

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CARSON D. GILBERT, Individually and
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

AZURE POWER GLOBAL LIMITED,
RANJIT GUPTA, ALAN ROSLING,
HARSH SHAH, and PAWAN KUMAR
AGRAWAL,

Defendants.

Case No.

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

JURY TRIAL DEMANDED

Plaintiff Carson D. Gilbert (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by Azure Power Global Limited (“Azure” or the “Company”) with the United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and disseminated by Azure; and (c) review of other publicly available information concerning Azure.

NATURE OF THE ACTION AND OVERVIEW

1. This is a class action on behalf of persons and entities that purchased or otherwise acquired Azure securities between June 15, 2021 and August 26, 2022, inclusive (the “Class Period”). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934 (the “Exchange Act”).

2. Azure sells renewable power in India on long-term fixed price contracts. The Company operates approximately 45 utility scale projects.

3. On August 29, 2022, Azure announced the resignation of its CEO, less than two months after his appointment. The Company also disclosed that it had “received a whistleblower complaint in May 2022 alleging potential procedural irregularities and misconduct by certain employees at a plant belonging to one of its subsidiaries.” During the Company’s review of these allegations, Azure “discovered deviations from safety and quality norms” and “also identified evidence of manipulation of project data and information by certain employees.”

4. On this news, the Company’s stock fell \$4.61, or 44%, to close at \$5.85 per share on August 29, 2022, on unusually heavy trading volume.

5. Throughout the Class Period, Defendants made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that there were procedural irregularities, including deviations from safety and quality standards, at one of Azure's plants; (2) that certain project data was manipulated; (3) that, as a result of the foregoing, the Company's internal controls and procedures were not effective; (4) that Azure had received a credible whistleblower report alleging such misconduct; and (5) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

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

JURISDICTION AND VENUE

7. The claims asserted herein arise under 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).

8. 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).

9. 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)). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District.

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

PARTIES

11. Plaintiff Carson D. Gilbert, as set forth in the accompanying certification, incorporated by reference herein, purchased Azure securities during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

12. Defendant Azure is incorporated under the laws of Mauritius with its principal executive offices located in New Delhi, India. Azure's equity shares trade on the New York Stock Exchange ("NYSE") exchange under the symbol "AZRE."

13. Defendant Ranjit Gupta ("Gupta") was Azure's Chief Executive Officer ("CEO") from July 2019 to April 26, 2022.

14. Defendant Alan Rosling ("Rosling") is the Chairman of the Board of Azure and served as interim CEO from April 26, 2022 to July 1, 2022.

15. Defendant Harsh Shah ("Shah") was Azure's CEO from July 1, 2022 to August 29, 2022.

16. Defendant Pawan Kumar Agrawal ("Agrawal") was Azure's Chief Financial Officer ("CFO") at all relevant times.

17. Defendants Gupta, Rosling, Shah, and Agrawal (collectively the "Individual Defendants"), because of their positions with the Company, possessed the power and authority to control the contents of the Company's reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, i.e., the market. The

Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein.

SUBSTANTIVE ALLEGATIONS

Background

18. Azure sells renewable power in India on long-term fixed price contracts. The Company operates approximately 45 utility scale projects.

Materially False and Misleading Statements Issued During the Class Period

19. The Class Period begins on June 15, 2021. On that day, Azure announced its fourth quarter 2021 financial results in a press release that stated, in relevant part:

Fiscal Fourth Quarter 2021 Period Ended March 31, 2021 Operating Highlights:

