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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Individually and on Behalf  
of All Others Similarly Situated,  
  
Plaintiff,  
  
v.  
  
CARIBOU BIOSCIENCES, INC., RACHEL E.  
HAURWITZ, and JASON V. O'BYRNE,  
  
Defendants.

Case No.  
  
CLASS ACTION  
  
COMPLAINT FOR VIOLATIONS OF THE  
FEDERAL SECURITIES LAWS  
  
DEMAND FOR JURY TRIAL

Plaintiff individually and on behalf of all others similarly  
situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Defendants, alleges  
the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and  
information and belief as to all other matters, based upon, *inter alia*, the investigation conducted  
by and through Plaintiff's attorneys, which included, among other things, a review of the  
Defendants' public documents, conference calls and announcements made by Defendants, United  
States ("U.S.") Securities and Exchange Commission ("SEC") filings, wire and press releases  
published by and regarding Caribou Biosciences, Inc. ("Caribou" or the "Company"), analysts'  
reports and advisories about the Company, and information readily obtainable on the Internet.

1 Plaintiff believes that substantial, additional evidentiary support will exist for the allegations set  
2 forth herein after a reasonable opportunity for discovery.

### 3 NATURE OF THE ACTION

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

12 2. Caribou is a clinical-stage biopharmaceutical company that purports to develop  
13 genome-edited allogeneic cell therapies for the treatment of hematologic malignancies in the U.S.  
14 and internationally. The Company’s pipeline includes allogeneic, or “off-the-shelf,” cell  
15 therapies from its chimeric antigen receptor (“CAR”) -T (“CAR-T”) cell and CAR-natural killer  
16 (“CAR-NK”) cell platforms. Allogeneic cell therapies are referred to as “off-the-shelf” because  
17 they use cells that have already been collected from a donor, and which were modified, multiplied,  
18 and stored in a facility, before being infused into a patient. According to the Company, this  
19 affords allogeneic cell therapies numerous advantages over their autologous counterparts, which  
20 rely on extracting, modifying, and multiplying a patient’s own cells before being infused back  
21 into that same patient.  
22

23 3. Caribou’s lead product candidate is CB-010, an allogeneic anti-CD19 CAR-T cell  
24 therapy that the Company is evaluating in patients with, *inter alia*, relapsed or refractory large B  
25 cell non-Hodgkin lymphoma (“r/r B-NHL”) in the Company’s ongoing ANTLER Phase 1 clinical  
26 trial, with a focus on second-line large B cell lymphoma (“LBCL”).  
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1           4.       Throughout the Class Period, Defendants made materially false and misleading  
2 statements regarding the Company’s business, operations, and prospects. Specifically,  
3 Defendants made false and/or misleading statements and/or failed to disclose that: (i) they had  
4 overstated CB-010’s safety, efficacy, and durability relative to approved autologous CAR-T cell  
5 therapies in treating patients with r/r B-NHL and/or LBCL, as well as CB-010’s overall clinical  
6 results and commercial prospects; (ii) Caribou was at significant risk of having insufficient cash,  
7 liquidity, and/or other capital to fund its current business operations, including preclinical  
8 research activities associated with the allogeneic CAR-NK platform; (iii) all the foregoing was  
9 likely to have a significant negative impact on Caribou’s business and operations; and (iv) as a  
10 result, Defendants’ public statements were materially false and misleading at all relevant times.

11  
12           5.       On June 2, 2024, Caribou issued a press release announcing that it had “presented  
13 updated clinical data from the ongoing ANTLER Phase 1 trial that [purportedly] indicates a single  
14 dose of CB-010 . . . has the potential to rival the safety, efficacy, and durability of approved  
15 autologous CAR-T cell therapies.”

16  
17           6.       The next day, Evercore ISI (“Evercore”) analysts downgraded Caribou stock to  
18 “in line” and dropped their price target to \$3.00 from \$13.00, stating that they were “not yet  
19 convinced” that Caribou’s therapy “will be competitive and wait on the sidelines until data in 1H  
20 2025.” In particular, the Evercore analysts stated, *inter alia*, that “[o]verall, efficacy of CB-010  
21 in 2L [second-line] LBCL is not competitive vs autologous CAR-T with lower response rate and  
22 much shorter PFS [progression-free survival]”, while also noting additional risks related to CB-  
23 010’s safety and competition.

