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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

_____, Individually and on behalf of
all others similarly situated,

Plaintiff,

v.

GLENCORE PLC, IVAN GLASENBERG,
and STEVEN KALMIN,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS

JURY TRIAL DEMANDED

Plaintiff _____ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through his attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding Glencore plc (“Glencore” or the “Company”), and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a class action on behalf of persons or entities who purchased or otherwise acquired publicly traded Glencore securities from March 18, 2014 through December 5, 2018, inclusive (the “Class Period”). Plaintiff seeks to recover compensable damages caused by Defendants’ violations of the federal securities laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

JURISDICTION AND VENUE

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

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

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged misstatements entered and the subsequent damages took place in this judicial district.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, 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 exchange.

PARTIES

6. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Glencore securities during the Class Period and was economically damaged thereby.

7. Defendant Glencore engages in the production, refinement, processing, storage, transport and marketing of metals and minerals, energy products, and agricultural products worldwide. Glencore is incorporated in Jersey, United Kingdom, with headquarters in Baar, Switzerland. Glencore's common stock trades on the OTC Exchange ("OTC") under the ticker symbols "GLCNF" and "GLNCY."

8. Defendant Ivan Glasenberg ("Glasenberg") has served as the Company's Chief Executive Officer ("CEO") throughout the Class Period.

9. Defendant Steven Kalmin ("Kalmin") has served as the Company's Chief Financial Officer ("CFO") throughout the Class Period.

10. Defendants Glasenberg and Kalmin are collectively referred to herein as the "Individual Defendants."

11. Each of the Individual Defendants:

- (a) directly participated in the management of the Company;
- (b) was directly involved in the day-to-day operations of the Company at the highest levels;
- (c) was privy to confidential proprietary information concerning the Company and its business and operations;
- (d) was directly or indirectly involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;
- (e) was directly or indirectly involved in the oversight or implementation of the Company's internal controls;

- (f) was aware of or recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and/or
- (g) approved or ratified these statements in violation of the federal securities laws.

12. Glencore is liable for the acts of the Individual Defendants and its employees under the doctrine of *respondeat superior* and common law principles of agency because all of the wrongful acts complained of herein were carried out within the scope of their employment.

13. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to Glencore under *respondeat superior* and agency principles.

14. Defendants Glencore and the Individual Defendants are collectively referred to herein as “Defendants.”

SUBSTANTIVE ALLEGATIONS

Materially False and Misleading Statements

15. On March 18, 2014, Glencore¹ issued its annual report, which provided its financial results and position for the fiscal year ended December 31, 2013 (the “2013 Annual Report”). The 2013 Annual Report was signed by Defendant Glasenberg. The 2013 Annual Report provides Glencore’s policy as to complying with the law and maintaining good business practices, stating in relevant part:

We are committed to upholding good business practices, meeting or exceeding applicable laws and applying other external requirements. We strive to adopt a safe and sustainable approach to our operations, and to contribute to the socio-economic growth of the communities in which we operate. Glencore Xstrata Values and Code of Conduct underpin our approach to sustainability and state our expectations of our employees, our contractors and our business partners. Our approach is further

¹ Glencore was then-named GlencoreXstrata.

detailed through the Glencore Xstrata Corporate Practice (GCP). GCP underpins our approach towards societal, environmental and compliance indicators, providing clear guidance on the standards we expect all our operations to achieve. Through the reporting function within GCP, our Board receives regular updates and has a detailed oversight on how our business is performing across all of the sustainability indicators.

16. On March 18, 2015, Glencore issued its annual report, which provided its financial results and position for the fiscal year ended December 31, 2014 (the “2014 Annual Report”). The 2014 Annual Report was signed by Defendant Glasenberg. The 2014 Annual Report provides Glencore’s policy as to complying with the law and ensuring its employees engaged in ethical behavior, stating in relevant part:

We are committed to complying with or exceeding the laws and external requirements applicable to our operations and products. Through this and monitoring of legislative requirements, engagement with government and regulators, and compliance with applicable permits and licences, we strive to ensure full compliance. We also seek to manage these risks through the Glencore Corporate Practice (GCP) programme. Its practical application across our business is detailed in our code of conduct (www.glencore.com/whowe-are/corporate-governance/policies/code-of-conduct/) and this framework is reflected in our Sustainability Reports. The Group’s anti-corruption policy may also be found at: www.glencore.com/who-we-are/corporate-governance/policies/global-anti-corruption-policy/.

