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11 Attorneys for Plaintiff **ASHLEY BOEHLER**

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14
15
16 **ASHLEY BOEHLER, an individual;**

17 **Plaintiff,**

18 **vs.**

19 **ZILLOW, INC., a Washington**
20 **corporation; and DOES 1 through 50,**
inclusive;

21 **Defendants.**

CASE NO.: 8:14-CV-01844

COMPLAINT FOR DAMAGES

- 22 **1. RETALIATION**
- 23 **2. INTENTIONAL**
- 24 **INFLICTION OF**
- 25 **EMOTIONAL DISTRESS;**
- 26 **3. NEGLIGENT INFLECTION**
- 27 **OF EMOTIONAL**
- 28 **DISTRESS;**
- 4. WHISTLEBLOWER**
- VIOLATIONS; 18 U.S.C.**
- §1514A (SECTION 806) OF**
- THE SARBANES-OXLEY**
- ACT**

DEMAND FOR JURY TRIAL

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1 **INTRODUCTION**

2 1. Plaintiff Ashley Boehler began his employment with Defendant Zillow,
3 Inc. (“Zillow”) on or about September 17, 2012 as an Inside Sales Consultant. Shortly
4 thereafter, Mr. Boehler uncovered a clandestine credit card fraud scheme and reported
5 the scheme to his supervisors. Mr. Boehler’s supervisors chose to turn a blind eye and
6 reap the benefits of the fraudulently inflated business they reported back to Zillow’s
7 corporate headquarters. Mr. Boehler’s managers warned him to “not get involved”
8 and advised him to “stay out of matters” that were “not his business.” About a year
9 later, Mr. Boehler uncovered more widespread and pervasive fraudulent conduct
10 designed to rip off consumers and the public. Yet again, Zillow managers refused to
11 take action. Mr. Boehler thereafter chose to notify Zillow’s corporate offices of the
12 shockingly deceptive conduct occurring within its own offices. Despite Zillow’s
13 assurances that Mr. Boehler’s identity would remain confidential, such promises were
14 broken and Mr. Boehler’s managers in Irvine, California, started a retaliatory
15 campaign against Mr. Boehler designed to intimidate and harass him. Mr. Boehler
16 brings this action based on the retaliation he endured and to stop the abuse of power
17 occurring within Zillow’s offices.

18 **PARTIES**

19 2. Plaintiff Ashley Boehler, at all relevant times, was an individual residing
20 in Orange County, California.

21 3. Defendant Zillow, Inc. (NASDAQ: Z), at all relevant times, was a
22 Washington corporation registered to do business in the State of California. Zillow is
23 an online home and real estate marketplace for homebuyers, sellers, renters, real estate
24 agents, mortgage professionals, landlords, and property managers. Zillow claims its
25 database contains more than 110 million U.S. homes. Zillow also operates the largest
26 real estate and rental advertising networks in the country.

27 4. Plaintiff is unaware of the true names and capacities of the Defendants
28 named herein as Does 1 through 50, inclusive, and therefore sues said Defendants by

1 such fictitious names. Plaintiff will seek leave of court to amend this Complaint to
2 allege the true names and capacities of said Defendants when the same are
3 ascertained. Plaintiff is informed and believes and thereon alleges that each of the
4 aforesaid fictitiously named Defendants is responsible in some manner for the
5 happenings and occurrences hereinafter alleged, and that Plaintiff's damages and
6 injuries as herein alleged were caused by the conduct of said Defendants. The rest of
7 the time it was

8 **JURISDICTION AND VENUE**

9 5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332
10 because the amount in controversy as to Plaintiff exceeds \$75,000.00 exclusive of
11 interest and costs and because Defendant is incorporated and has its principal place of
12 business in a state other than the state in which the named Plaintiff resides.

13 6. This Court has supplemental jurisdiction over the remaining common law
14 and state claims pursuant to 28 U.S.C. §1367.

15 7. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because a
16 substantial part of the events giving rise to Plaintiff's claims occurred in the Central
17 District of California.

18 **GENERAL ALLEGATIONS**

19 8. Mr. Boehler began his employment with Zillow on or about September
20 17, 2012 as an inside sales consultant. Over the course of his employment with
21 Zillow, Mr. Boehler successfully performed his duties and consistently met his target
22 sales goals and other criteria established by Zillow. In fact, Mr. Boehler was not only
23 recognized on several occasions for excelling in the performance of his duties, but was
24 also routinely acknowledged as one of Zillow's top sales performers at the Irvine
25 office.