24  
25           7.       On this news, Caribou’s stock price fell \$0.735 per share, or 25.52%, to close at  
26 \$2.145 per share on June 3, 2024.  
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**PARTIES**

1  
2           15. Plaintiff, as set forth in the attached Certification, acquired Caribou securities at  
3 artificially inflated prices during the Class Period and was damaged upon the revelation of the  
4 alleged corrective disclosures.

5  
6           16. Defendant Caribou is a Delaware corporation with principal executive offices  
7 located at 2929 7th Street, Suite 105, Berkeley, California 94710. The Company’s common stock  
8 trades in an efficient market on the Nasdaq Global Select Market (“NASDAQ”) under the ticker  
9 symbol “CRBU.”

10           17. Defendant Rachel E. Haurwitz (“Haurwitz”) has served as Caribou’s President and  
11 Chief Executive Officer at all relevant times.

12           18. Defendant Jason V. O’Byrne (“O’Byrne”) served as Caribou’s Chief Financial  
13 Officer at all relevant times until his resignation from the Company effective September 27, 2024.

14           19. Defendants Haurwitz and O’Byrne are collectively referred to herein as the  
15 “Individual Defendants.”

16  
17           20. The Individual Defendants possessed the power and authority to control the  
18 contents of Caribou’s SEC filings, press releases, and other market communications. The  
19 Individual Defendants were provided with copies of Caribou’s SEC filings and press releases  
20 alleged herein to be misleading prior to or shortly after their issuance and had the ability and  
21 opportunity to prevent their issuance or to cause them to be corrected. Because of their positions  
22 with Caribou, and their access to material information available to them but not to the public, the  
23 Individual Defendants knew that the adverse facts specified herein had not been disclosed to and  
24 were being concealed from the public, and that the positive representations being made were then  
25 materially false and misleading. The Individual Defendants are liable for the false statements and  
26 omissions pleaded herein.  
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1                    **Materially False and Misleading Statements Issued During the Class Period**

2                    25.        The Class Period begins on July 14, 2023. On July 13, 2023, after markets closed,  
3 Caribou filed a preliminary prospectus supplement on Form 424B5 with the SEC in connection  
4 with the Company’s upcoming public offering (the “Offering”) of its common stock (the  
5 “Preliminary Prospectus Supplement”). The Preliminary Prospectus Supplement represented, in  
6 relevant part, that “[w]e currently intend to use the net proceeds from this offering, together with  
7 our existing cash, cash equivalents, and marketable securities, to fund [*inter alia*] . . . preclinical  
8 development of our CB-020 product candidate[.]”

9  
10                  26.        Notwithstanding its representation that Caribou would use proceeds from the  
11 Offering to fund preclinical development of CB-020, the Preliminary Prospectus Supplement  
12 purported to warn of the risk that Defendants “may” use those proceeds differently than as  
13 specified in the Preliminary Prospectus Supplement, while downplaying the likelihood of the  
14 same, stating, in relevant part:

15  
16                  Our management will have broad discretion in the application of the net proceeds,  
17 if any, from this offering and the amounts and timing of our actual expenditures  
18 will depend on numerous factors . . . . As of the date of this prospectus supplement,  
19 we cannot predict with certainty all of the particular uses for the net proceeds to be  
20 received upon the completion of this offering or the amounts that we will actually  
21 spend on the uses set forth above. The amounts and timing of our actual  
22 expenditures and the extent of our preclinical, clinical, and future development  
23 activities *may* vary significantly depending on numerous factors, including the  
24 progress of our development efforts, the status of and results from our ongoing and  
25 planned clinical trials, the timing of regulatory submissions and the outcome of  
26 regulatory review, our ability to take advantage of expedited programs or to obtain  
27 regulatory approval for product candidates, and the timing and costs associated with  
28 the manufacture and supply of our product candidates for clinical development or  
commercialization, as well as any collaborations that we may enter into with third  
parties for our product candidates and any unforeseen cash needs. Although *we*  
*intend to spend the net proceeds of the offering as stated above*, circumstances  
*may* arise when, for sound business reasons, a re-allocation of funds *may* be  
necessary or advisable.