- Megawatts ("MW") Operating* were 1,990 MWs, as of March 31, 2021, an increase of 20% over March 31, 2020. Operating, Contracted & Awarded MW* were 6,955 MWs, as of March 31, 2021. Contracted & Awarded megawatts include 4,000 MWs for which we have received Letters of Award ("LOA") but the Power Purchase Agreements ("PPAs") have not yet been signed.
- Operating revenues for the quarter ended March 31, 2021 were INR 4,271 million (US\$ 58.4 million), an increase of 16% over the quarter ended March 31, 2020. We estimate that our revenues were negatively impacted by approximately INR 50 million (US\$ 0.7 million) on account of lower insolation, as compared to our forecast for the quarter.
- Net loss for the quarter ended March 31, 2021 was INR 2,791 million (US\$ 38.1 million). During the quarter, our results were negatively impacted by

impairment loss on assets of INR 3,255 million (US\$ 44.5 million), partially offset by reversal in stock appreciation rights (SARs) expense of INR 560 million (US\$ 7.7 million). Refer to the detailed explanation in the ‘Impairment loss’ and ‘Stock Appreciation Rights expense’ section of the commentary below.

- Adjusted EBITDA for the quarter ended March 31, 2021 was INR 3,799 million (US\$ 52.0 million), an increase of 44% over the quarter ended March 31, 2020.
- Non-GAAP Cash Flow to Equity (“CFe”) from Operating Assets for the quarter ended March 31, 2021 was INR 1,743 million (US\$ 23.9 million), an increase of 55% over the quarter ended March 31, 2020.

20. On July 28, 2021, Azure filed its annual report on Form 20-F for the period ended March 31, 2021, affirming the previously reported financial results. The report stated: “Management has assessed the effectiveness of our internal control over financial reporting as of March 31, 2021 and has concluded that such internal control over financial reporting is effective.”

It also purported to warn:

Any damages caused by fraud or other misconduct by our employees could adversely affect our business, results of operations and financial condition.

We are exposed to operational risk arising from inadequacy or failure of internal processes or systems. In addition, we are exposed from risk associated with fraud or misconduct of our employees. In the past five fiscal years we have not experienced any fraud or misconduct by employees which has materially affected our business, results of operations or financial condition. However, we may not be safeguarded against all fraud or misconduct by employees or outsiders, unauthorized transactions by employees and operational errors. Employee or executive misconduct could also involve the improper use or disclosure of confidential information, data breach or other illegal acts, which could result in regulatory sanctions and reputational or financial harm, including harm to our brand. Our management information systems and internal control procedures are designed to monitor our operations and overall compliance. However, they may not be able to identify non-compliance and/or suspicious transactions in a timely manner or at all. In addition, certain internal control processes are carried out manually, which may increase the risk that human error, tampering or manipulation will result in losses that may be difficult to detect. For example, the Company has recently received complaints and several anonymous whistleblower reports, which made various claims against certain of the Company’s Key Managerial Personnel, related to their and the Company’s actions in relation to the acquisition of and use of land in Rajasthan, Assam, and Uttar Pradesh, as well as certain other corporate

actions. The Company, through its Audit Committee, and with the assistance of external counsel and forensic auditors, has undertaken an investigation to determine whether the allegations made in the complaints or contained in the whistleblower reports are substantive. The investigation did not substantiate the allegations made in the complaints or contained in the whistleblower reports. Nevertheless, the Company has determined that a review of certain of its processes is required to ensure continued compliance with its internal policies and procedures. Were our employees, including Key Managerial Personnel, to commit fraud or other misconduct, we may suffer monetary losses, including contractual liabilities and penalties, which may not be covered by our insurance and may thereby adversely affect our business, results of operations and financial condition.

