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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

| | |
|---|---------------------------------|
| RYAN OWENS, individually and on behalf of) | Case No. 19CV352374 |
| all others similarly situated,) | |
| Plaintiff,) | <u>CLASS ACTION</u> |
| vs.) | |
| CANNTRUST HOLDINGS INC., PETER) | COMPLAINT FOR VIOLATIONS OF THE |
| ACETO, GREG GUYATT, ERIC PAUL,) | SECURITIES ACT OF 1933 |
| MERRILL LYNCH, PIERCE, FENNER &) | |
| SMITH INC., CITIGROUP GLOBAL) | <u>DEMAND FOR JURY TRIAL</u> |
| MARKETS INC., CREDIT SUISSE) | |
| SECURITIES (USA) LLC, RBC DOMINION) | |
| SECURITIES INC., JEFFERIES LLC, and) | |
| CANACCORD GENUITY LLC,) | |
| Defendants.) | |

1 Plaintiff Ryan Owens, individually and on behalf of all others similarly situated alleges the
2 following.

3 SUMMARY OF THE ACTION

4 1. Plaintiff brings claims under §§11, 12, and 15 of the Securities Act of 1933 (“1933
5 Act” or “Securities Act”) against CannTrust, certain CannTrust officers and directors, and the
6 underwriters of the offering described in this complaint.

7 2. Defendant CannTrust (“CannTrust” or the “Company”) is a producer and distributor
8 of medical and recreational cannabis. CannTrust’s common stock was traded over the counter until
9 February 25, 2019, when it became listed on the NYSE under the ticker symbol “CTST.”

10 3. After its listing on the NYSE, the Company conducted a share offering in which it
11 registered new shares of common stock that it issued to investors, including Plaintiff and members
12 of the class. The Company registered approximately \$531 million in new shares, warrants, and
13 debt securities under a registration statement that was issued March 1 (and included a short form
14 prospectus), amended March 18, and became effective on March 19, 2019. On April 22, 2019, the
15 Company issued a preliminary prospectus supplement. On May 3, 2019, CannTrust amended and
16 finalized the prospectus supplement to qualify the distribution of 36,363,636 common shares at a
17 price of \$5.50 per common share. Together, these materials are referred to as the “offering
18 materials.”

19 4. Plaintiff brings this action on his own behalf and on behalf of all those who
20 purchased or otherwise acquired CannTrust common stock pursuant or traceable to the offering
21 materials issued in connection with the company’s 2019 offering (the “offering”), including the
22 registration statement, the prospectus, and various prospectus supplements described above.

23 5. The cannabis industry is regulated, both in Canada and in the United States. One
24 requirement under Canadian law is that cannabis growing facilities be licensed by Health
25 Canada—the Canadian regulator responsible for oversight of the cannabis industry. Unbeknownst
26 to investors like Plaintiff, CannTrust lacked the required licenses for some of its main growing
27 facilities in Canada, and was producing cannabis in these unlicensed facilities, a fact that the
28 Company misrepresented and failed to disclose to investors in its offering materials.

1 6. On July 8, 2019, CannTrust disclosed that Health Canada had found that
2 CannTrust's operation of its greenhouse facility in Pelham, Ontario, violated governing
3 regulations. Specifically, Health Canada issued a report on July 3 concluding that the Company
4 had been growing cannabis in five unlicensed rooms at its Niagara campus in Pelham, Ontario,
5 between October 2018 and March 2019. As a result, Health Canada placed an inventory hold on
6 approximately 5,200 kilograms of dried cannabis harvested from the unlicensed facility, and
7 CannTrust agreed to place a voluntary inventory hold on an additional 7,500 kilograms of
8 cannabis. CannTrust is now unable to sell the held inventory and is subject to significant inventory
9 holding costs. On July 8, 2019, following news of CannTrust's licensing violations, the
10 company's stock price fell \$1.11, more than 22%, to close at \$3.83 per share.

11 7. In the press release announcing the Company's non-compliance, CannTrust's then-
12 CEO, Peter Aceto acknowledged "[w]e have made errors in judgment, but the lessons we have
13 learned here will serve us well moving forward." It has since been reported that company
14 executives, including Aceto and then-Chairman Eric Paul, were aware of the compliance breaches
15 as early as November 2018 (prior to conducting the offering). In a November 16, 2018 email from
16 Graham Lee, CannTrust's director of quality and compliance, to Aceto other executives that was
17 later forwarded to Paul, Lee advised that Health Canada had completed its investigation, that it had
18 discovered compliance shortfalls, but that it had not identified the plants growing in the unlicensed
19 rooms. According to Lee "[w]e dodged some bullets. [Health Canada] did not ask about RG8E/W,
20 which are unlicensed rooms currently full of plants."

21 8. On July 9, 2019, Aceto confirmed that some of the cannabis grown in the
22 unlicensed facility had been shipped across Canada and exported internationally potentially in
23 violation of Canadian and international law, causing CannTrust stock to decline an additional 6%,
24 to close at \$3.60. On July 12, 2019, CannTrust announced that it is putting a hold on the sale and
25 shipment of all cannabis products pending the completion of Health Canada's investigation,
26 causing the stock to drop an additional 17%, to close at \$2.58. On July 24, 2019, reports surfaced
27 that senior CannTrust executives—including Chairman Eric Paul and CEO Aceto—had actual
28 knowledge that the Company was growing cannabis in unlicensed rooms, including its main

1 facility in Pelham, Ontario, for months before regulators discovered it in early July 2019. The news
2 caused CannTrust's stock to drop another 22%, to close at \$2.04. On July 26, 2019, the Company
3 announced it had terminated Aceto with cause, and that its board of directors had asked Chairman
4 Eric Paul to resign.