17. On March 8, 2016, Glencore issued its annual report, which provided its financial results and position for the fiscal year ended December 31, 2015 (the “2015 Annual Report”). The 2015 Annual Report was signed by Defendant Glasenberg. The 2015 Annual Report provides Glencore’s policy as to complying with the law and ensuring its employees engaged in ethical behavior, stating in relevant part:

We are committed to complying with or exceeding the laws and external requirements applicable to our operations and products. Through this and monitoring of legislative requirements, engagement with government and regulators, and compliance with applicable permits and licences, we strive to ensure full compliance. We also seek to manage these risks through the Glencore Corporate Practice (GCP) programme. Its practical application across our business is detailed in our code of conduct (www.glencore.com/who-we-are/corporategovernance/policies/code-of-conduct/) and this framework

is reflected in our Sustainability Reports. The Group's anticorruption policy may also be found at: www.glencore.com/who-we-are/corporate-governance/policies/global-anticorruption-policy/.

18. On March 2, 2017, Glencore issued its annual report, which provided its financial results and position for the fiscal year ended December 31, 2016 (the "2016 Annual Report"). The 2016 Annual Report was signed by Defendant Glasenberg. The 2016 Annual Report provides Glencore's policy as to complying with the law and ensuring its employees engaged in ethical behavior, stating in relevant part:

We are committed to complying with or exceeding the laws and external requirements applicable to our operations and products. Through this and monitoring of legislative requirements, engagement with government and regulators, and compliance with applicable permits and licences, we strive to ensure full compliance. We also seek to manage these risks through the Glencore Corporate Practice (GCP) programme. Its practical application across our business is detailed in our code of conduct (www.glencore.com/who-we-are/our-values/policies/) and this framework is reflected in our sustainability reports. The Group's anti-corruption policy may also be found at: www.glencore.com/who-we-are/our-values/policies/.

19. On March 2, 2018, Glencore issued its Annual Report, which provided its financial results and position for the fiscal year ended December 31, 2017 (the "2017 Annual Report"). The 2017 Annual Report was signed by Defendant Glasenberg. The 2017 Annual Report provides Glencore's policy as to complying with the law and ensuring its employees engaged in ethical behavior, stating in relevant part:

We seek to maintain a culture of ethical behaviour and compliance throughout the Group, rather than simply performing the minimum required by laws and regulations. We will not knowingly assist any third party in breaching the law, or participate in any criminal, fraudulent or corrupt practice in any country.

* * *

Bribery and corruption

Glencore's Global Anti-Corruption Policy . . . contains our clear position on bribery and corruption: the offering, paying, authorising, soliciting or accepting of bribes is unacceptable. We conduct analysis for corruption risks within our businesses and

seek to address these risks through policies and procedures, training and awareness raising, monitoring and controls.

20. The statements contained in ¶¶15-19 were materially false and/or misleading because they misrepresented and failed to disclose the following adverse facts pertaining to the Company's business, operations and prospects, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (1) Glencore's conduct would subject it to heightened scrutiny by foreign government bodies resulting in investigations into the Company's compliance with bribery and corruption laws; and (2) as a result, Defendants' statements about Glencore's business, operations, and prospects were materially false and/or misleading and/or lacked a reasonable basis at all relevant times.

THE TRUTH BEGINS TO EMERGE

21. On December 5, 2018, *Bloomberg* reported that Glencore and other trading firms paid \$31 million in bribes to state-owned oil company Petróleo Brasileiro S.A. – Petrobras in a graft scheme from 2011 through 2014 that Brazilian authorities believe may still be ongoing. The article states, in relevant part:

Brazil's federal police are investigating oil trading giants Vitol SA, Trafigura AG and Glencore Ltd. for their alleged role in a kickback scheme with officials at Petróleo Brasileiro SA to get favorable contract terms.

The three companies allegedly paid an accumulated \$31 million in bribes to Petrobras executives and intermediaries from 2011 through 2014, public prosecutors said in a statement. Officials in Petrobras' marketing and supply division at the Rio de Janeiro and Houston offices benefited from the kickbacks, according to the statement.

Federal police are carrying out 11 preventative arrests and 27 search and seizure orders issued by a federal judge. Arrest warrants have also been issued outside of Brazil, including one for an employee at Petrobras' Houston offices, said Filipe Pace, a police chief involved in the investigation, during a televised news conference. The actions are part of the so-called Carwash probe that has landed

behind bars several local business leaders and politicians, including former President Luiz Inacio Lula da Silva.

Batman and Popeye

Police gathered extensive evidence, including messages from executives of the three companies negotiating bribe payments for Petrobras employees through a intermediary company. In documents obtained during the investigation, beneficiaries of kickbacks were identified by code names including Batman and Popeye, said Pace. The goal, according to prosecutors, was to obtain advantages, get more favorable prices and carry out contracts with greater frequency.

“There are a lot of messages showing that executives from the companies had unquestionable knowledge” of the scheme, Pace said, citing evidence that the head of Vitol in Latin America was also involved.

Vitol has a zero tolerance policy on bribery and corruption, and always cooperates with relevant authorities, it said in an email. Glencore declined to comment on the issue when contacted by Bloomberg, and a Trafigura spokesperson said the company doesn’t comment on legal matters.

