



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

MARTIN BERTISCH, Individually and on)
Behalf of All Others Similarly Situated,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
ZIPCAR, INC., SCOTT W. GRIFFITH,)
STEPHEN M. CASE, DONN DAVIS,)
EDWARD P. GILLIGAN, WILLIAM W.)
HELMAN, ROBERT C. KAGLE, JOHN F.)
KENNY, JR., JOHN J. MAHONEY, JR.,)
MARGARET C. WHITMAN, AVIS)
BUDGET GROUP, INC., and)
MILLENNIUM ACQUISITION SUB, INC.,)
)
Defendants.)

VERIFIED CLASS ACTION COMPLAINT

The allegations of the Complaint are based on the personal knowledge of Plaintiff, Martin Bertisch (“Plaintiff”) as to himself and on information and belief (including the investigation of counsel and review of publicly available information) as to all other matters stated herein, as follows:

1. Plaintiff individually and on behalf of all other similarly situated public shareholders of Zipcar, Inc. (“Zipcar” or the “Company”), by his attorneys, makes the following allegations against Zipcar; the members of Zipcar’s board of directors identified below (the “Board” or the “Individual Defendants”); Avis Budget Group, Inc. (“Avis”); and Millennium Acquisition Sub, Inc. (“Acquisition Sub”) (Zipcar, the Board, Avis and Acquisition Sub are collectively the “Defendants”), in support of Plaintiff’s claims relating to the proposed acquisition of all of the Company’s outstanding stock by

Avis at the unfair price of \$12.25 per share and on grossly unfair and inadequate terms (the “Proposed Transaction”). Some analysts have given Zipcar a target for the share price at \$13 per share indicating that the offer price does not represent a large premium for shareholders. The total equity value of the Proposed Transaction is approximately \$500 million. The Board has unanimously recommended to the Company’s stockholders to vote for the Proposed Transaction. The Defendants expect to complete the Proposed Transaction by the spring of 2013.

NATURE OF THE CASE

2. This is a class action on behalf of the securities holders of Zipcar alleging breaches of fiduciary duties, including the duties of loyalty, good faith, due care, independence, and fair dealing, being committed by the Board.

3. These breaches are being committed in connection with Zipcar’s announcement of the Proposed Transaction on January 2, 2013, and execution of a Merger Agreement dated December 31, 2012 (the “Merger Agreement”) with Avis and Acquisition Sub. The Proposed Transaction offers unfair and inadequate consideration that does not constitute a maximization of stockholder value for Plaintiff and other Zipcar public stockholders and is being advanced through an unfair process. The Board members have therefore breached their fiduciary duties owed to Plaintiff and the Class (as defined herein) to take all necessary steps to ensure that Zipcar stockholders will receive the maximum realizable value for their shares on a sale of the Company.

4. Furthermore, the Merger Agreement contains preclusive deal protection devices that are not contemplated to benefit the Company or its stockholders, but instead,

benefit Avis. For example, under the Merger Agreement, the Board is prohibited from soliciting or considering competing bids for the Company. Moreover, the Company is subject to a termination fee of \$16.8 million plus fees and expenses payable to Avis pursuant to certain provisions of the Merger Agreement, detailed fully below. Avis also enjoys “matching rights,” such that if the Company does receive a superior offer, the Board must provide Avis with any and all material terms and conditions of such offer and allow Avis three business days after the receipt of such offer to match the superior offer.

5. Furthermore, the Company’s executive officers and shareholders holding more than 5% of Zipcar’s shares have agreed to vote their shares in favor of the Proposed Transaction. These voting agreements already have secured 32% of the votes in favor of the Proposed Transaction.

6. These provisions essentially “lock up” the Proposed Transaction and prevent the Board from fulfilling its fiduciary duties to the Company. The Proposed Transaction will deny the Company and its non-insider shareholders of adequate consideration in light of the Company’s promising prospects for growth, increased sales, and future profitability. Indeed, analysts have set the Company’s target share price as high as \$13 per share.

7. Furthermore, the Company announced that Chairman of the Board and Chief Executive Officer (“CEO”) Defendant Scott W. Griffith (“Griffith”) and Mark Norman, President and Chief Operating Officer (“COO”), will continue as executives of Zipcar when it becomes a wholly-owned subsidiary of Avis. Additionally, some Board members and executives might also benefit from the Proposed Transaction through

vested and unvested stock options, accelerated vesting of restricted share awards, accelerated vesting of performance share awards, receipt of certain payments pursuant to employment agreements and indemnification and exculpation.

