



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

MATTHEW HARNEY, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. \_\_\_\_\_  
 )  
ZUORA, INC., )  
 )  
Defendant. )

**VERIFIED COMPLAINT PURSUANT TO 8 DEL. C. § 220  
TO COMPEL INSPECTION OF BOOKS AND RECORDS**

Plaintiff Matthew Harney (“Plaintiff”), by his undersigned attorneys, for this Verified Complaint against defendant Zuora, Inc. (“Zuora,” the “Company,” or “Defendant”), alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

**NATURE OF THE ACTION**

1. Plaintiff, a beneficial owner of Zuora common stock at all relevant times, brings this action pursuant to 8 Del. C. § 220 (“Section 220”) to enforce Plaintiff’s statutory right to inspect certain books and records of Defendant.

2. On October 13, 2020, Plaintiff served Defendant and Tien Tzuo (“Tzuo”), Zuora’s Chief Executive Officer (“CEO”) and Chairman of the Company’s Board of Directors (the “Board”), with a Section 220 Demand Letter

(the “Demand” or “Demand Letter”), requesting Plaintiff be permitted to inspect books and records from meetings of the Board, dating from no earlier than May 1, 2017, relating to materially false and misleading statements the Company and its executives made about the functionality and compatibility of Zuora’s platform. *See* Exhibit 1 hereto.

3. Plaintiff’s purpose in making the Demand is reasonably related to his interests as a Zuora stockholder. Public information about Zuora and its directors’ materially false and misleading statements – including, for instance, a recent holding in a related securities class action “that defendants’ statements would give a reasonable investor the impression of a state of affairs that differs in a material way from the one that actually exists”<sup>1</sup> – supplies a credible basis to suspect wrongdoing that warrants investigation, though that information is insufficient for Plaintiff’s purpose of investigating that wrongdoing and for his separate but related purpose of investigating the independence of each of the Company’s directors and officers.

4. In the nearly three months since Defendant was served with the Demand Letter, ***Zuora has failed to respond to Plaintiff or Plaintiff’s counsel.***

5. Accordingly, Plaintiff seeks a summary Order from this Court requiring Defendant to produce the demanded books and records for inspection.

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<sup>1</sup> *Roberts v. Zuora, Inc. et al.*, Case No. 3:19-cv-03422, Dkt. No. 75, 14 (N.D. Ca.).

## **PARTIES**

6. Plaintiff has been a continuous beneficial owner of Zuora common stock since October 31, 2016.

7. Defendant is a Delaware corporation with its principal executive offices located at 101 Redwood Shores Parkway, Redwood City, California 94065.

## **SUBSTANTIVE ALLEGATIONS**

8. Zuora is a cloud-based subscription platform that designs and sells service applications, allowing companies across multiple industries to launch, manage, or transform to subscription-based models. The Company's two primary products are Zuora Billing ("Billing"), a subscription billing software, and Zuora RevPro ("RevPro"), a revenue recognition software.

9. Zuora started as a private company in 2006 but confirmed plans to become a public company in April 2018.

10. On April 12, 2018, in connection with its initial public offering, Zuora released an investor presentation, registration statement, prospectus, and prospectus supplement (collectively the "Prospectus") emphasizing the functionality and compatibility of its "Cross-Sell Flagship Products," Billing and RevPro. The Prospectus highlighted Zuora's functionality and integrated features, stating "our solution functions as an intelligent subscription management hub that automates and

orchestrates the entire subscription order-to-cash process.” The Prospectus held Zuora out as “enabling subscription businesses to have a single system of record rather than having to reconcile data from multiple systems.”

11. These representations were not limited to the Prospectus. For instance, the Company’s website stated that with “Zuora’s subscription management technology . . . you can quote, order, bill, recognize revenue, report, and automate the entire customer lifecycle from a single platform.”

12. Although Defendant repeatedly marketed Zuora’s platform and flagship products as a functioning, combined solution, Billing and RevPro were in fact not integrated and could only function as standalone products.

13. Among other things, Zuora and the Board failed to disclose that:

- The Company would focus on implementing RevPro for new customers ahead of the deadline to comply with accounting standard ASC 606;
- As a result, the Company lacked adequate resources to integrate RevPro with the core business;
- The Company would not focus on RevPro integration until a year after the acquisition of Leeyo closed;
- Delays in integrating RevPro would materially impact the business;
- The market for RevPro was limited to customers seeking to implement new accounting standards such as ASC 606; and
- After the deadline for ASC 606 compliance passed, demand for RevPro was likely to decline.