26 9. Despite his universal recognition as one of Zillow's top performers and
27 despite receiving numerous accolades from Zillow's management for his laudable
28 track record of consistently meeting and exceeding his target sales goals, Mr. Boehler

1 was nevertheless subjected to a hostile work environment. The hostile work
2 environment that Mr. Boehler was subjected to was specifically fueled by various
3 forms of retaliatory acts taken against Mr. Boehler by Zillow in retaliation for Mr.
4 Boehler raising several concerns with Zillow's management over certain aspects of
5 Zillow's corporate culture, including: general working conditions, wage and
6 hour/overtime pay issues, and most notably, numerous instances of systematic and
7 pervasive fraudulent activity that permeated throughout Zillow's Irvine office.

8 10. The first of these fraudulent activities that Mr. Boehler discovered
9 occurred not more than two months into his employment with Zillow. On or about
10 December 2012, Mr. Boehler discovered that a certain member of the inside sales
11 team at the Irvine office was involved in credit card fraud. Mr. Boehler reported his
12 discovery of the credit card fraud to Jon Boller and Edward Cornelius—two of
13 Zillow's managers at the Irvine office. Neither Mr. Boller nor Mr. Cornelius took any
14 action when they were advised of the fraudulent activity. Instead, both Mr. Boller and
15 Mr. Cornelius cautioned Mr. Boehler to "not get involved" and advised him to "stay
16 out of matters" that were "not his business."

17 11. About a year later, on or about October 2013, Mr. Boehler discovered
18 that the same individual who had previously been involved with the credit card fraud
19 from a year earlier was once again involved in additional fraudulent activities. Only
20 this time, these additional fraudulent activities not only involved credit card fraud, but
21 also encompassed and implicated additional fraudulent acts such as forged contracts,
22 instances of unlicensed real estate agents consulting with Zillow clients, and even
23 numerous RESPA violations. Once again, Mr. Boehler approached Zillow's local
24 Irvine management with the information he had discovered. And, once again, local
25 management refused to take action, instead flippantly remarking that they "would look
26 into it."

27 12. Because of the seriousness of the fraudulent activities as well as the
28 potential liability that Mr. Boehler feared Zillow could be faced with if these issues

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1 were not immediately addressed and rectified by Zillow’s management, Mr. Boehler
2 began compiling documentation that correlated to the additional fraudulent activities
3 and events that he had discovered in October 2013.

4 13. About a month later, on or about November 4, 2013, Mr. Boehler sent an
5 anonymous email entitled “Immediate Attention Needed” from an account entitled
6 “thezillowway@gmail.com” to several Zillow executives, including members of
7 Zillow’s own executive team at the local Irvine office as well members of upper
8 management in Zillow’s corporate office in Seattle. The email contained the
9 documentation that Mr. Boehler had compiled relating to the additional fraudulent
10 activities that Mr. Boehler had recently uncovered. A portion of that email follows:

11
12 This matter needs immediate attention. Our entire company, our
13 Premier Agent product, and the lender co-marketing program
14 could be at risk. Local management has been informed of these
15 accounts over one month ago and refuses to take action.
16 Numerous employees have complained...no action has been
17 taken...it seems as if management has actively chosen to look
18 the other way, or simply refuse to investigate for themselves.
19 We have major RESPA violations happening. We have agents
20 not licensed to service our customers as Premier Agents. We
21 have what appear to be forged contracts being signed.

22 14. Shortly after anonymously emailing the documentation to several Zillow
23 executives, Mr. Boehler came forward and revealed his identity only to Zillow’s upper
24 management in Seattle. It was thereafter that Mr. Boehler received an email on
25 November 15, 2013 from Mr. Chad Cohen, the CFO of Zillow at Zillow’s corporate
26 office in Seattle, assuring Mr. Boehler that his name will be kept confidential and that
27 the types of fraudulent activities that Mr. Boehler had brought to light “must never be
28 tolerated.” The content of that email is set forth below:

We will keep this confidential and thank you again for your
hard work pulling this together. It is brave of you to come

1 forward. These types of activities must never be tolerated. You
2 folks should go home this weekend knowing that you did
3 absolutely nothing wrong.

4 15. As a result of Mr. Boehler raising his concerns about the pervasive
5 fraudulent activities in his anonymous email, Zillow's upper management eventually
6 took action and certain Zillow employees were terminated.