5 9. At the time of this complaint, the Company's stock has a trading price of \$2.27 per
6 share, and a market capitalization of approximately \$319 million. The stock was priced at \$5.50
7 per share in the offering and had traded at over \$6.00 per share before the truth about its unlicensed
8 grow facility emerged.

9 JURISDICTION AND VENUE

10 10. This Court has original subject matter jurisdiction under the California Constitution,
11 Article VI, Section 10. Removal is barred by Section 22 of the 1933 Act.

12 11. This Court has personal jurisdiction under California Code of Civil Procedure
13 §410.10. On June 19, 2019, CannTrust announced the establishment of its United States operations
14 in California. The Company has formed partnerships with California based companies in
15 connection with its establishment of United States operations here, and has announced its intent to
16 secure a long-term lease for over 3,000 acres of farmland for business purposes in California. The
17 Company does not have operations in any other state in the U.S.

18 12. This Court is a proper venue under California Code of Civil Procedure § 395.

19 PARTIES

20 13. Plaintiff Ryan Owens purchased CannTrust common stock pursuant, and traceable,
21 to the offering materials, and was damaged thereby. The settlement dates for Plaintiffs' purchases
22 were May 6 and May 9, 2019 respectively. He purchased the May 6 shares at \$5.60 and \$5.76 per
23 share. He purchased his May 9 shares at \$5.77 per share. Plaintiff resides in Philadelphia,
24 Pennsylvania.

25 14. Defendant CannTrust is a licensed producer and distributor of medical and
26 recreational cannabis. CannTrust is incorporated under the laws of Ontario, Canada. Its principal
27 executive offices are located in Vaughn, Ontario, Canada, and the company recently announced the
28

1 establishment of United States operations in California on June 19, 2019. The stock traded on the
2 OTC Markets Pink Open Market until February 25, 2019, when it began trading on the NYSE.

3 15. Defendant Aceto served as the Company's CEO from October 1, 2018, until his
4 termination on July 26, 2019. Aceto made materially false and misleading statements and material
5 omissions in CannTrust filings with the SEC and SEDAR (the electronic filing system for public
6 companies in Canada), and the offering materials.

7 16. Defendant Greg Guyatt has served as the Company's CFO since February 19, 2019.
8 Guyatt made materially false and misleading statements and material omissions in CannTrust
9 filings with the SEC and SEDAR, and the offering materials.

10 17. Defendant Eric Paul is the co-founder and former CEO of CannTrust. He served as
11 the Company's Chairman until approximately July 26, 2016, when he was asked to resign and
12 complied. Paul signed the registration statement and therefore made materially false and
13 misleading statements and material omissions as described below.

14 18. Aceto, Paul, Guyatt are referred to as the "Individual Defendants." The Individual
15 Defendants each signed the registration statement, solicited the investing public to purchase
16 securities registered pursuant to the registration statement, hired and assisted the underwriters,
17 planned and contributed to the offering and registration statement, and promoted and presented
18 favorable information to potential CannTrust investors.

19 19. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated is a financial
20 services company that acted as an underwriter for the offering, helping to draft and disseminate
21 offering materials and solicit investors to purchase CannTrust securities registered pursuant to the
22 registration statement.

23 20. Citigroup Global Markets Inc. is a financial services company that acted as an
24 underwriter for the offering, helping to draft and disseminate offering materials and solicit
25 investors to purchase CannTrust securities registered pursuant to the registration statement.

26 21. Credit Suisse Securities (USA) LLC is a financial services company that acted as an
27 underwriter for the IPO, helping to draft and disseminate offering materials and solicit investors to
28 purchase CannTrust securities registered pursuant to the registration statement.

1 22. Defendant RBC Dominion Securities Inc. is a financial services company that acted
2 as an underwriter for the IPO, helping to draft and disseminate offering materials and solicit
3 investors to purchase CannTrust securities registered pursuant to the registration statement.

4 23. Defendant Jefferies LLC is a financial services company that acted as an
5 underwriter for the IPO, helping to draft and disseminate offering materials and solicit investors to
6 purchase CannTrust securities registered pursuant to the registration statement.

7 24. Defendant Canaccord Genuity LLC is a financial services company that acted as an
8 underwriter for the IPO, helping to draft and disseminate offering materials and solicit investors to
9 purchase CannTrust securities registered pursuant to the registration statement.

10 25. Defendants Merrill Lynch, Citigroup, Credit Suisse, RBC, Jefferies, and Canaccord
11 are collectively referred to as the “Underwriter Defendants.” CannTrust, the Individual Defendants,
12 and the Underwriter Defendants are collectively referred to as the “Defendants.”

13 26. Pursuant to the Securities Act, the Underwriter Defendants are liable for the false
14 and misleading statements in offering materials as follows:

15 (a) The Underwriter Defendants are financial services companies that specialize
16 in underwriting public offerings of securities. They served as the underwriters of the offering and
17 shared in fees as a result.

18 (b) The Underwriter Defendants also demanded and obtained an agreement
19 from CannTrust and the Individual Defendants that CannTrust would indemnify and hold the
20 Underwriter Defendants harmless from any liability under the federal securities laws.

21 (c) Representatives of the Underwriter Defendants also assisted CannTrust and
22 the Individual Defendants in planning the offering, and purportedly conducted an adequate and
23 reasonable investigation into the business and operations of CannTrust, an undertaking known as a
24 “due diligence” investigation. The due diligence investigation was required of the Underwriter
25 Defendants in order to engage in the offering. During their “due diligence,” the Underwriter
26 Defendants had access to confidential corporate information concerning CannTrust’s operations,
27 licensing information, and financial prospects.