14. The truth was revealed on May 30, 2019 when the Company announced its first quarter results for 2020 and disclosed product integration for Billing and RevPro was still incomplete. On a conference call with analysts following the report, an analyst from Jeffries rhetorically asked Tzuo, “I mean you bought [RevPro] 2 years ago. So like it’s hard -- *like how can it not be integrated?*” (emphasis added). Tzuo admitted that the Company “didn’t really have time and the resource to focus on the integration between [Billing and RevPro] until after the [ASC] 606 [wave] was complete. So we didn’t really start heavy work on the integration until early last summer, late spring, early last summer. And long story short, we went down one direction that proved to be a dead end, a false direction.”

15. On May 31, 2019, the next day, Zuora’s share price fell \$5.91 per share, nearly 30%, to close at \$13.99 per share, erasing nearly \$520 million in market capitalization in a single trading day.

16. There is more than a credible basis to believe Zuora and the Board made materially false and misleading statements to the investing public about the functionality and compatibility of the Zuora platform, including in the Prospectus, and failed to disclose material adverse facts about the Company’s business, operations, and prospects to the investing public.

17. Since June 14, 2019, at least four complaints detailing a calculated conspiracy to defraud the investing public have been filed in federal court against Zuora and certain members of the Board (collectively, the “Complaints”). Among the allegations are comprehensive accounts from multiple confidential witnesses with insider knowledge, including a “Senior Manager Global Services/Principal Solution Architect and Zuora Integration Architect,” a “highranking project manager,” and an “account executive.”

18. The Complaints allege Zuora and the Board (1) failed to maintain an adequate system of oversight, accounting controls and procedures, disclosure controls, and other internal controls, which were necessary to prevent or promptly correct improper statements made on the Company’s behalf; (2) concealed the existence of significant technical challenges related to the Company’s two core products, Billing and RevPro; and (3) took advantage of the Company’s artificially inflated stock price by selling their own shares for over \$49 million in insider trades.

19. On April 28, 2020, in the securities class action captioned *Roberts v. Zuora, Inc. et al.*, Case No. 3:19-cv-03422 (N.D. Ca.), U.S. District Judge Susan Illston for the Northern District of California denied Zuora’s Motion to Dismiss, finding the plaintiff “***adequately alleged that defendants’ statements would give a reasonable investor the impression of a state of affairs that differs in a material***

*way from the one that actually exists.*” Dkt. No. 75, 14. (emphasis added). The court found plaintiff “sufficiently allege[d] that throughout the class period, defendants repeatedly marketed Zuora’s platform and applications as a functioning, combined solution when in fact Billing and RevPro only could function as standalone products.” *Id.* at 15. In addition to statements made in the Prospectus, Judge Illston cited the following representations made by Zuora and the Board to support her decision:

- A June 5, 2018 tweet by Zuora: “Don’t underestimate the complexity of revenue recognition. The deep dark depths are very, very complex! Thank goodness for Zuora + RevPro integration for a seamless order-to-revenue process! #Subscribed #revrec.”;
- An image on Zuora’s website illustrating the flow from Billing to the Zuora Central Platform to RevPro;
- Zuora’s website stating that Zuora Central “is a single platform for your order-to-revenue process and the connective tissue between your CRM and ERP” and that Zuora Central “easily connects the various applications in your order-to-revenue ecosystem”;
- A December 2018 press release emphasizing the “automation and usability across Zuora Billing, Zuora Collect, and Zuora RevPro”;
- Zuora’s first quarter 2019 earnings call, during which you stated, “[W]e continue to offer the only complete subscription management solution,” and “[Zuora is] the only company that provides a full solution”; and
- Zuora’s second quarter 2019 earnings call, on which Tyler Sloat, Zuora’s former Chief Financial Officer, stated that Zuora acquired RevPro because of “business model complexity that hits both your quote-to-cash solution as well as your revenue automation.”

*Id.* at 15-16.

20. The court found plaintiff properly alleged these “statements were materially false or misleading because Billing and RevPro were not integrated...” *Id.* at 16. It found “plaintiff allege[d] with particularity that the [above] statements [were] contradicted by the failures of the ZoZ and Keystone Projects as well as the problems that Zuora’s customers experienced when they tried to implement both products...” *Id.* It also found “plaintiff sufficiently alleged scienter,” stating the complaint “allege[d] with particularity that defendants were in possession of contemporaneous, contradictory information when they made the false and misleading statements, giving rise to a strong inference of scienter.” *Id.* at 19.