7 16. Unfortunately, and despite the direct assurances by Zillow's CFO that his
8 identity would remain confidential, Mr. Boehler began to gradually suffer retaliation
9 from Zillow's management in the Irvine office on account of Mr. Boehler's efforts to
10 expose the pervasive fraudulent activity. Instances of Zillow's retaliation against Mr.
11 Boehler include: being "written up" and issued "poor reviews" for his work, being
12 removed from the "inbound queue" for several months before being arbitrarily
13 "reinstated" back into the queue, having potentially lucrative sales accounts stripped
14 from him and given to other representatives, consistently being micromanaged and
15 having his daily tasks closely scrutinized by several members of Zillow's management
16 team whereby Mr. Boehler had formerly enjoyed freedom from such overbearing
17 scrutiny, and receiving numerous closed-door "disciplinary pep talks" from Zillow's
18 management team for various "minor issues" and typically innocuous events. Several
19 of these instances are memorialized by reference to various email correspondence
20 between Mr. Boehler and Zillow Management.

- 21 a. In an email dated July 2, 2014, Mr. Gabe Schmidt referenced one of
22 numerous conversations that took place between Zillow management and
23 Mr. Boehler wherein Mr. Boehler received intense and arguably
24 excessive scrutiny of his job performance wherein Mr. Boehler had never
25 before been scrutinized or admonished like that.
- 26 b. In an email chain starting on August 21, 2014, Mr. Boehler demonstrates
27 how Zillow management overrides the stated rules of engagement for a
28

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1 sales account by giving the sale to another representative even though
2 Mr. Boehler had initiated the contact.

3 c. In an email dated August 5, 2014, Mr. Gabe Schmidt confirmed to Mr.
4 Boehler that “I put you back in the [inbound] queue” for which Mr.
5 Boehler had done absolutely nothing wrong to warrant his removal in the
6 first place. The inbound queue is a pivotal device for sale representatives
7 such as Mr. Boehler who rely on the leads found in the “queue” to more
8 quickly and efficiently identify and pursue potentially lucrative sales.

9 d. On August 25, 2014, Mr. Boehler was reprimanded by Gabe Schmidt for
10 “spending too much time with a new client.”

11 17. As the foregoing demonstrates, Mr. Boehler was repeatedly subjected to
12 retaliatory tactics by Zillow in the pretext of constant scrutiny and micromanagement
13 of Mr. Boehler’s duties. Prior to stepping forward and courageously reporting the
14 pervasive fraudulent activities to Zillow’s upper management team in its corporate
15 offices in Seattle, Mr. Boehler had never been subjected to such aforementioned
16 retaliatory tactics utilized by Zillow’s management team at the Irvine office.

17 **FIRST CAUSE OF ACTION**

18 **RETALIATION**

19 18. Plaintiff realleges and incorporates as if fully stated herein each and
20 every allegation contained above and incorporates the same herein by this reference as
21 though set forth in full.

22 19. Plaintiff brought forth his concerns over several pervasive fraudulent
23 activities that Defendant and several of its employees were engaged in.

24 20. Defendant failed to address Plaintiff’s concerns on numerous occasions.

25 21. Defendant failed to address Plaintiff’s concerns until Plaintiff sent out an
26 anonymous email to members of Defendant’s upper management located in
27 Defendant’s corporate offices headquartered in Seattle, Washington.

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1 22. The acts and/or omissions of Defendant materially and adversely affected
2 the terms and conditions of Plaintiff’s employment as Plaintiff was subjected to
3 ridicule, abuse, arbitrary and capricious reprimands, and various other austerity
4 measures taken against Plaintiff to punish him for “blowing the whistle” on the
5 pervasive fraudulent activities that Defendant was engaged in.

6 23. That Plaintiff discovered and revealed the pervasive fraudulent activities
7 was the sole motivating factor for the retaliatory acts taken against Plaintiff by
8 Defendant as set forth above.

9 24. Defendant Zillow ratified its agents, servants, employees, and authorized
10 representatives’ unlawful conduct and behavior as described herein by: (1) allowing
11 the pervasive fraudulent activity to occur without rectifying it despite repeated
12 attempts by Plaintiff to call it to Defendant’s attention; (2) condoning the pervasive
13 fraudulent activities by failing to act upon Plaintiff’s requests; and (3) condoning the
14 retaliatory measures taken against Plaintiff by failing to intervene and halt the
15 behavior and actions of Defendant’s management team in the Irvine office.

16 25. The acts and/or omissions of Defendant caused Plaintiff to suffer harm
17 and economic damages for loss of past projected commissions and earnings, loss of
18 earning capacity, loss of such employment related opportunities as the opportunity for
19 advancement and promotion within Defendant, in amounts according to proof at trial.

