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21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF ARIZONA**

23 Glenn Schoenfeld, Individually and On
24 Behalf of All Others Similarly Situated,

25 Plaintiff,

26 v.

27 Inventure Foods, Inc.; Terry McDaniel;
28 and Steve Weinberger;

Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

1 Plaintiff GLENN SCHOENFELD (“Plaintiff”), by and through his attorneys,
2 alleges the following upon information and belief, except as to those allegations
3 concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information
4 and belief is based upon, among other things, his counsel’s investigation, which includes
5 without limitation: (a) review and analysis of regulatory filings made by INVENTURE
6 FOODS, INC., (“INVENTURE FOODS” or the “Company”), with the United States
7 (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press
8 releases and media reports issued by and disseminated by INVENTURE FOODS; and (c)
9 review of other publicly available information concerning INVENTURE FOODS.

10 **NATURE OF THE ACTION AND OVERVIEW**

11 1. This is a class action on behalf of persons and entities that acquired
12 INVENTURE FOODS securities between March 3, 2016, and March 16, 2017, inclusive
13 (the “Class Period”), against the Defendants,¹ seeking to pursue remedies under the
14 Securities Exchange Act of 1934 (the “Exchange Act”).

15 2. INVENTURE FOODS purportedly markets and manufactures healthy and
16 natural specialty snack foods.

17 3. On March 9, 2017, the Company disclosed that it would not be able to
18 timely file its annual report on Form 10-K for its fiscal year ended December 31, 2016
19 and that it expected to file a notification of late filing on Form 12b-25 with the SEC to
20 obtain a 15-day extension of the filing deadline for the Form 10-K. The Company
21 claimed it needed additional time to complete certain intangible asset and goodwill
22 impairment tests, and that, as a result, the Company’s independent registered public
23 accounting firm had not completed its audit of the Company’s financial statements and
24 the assessment of the Company’s internal control over financial reporting.

25 4. On March 16, 2017, the Company filed the notice of late filing on Form
26 12b-25. Therein, the Company disclosed that the Company anticipated that its statements

27 _____
28 ¹ “Defendants” refers to Inventure Foods, Inc., Terry McDaniel, and Steve Weinberger,
collectively.

1 of operations contained in its 2016 annual report would differ materially from those
2 reported for its fourth quarter and fiscal year 2015 in its press release filed with the SEC
3 on March 3, 2016.

4 5. On this news, the price of INVENTURE FOODS common stock fell \$0.13
5 per share, or 2.5%, to close at \$4.91 per share on March 17, 2017, on unusually heavy
6 trading volume. The stock price continued to decline in the following trading days,
7 falling \$0.48 per share (9.7%) on March 20, 2017, and \$0.41 per share (9.2%) on March
8 21, 2017, to close at \$4.02 per share on March 21, 2017.

9 6. Throughout the Class Period, Defendants made materially false and/or
10 misleading statements, as well as failed to disclose material adverse facts about the
11 Company's business, operations, and prospects. Specifically, Defendants failed to
12 disclose: (1) that the Company lacked adequate internal controls over accounting and
13 financial reporting; (2) that, as a result, the Company's statements of operations in its
14 fiscal year 2015 results press release contained incorrect figures; and (3) that, as a result
15 of the foregoing, Defendants' statements about INVENTURE FOODS'S business,
16 operations, and prospects, were false and misleading and/or lacked a reasonable basis.

17 7. As a result of Defendants' wrongful acts and omissions, and the precipitous
18 decline in the market value of the Company's securities, Plaintiff and other Class
19 members have suffered significant losses and damages.

20 **JURISDICTION AND VENUE**

21 8. The claims asserted herein arise under Sections 10(b) and 20(a) of the
22 Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder
23 by the SEC (17 C.F.R. § 240.10b-5).

24 9. This Court has jurisdiction over the subject matter of this action pursuant to
25 28 U.S.C. § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

26 10. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b)
27 and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in
28 furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial

1 District. Many of the acts charged herein, including the dissemination of materially false
2 and/or misleading information, occurred in substantial part in this Judicial District. In
3 addition, the Company's shares are actively traded in this Judicial District.

4 11. In connection with the acts, transactions, and conduct alleged herein,
5 Defendants directly and indirectly used the means and instrumentalities of interstate
6 commerce, including the United States mail, interstate telephone communications, and
7 the facilities of a national securities exchange.

8 **PARTIES**

9 12. Plaintiff, as set forth in the accompanying certification, incorporated by
10 reference herein, purchased INVENTURE FOODS common stock during the Class
11 Period, and suffered damages as a result of the federal securities law violations and false
12 and/or misleading statements and/or material omissions alleged herein.

13 13. Defendant INVENTURE FOODS, INC. is incorporated in Delaware and its
14 headquarters are in Phoenix, Arizona. INVENTURE FOODS'S common stock trades on
15 the NASDAQ Stock Market ("NASDAQ") under the symbol "SNAK."

16 14. Defendant TERRY MCDANIEL ("McDaniel") was the Chief Executive
17 Officer ("CEO") of INVENTURE FOODS at all relevant times.

18 15. Defendant STEVE WEINBERGER ("Weinberger") was the Chief
19 Financial Officer ("CFO") of INVENTURE FOODS at all relevant times.

