

JUDGE GRIESA

12 CIV 4184

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DOUGLAS M. LIGHTMAN, individually and  
on behalf of all others similarly situated,

Plaintiff,-

v.

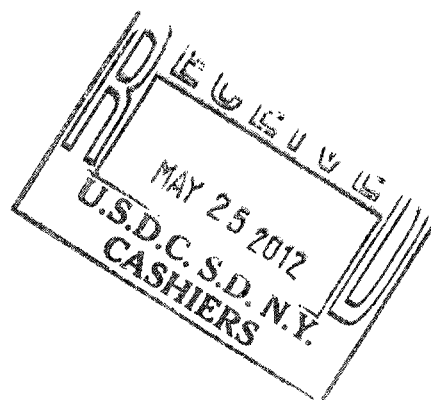
FACEBOOK INC., MARK ZUCKERBERG,  
DAVID A. EBERSMAN, DAVID M.  
SPILLANE, MARC L. ANDREESSEN,  
ERSKINE B. BOWLES, JAMES W. BREYER,  
DONALD E. GRAHAM, REED HASTINGS,  
PETER A. THIEL, MORGAN STANLEY &  
CO. LLC., J.P. MORGAN SECURITIES LLC,  
GOLDMAN, SACHS & CO., MERRILL  
LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED, BARCLAYS CAPITAL  
INC., ALLEN & COMPANY LLC, CITIGROUP  
GLOBAL MARKETS INC., CREDIT SUISSE  
SECURITIES (USA) LLC, DEUTSCHE BANK  
SECURITIES, INC., RBC CAPITAL  
MARKETS, LLC, BLAYLOCK ROBERT VAN  
LLC, BMO CAPITAL MARKETS CORP., C.L.  
KING & ASSOCIATES, INC., CABRERA  
CAPITAL MARKETS, LLC, CASTLEOAK  
SECURITIES, L.P., COWEN AND COMPANY,  
LLC., E\*TRADE SECURITIES LLC, ITAU  
BBA USA SECURITIES, INC., LAZARD  
CAPITAL MARKETS LLC, LEBENTHAL &  
CO., LLC, LOOP CAPITAL MARKETS LLC,  
M.R. BEAL & COMPANY, MACQUARIE  
CAPITAL (USA) INC., MURIEL SIEBERT &  
CO., INC., OPPENHEIMER & CO. INC.,  
PACIFIC CREST SECURITIES LLC, PIPER  
JAFFRAY & CO., RAYMOND JAMES &  
ASSOCIATES, INC., SAMUEL A. RAMIREZ  
& COMPANY, INC., STIFEL, NICOLAUS &  
COMPANY, INCORPORATED, THE  
WILLIAMS CAPITAL GROUP, L.P., and  
WILLIAM BLAIR & COMPANY, L.L.C.,

Defendants.

Civil Action No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED



Plaintiff Douglas M. Lightman (“Plaintiff”), individually and on behalf of all other persons similarly situated, by his undersigned attorneys, for his Class Action Complaint against defendants, alleges upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters, based on, *inter alia*, the investigation conducted by and through his attorneys, which included, among other things: a review of the defendants’ public documents; conference calls and announcements made by defendants; Securities and Exchange Commission (“SEC”) filings; wire and press releases published by and regarding Facebook Inc. (“Facebook” or the “Company”); securities analysts’ reports and advisories about the Company; and information readily obtainable on the Internet.

#### **NATURE OF THE ACTION**

1. This is a securities fraud class action on behalf of persons or entities who purchased securities of Facebook pursuant and/or traceable to the Company’s Registration Statement and Prospectus (collectively, the “Registration Statement”) issued in connection with the Company’s May 18, 2012 initial public offering (the “IPO” or the “Offering”) seeking to pursue remedies under the Securities Act of 1933 (the “Securities Act”). This class action is brought under Sections 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l and 77o.

2. On May 17, 2012, the Company announced the pricing of its IPO of 421,233,615 shares of its common stock at a price of \$38.00 per share. In connection with the IPO, 180,000,000 shares were offered by the Company and 241,233,615 shares were offered by certain selling shareholders. The total price to the public in connection with this offering was over \$16 billion, with underwriters’ discounts and commissions totaling over \$176 million, shares sold by the selling shareholders totaling over \$9 billion, and shares sold by the Company totaling \$6.8 billion. In connection with the IPO, the Company filed the Registration Statement with the SEC

which provided the Company's financial results for the fiscal years ended December 31, 2007, 2008; 2009; 2010 and 2011, as well as certain financial information for the Company's quarterly periods ended March 31, 2011 and March 31, 2012.