(d) In addition to having access to internal corporate documents, agents of the Underwriter Defendants met and communicated with CannTrust's lawyers, management and top executives prior to the offering. As a result of those contacts and communications between the Underwriter Defendants' representatives and CannTrust's management and top executives, the Underwriter Defendants knew of, or in the exercise of reasonable care should have known of, CannTrust's misconduct as detailed in this complaint.

(e) The Underwriter Defendants caused the offering materials to be filed with the SEC and declared effective in connection with the offer and sale of securities registered through the registration statement, including those sold to Plaintiff.

SUBSTANTIVE ALLEGATIONS

A. Materially False and Misleading Statements Issued in Offering Materials

27. The offering materials governing the offering are summarized in the below table.

| Date | Filing Name |
|----------------|--|
| March 1, 2019 | [Form F-10] Registration Statement |
| March 18, 2019 | [Form F-10/A] Amended Registration Statement |
| March 19, 2019 | Notice of Effectiveness for March 18, 2019 Amended Registration Statement |
| April 22, 2019 | Preliminary Prospectus Supplement to The Short Form Base Shelf Prospectus Dated March 18, 2019 |
| May 3, 2019 | Prospectus Supplement to The Short Form Base Shelf Prospectus Dated March 18, 2019 |

28. The Company's registration statement became effective on March 19, 2019. Defendants made false and misleading statements and omissions concerning CannTrust's licensing and regulatory status both in the offering materials and in materials incorporated by reference into the offering materials.

1. False and Misleading Statements and Omissions in the Offering Materials

29. On February 25, 2019, CannTrust stock started trading on the NYSE, under the ticker symbol "CTST." Shortly after it began trading on the NYSE, the Company filed the offering

1 materials, which contain false and misleading statements and omissions concerning CannTrust's
2 business and licensing status that directly damaged its investors.

3 30. The offering materials used to effectuate CannTrust's offering were false and
4 misleading in that the materials misled investors with respect to the Company's status as a licensed
5 producer and distributor of medical and recreational cannabis.

6 31. On March 1, 2019, the Company filed a registration statement with the SEC, where
7 approximately \$531 million in new shares, warrants, and debt securities were registered. The
8 registration statement does not disclose that any portion of CannTrust's Niagara facility is
9 unlicensed.

10 32. CannTrust amended the registration statement on March 18, 2019, and the
11 registration statement became effective on March 19, 2019. The newly filed offering materials
12 contained false and misleading representations and omitted reference to the lack of licensing
13 central to this action.

14 33. The registration statement made the following representations concerning
15 CannTrust's business and status as a federally licensed producer and distributor of cannabis:

16 **Business of the Company . . .**

17 *CannTrust is a federally regulated licensed producer and distributor of*
18 *medical and recreational cannabis in Canada.* The Company's strategy is to
19 produce the highest quality, standardized cannabis products. It is dedicated
20 to the "pharmaceuticalization" of the medical cannabis market. The
21 Company is also emerging as a leader in the adult-use recreational cannabis
22 market.

23 34. The registration statement also provides as follows concerning the Canadian
24 cannabis regulatory framework, without disclosing CannTrust's failure to comply with that
25 framework:

26 **Background . . .**

27 The Cannabis Act and Cannabis Regulations came into force on October 17,
28 2018, thereby legalizing the sale of cannabis for adult recreational use, and
replacing the ACMPR and the *Controlled Drugs and Substances*
Act (Canada) (the "CDSA"), as the governing legislation on the production,
sale and distribution of medical cannabis. The ACMPR was repealed on the
same day.

1 The Cannabis Act sets up the regulatory framework and licensing scheme for
2 production, importation, exportation, testing, packaging, labelling, sending,
3 delivery, transportation, sale, possession and disposal of cannabis for non-
4 medicinal use (i.e., adult use). The Cannabis Act also regulates access to
5 cannabis for medical purposes. The Cannabis Regulations provide the more
6 detailed rules and standards that apply to the production, distribution, sale,
7 importation and exportation of cannabis by federal license holders.

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10
11
12 35. With regard to its compliance with the regulatory framework governing cannabis,
13 CannTrust states affirmatively in the registration statement:

14
15 The following summary addresses the primary Canadian federal and
16 provincial laws and regulations associated with the production and
17 distribution of legal cannabis and related products. It does not address the
18 laws and regulations of any other jurisdiction. *The Company believes that, as
19 of the date of this prospectus, it is in material compliance with all laws and
20 regulations summarized below.*

21
22
23
24 36. On April 22, 2019, CannTrust filed a prospectus supplement with the SEC, which it
25 amended on May 3, 2019. Like the registration statement, the prospectus supplement contains
26 omissions and misstatements concerning licensing. In the amended prospectus supplement filed on
27 May 3, 2019, CannTrust qualified the distribution of approximately 36 million shares of common
28 stock at an offering price of \$5.50 per share.

35. Among other things, the prospectus supplement states the following concerning
CannTrust's licensing status:

What Sets Us Apart?

