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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

STEPHANIE SANDIFER, Individually  
and on Behalf of All Others Similarly  
Situated,

Plaintiff,

vs.

CAPITALA FINANCE CORP.,  
JOSEPH B. ALALA III, and  
STEPHEN A. ARNALL,

Defendants

Case No.

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

JURY TRIAL DEMANDED

Plaintiff Stephanie Sandifer (“Plaintiff”), individually and on behalf of all other persons similarly situated, by her undersigned attorneys, for her complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and her own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through her attorneys, which included,

1 among other things, a review of the Defendants’ public documents, conference calls and  
2 announcements made by Defendants, United States Securities and Exchange  
3 Commission (“SEC”) filings, wire and press releases published by and regarding  
4 Capitala Finance Corporation (“Capitala” or the “Company”), analysts’ reports and  
5 advisories about the Company, and information readily obtainable on the Internet.  
6 Plaintiff believes that substantial evidentiary support will exist for the allegations set  
7 forth herein after a reasonable opportunity for discovery.  
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### 10 **NATURE OF THE ACTION**

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12 1. This is a federal securities class action on behalf of a class consisting of all  
13 persons other than Defendants who purchased or otherwise acquired common shares of  
14 Capitala between January 4, 2016 and August 7, 2017, both dates inclusive (the “Class  
15 Period”). Plaintiff seeks to recover compensable damages caused by Defendants’  
16 violations of the federal securities laws and to pursue remedies under Sections 10(b) and  
17 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5  
18 promulgated thereunder.  
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21 2. Capitala Finance Corp. is a business development company that invests  
22 primarily in first and second liens, subordinated debt and, to a lesser extent, equity  
23 securities issued by lower and traditional middle-market companies.  
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1 3. Founded in 2013, the Company is headquartered in Charlotte, North  
2 Carolina, and its stock trades on the NASDAQ Global Select Market (“NASDAQ”)  
3 under the ticker symbol “CPTA.”  
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5 4. Capitala Investment Advisors, LLC (“Capitala Investment Advisors”)  
6 manages the Company’s investment activities. The Company’s Board of Directors  
7 supervises the Company’s investment activities. The Company’s executive officers are  
8 part of Capitala Investment Advisors’ management team.  
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10 5. Under the Company’s investment advisory agreement with Capitala  
11 Investment Advisors (the “Investment Advisory Agreement”), the Company pays  
12 Capitala Investment Advisors an annual base management fee based on the Company’s  
13 gross assets as well as an incentive fee based on the Company’s performance.  
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16 6. On January 4, 2016, the Company announced that Capitala Investment  
17 Advisors agreed to voluntarily waive its quarterly incentive fee.  
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19 7. Throughout the Class Period, Defendants made materially false and  
20 misleading statements regarding the Company’s business, operational and compliance  
21 policies. Specifically, Defendants made false and/or misleading statements and/or failed  
22 to disclose that: (i) Capitala Investment Advisors had been losing professional talent in  
23 both underwriting and portfolio management due to the waiving of its incentive fee; (ii)  
24 such loss of talent negatively impacted the quality of the Company’s investment  
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1 portfolio; and (iii) as a result, Capitala’s public statements were materially false and  
2 misleading at all relevant times.

3 8. On August 7, 2017, the Company revealed during aftermarket hours that six  
4 of its investments were on non-accrual status—twice as many as in the previous quarter.

5 9. On August 8, 2017, the Company’s Chief Executive Officer (“CEO”)  
6 Joseph B. Alala III (“Alala”) revealed that Capitala Investment Advisors had been losing  
7 professional talent in underwriting and portfolio management since waiving its incentive  
8 fee, which resulted in a rising number of nonaccrual investments.

9 10. On this news, shares of the Company fell \$3.82 per share, or approximately  
10 30%, over the next three trading days to close at \$8.99 per share on August 10, 2017,  
11 damaging investors.

12 11. As a result of Defendants’ wrongful acts and omissions, and the precipitous  
13 decline in the market value of the Company’s common shares, Plaintiff and other Class  
14 members have suffered significant losses and damages.

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20 **JURISDICTION AND VENUE**

21 12. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of  
22 the Exchange Act (15 U.S.C. §§78j(b) and §78t(a)) and Rule 10b-5 promulgated  
23 thereunder by the SEC (17 C.F.R. §240.10b-5).

24 13. This Court has jurisdiction over the subject matter of this action under 28  
25 U.S.C. §1331 and §27 of the Exchange Act.