***Plaintiff’s Books and Records Demand***

21. Plaintiff’s Demand Letter, dated October 13, 2020, is annexed hereto as Exhibit 1 and is incorporated herein by reference. Attached to the Demand Letter as Exhibit A was a true and correct copy of Plaintiff’s current brokerage account statement reflecting Plaintiff’s beneficial ownership of Zuora common stock at all relevant times. *Id.* Attached to the Demand Letter as Exhibit B was a true and correct copy of a Special Power of Attorney authorizing Rigrodsky & Long, P.A. and the Grabar Law Office to act on behalf of Plaintiff in connection with the



Demand. *Id.* Attached to the Demand Letter as Exhibit C was a true and correct copy of a Verification of Plaintiff. *Id.*<sup>2</sup>

22. The Demand Letter was sent on October 13, 2020 via FedEx overnight delivery to the Company's principal place of business in San Diego, California. The Demand Letter was also served on the Company's Registered Agent in Delaware.

23. Plaintiff demanded that Zuora<sup>3</sup> provide him with the opportunity to inspect and copy the following books and records<sup>4</sup> within the Company's possession, custody, and control during the usual hours of business within five (5) business days of receipt of the Demand Letter:

1. Minutes of all meetings of the Board<sup>5</sup> from May 1, 2017 through the date of Zuora's response to the demand,

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<sup>2</sup> Pursuant to Supreme Court Administrative Order No. 3 issued on March 22, 2020, "any requirements for sworn declarations, verifications, certificates, statements, oaths, or affidavits in filings with the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, or the Justice of the Peace Court are suspended while the judicial emergency remains in effect."

<sup>3</sup> "Zuora" was defined to include "the Company's subsidiaries as defined at 8 *Del. C.* § 220(a)(2)."

<sup>4</sup> The term "books and records" was to be "construed as broadly as possible under Delaware precedent, including emails of directors or officers, whether or not stored on the Company's servers."

<sup>5</sup> The Demand Letter stated the phrase "all meetings of the Board of Directors of Zuora" (here, "all meetings of the Board") included, for the purposes of the letter, "all regular, special, and ad hoc meetings of the Board and all such meetings of

inclusive, during which the acquisition of Leeyo was on the agenda or otherwise discussed at the meeting.

2. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which the Company's promotional events, videos, and other materials, regardless of when they occurred or were distributed (*e.g.* the April 12, 2018 investor presentation, registration statement, prospectus, and prospectus supplement) was on the agenda or otherwise discussed at the meeting.
3. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during the development, components, capabilities, status, production, or expected availability dates of Zuora RevPro was on the agenda or otherwise discussed at the meeting.
4. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which the development, status, or progress of RevPro, Billing, or Zuora Central, including Zuora's agreements with third parties for research, testing, development, production, or supply of such, was on the agenda or otherwise discussed at the meeting.
5. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which the design of Billing's source data, Billing's effectiveness in providing Enterprise Resource Planning information and data points necessary for revenue recognition in RevPro, transportation of Billing data into RevPro transaction lines, or any other information regarding the integration, structure, or

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regular, special, or ad hoc committees or subcommittees of the Board, whether held in person, telephonically, electronically, or otherwise.”

uniformity of Billing and RevPro data was on the agenda or otherwise discussed at the meeting.

6. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which the functionality of the Zuora platform, including the compatibility of RevPro and Billing, and public representations regarding the functionality of the Zuora platform, including on the Company's website or social media, or through press releases, SEC filings, and/or earnings calls was on the agenda or otherwise discussed at the meeting.
7. Minutes of all meetings of the Board from January 1, 2017 through the date of Zuora's response to the demand, inclusive, during which Accounting Standard Codification 606/International Financial Reporting Standards 15 ("ASC 606") or ASU 2014-09's implementation deadline was on the agenda or otherwise discussed at the meeting.
8. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which actual or projected sales or leases of, pre-orders for, reservations for, or contracts for the delivery of RevPro, Billing, or Zuora Central were on the agenda or otherwise discussed at the meeting.
9. Minutes of all meetings of the Board from January 1, 2017 through the date of Zuora's response to the demand, inclusive, during which plans to sell RevPro, Billing, or Zuora Central, including potential agreements with third parties, was on the agenda or otherwise discussed at the meeting.
10. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which compatibility and/or data integration issues or solutions to compatibility and/or data

integration issues was on the agenda or otherwise discussed at the meeting.

11. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which third party reactions to the compatibility and functionality of RevPro and Billing, or tests performed by third parties on the compatibility and functionality of RevPro and Billing, such as those performed by Zoom Video Communications, was on the agenda or otherwise discussed at the meeting.
12. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which customer complaints about RevPro and/or Billing failing to perform with Zuora Central was on the agenda or otherwise discussed at the meeting.
13. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, during which Zuora on Zuora ("ZoZ"), MuleSoft, the Keystone Project, the K-2 Project, or OrderMetrics was on the agenda or otherwise discussed at the meeting.
14. Minutes of all meetings of the Board from May 1, 2017 through the date of Zuora's response to the demand, inclusive, the cases captioned *Beaven v Tzuo, et al.*, Case No. 3:19-cv-05702 (N.D. Ca.), *Roberts v. Zuora, Inc. et al.*, Case No. 3:19-cv-03422 (N.D. Ca.), *Ahmed v. Diouane, et al.*, Case No. 1:20-cv-00714 (D. Del.), or *Schuster v. Diouane, et al.*, Case No. 1:20-cv-00745 (D. Del.) was on the agenda or otherwise discussed at the meeting.
15. All of the Board's agendas, packages, presentations, reports, exhibits, official correspondence and emails,

recordings, summaries, memoranda, transcripts, notes, summaries of meetings, and resolutions for all of the above-described meetings of the Board.

16. Any other stockholder books and records demand letters received by the Company regarding the above-referenced items (“Related Demands”).
17. All books, records, and documents produced by the Company in response to Related Demands.

(Exhibit 1, pgs. 2-4).

24. The Demand Letter set forth Plaintiff’s desire to inspect the materials listed above for the following legitimate and proper purposes, all of which are reasonably related to Plaintiff’s interests as a stockholder of Zuora:

- A. Investigating wrongdoing, mismanagement, and breaches of fiduciary duties by the members of the Board, Company officers, and/or others, including but not limited to the dissemination of materially false and/or misleading statements or material omissions regarding the status of Zuora’s plans, products, technologies, market share, capabilities, partners, and orders and reservations;
- B. Assessing the ability of the Board to consider impartially a demand for action, including a request for permission to file a derivative lawsuit on the Company’s behalf, related to such issues; and
- C. Taking appropriate action if the members of the Board did not properly discharge their duties, including making a demand on the Board and/or preparing and filing a stockholder derivative lawsuit, if appropriate.

(*Id.* at 4).

25. The Demand Letter also stated:

An additional purpose to those stated above is to take appropriate action if the Board did not properly discharge its duties. This purpose relates to a stockholder's decision about how to act in the event the demanded inspection reveals impropriety or actionable conduct. Possible courses of conduct include making a demand on the Board to act or initiating litigation against the Board on the Company's behalf. Both possible courses of action are well within a stockholder's rights under Delaware law, and, thus, gathering information for this purpose is proper.

(*Id.* at 7-8).

26. Plaintiff designated Rigrodsky & Long, P.A. and the Grabar Law Office as his agents to conduct the demanded inspection.

27. In the nearly three months since Defendant was served with the Demand Letter, Zuora has not responded. Defendant has therefore failed to adequately respond to Plaintiff's lawful and proper Demand.

28. Accordingly, Plaintiff brings this action to enforce his rights under Section 220(c) based on Defendant's failure to provide books and records in response to Plaintiff's Demand.

### **CAUSE OF ACTION**

#### **(Inspection of Books and Records of Zuora Pursuant to 8 *Del. C.* § 220(c))**

29. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

30. Plaintiff has complied fully with all requirements under Section 220 concerning the form and manner of making a demand for inspection of Zuora's books and records.<sup>6</sup>

31. Through his Demand, Plaintiff has demonstrated a credible basis from which to infer that there are reasonable grounds to suspect mismanagement that warrant further investigation. Plaintiff's Demand is for a proper purpose and the documents identified in the Demand are essential for that purpose.

32. Zuora has wrongfully failed to comply with the Demand.

33. Pursuant to Section 220, Plaintiff is entitled to apply to this Court for an Order compelling inspection of Zuora's corporate books and records because the Company has wrongfully refused to permit the inspection after Plaintiff complied with said statute concerning the form and manner of making a demand for inspection of such documents and articulated a proper purpose for the inspection.

34. Plaintiff therefore seeks relief from the Court pursuant to Section 220 to compel inspection of Zuora's books and records without further delay.

35. Plaintiff has no adequate remedy at law.

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<sup>6</sup> Plaintiff's proof of ownership is attached hereto as Exhibit A to Plaintiff's Demand and incorporated herein by reference.

**PRAYER FOR RELIEF**

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

- A. An order summarily requiring Zuora to permit immediately the inspection and copying of each and every requested book and record in un-redacted form as set forth in Plaintiff's October 13, 2020 Demand Letter;
- B. An order directing Zuora to pay Plaintiff's reasonable attorneys' fees and expenses in connection with the Demand and related litigation; and
- C. Such other and further relief as this Court deems just and proper.

Dated: December 30, 2020

**RIGRODSKY & LONG, P.A.**

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