20 16. Defendants McDaniel and Weinberger (collectively the "Individual
21 Defendants"), because of their positions with the Company, possessed the power and
22 authority to control the contents of INVENTURE FOODS'S reports to the SEC, press
23 releases and presentations to securities analysts, money and portfolio managers and
24 institutional investors, *i.e.*, the market. The Individual Defendants were provided with
25 copies of the Company's reports and press releases alleged herein to be misleading prior
26 to, or shortly after, their issuance and had the ability and opportunity to prevent their
27 issuance or cause them to be corrected. Because of their positions and access to material
28 non-public information available to them, the Individual Defendants knew that the

1 adverse facts specified herein had not been disclosed to, and were being concealed from,
2 the public, and that the positive representations which were being made were then
3 materially false and/or misleading. The Individual Defendants are liable for the false
4 statements pleaded herein.

5 **SUBSTANTIVE ALLEGATIONS**

6 **Background**

7 17. INVENTURE FOODS purportedly markets and manufactures healthy and
8 natural specialty snack foods.

9 **Materially False and Misleading** 10 **Statements Issued During the Class Period**

11 18. The Class Period begins on March 3, 2016. On that day, the Company
12 issued a press release entitled "INVENTURE FOODS Reports Fourth Quarter and Fiscal
13 2015 Financial Results." Therein, the Company, in relevant part, stated:

14 INVENTURE FOODS, INC. (NASDAQ: SNAK) ("INVENTURE FOODS"
15 or the "Company"), a leading specialty food marketer and manufacturer,
16 today reported financial results for the fourth quarter and fiscal year ended
December 26, 2015.

17 **Fourth Quarter 2015 Highlights:**

- 18 • Consolidated net revenues decreased 6.9% to \$68.7 million,
excluding the Fresh Frozen business, consolidated net revenues
decreased 2.0%
- 19 • Boulder Canyon net revenues decreased 4.6% due to reduced
promotional activity
- 20 • Snack premium private label net revenues increased 17%
- 21 • Rader Farms branded net revenues increased 20.7%

22 **Fiscal Year 2015 Highlights**

- 23 • Consolidated net revenues decreased 1.1% to \$282.6 million,
excluding the Fresh Frozen business since the product recall,
consolidated net revenues increased 5.9%
- 24 • Boulder Canyon net revenues increased 17.9%
- 25 • Snack premium private label net revenues increased 32.0%
- 26 • Frozen berries net revenues increased 4.1%; Rader Farms branded
net revenues increased 28.7%

27 *(All comparisons above are to the fourth quarter and fiscal year 2014)*

28 "We continued to experience operational challenges in the quarter, however,
we were still able to end the year with a solid increase in the Snack segment

1 with net revenues up approximately 9%, driven by strong Boulder Canyon
2 and premium private label growth," said TERRY MCDANIEL, Chief
3 Executive Officer of INVENTURE FOODS. "We continue to believe the
4 headwinds we've experienced in our business are transitory and we expect
5 to see improvement in our consolidated business as we progress through
6 2016. Going forward, our team remains focused on regaining momentum in
7 Fresh Frozen and better meeting customer demand through increased
8 Boulder Canyon capacity. We believe we have the right long-term strategy
9 in place to achieve increased distribution and volume growth across our
10 frozen and snack brand portfolios."

11 * * *

12 **INVENTURE FOODS, INC. AND SUBSIDIARIES CONDENSED**
13 **CONSOLIDATED STATEMENTS OF OPERATIONS**

14 19. On March 10, 2016, the Company filed its annual report on Form 10-K for
15 the 2015 fiscal year. The Form 10-K was signed by Defendant McDaniel, and reaffirmed
16 the financial results announced in the press release issued on March 3, 2016.

17 20. The Form 10-K also contained certifications pursuant to the Sarbanes-
18 Oxley Act of 2002 ("SOX"), signed by defendants McDaniel and Weinberger, who
19 certified the following:

20 1. I have reviewed this Annual Report on Form 10-K of INVENTURE
21 FOODS, INC.;

22 2. Based on my knowledge, this Annual Report on Form 10-K does not
23 contain any untrue statement of a material fact or omit to state a material
24 fact necessary to make the statements made, in light of the circumstances
25 under which such statements were made, not misleading with respect to the
26 period covered by this Annual Report on Form 10-K;

27 3. Based on my knowledge, the financial statements, and other financial
28 information included in this Annual Report on Form 10-K, fairly present in
all material respects the financial condition, results of operations and cash
flows of the registrant as of, and for, the periods presented in this Annual
Report on Form 10-K;

4. The registrant's other certifying officer(s) and I are responsible for
establishing and maintaining disclosure controls and procedures (as defined
in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over
financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-
15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such
disclosure controls and procedures to be designed under our
supervision, to ensure that material information relating to the
registrant, including its consolidated subsidiaries, is made known to

1 us by others within those entities, particularly during the period in
2 which this Annual Report on Form 10-K is being prepared;

3 b) Designed such internal control over financial reporting, or caused
4 such internal control over financial reporting to be designed under
5 our supervision, to provide reasonable assurance regarding the
6 reliability of financial reporting and the preparation of financial
7 statements for external purposes in accordance with generally
8 accepted accounting principles;

9 c) Evaluated the effectiveness of the registrant's disclosure controls
10 and procedures and presented in this Annual Report on Form 10-K
11 our conclusions about the effectiveness of the disclosure controls
12 and procedures, as of the end of the period covered by this Annual
13 Report on Form 10-K based on such evaluation; and

14 d) Disclosed in this Annual Report on Form 10-K any change in the
15 registrant's internal control over financial reporting that occurred
16 during the registrant's most recent fiscal quarter (the registrant's
17 fourth fiscal quarter in the case of an annual report) that has
18 materially affected, or is reasonably likely to materially affect, the
19 registrant's internal control over financial reporting; and

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

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

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

20 21. On April 28, 2016, the Company issued a press release entitled
21 "INVENTURE FOODS Reports First Quarter 2016 Financial Results." Therein, the
22 Company, in relevant part, stated:

23 INVENTURE FOODS, INC. (NASDAQ:SNACK) ("INVENTURE FOODS"
24 or the "Company"), a leading specialty food marketer and manufacturer,
today reported financial results for the first quarter ended March 26, 2016.

