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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

THOMAS S. ROONEY, JR.,  
ALEXANDER J. BUEHLER, JOEL  
GAY, and ENERGY RECOVERY, INC.,

Defendants.

Case No:

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

**JURY TRIAL DEMANDED**

Plaintiff individually and on behalf of all other persons  
similarly situated, by his undersigned attorneys, alleges in this Complaint the  
following upon knowledge with respect to his own acts, and upon facts obtained  
through an investigation conducted by his counsel, which included, inter alia: (a)  
review and analysis of relevant filings made by Energy Recovery, Inc. (“Energy  
Recovery” or the “Company”) with the United States Securities and Exchange  
Commission (the “SEC”); (b) review and analysis of Defendants’ public documents,  
conference calls and press releases; (c) review and analysis of securities analysts’

1 reports and advisories concerning the Company; and (d) information readily  
2 obtainable on the Internet.

3 Plaintiff believes that further substantial evidentiary support will exist for the  
4 allegations set forth herein after a reasonable opportunity for discovery. Most of the  
5 facts supporting the allegations contained herein are known only to Defendants or are  
6 exclusively within their control.

7 **NATURE OF THE ACTION**

8 1. This is a federal securities class action on behalf of all persons and  
9 entities, other than Defendants, who purchased the common stock of Energy  
10 Recovery during the period March 14, 2012 through January 13, 2015, inclusive (the  
11 “Class Period”), seeking to recover compensable damages caused by Defendants’  
12 violations of federal securities laws and pursue remedies under the Securities  
13 Exchange Act of 1934 (the “Exchange Act”).

14 2. Energy Recovery designs, develops, and manufactures energy recovery  
15 devices that transform untapped energy into reusable energy from industrial fluid  
16 flows and pressure cycles. The company markets its products directly to customers  
17 through its sales organization, as well as through authorized independent sales agents  
18 in the United States and internationally.

19 3. Throughout the Class Period, Defendants made false and/or misleading  
20 statements, and failed to disclose deficiencies in its internal controls. Specifically,  
21 during the Class Period, Defendants made false and/or misleading statements and/or  
22 failed to disclose that its Chief Sales Officer/Senior Vice President of Sales had  
23 breached a duty of trust and engaged in conduct which created a conflict of interest  
24 with the Company.

25 4. When the market learned of this breach, the Company’s stock price  
26 plunged, damaging investors.

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**JURISDICTION AND VENUE**

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2 5. The claims asserted herein arise under and pursuant to Sections 10(b)  
3 and 20(a) of the Exchange Act, (15 U.S.C. §78j (b) and 78t (a)), and Rule 10b-5  
4 promulgated thereunder (17 C.F.R. §240.10b-5).

5 6. This Court has jurisdiction over the subject matter of this action pursuant  
6 to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. § 1331.

7 7. Venue is proper in this Judicial District pursuant to §27 of the Exchange  
8 Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391(b) as the Company conducts business in  
9 this district.

10 8. In connection with the acts, conduct and other wrongs alleged in this  
11 Complaint, Defendants, directly or indirectly, used the means and instrumentalities of  
12 interstate commerce, including but not limited to, the United States mails, interstate  
13 telephone communications and the facilities of the national securities exchange.

**PARTIES**

14  
15 9. Plaintiff ██████████ as set forth in the accompanying certification,  
16 incorporated by reference herein, purchased Energy Recovery common stock at  
17 artificially inflated prices during the Class Period and has been damaged thereby.

18 10. Defendant Energy Recovery is a Delaware corporation with  
19 headquarters in San Leandro, California. It is an industry leader in capturing reusable  
20 energy from industrial fluid flows and pressure cycles. During the Class Period the  
21 Company's stock was traded on the NASDAQ Stock Market ("NASDAQ") under the  
22 symbol "ERII."

23 11. Defendant Thomas S. Rooney, Jr. ("Rooney") has been the President and  
24 Chief Executive Officer of the Company, as well as a Director of the Company at all  
25 relevant times.

26 12. Defendant Alexander J. Buehler ("Buehler") was the Chief Financial  
27 Officer of the Company at all relevant until his abrupt resignation on June 25, 2014.  
28

1 13. Defendant Joel Gay (“Gay”) has been the Chief Financial Officer of the  
2 Company since June 27, 2014.

3 14. Defendants Rooney and Buehler are collectively referred to hereinafter  
4 as the “Individual Defendants.”