*CannTrust is a widely recognized, industry-leading, licensed producer of
cannabis in Canada. We are a cultivation leader focused on innovation and
have developed state-of-the-art facilities that support our ability to be a
leading low-cost, high-quality producer with scale. We have received
multiple industry awards, including seven awards at the 2018 Canadian
Cannabis Awards, most notably **Licensed Producer of the Year**.*

* * *

Risks Related to Our Business

The failure of us to obtain and maintain the applicable licences

Health Canada has issued licences to CannTrust Opco for each of our facilities
(the "Cannabis Licences" and each a "Cannabis Licence"). The Cannabis
Licence for the Vaughan Facility expires on March 13, 2020, and ***the
Cannabis Licence for the Niagara Facility expires on October 6, 2020.*** Any
loss of interest in any such required licence or permit, or the failure of any

governmental authority to issue or renew such licences or permits upon acceptable terms, would have a material adverse impact upon our business.

* * *

Premier Operating Capabilities

.... We believe that the efficiency of our operating model, including our production capacity and research and development, *makes us one of the few licensed producers with a clear, identifiable path to growth and profitability.*

* * *

Overview

.... We are a **licensed** producer and distributor of medical and recreational cannabis pursuant to the provisions of the Cannabis Act (Canada) (the “Cannabis Act”) and its regulations which came into force on October 17, 2018. Our primary focus is to produce and deliver the highest quality, standardized, cannabis products, strengthen our market share in legal cannabis markets in Canada, and expand our business in legal cannabis markets internationally.

We received our license from Health Canada in June 2014, and began production of medical cannabis at our hydroponic indoor facility in Vaughan, Ontario (the “Vaughan Facility”). In 2018, we repurposed the Vaughan Facility from a grow facility into a state-of-the-art extraction, manufacturing and packaging facility of approximately 60,000 square feet, including an in-house quality control laboratory. We own and operate an approximately 450,000 square foot perpetual harvest facility in the Niagara region (the “Niagara Facility”), which is expected to have an annual capacity of approximately 50,000 kilograms. The planned Phase 3 expansion is expected to increase the annual capacity of the Niagara Facility to 100,000 kilograms upon its completion.

* * *

Operational Overview

| | Location | Use | Size | Capacity | Status | License |
|-----------------------|--------------------------|-----------------------------|----------------|-----------------------------------|---------------|----------------------|
| Vaughan | Vaughan, Ontario, Canada | Manufacturing and Packaging | 60,000 sq ft | n/a | In production | Cultivation and sale |
| Niagara Phase 1 and 2 | Pelham, Ontario, Canada | Grow | 450,000 sq ft | 50,000 kg/year | In production | Cultivation and sale |
| Niagara Phase 3 | Pelham, Ontario, Canada | Grow | 390,000 sq ft | 50,000 kg/year | Permitted | |
| Outdoor | Canada | Grow | Over 200 acres | 100,000 kg/year – 200,000 kg/year | Planned | |

* * *

Capital Projects

We received our Health Canada License under the ACMPR on October 6, 2017 for the Phase 1 redevelopment. On February 12, 2018 we obtained our Health Canada sales license under the ACMPR and began operating Phase 1 at full capacity. The 200,000 square foot Phase 2 expansion at the Niagara Facility was substantially completed in the first quarter of 2019.

38. The prospectus supplement makes the following false and misleading statements concerning the licensing of its facilities:

The Vaughan Facility and Niagara Facility

Currently, our activities and resources are focused on the operation of the Vaughan Facility and Niagara Facility, and *our current licences under the Cannabis Act are specific to the Vaughan and Niagara facilities.*

* * *

Recent Developments

Operational

In the quarter ended March 31, 2019, we harvested approximately 9,424 kg of cannabis from our Niagara Facility, representing an increase of 96% from the fourth quarter of 2018. In April 2019, *our cultivation and processing permit under Health Canada Cannabis Regulations was amended to include the final 20% of our Phase 2 expansion, which is now fully licensed.* With the Phase 2 expansion, we expect full production to be achieved by the end of the second quarter of 2019 at an annualized rate of 50,000 kg per year.

* * *

Business Developments

. . . . In March 2017, through [a wholly-owned subsidiary Elmcliffe], we acquired the real estate assets and related equipment of a greenhouse in the Town of Fenwick, Ontario within the Niagara Region. ***In October 2017, we received our Health Canada Cultivation Licence under the ACMPR for its completed 250,000 square foot Phase 1 redevelopment of the Niagara Facility and began production there.*** We believe the redevelopment of the Niagara Facility was Canada's first automated perpetual harvest designed specifically for this scale of cannabis production. ***We received our Health Canada Sales License for the Niagara Facility in February 2018.*** The Phase 2 expansion at the Niagara Facility was substantially completed during the first quarter of 2019 and Health Canada approved the amendment of our cultivation and processing permit to include the final 20% of the Phase 2 expansion on April 8, 2019.

* * *

Facilities & Operations

. . . . We have completed the Phase 1 redevelopment of the Niagara Facility which is approximately 250,000 square feet and the Phase 2 expansion of approximately 200,000 square feet to *which Health Canada granted a cultivation and production license.* On October 24, 2018, we purchased a 19.4 acre property adjacent to the Niagara Facility and will begin construction of an additional 390,000 square foot Phase 3 expansion on that land. *On January 22, 2019, we obtained all necessary permits from the Town of Pelham (where the Niagara Facility is located) for the Phase 3 expansion, which is expected to be completed during 2020.*

39. On May 6, 2019, the Company announced the closing of its previously-announced underwritten public offering of 36,363,636 common shares at a price to the public of \$5.50 per share.

40. In the May 6, 2019, announcement, the Company also stated that it was licensed and failed to disclose that any portion of its main grow facility in Pelham was unlicensed. Specifically:

About CannTrust . . .