25 **First Quarter 2016 Highlights:**

- 26 • Net loss was \$(1.0) million, or \$(0.05) per share
- 27 • EBITDA* was \$2.5 million
- Consolidated net revenues decreased 10.0% to \$69.9 million
- Boulder Canyon net revenues increased 4.8%
- 28 • Rader Farms branded net revenues increased 104.6%

- Jamba net revenues increased 2.3%
- Private label fruit revenues increased 32.6%

(All comparisons above are to the first quarter of fiscal 2015)

"We are pleased with our start to 2016 and believe the sequential improvement across key financial metrics demonstrates our initial steps on our path back to profitability," said TERRY MCDANIEL, Chief Executive Officer of INVENTURE FOODS. "Within the snack and frozen segments our key brands generated revenue growth compared to the first quarter of last year, with Boulder Canyon up 5% and Radar Farms brand up 105%. We remain focused on the strategic initiatives that will improve both our operational and financial performance as we progress through the year."

22. On May 3, 2016, the Company filed its annual report on Form 10-Q for the first quarter of 2016. The Form 10-Q was signed by Defendant Weinberger, and reaffirmed the financial results announced in the press release issued on April 28, 2016. The Form 10-Q contained certifications pursuant to SOX, signed by Defendants McDaniel and Weinberger, substantially similar to the certification described in ¶20, *supra*.

23. On July 27, 2016, the Company issued a press release entitled "INVENTURE FOODS Reports Second Quarter 2016 Financial Results." Therein, the Company, in relevant part, stated:

INVENTURE FOODS, INC. (NASDAQ: SNAK) ("INVENTURE FOODS" or the "Company"), a leading specialty food marketer and manufacturer, today reported financial results for the second quarter and six months ended June 25, 2016.

Second Quarter 2016 Highlights:

- Consolidated net revenues increased 4.3% to \$69.3 million
- Net loss of \$(0.3) million, or \$(0.01) loss per share
- EBITDA* of \$3.6 million
- Healthy/natural products net sales increased 9.3%
- Frozen fruit net revenues increased 7.4%
- Rader Farms branded net revenues increased 158.8%
- Snack segment gross margin increased 250 basis points to 19.7%

(All comparisons above are to the second quarter of fiscal 2015)

"We remain focused on the operational and financial improvement of our business," said TERRY MCDANIEL, Chief Executive Officer of INVENTURE FOODS. "During the second quarter, we made progress on our key initiatives with another quarter of sequential improvement in gross margin, which contributed to a \$1.1 million increase in EBITDA, as compared to the first quarter of 2016."

1
2 Mr. McDaniel continued, "As our management team and our Board of
3 Directors commence a comprehensive strategic and financial review of the
4 Company, we are simultaneously moving forward with our initiatives to
strengthen our foundation, increase productivity across our frozen and
snack segments and sustain operating momentum to maximize shareholder
value."

5 24. On July 28, 2016, the Company filed its annual report on Form 10-Q for the
6 second quarter of 2016. The Form 10-Q was signed by Defendant Weinberger, and
7 reaffirmed the financial results announced in the press release issued on July 27, 2016.
8 The Form 10-Q contained certifications pursuant to SOX, signed by Defendants
9 McDaniel and Weinberger, substantially similar to the certification described in ¶20,
10 *supra*.

11 25. On November 2, 2016, the Company issued a press release entitled
12 "INVENTURE FOODS Reports Third Quarter 2016 Financial Results." Therein, the
13 Company, in relevant part, stated:

14 INVENTURE FOODS, INC. (NASDAQ:SNACK) ("INVENTURE FOODS"
15 or the "Company"), a leading specialty food marketer and manufacturer,
today reported financial results for the third quarter and nine months ended
16 September 24, 2016.

17 Third Quarter 2016 Highlights:

- 18 • Boulder Canyon net revenues increased 8.6%
- 19 • Jamba net revenues increased 8.6%
- 20 • Rader Farms branded net revenues increased 37.2%
- 21 • Snack products segment gross margin increased 300 basis points to
22 17.7%

23 *(All comparisons above are to the third quarter of fiscal 2015)*

24 "Although our business continued to face certain challenges, our efforts to
25 drive improvement across key areas of our business resulted in increased
revenues for our Boulder Canyon, Jamba, and Rader Farms brands," said
TERRY MCDANIEL, Chief Executive Officer of INVENTURE FOODS.
"Additionally, we achieved margin expansion of approximately 300 basis
points in the Snack products segment, as a result of the strategic
investments we made to increase kettle capacity at our Bluffton, Indiana
facility to meet strong consumer demand."