5 15. Each of the Individual Defendants:

6 (a) directly participated in the management of the Company;

7 (b) was directly involved in the day-to-day operations of the  
8 Company at the highest levels;

9 (c) was privy to confidential proprietary information concerning the  
10 Company and its business and operations;

11 (d) was involved in drafting, producing, reviewing and/or  
12 disseminating the false and misleading statements and information alleged  
13 herein;

14 (e) was aware of or recklessly disregarded the fact that the false and  
15 misleading statements were being issued concerning the Company; and

16 (f) approved or ratified these statements in violation of the federal  
17 securities laws.

18 16. As officers, directors, and controlling persons of a publicly-held  
19 company whose common stock is and was registered with the SEC pursuant to the  
20 Exchange Act, and was traded on NASDAQ and governed by the provisions of the  
21 federal securities laws, the Individual Defendants each had a duty to disseminate  
22 accurate and truthful information promptly with respect to the Company’s financial  
23 condition and to correct any previously-issued statements that had become materially  
24 misleading or untrue to allow the market price of the Company’s publicly-traded  
25 stock to reflect truthful and accurate information.

26 17. Energy Recovery is liable for the acts of the Individual Defendants and  
27 its employees under the doctrine of respondeat superior and common law principles  
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1 of agency as all of the wrongful acts complained of herein were carried out within the  
2 scope of their employment with authorization.

3 18. The scienter of the Individual Defendants and other employees and  
4 agents of the Company is similarly imputed to Energy Recovery under respondeat  
5 superior and agency principles.

6 **SUBSTANTIVE ALLEGATIONS**

7 19. The class period starts on March 14, 2012, when the Company filed a  
8 materially false and misleading Form 10-K for the fiscal year ended December 31,  
9 2011 (the “2011 10-K”) with the SEC, which misstated that the Company’s internal  
10 control over financial reporting was effective.

11 20. The 2011 10-K was signed by Defendants Rooney and Buehler.  
12 Attached to the 2011 10-K were the Sarbanes-Oxley Act of 2002 (“SOX”)  
13 certifications signed by Defendants Rooney and Buehler falsely attesting to the  
14 accuracy of the 2011 10-K.

15 21. On May 9, 2012, the Company filed with the SEC a materially false and  
16 misleading Form 10-Q for the quarterly period ended March 31, 2012 (the “2012  
17 First Quarter 10-Q”), which failed to disclose deficiencies in the Company’s internal  
18 control over financial reporting.

19 22. The 2012 First Quarter 10-Q was signed by Defendants Rooney and  
20 Buehler. Attached to the 2012 First Quarter 10-Q were the SOX certifications signed  
21 by Defendants Rooney and Buehler falsely attesting to the accuracy of the 2012 First  
22 Quarter 10-Q.

23 23. On August 7, 2012, the Company filed with the SEC a materially false  
24 and misleading Form 10-Q for the quarterly period ended June 30, 2012 (the “2012  
25 Second Quarter 10-Q”), which failed to disclose deficiencies in the Company’s  
26 internal control over financial reporting.

27 24. The 2012 Second Quarter 10-Q was signed by Defendants Rooney and  
28 Buehler. Attached to the 2012 Second Quarter 10-Q were the SOX certifications

1 signed by Defendants Rooney and Buehler falsely attesting to the accuracy of the  
2 2012 Second Quarter 10-Q.

3 25. On November 8, 2012, the Company filed with the SEC a materially  
4 false and misleading Form 10-Q for the quarterly period ended September 30, 2012  
5 (the “2012 Third Quarter 10-Q”), which failed to disclose deficiencies in the  
6 Company’s internal control over financial reporting.

7 26. The 2012 Third Quarter 10-Q was signed by Defendants Rooney and  
8 Buehler. Attached to the 2012 Third Quarter 10-Q were the SOX certifications signed  
9 by Defendants Rooney and Buehler falsely attesting to the accuracy of the 2012 Third  
10 Quarter 10-Q.

11 27. On March 12, 2013, the Company filed a materially false and misleading  
12 Form 10-K for the fiscal year ended December 31, 2012 (the “2012 10-K”) with the  
13 SEC, which misstated that the Company’s internal control over financial reporting  
14 was effective.

15 28. The 2012 10-K was signed by Defendants Rooney and Buehler.  
16 Attached to the 2012 10-K were the SOX certifications signed by Defendants Rooney  
17 and Buehler falsely attesting to the accuracy of the 2012 10-K.