3. In connection with the Company's IPO, defendants, in the Registration Statement failed to disclose at the time of the IPO that: (1) the Company was then experiencing a severe and pronounced reduction in revenue growth due to an increase of users of its Facebook app or website through mobile devices rather than a personal computer such that the Company told the Underwriter Defendants (as defined below) to materially lower their revenue forecasts for 2012; (2) during the IPO roadshow conducted in connection with the IPO, certain underwriters, including Morgan Stanley, J.P. Morgan, and Goldman Sachs, reduced their second quarter and full year 2012 earnings forecasts for Facebook; (3) the revised financial forecasts were selectively disclosed by defendants to certain preferred investors; (4) defendants had not conducted an adequate due diligence investigation into Facebook; and (5) as a result of the above, the Company's financial statements were materially false and misleading.

4. On May 19, 2012, *Reuters* revealed in an article that Facebook "altered its guidance for research earnings last week, during the road show, a rare and disruptive move."

5. On this news, Facebook shares declined \$4.20 per share or nearly 11%, to close at \$34.03 per share on May 21, 2012.

6. On May 22, 2012, *Reuters* revealed that, in the middle of Facebook's IPO roadshow, several of the lead underwriters, including Morgan Stanley reduced their revenue estimates for the Company's second quarter 2012 and full year 2012 and 2013. Significantly, these reduced estimates were only "relayed to big investors through phone calls and conference calls."

7. On this news, Facebook shares declined an additional \$3.03 per share or nearly 9%, to close at \$31.00 per share on May 22, 2012

8. As a result of defendants' wrongful acts and omissions, and the precipitous declines in the market value of the Company's securities, Plaintiff and the other Class members have suffered significant losses and damages.

### **JURISDICTION AND VENUE**

9. The claims asserted herein arise under Sections 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l and 77o.

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 22 of the Securities Act, 15 U.S.C. § 77v.

11. Venue is proper in this District pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v, and 28 U.S.C. § 1391(b) and (c). Facebook shares are traded on the NASDAQ National Securities Market ("NASDAQ") which is located in the Southern District of New York. The acts and conduct complained of herein occurred in substantial part in this District and the Underwriter Defendants maintain their principal places of business in this District.

12. In connection with the challenged conduct, 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 markets.

### **PARTIES**

13. Plaintiff as set forth in the accompanying certification, incorporated by reference herein, purchased Facebook common stock pursuant and/or traceable to the Company's materially false and misleading Registration Statement issued by defendants in connection with

the May 2012 IPO, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

14. Defendant Facebook is a Delaware corporation with its principal executive offices located at 1601 Willow Road, Menlo Park, California 94025. The Company operates a social networking website. The Company's website allows people to communicate with their family, friends, and coworkers. Facebook develops technologies that facilitate the sharing of information, photographs, website links, and videos. Facebook users have the ability to share and restrict information based on their own specific criteria. Facebook is actively traded on the NASDAQ exchange under the ticker symbol "FB."

15. Defendant Mark Zuckerberg ("Zuckerberg") is the founder of the Company and was, the time of the Offering, Chairman of the Board of Directors (the "Board") and Chief Executive Officer of Facebook. Zuckerberg signed the materially false and misleading Registration Statement.

16. Defendant David A. Ebersman ("Ebersman") was at the time of the Offering the Company's Chief Financial Officer. Ebersman signed the materially false and misleading Registration Statement.

17. Defendant David M. Spillane ("Spillane") was at the time of the Offering the Company's Chief Accounting Officer. Spillane signed the materially false and misleading Registration Statement.

18. Defendant Marc L. Andreessen ("Andreessen") was at the time of the Offering a member of the Board. Andreessen signed the materially false and misleading Registration Statement.

19. Defendant Erskine B. Bowles (“Bowles”) was at the time of the Offering a member of the Board. Bowles signed the materially false and misleading Registration Statement.

20. Defendant James W. Breyer (“Breyer”) was at the time of the Offering a member of the Board. Breyer signed the materially false and misleading Registration Statement.

21. Defendant Donald E. Graham (“Graham”) was at the time of the Offering a member of the Board. Graham signed the materially false and misleading Registration Statement.

22. Defendant Reed Hastings (“Hastings”) was at the time of the Offering a member of the Board. Hastings signed the materially false and misleading Registration Statement.

23. Defendant Peter A. Thiel (“Thiel”) was at the time of the Offering a member of the Board. Thiel signed the materially false and misleading Registration Statement.