26 Mr. McDaniel continued, "Our management team continues to evaluate
27 opportunities for growth, increased productivity, operational improvements,
and in turn profitability expansion. Our team remains focused on expanding
28 distribution of our frozen and snack product portfolios to drive sales,

1 strengthen our business, and drive long-term value creation for our
2 shareholders."

3 26. On July 28, 2016, the Company filed its annual report on Form 10-Q for the
4 third quarter of 2016. The Form 10-Q was signed by Defendant Weinberger, and
5 reaffirmed the financial results announced in the press release issued on November 2,
6 2016. The Form 10-Q contained certifications pursuant to SOX, signed by Defendants
7 McDaniel and Weinberger, substantially similar to the certification described in ¶20,
8 *supra*.

9 27. On March 9, 2017, the Company disclosed that it would not be able to
10 timely file its annual report on Form 10-K for its fiscal year ended December 31, 2016
11 and that it expected to file a notification of late filing on Form 12b-25 with the SEC to
12 obtain a 15-day extension of the filing deadline for the Form 10-K. The Company
13 claimed it needed additional time to complete certain intangible asset and goodwill
14 impairment tests, and that, as a result, the Company's independent registered public
15 accounting firm had not completed its audit of the Company's financial statements and
16 the assessment of the Company's internal control over financial reporting. In greater
17 part, the Company stated:

18 INVENTURE FOODS, INC. (Nasdaq: SNAK), a leading specialty food
19 marketer and manufacturer, today announced that it will release its financial
20 results for the fourth quarter and fiscal year ended December 31, 2016 on
21 Thursday, March 30, 2017, before market open. The Company expects it
22 will not be able to timely file its Annual Report on Form 10-K for its fiscal
year ended December 31, 2016 (the "Form 10-K") and expects to file a
notification of late filing on Form 12b-25 with the Securities and Exchange
Commission to obtain a 15-day extension of the filing deadline for the
Form 10-K.

23 The Company requires additional time to complete certain intangible asset
24 and goodwill impairment tests. As a result, the Company's independent
25 registered public accounting firm has not completed its audit of the
Company's financial statements and the assessment of the Company's
internal control over financial reporting.

26 28. The above statements identified in ¶¶18-27 were materially false and/or
27 misleading, as well as failed to disclose material adverse facts about the Company's
28 business, operations, and prospects. Specifically, Defendants failed to disclose: (1) that

1 the Company lacked adequate internal controls over accounting and financial reporting;
2 (2) that, as a result, the Company's statements of operations in its fiscal year 2015 results
3 press release contained incorrect figures; and (3) that, as a result of the foregoing,
4 Defendants' statements about INVENTURE FOODS'S business, operations, and
5 prospects, were false and misleading and/or lacked a reasonable basis.

6 **Disclosures at the End of the Class Period**

7 29. On March 16, 2017, the Company filed the notice of late filing on Form
8 12b-25. Therein, the Company disclosed that Company anticipated that its statements of
9 operations contained in its 2016 annual report would differ materially from those reported
10 for its fourth quarter and fiscal year 2015 in its press release filed with the SEC on
11 March 3, 2016. In greater part, the Company stated:

12 As of March 16, 2017, the filing deadline for its Annual Report on
13 Form 10-K for fiscal 2016 ("Annual Report"), INVENTURE FOODS,
14 INC. (the "Company") had not yet completed its Fresh Frozen Foods
15 trademark and goodwill impairment tests. As a result, the Company's
16 independent registered public accounting firm has not completed their audit
17 of the Company's financial statements and the assessment of the
18 Company's internal control over financial reporting. The Company cannot
19 eliminate the reasons causing the inability to file timely without
20 unreasonable effort or expense. The Company intends to file the Annual
21 Report as soon as practicable, and expects to do so on or before the
22 fifteenth calendar day following the due date of the Annual Report.

23 The Company anticipates that its statements of operations contained in the
24 Annual Report will differ materially from those reported for its fourth
25 quarter and fiscal year 2015 in its press release dated and filed with the
26 Securities and Exchange Commission on March 3, 2016.

27 30. On this news, the price of INVENTURE FOODS common stock fell \$0.13
28 per share, or 2.5%, to close at \$4.91 per share on March 17, 2017, on unusually heavy
trading volume. The stock price continued to decline in the following trading days,
falling \$0.48 per share (9.7%) on March 20, 2017, and \$0.41 per share (9.2%) on March
21, 2017, to close at \$4.02 per share on March 21, 2017.

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• • •

1 **INVENTURE FOOD’S VIOLATION OF GAAP RULES**
2 **IN ITS FINANCIAL STATEMENTS**
3 **FILED WITH THE SEC**

4 31. These financial statements and the statements about the Company’s
5 financial results were false and misleading, as such financial information was not
6 prepared in conformity with GAAP, nor was the financial information a fair presentation
7 of the Company’s operations due to the Company’s improper recording of revenue, in
8 violation of GAAP rules.

9 32. GAAP are those principles recognized by the accounting profession as the
10 conventions, rules and procedures necessary to define accepted accounting practice at a
11 particular time. Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) states that financial
12 statements filed with the SEC which are not prepared in compliance with GAAP are
13 presumed to be misleading and inaccurate. Regulation S-X requires that interim financial
14 statements must also comply with GAAP, with the exception that interim financial
15 statements need not include disclosure which would be duplicative of disclosures
16 accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

17 33. The fact that INVENTURE FOODS announced that it intends to restate
18 certain of its financial statements, and informed investors that these financial statements
19 should not be relied upon is an admission that they were false and misleading when
20 originally issued (APB No.20, 7-13; SFAS No. 154, 25).