(Emphases added.) Plainly, the foregoing risk warning was a generic, catch-all provision that  
was not tailored to Defendants’ actual known risk that Caribou had insufficient cash, liquidity,

1 and/or other capital to fund its current business operations and, as such, Defendants were likely  
2 to, *inter alia*, discontinue preclinical research activities associated with the Company’s allogeneic  
3 CAR-NK platform, of which CB-020 was a part.

4           27. On July 14, 2023, Caribou filed the finalized prospectus supplement on Form  
5 424B5 with the SEC in connection its Offering of its common stock, which reiterated that “[w]e  
6 currently intend to use the net proceeds from this offering, together with our existing cash, cash  
7 equivalents, and marketable securities, to fund [*inter alia*] . . . preclinical development of our CB-  
8 020 product candidate[,]” and which contained the same boilerplate risk warning as referenced in  
9 ¶ 26, *supra*, that Defendants “may” use those proceeds differently than as specified, while  
10 downplaying the likelihood of the same, thereby confirming those statements as originally  
11 presented in the Preliminary Prospectus Supplement.

12           28. On August 8, 2023, Caribou issued a press release announcing its second quarter  
13 2023 financial results and providing a business update (the “2Q23 Earnings Release”). The 2Q23  
14 Earnings Release quoted Defendant Haurwitz as stating, in relevant part:

15           In 2023, we have advanced our programs to build value across the pipeline and  
16 position Caribou for continued momentum ahead . . . . For our lead program, *we  
17 are excited by the positive CB-010 dose escalation data demonstrating response  
18 rates that rival those from the approved autologous CAR-T cell therapies.*

19 (Emphasis added.)

20           29. In addition, the 2Q23 Earnings Release asserted that, as of a June 20, 2023 data  
21 cutoff date, long-term follow-up data from all sixteen patients treated in dose escalation of the  
22 ongoing ANTLER Phase 1 clinical trial of CB-010 “demonstrated [that] . . . CB-010 was generally  
23 well tolerated with *adverse events consistent with autologous . . . anti-CD19 CAR-T cell  
24 therapies.*” (Emphasis added.)

25           30. The 2Q23 Earnings Release also stated, *inter alia*, that this same data demonstrated  
26 that “69% of patients (11 of 16) achieved a complete response (CR)”; that “44% of patients (7 of  
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1 16) had a CR at  $\geq 6$  months” with “24 months [being] the longest CR maintained to date”; and  
2 that “[f]or the subset of patients with large B cell lymphoma (LBCL) (N=10) . . . 70% (7 of 10)  
3 achieved a CR” and “50% (5 of 10) had a CR at  $\geq 6$  months” with “18 months [being] the longest  
4 CR maintained to date.”

5  
6 31. With respect to Caribou’s cash, cash equivalents, and marketable securities, the  
7 2Q23 Earnings Release stated, in relevant part, that “Caribou had \$292.5 million in cash, cash  
8 equivalents, and marketable securities as of June 30, 2023,” which “does not include the  
9 approximately \$134.6 million in net proceeds from the Company’s underwritten public offering  
10 completed in the third quarter of 2023”, and that “Caribou expects its cash, cash equivalents,  
11 marketable securities, and net proceeds from the recent public offering will be sufficient to fund  
12 its current operating plan into Q4 2025.”

13  
14 32. Also on August 8, 2023, Caribou filed a quarterly report on Form 10-Q with the  
15 SEC, reporting the Company’s financial and operating results for the quarter ended June 30, 2023  
16 (the “2Q23 10-Q”). The 2Q23 10-Q stated, in relevant part, that “[o]ur management expects that  
17 existing cash, cash equivalents, and marketable securities of \$292.5 million as of June 30, 2023,  
18 will be sufficient to fund our current operating plan for at least the next 12 months from the date  
19 of issuance of our condensed consolidated financial statements.”

20  
21 33. Appended as exhibits to the 2Q23 10-Q were signed certifications pursuant to the  
22 Sarbanes-Oxley Act of 2002 (“SOX”), wherein the Individual Defendants certified that the 2Q23  
23 10-Q “does not contain any untrue statement of a material fact or omit to state a material fact  
24 necessary to make the statements made, in light of the circumstances under which such statements  
25 were made, not misleading with respect to the period covered by this report”; and that “the  
26 financial statements, and other financial information included in this report, fairly present in all  
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1 material respects the financial condition, results of operations and cash flows of the [Company]  
2 as of, and for, the periods presented in this report[.]”

