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8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SANTA CLARA**
11

12 TESLA MOTORS, INC.,

13 Plaintiff,

14 vs.

15 TODD A. KATZ, individually and in his
16 capacity as Chief Financial Officer of QUEST
17 INTEGRITY GROUP, LLC; and DOES 1
through 10, inclusive,

18 Defendants.
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Case No.

16 CV 2999 16

COMPLAINT FOR:

- (1) **VIOLATION OF CALIFORNIA
PENAL CODE § 528.5**
- (2) **UNLAWFUL, DECEPTIVE, AND
UNFAIR BUSINESS ACTS AND
PRACTICES IN VIOLATION OF
CALIFORNIA BUSINESS &
PROFESSIONS CODE § 17200**

DEMAND FOR JURY TRIAL

BY FAX

COMPLAINT

1 Plaintiff Tesla Motors, Inc. ("Tesla"), for its Complaint against Todd A. Katz ("Katz"),
2 individually and in his capacity as Chief Financial Officer of Quest Integrity Group, LLC, and
3 Does 1 through 10, inclusive (the "Doe Defendants"), alleges as follows:

4 **SUMMARY OF DISPUTE**

5 1. On August 3, 2016, Defendant Katz, the Chief Financial Officer of a management
6 firm that is regularly engaged by some of the world's largest oil and gas companies, impersonated
7 Tesla CEO Elon Musk in an email to Tesla's CFO by which he sought to misappropriate highly
8 confidential and proprietary Tesla business information. On information and belief, Katz intended
9 to use that information in furtherance of his employer's and its clients' business and financial
10 interests. Tesla brings this action to recover the damages it suffered as a result of Katz's criminal
11 misconduct and to enjoin Katz and his cohorts from engaging in such deplorable and unlawful
12 activities going forward.

13 **PARTIES**

14 2. Plaintiff Tesla Motors, Inc. is a publicly traded Delaware corporation with its
15 principal place of business in Palo Alto, California.

16 3. Defendant Todd A. Katz ("Katz") is an individual who, on information and belief,
17 resides in Dublin, California.

18 4. The true names and capacities of the Doe Defendants named herein as Does 1
19 through 10, inclusive, whether individual, corporate, or otherwise, are currently unknown to Tesla,
20 which therefore sues such defendants by fictitious names pursuant to Code of Civil Procedure
21 section 474. Tesla is informed and believes, and based thereon alleges, that each of the fictitiously
22 named defendants is responsible in some manner for the occurrences alleged herein, and that the
23 damages as alleged herein were proximately caused by their conduct. Tesla will amend this
24 Complaint to identify the true names and capacities of each of the fictitiously named defendants
25 when such names and capacities have been determined.

26 **BACKGROUND**

27 5. Tesla designs, develops, manufactures, and sells high-performance fully electric
28 vehicles, advanced electric vehicle powertrain components, and stationary energy storage systems.

1 Tesla's mission is to accelerate the world's transition to sustainable energy, including by catalyzing
2 a mass market for electric cars. As a leading force in the move to electric vehicles and sustainable
3 energy, Tesla has come under constant attack from the oil industry. In recent years, oil companies
4 have spent billions on legislative efforts and campaigns aimed at blocking progress toward electric
5 cars and other sustainable energy solutions in the United States and abroad.

6 6. Quest Integrity Group, LLC ("Quest Integrity") is a subsidiary of Team, Inc.
7 (NYSE:TISI) that provides pipeline services and other management solutions for the oil and gas
8 industry. Quest Integrity's clients include many of the world's largest oil companies including BP,
9 Chevron, CITGO Petroleum, ConocoPhillips, ExxonMobil, Koch Pipeline Company, Occidental
10 Petroleum, Petrobras, Shell, Sinclair Oil, Sunoco, Tesoro, and Valero. Among other things, Quest
11 Integrity boasts that it has "improved operational planning and increased profitability for pipeline
12 operators around the world."

13 7. Katz is Chief Financial Officer of Quest Integrity. Prior to joining Quest Integrity,
14 he spent nine years in the mergers and acquisitions groups at several leading Wall Street
15 investment banks, including Morgan Stanley and Merrill Lynch. Quest Integrity touts Katz's
16 experience in the energy and technology industries, among others.

