

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

JOHN HULME, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

WILLIAM P. LIVEK, DAVID
CHEMEROW, BRENT D.
ROSENTHAL, DAVID BOYLAN,
WILLIAM E. ENGEL, PATRICIA
GOTTESMAN, ANNE
MACDONALD, MARTIN B.
O'CONNOR, RALPH R. SHAW,
COMSCORE, INC. and RENTRAK
CORPORATION,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT

BREACH OF FIDUCIARY DUTY

NOT SUBJECT TO MANDATORY
ARBITRATION

JURY TRIAL DEMANDED

Fee Authority: ORS 21.135(1),(2)(a)

Plaintiff John Hulme, individually and on behalf of all others similarly situated, brings this class action complaint against Rentrak Corporation ("Rentrak" or the "Company"), Rentrak's Board of Directors (the "Board" or the "Director Defendants"), and its Chief Executive Officer and Chief Financial Officer (collectively with the Board, the "Individual Defendants" and with Rentrak, the "Rentrak Defendants"). Plaintiff brings claims against the Individual Defendants for breaching their fiduciary duties arising from the sale of Rentrak to comScore Inc. ("comScore") in an all-stock transaction (the "Transaction"), which was announced on September 29, 2015 and closed on January 29, 2016. Plaintiff also asserts claims against comScore for aiding-and-abetting the Individual Defendants' breaches of fiduciary duty

1 and against Rentrak and comScore for equitable relief.¹

2 **NATURE AND SUMMARY OF THE ACTION**

3 “The directors’ duty under Delaware law, and presumptively under other state laws as
4 well, is to maximize the price received by stockholders in the merger.”

5 - Thomas J. Dougherty, *The Directors’ Handbook: 2015 Edition*.

6 1.

7 This is a case about a Board that utterly failed to maximize shareholder value and instead
8 allowed the greed and pride of two senior executives—Rentrak’s former CEO William P. Livek
9 (“Livek”) and its former CFO David Chemerow (“Chemerow”)—to override the interests of
10 shareholders.

11 2.

12 With the acquiescence of a supine Board, Livek and Chemerow sold the Company to
13 comScore in an all-stock transaction in which Rentrak shareholders received 1.15 shares of
14 comScore common stock for each share of Rentrak that they held (the “Exchange Ratio”). Based
15 on the price of comScore stock at the time the Transaction was announced, this reflects an
16 implied value of \$47.69 per share of Rentrak (the “Implied Transaction Value”).

17 3.

18 The Transaction did not come close to maximizing shareholder value. A

19 _____
20 ¹ Plaintiff, by and through his attorneys, alleges upon personal knowledge as to himself and his
21 own acts, and upon information and belief as to all other matters. Plaintiff’s allegations are based
22 upon the investigation conducted by and through his attorneys, which included, among other
23 things, a review of documents filed by Defendants with the United States Securities and
24 Exchange Commission (the “SEC”)—including the definitive Form S-4 (or “Registration
Statement”) filed with the SEC on December 23, 2015—news reports, press releases and other
publicly available documents, as well internal documents produced by Rentrak and “Company
B” (defined herein).

25 To avoid needless additional motion practice, this Complaint is substantively identical to the
26 Second Amended Complaint filed on July 21, 2016 in *In re Rentrak Corporation Shareholders
Litigation*, Lead Case No. 15CV27429. Through discovery in that action, Plaintiff and his
counsel have obtained significant additional facts to support the allegations set forth herein.

1 contemporaneous discounted cash flow (“DCF”) analysis² by Rentrak’s own financial advisor,
2 Goldman Sachs, & Co. (“Goldman Sachs”), projected Rentrak’s value as a stand-alone company
3 to be \$63.52 to \$79.29 per share—***\$15.83 to \$31.26 per share more*** than the Implied Transaction
4 Value. Moreover, in the course of negotiations with comScore, Rentrak had received an
5 unsolicited offer of \$75 to \$80 per share from a competing bidder, Company B—representing
6 ***\$27.31 to \$32.31 per share more*** than the Implied Transaction Value. Rather than embrace
7 Company B’s premium offer, Livek and Chemerow chased Company B away by refusing to
8 provide answers to even basic diligence requests.

9 4.

10 Why did Livek, Chemerow, and the other Individual Defendants favor comScore’s bid,
11 which was inferior to both Company B’s offer and the value of continuing as a stand-alone
12 company?

13 5.

14 *First*, comScore was willing to give the Individual Defendants everything they wanted.
15 Livek and Chemerow negotiated the terms of their continuing employment with comScore ***at the***
16 ***same time*** they were negotiating the material terms of the Transaction—including the
17 consideration that comScore would pay Rentrak shareholders. Shockingly, Livek implied to
18 comScore’s CEO that he and the Rentrak Board would ***not*** be focused on maximizing value or
19 require a very favorable exchange ratio as long as comScore agreed to give Livek, Chemerow,
20 and certain Rentrak board members their desired roles in the combined company.

21 6.

22 comScore did exactly that. Livek became comScore’s Executive Vice Chairman and
23 President. Chemerow became a “strategic advisor” to comScore’s CEO and the combined
24 company’s Chief Revenue Officer. Similarly, four members of Rentrak’s Board—Defendants

25 ² As Delaware’s Court of Chancery has repeatedly recognized, a DCF analysis is “the most
26 reliable and pertinent” method to determine the value of a company. *Global GT LP v. Golden Telecom, Inc.*, 993 A.2d 497, 510 (Del. Ch. 2010).

1 Livek, Rosenthal, Gottesman and Engel—joined the comScore board upon completion of the
2 Transaction. Furthermore, any outstanding Rentrak stock options and/or restricted and deferred
3 stock units automatically vested resulting in an immediate windfall to the Board and executive
4 officers in excess of \$35.4 million.

5 7.

6 *Second*, the Transaction served the interests of WPP LLC (“WPP”)—a multinational
7 advertising firm—which held large stakes in both comScore and Rentrak. At the time the
8 Transaction was announced, WPP owned approximately 15% to 20% of each company,
9 respectively. The Transaction was largely driven by WPP’s desire to create a significant rival to,
10 and thereby gain leverage over, Nielsen Holdings N.V. (“Nielsen”)—a large information and
11 measurement company with whom WPP regularly both competes and cooperates. A month prior
12 to the announcement of the Transaction, WPP urged comScore and Rentrak to “*come together*”
13 in order to compete with Nielsen. Additionally, the Registration Statement is replete with
14 references to WPP’s central role in the negotiation of the Transaction. The problem for Rentrak
15 shareholders, however, is that WPP’s interests diverged from other shareholders. WPP was
16 pursuing size at any cost and was indifferent to price.³

17 8.

18 Rentrak shareholders’ last hope was at the ballot box. In recognition of the extraordinary
19 nature of sale transactions—and the tremendous potential for abuse—Oregon law imposes a
20 critical safeguard: a requirement that shareholders vote to approve the sale. For this vote to be
21 meaningful, however, directors must discharge their fiduciary duty to disclose all material facts
22 to shareholders prior to the shareholder vote.

23 9.