21 34. Given these accounting irregularities, the Company announced financial
22 results that were in violation of GAAP and the following principles:

23 (a) The principle that “interim financial reporting should be based upon
24 the same accounting principles and practices used to prepare annual financial statements”
25 was violated (APB No. 28, 10);

26 (b) The principle that “financial reporting should provide information
27 that is useful to present to potential investors and creditors and other users in making
28 rational investment, credit, and similar decisions” was violated (FASB Statement of
29 Concepts No. 1, 34);

1 (c) The principle that “financial reporting should provide information
2 about the economic resources of INVENTURE FOODS, the claims to those resources,
3 and effects of transactions, events, and circumstances that change resources and claims to
4 those resources” was violated (FASB Statement of Concepts No. 1, 40);

5 (d) The principle that “financial reporting should provide information
6 about INVENTURE FOODS’S financial performance during a period” was violated
7 (FASB Statement of Concepts No. 1, 42);

8 (e) The principle that “financial reporting should provide information
9 about how management of INVENTURE FOODS has discharged its stewardship
10 responsibility to owners (stockholders) for the use of INVENTURE FOODS resources
11 entrusted to it” was violated (FASB Statement of Concepts No. 1, 50);

12 (f) The principle that “financial reporting should be reliable in that it
13 represents what it purports to represent” was violated (FASB Statement of Concepts No.
14 2, 58-59);

15 (g) The principle that “completeness, meaning that nothing is left out of
16 the information that may be necessary to insure that it validly represents underlying
17 events and conditions” was violated (FASB Statement of Concepts No. 2, 79); and

18 (h) The principle that “conservatism be used as a prudent reaction to
19 uncertainty to try to ensure that uncertainties and risks inherent in business situations are
20 adequately considered” was violated (FASB Statement of Concepts No. 2, 95).

21 35. The adverse information concealed by Defendants during the Class Period
22 and detailed above was in violation of Item 303 of Regulation S-K under the federal
23 securities law (17 C.F.R. §229.303).

24 **CLASS ACTION ALLEGATIONS**

25 36. Plaintiff brings this action as a class action pursuant to Federal Rule of
26 Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities
27 that acquired INVENTURE FOODS’S securities between March 3, 2016, and March 16,
28 2017, inclusive, and who were damaged thereby (the “Class”). Excluded from the Class

1 are Defendants, the officers and directors of the Company, at all relevant times, members
2 of their immediate families and their legal representatives, heirs, successors, or assigns,
3 and any entity in which Defendants have or had a controlling interest.

4 37. The members of the Class are so numerous that joinder of all members is
5 impracticable. Throughout the Class Period, INVENTURE FOODS'S common stock
6 actively traded on the NASDAQ. While the exact number of Class members is unknown
7 to Plaintiff at this time and can only be ascertained through appropriate discovery,
8 Plaintiff believes that there are at least hundreds or thousands of members in the proposed
9 Class. Millions of INVENTURE FOODS shares were traded publicly during the Class
10 Period on the NASDAQ. As of October 31, 2016, INVENTURE FOODS had
11 19,671,834 shares of common stock outstanding. Record owners and other members of
12 the Class may be identified from records maintained by INVENTURE FOODS or its
13 transfer agent and may be notified of the pendency of this action by mail, using the form
14 of notice similar to that customarily used in securities class actions.

15 38. Plaintiff's claims are typical of the claims of the members of the Class as
16 all members of the Class are similarly affected by Defendants' wrongful conduct in
17 violation of federal law that is complained of herein.

18 39. Plaintiff will fairly and adequately protect the interests of the members of
19 the Class and has retained counsel competent and experienced in class and securities
20 litigation.

21 40. Common questions of law and fact exist as to all members of the Class and
22 predominate over any questions solely affecting individual members of the Class.
23 Among the questions of law and fact common to the Class are:

24 (a) whether the federal securities laws were violated by Defendants' acts as
25 alleged herein;

26 (b) whether statements made by Defendants to the investing public during the
27 Class Period omitted and/or misrepresented material facts about the business, operations,
28 and prospects of INVENTURE FOODS; and

1 (c) to what extent the members of the Class have sustained damages and the
2 proper measure of damages.

3 41. A class action is superior to all other available methods for the fair and
4 efficient adjudication of this controversy since joinder of all members is impracticable.
5 Furthermore, as the damages suffered by individual Class members may be relatively
6 small, the expense and burden of individual litigation makes it impossible for members of
7 the Class to individually redress the wrongs done to them. There will be no difficulty in
8 the management of this action as a class action.

9 **UNDISCLOSED ADVERSE FACTS**

10 42. The market for INVENTURE FOODS'S securities was open, well-
11 developed and efficient at all relevant times. As a result of these materially false and/or
12 misleading statements, and/or failures to disclose, INVENTURE FOODS'S securities
13 traded at artificially inflated prices during the Class Period. Plaintiff and other members
14 of the Class purchased or otherwise acquired INVENTURE FOODS'S securities relying
15 upon the integrity of the market price of the Company's securities and market
16 information relating to INVENTURE FOODS, and have been damaged thereby.