CannTrust is a *federally regulated licensed producer of medical and recreational cannabis in Canada*. Founded by pharmacists, CannTrust brings more than 40 years of pharmaceutical and healthcare experience to the medical cannabis industry and serves more than 69,000 medical patients with its dried, extract and capsule products. The Company operates its Niagara Perpetual Harvest Facility in Pelham, Ontario, and prepares and packages its product portfolio at its manufacturing centre of excellence in Vaughan, Ontario.

2. False and Misleading Statements and Omissions in Material Incorporated by Reference into the Offering Materials

41. CannTrust's offering materials incorporate by reference materials that contain false, misleading, and deceptive information regarding the Company.

42. The documents incorporated by reference into the offering materials also omit reference to the fact that the Company was producing and distributing cannabis from its unlicensed grow facilities, despite Defendants having actual knowledge of this fact.

43. The false and misleading statements and omissions incorporated by reference into the offering materials are summarized in the table below.

| Date | Filing Name | Misstatement/Omission |
|----------------|--|---|
| March 29, 2018 | Annual Information Form of the Company for the fiscal year ended December 31, 2017 | <i>Three Year History</i> <i>On October 10, 2017, the Company received its Health Canada cultivation license under the ACMPR for its 250,000 square foot Phase 1 redevelopment of its 430,000 square foot Niagara Facility.</i> <i>Principal Products</i> <i>The sales licenses issued by Health Canada to CannTrust Opco for the Vaughan Facility and the</i> |

| Date | Filing Name | Misstatement/Omission |
|------|-------------|---|
| | | <p><i>Niagara Facility (collectively, the "ACMPR Licenses") are effective until the expected renewal dates of March 13, 2020 and October 6, 2020, respectively. The ACMPR Licenses allow for the production, sale or provision, possession, shipping, transportation, delivery and destruction of dried cannabis and cannabis plants or seeds. It allows the Vaughan Facility and the Niagara Facility to produce dried cannabis and cannabis extracts up to such amounts as permitted by CannTrust Opco's storage capacity (See "Storage and Security").</i></p> <p><i>ACMPR License Renewal</i></p> <p><i>CannTrust Opco's ACMPR Licenses for the Vaughan Facility and the Niagara Facility are valid until March 13, 2020 and October 6, 2020, respectively.</i></p> <p><i>ACMPR Licenses</i></p> <p><i>The Company has sought and received its ACMPR Licenses for the Vaughan Facility and Niagara Facility which each provide for (a) the production and sale of dried cannabis; (b) the production and sale of cannabis oil (c) the production and sale of cannabis in its natural form: cannabis resin; (d) the production and sale of cannabis plants; and (e) the production and sale of cannabis seeds.</i></p> <p><i>Reliance on Licenses</i></p> <p><i>The operations of the Company require it to obtain ACMPR Licences for the transportation, distribution, production and sale of medical cannabis, and in some cases, renewals of existing licences from, and the issuance of permits by certain national authorities in Canada. The Company believes that it currently holds or has applied for all necessary licences and permits to carry on the activities which it is currently conducting under applicable laws and regulations, and also believes that it is complying</i></p> |

| Date | Filing Name | Misstatement/Omission |
|-------------------|---|---|
| | | <i>in all material respects with the terms of such licences and permits.</i> |
| March 29, 2018 | The Company's management's discussion and analysis for the year ended December 31, 2017 | Overview <i>CannTrust Opco is a Licenced Producer and distributor of medical cannabis pursuant to the provisions of the Access to Cannabis for Medical Purposes Regulations (Canada) ("ACMPR"). CannTrust Opco received its license from Health Canada on June 12, 2014 and began production of medical cannabis at its state-of-the-art hydroponic indoor facility in Vaughan, Ontario (the "Vaughan Facility"). The Company's primary focus is to produce and deliver the highest quality, standardized, pharmaceutical grade cannabis products and in so doing strengthen its market share in legal cannabis markets in Canada and to establish positions for its products in legal cannabis markets abroad.</i> |
| November 14, 2018 | The Company's management's discussion and analysis for the three and nine months ended September 30, 2018 | Overview <i>CannTrust Opco is a Licenced Producer and distributor of medical cannabis pursuant to the provisions of the Access to Cannabis for Medical Purposes Regulations (Canada) ("ACMPR"). CannTrust Opco received its license from Health Canada on June 12, 2014 and began production of medical cannabis at its state-of-the-art hydroponic indoor facility in Vaughan, Ontario (the "Vaughan Facility"). The Company's primary focus is to produce and deliver the highest quality, standardized, pharmaceutical grade cannabis products and in so doing strengthen its market share in legal cannabis markets in Canada and to establish positions for its products in legal cannabis markets abroad.</i> |

B. Establishment of Operations in the United States

44. On June 19, 2019, CannTrust, a self-described "federally regulated licensed producer," announced that it is establishing operations in the United States, starting with the State of California, with plans to expand significantly within the US. Specifically:

CannTrust Establishes U.S. Operations

VAUGHAN, ON, June 19, 2019 – Today, CannTrust Holdings Inc. ("CannTrust" or the "Company", TSX: TRST, NYSE: CTST), a federally

regulated licensed producer of medical and recreational cannabis with more than 72,000 patients in Canada, announced that it is establishing operations in the United States (“U.S.”), starting in the State of California.

...

About CannTrust

CannTrust is a federally regulated licensed producer of medical and recreational cannabis in Canada. Founded by pharmacists, CannTrust brings more than 40 years of pharmaceutical and healthcare experience to the medical cannabis industry and serves more than 72,000 medical patients with its dried, extract and capsule products. The Company operates its Niagara Perpetual Harvest Facility in Pelham, Ontario, and prepares and packages its product portfolio at its manufacturing centre of excellence in Vaughan, Ontario. The Company has also purchased 81 acres of land in British Columbia and expects to secure over 200 acres of land in total for low-cost outdoor cultivation which it will use primarily for its extraction-based products.