24 Here, however, the Rentrak Board failed to disclose no less than two key pieces of

25 ³ A merger with any exchange ratio (or, indeed, any combination of cash-and-stock
26 consideration) was desirable for WPP because any harm to its interests as a Rentrak shareholder
would be effectively offset by a gain in its interests as a comScore shareholder and *vice versa*.

1 material information prior to the shareholder vote—violating their fiduciary duties and
2 completely vitiating shareholders’ ability to give informed consent. The shareholder vote to
3 approve the Transaction took place on January 28, 2016, but was fatally tainted by Defendants’
4 failure to disclose all material information.

5 10.

6 Specifically, among other things, the definitive Registration Statement failed to disclose:

- 7 • The price or any other terms of Company B’s proposal which even Livek and
8 Chemerow agreed provided more shareholder value than comScore’s offer; and
- 9 • The findings of a report to the Rentrak Board by Grant Thornton LLP (“Grant
10 Thornton”), which investigated comScore’s controversial revenue recognition
11 practices relating to barter transactions. That report found that:
 - 12 ○ Barter transactions “may have provided opportunities for [comScore]
13 Management to ‘manage’ revenues to meet targets”; and
 - 14 ○ Grant Thornton was concerned that comScore’s barter transactions “may
15 not be fully understood by research analysts and the ‘street’ [i.e., Wall
16 Street / investors]” and “[i]t [was] unclear how much the current stock
17 price may be impacted if these [barter] arrangements [were] better
18 understood.”

15 The Board’s failure to disclose this material information violated their fiduciary duties
16 and denied shareholders their right to cast a fully informed vote.

17 11.

18 The Implied Transaction Value was poor when the Transaction was entered into and has
19 only become more pronounced now that comScore’s stock price has cratered because of
20 accounting improprieties. Less than six weeks after the Transaction closed, comScore announced
21 that its Audit Committee was investigating “potential accounting matters,” causing its stock to
22 plummet by over 30%. This reduced the implied value of the consideration that Rentrak
23 shareholders received in the Transaction to just \$31.10 per share. Moreover, the recent revelation
24 suggests that the Registration Statement misstated comScore’s prior financial statements (which
25 is, of course, critical information in an all-stock transaction). comScore jointly issued the
26 Registration Statement, fully understood that the Individual Defendants had fiduciary obligations

1 to Rentrak shareholders, including a duty to disclose material information in a truthful way, but
2 nonetheless actively and knowingly hid these facts from Rentrak investors, thus aiding and
3 abetting the Individual Defendants' breaches of fiduciary duty.

4 12.

5 Oregon law makes clear that "[d]issenters rights shall not apply to the holders of shares
6 of any class or series if the shares of the class or series were registered on a national securities
7 exchange on the record date ... of the merger..." ORS 60.554(3). The Registration Statement
8 confirms that "Rentrak shareholders are not entitled to dissenters' rights of appraisal for their
9 shares under Oregon law in connection with the merger." Thus, this Court is best suited to
10 address Defendants' breaches of fiduciary duty alleged herein through an award of money
11 damages and/or equitable relief.

12 **PARTIES**

13 13.

14 Plaintiff, at all relevant times, was a significant holder of Rentrak common stock in an
15 account held in joint tenancy with his wife. On the day the Transaction was announced,
16 Plaintiff's investment in Rentrak common stock was valued at over a million dollars. When the
17 Transaction closed, Plaintiff's Rentrak holdings were converted into shares of comScore
18 common stock and he has therefore suffered significant financial harm and damages resulting
19 from Defendants' actions.

20 14.

21 Defendant Rentrak is an Oregon corporation that maintains its corporate headquarters at
22 7700 NE Ambassador Place in Portland, Oregon. Rentrak operates as a media measurement and
23 advanced consumer targeting company serving the entertainment, television, video, and
24 advertising industries worldwide. Upon the closing of the Transaction, Rentrak became a wholly
25 owned subsidiary of comScore.

1 15.

2 Defendant Brent D. Rosenthal (“Rosenthal”) was the non-executive Chairman of the
3 Board. He served as a director of Rentrak from August 2008 until consummation of the
4 Transaction. He became Vice Chairman of the Board in September 2010 and was selected to
5 serve as non-executive Chairman of the Board upon his re-election in 2011. Following
6 consummation of the Transaction, Rosenthal became a comScore director.

7 16.

8 Defendant Livek was director and CEO of Rentrak from June 15, 2009 until the
9 consummation of the Transaction. Except for formally voting on the Transaction along with all
10 other Board members, Livek’s role negotiating and pushing for the Transaction was done in his
11 capacity as the Company’s CEO. The rest of the Board played a minimal role in negotiating the
12 Transaction and Livek and Chemerow (the Company’s CFO and not a Board member) had
13 primary authority meeting with potential suitors and negotiating the Transaction. In addition,
14 following consummation of the Transaction, Livek became comScore’s Executive Vice
15 Chairman and President.

16 17.

17 Defendant David Boylan (“Boylan”) served as a director of Rentrak from September
18 2013 until consummation of the Transaction.

19 18.

20 Defendant William E. Engel (“Engel”) served as a director of Rentrak from August 2010
21 until consummation of the Transaction. Following consummation of the Transaction, Engel
22 became a comScore director.

23 19.

24 Defendant Patricia Gottesman (“Gottesman”) served as a director of Rentrak from
25 August 2014 until consummation of the Transaction. Following consummation of the
26 Transaction, Gottesman became a comScore director.

1 20.

2 Defendant Anne MacDonald (“MacDonald”) served as a director of Rentrak from August
3 2009 until consummation of the Transaction.

4 21.

5 Defendant Martin B. O’Connor (“O’Connor”) served as a director of Rentrak from
6 August 2010 until consummation of the Transaction.

7 22.

8 Defendant Ralph R. Shaw (“Shaw”) served as a director of Rentrak from 2004 until
9 consummation of the Transaction. Shaw served as an advisor to the Board from 2001 to 2004
10 and as an outside director of one of Rentrak’s subsidiaries from 2000 through 2003.

11 23.

12 Defendant Chemerow served as Rentrak’s Chief Operating Officer and Chief Financial
13 Officer since 2009. Upon consummation of the Transaction, Chemerow became comScore’s
14 Chief Revenue Officer and a “strategic advisor” to comScore’s CEO.

15 24.

16 Rosenthal, Livek, Boylan, Engel, Gottesman, MacDonald, Shaw, and O’Connor are,
17 collectively, the “Board” or the “Director Defendants.” Livek and Chemerow are the “Officer
18 Defendants.” The Officer Defendants and the Director Defendants are, collectively, the
19 “Individual Defendants.” Rentrak and the Individual Defendants are, collectively, the “Rentrak
20 Defendants.”

21 25.

22 Defendant comScore is a global media measurement and analytics company,
23 headquartered in Virginia and incorporated in Delaware, which uses its data to help media
24 buyers and sellers understand and make decisions based on how consumers use different media,
25 such as TV, video, mobile, desktop and other mediums.

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1 acts detailed herein, occurred in this county, and Defendants have received substantial
2 compensation in this county by doing business here and engaging in numerous activities that had
3 an effect in this County.

4 **SUBSTANTIVE ALLEGATIONS**

5 **I. Background**

6 31.