17 43. During the Class Period, Defendants materially misled the investing public,
18 thereby inflating the price of INVENTURE FOODS'S securities, by publicly issuing
19 false and/or misleading statements and/or omitting to disclose material facts necessary to
20 make Defendants' statements, as set forth herein, not false and/or misleading. The
21 statements and omissions were materially false and/or misleading because they failed to
22 disclose material adverse information and/or misrepresented the truth about
23 INVENTURE FOODS'S business, operations, and prospects as alleged herein.

24 44. At all relevant times, the material misrepresentations and omissions
25 particularized in this Complaint directly or proximately caused or were a substantial
26 contributing cause of the damages sustained by Plaintiff and other members of the Class.
27 As described herein, during the Class Period, Defendants made or caused to be made a
28 series of materially false and/or misleading statements about INVENTURE FOODS'S

1 financial well-being and prospects. These material misstatements and/or omissions had
2 the cause and effect of creating in the market an unrealistically positive assessment of the
3 Company and its financial well-being and prospects, thus causing the Company's
4 securities to be overvalued and artificially inflated at all relevant times. Defendants'
5 materially false and/or misleading statements during the Class Period resulted in Plaintiff
6 and other members of the Class purchasing the Company's securities at artificially
7 inflated prices, thus causing the damages complained of herein when the truth was
8 revealed.

9 **LOSS CAUSATION**

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

12 46. During the Class Period, Plaintiff and the Class purchased INVENTURE
13 FOODS'S securities at artificially inflated prices and were damaged thereby. The price
14 of the Company's securities significantly declined when the misrepresentations made to
15 the market, and/or the information alleged herein to have been concealed from the
16 market, and/or the effects thereof, were revealed, causing investors' losses.

17 **SCIENTER ALLEGATIONS**

18 47. As alleged herein, Defendants acted with scienter since Defendants knew
19 that the public documents and statements issued or disseminated in the name of the
20 Company were materially false and/or misleading; knew that such statements or
21 documents would be issued or disseminated to the investing public; and knowingly and
22 substantially participated or acquiesced in the issuance or dissemination of such
23 statements or documents as primary violations of the federal securities laws. As set forth
24 elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of
25 information reflecting the true facts regarding INVENTURE FOODS, their control over,
26 and/or receipt and/or modification of INVENTURE FOODS'S allegedly materially
27 misleading misstatements and/or their associations with the Company which made them
28 privy to confidential proprietary information concerning INVENTURE FOODS,

1 participated in the fraudulent scheme alleged herein.

2 **APPLICABILITY OF PRESUMPTION OF RELIANCE**
3 **(FRAUD-ON-THE-MARKET DOCTRINE)**

4 48. The market for INVENTURE FOODS'S securities was open, well-
5 developed and efficient at all relevant times. As a result of the materially false and/or
6 misleading statements and/or failures to disclose, INVENTURE FOODS'S securities
7 traded at artificially inflated prices during the Class Period. On December 21, 2016, the
8 Company's stock price closed at a Class Period adjusted high of \$10.04 per share.
9 Plaintiff and other members of the Class purchased or otherwise acquired the Company's
10 securities relying upon the integrity of the market price of INVENTURE FOODS'S
11 securities and market information relating to INVENTURE FOODS, and have been
12 damaged thereby.

13 49. During the Class Period, the artificial inflation of INVENTURE FOODS'S
14 stock was caused by the material misrepresentations and/or omissions particularized in
15 this Complaint causing the damages sustained by Plaintiff and other members of the
16 Class. As described herein, during the Class Period, Defendants made or caused to be
17 made a series of materially false and/or misleading statements about INVENTURE
18 FOODS'S business, prospects, and operations. These material misstatements and/or
19 omissions created an unrealistically positive assessment of INVENTURE FOODS and its
20 business, operations, and prospects, thus causing the price of the Company's securities to
21 be artificially inflated at all relevant times, and when disclosed, negatively affected the
22 value of the Company stock. Defendants' materially false and/or misleading statements
23 during the Class Period resulted in Plaintiff and other members of the Class purchasing
24 the Company's securities at such artificially inflated prices, and each of them has been
25 damaged as a result.

26 50. At all relevant times, the market for INVENTURE FOODS'S securities
27 was an efficient market for the following reasons, among others:

28 (a) INVENTURE FOODS stock met the requirements for listing, and was

1 listed and actively traded on the NASDAQ, a highly efficient and automated market;

2 (b) As a regulated issuer, INVENTURE FOODS filed periodic public reports
3 with the SEC and/or the NASDAQ;

4 (c) INVENTURE FOODS regularly communicated with public investors via
5 established market communication mechanisms, including through regular dissemination
6 of press releases on the national circuits of major newswire services and through other
7 wide-ranging public disclosures, such as communications with the financial press and
8 other similar reporting services; and/or

9 (d) INVENTURE FOODS was followed by securities analysts employed by
10 brokerage firms who wrote reports about the Company, and these reports were distributed
11 to the sales force and certain customers of their respective brokerage firms. Each of these
12 reports was publicly available and entered the public marketplace.

13 51. As a result of the foregoing, the market for INVENTURE FOODS'S
14 securities promptly digested current information regarding INVENTURE FOODS from
15 all publicly available sources and reflected such information in INVENTURE FOODS'S
16 stock price. Under these circumstances, all purchasers of INVENTURE FOODS'S
17 securities during the Class Period suffered similar injury through their purchase of
18 INVENTURE FOODS'S securities at artificially inflated prices and a presumption of
19 reliance applies.