21. On August 30, 2021, Azure announced its first quarter 2022 financial results in a press release that stated, in relevant part:

Fiscal First Quarter 2022 ended June 30, 2021 Operating Highlights:

- Megawatts (“MW”) Operating* were 2,052 MWs, as of June 30, 2021, an increase of 23% over June 30, 2020. Operating, Contracted & Awarded MWs* were 6,955 MWs, as of June 30, 2021. Contracted & Awarded megawatts include 4,000 MWs for which we have received Letters of Award (“LOA”) but the Power Purchase Agreements (“PPAs”) have not yet been signed.
- Operating revenues for the quarter ended June 30, 2021 were INR 4,440 million (US\$ 59.7 million), an increase of 13% over the quarter ended June 30, 2020.
- Net profit for the quarter ended June 30, 2021 was INR 697 million (US\$ 9.6 million). The increase in net profit was mainly due to an increase in operating revenue by INR 500 million (US\$ 6.7 million), refer to the detailed explanation in the net profit section of the commentary below.
- Adjusted EBITDA for the quarter ended June 30, 2021 was INR 3,668 million (US\$ 49.3 million), an increase of 11% over the quarter ended June 30, 2020.
- Non-GAAP Cash Flow to Equity (“CFE”) from Operating Assets for the quarter ended June 30, 2021 was INR 1,844 million (US\$ 24.8 million), an increase of 12% over the quarter ended June 30, 2020.

22. On November 26, 2021, Azure announced that it had replaced its independent auditor in a press release that stated, in relevant part:

At a meeting held on November 9, 2021, the Board of Directors of the Company approved the appointment of S.R. Batliboi & Co. LLP (member firm of Ernst and Young Global Limited) as its independent registered public accounting firm for the fiscal year ending March 31, 2022. At the same meeting, the Board of Directors of the Company approved the dismissal of Ernst & Young Associates LLP (the “Former Accounting Firm”) as independent registered public accounting firm of the Company effective November 9, 2021. The audit committee of the Board of Directors approved the change in independent registered public accounting firms on September 30, 2021.

The reports of the Former Accounting Firm on the Company's financial statements for the past two fiscal years did not contain an adverse opinion or a disclaimer of opinion and were not qualified or modified as to uncertainty, audit scope, or accounting principles.

In connection with the audits of the Company's financial statements for each of the two fiscal years ended March 31, 2021, and in the subsequent interim period through November 9, 2021, there were no disagreements with the Former Accounting Firm on any matters of accounting principles or practices, financial statement disclosure, or auditing scope and procedures which, if not resolved to the satisfaction of the Former Accounting Firm would have caused the Former Accounting Firm to make reference to the matter in their report. A copy of resignation, dated November 11, 2021, is filed as Exhibit I.

23. On December 10, 2021, Azure announced its second quarter 2022 financial results

in a press release that stated, in relevant part:

Fiscal Second Quarter 2022 Period ended September 30, 2021 Operating Highlights:

- Megawatts (“MW”) Operating* were 2,210 MWs, as of September 30, 2021, an increase of 31% over September 30, 2020. Operating, Contracted & Awarded MWs* were 6,955 MWs, as of September 30, 2021. Contracted & Awarded megawatts included 4,000 MWs for which we had received Letters of Award (“LOA”) but the Power Purchase Agreements (“PPAs”) had not been signed as of September 30, 2021. Subsequent to the quarter end, we have signed PPAs for 600 MWs with SECI in relation to the 4,000 MW project, refer the detailed explanation in the key operating Metrics section below.
- Operating revenues for the quarter ended September 30, 2021 were INR 4,386 million (US\$ 59.1 million), an increase of 25% over the quarter ended September 30, 2020.
- Net loss for the quarter ended September 30, 2021 was INR 300 million (US\$ 4.0 million) against the net loss of INR 368 million for the quarter

ended September 30, 2020. The decline in Net loss was primarily due to additional revenue from sale of carbon credits and reversal of stock appreciation rights (SARs) expense, offset by increase in legal and professional expense and tax expense, refer the detailed explanation in the Net loss/ (profit) section below.