7 Prior to the announcement of the Transaction, Rentrak was delivering a steady mix of
8 positive financial results, optimistic valuation announcements and strong business indicators for
9 a number of consecutive quarters and has clearly demonstrated the Company's robust growth
10 potential. In the 52 weeks prior to the announcement of the Transaction, Rentrak shares traded as
11 high as \$85.69 in November 2014. As recently as August 4, 2015, Rentrak shares traded for
12 \$71.26 per share. Just days prior to the announcement of the Transaction, the mean target price
13 for Rentrak shares, set by six Wall Street analysts, was \$74.13, with at least one analyst targeting
14 \$100 per share. Analysts such as Needham & Co. LLC and Brean Capital projected a target of
15 \$85-86 a share in late September 2015. The Company's positive financial results and optimistic
16 valuation announcements continued after the announcement of the Transaction. On November 5,
17 2015, the Company announced its second quarter 2016 financial results. Among other things, the
18 Company reported \$0.29 earnings per share for the quarter, **topping** Thomson Reuters'
19 consensus estimate of \$0.12 by **141%**.

20 32.

21 At all relevant times, WPP owned between 15% to 20% of both comScore and Rentrak.⁴
22 WPP wanted to increase its leverage over Nielsen by building up a rival. In April 2015, for
23 example, *Variety* published an interview with WPP CEO Martin Sorrell ("Sorrell"), in which
24 Sorrell emphasized that WPP wanted to build a "better mousetrap" to compete with Nielsen.

25 _____
26 ⁴ Goldman Sachs—Rentrak's financial advisor in the Transaction—acted as financial advisor to
WPP in its acquisition of its 15% ownership in comScore.

33.

The announcement of the Transaction laid bare WPP's strategy for confronting Nielsen: a combination of Rentrak and comScore. In the aftermath of the announcement of the Transaction, a number of media outlets highlighted this motivation. For example, *Variety* wrote "[c]ollaboration between ComScore [*sic*] and Rentrak has the backing of a prominent industry player: Sir Martin Sorrell. His British advertising conglomerate, WPP, is an investor in both Rentrak and ComScore [*sic*], and could hold up to 19.9% of the new company after the two parties complete their transaction. To Nielsen supporters, Sorrell's presence behind the scenes might suggest a lack of some of the independence under which Nielsen operates." Similarly, Forbes wrote that "Sir Martin Sorrell (whose WPP not incidentally has been a shareholder in both companies) spoke for many during Advertising Week when he championed the deal's benefits for competition in measurement, and similar words emerged from many of those bloodied by battles with Nielsen for years." Following the announcement of the Transaction, Nielsen's CEO Mitch Barns stated that "[t]he two that have come together recently, look, they had a matchmaker in the form of WPP." Barns went on to question WPP's independence in comScore's future operations, noting that "[t]hey still have an issue too—a very important one—which is the issue of independence. ... I've read where they've said that WPP (PLC) doesn't have a board seat, as if that solves the problem—but of course it doesn't. WPP is still their largest shareholder."

II. Sales Process Claims

A. The Individual Defendants Tilted The Sales Process In Favor of comScore and Against Company B

34.

As noted above, the Board ultimately approved the sale of the Company at an implied price that was ***\$15.83 to \$31.26 less*** than the per-share value generated by Goldman Sachs' DCF analysis. This violated their duty to ensure that any price achieved in a sale would yield value

1 exceeding what the corporation otherwise would generate for stockholders over the long-term.

2 35.

3 Moreover, Company B was a serious bidder that offered ***\$27.31 to \$32.31 per share***
4 ***more*** than the Implied Transaction value. Yet the Individual Defendants treated Company B in a
5 materially different way than comScore. The Individual Defendants biased the process against
6 Company B and toward comScore, not in a reasoned effort to maximize value for the
7 shareholders, but to tilt the process toward the Individual Defendants' preferred bidder who
8 promised Livek, Chemerow, and certain of the Director Defendants favorable roles in the
9 combined company. By failing to act in a neutral manner to encourage the highest possible price
10 for shareholders, the Board skewed the auction in favor of comScore and deprived shareholders
11 of the best offer reasonably attainable.

12 36.

13 Finally, the Board failed to prevent Livek and Chemerow from negotiating their own
14 employment with comScore at the same time as the Exchange Ratio and, ultimately, trading
15 away additional value for shareholders in exchange for personal concessions. This inappropriate
16 tactic meant that Livek and Chemerow had a completely different incentive system than
17 stockholders, which the Board failed to supervise.

18 37.

19 Beginning on April 21, 2015—approximately two months after WPP became the largest
20 shareholder of comScore and Rentrak—comScore and Rentrak began to discuss in earnest the
21 possibility of a business combination between their two companies. On May 7, 2015, comScore
22 delivered its initial proposal of terms for an acquisition of Rentrak (“comScore’s May 7
23 Proposal”), proposing an “at-the-market exchange ratio” (in other words, an exchange ratio that
24 did not provide any premium to Rentrak shareholders, meaning the implied value per share to
25 Rentrak shareholders was \$50.70/share based on the Company’s May 7, 2015 price).

1 38.

2 Upon receiving this proposal, in both internal discussions among Rentrak's Board and in
3 direct communications with comScore, the Rentrak Defendants focused on their own
4 management roles to the detriment (and, in some cases, the complete exclusion) of shareholder
5 value.

6 39.

7 On May 22, 2015, Livek met with the CEO of Company B. Company B's CEO indicated
8 Company B's interest in making an offer to acquire Rentrak. In an email sent to Chemerow
9 shortly after his conversation with Company B's CEO, Livek wrote that Company B's CEO was
10 "*begging me not to sell to anyone else until she can make the offer.*"

11 40.

12 On June 7, 2015, Company B's CEO delivered a proposal ("Company B's June 7
13 Proposal") to acquire Rentrak for a combination of cash-and-stock worth \$75 to \$80 per share of
14 Rentrak, with no financing contingency. Company B's CEO stated that Company B would be
15 willing to pay 50% to 75% of the total consideration in cash and "should Rentrak so desire,
16 possibly up to 100%." Company B's June 7 Proposal was non-binding and required
17 "confirmatory diligence." Remarkably, the Registration Statement failed to disclose the price or
18 any of the other terms that Company B proposed, so shareholders were completely unaware of
19 this premium offer prior to the vote.

20 41.

21 On June 11, 2015, Livek and Company B's CEO spoke by phone. According to a script
22 for that call, prepared by Goldman Sachs, and sent to Livek, Livek was to tell Company B's
23 CEO that Rentrak was refusing to offer even basic diligence. By stark contrast, Goldman Sachs'
24 script for Livek's call with the CEO of comScore, Serge Matta, on that same day, envisioned
25 close collaboration including face-to-face meetings between both management and financial
26 advisors even though the offer was objectively less advantageous to Rentrak shareholders. The

1 script went on to suggest that Livek was to make clear to comScore that the Individual
2 Defendants were prioritizing their preferred management structure *over* an increase in the
3 Exchange Ratio:

4 *If Serge reacts immediately and pushes back on the management structure, asking*
5 *if an alternative structure would work*

- 6 • I don't know if I could sell an alternative structure to my Board given their
7 focus on execution.

8 *If Serge pushes further*

- 9 • I could take something else to my Board but I would think it would have
10 to meaningfully reduce risk for them through a very favorable exchange
11 ratio
- 12 • If you push in this direction, our Board will be focused on maximizing
13 value and certainty of value

14 42.