18 29. On May 9, 2013, the Company filed with the SEC a materially false and  
19 misleading Form 10-Q for the quarterly period ended March 31, 2013 (the “2013  
20 First Quarter 10-Q”), which failed to disclose deficiencies in the Company’s internal  
21 control over financial reporting.

22 30. The 2013 First Quarter 10-Q was signed by Defendants Rooney and  
23 Buehler. Attached to the 2013 First Quarter 10-Q were the SOX certifications signed  
24 by Defendants Rooney and Buehler falsely attesting to the accuracy of the 2013 First  
25 Quarter 10-Q.

26 31. On August 6, 2013, the Company filed with the SEC a materially false  
27 and misleading Form 10-Q for the quarterly period ended June 30, 2013 (the “2013  
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1 Second Quarter 10-Q”), which failed to disclose deficiencies in the Company’s  
2 internal control over financial reporting.

3 32. The 2013 Second Quarter 10-Q was signed by Defendants Rooney and  
4 Buehler. Attached to the 2013 Second Quarter 10-Q were the SOX certifications  
5 signed by Defendants Rooney and Buehler falsely attesting to the accuracy of the  
6 2013 Second Quarter 10-Q.

7 33. On November 7, 2013, the Company filed with the SEC a materially  
8 false and misleading Form 10-Q for the quarterly period ended September 30, 2013  
9 (the “2013 Third Quarter 10-Q”), which failed to disclose deficiencies in the  
10 Company’s internal control over financial reporting.

11 34. The 2013 Third Quarter 10-Q was signed by Defendants Rooney and  
12 Buehler. Attached to the 2013 Third Quarter 10-Q were the SOX certifications signed  
13 by Defendants Rooney and Buehler falsely attesting to the accuracy of the 2013 Third  
14 Quarter 10-Q.

15 35. On March 11, 2014, the Company filed a materially false and misleading  
16 Form 10-K for the fiscal year ended December 31, 2013 (the “2013 10-K”) with the  
17 SEC, which misstated that the Company’s internal control over financial reporting  
18 was effective.

19 36. The 2013 10-K was signed by Defendants Rooney and Buehler.  
20 Attached to the 2013 10-K were the SOX certifications signed by Defendants Rooney  
21 and Buehler falsely attesting to the accuracy of the 2013 10-K.

22 37. On May 8, 2014, the Company filed with the SEC a materially false and  
23 misleading Form 10-Q for the quarterly period ended March 31, 2014 (the “2014  
24 First Quarter 10-Q”), which failed to disclose deficiencies in the Company’s internal  
25 control over financial reporting.

26 38. The 2014 First Quarter 10-Q was signed by Defendants Rooney and  
27 Buehler. Attached to the 2014 First Quarter 10-Q were the SOX certifications signed  
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1 by Defendants Rooney and Buehler falsely attesting to the accuracy of the 2014 First  
2 Quarter 10-Q.

3 39. On June 25, 2014, the Company announced the sudden resignation of  
4 Defendant Buehler, effective that day.

5 40. On August 7, 2014, the Company filed with the SEC a materially false  
6 and misleading Form 10-Q for the quarterly period ended June 30, 2014 (the “2014  
7 Second Quarter 10-Q”), which failed to disclose deficiencies in the Company’s  
8 internal control over financial reporting.

9 41. The 2014 Second Quarter 10-Q was signed by Defendants Rooney and  
10 Gay. Attached to the 2014 Second Quarter 10-Q were the SOX certifications signed  
11 by Defendants Rooney and Gay falsely attesting to the accuracy of the 2014 Second  
12 Quarter 10-Q.

13 42. On November 10, 2014, the Company filed with the SEC a materially  
14 false and misleading Form 10-Q for the quarterly period ended September 30, 2014  
15 (the “2014 Third Quarter 10-Q”), which failed to disclose deficiencies in the  
16 Company’s internal control over financial reporting.

17 43. The 2014 Third Quarter 10-Q was signed by Defendants Rooney and  
18 Gay. Attached to the 2014 Third Quarter 10-Q were the SOX certifications signed by  
19 Defendants Rooney and Gay falsely attesting to the accuracy of the 2014 Third  
20 Quarter 10-Q.