8. Because of the Board's breaches of its fiduciary duties, Plaintiff and the Class have been and will be damaged, and will not receive the fair value of Zipcar's assets.

9. Plaintiff and the other members of the Class are immediately threatened by the wrongs complained of herein, and lack an adequate remedy at law.

10. Plaintiff seeks preliminary and permanent injunctive relief preventing the Individual Defendants, who are aided and abetted by Zipcar, Avis and Acquisition Sub, from inequitably and unlawfully depriving Plaintiff and the Class of their rights to realize full and fair value for their Zipcar stock, and to compel the Individual Defendants to carry out their fiduciary duties to maximize shareholder value on a sale of the Company.

THE PARTIES

11. Plaintiff has owned the common stock of Zipcar since prior to the announcement of the Proposed Transaction herein complained of, and continues to own this stock.

12. Zipcar is a corporation duly organized and existing under the laws of the State of Delaware and maintains its principal offices at 25 First Street, 4th Floor, Cambridge, Massachusetts 02141. Zipcar is, and at all relevant times hereto was, listed and traded on the NASDAQ Stock Exchange under the symbol "ZIP." Zipcar is the world's leading car sharing network, with more than 760,000 members and over 10,000

vehicles in urban areas and college campuses throughout the United States, Canada, the United Kingdom, Spain and Austria. Zipcar offers more than 30 makes and models of self-service vehicles by the hour or day to residents and businesses looking for an alternative to the high costs and hassles of owning a car.

13. Defendant Avis is a public company that trades on the NASDAQ Stock Exchange under the symbol “CAR.” Avis is a leading global provider of vehicle rental services through its Avis and Budget brands, with 10,000 rental locations in approximately 175 countries around the world. Avis operates most of its car rental offices in North America, Europe and Australia directly, and operates primarily through licensees in other parts of the world. Avis has approximately 29,000 employees and is headquartered in Parsippany, New Jersey.

14. Defendant Acquisition Sub is a wholly-owned subsidiary of Avis created to effectuate the Proposed Transaction.

15. Defendant Griffith has served as the Company’s CEO and member of the Board since February 2003. Griffith has served as the Chairman of the Board since 2007.

16. Defendant Stephen M. Case (“Case”) has served as a member of the Zipcar Board since October 2010.

17. Defendant Donn Davis (“Davis”) has served on the Company’s Board since October 2007.

18. Defendant Edward P. Gilligan (“Gilligan”) has served as a member of the Board since 2012.

19. Defendant William W. Helman (“Helman”) has served as a member of the

Board since October 2006 and as the lead independent director since July 2010.

20. Defendant Robert C. Kagle (“Kagle”) has served as a member of the Board since July 2005.

21. Defendant John F. Kenny, Jr. (“Kenny”) has served as a member of the Board since February 2010.

22. Defendant John J. Mahoney, Jr. (“Mahoney”) has served as a member of the Board since October 2010.

23. Defendant Margaret C. Whitman (“Williams”) has served as a member of the Board since February 2011.

INDIVIDUAL DEFENDANTS’ FIDUCIARY DUTIES

24. The Individual Defendants (named herein in paragraphs 15-23), as officers and/or directors of the Company, stand in a fiduciary relationship to Plaintiff and the Company’s other public stockholders and owe them the highest fiduciary obligations of good faith, fair dealing, due care, loyalty, and full and candid disclosure.

25. Under Delaware law, the directors and officers of a publicly traded corporation have fiduciary duties of loyalty, good faith, and care to shareholders. To diligently comply with their fiduciary duties, the Individual Defendants may not take any action that:

(a) adversely affects the value provided to the Company’s shareholders;

(b) favors themselves or will discourage or inhibit alternative offers to purchase control of the Company or its assets;

(c) adversely affects their duty to search for and secure the best value reasonably available under the circumstances for the Company's shareholders; and/or

(d) will provide the Individual Defendants with preferential treatment at the expense of, or separate from, the public shareholders.

26. In accordance with their duties of loyalty and good faith, the Individual Defendants are obligated to refrain from:

(a) participating in any transaction where the Individual Defendants' loyalties are divided;

(b) participating in any transaction where the Individual Defendants receive, or are entitled to receive, a personal financial benefit not equally shared by the public shareholders of the Company; and/or

(c) unjustly enriching themselves at the expense or to the detriment of the public shareholders.

27. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Transaction, are knowingly or recklessly violating their fiduciary duties, including their duties of care, loyalty, good faith, and independence owed to Plaintiff and other public shareholders of Zipcar. Certain Individual Defendants stand on both sides of the transaction, are engaging in self-dealing, and are obtaining for themselves personal benefits, including personal financial benefits not equally shared by Plaintiff or the Class (as defined below). Certain Zipcar executives are also retaining their prestigious and lucrative positions and compensation at the post-Proposed Transaction company. These executives have managed to secure for

themselves substantial employment at the expense of the public shareholders' best interests. Accordingly, the Proposed Transaction will benefit the Individual Defendants in significant ways not shared with Class members. As a result of the Individual Defendants' self-dealing and divided loyalties, neither Plaintiff nor the Class will receive adequate or fair value for their Zipcar common stock in the Proposed Transaction.

CLASS ACTION ALLEGATIONS

28. Plaintiff brings this action as a class action, pursuant to Rule 23 of the Rules of the Court of Chancery, on behalf of all holders of the common stock of the Company (except the Defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants) and their successors in interest, who are or will be threatened with injury arising from Defendants' actions as more fully described herein (the "Class").

29. This action is properly maintainable as a class action.

30. The Class is so numerous that joinder of all members is impracticable. As of October 30, 2012, there were reportedly in excess of 40 million shares of Zipcar common stock outstanding, owned by hundreds, if not thousands, of shareholders.

31. There are questions of law and fact, which are common to the Class including, *inter alia*, the following: (a) whether the Individual Defendants have breached their fiduciary duties owed by them to Plaintiff and the members of the Class; and (b) whether the Class is entitled to injunctive relief or damages as a result of the wrongful conduct committed by Defendants, as alleged herein.

32. Plaintiff is committed to prosecuting this action and has retained

competent counsel experienced in litigation of this nature. The claims of the Plaintiff are typical of the claims of other members of the Class and Plaintiff has the same interests as the other members of the Class. Plaintiff will fairly and adequately represent the Class.

33. Defendants have acted in a manner which affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

34. 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 which would, as a practical matter, be dispositive of the interests of other members or substantially impair or impede their ability to protect their interests.

SUBSTANTIVE ALLEGATIONS

The Proposed Transaction

35. On January 2, 2013, Zipcar and Avis announced that they had entered into the Merger Agreement dated December 31, 2012, filed with the Securities and Exchange Commission (“SEC”), whereby Avis would acquire Zipcar and make Zipcar its wholly-owned subsidiary:

PARSIPPANY, N.J. and CAMBRIDGE, Mass., January 2, 2013 - Avis Budget Group, Inc. (NASDAQ: CAR) and Zipcar, Inc. (NASDAQ: ZIP), the world’s leading car sharing network, today announced that Avis Budget Group has agreed to acquire Zipcar for \$12.25 per share in cash, a 49% premium over the closing price on December 31, 2012, representing a total transaction value of approximately \$500 million. The transaction is subject to approval by Zipcar shareholders and other customary closing conditions, and is expected to be completed in the spring of 2013. The

Boards of Directors of both companies unanimously approved the transaction, and Zipcar shareholders representing approximately 32% of the outstanding common stock have agreed to vote their shares in support of the transaction.

Car sharing has grown to be a nearly \$400 million business in the United States and is expanding rapidly in major cities around the world. Zipcar has led this industry, leading in innovation and world-class service. Zipcar now has more than 760,000 members, known as Zipsters, with a market-leading presence in 20 major metropolitan areas in the United States, Canada and Europe, and fleet positioned at over 300 college and university campuses. Zipcar has combined leading-edge technology, an outstanding customer experience, and clear brand messaging to develop strong loyalty and advocacy among its customers.

“By combining with Zipcar, we will significantly increase our growth potential, both in the United States and internationally, and will position our Company to better serve a greater variety of consumer and commercial transportation needs,” said Ronald L. Nelson, Avis Budget Group chairman and chief executive officer. “We see car sharing as highly complementary to traditional car rental, with rapid growth potential and representing a scalable opportunity for us as a combined company. We expect to apply Avis Budget’s experience and efficiencies of fleet management with Zipcar’s proven, customer-friendly technology to accelerate the growth of the Zipcar brand and to provide more options for Zipsters in more places. We also expect to leverage Zipcar’s technology to expand mobility solutions under the Avis and Budget brands.”