15 In other words, the message that Livek delivered to comScore was that the Board would
16 *not* focus on “maximizing value” or “a very favorable exchange ratio” so long as comScore
17 acceded to the personal demands of Livek, Chemerow, and Rentrak Board members. Ultimately,
18 of course, comScore went along with this plan. comScore agreed that Livek would serve as the
19 combined company’s Executive Vice Chairman & President, Chemerow would serve as Chief
20 Revenue Officer and a strategic advisor to the CEO and the combined company’s board would
21 include four directors from Rentrak.

22 43.

23 Following the June 11, 2015 call, Livek and Chemerow continued to resist providing the
24 diligence that Company B sought.

25 44.

26 Yet, despite claiming that Company B’s offer was insufficient to justify even
participating in preliminary diligence, Livek acknowledged in a June 21, 2015 email to
Chemerow that “[o]ur duty is to get the best deal for shareholders and right now it is

1 *[Company B]. SCOR [i.e., comScore] has no idea how complex what we do is and it will show*
2 *up in our stock price at some point.*” This is an express admission both that Company B’s offer
3 was superior and that comScore’s at-the-market offer seriously undervalued the Company.
4 Notably, comScore’s offer did not improve—the ultimate Exchange Ratio was still, essentially,
5 an at-the-market offer. Yet despite recognizing that comScore “has no idea how complex what
6 we do is and it will show up in our stock price” the Individual Defendants accepted comScore’s
7 insufficient offer.

8 45.

9 Despite Livek’s recognition that Company B’s bid was the best bid for shareholders, he
10 and Chemerow continued to push Company B away by refusing to provide the requested
11 diligence. On June 27, 2015 (a Saturday), Livek and Chemerow exchanged emails suggesting
12 that they expected to receive an offer from Company B’s CEO on June 29, 2015 relating to the
13 personal compensation they could expect at Company B. A discussion about compensation
14 would, of course, necessarily have included a discussion about the roles that Livek and
15 Chemerow were expected to play at the combined company.

16 46.

17 It appears that Livek and Chemerow were not offered their desired positions and/or
18 compensation because communications between them and Company B—as well as internal
19 communications at Rentrak about Company B—abruptly ceased. The end came quickly for the
20 Company B bid. The Registration Statement claims that, on July 9, 2015, Livek and Company
21 B’s CEO spoke by phone and Company B’s CEO “told Mr. Livek that [Company B] was no
22 longer interested in pursuing an acquisition of Rentrak.” The Registration Statement offers no
23 explanation or reasoning for the dramatic change of course.

24 47.

25 Discussions with comScore continued apace. Through July and mid-August of 2015,
26 Rentrak and comScore executives met in person and repeatedly discussed the composition of the

1 combined company's Board and management team at the same time as they were discussing the
2 substantive terms of the Transaction. Rentrak was forthcoming in providing diligence to
3 comScore and its financial advisors, including producing financial projections and opening a
4 data room.

5 48.

6 On August 15, 2015, Livek, Rosenthal, Serge Matta (comScore's CEO), and Gian
7 Fulgoni (co-founder and executive chairman emeritus of comScore) met telephonically to
8 discuss the exchange ratio, board composition and management roles. Following the meeting,
9 Rentrak closed its data room and cancelled upcoming meetings with comScore management.
10 Given that there appears to have been little dispute over the principle of an at-the-market
11 exchange ratio, it seems likely that this spat was driven by a dispute over board composition and
12 management roles.

13 49.

14 On this same day, Livek met telephonically with Company B's CEO to discuss whether
15 Company B would be potentially interested in re-engaging with Rentrak regarding a business
16 combination. Unsurprisingly, having been rebuffed once before and having proposed
17 consideration significantly higher than comScore's bid, Company B's CEO expressed little
18 interest in a strategic combination with Rentrak.

19 50.

20 On August 18, 2015, Matta and Livek met to resolve issues raised at the August 15, 2015
21 meeting. Rentrak reopened its data room and due diligence activities and other negotiations,
22 including negotiations over management roles, resumed.

23 51.

24 After some additional discussions and disagreements throughout September 2015, the
25 parties finalized the terms of the Transaction. On Monday, September 28, 2015, Rentrak saw its
26 shares decline by 9.5% to close at \$43.82, one of the lowest closing prices Rentrak shares had

1 seen all year—or at any point since January 2014.

2 52.

3 On September 29, 2015, the Board met telephonically with their respective legal and
4 financial advisors. Following a presentation by Goldman Sachs, the Board unanimously
5 approved the Merger Agreement and resolved to recommend to its shareholder that they vote for
6 the Transaction. On September 29, 2015, Rentrak and comScore issued a joint press release
7 announcing the Transaction. Pursuant to the Agreement and Plan of Merger (the “Merger
8 Agreement”), the all-stock deal was to (and ultimately did) convert each Rentrak share into 1.15
9 shares of comScore common stock.

10 **III. Disclosure Claims**

11 53.

12 The Board further breached its fiduciary duties to Rentrak shareholders by filing a
13 materially incomplete Registration Statement, which failed to disclose, among other issues, the
14 material facts described below. Because this information was not disclosed before shareholders
15 voted on the Transaction, the shareholder vote was fatally undermined and neither ratifies
16 Defendants’ breaches of fiduciary duty nor alters the relevant standard of review. These
17 material misrepresentations and omissions can be resolved via monetary damages.

18 54.

19 *First*, the Registration Statement failed to disclose the price or any other terms of
20 Company B’s proposal or that Livek considered the Company B bid to be the “best deal for
21 shareholders.”

22 55.

23 *Second*, the Registration Statement failed to disclose Grant Thornton’s investigation into
24 comScore’s accounting for barter revenue or any of Grant Thornton’s troubling conclusions.

25 56.

26 On September 4, 2015, Grant Thornton delivered a formal report to Chemerow, in

1 PowerPoint, which is hereby incorporated by reference. Among the key findings:

- 2 • Barter transactions—*i.e.*, the sharing of data, exchange of services, or other non-
3 monetary transactions which comScore nonetheless accounted for as revenue—
4 “may have provided opportunities for [comScore] Management to ‘manage’
5 revenues to meet targets.”
- 6 • comScore’s barter transactions “may not be fully understood by research analysts
7 and the ‘street’ [*i.e.*, Wall Street / investors]. It is unclear how much the current
8 stock price may be impacted if these non-monetary arrangements are better
9 understood.”
- “It is unclear how much analysts have incorporated barter in their forecasts and
understand the arrangement's impact on revenue and earnings. Consensus revenue
for virtually all periods would not have been achievable without barter revenue.”

57.

10 Board members discussed the Grant Thornton report and comScore’s barter revenue
11 issues at board meetings on September 3, September 8 and September 9, 2015. Representatives
12 of Grant Thornton spoke directly to the Board about comScore’s barter accounting and answered
13 questions from the Board. Chemerow also discussed with the Board management’s adjustment to
14 the comScore projections to provide a discount for barter-related revenues.

58.

16 Yet the Registration Statement contains only a handful of anodyne references to
17 discussions of “accounting due diligence,” with no specifics. The word “barter” did not appear in
18 the Registration Statement.