- Adjusted EBITDA for the quarter ended September 30, 2021 was INR 3,685 million (US\$ 49.8 million), an increase of 59% over the quarter ended September 30, 2020. The increase was primarily due to additional revenue from new projects, sale of carbon credits and reversal of stock appreciation rights (SARs) expense, partially offset by increase in legal and professional expense, during the quarter ended September 30, 2021.
- Non-GAAP Cash Flow to Equity (“CFE”) from operating assets for the quarter ended September 30, 2021 was INR 1,406 million (US\$ 18.9 million), an increase of 32% over the quarter ended September 30, 2020. The increase was primarily due to additional revenue from sale of carbon credits and lower interest cost relating to existing operational projects due to refinancing.

24. On February 25, 2022, Azure announced its third quarter 2022 financial results in a press release that stated, in relevant part:

Operating Highlights:

- Megawatts (“MWs”) Operating* were 2,523 MWs, as of December 31, 2021, an increase of 37% over December 31, 2020. Operating, Contracted & Awarded MWs* were 7,425 MWs, as of December 31, 2021.
- Contracted & Awarded megawatts included 1,537 MWs for which we had received Letters of Award (“LOA”), but the Power Purchase Agreements (“PPAs”) had not been signed as of December 31, 2021.
- Operating revenues for the quarter ended December 31, 2021, were INR 4,480 million (US\$ 60.2 million), an increase of 27% over the quarter ended December 31, 2020.
- Net loss for the quarter ended December 31, 2021, was INR 610 million (US\$ 8.2 million) against the net loss of INR 1,088 million for the quarter ended December 31, 2020. The decrease in loss in current quarter was primarily due to additional revenue from customers, reversal of stock appreciation rights (SARs) expense, offset by an increase in interest and tax expense. *(Refer the detailed explanation in the Net loss/(profit) section below)*

- Adjusted EBITDA for the quarter ended December 31, 2021, was INR 3,935 million (US\$ 52.9 million), an increase of 152% over the quarter ended December 31, 2020. The increase was primarily due to additional revenue from new projects, revenue from customers and reversal of stock appreciation rights (SARs) expense during the quarter ended December 31, 2021.
- Non-GAAP Cash Flow to Equity (“CFe”) from operating assets for the quarter ended December 31, 2021, was INR 1,941 million (US\$ 26.1 million), an increase of 58% over the quarter ended December 31, 2020. The increase was primarily due to projects which were commissioned after the quarter ended December 31, 2020, and incremental revenue from customers.

25. On August 1, 2022, Azure filed a notification of inability to timely file its Form 20-F for the period ended March 31, 2022 (the “2022 20-F”), stating in relevant part:

Azure Power Global Limited (the “Registrant”) is experiencing a delay in submitting its financial statements and the annual report on Form 20-F for the fiscal year ended March 31, 2022 (the “Annual Report”). Although the Company has spent considerable time and resources analyzing, documenting and testing its system of internal control, as of the date of filing this notification, the Company is still in the process of assessing the Company’s internal control over financial reporting in order to complete its disclosure in the Annual Report, and does not expect to complete this evaluation prior to the prescribed due date. As a result of this delay, the Registrant is unable to file its Annual Report by July 31, 2022, the prescribed filing date.

26. On August 12, 2022, Azure issued a press release announcing a delay in filing its 2022 20-F, stating in relevant part:

The delay in filing the 2022 Form 20-F is due to Company’s ongoing review of its internal control and compliance framework. These matters are being progressed with the assistance of the Company’s advisers. The Company is making all efforts to file its 2022 Form 20-F as soon as practicable. The Company does not expect the delay in filing its 2022 Form 20-F to impact its ongoing renewable energy business operations.

Azure’s new leadership, supported by the Board, will be upgrading the Company’s processes going forward.

27. On August 16, 2022, Azure filed an amended notice of inability to timely file its 2022 20-F, stating that it could not meet the extension due to its “ongoing review of its internal control and compliance framework.”