20 52. A Class-wide presumption of reliance is also appropriate in this action
21 under the Supreme Court's holding in *Affiliated Ute INVENTURE FOODS of Utah v.*
22 *United States*, 406 U.S. 128 (1972), because the Class's claims are, in large part,
23 grounded on Defendants' material misstatements and/or omissions. Because this action
24 involves Defendants' failure to disclose material adverse information regarding the
25 Company's business operations and financial prospects—information that Defendants
26 were obligated to disclose—positive proof of reliance is not a prerequisite to recovery.
27 All that is necessary is that the facts withheld be material in the sense that a reasonable
28 investor might have considered them important in making investment decisions. Given

1 the importance of the Class Period material misstatements and omissions set forth above,
2 that requirement is satisfied here.

3 **NO SAFE HARBOR**

4 53. The statutory safe harbor provided for forward-looking statements under
5 certain circumstances does not apply to any of the allegedly false statements pleaded in
6 this Complaint. The statements alleged to be false and misleading herein all relate to
7 then-existing facts and conditions. In addition, to the extent certain of the statements
8 alleged to be false may be characterized as forward looking, they were not identified as
9 “forward-looking statements” when made and there were no meaningful cautionary
10 statements identifying important factors that could cause actual results to differ materially
11 from those in the purportedly forward-looking statements. In the alternative, to the extent
12 that the statutory safe harbor is determined to apply to any forward-looking statements
13 pleaded herein, Defendants are liable for those false forward-looking statements because
14 at the time each of those forward-looking statements was made, the speaker had actual
15 knowledge that the forward-looking statement was materially false or misleading, and/or
16 the forward-looking statement was authorized or approved by an executive officer of
17 INVENTURE FOODS who knew that the statement was false when made.

18
19 **FIRST CLAIM**
20 **Violation of Section 10(b) of The Exchange Act and**
21 **Rule 10b-5 Promulgated Thereunder**
22 **Against All Defendants**

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

25 55. During the Class Period, Defendants carried out a plan, scheme and course
26 of conduct which was intended to and, throughout the Class Period, did: (i) deceive the
27 investing public, including Plaintiff and other Class members, as alleged herein; and (ii)
28 cause Plaintiff and other members of the Class to purchase INVENTURE FOODS’S
securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and
course of conduct, Defendants, and each defendant, took the actions set forth herein.

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

9 57. Defendants, individually and in concert, directly and indirectly, by the use,
10 means or instrumentalities of interstate commerce and/or of the mails, engaged and
11 participated in a continuous course of conduct to conceal adverse material information
12 about INVENTURE FOODS'S financial well-being and prospects, as specified herein.

13 58. Defendants employed devices, schemes and artifices to defraud, while in
14 possession of material adverse non-public information and engaged in acts, practices, and
15 a course of conduct as alleged herein in an effort to assure investors of INVENTURE
16 FOODS'S value and performance and continued substantial growth, which included the
17 making of, or the participation in the making of, untrue statements of material facts
18 and/or omitting to state material facts necessary in order to make the statements made
19 about INVENTURE FOODS and its business operations and future prospects in light of
20 the circumstances under which they were made, not misleading, as set forth more
21 particularly herein, and engaged in transactions, practices and a course of business which
22 operated as a fraud and deceit upon the purchasers of the Company's securities during the
23 Class Period.

24 59. Each of the Individual Defendants' primary liability and controlling person
25 liability arises from the following facts: (i) the Individual Defendants were high-level
26 executives and/or directors at the Company during the Class Period and members of the
27 Company's management team or had control thereof; (ii) each of these defendants, by
28 virtue of their responsibilities and activities as a senior officer and/or director of the

1 Company, was privy to and participated in the creation, development and reporting of the
2 Company's internal budgets, plans, projections and/or reports; (iii) each of these
3 defendants enjoyed significant personal contact and familiarity with the other defendants
4 and was advised of, and had access to, other members of the Company's management
5 team, internal reports and other data and information about the Company's finances,
6 operations, and sales at all relevant times; and (iv) each of these defendants was aware of
7 the Company's dissemination of information to the investing public which they knew
8 and/or recklessly disregarded was materially false and misleading.

9 60. Defendants had actual knowledge of the misrepresentations and/or
10 omissions of material facts set forth herein, or acted with reckless disregard for the truth
11 in that they failed to ascertain and to disclose such facts, even though such facts were
12 available to them. Such defendants' material misrepresentations and/or omissions were
13 done knowingly or recklessly and for the purpose and effect of concealing INVENTURE
14 FOODS'S financial well-being and prospects from the investing public and supporting
15 the artificially inflated price of its securities. As demonstrated by Defendants'
16 overstatements and/or misstatements of the Company's business, operations, financial
17 well-being, and prospects throughout the Class Period, Defendants, if they did not have
18 actual knowledge of the misrepresentations and/or omissions alleged, were reckless in
19 failing to obtain such knowledge by deliberately refraining from taking those steps
20 necessary to discover whether those statements were false or misleading.

21 61. As a result of the dissemination of the materially false and/or misleading
22 information and/or failure to disclose material facts, as set forth above, the market price
23 of INVENTURE FOODS'S securities was artificially inflated during the Class Period. In
24 ignorance of the fact that market prices of the Company's securities were artificially
25 inflated, and relying directly or indirectly on the false and misleading statements made by
26 Defendants, or upon the integrity of the market in which the securities trades, and/or in
27 the absence of material adverse information that was known to or recklessly disregarded
28 by Defendants, but not disclosed in public statements by Defendants during the Class

1 Period, Plaintiff and the other members of the Class acquired INVENTURE FOODS'S
2 securities during the Class Period at artificially high prices and were damaged thereby.