3 34. On November 7, 2023, Caribou issued a press release announcing its third quarter  
4 2023 financial results and providing a business update (the “3Q23 Earnings Release”). The 3Q23  
5 Earnings Release quoted Defendant Haurwitz as stating, in relevant part:

6  
7 In 2023, we have advanced our programs to build value across the pipeline and  
8 position Caribou as a leader in the allogeneic CAR-T cell therapy space . . . . ***With***  
9 ***two years of cash and continued financial discipline, we are well positioned to***  
10 ***execute on our current programs*** and continue Caribou’s momentum.

11 (Emphases added.)

12 35. With respect to CB-010, the 3Q23 Earnings Release stated, in relevant part, that  
13 “Caribou continues to enroll second-line LBCL patients in the dose expansion portion of the  
14 ongoing ANTLER Phase 1 clinical trial based on positive data from the dose escalation portion  
15 of the trial.”

16 36. With respect to Caribou’s cash, cash equivalents, and marketable securities, the  
17 3Q23 Earnings Release stated, in relevant part, that “Caribou had \$396.7 million in cash, cash  
18 equivalents, and marketable securities as of September 30, 2023,” which “Caribou expects . . .  
19 will be sufficient to fund its current operating plan into Q4 2025.”

20 37. Also on November 7, 2023, Caribou filed a quarterly report on Form 10-Q with  
21 the SEC, reporting the Company’s financial and operating results for the quarter ended September  
22 30, 2023 (the “3Q23 10-Q”). The 3Q23 10-Q stated, in relevant part, that “[o]ur management  
23 expects that existing cash, cash equivalents, and marketable securities of \$396.7 million as of  
24 September 30, 2023, will be sufficient to fund our current operating plan for at least the next 12  
25 months from the date of issuance of our condensed consolidated financial statements.”

26 38. Appended as exhibits to the 3Q23 10-Q were substantively the same SOX  
27 certifications as referenced in ¶ 33 *supra*, signed by the Individual Defendants.  
28

1           39.     On March 11, 2024, Caribou issued a press release announcing its fourth quarter  
2 and full year 2023 financial results and providing a business update (the “4Q/FY23 Earnings  
3 Release”). With respect to CB-010, the 4Q/FY23 Earnings Release stated, in relevant part, that  
4 “[a]s previously reported, CB-010 demonstrated encouraging data from the dose escalation  
5 portion of the ANTLER Phase 1 clinical trial in 16 patients with [r/r B-NHL]” and that “[d]ose  
6 *escalation data showed CB-010 has the potential to rival the efficacy and safety profile of*  
7 *approved autologous CAR-T cell therapies.*” (Emphasis added.)

8  
9           40.     With respect to Caribou’s cash, cash equivalents, and marketable securities, the  
10 4Q/FY23 Earnings Release stated, in relevant part, that “Caribou had \$372.4 million in cash, cash  
11 equivalents, and marketable securities as of December 31, 2023,” which “Caribou expects . . .  
12 will be sufficient to fund its current operating plan into Q1 2026.”

13  
14           41.     Also on March 11, 2024, Caribou filed an annual report on Form 10-K with the  
15 SEC, reporting the Company’s financial and operating results for the quarter and year ended  
16 December 31, 2023 (the “2023 10-K”). With respect to CB-010, the 2023 10-K stated, *inter alia*,  
17 that “[s]afety results from patients at all three dose levels [in the ANTLER Phase 1 clinical trial]  
18 showed CB-010 was generally well-tolerated *with adverse events (‘AEs’) consistent with*  
19 *autologous . . . anti-CD19 CAR-T cell therapies.*” (Emphasis added.)

20  
21           42.     Additionally, the 2023 10-K repeatedly asserted that Defendants “expect[] that  
22 [Caribou’s] existing cash, cash equivalents, and marketable securities of \$372.4 million as of  
23 December 31, 2023, will be sufficient to fund our current operating plan for at least the next 12  
24 months from the date of issuance of our consolidated financial statements.”