17 8. On August 3, 2016, Tesla released its financial results for the second quarter ended
18 June 30, 2016. Tesla management hosted a live webcast that day to discuss the results and outlook.
19 During the webcast, Elon Musk and Jason Wheeler, Tesla's CEO and CFO, respectively, fielded
20 questions on a variety of topics, including Tesla's gross margin targets and expected deliveries for
21 the remainder of the fiscal year.

22 9. Later that same evening, Tesla CFO Jason Wheeler received an email purporting to
23 be from CEO Elon Musk. The email, which was sent from the email address
24 "elontesla@yahoo.com," read:

25 why you so cautious w Q3/4 gm guidance on call?

26 also what are your thoughts on disclosing current M3 res #? Pros/cons from
27 ir pov?

28 what is ur best guess as to where we actually come in on q3/4 deliverables.

1 honest best guess? no bs.

2 thx 4 hard work prepping 4 today

3 em

4 10. Tesla CEO Elon Musk did not, in fact, author and send the above email. Rather, it
5 was sent by Katz, who was impersonating Musk in an attempt to unlawfully obtain material, non-
6 public information -- including Tesla's financial trade secrets -- from Tesla's CFO through fraud,
7 artifice, and deception. On information and belief, Katz, Quest Integrity, and/or their oil company
8 clients intended to use that non-public and trade secret information to further their own agendas
9 and to harm Tesla.

10 11. On information and belief, Katz created the "elontesla@yahoo.com" email address
11 for the purpose of impersonating Tesla's CEO, including in connection with the above email. Katz
12 replicated a similar email address that has been used by Musk.

13 12. As of now, Katz's electronic impersonation of Musk in order to acquire material
14 non-public information described above is the only attempt known to Tesla. But Tesla is
15 concerned and has had to investigate whether there have been other attempts by Katz -- successful
16 or otherwise -- to obtain material non-public information from others via impersonation of Tesla
17 employees.

18 13. As a result of Katz's impersonation of Musk, Tesla -- a publicly traded company
19 responsible for ensuring the integrity of its non-public financial information, trade secrets, and data
20 -- has incurred costs, damages, and losses. Among other things, Tesla had to pay investigators and
21 expend IT and other resources to identify the source of the message, investigate other potential
22 impersonation attempts and efforts to gain access to the company's servers, in order to ensure no
23 disclosures of non-public information had been made and to protect against future such attempts to
24 acquire non-public information through electronic impersonation and other improper and unlawful
25 means.

1 **FIRST CLAIM FOR RELIEF**

2 **Violation of California Penal Code § 528.5**

3 14. Tesla realleges and incorporates by reference each of the foregoing paragraphs as
4 though fully set forth herein.

5 15. California Penal Code section 528.5 makes it a crime to knowingly and without
6 consent credibly impersonate another actual person by electronic means for purposes of harming,
7 intimidating, threatening, or defrauding another person. Subdivision (e) of section 528.5 creates a
8 private right of action for a person who suffers damage or loss by reason of a violation of that
9 section.

10 16. Katz willfully violated section 528.5 by knowingly and without consent credibly
11 impersonating Tesla CEO Elon Musk for purposes of harming and/or defrauding Tesla and its
12 CFO, Jason Wheeler. Katz made this credible impersonation through electronic means, including
13 by means of opening an email account in Tesla CEO Elon Musk's name.

14 17. On information and belief, each of the Doe Defendants aided and abetted Katz's
15 violation of section 528.5, or advised or encouraged its commission, such that they are considered
16 principals in the criminal act pursuant to California Penal Code section 31.

17 18. As a direct and proximate result of Katz's and the Doe Defendants' violations of
18 section 528.5, Tesla has suffered damage or loss in an amount to be proven at trial.

19 19. Through Katz's and the Doe Defendants' actions in violation of section 528.5, Katz
20 and the Doe Defendants are guilty of oppression, fraud, or malice as defined in subdivision (c) of
21 section 3294 of the California Civil Code, thus entitling Tesla to an award of punitive or exemplary
22 damages. Specifically, Katz's impersonation of Tesla CEO Elon Musk and the proprietary, non-
23 public information Katz sought fraudulently to obtain through that impersonation constituted a
24 willful and conscious disregard of the rights of Tesla to protect its confidential, proprietary
25 information and trade secrets.