24. The defendants referenced above in ¶¶ 15-23 are collectively referred to herein as the “Individual Defendants.”

25. Defendant Morgan Stanley & Co. LLC. (“Morgan Stanley”) served as a lead underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

26. Defendant J.P. Morgan Securities LLC. (“J.P. Morgan”) served as a lead underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

27. Defendant Goldman, Sachs & Co. (“Goldman Sachs”) served as a lead underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

28. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) served as a lead underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

29. Defendant Barclays Capital Inc. (“Barclays”) served as a lead underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

30. Defendant Allen & Company LLC (“Allen”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

31. Defendant Citigroup Global Markets Inc. (“Citigroup”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

32. Defendant Credit Suisse Securities (USA) LLC (“Credit Suisse”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

33. Defendant Deutsche Bank Securities Inc. (“Deutsche Bank”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

34. Defendant RBC Capital Markets, LLC (“RBC”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

35. Defendant Blaylock Robert Van LLC (“Blaylock”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

36. Defendant BMO Capital Markets Corp. (“BMO”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

37. Defendant C.L. King & Associates, Inc. (“C.L. King”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

38. Defendant Cabrera Capital Markets, LLC (“Cabrera”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

39. Defendant CastleOak Securities, L.P. (“CastleOak”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

40. Defendant Cowen and Company, LLC. (“Cowen”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

41. Defendant E\*TRADE Securities LLC. (“E&TRADE”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.



42. Defendant Itau BBA USA Securities, Inc. (“Itau”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

43. Defendant Lazard Capital Markets LLC. (“Lazard”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

44. Defendant Lebenthal & Co., LLC (“Lebenthal”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

45. Defendant Loop Capital Markets LLC (“Loop”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

46. Defendant M.R. Beal & Company (“M.R. Beal”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

47. Defendant Macquarie Capital (USA) Inc. (“Macquarie”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

48. Defendant Muriel Siebert & Co., Inc. (“Muriel”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of Facebook’s IPO materials.

49. Defendant Oppenheimer & Co. Inc. (“Oppenheimer”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

50. Defendant Pacific Crest Securities LLC (“Pacific Crest”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

51. Defendant Piper Jaffray & Co. (“Piper Jaffray”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

52. Defendant Raymond James & Associates, Inc. (“Raymond James”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

53. Defendant Samuel A. Ramirez & Company, Incorporated (“Samuel Ramirez”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

54. Defendant Stifel, Nicolaus & Company, Incorporated (“Stifel Nicolaus”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

55. Defendant The Williams Capital Group, L.P. (“Williams”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

56. Defendant William Blair & Company (“William Blair”) served as an underwriter of the Company’s IPO and assisted in the preparation and dissemination of the false Registration Statement.

57. The defendants referenced above in ¶¶ 25-56 are collectively referred to herein as the “Underwriter Defendants.”

58. The Individual Defendants, together with Defendant Facebook and the Underwriters Defendants are collectively referred to herein as “Defendants.”

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

59. Facebook operates as a social networking company worldwide. The Company (1) builds tools that enable users to connect, share, discover, and communicate with each other; (2) enables developers to build social applications on Facebook or to integrate their websites with Facebook; and (3) offers products that enable advertisers and marketers to engage with its users. As of February 2, 2012, it had 845 million monthly active users (“MAU”) and 443 million daily active users (“DAU”).

### **Defendants’ False and Misleading Statements**

60. On or about February 1, 2012, the Company filed an initial registration statement with the SEC on a Form S-1. Thereafter, the Company repeatedly amended the Form S-1, including on or about May 16, 2012, when Facebook filed with the SEC the final Form S-1/A for the IPO.

61. On or about May 18, 2012, the Company filed with the SEC its IPO Prospectus, which forms part of the “Registration Statement” that was declared effective on May 17, 2012.

62. In the IPO, the Company offered for sale 421,233,615 shares of common stock at a price of \$38.00 per share, of which 180,000,000 shares of Class A common stock were offered by the Company and 241,233,615 shares of Class A common stock were offered by existing shareholders, thereby valuing the total size of the IPO at more than \$16 billion. According to the Company, it expected to receive net proceeds of approximately \$6.8 billion from its IPO after deducting underwriting discounts and commissions, and offerings expenses.

63. The Registration Statement was negligently prepared and, as a result, contained untrue statements of material facts or omitted to state other facts necessary to make the statements made not misleading and were not prepared in accordance with the rules and regulations governing their preparation.

64. The Company represented in the Registration Statement, in relevant part, the following:

Based upon our experience in the second quarter of 2012 to date, the trend we saw in the first quarter of DAUs increasing more rapidly than the increase in number of ads delivered has continued. We believe this trend is driven in part by increased usage of Facebook on mobile devices where we have only recently begun showing an immaterial number of sponsored stories in News Feed, and in part due to certain pages having fewer ads per page as a result of product decisions.