25           43.     Appended as exhibits to the 2023 10-K were substantively the same SOX  
26 certifications as referenced in ¶ 33 *supra*, signed by the Individual Defendants.  
27  
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1           44.     On May 7, 2024, Caribou issued a press release announcing its first quarter 2024  
2 financial results and providing a business update (the “1Q24 Earnings Release”). With respect to  
3 Caribou’s cash, cash equivalents, and marketable securities, the 1Q24 Earnings Release stated, in  
4 relevant part, that “Caribou had \$345.9 million in cash, cash equivalents, and marketable  
5 securities as of March 31, 2024,” which “Caribou expects . . . will be sufficient to fund its current  
6 operating plan into Q1 2026.”  
7

8           45.     Also on May 7, 2024, Caribou filed a quarterly report on Form 10-Q with the SEC,  
9 reporting the Company’s financial and operating results for the quarter ended March 31, 2024  
10 (the “1Q24 10-Q”). The 1Q24 10-Q stated, in relevant part, that “[o]ur management expects that  
11 existing cash, cash equivalents, and marketable securities of \$345.9 million as of March 31, 2024,  
12 will be sufficient to fund our current operating plan for at least the next 12 months from the date  
13 of issuance of our unaudited condensed consolidated financial statements.”  
14

15           46.     Appended as exhibits to the 1Q24 10-Q were substantively the same SOX  
16 certifications as referenced in ¶ 33 *supra*, signed by the Individual Defendants.

17           47.     On June 2, 2024, Caribou issued a press release announcing that it had “presented  
18 updated clinical data from the ongoing ANTLER Phase 1 trial” at the 2024 American Society of  
19 Clinical Oncology (“ASCO”) Annual Meeting, which purportedly “indicate[d that] a single dose  
20 of *CB-010 . . . has the potential to rival the safety, efficacy, and durability of approved*  
21 *autologous CAR-T cell therapies.*” (Emphasis added.)  
22

23           48.     The statements referenced in ¶¶ 25-47 were materially false and misleading  
24 because Defendants made false and/or misleading statements, as well as failed to disclose material  
25 adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants  
26 made false and/or misleading statements and/or failed to disclose that: (i) they had overstated CB-  
27 010’s safety, efficacy, and durability relative to approved autologous CAR-T cell therapies in  
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1 treating patients with r/r B-NHL and/or LBCL, as well as CB-010's overall clinical results and  
2 commercial prospects; (ii) Caribou was at significant risk of having insufficient cash, liquidity,  
3 and/or other capital to fund its current business operations, including preclinical research  
4 activities associated with the allogeneic CAR-NK platform; (iii) all the foregoing was likely to  
5 have a significant negative impact on Caribou's business and operations; and (iv) as a result,  
6 Defendants' public statements were materially false and misleading at all relevant times.  
7

8 49. In addition, throughout the Class Period, Caribou's periodic financial filings were  
9 required to disclose the adverse facts and circumstances detailed above under applicable SEC  
10 rules and regulations. Specifically, Item 105 of SEC Regulation S-K, 17 CFR § 229.105 ("Item  
11 105"), required Caribou to "provide under the caption 'Risk Factors' a discussion of the material  
12 factors that make an investment in the [Company] or offering speculative or risky" and  
13 "[c]oncisely explain how each risk affects the [Company] or the securities being offered."  
14 Defendants' failures to disclose CB-010's true ability (or lack thereof) to rival the safety, efficacy,  
15 and durability of approved autologous CAR-T cell therapies in treating patients with r/r B-NHL  
16 and/or LBCL, CB-010's true clinical results and commercial prospects, that Caribou was at  
17 significant risk of having insufficient cash, liquidity, and/or other capital to fund its current  
18 business operations, and that, accordingly, Defendants were likely to discontinue preclinical  
19 research activities associated with Caribou's allogeneic CAR-NK platform and significantly  
20 reduce the Company's workforce, violated Item 105 because these issues represented material  
21 factors that made an investment in the Company speculative or risky.  
22