19 **IV. The Transaction Failed to Maximize Shareholder Value**

59.

21 While the Exchange Ratio (and its implied value of \$47.69 per Rentrak share)
22 represented a 9.9% premium against Rentrak’s one-day closing price, this modest premium itself
23 is illusory because the announcement of the acquisition of Rentrak coincided with a significant
24 one-day drop in Rentrak’s share price. Indeed, Rentrak’s stock closed at \$46.20 on Friday,
25 September 25. As measured against the September 25th close, the Transaction represented an
26 even more modest 3% premium for Rentrak’s shareholders—essentially the “at-the-market” ratio

1 contained in comScore's original proposal.

2 60.

3 Compounding the inadequate price negotiated by the Board is that, in accordance with the
4 terms of the Merger Agreement, the Transaction was without a price collar to protect Rentrak
5 investors from the inevitable disclosure of the accounting shenanigans noted by Grant Thornton.

6 61.

7 To aid the Board in its effort to convince Rentrak shareholders that the Exchange Ratio
8 was palatable, the Board retained the advisory services of Goldman Sachs to issue a fairness
9 opinion (the "Fairness Opinion"). Yet Goldman Sachs' *Illustrative Discounted Cash Flow*
10 *Analysis* yielded a per-share value of \$63.52 - \$79.29—significantly greater than the Implied
11 Transaction Value. Similarly, Goldman Sachs' *Present Value of Implied Future Rentrak Share*
12 *Price Analysis* yielded a per-share value of \$69.33 - \$85.74.

13 62.

14 In sum, the Rentrak Board relied upon a Fairness Opinion that did not indicate the
15 Transaction was, in fact, fair. According to the Registration Statement, Goldman Sachs was paid
16 a fee of \$9 million which was 100% "contingent upon consummation of the transaction" and the
17 Board could pay Goldman Sachs an additional \$2 million in its complete discretion. Thus,
18 Goldman Sachs was highly incentivized to issue the Fairness Opinion, even though its analysis
19 showed that the Company's standalone value was significantly higher. Moreover, because of
20 Goldman Sachs' family ties to and long-standing relationship with WPP,⁵ and WPP's

21 ⁵ Indeed, Goldman Sachs has performed significant financial advisory and/or underwriting
22 services to WPP and received approximately \$5 million in advisory fees from WPP and its
23 affiliates in the two-year period prior to the announcement of the Transaction. The advisory and
24 underwriting services include, among other things acting as: (i) financial advisor to WPP in its
25 acquisition of a stake of comScore in February 2015; (ii) bookrunner with respect to WPP's
26 issuance of 3.750% Senior Secured Notes due 2024 (aggregate principal amount \$750,000,000)
in September 2014; (iii) bookrunner with respect to WPP's issuance of 3.000% Senior
Unsecured Notes due 2023 (aggregate principal amount €750,000,000) in November 2013; and
as a bookrunner with respect to WPP's issuance of 5.625% Senior Secured Notes due 2043
(aggregate principal amount \$500,000,000) in November 2013.

insistence—as comScore’s and Rentrak’s largest shareholder—that comScore and Rentrak merge, Goldman Sachs was predisposed to favor a combination with comScore. Goldman Sachs’ significant conflicts vis-à-vis WPP including that: (i) all three of Martin Sorrell’s sons have worked for Goldman Sachs and Mark Sorrell, a Goldman Sachs partner who has worked for the firm for over twenty years, is currently its Co-Head of U.K. Investment Banking; (ii) Goldman Sachs was financial advisor to WPP in its acquisition of a stake of comScore in February 2015; and (iii) Goldman Sachs was the additional Mandated Lead Arranger under WPP’s \$2,500,000 revolving credit facility as amended on July 18, 2014.

V. The comScore Accounting Announcement

63.

On March 7, 2016—approximately five weeks after the Transaction closed and former Rentrak shareholders had received comScore stock in exchange for their Rentrak holdings—comScore filed a Form 8-K with the SEC, announcing that it would miss a deadline to file its Form 10-K (annual report) for the year ended December 31, 2015, would postpone an Investor Day conference scheduled for March 16, and was suspending the company’s previously announced share buyback, as a result of its Audit Committee’s ongoing investigation into “*potential accounting matters*”, which have since been confirmed as relating to comScore’s controversial revenue recognition practices relating to barter transactions.

64.

Unsurprisingly, comScore shares plummeted on this news, closing at \$27.04 per share on March 7, 2016—a 33.6% decline from the company’s closing price of \$40.71 per share on March 4, 2016. As a consequence, the 1.15 shares of comScore that each Rentrak shareholder received upon closing of the Transaction were worth just \$31.10 per share as of the close of trading on March 7, 2016—less than *half* the value of either Company B’s offer or Rentrak’s value as a stand-alone company (as calculated by Goldman Sachs).

1 65.

2 Unsurprisingly, comScore shares plummeted on this news, closing at \$27.04 per share on
3 March 7, 2016—a 33.6% decline from the company’s closing price of \$40.71 per share on
4 March 4, 2016. As a consequence, the 1.15 shares of comScore that each Rentrak shareholder
5 received upon closing of the Transaction were worth just \$31.10 per share as of the close of
6 trading on March 7, 2016—less than *half* the value of either Company B’s offer or Rentrak’s
7 value as a stand-alone company (as calculated by Goldman Sachs).

8 **CLASS ACTION ALLEGATIONS**

9 66.

10 Plaintiff brings this action individually and as a class action on behalf of all holders of
11 Rentrak stock whose Rentrak stock was converted to comScore stock upon the closing of the
12 Transaction (the “Class”). Excluded from the Class are Defendants and any person, firm, trust,
13 corporation, or other entity related to or affiliated with any Defendant.

14 67.

15 This action is properly maintainable as a class action.

16 68.

17 The Class is so numerous that joinder of all members is impracticable. Pursuant to the
18 Company’s SEC filings, there were more than 38 million shares of Rentrak common stock issued
19 and outstanding as of December 23, 2015. Consequently, the number of Class members is
20 believed to be in the thousands and are likely scattered across the United States. Moreover,
21 damages suffered by individual Class members may be small, making it overly expensive and
22 burdensome for individual Class members to pursue redress on their own.

23 69.

24 There are questions of law and fact that are common to the Class and that predominate
25 over questions affecting any individual Class member. The common questions include, *inter*
26 *alia*:

- a. whether the Director Defendants and Officer Defendants breached their fiduciary duties to obtain the best price practicable under the circumstances for the benefit of the Rentrak shareholders;
- b. whether the Director Defendants disclosed all material information to the Company's public shareholders;
- c. whether comScore aided and abetted such breaches; and
- d. the extent of the Class's damages.

70.

Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class.

72.

The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants; or adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

There will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

1 75.

2 On January 5, 2017, Plaintiff sent notices to each of the Defendants by certified mail,
3 return receipt requested, notifying Defendants of the wrongs alleged herein and demanding that
4 they rectify those wrongs. True and accurate copies of those notices are attached hereto as
5 Exhibits A and B and are incorporated herein by reference. As of the date of this filing,
6 Defendants have not responded to the notices.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**
9 **Breach of Fiduciary Duty**
(Against the Director Defendants)

10 76.