65. In addition, the Registration Statement purported to warn investors that the Company's revenues could be negatively affected by the rate of growth in mobile users. Specifically, the Registration statement represented the following, in relevant part:

***Growth in use of Facebook through our mobile products, where our ability to monetize is unproven, as a substitute for use on personal computers may negatively affect our revenue and financial results.***

We had 488 million MAUs who used Facebook mobile products in March 2012. While most of our mobile users also access Facebook through personal computers, we anticipate that the rate of growth in mobile usage will exceed the growth in usage through personal computers for the foreseeable future, in part due to our focus on developing mobile products to encourage mobile usage of Facebook. We have historically not shown ads to users accessing Facebook through mobile apps or our mobile website. In March 2012, we began to include sponsored stories in users' mobile News Feeds. However, we do not currently directly generate any meaningful revenue from the use of Facebook mobile products, and our ability to do so successfully is unproven. We believe this increased usage of Facebook on mobile devices has contributed to the recent trend of our daily active users (DAUs) increasing more rapidly than the increase in the number of ads delivered. If users increasingly access Facebook mobile products as a substitute for access through personal computers, and if we are unable to successfully implement monetization strategies for our mobile users, or if we

incur excessive expenses in this effort, our financial performance and ability to grow revenue would be negatively affected.

66. Also, the Registration Statement purported to warn investors that the Company's revenues from advertising could be negatively affected by, among other things, the "increased user access to and engagement with facebook" through mobile devices. Specifically, the Registration Statement represented the following, in relevant part:

***We generate a substantial majority of our revenue from advertising. The loss of advertisers, or reduction in spending by advertisers with Facebook, could seriously harm our business.***

The substantial majority of our revenue is currently generated from third parties advertising on Facebook. In 2009, 2010, and 2011 and the first quarter of 2011 and 2012, advertising accounted for 98%, 95%, 85%, 87%, and 82%, respectively, of our revenue. As is common in the industry, our advertisers typically do not have long-term advertising commitments with us. Many of our advertisers spend only a relatively small portion of their overall advertising budget with us. In addition, advertisers may view some of our products, such as sponsored stories and ads with social context, as experimental and unproven. Advertisers will not continue to do business with us, or they will reduce the prices they are willing to pay to advertise with us, if we do not deliver ads and other commercial content in an effective manner, or if they do not believe that their investment in advertising with us will generate a competitive return relative to other alternatives. Our advertising revenue could be adversely affected by a number of other factors, including:

- decreases in user engagement, including time spent on Facebook;
- increased user access to and engagement with Facebook through our mobile products, where we do not currently directly generate meaningful revenue, particularly to the extent that mobile engagement is substituted for engagement with Facebook on personal computers where we monetize usage by displaying ads and other commercial content;
- product changes or inventory management decisions we may make that reduce the size, frequency, or relative prominence of ads and other commercial content displayed on Facebook;
- our inability to improve our analytics and measurement solutions that demonstrate the value of our ads and other commercial content;
- decisions by advertisers to use our free products, such as Facebook Pages, instead of advertising on Facebook;

- loss of advertising market share to our competitors;
- adverse legal developments relating to advertising, including legislative and regulatory developments and developments in litigation;
- adverse media reports or other negative publicity involving us, our Platform developers, or other companies in our industry;
- our inability to create new products that sustain or increase the value of our ads and other commercial content;
- the degree to which users opt out of social ads or otherwise limit the potential audience of commercial content;
- changes in the way online advertising is priced;
- the impact of new technologies that could block or obscure the display of our ads and other commercial content; and
- the impact of macroeconomic conditions and conditions in the advertising industry in general;

The occurrence of any of these or other factors could result in a reduction in demand for our ads and other commercial content, which may reduce the prices we receive for our ads and other commercial content, or cause advertisers to stop advertising with us altogether, either of which would negatively affect our revenue and financial results.

67. The statements referenced above were materially false and/or misleading because they misrepresented and failed to disclose the following adverse facts, which were known to defendants or recklessly disregarded by them at the time of the IPO, that: (1) the Company was then experiencing a severe and pronounced reduction in revenue growth due to an increase of users of its Facebook app or website through mobile devices rather than a personal computer such that the Company told the Underwriter Defendants to materially lower their revenue forecasts for 2012; (2) during the IPO roadshow conducted in connection with the IPO, certain underwriters, including Morgan Stanley, J.P. Morgan, and Goldman Sachs, reduced their second quarter and full year 2012 earnings forecasts for Facebook; (3) the revised financial forecasts

were selectively disclosed by defendants to certain preferred investors; (4) defendants had not conducted an adequate due diligence investigation into Facebook; and (5) as a result of the above, the Company's financial statements were materially false and misleading.

### **The Truth Begins to Emerge**

68. On May 19, 2012, *Reuters* reported in an article that Facebook "altered its guidance for research earnings last week, during the road show, a rare and disruptive move."

69. Also, on May 19, 2012, noted Wall Street analyst Henry Blodget ("Blodget") published an article discussing Facebook's alteration of its guidance. Blodget noted the following, in relevant part:

If this really happened, anyone who placed an order for Facebook who was unaware that 1) Facebook had issued any sort of earnings guidance, and 2) reduced that guidance during the roadshow, has every right to be furious.