23  
24 50. Defendants also violated Item 303 of SEC Regulation S-K, 17 C.F.R. §  
25 229.303(b)(2)(ii) ("Item 303"), which required Caribou to "[d]escribe any known trends or  
26 uncertainties that have had or that are reasonably likely to have a material favorable or  
27 unfavorable impact on net sales or revenues or income from continuing operations." Defendants'  
28

1 failures to disclose CB-010's true ability (or lack thereof) to rival the safety, efficacy, and  
2 durability of approved autologous CAR-T cell therapies in treating patients with r/r B-NHL and/or  
3 LBCL, CB-010's true clinical results and commercial prospects, that Caribou was at significant  
4 risk of having insufficient cash, liquidity, and/or other capital to fund its current business  
5 operations, and that, accordingly, Defendants were likely to discontinue preclinical research  
6 activities associated with Caribou's allogeneic CAR-NK platform and significantly reduce the  
7 Company's workforce, violated Item 303 because these issues represented known trends or  
8 uncertainties that were likely to have a material unfavorable impact on the Company's business  
9 and financial results.

### 11 The Truth Emerges

12 51. On June 3, 2024, during pre-market hours, Evercore analysts issued a report  
13 addressing Caribou and its updated clinical data from the ongoing ANTLER Phase 1 trial (the  
14 "Evercore Report"), downgrading the Company's stock to "in line" and dropping their price  
15 target to \$3.00 from \$13.00, stating that they were "not yet convinced" that Caribou's therapy  
16 "will be competitive and wait on the sidelines until data in 1H 2025." In particular, the Evercore  
17 Report stated, *inter alia*:

18 **[Caribou] may have unlocked the key to allogenic CAR-T. But we are not yet**  
19 **convinced that it will be competitive and wait on the sidelines until data in**  
20 **1H25 [first half of 2025]. Reducing our rating to In Line and PT [price target]**  
21 **to \$3.**

22 At ASCO this weekend, [Caribou] presented details of the HLA subgroup analysis  
23 of the P1 [Phase 1] ANTLER study for its allogenic CD19 CAR-T, CB-010. The  
24 idea was to move it closer to its autologous counterparts. The analysis showed  
25 patients with HLA match of at least 4 antigens do better than those with lesser or  
26 no HLA match. **But is it good enough? ORR [overall response rate] looks**  
**strong, but CR [complete response] and PFS [progression-free survival] still**  
**fall behind autologous CAR-T[.]**

27 (Emphases in original.)





1 doing, Defendants participated in a scheme to defraud and committed acts, practices, and  
2 participated in a course of business that operated as a fraud or deceit on purchasers of the  
3 Company's securities during the Class Period.

4 **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

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

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

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

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

4           63. Common questions of law and fact exist as to all members of the Class and  
5 predominate over any questions solely affecting individual members of the Class. Among the  
6 questions of law and fact common to the Class are:  
7

- 8           • whether the federal securities laws were violated by Defendants' acts as alleged  
9 herein;
- 10          • whether statements made by Defendants to the investing public during the Class  
11 Period misrepresented material facts about the business, operations and  
12 management of Caribou;
- 13          • whether the Individual Defendants caused Caribou to issue false and misleading  
14 financial statements during the Class Period;
- 15          • whether Defendants acted knowingly or recklessly in issuing false and  
16 misleading financial statements;
- 17          • whether the prices of Caribou securities during the Class Period were artificially  
18 inflated because of the Defendants' conduct complained of herein; and
- 19          • whether the members of the Class have sustained damages and, if so, what is the  
20 proper measure of damages.

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

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

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

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

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

### COUNT I

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

68. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

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

1           70.     During the Class Period, Defendants engaged in a plan, scheme, conspiracy and  
2 course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions,  
3 practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other  
4 members of the Class; made various untrue statements of material facts and omitted to state  
5 material facts necessary in order to make the statements made, in light of the circumstances under  
6 which they were made, not misleading; and employed devices, schemes and artifices to defraud  
7 in connection with the purchase and sale of securities. Such scheme was intended to, and,  
8 throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other  
9 Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Caribou  
10 securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise  
11 acquire Caribou securities and options at artificially inflated prices. In furtherance of this  
12 unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set  
13 forth herein.  
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16           71.     Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the  
17 Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly  
18 and annual reports, SEC filings, press releases and other statements and documents described  
19 above, including statements made to securities analysts and the media that were designed to  
20 influence the market for Caribou securities. Such reports, filings, releases and statements were  
21 materially false and misleading in that they failed to disclose material adverse information and  
22 misrepresented the truth about Caribou's finances and business prospects.  
23