21 **The Truth Begins to Emerge**

22 44. On September 10, 2014, the Company issued a press release and filed as  
23 a Form 8-K with the SEC on the following day announcing the search for a new  
24 Chief Sales Officer. It states in relevant parts:

25 Energy Recovery Inc. (Nasdaq:ERII), the leader in capturing reusable  
26 energy from industrial fluid flows and pressure cycles, today  
27 announced that *effective immediately, it has terminated the*  
28 *employment relationship with its Senior Vice President of Sales,*  
*Borja Sanchez-Blanco, for cause. The Company recently became*

1 *aware that Mr. Blanco had breached a duty of trust and engaged in*  
2 *conduct which created a conflict of interest with the Company over*  
3 *the course of several years, not in keeping with the Company's*  
4 *standards for ethics and integrity.*

5 (emphasis added)

6 45. On this news, shares of the Company fell \$0.15 per share or over 3%  
7 from its previous closing price to close at \$4.03 per share on September 11, 2014,  
8 damaging investors.

9 46. On January 13, 2015, the Company issued a press release and filed a  
10 Form 8-K with the SEC announcing the abrupt resignation of Defendant Rooney as  
11 its Chief Executive Officer.

12 47. On this news, shares of the Company fell \$0.54 per share or over 12%  
13 from its previous closing price to close at \$3.90 per share on January 14, 2015,  
14 damaging investors.

#### 15 **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

16 48. Plaintiff brings this action as a class action pursuant to Federal Rules of  
17 Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all persons who  
18 purchased the common stock of Energy Recovery during the Class Period and who  
19 were damaged thereby. Excluded from the Class are Defendants, the officers and  
20 directors of the Company at all relevant times, members of their immediate families  
21 and their legal representatives, heirs, successors or assigns and any entity in which  
22 Defendants have or had a controlling interest.

23 49. The members of the Class are so numerous that joinder of all members is  
24 impracticable. Throughout the Class Period, Energy Recovery's common stock was  
25 actively traded on NASDAQ. While the exact number of Class members is unknown  
26 to Plaintiff at this time and can only be ascertained through appropriate discovery,  
27 Plaintiff believes that there are at least hundreds of members in the proposed Class.  
28 Members of the Class may be identified from records maintained by Energy

1 Recovery or its transfer agent and may be notified of the pendency of this action by  
2 mail, using a form of notice customarily used in securities class actions.

3 50. Plaintiff's claims are typical of the claims of the members of the Class,  
4 as all members of the Class are similarly affected by Defendants' wrongful conduct  
5 in violation of federal law that is complained of herein.

6 51. Plaintiff will fairly and adequately protect the interests of the members  
7 of the Class and has retained counsel competent and experienced in class and  
8 securities litigation.

9 52. Common questions of law and fact exist as to all members of the Class  
10 and predominate over any questions solely affecting individual members of the Class.  
11 Among the questions of law and fact common to the Class are:

12 a. whether the federal securities laws were violated by Defendants'  
13 acts as alleged herein;

14 b. whether the misstatements and omissions alleged herein were  
15 made with scienter;

16 c. whether statements made by Defendants to the investing public  
17 during the Class Period misrepresented material facts about the business and  
18 operations of Energy Recovery; and

19 d. to what extent the members of the Class have sustained damages,  
20 and the proper measure of damages.

21 53. A class action is superior to all other available methods for the fair and  
22 efficient adjudication of this controversy since joinder of all members is  
23 impracticable. Furthermore, as the damages suffered by individual Class members  
24 may be relatively small, the expense and burden of individual litigation make it  
25 impossible for members of the Class to redress individually the wrongs done to them.  
26 There will be no difficulty in the management of this action as a class action.

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**Applicability of Presumption of Reliance:  
Fraud on the Market Doctrine**

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3 54. At all relevant times, the market for Energy Recovery common stock  
4 was an efficient market for the following reasons, among others:

5 a. Energy Recovery's stock met the requirements for listing, and was  
6 listed and actively traded on NASDAQ, a highly efficient and automated  
7 market;

8 b. During the class period, on average, over hundreds of thousands  
9 of shares of Energy Recovery stock were traded on a weekly basis,  
10 demonstrating a very active and broad market for Energy Recovery and  
11 permitting a very strong presumption of an efficient market;

12 c. Energy Recovery regularly communicated with public investors  
13 via established market communication mechanisms, including through regular  
14 disseminations of press releases on the national circuits of major newswire  
15 services and through other wide-ranging public disclosures, such as  
16 communications with the financial press and other similar reporting services;

17 d. Energy Recovery was followed by several securities analysts  
18 employed by a major brokerage firm who wrote reports that were distributed to  
19 the sales force and certain customers of his/her brokerage firm during the Class  
20 Period. Each of these reports was publicly available and entered the public  
21 marketplace;

22 e. Numerous FINRA member firms were active market-makers in  
23 Energy Recovery stock at all times during the Class Period; and

24 f. Unexpected material news about Energy Recovery was rapidly  
25 reflected and incorporated into the Company's stock price during the Class  
26 Period.