70. On this news, Facebook shares declined \$4.20 per share or nearly 11%, to close at \$34.03 per share on May 21, 2012.

71. On May 22, 2012, *Reuters* published an article entitled, "Insight: Morgan Stanley cut Facebook estimates just before IPO." The article stated the following, in relevant part:

In the run-up to Facebook's \$16 billion IPO, Morgan Stanley, the lead underwriter on the deal, unexpectedly delivered some negative news to major clients: The bank's consumer Internet analyst, Scott Devitt, was reducing his revenue forecasts for the company.

The sudden caution very close to Facebook's initial public offering - while an investor road show was under way - was a big shock to some, said two investors who were advised of the revised forecast.

\*\*\*

The change in Morgan Stanley's estimates came on the heels of a May 9 Facebook filing of an amended prospectus with the U.S. Securities and Exchange Commission, in which the company expressed caution about revenue growth due to a rapid shift by users to mobile devices. Mobile advertising to date has been less lucrative than advertising on desktops.

"This was done during the road show - I've never seen that before in 10 years," said a source at a mutual fund firm who was among those called by Morgan Stanley.

JPMorgan Chase and Goldman Sachs, which were also major underwriters on the IPO but had lesser roles than Morgan Stanley, also revised their estimates in response to Facebook's SEC filing, according to sources familiar with the situation.

\*\*\*

Typically, the underwriter of an IPO wants to paint as positive a picture as possible for prospective investors. Investment bank analysts, on the other hand, are required to operate independently of the bankers and salesmen who are marketing stocks. That was stipulated in a settlement by major banks with regulators following a scandal over tainted stock research during the dot-com boom.

The people familiar with the revised Morgan Stanley projections said Devitt lowered his revenue estimate for the second quarter and also cut his full-year 2012 revenue forecast.

The new revenue forecast was \$4.85 billion for 2012, versus more than \$5 billion earlier, one of the people said.

For the second quarter of 2012, the new revenue estimate was \$1.111 billion, down from about \$1.175 billion previously, the person added.

The second-quarter revenue forecast suggested that Facebook's year-over-year revenue growth might slow from the first quarter of 2012, one of the investors said.

"VERY UNUSUAL"

Sweet said analysts at firms that are not underwriting IPOs often change forecasts at such times. However, he said it is unusual for analysts at lead underwriters to make such changes so close to an IPO.

"That would be very, very unusual for a book runner to do that," he said.

The lower revenue estimate came shortly before the IPO was priced at \$38 a share, the high end of an already upwardly revised projected range of \$34 to \$38, and before Facebook increased the number of shares being sold by 25 percent.



"It's very rare to cut forecasts in the middle of the IPO process," said an official with a hedge fund firm who received a call from Morgan Stanley about the revision.

72. On this news, Facebook declined an additional \$3.03 per share or nearly 9%, to close at \$31.00 per share on May 22, 2012.

73. After the market closed on May 22, 2012, Blodget published an article entitled "Exclusive: Here's The Inside Story of What Happened on the Facebook IPO." The article stated the following, in relevant part:

In early May, as Facebook prepared to kick off its IPO roadshow, the research analysts at the company's lead underwriters developed financial forecasts to facilitate the marketing and pricing of the IPO.

Such estimates are usually developed through close collaboration between the underwriters' research analysts and company management. These estimates are viewed by sophisticated investors as having been "blessed" by the company: They are perceived as revenue and earnings targets that the company has reviewed and is confident it will hit. Sophisticated investors use these estimates when they are developing "bids" for the stock, as a tool with which to help determine the price they are willing to pay.

Importantly, these estimates are not published anywhere.

Rather, in conjunction with industry convention, these estimates are conveyed verbally to institutional investors who are considering investing in the IPO.

\*\*\*

As the Facebook roadshow began, institutional investors who were considering investing in the stock were verbally given the underwriters' initial estimates for the company. And, initially, there was a lot of institutional enthusiasm for the stock.

Several days later, however, on May 9th, Facebook filed an amended IPO prospectus with the SEC.

\*\*\*

The appearance of this language unnerved some sophisticated investors and analysts, who took it as a sign that Facebook's business might have deteriorated. The language was vague, however, and it did not make clear that Facebook's

second quarter was weaker than expected. (To infer that message from the language, you had to know that Facebook's first quarter had been weak--and that the cause had been the divergence between user growth and revenue growth.)

Soon after Facebook amended its prospectus, all three analysts at the company's lead underwriters—Morgan Stanley, JP Morgan, and Goldman Sachs—cut their estimates for Facebook's Q2 and the full year.

These estimate cuts were conveyed verbally to sophisticated institutional investors.

And, not surprisingly, these investors viewed the estimate cuts as a startling and negative development.

One important question, of course, was why all three underwriter analysts cut their estimates.