In a separate statement, police didn’t rule out that the scheme continues. Other trading companies are also being investigated, prosecutors said, without naming them.

Petrobras has been at the center of the corruption probe dubbed Operation Carwash that started in 2014 and has involved construction companies, banks, shipyards and leading politicians. In January, Petrobras agreed to pay almost \$3 billion to compensate U.S. investors who lost money as a result of the company’s drop in market value. Then in September it agreed to pay \$853 million the Brazilian Federal Prosecutor’s Office, the U.S. Department of Justice and the Security and Exchange Commission to settle claims.

22. On this news, shares of GLNCY and GLCNF fell sharply on the next trading day, December 6, 2018, damaging investors.

23. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline in the market value of the Company’s common shares, Plaintiff and other Class members have suffered significant losses and damages.

PLAINTIFF’S CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons other than defendants

who acquired Glencore securities publicly traded OTC during the Class Period, and who were damaged thereby (the “Class”). Excluded from the Class are Defendants, the officers and directors of Glencore, members of the Individual Defendants’ immediate families and their legal representatives, heirs, successors or assigns and any entity in which Officer or Director Defendants have or had a controlling interest.

25. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Glencore securities were actively traded OTC. 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, if not thousands of members in the proposed Class.

26. 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.

27. 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.

28. 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 Exchange Act were violated by Defendants’ acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the financial condition and business Glencore;

- whether Defendants' public statements to the investing public during the Class Period omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- whether the Defendants caused Glencore to issue false and misleading SEC filings during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false and SEC filing
- whether the prices of Glencore' securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

29. 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.

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

- Glencore shares met the requirements for listing, and were listed and actively traded OTC, a highly efficient and automated market;
- As a public issuer, Glencore filed periodic public reports with the SEC⁶;
- Glencore regularly communicated with public investors via established market communication mechanisms, including through the regular dissemination of press

releases via major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

- Glencore was followed by a number of securities analysts employed by major brokerage firms who wrote reports that were widely distributed and publicly available.

31. Based on the foregoing, the market for Glencore securities promptly digested current information regarding Glencore from all publicly available sources and reflected such information in the prices of the shares, and Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

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

COUNT I

For Violations of Section 10(b) And Rule 10b-5 Promulgated Thereunder Against All Defendants

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

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

35. During the Class Period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to

disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

36. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

- employed devices, schemes and artifices to defraud;
- made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Glencore securities during the Class Period.

37. Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of Glencore were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated, or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the securities laws. These defendants by virtue of their receipt of information reflecting the true facts of Glencore, their control over, and/or receipt and/or modification of Glencore's allegedly materially misleading statements, and/or their associations with the Company which made them privy to confidential proprietary information concerning Glencore, participated in the fraudulent scheme alleged herein.

38. Individual Defendants, who are the senior officers and/or directors of the Company, had actual knowledge of the material omissions and/or the falsity of the material statements set forth above, and intended to deceive Plaintiff and the other members of the Class, or, in the alternative, acted with reckless disregard for the truth when they failed to ascertain and

disclose the true facts in the statements made by them or other Glencore personnel to members of the investing public, including Plaintiff and the Class.

39. As a result of the foregoing, the market price of Glencore securities was artificially inflated during the Class Period. In ignorance of the falsity of Defendants' statements, Plaintiff and the other members of the Class relied on the statements described above and/or the integrity of the market price of Glencore securities during the Class Period in purchasing Glencore securities at prices that were artificially inflated as a result of Defendants' false and misleading statements.

40. Had Plaintiff and the other members of the Class been aware that the market price of Glencore securities had been artificially and falsely inflated by Defendants' misleading statements and by the material adverse information which Defendants did not disclose, they would not have purchased Glencore securities at the artificially inflated prices that they did, or at all.

41. As a result of the wrongful conduct alleged herein, Plaintiff and other members of the Class have suffered damages in an amount to be established at trial.

42. By reason of the foregoing, Defendants have violated Section 10(b) of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the plaintiff and the other members of the Class for substantial damages which they suffered in connection with their purchase of Glencore securities during the Class Period.

COUNT II
Violations of Section 20(a) of the Exchange Act
Against the Individual Defendants

43. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

44. During the Class Period, the Individual Defendants participated in the operation and management of Glencore, and conducted and participated, directly and indirectly, in the

conduct of Glencore's business affairs. Because of their senior positions, they knew the adverse non-public information about Glencore's misstatement of revenue and profit and false financial statements.

45. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Glencore's financial condition and results of operations, and to correct promptly any public statements issued by Glencore which had become materially false or misleading.

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

47. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Glencore.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, on behalf of himself and the Class, prays for judgment and relief as follows:

(a) declaring this action to be a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;

(b) awarding damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, together with interest thereon;

awarding plaintiff and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) awarding plaintiff and other members of the Class such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: December ___, 2018

Respectfully submitted,

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