.

Take Two investors told The Post that the most disturbing aspect of Kaczynski's resignation was that she retained high-profile defense lawyer Bruce Baird, of Covington & Burling.

"Baird doesn't just write letters. He negotiates [for] and defends people under full bore assault from the SEC, period," said this investor.

"So it is a clear message she is likely willing to cooperate with the government in any inquiry," the investor added.

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"So it is a clear message she is likely willing to cooperate with the government in any inquiry," the investor added.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

39. 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 the securities of Take-Two between October 25, 2004 and January 27, 2006, inclusive (the "Class Period") and who were damaged thereby. Excluded from the Class are defendants, 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.

40. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Take-Two's securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained 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 Take-Two 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.

41. 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.

42. 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.

43. 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: (1) whether the federal securities laws were violated by defendants' acts as alleged herein; (2) whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Take-Two; and (3) to what extent the members of the Class have sustained damages and the proper measure of damages.

44. 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.

UNDISCLOSED ADVERSE FACTS

45. The market for Take-Two's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, Take-Two's securities traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired Take-Two's securities relying upon the integrity of the market price of Take-Two's securities and market information relating to Take-Two, and have been damaged thereby.

46. During the Class Period, defendants materially misled the investing public, thereby inflating the price of Take-Two's securities, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, as alleged herein.

47. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading

statements about Take-Two's business, prospects and operations. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of Take-Two and its business, prospects and operations, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

LOSS CAUSATION

48. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

49. During the Class Period, Plaintiff and the Class purchased securities of Take-Two at artificially inflated prices and were damaged thereby. The price of Take-Two common stock declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

ADDITIONAL SCIENTER ALLEGATIONS

50. As alleged herein, defendants acted with scienter in that defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Take-Two, their control over, and/or

receipt and/or modification of Take-Two allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Take-Two, participated in the fraudulent scheme alleged herein.

51. Defendants knew and/or recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public. The ongoing fraudulent scheme described in this complaint could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the personnel at the highest level of the Company, including the Individual Defendants.

52. During the Class, and with the Company's stock trading at artificially inflated prices, defendant Winters sold over \$6 million worth of Take-Two securities. Also defendant Lewis sold over \$1.6 million worth of the Company's securities. Non-parties Oliver R. Grace, Jr. ("Grace"), Robert Flug ("Flug"), Todd Emmel ("Emmel") and Steven Tisch ("Tisch"), who served as directors of Take-Two during the Class Period, collectively sold about \$12 million worth of Take-Two stock.

**Applicability of Presumption of Reliance:
Fraud-On-The-Market Doctrine**

53. At all relevant times, the market for Take-Two securities was an efficient market for the following reasons, among others:

- a. Take-Two stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market;
- b. As a regulated issuer, Take-Two filed periodic public reports with the SEC and the NASDAQ;
- c. Take-Two regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases

on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

d. Take-Two was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

54. As a result of the foregoing, the market for Take-Two securities promptly digested current information regarding Take-Two from all publicly-available sources and reflected such information in Take-Two stock price. Under these circumstances, all purchasers of Take-Two securities during the Class Period suffered similar injury through their purchase of Take-Two securities at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

55. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Take-Two who knew that those statements were false when made.

FIRST CLAIM
Violation of Section 10(b) of The Exchange Act and
Rule 10b-5 Promulgated Thereunder Against All Defendants

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

57. During the Class Period, defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase Take-Two securities 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.

58. Defendants (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Take-Two securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

59. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Take-Two as specified herein.

60. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Take-Two value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Take-Two and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Take-Two securities during the Class Period.

61. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of his responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

62. The defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Take-Two's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by defendants' overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

63. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Take-Two securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Take-Two's publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by defendants, or upon the integrity of the market in which the securities trades, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period, Plaintiff and the other members of the Class acquired Take-Two securities during the Class Period at artificially high prices and were damaged thereby.

64. At the time of said misrepresentations and omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that

Take-Two was experiencing, which were not disclosed by defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their Take-Two securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

65. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

66. 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 and sales of the Company's securities during the Class Period.

SECOND CLAIM
Violation of Section 20(a) of
The Exchange Act against the Individual Defendants

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

68. The Individual Defendants acted as controlling persons of Take-Two within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contend are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiff to be misleading prior to and/or shortly after

these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

69. In particular, each of these defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

70. As set forth above, Take-Two and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a. Determining that this action is a proper class action, designating Plaintiff as Lead Plaintiff and certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and Plaintiff's counsel as Lead Counsel;
- b. Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- c. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- d. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated:

Respectfully submitted,

By: _____
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