Had they all read the new sentence in the prospectus above and realized that the second quarter was weak? Or had they been tipped off?

It seemed inconceivable that all three analysts could have read the language above and concluded independently that Facebook's Q2 was weak and therefore decided to take the highly unusual step of cutting estimates in the middle of a company's IPO roadshow.

More likely, it seemed, someone had directed the analysts to cut their estimates—most likely someone with inside knowledge of how Facebook's Q2 was progressing.

And we have now heard from one source that that is what happened. One of the underwriter's analysts has said he was told by a Facebook financial executive to cut his estimates.

According to another source with insight into the Facebook IPO process, until the underwriters' analysts cut their estimates, demand for Facebook's stock among sophisticated institutional investors was high. Once these investors heard about the estimate cut, however, they became more cautious about the IPO.

\*\*\*

The estimate cut, moreover, was followed by three additional pieces of information that were interpreted negatively by some institutional investors:

- 1) The price range for the deal was increased, which made the deal even less attractive in light of the estimate cut,
- 2) The size of the deal was increased, which meant that more stock would be sold, and

3) Many smart institutional Facebook shareholders like Goldman Sachs decided to sell more stock on the deal—the "smart money," in other words, was cashing out.

Meanwhile, during private roadshow meetings, Facebook executives were reportedly "signaling" to some sophisticated investors that Facebook's advertising revenue would not grow as rapidly as some potential investors had hoped. Facebook's advertising business is driven primarily by company-to-company sales efforts, not by the self-serve ads that drive Google's business. Facebook executives reportedly made clear to sophisticated investors that this would limit the rate at which Facebook's ad business could grow.

By the second week of the roadshow, after the estimate cut and price increase, some institutional investors became more cautious about the IPO. According to one investor who looked at the deal, institutions "got the willies" and started to talk about paring back their stock orders.

Meanwhile, out in the real world, demand for Facebook stock was hitting a fever pitch. One senior stockbroker at a major brokerage firm reported that he "had never seen such demand" for an IPO.

These individual investors, needless to say, were not likely aware that the research analysts at the company's lead underwriters had cut their estimates for the company. They were also, presumably, unaware that Facebook's Q2 was weaker than expected.

At the end of last week, the time came to decide on the IPO price for Facebook's stock.

This process was handled by Facebook's lead underwriter, Morgan Stanley, and Facebook executives.

According to one source (unconfirmed--this really is just scuttlebutt), based on the book of orders submitted by both institutional and retail investors, Morgan Stanley found that there were two distinct price levels at which investors were interested in buying stock.

Institutional investors, having digested the news of the underwriter estimate cut, were comfortable buying Facebook stock at \$32 a share.

Retail investors, meanwhile, who were presumably unaware of the estimate cut, were comfortable buying Facebook at \$40 a share.

Knowing that a big percentage of the IPO stock could be sold to retail investors instead of institutional investors, Facebook and Morgan Stanley decided to price the IPO at \$38.

Although the precise allocations could not be learned, a source says that Morgan Stanley allocated a far larger percentage of the Facebook deal to individual investors than is normally the case in an IPO like this.

74. Also, on May 22, 2012, *Reuters* published the reduced financial estimates of four of Facebook's lead underwriters, Defendants Morgan Stanley, Goldman Sachs, J.P. Morgan and Bank of America. The article stated the following, in relevant part:

While Facebook did not provide any specifics in its amended S-1 filing, the four underwriters reduced their earnings and revenue estimates for both the second quarter of 2012 and the full year within the next two days, according to sources.

The new estimates highlighted a continued slowdown in Facebook's growth, with the banks forecasting 30.4 percent year-on-year 2012 revenue growth on average, instead of the 36.7 percent growth previously expected. In 2011, Facebook's revenue grew 87.9 percent year-on-year to \$3.71 billion.

The new numbers were relayed to big investors through phone calls and conference calls, according to investors. Bank of America held a conference call on May 10 with analyst Justin Post, where the underwriter revealed the lowered estimates.

Here are the detailed figures from the four banks, according to one of the investors who received the new numbers.

Lowered full year revenue estimate for 2012

Morgan Stanley -- \$4.854 bln (new) from \$5.036 bln (old)

Bank of America -- \$4.815 bln (new) from \$5.040 bln (old)

JPMorgan -- \$4.839 bln (new) from \$5.044 bln (old)

Goldman Sachs -- \$4.852 bln (new) from \$5.169 bln (old)

Lowered estimates for second-quarter 2012

Morgan Stanley -- \$1.111 bln (new) from \$1.175 bln (old)

Bank of America -- \$1.100 bln (new) from \$1.166 bln (old)

JPMorgan -- \$1.096 bln (new) from \$1.182 bln (old)

Goldman Sachs -- \$1.125 bln (new) from \$ 1.207 bln (old)

Lowered 2013 Earnings per share estimate

Morgan Stanley -- 83 cents (new) from 88 cents

Bank of America -- 64 cents (new) from 66 cents

JPMorgan -- 66 cents (new) from 70 cents

Goldman Sachs -- 63 cents (new) from 68 cents

### **CLASS ACTION ALLEGATIONS**

75. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf a Class, consisting of all those who purchased Facebook securities pursuant and/or traceable to the Company's Registration Statement issued in connection with the Company's May 2012 IPO. Excluded from the Class are defendants herein, the officers and directors of the Company, 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.