27 55. As a result of the foregoing, the market for Energy Recovery's common  
28 stock promptly digested current information regarding Energy Recovery from all

1 publicly available sources and reflected such information Energy Recovery's stock  
2 price. Under these circumstances, all purchasers of Energy Recovery's common stock  
3 during the Class Period suffered similar injury through their purchase of Energy  
4 Recovery's common stock at artificially inflated prices, and a presumption of reliance  
5 applies.

6 **FIRST CLAIM**

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

9 56. Plaintiff repeats and realleges each and every allegation contained above  
10 as if fully set forth herein.

11 57. During the Class Period, Defendants carried out a plan, scheme and  
12 course of conduct which was intended to and, throughout the Class Period, did: (1)  
13 deceive the investing public, including Plaintiff and other Class members, as alleged  
14 herein; and (2) cause Plaintiff and other members of the Class to purchase Energy  
15 Recovery's securities at artificially inflated prices. In furtherance of this unlawful  
16 scheme, plan and course of conduct, each of the Defendants took the actions set forth  
17 herein.

18 58. Defendants: (a) employed devices, schemes, and artifices to defraud; (b)  
19 made untrue statements of material fact and/or omitted to state material facts  
20 necessary to make the statements not misleading; and (c) engaged in acts, practices,  
21 and a course of business that operated as a fraud and deceit upon the purchasers of the  
22 Company's securities in an effort to maintain artificially high market prices for  
23 Energy Recovery's securities in violation of Section 10(b) of the Exchange Act and  
24 Rule 10b-5 promulgated thereunder. All Defendants are sued either as primary  
25 participants in the wrongful and illegal conduct charged herein or as controlling  
26 persons as alleged below.

27 59. Defendants, individually and in concert, directly and indirectly, by the  
28 use, means or instrumentalities of interstate commerce and/or of the mails, engaged

1 and participated in a continuous course of conduct to conceal adverse material  
2 information about the business, operations and future prospects of Energy Recovery  
3 as specified herein.

4       60. These Defendants employed devices, schemes, and artifices to defraud  
5 while in possession of material adverse non-public information, and engaged in acts,  
6 practices, and a course of conduct as alleged herein in an effort to assure investors of  
7 Energy Recovery's value and performance and continued substantial growth, which  
8 included the making of, or participation in the making of, untrue statements of  
9 material facts and omitting to state material facts necessary in order to make the  
10 statements made about Energy Recovery and its business operations and future  
11 prospects in the light of the circumstances under which they were made, not  
12 misleading, as set forth more particularly herein, and engaged in transactions,  
13 practices and a course of business that operated as a fraud and deceit upon the  
14 purchasers of Energy Recovery's securities during the Class Period.

15       61. Each of the Individual Defendants' primary liability, and controlling  
16 person liability, arises from the following facts: (1) the Individual Defendants were  
17 high-level executives, directors, and/or agents at the Company during the Class  
18 Period and members of the Company's management team or had control thereof; (2)  
19 each of these Defendants, by virtue of his responsibilities and activities as a senior  
20 officer and/or director of the Company, was privy to and participated in the creation,  
21 development and reporting of the Company's financial condition; (3) each of these  
22 Defendants enjoyed significant personal contact and familiarity with the other  
23 Defendants and was advised of and had access to other members of the Company's  
24 management team, internal reports and other data and information about the  
25 Company's finances, operations, and sales at all relevant times; and (4) each of these  
26 Defendants was aware of the Company's dissemination of information to the  
27 investing public which they knew or recklessly disregarded was materially false and  
28 misleading.

1           62. Defendants had actual knowledge of the misrepresentations and  
2 omissions of material facts set forth herein, or acted with reckless disregard for the  
3 truth in that they failed to ascertain and to disclose such facts, even though such facts  
4 were available to them. Such Defendants' material misrepresentations and/or  
5 omissions were done knowingly or recklessly and for the purpose and effect of  
6 concealing Energy Recovery's operating condition and future business prospects  
7 from the investing public and supporting the artificially inflated price of its securities.  
8 As demonstrated by Defendants' overstatements and misstatements of the Company's  
9 financial condition throughout the Class Period, Defendants, if they did not have  
10 actual knowledge of the misrepresentations and omissions alleged, were reckless in  
11 failing to obtain such knowledge by deliberately refraining from taking those steps  
12 necessary to discover whether those statements were false or misleading.