3 62. At the time of said misrepresentations and/or omissions, Plaintiff and other
4 members of the Class were ignorant of their falsity, and believed them to be true. Had
5 Plaintiff and the other members of the Class and the marketplace known the truth
6 regarding the problems that INVENTURE FOODS was experiencing, which were not
7 disclosed by Defendants, Plaintiff and other members of the Class would not have
8 purchased or otherwise acquired their INVENTURE FOODS securities, or, if they had
9 acquired such securities during the Class Period, they would not have done so at the
10 artificially inflated prices which they paid.

11 63. By virtue of the foregoing, Defendants violated Section 10(b) of the
12 Exchange Act and Rule 10b-5 promulgated thereunder.

13 64. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff
14 and the other members of the Class suffered damages in connection with their respective
15 purchases and sales of the Company's securities during the Class Period.

16 **SECOND CLAIM**
17 **Violation of Section 20(a) of The Exchange Act**
18 **Against the Individual Defendants**

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

21 66. Individual Defendants acted as controlling persons of INVENTURE
22 FOODS within the meaning of Section 20(a) of the Exchange Act as alleged herein. By
23 virtue of their high-level positions and their ownership and contractual rights,
24 participation in, and/or awareness of the Company's operations and intimate knowledge
25 of the false financial statements filed by the Company with the SEC and disseminated to
26 the investing public, Individual Defendants had the power to influence and control and
27 did influence and control, directly or indirectly, the decision-making of the Company,
28 including the content and dissemination of the various statements which Plaintiff
29 contends are false and misleading. Individual Defendants were provided with or had

1 unlimited access to copies of the Company's reports, press releases, public filings, and
2 other statements alleged by Plaintiff to be misleading prior to and/or shortly after these
3 statements were issued and had the ability to prevent the issuance of the statements or
4 cause the statements to be corrected.

5 67. In particular, Individual Defendants had direct and supervisory involvement
6 in the day-to-day operations of the Company and, therefore, had the power to control or
7 influence the particular transactions giving rise to the securities violations as alleged
8 herein, and exercised the same.

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

16 **PRAYER FOR RELIEF**

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

18 (a) Determining that this action is a proper class action under Rule 23 of the
19 Federal Rules of Civil Procedure;

20 (b) Awarding compensatory damages in favor of Plaintiff and the other Class
21 members against all defendants, jointly and severally, for all damages sustained as a
22 result of Defendants' wrongdoing, in an amount to be proven at trial, including interest
23 thereon;

24 (c) Awarding Plaintiff and the Class their reasonable costs and expenses
25 incurred in this action, including counsel fees and expert fees; and

26 (d) Such other and further relief as the Court may deem just and proper.

27 **JURY TRIAL DEMANDED**

28 Plaintiff hereby demands a trial by jury.

1 Dated: March 27, 2017

2 **TIFFANY & BOSCO, P.A.**

3
4 By: /s/ Richard G. Himelrick
5 Richard G. Himelrick
6 Seventh Floor Camelback Esplanade II
7 2525 East Camelback Road
8 Phoenix, AZ 85016

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15 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice list.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Shelley Boettge
Shellev Boettge

SWORN CERTIFICATION OF PLAINTIFF

INVENTURE FOODS, INC. SECURITIES LITIGATION

I, Glenn Schoenfeld, individually, and/or in my capacity as trustee and/or principal for accounts listed on Schedule A, certify that:

1. I have reviewed the Complaint and authorize its filing and/or the filing of a Lead Plaintiff motion on my behalf.
2. I did not purchase **INVENTURE FOODS, INC.**, the security that is the subject of this action, at the direction of plaintiff's counsel or in order to participate in any private action arising under this title.
3. I am willing to serve as a representative party on behalf of a class and will testify at deposition and trial, if necessary.
4. My transactions in **INVENTURE FOODS, INC.** during the Class Period set forth in the Complaint are as follows:

(See attached transactions)
5. I have not served as a representative party on behalf of a class under this title during the last three years, except for the following:
6. I will not accept any payment for serving as a representative party, except to receive my pro rata share of any recovery or as ordered or approved by the court, including the award to a representative plaintiff of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

I declare under penalty of perjury that the foregoing are true and correct statements.

3/24/2017

Date

DocuSigned by:

Glenn Schoenfeld

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Glenn Schoenfeld

**Glenn Schoenfeld's Transactions in
Inventure Foods, Inc. (SNAK)**

Date	Transaction Type	Quantity	Unit Price
05/21/2015	Bought	276	\$9.0000

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Glenn Schoenfeld

**Defendant(s): Inventure Foods, Inc. ; Terry
McDaniel ; Steve Weinberger**

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

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II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

**III. Citizenship of Principal
Parties (Diversity Cases Only)**

Plaintiff:- N/A
Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **850 Securities/Commodities/Exchange**

VI. Cause of Action: **Securities Exchange Act of 1934 §§ 10(b) and 20(a) and Rule 10b-5
thereunder**

VII. Requested in Complaint

Class Action: **Yes**
Dollar Demand:
Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: /s/ Richard G. Himelrick

Date: 3/27/17

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Stockholders Sue Inventure Foods in New Securities Lawsuit](#)