76. The members of the Class are so numerous that joinder of all members is impracticable. Over 420 million shares were issued in the IPO. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only 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 Facebook 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.

77. 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.

78. 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. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

79. 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:

- whether the Securities Act was violated by defendants' acts as alleged herein;
- whether statements made by defendants in the Registration Statement misrepresented material facts about the business, and operations of Facebook; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

80. 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.

**CLAIMS FOR RELIEF**

**COUNT I**

**(Against All Defendants  
For Violation of Section 11 of the Securities Act)**

81. Plaintiff repeats and realleges each and every allegation contained above, except any allegations of fraud, recklessness or intentional misconduct.

82. This claim is predicated upon Defendants' strict liability for making false and materially misleading statements in the Registration Statement.

83. This claim is brought pursuant to Section 11 of the Securities Act on behalf of Plaintiff and other members of the Class who purchased or otherwise acquired Facebook common stock traceable to the IPO against Facebook, the Individual Defendants and the Underwriter Defendants and were damaged thereby.

84. As set forth above, the Registration Statement when it became effective, contained untrue statements of material fact and omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading.

85. Facebook is the registrant for the IPO shares sold to Plaintiff and the other members of the Class. Facebook issued, caused to be issued and participated in the issuance of materially false and misleading statements and/or omissions of material facts to the investing public that were contained in the Registration Statement. As such, Facebook is liable to the Class.

86. The Individual Defendants, as directors and/or officers of Facebook and controlling persons of the issuer, owed to the holders of the securities obtained through the Registration Statement the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time they became effective to ensure that such statements were true and correct, and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading. The Individual Defendants knew, or in the exercise of reasonable care should have known, of the material misstatements and omissions contained in or omitted from the Registration Statement as set forth herein. As such, the Individual Defendants are liable to the Class.

87. The Underwriter Defendants owed to the holders of the securities obtained through the Registration Statement the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time they became effective to ensure that such statements were true and correct, and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading. The Underwriter Defendants knew, or in the exercise of reasonable care should have known, of the material misstatements and omissions contained in or omitted from the Registration Statement as set forth herein. As such, the Underwriter Defendants are liable to the Class.

88. None of the defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement were true or that there was no omission of material facts necessary to make the statements made therein not misleading.

89. Defendants issued and disseminated, caused to be issued and disseminated, and participated in the issuance and dissemination of, material misstatements to the investing public which were contained in the Registration Statement, which misrepresented or failed to disclose, *inter alia*, the facts set forth above. By reason of the conduct herein alleged, each defendant violated and/or controlled a person who violated Section 11 of the Securities Act.

90. As a direct and proximate result of Defendants' acts and omissions in violation of the Securities Act, the market price of Facebook's securities sold in the IPO was artificially inflated, and Plaintiff and the Class suffered substantial damage in connection with their ownership of Facebook's securities pursuant to the Registration Statement.



91. At the times they obtained their shares of Facebook, Plaintiff and members of the Class did so without knowledge of the facts concerning the misstatements or omissions alleged herein.

92. This action is brought within one year after discovery of the untrue statements and omissions in and from the Registration Statement which should have been made through the exercise of reasonable diligence, and within three years of the effective date of the Prospectus.

93. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled to damages under Section 11 as measured by the provisions of Section 11(e), from the defendants and each of them, jointly and severally.

## **COUNT II**

### **Against All Defendants for Violations of Section 12(a)(2) of the Securities Act**

94. Plaintiff repeats and realleges each and every allegation contained above, except any allegations of fraud, recklessness or intentional misconduct.

95. For purposes of this action, Plaintiff expressly disclaims and excludes any allegations that could be construed as alleging fraud or intentional or reckless misconduct as this cause of action is based expressly on claims of strict liability and/or negligence under the Securities Act.

96. Defendants were sellers, offerors, underwriters and/or solicitors of sales of the Facebook securities offering pursuant to the May 2012 IPO.

97. The Registration Statement contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and concealed and failed to disclose material facts. Defendants' actions of solicitation included participating in the preparation of the false and misleading Registration Statement.

