

EXHIBIT 1

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM HERESNIAK, on behalf of
 himself and all others similarly situated,

Plaintiff,

vs.

ELON R. MUSK, X HOLDINGS I, INC., X
HOLDING II, INC., and TWITTER, INC.,

Defendants,

Case No.: **3:22-CV-03074****Class Action****SECOND AMENDED COMPLAINT
FOR:**

**(1) AIDING AND ABETTING BREACH
 OF FIDUCIARY DUTY;
 (2) DECLARATORY AND
 INJUNCTIVE RELIEF; AND
 (3) UNJUST ENRICHMENT**

DEMAND FOR JURY TRIAL

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1 Plaintiff alleges the following (a) upon personal knowledge with respect to the matters
2 pertaining to Plaintiff; and (b) upon information and belief with respect to all other matters, based upon,
3 among other things, the investigations undertaken by Plaintiff's counsel. Plaintiff believes that
4 substantial additional evidentiary support will exist for the allegations set forth below after a reasonable
5 opportunity for discovery.

6 I. INTRODUCTION AND SUMMARY OF THE ACTION

7 1. Plaintiff brings this class action on behalf of all stockholders of Twitter, Inc., a San
8 Francisco based company, who have been harmed by the actions of Defendant Elon R. Musk. Plaintiff
9 asserts claims against Defendant Musk for aiding and abetting breach of fiduciary duty and unjust
10 enrichment, and against Defendant Twitter, Inc. for declaratory and injunctive relief.

11 2. Defendant Twitter, Inc., headquartered in San Francisco, operates a social media
12 platform that allows its users to send and receive "tweets." Defendant Musk is a prolific user of Twitter
13 and one of its most-followed members, with 90 million followers, making Musk's Twitter account the
14 eighth most popular account on Twitter.

15 3. On **April 25, 2022**, Twitter, Inc. announced that it had agreed to sell itself to Elon Musk
16 for \$54.20 per share, or approximately \$44 billion (the "Buyout" or "Proposed Buyout"). Musk
17 negotiated the Twitter Buyout over the weekend of April 23-24, 2022 without carrying out any due
18 diligence. The Buyout is only conditioned on approval of Twitter's shareholders at a meeting to be
19 scheduled this summer, regulatory approval, and closing of the Buyout by October 24, 2022. A joint
20 press release contained a quote from Musk promising to "make Twitter better" by "defeating the spam
21 bots."

22 4. Before agreeing to buy Twitter for \$44 billion, Musk, one of the world's richest
23 individuals valued at \$276 billion according to the Bloomberg Billionaires Index, and a sophisticated
24 businessman with a phalanx of lawyers and investment bankers, according to the press, specifically
25 agreed to waive detailed due diligence as a condition of the merger agreement. At the time, Musk was
26 well aware that Twitter had a certain amount of "fake accounts" and accounts controlled by "bots" and
27 had in fact settled a lawsuit based on the fake accounts for millions of dollars. Musk had tweeted about
28 that issue at Twitter several times in the past, prior to making his offer to acquire Twitter with full

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