11 Plaintiff incorporates by reference and realleges each and every allegation contained
12 above, as though fully set forth herein.

13 77.

14 The Director Defendants, who are comprised of directors of Rentrak, have violated the
15 fiduciary duties of care, loyalty, and/or disclosure owed to the public shareholders of Rentrak in
16 connection with the Transaction, which deprived Rentrak shareholders of fair value for their
17 Rentrak shares.

18 78.

19 As demonstrated by the allegations above, the Director Defendants failed to exercise the
20 care required, and breached their duties of care, loyalty, and/or disclosure because, among other
21 reasons, they:

- 22 • failed to conduct an adequate process to ensure fair treatment to public shareholders,
23 putting their own interests before those of public shareholders;
- 24 • agreed to onerous and preclusive deal protection provisions in the Merger Agreement;
- 25 • negotiated for themselves continued employment and/or representation on the combined
26 company's board following consummation of the Transaction; and

- failed to disclose all material information necessary for shareholders to cast a fully informed vote on the Transaction.

79.

Because the Director Defendants dominated and controlled the business and corporate affairs of Rentrak and had access to private corporate information concerning Rentrak's assets, business, and future prospects, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Rentrak which makes it inherently unfair for them to pursue and recommend any transaction wherein they reaped disproportionate benefits to the exclusion of maximizing shareholder value.

80.

Even assuming the business judgment rule applies, which it does not, the Director Defendants' actions individually and collectively rise to the level of gross negligence and/or bad faith. These actions include, among other things, without limitation: (i) permitting Livek and Chemerow to negotiate their own roles (and those of certain directors) at the same time as they were negotiating the Exchange Ratio; (ii) refusing to adequately consider and rely upon Grant Thornton's report; and (iii) relying on Goldman Sachs' fairness opinion even though both Goldman Sachs analyses described in the Registration Statement that yielded an implied per share value for Rentrak as a stand-alone company showed a range of values greater than the implied consideration offered in the Transaction.

81.

By reason of the foregoing acts, practices, and course of conduct, the Director Defendants failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other members of the Class.

82.

The Director Defendants did not act in good faith toward Plaintiff and the other members of the Class. The Director Defendants have, thus, breached their fiduciary duties to the members of the Class causing damage.

1 **SECOND CLAIM FOR RELIEF**
2 **Breach of Fiduciary Duty**
3 **(Against the Officer Defendants)**

4 83.

5 Plaintiff repeats and realleges each and every allegation set forth herein.

6 84.

7 Livek and Chemerow, as Rentrak officers, owed the Class the utmost fiduciary duties of
8 care and loyalty. By virtue of their position as CEO and COO and CFO, respectively, Livek and
9 Chemerow were required to: (a) use their ability to manage Rentrak in a fair, just, and equitable
10 manner, and (b) act in furtherance of the best interests of Rentrak and all of its shareholders.

11 85.

12 Livek and Chemerow breached their fiduciary duties by, among other things: (i) placing
13 their own interests ahead of shareholders by negotiating for themselves continued employment
14 with comScore post-close as described in detail above; (ii) chasing away the superior bid by
15 Company B by failing to provide even minimal diligence; and (iii) informing comScore that the
16 Board would not focus on “maximizing value” or a “favorable exchange ratio” as long as they
17 received their preferred roles in a combined company.

18 86.

19 As a consequence of Livek and Chemerow’s breaches of fiduciary duty, the Company’s
20 stockholders have been harmed.

21 **THIRD CLAIM FOR RELIEF**
22 **Aiding and Abetting Breach of Fiduciary Duty**
23 **(Against comScore)**

24 87.

25 Plaintiff incorporates by reference and realleges each and every allegation contained
26 above, as though fully set forth herein.

1 88.

2 For the reasons set forth above, the Director Defendants breached their fiduciary duties,
3 causing harm to Plaintiff and the Class.

4 89.

5 comScore knew of the Individual Defendants' breaches and willfully participated in and
6 aided those breaches by, *inter alia*, jointly filing the false and/or materially misleading
7 Registration Statement which comScore knew to contain material omissions.

8 90.

9 comScore's actions discussed herein caused harm to Plaintiff and the Class.

10 **FOURTH CLAIM FOR EQUITABLE RELIEF**
11 **(Against Rentrak and comScore)**

12 91.

13 Plaintiff incorporates by reference and realleges each and every allegation contained
14 above, as though fully set forth herein.

15 92.

16 Plaintiff and the Class will be irreparably harmed unless the Transaction is rescinded or
17 the Court grants other equitable relief to place Plaintiff and members of the Class in the same or
18 equivalent position that they would have been in but for the wrongdoing described above.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff demands the following relief in his favor and in favor of the
21 Class, and against Defendants, as follows:

22 A. Ordering that this action may be maintained as a class action and certifying
23 Plaintiff as Class representatives and their counsel as Class counsel;

24 B. Finding the Defendants liable for breaching their fiduciary duties;

25 C. Finding comScore liable for aiding and abetting the Defendants' breaches of
26 fiduciary duty;

1 D. Rescinding, the Transaction and any agreement or transaction attendant thereto or
2 awarding the Class recessionary damages and appropriate compensatory damages;

3 E. Awarding Plaintiff the costs of this action, including a reasonable allowance for
4 attorneys' and experts' fees;

5 F. Granting such other and further equitable relief as this Court deems just and
6 proper.

7 **JURY TRIAL DEMAND**

8 Plaintiff demands a trial by jury on all claims and issues so triable.

9 Dated this 6th day of February 2017.

10 STOLL STOLL BERNE LOKTING & SHLACHTER P.C.

11 By: s/Timothy S. DeJong
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14 209 S.W. Oak Street, Suite 500
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16 BLOCK & LEVITON LLP
17 Jason M. Leviton (*pro hac vice* motion forthcoming)
18 Joel A. Fleming (*pro hac vice* motion forthcoming)
19 155 Federal Street, Suite 400
Boston, MA 02110
Telephone: 617-398-5600
Email: jason@blockesq.com
joel@blockesq.com

20 ANDREWS & SPRINGER LLC
21 Peter B. Andrews (*pro hac vice* motion forthcoming)
22 Craig J. Springer (*pro hac vice* motion forthcoming)
23 David M. Sborz (*pro hac vice* motion forthcoming)
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25 cspringer@andrewsspringer.com
26 dsborz@andrewsspringer.com

Attorneys for Plaintiff

EXHIBIT A

January 5, 2017

BY CERTIFIED MAIL AND ELECTRONIC MAIL

William Livek
David Chemerow
Brent D. Rosenthal
David Boylan
William Engel
Anne MacDonald
Martin O'Connor
Ralph Shaw
Rentrak Corporation
c/o Ronald L. Berenstein, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099

Re: Notice and Demand

Dear Mr. Berenstein:

I write on behalf of John A. Hulme, Jr., a former shareholder of Rentrak Corporation ("Rentrak"), whose Rentrak shares were converted to common stock of comScore, Inc. ("comScore") on January 29, 2016 pursuant to the merger between comScore and Rentrak (the "Transaction").