26 20. On information and belief, unless restrained and enjoined by this Court, Katz and
27 the Doe Defendants will continue to engage in the unlawful actions alleged herein, thereby causing
28 irreparable harm to Tesla that cannot be fully compensated by damages. Tesla therefore has no

adequate remedy at law. Tesla is entitled to preliminary and permanent injunctive relief barring Katz and the Doe Defendants from continuing to engage in their unlawful conduct.

SECOND CLAIM FOR RELIEF

Unlawful, Deceptive, and Unfair Business Acts and Practices in Violation of California Business and Professions Code §§ 17200, *et seq.*

21. Tesla realleges and incorporates by reference each of the foregoing paragraphs as though fully set forth herein.

22. The actions of Katz and the Doe Defendants as alleged herein constitute unlawful, deceptive, and/or unfair business acts and practices within the meaning of California Business and Professions Code sections 17200, *et seq.*

23. Katz and the Doe Defendants, by their actions alleged herein, directly committed, aided and abetted, or advised and encouraged commission of the following unlawful, deceptive, and/or unfair acts:

a. knowingly and without consent credibly impersonating Tesla CEO Elon Musk by electronic means for purposes of harming and/or defrauding Tesla and its CFO, Jason Wheeler (Cal. Penal Code § 528.5); and

b. knowingly attempting to obtain Tesla's trade secrets by fraud, artifice, or deception, with intent to convert those trade secrets to the economic benefit of Katz, his employer, or its clients, and intending or knowing that the offense would injure Tesla (Cal. Penal Code § 499c), where those trade secrets are also related to products used or intended for use in interstate or foreign commerce (8 U.S.C. § 1832).

24. Through the impersonation email, Katz attempted to steal and obtain proprietary Tesla financial, business, and economic information and plans that Tesla, as a publicly traded company and sophisticated business, takes reasonable measures to keep secret. Tesla obtains actual and potential independent economic value from those financial, business, and economic information and plans not being generally known to and not being readily ascertainable through proper means by another person who can obtain economic value from the disclosure or use of such information.

1 25. Pursuant to California Business and Professions Code section 17203, Tesla seeks an
2 injunction enjoining Katz and the Doe Defendants from engaging in further unlawful, deceptive,
3 and/or unfair business acts and practices directed at Tesla and its personnel, including Elon Musk.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Tesla respectfully prays for relief as follows:

6 A. For preliminary and permanent injunctive relief enjoining Katz and the Doe
7 Defendants, and all persons or entities acting in concert or participation therewith, from
8 impersonating Tesla executives or employees for purposes of harassing, intimidating, threatening,
9 or defrauding another person or engaging in other unlawful, deceptive, and/or unfair business acts
10 and practices in violation of California Penal Code section 528.5 and/or California Business and
11 Professions Code section 17200;

12 B. For compensatory damages in an amount to be proven at trial;

13 C. For punitive and exemplary damages;

14 D. For prejudgment interest according to law;

15 E. For forfeiture of any and all computers, computer systems, computer networks, or
16 software or data used in the commission of the violation of California Penal Code section 528.5;

17 F. For recovery of attorneys' fees, costs, and expenses incurred in this action; and

18 G. For such other and further relief as the Court may deem just and proper.

19
20 Dated: September 14, 2016

HUESTON HENNIGAN LLP

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22 By: 

23 John C. Hueston
24 Attorneys for Plaintiff
25 Tesla Motors, Inc.
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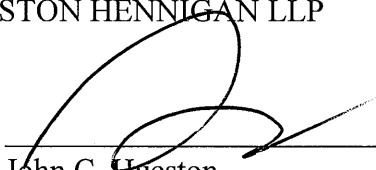
DEMAND FOR JURY TRIAL

Plaintiff Tesla Motors, Inc. hereby demands a trial by jury of all issues so triable.

Dated: September 14, 2016

HUESTON HENNIGAN LLP

By: _____


John C. Hueston
Attorneys for Plaintiff
Tesla Motors, Inc.