24           72.     By virtue of their positions at Caribou, Defendants had actual knowledge of the  
25 materially false and misleading statements and material omissions alleged herein and intended  
26 thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants  
27 acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose  
28

1 such facts as would reveal the materially false and misleading nature of the statements made,  
2 although such facts were readily available to Defendants. Said acts and omissions of Defendants  
3 were committed willfully or with reckless disregard for the truth. In addition, each Defendant  
4 knew or recklessly disregarded that material facts were being misrepresented or omitted as  
5 described above.

6  
7 73. Information showing that Defendants acted knowingly or with reckless disregard  
8 for the truth is peculiarly within Defendants' knowledge and control. As the senior managers  
9 and/or directors of Caribou, the Individual Defendants had knowledge of the details of Caribou's  
10 internal affairs.

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

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26 75. During the Class Period, Caribou securities were traded on an active and efficient  
27 market. Plaintiff and the other members of the Class, relying on the materially false and  
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1 misleading statements described herein, which the Defendants made, issued or caused to be  
2 disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares  
3 of Caribou securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff  
4 and the other members of the Class known the truth, they would not have purchased or otherwise  
5 acquired said securities, or would not have purchased or otherwise acquired them at the inflated  
6 prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class,  
7 the true value of Caribou securities was substantially lower than the prices paid by Plaintiff and  
8 the other members of the Class. The market price of Caribou securities declined sharply upon  
9 public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.  
10

11 76. By reason of the conduct alleged herein, Defendants knowingly or recklessly,  
12 directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5  
13 promulgated thereunder.  
14

15 77. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and  
16 the other members of the Class suffered damages in connection with their respective purchases,  
17 acquisitions and sales of the Company's securities during the Class Period, upon the disclosure  
18 that the Company had been disseminating misrepresented financial statements to the investing  
19 public.  
20

## 21 **COUNT II**

### 22 **(Violations of Section 20(a) of the Exchange Act Against the Individual Defendants)**

23 78. Plaintiff repeats and re-alleges each and every allegation contained in the  
24 foregoing paragraphs as if fully set forth herein.

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

3 80. As officers and/or directors of a publicly owned company, the Individual  
4 Defendants had a duty to disseminate accurate and truthful information with respect to Caribou’s  
5 financial condition and results of operations, and to correct promptly any public statements issued  
6 by Caribou which had become materially false or misleading.  
7

8 81. Because of their positions of control and authority as senior officers, the Individual  
9 Defendants were able to, and did, control the contents of the various reports, press releases and  
10 public filings which Caribou disseminated in the marketplace during the Class Period concerning  
11 Caribou’s results of operations. Throughout the Class Period, the Individual Defendants  
12 exercised their power and authority to cause Caribou to engage in the wrongful acts complained  
13 of herein. The Individual Defendants, therefore, were “controlling persons” of Caribou within the  
14 meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful  
15 conduct alleged which artificially inflated the market price of Caribou securities.  
16

17 82. Each of the Individual Defendants, therefore, acted as a controlling person of  
18 Caribou. By reason of their senior management positions and/or being directors of Caribou, each  
19 of the Individual Defendants had the power to direct the actions of, and exercised the same to  
20 cause, Caribou to engage in the unlawful acts and conduct complained of herein. Each of the  
21 Individual Defendants exercised control over the general operations of Caribou and possessed the  
22 power to control the specific activities which comprise the primary violations about which  
23 Plaintiff and the other members of the Class complain.  
24

25 83. By reason of the above conduct, the Individual Defendants are liable pursuant to  
26 Section 20(a) of the Exchange Act for the violations committed by Caribou.  
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1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

3 A. Determining that the instant action may be maintained as a class action under Rule  
4 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;

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

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

9 D. Awarding such other and further relief as this Court may deem just and proper.  
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11 **DEMAND FOR TRIAL BY JURY**

12 Plaintiff hereby demands a trial by jury.  
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