13           63. As a result of the dissemination of the materially false and misleading  
14 information and failure to disclose material facts, as set forth above, the market price  
15 of Energy Recovery's securities was artificially inflated during the Class Period. In  
16 ignorance of the fact that market prices of Energy Recovery's publicly-traded  
17 securities were artificially inflated, and relying directly or indirectly on the false and  
18 misleading statements made by Defendants, or upon the integrity of the market in  
19 which the common stock trades, and/or on the absence of material adverse  
20 information that was known to or recklessly disregarded by Defendants but not  
21 disclosed in public statements by Defendants during the Class Period, Plaintiff and  
22 the other members of the Class acquired Energy Recovery's securities during the  
23 Class Period at artificially high prices and were or will be damaged thereby.

24           64. At the time of said misrepresentations and omissions, Plaintiff and other  
25 members of the Class were ignorant of their falsity, and believed them to be true. Had  
26 Plaintiff and the other members of the Class and the marketplace known the truth  
27 regarding Energy Recovery's financial results, which was not disclosed by  
28 Defendants, Plaintiff and other members of the Class would not have purchased or

1 otherwise acquired their Energy Recovery's securities, or, if they had acquired such  
2 securities during the Class Period, they would not have done so at the artificially  
3 inflated prices that they paid.

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

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

10 67. This action was filed within two years of discovery of the fraud and  
11 within five years of each plaintiff's purchases of securities giving rise to the cause of  
12 action.

13 **SECOND CLAIM**  
14 **Violation of Section 20(a) of**  
15 **The Exchange Act Against the Individual Defendants**

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

18 69. The Individual Defendants acted as controlling persons of Energy  
19 Recovery within the meaning of Section 20(a) of the Exchange Act as alleged herein.  
20 By virtue of their high-level positions, agency, ownership and contractual rights, and  
21 participation in and/or awareness of the Company's operations and/or intimate  
22 knowledge of the false financial statements filed by the Company with the SEC and  
23 disseminated to the investing public, the Individual Defendants had the power to  
24 influence and control, and did influence and control, directly or indirectly, the  
25 decision-making of the Company, including the content and dissemination of the  
26 various statements that Plaintiff contends are false and misleading. The Individual  
27 Defendants were provided with or had unlimited access to copies of the Company's  
28 reports, press releases, public filings and other statements alleged by Plaintiff to have

1 been misleading prior to and/or shortly after these statements were issued and had the  
2 ability to prevent the issuance of the statements or to cause the statements to be  
3 corrected.

4 70. In particular, each of these Defendants had direct and supervisory  
5 involvement in the day-to-day operations of the Company and, therefore, is presumed  
6 to have had the power to control or influence the particular transactions giving rise to  
7 the securities violations as alleged herein, and exercised the same.

8 71. As set forth above, Energy Recovery and the Individual Defendants each  
9 violated Section 10(b), and Rule 10b-5 promulgated thereunder, by their acts and  
10 omissions as alleged in this Complaint.

11 72. By virtue of their positions as controlling persons, the Individual  
12 Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and  
13 proximate result of Defendants' wrongful conduct, Plaintiff and other members of the  
14 Class suffered damages in connection with their purchases of the Company's  
15 securities during the Class Period.

16 73. This action was filed within two years of discovery of the fraud and  
17 within five years of each Plaintiff's purchases of securities giving rise to the cause of  
18 action.

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

20 a. Determining that this action is a proper class action, designating Plaintiff  
21 as Lead Plaintiff and certifying Plaintiff as a class representative under Rule 23 of the  
22 Federal Rules of Civil Procedure and Plaintiff's counsel as Lead Counsel;

23 b. Awarding compensatory damages in favor of Plaintiff and the other  
24 Class members against all Defendants, jointly and severally, for all damages  
25 sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial,  
26 including interest thereon;

27 c. Awarding Plaintiff and the Class their reasonable costs and expenses  
28 incurred in this action, including counsel fees and expert fees; and

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

2 **JURY TRIAL DEMANDED**

3 Plaintiff hereby demands a trial by jury.

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5 Dated: January 20, 2015

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