Avis Budget expects to generate \$50 to \$70 million in annual synergies as a result of the transaction. In particular, Avis Budget expects significant cost reductions across the fleet life cycle (from procurement to operations and maintenance to disposition, as well as financing), in addition to savings from eliminating Zipcar’s public-company costs. Avis Budget also plans to achieve substantial cost savings by increasing fleet utilization across the two companies. Significant revenue growth opportunities exist, including by leveraging Avis Budget’s fleet to meet more of Zipsters’ weekend demand, which is currently constrained by fleet availability.

These synergies, combined with the expected growth and rising profitability of Zipcar, are expected to make the transaction accretive to Avis Budget’s earnings per share in the second year following the acquisition, excluding certain items and purchase-accounting effects.

“We are delighted to announce our intention to join the Avis Budget Group family of companies, and we believe this combination is a win

across the board for our members, shareholders and employees. We will be well positioned to accelerate enhancements to the Zipcar member experience with more offers and additional services as well as an expanded network of locations,” said Scott Griffith, chairman and chief executive officer of Zipcar. “As the leading global provider of car sharing services, with a brand that is synonymous with the category, we remain committed to the values and vision that have driven us forward for many years, grounded by our passion for delivering a superior experience to every member for every trip, every day. By combining Zipcar’s expertise in on-demand mobility with Avis Budget Group’s expertise in global fleet operations and vast global network, we will be able to accelerate the revolution we began in personal mobility.”

“Avis Budget’s existing infrastructure, scale and experience with managing multiple brands make us uniquely positioned to accelerate the growth and profitability of Zipcar,” Mr. Nelson added. “At the same time, we are committed to retaining the elements of the Zipcar brand and culture that have allowed Zipcar to achieve such rapid growth and success over the last twelve years.”

Following the acquisition, Zipcar will operate as a subsidiary of Avis Budget Group and will continue with its planned move to new headquarters in Boston, Massachusetts. Avis Budget anticipates that key members of the Zipcar management team, including Mr. Griffith and Mark Norman, president and chief operating officer, will continue to set the overall direction and run day-to-day operations of Zipcar.

Avis Budget Group expects to fund the purchase price primarily with incremental corporate debt borrowings, as well as available cash. As of September 30, 2012, Avis Budget Group had cash and marketable securities of approximately \$554 million, and Zipcar had cash and marketable securities of approximately \$82 million, or approximately \$2 per Zipcar share.

Citigroup is acting as financial advisor, and Kirkland & Ellis LLP is acting as legal counsel, to Avis Budget Group. Morgan Stanley is acting as financial advisor, and Latham & Watkins LLP is acting as legal counsel, to Zipcar.

36. Under the terms of the Merger Agreement, Zipcar shareholders will receive \$12.25 in cash for each outstanding share of Zipcar common stock owned.

37. Based on the number of outstanding shares of Zipcar’s common stock the

aggregate purchase price for Zipcar in the Proposed Transaction would be approximately \$500 million.

38. According to the Defendants, the Proposed Transaction is currently expected to be completed by spring 2013. Once the Proposed Transaction is completed, Zipcar will become a wholly-owned subsidiary of Avis.

The Proposed Transaction Price is Inadequate and Unfair

39. The \$12.25 per share agreed to in the Proposed Transaction is well below the 52-week high for the stock at \$16.25 and a grossly inadequate price, and Defendants' claims that the transaction provides a great return for investors are unsound.

40. Only recently, on April 19, 2011, the Company closed its initial public offering ("IPO") of 11,136,726 shares of common stock at an offering price of \$18.00 per share, of which 6,666,667 shares were sold by the Company and 4,470,059 shares were sold by selling to stockholders, including 1,452,617 shares pursuant to the underwriters' option to purchase additional shares. Net proceeds to the Company were approximately \$111.6 million after deducting underwriting discounts and expenses. Upon the closing of the IPO, the Company used \$51.4 million of the proceeds to repay all outstanding balances including interest as of the payment date associated with certain debt balances.