This is a notice and demand for action made pursuant to ORCP 32 H made by Mr. Hulme to your clients: William Livek, David Chemerow, Brent D. Rosenthal, David Boylan, William Engel, Anne MacDonald, Martin O'Connor, and Ralph Shaw (the "Individual Defendants"), as well as Rentrak (collectively, the "Rentrak Defendants").

Unless classwide relief is granted *in toto*, Mr. Hulme intends to file an action for damages and equitable relief pursuant to ORCP 32 A and B, consolidate that action with *In Re Rentrak Corporation Shareholders Litigation*, No. 15-CV-247429 (Multnomah County, Oregon) (the "Pending Litigation"), and seek appointment as a representative of the following class (the "Class"):

All holders of Rentrak Corporation stock whose Rentrak Corporation stock was converted to comScore Inc. stock upon the closing of the Transaction on January 29, 2016 (announced February 1, 2016). Excluded from this Class are Defendants and any person, firm, trust, corporation, or other entity related to or affiliated with any Defendant.

A. Particular Alleged Cause of Action

Mr. Hulme intends to assert breach-of-fiduciary duty claims against the Individual Defendants and a claim for equitable relief against Rentrak.

B. Basis of Claim

The basis for these claims is set forth in detail in the Second Amended Complaint filed in the Pending Litigation, which is hereby incorporated by reference as though fully set forth herein.

In short, Mr. Hulme intends to assert claims against the Individual Defendants based on deficiencies in the sales process leading up to the Transaction (“Sales Process Claims”) and in the disclosures made to Rentrak shareholders in the definitive proxy issued by Rentrak and comScore and signed by all of the Individual Defendants (the “Disclosure Claims”). Based on these violations, he intends to seek damages from the Individual Defendants and equitable relief from Rentrak.

1. Sales Process Claims

With the acquiescence of a supine Board (*i.e.*, Defendants Livek, Rosenthal, Boylan, Engel, MacDonald, O’Connor, and Shaw who are, collectively, the “Director Defendants”), Rentrak’s former CEO, William Livek and its former CFO, David Chemerow, sold Rentrak to comScore in an all-stock transaction in which Rentrak shareholders received 1.15 shares of comScore common stock for each share of Rentrak that they held, reflecting an implied value of \$47.69 per share of Rentrak (the “Implied Transaction Value”).

This price did not come close to maximizing shareholder value. The contemporaneous discounted cash flow (“DCF”) analysis by Rentrak’s own financial advisor, Goldman Sachs & Co., projected Rentrak’s value as a stand-alone company to be \$63.52 to \$79.29 per share—\$15.83 to \$31.26 per share more than the implied value.

Instead, the Transaction best served the interests of WPP—a multinational advertising firm which held large, approximately equivalent stakes in both comScore and Rentrak. WPP’s desire was to create a significant rival to Nielsen, a large information and measurement company with whom WPP regularly both competes and cooperates. Its interests diverged from other shareholders because it was pursuing size at any cost and was indifferent to price. Just a month prior to the announcement of the Transaction, WPP urged comScore and Rentrak to “come together,” and the Registration Statement includes numerous references to WPP’s central role in the negotiation of the Transaction.

The Director Defendants allowed Livek and Chemerow to negotiate the terms of their continuing employment with comScore at the same time they were negotiating the material terms of the Transaction—including the consideration that comScore would pay Rentrak shareholders. Shockingly, Livek offered comScore’s CEO an express *quid pro quo*, suggesting that he and the Rentrak Board would not be focused on “maximizing value” or require a “very favorable exchange ratio” so long as comScore agreed to give Livek, Chemerow, and certain Rentrak board members their desired roles in the combined company.

Moreover, the Individual Defendants allowed Livek and Chemerow to chase away a superior competing bid. In June 2015, when Rentrak received an unsolicited offer of \$75 to \$80 per share from a competing bidder, Company B—representing \$27.31 to \$32.31 per share more than the Implied Transaction Value. This offer had no financing contingency and Company B was willing to offer \$60 per share or more in cash. Livek expressly admitted to Chemerow that Company B's offer—made a time when comScore's bid was also pending—was the “best deal for shareholders.”

Yet, rather than embrace Company B's premium offer, Livek and Chemerow chased Company B away by refusing to provide answers to even basic diligence requests.

2. *Disclosure Claims*

Rentrak shareholders' last hope was at the ballot box. But the Individual Defendants failed to disclose material information before the shareholder vote—violating their fiduciary duties and preventing shareholders from giving informed consent. The shareholders' vote to approve the Transaction on January 28, 2016 was, thus, fatally tainted.

First, the definitive proxy statement failed to disclose the price or any other terms of Company B's proposal or the fact that Livek thought it was the “best deal for shareholders.”

Second, on September 4, 2015, Grant Thornton delivered a formal report to Chemerow, in PowerPoint. Among the key findings:

- Barter transactions—*i.e.*, the sharing of data, exchange of services, or other non-monetary transactions which comScore nonetheless accounted for as revenue—“may have provided opportunities for [comScore] Management to ‘manage’ revenues to meet targets.”
- comScore's barter transactions “may not be fully understood by research analysts and the ‘street’ [*i.e.*, Wall Street / investors]. It is unclear how much the current stock price may be impacted if these non-monetary arrangements are better understood.”
- “It is unclear how much analysts have incorporated barter in their forecasts and understand the arrangement's impact on revenue and earnings. Consensus revenue for virtually all periods would not have been achievable without barter revenue.”

Board members discussed the Grant Thornton Report and comScore's barter revenue issues at multiple board meetings. The issue was heavily scrutinized by the Board and the findings of the Grant Thornton Report were material to the Board's decision to approve the Transaction.

Representatives of Grant Thornton spoke directly to the Board about comScore's barter accounting and answered questions from the Board. Chemerow also discussed with the Board management's adjustment to the comScore projections to provide a discount for barter-related revenues.

Yet, the definitive proxy statement—jointly filed by the Rentrak Defendants and comScore—contains only a handful of anodyne references to discussions of “accounting due diligence,” by Grant Thornton with no specific information. The word “barter” did not appear in the definitive proxy statement.

Less than six weeks after the Transaction closed, on March 7, 2016, comScore announced that its Audit Committee was investigating “potential accounting matters,” causing its stock to plummet by over 30%. This reduced the implied value of the consideration that Rentrak shareholders received in the Transaction to just \$31.10 per share.

While the accounting investigation is still ongoing, the combined company has confirmed that the investigation relates to comScore’s accounting for barter transaction, that comScore misstated its revenue figures and that, as a result, it will have to restate its financials going back to 2013. Those misstated figures were included in the definitive proxy statement used to solicit Rentrak shareholders’ votes for the Transaction and the registration statements issued in connection with the issuance of shares to Rentrak shareholders.

Most recently, comScore revealed that its investigation had uncovered “certain instances of **misconduct**” and “concerns regarding internal control deficiencies, including **concerns about tone at the top**; efforts in judgment identified with respect to issues reviewed; information not having been provided to the Company’s accounting group and its external auditors; **and the sufficiency of public disclosures made by the Company** about certain performance metrics.”

Since the investigation was announced, multiple comScore officers and directors have left the combined company:

- comScore’s former CEO, Serge Matta, and CFO, Melvin Wesley III, both resigned after being demoted;
- comScore’s co-founder, Magid Abraham, resigned as comScore’s executive chairman and announced he would leave the board when his term expired;
- Joan Lewis, who replaced Abraham as comScore’s Chair and served on the Audit Committee, resigned;
- comScore director William Katz resigned; and
- Patricia Gottesman, a former Rentrak director, who joined comScore’s board and Audit Committee after the Transaction, resigned.