C. The Truth Emerges

45. On July 8, 2019, CannTrust released a statement announcing that its facility in Pelham, Ontario is non-compliant with Canadian regulations and that the Company had been growing cannabis in unlicensed rooms between October 2018 and March 2019. In its press release, CannTrust stated, in relevant part:

VAUGHAN, ON, July 8, 2019 /CNW/ – CannTrust Holdings Inc. (“CannTrust” or the “Company”, TSX: TRST, NYSE: CTST) has received a compliance report from Health Canada notifying the Company that its greenhouse facility in Pelham, Ontario is non-compliant with certain regulations. CannTrust has accepted Health Canada’s non-compliance finding and has taken actions to ensure current and future compliance.

The non-compliant rating is based on observations by the regulator regarding the growing of cannabis in five unlicensed rooms and inaccurate information provided to the regulator by CannTrust employees. Growing in unlicensed rooms took place from October 2018 to March 2019 during which time CannTrust had pending applications for these rooms with Health Canada. These rooms were constructed in accordance with regulations and Good Production Practices, and licenses were issued for each of the five rooms in April 2019. There are 12 rooms in total at the facility.

Health Canada has placed a hold on inventory which includes 5,200kg of dried cannabis that was harvested in the previously unlicensed rooms in Pelham, until it deems that the Company is compliant with regulations. In addition, CannTrust has instituted a voluntary hold of 7,500kg of dried

1 cannabis equivalent at its Vaughan manufacturing facility that was
2 produced in the previously unlicensed rooms.

3 CannTrust's operations at its Pelham and Vaughan facilities remain fully
4 licensed and the Company continues to grow, cultivate, harvest and sell
5 cannabis. Health Canada is conducting quality checks of product samples
6 on hold at Pelham, with results expected in 10 to 12 business days. *Due to
7 the product on hold, some CannTrust customers and patients will
8 experience temporary product shortages.* The Company is exploring
9 options to mitigate these shortages.

10 All product sold from the impacted rooms has passed quality control testing
11 at Health Canada certified labs as well as CannTrust's own quality control
12 processes and safety reviews.

13 "Our team has focused on building a culture of transparency, trust and
14 excellence in every aspect of our business, including our interactions with
15 the regulator. We have made many changes to make this right with Health
16 Canada. *We made errors in judgement, but the lessons we have learned here
17 will serve us well moving forward,*" said Peter Aceto, Chief Executive
18 Officer.

19 46. On this news, CannTrust's stock price fell \$1.11, or more than 22%, to close at
20 \$3.83 per share on July 8, 2019, on unusually heavy trading volume.

21 47. On July 9, 2019, the Company's CEO, Defendant Aceto confirmed that some of the
22 cannabis grown in the unlicensed facility had been shipped across Canada and exported
23 internationally. On this news, CannTrust's stock price fell an additional 6%, to close at \$3.60.

24 48. On July 12, 2019, CannTrust announced that it is putting a hold on the sale and
25 shipment of its cannabis products due to the unlicensed status of its grow facility, and that the
26 company had formed an independent special committee of the board to investigate its licensing
27 issues. On this news, CannTrust's stock price fell an additional 17%, to close at \$2.58.

28 49. On July 24, 2019, reports surfaced that senior CannTrust executives—including
Chairman Eric Paul and CEO Aceto—were aware that the Company was growing cannabis in
unlicensed rooms, including its main facility for months before regulators discovered it in early
July, 2019. In November 2018, Aceto, Paul, and others corresponded by email concerning Health
Canada's inspection, and the fact that the Company had "dodged some bullets" because, while

1 Health Canada had identified unlicensed facilities, it had not discovered “unlicensed rooms
2 currently full of plants.”

3 50. The November 2018 email (sent by the Company’s director of quality and
4 compliance to Aceto, and later forwarded to Paul) lists “current risks” as including plants grown in
5 unlicensed rooms, the storage of cannabis in unlicensed rooms, and the “large numbers of lost
6 bottles [of cannabis] we have not reported.” CannTrust’s quality and compliance director
7 expressed his concern that the regulatory shortcomings will “paint a picture with the regulator of a
8 company not in control.” In response to the email, Defendant Paul stated “[w]e need to clearly
9 point out that we have been diligent in submitting the applications for each new area and they have
10 been slow in responding. We are supporting the legislation and we need their cooperation. Politely
11 as always.”

12 51. On news that executives knew of the non-compliance issues well before the Health
13 Canada disclosure, CannTrust’s stock price fell an additional 22%, to close at \$2.04.

14 52. On July 26, 2019, the Company announced that the board had terminated Aceto
15 with cause, and that Paul had agreed to resign as Chairman.

16 53. The statements enumerated above, including those in the offering materials were
17 materially inaccurate, misleading, or incomplete because they failed to disclose material adverse
18 facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to
19 disclose to investors that: (1) the Company was growing cannabis in its Pelham greenhouse while
20 applications for regulatory approval were still pending; (2) the Company’s Pelham greenhouse did
21 not comply with applicable regulations; (3) as a result, the Company was reasonably likely to face
22 an inventory hold by Health Canada until the Pelham facility becomes compliant with applicable
23 regulations; (4) the Company’s customers would face shortages and would likely seek product
24 from CannTrust’s competitors; (5) some of the cannabis grown in the unlicensed portions of the
25 facility had been shipped across Canada and exported internationally; (6) the Company’s
26 executives and board members had actual knowledge of these facts, and intentionally misled
27 investors during the offering; and (7) as a result, Defendants’ statements about the Company’s
28

1 business, operations, and prospects were materially false and/or misleading and lacked a
2 reasonable basis in fact.