41. In the Company's most recent quarterly report, filed on Form 10-Q with the SEC on November 9, 2012, Zipcar reported:

Our revenue has grown from \$57.8 million in 2007 to \$241.6 million in 2011 and \$208.2 million for the nine months ended September 30, 2012. Since our inception, a substantial portion of our revenue has been generated in North America. As of September 30, 2012, we had an accumulated deficit of \$71.8 million. Our business initially requires fleet, marketing and infrastructure investments in each metropolitan area. As

markets develop and membership increases, our business benefits from operational efficiencies and economies of scale. Cash flows from our more mature markets are used to fund new and emerging markets as well as investments in our infrastructure.

Although our principal growth has been organic, we have also grown through acquisitions. In November 2007, we acquired Flexcar, a national operator of car sharing services. In December 2009, we made an equity investment for a minority ownership stake in Catalunya Carsharing S.A., known as Avancar, the largest car sharing operator in Spain. In April 2010, we expanded our London operations with the acquisition of Streetcar Limited, or Streetcar, a car sharing service in the United Kingdom. In February 2012, we increased our ownership in Avancar to a majority holding of 60% and made an equity investment of \$8.7 million for a minority ownership interest in Wheelz, Inc., a peer-to-peer car sharing company targeting university and other campus communities. In July 2012, we continued to grow our car sharing network globally, expanding our geographical footprint further into Europe with our acquisition of Denzel Mobility CarSharing GmbH, a leading car sharing service in Austria, known as CarSharing.at.

(Emphasis added).

42. Also with respect to revenue the Company has also excelled. The November 9, 2012, Form 10-Q also stated:

Vehicle usage revenue increased 13.9% for the three months ended September 30, 2012 as compared to the three months ended September 30, 2011 and 14.7% for the nine months ended September 30, 2012 as compared to the nine months ended September 30, 2011. Vehicle usage revenue increased primarily due to an increase in reservations associated with new Zipcar members. Fee revenue is derived from annual membership, application and damage waiver fees. The increase in fee revenue is primarily a result of a higher average member base at September 30, 2012 compared to September 30, 2011 and a strong uptake in our damage waiver offering. Our average membership increased to 757,000 for the three months ended September 30, 2012 from 632,000 for the three months ended September 30, 2011 and to 725,000 for the nine months ended September 30, 2012 from 598,000 for the nine months ended September 30, 2011. Annual fee revenue and application fee revenue are recognized ratably over one and five years, respectively. Revenue per member decreased by \$5 to \$103 for the three months ended September 30, 2012 from \$108 for the three months ended September 30,

2011. For the nine months ended September 30, 2012, revenue per member decreased by \$12 to \$286 from \$298 for the nine months ended September 30, 2011. These decrease in revenue per member for the three and nine months ended September 30, 2012 were primarily due to a decrease in vehicle usage revenue per member in part due to an increased mix of more profitable hourly versus daily trips as well as a decrease in the growth of net new members, who on average tend to be more active.

(Emphasis added).

43. The Company has performed exceedingly well in recent years and has been growing substantially since its IPO in 2011.

44. Analysts on Yahoo! Finance have set a target for the Company's share price as high as \$13 per share, and the 52 week high for the stock was \$16.25. Also, recent trading has been around the Proposed Transaction price making the 46% premium touted in the Company's announcement of the Proposed Transaction illusory at best.

45. Despite the fact that the Company recently released excellent financial results and has positioned itself for exceptional growth with a unique market niche to other car rental companies, the Proposed Transaction does not offer fair consideration to Zipcar shareholders.

46. The proposed consideration to be paid to Plaintiff and the Class in the Proposed Transaction is unfair and grossly inadequate because, among other things, the synergies anticipated to be achieved through the deal are far in excess of the premium offered by Avis.

Preclusive Deal Protection Devices

47. As part of the Merger Agreement, Defendants agreed to certain onerous and preclusive deal protection devices that operate conjunctively to make the Proposed

Transaction a *fait accompli* and ensure that no competing offers will emerge for the Company.

48. For example, § 5.6 of the Merger Agreement includes a “no solicitation” provision barring the Company from soliciting interest from other potential acquirers in order to procure a price in excess of the amount offered by Avis.

49. Pursuant to § 5.6 of the Merger Agreement, should an unsolicited bidder submit a competing proposal, the Company must notify Avis within 48 hours of the bidder’s identity and the terms of the bidder’s offer. Thereafter, should the Board determine that the unsolicited offer is superior, before the Company can terminate the Merger Agreement with Avis in order to enter into the competing proposal, it must grant Avis three business days in which the Company must negotiate in good faith with Avis (if Avis so desires) and allow Avis to amend the terms of the Merger Agreement to make a counteroffer that is merely as favorable as the competing proposal. In other words, the Merger Agreement gives Avis access to any rival bidder’s information and allows Avis a free right to top any superior offer simply by matching it. Accordingly, no rival bidder is likely to emerge because the Merger Agreement unfairly assures that any “auction” will favor Avis and piggy-back upon the due diligence of the foreclosed second bidder.