///

C. Demand That Wrong Be Rectified

On behalf of the putative Class, Mr. Hulme demands that the Rentrak Defendants rectify the wrongs described above by rescinding the Transaction and/or paying damages to each Class member in the amount of \$48.19 per share.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Leviton', with a large, stylized loop at the end.

Jason M. Leviton

cc – Rentrak Corporation, 7700 NE Ambassador Place, 3rd Floor, Portland, OR 97220-1393

EXHIBIT B

January 5, 2017

BY CERTIFIED MAIL AND ELECTRONIC MAIL

comScore, Inc.
c/o Stephen A. Swedlow, Esq.
Quinn Emanuel Urquhart & Sullivan LLP
500 West Madison St., Suite 2450
Chicago, Illinois 60661
stephenswedlow@quinnemanuel.com

Re: Notice and Demand

Dear Mr. Swedlow:

I write on behalf of John A. Hulme, Jr., a former shareholder of Rentrak Corporation (“Rentrak”), whose Rentrak shares were converted to common stock of comScore, Inc. (“comScore”) on January 29, 2016 pursuant to the merger between comScore and Rentrak (the “Transaction”).

This is a notice and demand for action made pursuant to ORCP 32 H made by Mr. Hulme to your client, comScore, Inc.

Unless classwide relief is granted *in toto*, Mr. Hulme intends to file an action for damages and equitable relief pursuant to ORCP 32 A and B, consolidate that action with *In Re Rentrak Corporation Shareholders Litigation*, No. 15-CV-247429 (Multnomah County, Oregon) (the “Pending Litigation”), and seek appointment as a representative of the following class (the “Class”):

All holders of Rentrak Corporation stock whose Rentrak Corporation stock was converted to comScore Inc. stock upon the closing of the Transaction on January 29, 2016 (announced February 1, 2016). Excluded from this Class are Defendants and any person, firm, trust, corporation, or other entity related to or affiliated with any Defendant.

A. Particular Alleged Cause of Action

Mr. Hulme intends to assert a claim against comScore for aiding-and-abetting breaches of fiduciary duty by William Livek, David Chemerow, Brent D. Rosenthal, David Boylan, William Engel, Anne MacDonald, Martin O’Connor, and Ralph Shaw (the “Individual Defendants”) seeking damages and equitable relief.

B. Basis of Claim

The basis for these claims is set forth in detail in the Second Amended Complaint filed in the Pending Litigation which is hereby incorporated by reference as though fully set forth herein.

In short, Mr. Hulme intends to assert claims against comScore for aiding-and-abetting the Individual Defendants' breaches of their duty of candor in connection with the disclosures made to Rentrak shareholders in the definitive proxy issued by Rentrak and comScore and signed by the Individual Defendants. Based on these violations, he intends to seek damages and equitable relief from comScore.

Specifically, the Individual Defendants failed to disclose material information before the shareholder vote—violating their fiduciary duties and preventing shareholders from giving informed consent. The shareholders' vote to approve the Transaction on January 28, 2016 was, thus, fatally tainted.

On September 4, 2015, Grant Thornton delivered a formal report to Chemerow, in PowerPoint. Among the key findings:

- Barter transactions—*i.e.*, the sharing of data, exchange of services, or other non-monetary transactions which comScore nonetheless accounted for as revenue—“may have provided opportunities for [comScore] Management to ‘manage’ revenues to meet targets.”
- comScore's barter transactions “may not be fully understood by research analysts and the ‘street’ [*i.e.*, Wall Street / investors]. It is unclear how much the current stock price may be impacted if these non-monetary arrangements are better understood.”
- “It is unclear how much analysts have incorporated barter in their forecasts and understand the arrangement's impact on revenue and earnings. Consensus revenue for virtually all periods would not have been achievable without barter revenue.”

Board members discussed the Grant Thornton Report and comScore's barter revenue issues at multiple board meetings. The issue was heavily scrutinized by the Board and the findings of the Grant Thornton Report were material to the Board's decision to approve the Transaction.

Representatives of Grant Thornton spoke directly to the Board about comScore's barter accounting and answered questions from the Board. Chemerow also discussed with the Board management's adjustment to the comScore projections to provide a discount for barter-related revenues.

comScore knew that Grant Thornton was conducting due diligence into its barter accounting on Rentrak's behalf and that this was, by September 2015, Rentrak's most pressing diligence concern. At one point, comScore was prepared to walk away from the Transaction rather than answer additional diligence questions from Rentrak related to its barter accounting. comScore plainly knew that these issues were material to Rentrak's Board and, by implication, to its shareholders.

Yet the definitive proxy statement—jointly filed by Rentrak and comScore—contains only a handful of anodyne references to discussions of “accounting due diligence,” by Grant Thornton with no specifics. The word “barter” did not appear in the document.

Less than six weeks after the Transaction closed, on March 7, 2016, comScore announced that its Audit Committee was investigating “potential accounting matters,” causing its stock to plummet by over 30%. This reduced the implied value of the consideration that Rentrak shareholders received in the Transaction to just \$31.10 per share.

While the accounting investigation is still ongoing, the combined company has confirmed that the investigation relates to comScore’s accounting for barter transactions, that comScore misstated its revenue figures and that, as a result, it will have to restate its financials going back to 2013. Those misstated figures were included in the definitive proxy statement used to solicit Rentrak shareholders’ votes for the Transaction and the registration statements issued in connection with the issuance of shares to Rentrak shareholders.

Most recently, comScore revealed that its investigation had uncovered “certain instances of **misconduct**” and “concerns regarding internal control deficiencies, including **concerns about tone at the top**; efforts in judgment identified with respect to issues reviewed; information not having been provided to the Company’s accounting group and its external auditors; **and the sufficiency of public disclosures made by the Company** about certain performance metrics.”

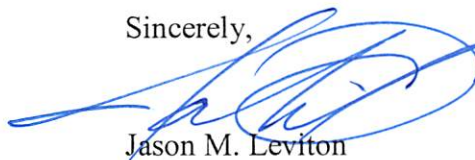
Since the investigation was announced, multiple comScore officers and directors have left the company:

- comScore’s former CEO, Serge Matta, and CFO, Melvin Wesley III, both resigned after being demoted;
- comScore’s co-founder, Magid Abraham, resigned as comScore’s executive chairman and announced he would leave the board when his term expired;
- Joan Lewis, who replaced Abraham as comScore’s Chair and served on the Audit Committee, resigned;
- comScore director William Katz resigned; and
- Patricia Gottesman, a former Rentrak director, who joined comScore’s board and Audit Committee after the Transaction, resigned.

C. Demand That Wrong Be Rectified

On behalf of the putative Class, Mr. Hulme demands that comScore rectify the wrongs described above by rescinding the Transaction and/or paying damages to each Class member in the amount of \$48.19 per share.

Sincerely,



Jason M. Leviton

cc – comScore, Inc., 7700 NE Ambassador Place, 3rd Floor, Portland, OR 97220-1393