28. The above statements identified in ¶¶ 19-27 were materially false and/or misleading, and failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) that there were procedural irregularities, including deviations from safety and quality standards, at one of Azure’s plants; (2) that certain project data was manipulated; (3) that, as a result of the foregoing, the Company’s internal controls and procedures were not effective; (4) that Azure had received a credible whistleblower report alleging such misconduct; and (5) that, as a result of the foregoing, Defendants’ positive statements about the Company’s business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

Disclosures at the End of the Class Period

29. On August 29, 2022, before the market opened, Azure announced the resignation of its CEO, Harsh Shah, less than two months after his appointment. The Company also disclosed that it had “received a whistleblower complaint in May 2022 alleging potential procedural irregularities and misconduct by certain employees at a plant belonging to one of its subsidiaries.” During the Company’s review of these allegations, Azure “discovered deviations from safety and quality norms” and “also identified evidence of manipulation of project data and information by certain employees.”

30. On this news, the Company’s stock fell \$4.61, or 44%, to close at \$5.85 per share on August 29, 2022, on unusually heavy trading volume.

CLASS ACTION ALLEGATIONS

31. 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 and entities that purchased or otherwise acquired Azure securities between June 15, 2021 and August 26, 2022, inclusive, and who were damaged thereby (the “Class”). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, 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.

32. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Azure’s shares actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of Azure shares were traded publicly during the Class Period on the NYSE. Record owners and other members of the Class may be identified from records maintained by Azure 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.

33. 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.

34. 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.

35. 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:

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

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

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

36. 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 makes 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.

UNDISCLOSED ADVERSE FACTS

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

38. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of Azure's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and/or misleading. The statements and omissions were materially false and/or

misleading because they failed to disclose material adverse information and/or misrepresented the truth about Azure's business, operations, and prospects as alleged herein.

39. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about Azure's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein when the truth was revealed.

LOSS CAUSATION

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

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

SCIENTER ALLEGATIONS

42. As alleged herein, Defendants acted with scienter since Defendants knew that the public documents and statements issued or disseminated in the name of the Company were

materially false and/or 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 federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding Azure, their control over, and/or receipt and/or modification of Azure's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Azure, participated in the fraudulent scheme alleged herein.

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

43. The market for Azure's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, Azure's securities traded at artificially inflated prices during the Class Period. On July 2, 2021, the Company's share price closed at a Class Period high of \$27.41 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of Azure's securities and market information relating to Azure, and have been damaged thereby.

44. During the Class Period, the artificial inflation of Azure's shares was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about Azure's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of Azure and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially

inflated at all relevant times, and when disclosed, negatively affected the value of the Company shares. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

45. At all relevant times, the market for Azure's securities was an efficient market for the following reasons, among others:

(a) Azure shares met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;

(b) As a regulated issuer, Azure filed periodic public reports with the SEC and/or the NYSE;

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

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

46. As a result of the foregoing, the market for Azure's securities promptly digested current information regarding Azure from all publicly available sources and reflected such information in Azure's share price. Under these circumstances, all purchasers of Azure's securities during the Class Period suffered similar injury through their purchase of Azure's securities at artificially inflated prices and a presumption of reliance applies.

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

NO SAFE HARBOR

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

FIRST CLAIM

**Violation of Section 10(b) of The Exchange Act and
Rule 10b-5 Promulgated Thereunder
Against All Defendants**

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

50. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase Azure'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.

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

52. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about Azure's financial well-being and prospects, as specified herein.

53. Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course

of conduct as alleged herein in an effort to assure investors of Azure's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about Azure and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

54. Each of the Individual Defendants' primary liability and controlling person liability arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

55. Defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and

for the purpose and effect of concealing Azure's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

56. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of Azure's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired Azure's securities during the Class Period at artificially high prices and were damaged thereby.

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

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

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

SECOND CLAIM

Violation of Section 20(a) of The Exchange Act Against the Individual Defendants

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

61. Individual Defendants acted as controlling persons of Azure within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings, and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

62. In particular, Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, had the power to control or influence the

particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

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

PRAYER FOR RELIEF

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

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

(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 Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

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

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.