50. Section 7.2 of the Merger Agreement also provides for a termination fee of \$16.8 million payable to Avis by Zipcar if the Company decides to pursue the competing offer, or otherwise fails to close on the Proposed Transaction pursuant to the Merger Agreement, thereby essentially requiring that the competing bidder agree to pay a naked premium for the right to provide the shareholders with a superior offer.

51. Any unsolicited competing bidder would have to go to great expense of conducting due diligence, and formulating a proposal within a very limited time frame, which, pursuant to Section 5.6 of the Merger Agreement, Avis would have an opportunity to match. Further, a competing bidder will need to negotiate with a management team participating in the Proposed Transaction and already heavily biased in favor of approving the Proposed Transaction. Even if another bidder is tenacious enough to navigate this obstacle course, that bidder will be further discouraged by the onerous termination fee that the Company (and by extension, the “successful” competing bidder) will be forced to pay.

52. Section 5.12 of the Merger Agreement provides indemnification for a period of six years for directors and officers liability and fiduciary liability insurance. This provision would shield Defendants and Company executives from any liability going forward insulating them from any scrutiny.

53. By entering into the agreement with Avis, the Zipcar Board has initiated a process to sell the Company, which imposes heightened fiduciary responsibilities and requires enhanced scrutiny by the Court. However, the terms of the Proposed Transaction were apparently arrived at without a full and thorough investigation by the Board, and they are intrinsically unfair and inadequate from the standpoint of the Zipcar shareholders.

54. Ultimately, these preclusive deal protection provisions illegally restrain the Company’s ability to solicit or engage in negotiations with any third party regarding a proposal to acquire all or a significant interest in the Company. The circumstances under

which the Board may respond to an unsolicited written bona fide proposal for an alternative acquisition that constitutes or would reasonably be expected to constitute a superior proposal are too narrowly circumscribed to provide an effective “fiduciary out” under the circumstances.

55. Defendant Griffith along with Zipcar’s President and COO Norman will be guaranteed continuing employment at Zipcar upon completion of the Proposed Transaction.

56. This benefit not equally shared with the shareholders provides an incentive for Griffith to not seek superior offers from other companies, and instead, allows Griffith to favor his own interests over those of the Company and its public shareholders.

57. The Proposed Transaction also includes a voting agreement between Zipcar executives and certain shareholders, who own more than 5% of the Company’s shares. This also locks up 32% of the vote already in favor of the Proposed Transaction for Avis’s benefit.

58. Furthermore, Revolution Living LLC, which was co-founded by Defendants Case and Davis, is a long time backer of Zipcar and its largest shareholder with a 16% stake in the Company. The voting agreement with Revolution Living LLC and Defendants Case’s and Davis’ affiliation rendered them self-interested in the Proposed Transaction.

59. The Individual Defendants have violated their fiduciary duties owed to the public shareholders of Zipcar. The Individual Defendants’ agreement to the terms of the Proposed Transaction and its timing demonstrate a clear lack of due care and of loyalty to

the Zipcar public shareholders.

60. The Individual Defendants' fiduciary obligations under these circumstances require them to undertake an appropriate evaluation of Zipcar's net worth as an acquisition candidate.

61. The Individual Defendants have violated their fiduciary duties owed to Plaintiff and the Class in that they have not and are not exercising independent business judgment and have acted and are acting to the detriment of the Company's public shareholders for their own personal benefit.

62. Plaintiff and other members of the Class have been and will be damaged in that they have not and will not receive their fair proportion of the value of Zipcar's assets and business, and will be prevented from obtaining fair and adequate consideration for their shares of Zipcar common stock.

63. The consideration to be paid to Class members in the Proposed Transaction is unfair and inadequate because, among other things:

(a) The intrinsic value of Zipcar common stock is materially in excess of the amount offered for those securities in the merger giving due consideration to the anticipated operating results and profitability of the Company; and

(b) By entering into the Merger Agreement with Avis, the Individual Defendants have allowed the price of Zipcar stock to be capped, thereby depriving Plaintiff and the Class of the opportunity to realize any increase in the value of Zipcar stock.