20 26. In engaging in the conduct as hereinabove alleged, Defendant and its
21 agents, servants, employees, and authorized representatives acted with malice, fraud,
22 and oppression and/or in conscious disregard of Plaintiff’s health, rights, and well-
23 being, and intended to subject Plaintiff to unjust hardship, thereby warranting an
24 assessment of punitive damages in an amount sufficient to punish Defendants and
25 deter others from engaging in similar conduct.

SECOND CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

1
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3 27. Plaintiff realleges and incorporates as if fully stated herein each and
4 every allegation contained above and incorporates the same herein by this reference as
5 though set forth in full.

6 28. Defendant’s conduct, as described above, was extreme and outrageous
7 and beyond the bounds of decency tolerated in a civilized society.

8 29. Defendant’s conduct was intended to cause Plaintiff emotional distress
9 and Defendant acted with a reckless disregard to the probability that Plaintiff would
10 suffer emotional distress.

11 30. Defendant Zillow ratified its agents, servants, employees, and authorized
12 representatives’ unlawful conduct and behavior as described herein by: (1) allowing
13 the pervasive fraudulent activity to occur without rectifying it despite repeated
14 attempts by Plaintiff to call it to Defendant’s attention; (2) condoning the pervasive
15 fraudulent activities by failing to act upon Plaintiff’s requests; and (3) condoning the
16 retaliatory measures taken against Plaintiff by failing to intervene and halt the
17 behavior and actions of Defendant’s management team in the Irvine office.

18 31. Plaintiff suffered severe emotional distress.

19 32. Defendant was a substantial factor in causing Plaintiff’s severe emotional
20 distress.

21 33. As a direct and proximate cause of the tortious, unlawful, and wrongful
22 acts of Defendant and its respective agents, servants, employees, and authorized
23 representatives as aforesaid, Plaintiff has suffered past and future special damages and
24 past and future general damages in an amount according to proof at trial. Plaintiff has
25 been damaged emotionally and financially, including but not limited to emotional
26 suffering from emotional distress and ridicule, as well as loss of income and earnings
27 potential.
28

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1 46. Plaintiff suffered an unfavorable personnel action(s) by being subjected
2 to unprecedented scrutiny and overbearing micromanagement of daily tasks,
3 unwarranted negative performance reviews, austerity measures in the form of
4 commissions hi-jacking, and other measures that directly and negatively affected
5 Plaintiff's earnings.

6 47. The protected activity was the contributing factor in the unfavorable
7 personnel action as set forth above, which invariably affected the outcome of
8 Defendant's decision to exercise such an unfavorable personnel action(s) against
9 Plaintiff.

10 48. Causation is established and inferred from the timing of the adverse
11 employment action(s) following on the heels of the protected activity.

12 49. Defendant cannot and will not be able to prove by clear and convincing
13 evidence that such unfavorable personnel action(s) as set forth above would have been
14 taken in the absence of Plaintiff's protected behavior and/or conduct in reporting the
15 pervasive fraudulent activities to Defendant's corporate offices in Seattle,
16 Washington.

17 50. As a direct and proximate cause of the tortious, unlawful, and wrongful
18 acts of Defendant and its respective agents, servants, employees, and authorized
19 representatives as aforesaid, Plaintiff has suffered past and future special damages,
20 including impairment of reputation and personal humiliation, past and future general
21 damages in an amount according to proof at trial. Plaintiff has been damaged
22 emotionally and financially, including but not limited to emotional suffering from
23 emotional distress and ridicule, as well as loss of income and earnings potential.

24 51. In engaging in the conduct as hereinabove alleged, Defendant and its
25 agents, servants, employees, and authorized representatives acted with malice, fraud,
26 and oppression and/or in conscious disregard of Plaintiff's health, rights, and well-
27 being, and intended to subject Plaintiff to unjust hardship, thereby warranting an
28

1 assessment of punitive damages in an amount sufficient to punish Defendants and
2 deter others from engaging in similar conduct.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff Ashley Boehler respectfully requests for judgment to
5 be entered upon Defendant Zillow, Inc. as follows:

- 6 1. For general and special damages for an amount to be determined at trial;
- 7 2. For pre- and post-judgment interest according to proof;
- 8 3. For Punitive Damages where applicable;
- 9 4. For Attorney Fees where applicable;
- 10 3. For costs of suit incurred herein; and
- 11 4. For all other relief as this court may deem proper.

12 DATED: November 19, 2014

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16 By: /s/ MARK J. GERAGOS
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DEMAND FOR JURY TRIAL

Plaintiff Ashley Boehler hereby demands a jury trial.

DATED: November 19, 2014

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