98. Defendants owed to the purchasers of Facebook securities which were sold in the May 2012 IPO, the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement, to insure that such statements were true, and that there was not omission to state a material fact required to be stated in order to make the statements contained therein not misleading. These Defendants knew of, or in the exercise of reasonable care should have known of, the misstatements and omissions contained in the Offering materials as set forth above.

99. Plaintiff and other members of the Class purchased or otherwise acquired Facebook securities pursuant to and traceable to the defective Registration Statement. Plaintiff did not know, or in the exercise of reasonable diligence could not have known of the untruths and omissions.

100. Plaintiff, individually and representatively, hereby offers to tender to Defendants those securities which Plaintiff and other class members continue to own, on behalf of all members of the Class who continue to own such securities, in return for the considerations paid for those securities together with interest thereon.

101. By reason of the conduct alleged herein, these Defendants violated, and/or controlled a person who violated, section 12(a)(2) of the Securities Act. Accordingly, Plaintiff and members of the Class who hold Facebook securities purchased pursuant and/or traceable to the May 2012 IPO have the right to rescind and recover the consideration paid for their Facebook securities and, hereby elect to rescind and tender their Facebook securities to the Defendants sued herein. Plaintiff and class members who have sold their Facebook securities are entitled to rescissionary damages.

102. Less than three years elapsed from the time that the securities upon which this count is brought were sold to the public to the time of the filing of this action. Less than one year elapsed from the time when Plaintiff discovered or reasonably could have discovered the facts upon which this count is based to the time of the filing of this action.

### **COUNT III**

#### **Violation of Section 15 of The Securities Act Against the Individual Defendants**

103. Plaintiff repeats and realleges each and every allegation contained above, excluding all allegations above that contain facts necessary to prove any elements not required to state a Section 15 claim, including without limitation, scienter.

104. This count is asserted against Individual Defendants and is based upon Section 15 of the Securities Act.

105. Individual Defendants, by virtue of their offices, directorship and specific acts were, at the time of the wrongs alleged herein and as set forth herein, controlling persons of Facebook within the meaning of Section 15 of the Securities Act. The Individual Defendants had the power and influence and exercised the same to cause Facebook to engage in the acts described herein.

106. Individual Defendants' position made them privy to and provided them with actual knowledge of the material facts concealed from Plaintiff and the Class.

107. By virtue of the conduct alleged herein, the Individual Defendants are liable for the aforesaid wrongful conduct and are liable to Plaintiff and the Class for damages suffered.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against defendants as follows:

- A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;
- 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 other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs;
- D. Awarding rescissionary damages; and
- E. Awarding such equitable, injunctive or other relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands trial by jury of all issues that may be so tried.

Dated: May 25, 2012

**POMERANTZ HAUDEK  
GROSSMAN & GROSS LLP**

By: \_\_\_\_\_

Gustavo F. Bruekner

Marc I. Gross  
Jeremy A. Lieberman  
100 Park Avenue - 26<sup>th</sup> Floor  
New York, New York 10017  
Telephone: 212-661-1100  
Facsimile: 212-661-8665

**POMERANTZ HAUDEK  
GROSSMAN & GROSS LLP**  
Patrick V. Dahlstrom  
10 South LaSalle Street, Suite 3505  
Chicago, IL 60603  
Phone: 312-377-1181  
Fax: 312-377-1184

*Counsel for Plaintiff*

**CERTIFICATION PURSUANT  
TO FEDERAL SECURITIES LAWS**

1. I, Douglas M. Lightman, make this declaration pursuant to Section 27(a)(2) of the Securities Act of 1933 as amended by the Private Securities Litigation Reform Act of 1995.

2. I have reviewed a Complaint against Facebook Inc. ("Facebook"), and authorize the filing of a comparable complaint on my behalf.

3. I did not purchase Facebook securities at the direction of plaintiff's counsel or in order to participate in any private action arising under the Securities Act of 1933.

4. I am willing to serve as a representative party on behalf of a Class of investors who purchased Facebook pursuant and/or traceable to the Company's May 2012 initial public offering, including providing testimony at deposition and trial, if necessary. I understand that the Court has the authority to select the most adequate lead plaintiff in this action.

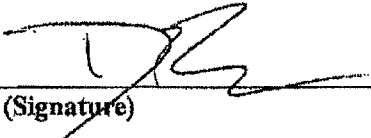
5. To the best of my current knowledge, the attached sheet lists all of my transactions in Facebook securities.

6. During the three-year period preceding the date on which this Certification is signed, I have not sought to serve as a representative party on behalf of a class under the federal securities laws, except as follows:

7. I agree not to accept any payment for serving as a representative party on behalf of the class as set forth in the Complaint, beyond my pro rata share of any recovery, except such reasonable costs and expenses directly relating to the representation of the class as ordered or approved by the Court.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed 5/23/12, at New York, NY  
(Date) (City, State)

  
(Signature)

Douglas M. Lightman  
(Type or Print Name)