64. By reason of the foregoing, each member of the Class will suffer

irreparable injury and damages absent injunctive relief by this Court.

65. Avis and Acquisition Sub aided and abetted the breaches of fiduciary duty by the Individual Defendants. Indeed, the wrongful conduct complained of herein could not have occurred without the knowing participation of these Defendants.

66. Plaintiff and other members of the Class have no adequate remedy at law.

COUNT I

(Breach of Fiduciary Duty against the Individual Defendants)

67. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

68. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants have violated their fiduciary duties of good faith, loyalty, and due care at the expense of Plaintiff and other members of the Class.

69. As alleged herein, the Individual Defendants have failed to, *inter alia*:

(a) Adequately consider the Proposed Transaction, including whether it maximizes shareholder value;

(b) Apprise themselves of the true value of the Company, or the benefits associated with pursuing the Proposed Transaction or an alternative transaction, by, among other things, considering the merits of such transactions and engaging in a market check or canvas of the industry; and

(c) Otherwise take the steps necessary to comply with their fiduciary duties.

70. As such, unless the Individual Defendants' conduct is enjoined by the

Court, they will continue to breach their fiduciary duties to Plaintiff and the other members of the Class, and will further a process that inhibits the maximization of shareholder value.

71. In light of the foregoing, the Individual Defendants and the Company must, as their fiduciary obligations require:

- (a) Undertake an appropriate evaluation of Zipcar's value;
- (b) Evaluate the Proposed Transaction and other potential transactions;
- (c) Enable public shareholders to consider the Proposed Transaction in a fair and non-coercive manner, without the threat of deal protection measures or mechanisms that could preclude or dissuade a value-maximizing transaction;
- (d) Refrain from favoring the Individual Defendants' interests over those of the Company's public shareholders, to, among other things, ensure that conflicts of interest do not unfairly influence the shareholders' decisions or available options; and
- (e) Disclose all material facts necessary to permit the Company's public shareholders to make an informed decision with respect to the Proposed Transaction or any alternate transaction.

72. Absent injunctive relief, Plaintiff and the Class will continue to suffer irreparable harm as result of the Individual Defendants' breaches of fiduciary duty, for which Plaintiff and the Class have no adequate remedy at law.

COUNT II

(For Aiding and Abetting Breaches of Fiduciary Duties against Zipcar, Avis and Acquisition Sub)

73. Plaintiff incorporates each and every allegation set forth above as if fully

set forth herein.

74. Defendants Zipcar, Avis and Acquisition Sub have aided and abetted the Individual Defendants in the aforesaid breaches of their fiduciary duties.

75. Such breaches of fiduciary duties could not and would not have occurred but for the conduct of Defendants Zipcar, Avis and Acquisition Sub, who, therefore, have aided and abetted such breaches in connection with the Proposed Transaction.

76. As a result of the unlawful actions of Defendants Zipcar, Avis and Acquisition Sub, Plaintiff and the other members of the Class will be irreparably harmed in that they will not receive the true value for Zipcar's assets and business. Unless their actions of are enjoined by the Court, Defendants Zipcar, Avis and Acquisition Sub will continue to aid and abet the Individual Defendants' breaches of their fiduciary duties owed to Plaintiff and the members of the Class.

77. As a result of this conduct, Plaintiff and the other members of the Class have been and will be damaged in that they have been and will be prevented from obtaining a fair price for their Zipcar shares.

78. Plaintiff and other members of the Class have no adequate remedy at law.

WHEREFORE, Plaintiff and members of the Class demand judgment against Defendants as follows:

A. Declaring that this action is properly maintainable as a class action and certifying Plaintiff as the representative of the Class;

B. Preliminarily and permanently enjoining Defendants and their counsel, agents, employees and all persons acting under, in concert with, or for them, from

proceeding with, consummating, or closing the Proposed Transaction;

C. In the event that the Proposed Transaction is consummated, rescinding it and setting it aside, or awarding rescissory damages to the Class;

D. Awarding Plaintiff the costs and disbursements of this action and a reasonable allowances for fees and expenses of Plaintiff's counsel and experts; and

E. Granting Plaintiff and the Class such other and further relief as the Court may deem just and proper.

Dated: January 8, 2013

RIGRODSKY & LONG, P.A.

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