3 54. In response to these revelations, the Company's shares fell sharply. At the time of
4 this complaint, the Company's stock trades at \$2.27 per share, and the Company has a market
5 capitalization of approximately \$319 million. The Company's stock had traded at over \$6.00 per
6 share before news of its misrepresentations and omissions were reported.

7 **CLASS ACTION ALLEGATIONS**

8 55. Plaintiff brings this action as a class action on behalf of all those who purchased
9 CannTrust common stock shares pursuant or traceable to the offering materials issued in
10 connection with the offering (the "Class"). Excluded from the Class are Defendants and their
11 families; the officers and directors and affiliates of Defendants, as well as members of their
12 immediate families and their legal representatives, heirs, successors or assigns; any entity in which
13 Defendants have or had a controlling interest; and any judge to whom this case is assigned as well
14 as the judge's staff and family members.

15 56. Numerosity. The Class members are so numerous that joinder is impracticable.
16 Members of the Class are widely dispersed throughout the country. The Class includes at least
17 hundreds of investors.

18 57. Typicality. Plaintiffs' claims are typical of the claims of other members of the class.
19 Plaintiffs and each class member purchased CannTrust shares based on false and misleading
20 statements and omissions included in the Company's offering materials, and were subject to the
21 wrongful conduct alleged in this complaint.

22 58. Adequacy. Plaintiffs will fairly and adequately protect and represent the interests of
23 the Class. Plaintiffs' interests are coincident with, and not antagonistic to, those of the Class.
24 Plaintiffs are represented by counsel who are experienced and competent in the prosecution of
25 securities litigation, and who will adequately represent the Class.

26 59. Commonality and Predominance. Questions of law and fact common to the Class
27 members predominate over any questions that may affect only individual Class members, because
28 Defendants have acted on grounds generally applicable to the entire Class.

1 60. Questions of law and fact common to the Class include:
2 (a) whether Defendants violated the Securities Act;
3 (b) whether the offering materials contained false or misleading statements of
4 material fact and omitted material information required to be stated therein; and
5 (c) to what extent the members of the Class have sustained damages and the
6 proper measure of damages.

7 61. Superiority. Class treatment is a superior method for the fair and efficient
8 adjudication of the controversy, because, among other things, class treatment will permit a large
9 number of similarly situated persons to prosecute their common claims simultaneously, efficiently,
10 and without the unnecessary duplication of evidence, effort, and expense that numerous individual
11 actions would engender. The benefits of proceeding through the class mechanism, including
12 providing injured persons and entities with a means of obtaining redress on claims that might not
13 be practicable to pursue individually, substantially outweigh any difficulties that may arise in the
14 management of this class action.

15 62. Class treatment also is appropriate under Rule 23(b)(1) and/or (b)(2) because:
16 • the prosecution of separate actions by individual Class members would create a risk
17 of inconsistent or varying adjudications which would establish incompatible
18 standards of conduct for Defendants;
19 • the prosecution of separate actions by individual Class members would create a risk
20 of adjudication of their rights that, as a practical matter, would be dispositive of the
21 interests of other Class members not parties to such adjudications or would
22 substantially impair or impede other Class members' ability to protect their interests;
23 and
24 • Defendants have acted and refused to act on grounds that apply generally to the
25 Class such that final injunctive relief and/or declaratory relief is warranted with
26 respect to the Class as a whole.

27 63. Plaintiffs know of no difficulty to be encountered in the management of this action
28 that would preclude its maintenance as a class action.

1 **FIRST CAUSE OF ACTION**

2 **For Violation of §11 of the Securities Act**
3 **Against All Defendants**

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

6 65. This claim is brought pursuant to §11 of the Securities Act, 15 U.S.C. §77k, on
7 behalf of the Class, against each of the Defendants.

8 66. The offering materials contained untrue statements of material facts, omitted to state
9 other facts necessary to make the statements made not misleading, and omitted to state material
10 facts required to be stated therein.

11 67. The Company is the issuer of the securities purchased by Plaintiff and the Class. As
12 such, the Company is strictly liable for the materially inaccurate statements contained in the
13 offering materials, and the failure of the offering materials to be complete and accurate.

14 68. The Individual Defendants each signed the offering materials. As such, each is
15 strictly liable for the materially inaccurate statements contained in the offering materials, and the
16 failure of the offering materials to be complete and accurate, unless they are able to carry their
17 burden of establishing an affirmative “due diligence” defense. The Individual Defendants each had
18 a duty to make a reasonable and diligent investigation of the truthfulness and accuracy of the
19 statements contained in the offering materials and ensure that they were true and accurate, there
20 were no omissions of material facts that would make the registration statement or the prospectus
21 misleading, and the documents contained all facts required to be stated therein. In the exercise of
22 reasonable care, the Individual Defendants should have known of the material misstatements and
23 omissions contained in the offering materials, and also should have known of the omissions of
24 material fact necessary to make the statements made therein not misleading. Accordingly, the
25 Individual Defendants are liable to Plaintiff and the Class.

26 69. The Underwriter Defendants each served as underwriters in connection with the
27 offering. As such, each is strictly liable for the materially inaccurate statements contained in both
28 the registration statement and the prospectus, and the failure of the offering materials to be

1 complete and accurate, unless they are able to carry their burden of establishing an affirmative
2 “due diligence” defense. The Underwriter Defendants each had a duty to make a reasonable and
3 diligent investigation of the truthfulness and accuracy of the statements contained in the
4 registration statement. They had a duty to ensure that such statements were true and accurate, there
5 were no omissions of material facts that would make the registration statement misleading, and the
6 documents contained all facts required to be stated therein. In the exercise of reasonable care, the
7 Underwriter Defendants should have known of the material misstatements and omissions contained
8 in the offering materials, and also should have known of the omissions of material facts necessary
9 to make the statements made therein not misleading. Accordingly, each of the Underwriter
10 Defendants is liable to Plaintiff and the Class.

11 70. None of the Defendants named herein made a reasonable investigation or possessed
12 reasonable grounds for the belief that the statements contained in the offering materials were true
13 and without omissions of any material facts and were not misleading.

14 71. By reason of the conduct herein alleged, each Defendant violated §11 of the
15 Securities Act.

16 72. Plaintiff acquired the Company’s common stock pursuant or traceable to the
17 offering materials and without knowledge of the untruths and/or omissions alleged herein.

18 73. Plaintiff and the Class have sustained damages. The value of CannTrust common
19 stock has declined substantially subsequent to and due to Defendants’ violations.

20 74. This claim is brought within one year after the discovery of the untrue statements
21 and within three years of the date of the offering.

22 75. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled
23 to damages under §11, as measured by the provisions of §11(e), from the Defendants and each of
24 them, severally.

1 **SECOND CAUSE OF ACTION**

2 **For Violation of §12(a)(2) of the Securities Act**
3 **Against All Defendants**

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

6 77. This claim is brought pursuant to §12(a)(2) of the Securities Act, 15 U.S.C.
7 §77l(a)(2), on behalf of the Class, against each of the Defendants.

8 78. By means of the offering materials, Defendants promoted, solicited, and sold
9 CannTrust shares to plaintiff and other members of the Class. Defendants were sellers, offerors,
10 and/or solicitors of purchasers of the Company's securities offered pursuant to the offering.
11 Defendants issued, caused to be issued, and signed the registration statement in connection with the
12 offering. The registration statement was used to induce investors, such as Plaintiff and the other
13 members of the Class, to purchase the Company's shares.

14 79. The offering materials contained untrue statements of material facts, omitted to state
15 other facts necessary to make the statements made not misleading, and omitted material facts
16 required to be stated therein. Defendants' acts of solicitation included participating in the
17 preparation of the false and misleading registration statement.

18 80. As set forth above, the offering materials contained untrue statements of material
19 facts and omitted to state material facts necessary in order to make the statements, in light of
20 circumstances in which they were made, not misleading.

21 81. Plaintiff and the other Class members did not know, nor could they have known, of
22 the untruths or omissions contained in the registration statement.

23 82. Defendants were obligated to make a reasonable and diligent investigation of the
24 statements contained in the offering materials to ensure that such statements were true and that
25 there was no omission of material fact required to be stated in order to make the statements
26 contained therein not misleading. None of the Defendants made a reasonable investigation or
27 possessed reasonable grounds for the belief that the statements contained in the offering materials
28

1 were accurate and complete in all material respects. Had they done so, these Defendants could
2 have known of the material misstatements and omissions alleged herein.

3 83. By reason of the conduct alleged herein, Defendants violated §12(a)(2) of the
4 Securities Act. As a direct and proximate result of such violations, Plaintiff and the other members
5 of the Class, who purchased CannTrust shares pursuant to the offering materials, sustained
6 substantial damages in connection with their purchases of the shares. Accordingly, Plaintiff and the
7 other members of the Class, who hold the Company's shares issued pursuant to the offering
8 materials, have the right to rescind and hereby tender their CannTrust shares to Defendants. Class
9 members who have sold their CannTrust shares seek damages, disgorgement, and additional
10 remedies to the extent permitted by law.

11 84. This claim is brought within one year after discovery of the untrue statements and
12 omissions in the offering materials, and within three years after the Company's shares were sold to
13 the Class in connection with the offering.

14 **THIRD CAUSE OF ACTION**

15 **For Violation of §15 of the Securities Act** 16 **Against the Individual Defendants**

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

19 86. This claim is brought pursuant to §15 of the Securities Act; 15 U.S.C. §77o, on
20 behalf of the Class, against all Defendants except the Underwriter Defendants.

21 87. The Individual Defendants were controlling persons of CannTrust by virtue of their
22 positions as directors or senior officers of CannTrust. By reason of their ownership interest in,
23 senior management positions at, and/or directorships held at the Company, as alleged above, these
24 Defendants invested in, individually and collectively, had the power to influence, and exercised
25 their influence over the Company to cause it to engage in the conduct complained of herein.

26 88. By reason of such wrongful conduct, the Individual Defendants are liable pursuant
27 to §15 of the Securities Act. As a direct and proximate result of the wrongful conduct, Class
28 members suffered damages in connection with their purchases of the Company's shares.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, plaintiff prays for relief and judgment, as follows:

- 3 A. Under California Code of Civil Procedure §382, certifying this class action,
4 appointing plaintiff as a Class representative, and appointing Plaintiff's counsel as Class Counsel;
5 B. Awarding damages in favor of Plaintiff and the Class against all Defendants, jointly
6 and severally, in an amount to be proven at trial, including interest thereon;
7 C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this
8 action, including counsel fees and expert fees;
9 D. Awarding rescission, disgorgement, or such other equitable or injunctive relief as
10 deemed appropriate by the Court.

11 **JURY DEMAND**

12 Plaintiff demands trial by jury.

13 DATED: August 5, 2019

Respectfully submitted,

14 */s/ Adam E. Polk*

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