1 14. Venue is proper in this Judicial District pursuant to §27 of the Exchange  
2 Act (15 U.S.C. §78aa) and 28 U.S.C. §1391(b) as the Company conducts business within  
3 this Judicial District.  
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5 15. In connection with the acts, conduct and other wrongs alleged in this  
6 Complaint, Defendants, directly or indirectly, used the means and instrumentalities of  
7 interstate commerce, including but not limited to, the United States mail, interstate  
8 telephone communications and the facilities of the national securities exchange.  
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### 10 **PARTIES**

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12 16. Plaintiff, as set forth in the accompanying Certification, purchased Capitala  
13 securities at artificially inflated prices during the Class Period and was damaged upon  
14 the revelation of the alleged corrective disclosure.  
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16 17. Defendant Capitala is incorporated in Maryland, and the Company's  
17 principal executive office is located at 4201 Congress Street, Suite 360, Charlotte, North  
18 Carolina 28209, and maintains an office at 9465 Wilshire Boulevard, Suite 300, Beverly  
19 Hills, California 90211. Capitala's common stock trades on the NASDAQ under the  
20 ticker symbol "CPTA."  
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23 18. Defendant Joseph B. Alala III has served at all relevant times as the  
24 Company's Chairman and CEO, and has also served as the managing partner and chief  
25 investment officer of Capitala Investment Advisors.  
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1           19. Defendant Stephen A. Arnall (“Arnall”) has served at all relevant times as  
2 the Company’s Chief Financial Officer (“CFO”), and is also a member of Capitala  
3 Investment Advisors’ management team.  
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5           20. The Defendants referenced above in ¶¶ 18-19 are sometimes referred to-  
6 herein as the “Individual Defendants.”  
7

8           21. The Individual Defendants possessed the power and authority to control the  
9 contents of Capitala’s SEC filings, press releases, and other market communications.  
10 The Individual Defendants were provided with copies of the Company’s SEC filings and  
11 press releases alleged herein to be misleading prior to or shortly after their issuance and  
12 had the ability and opportunity to prevent their issuance or to cause them to be corrected.  
13 Because of their positions with the Company, and their access to material information  
14 available to them but not to the public, the Individual Defendants knew that the adverse  
15 facts specified herein had not been disclosed to and were being concealed from the  
16 public, and that the positive representations being made were then materially false and  
17 misleading. The Individual Defendants are liable for the false statements and omissions  
18 pleaded herein.  
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## SUBSTANTIVE ALLEGATIONS

### Background

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22. Capitala invests primarily in traditional mezzanine, senior subordinated and unitranche debt, as well as senior and second-lien loans and, to a lesser extent, equity securities issued by smaller and lower middle-market companies.

23. The Company has no employees. Capitala Investment Advisors manages the Company and Capitala Advisors Corp. provides the administrative services necessary for the Company to operate.

24. According to the Company's most recent annual proxy statement, Capitala Investment Advisor's management team is comprised of Defendant Alala, Defendant Arnall, John F. McGlenn ("McGlenn"), the Company's Chief Operating Officer and Hunt Broyhill ("Broyhill"), a member of the Company's Board of Directors.

25. Defendants Alala, McGlenn, and Broyhill serve as Capitala Investment Advisor's investment committee.

26. On September 24, 2013, the Company entered into the Investment Advisory Agreement with Capitala Investment Advisors, which the Company's Board of Directors initially approved on June 10, 2013 and reapproved on August 6, 2015.

27. Pursuant to the Investment Advisory Agreement, the Company pays a fee for Capitala Investment Advisors' investment advisory and management services consisting of two components — a base management fee and an incentive fee.

1 28. The base management fee is calculated at an annual rate of 1.75% of the  
2 Company's gross assets.

3 29. The incentive fee has two parts. The first part is calculated and payable  
4 quarterly in arrears and equals 20.0% of the Company's pre-incentive fee net investment  
5 income for the immediately preceding quarter, subject to a 2.0% preferred return, or  
6 hurdle, and a catch up feature.  
7

8 30. The second part is determined and payable in arrears as of the end of each  
9 calendar year (or upon termination of the Investment Advisory Agreement) in an amount  
10 equal to 20.0% of realized capital gains, if any, on a cumulative basis from inception  
11 through the end of each calendar year, computed net of all realized capital losses and  
12 unrealized capital depreciation on a cumulative basis, less the aggregate amount of any  
13 previously paid capital gain incentive fees.  
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17 **Materially False and Misleading Statements Issued During the Class Period**  
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19 31. The Class Period begins on January 4, 2016, when the Company issued a  
20 press release entitled "Capitala Finance Corp. Announces Distributions, Waiver of  
21 Incentive Fees," announcing the waiver of Capitala Investment Advisors' incentive fees,  
22 stating in part:  
23

24 **Incentive Fee Waiver**

25 Capitala Investment Advisors, LLC, the Company's external  
26 investment adviser (the Adviser), has voluntarily agreed to waive all or  
27 such portion of the quarterly incentive fees earned by the Adviser that  
28 would otherwise cause the Company's quarterly net investment  
income to be less than the distribution payments declared by the  
Company's Board of Directors. Quarterly incentive fees are earned by



1 the Adviser pursuant to the Investment Advisory Agreement between  
2 the Company and the Adviser. Incentive fees subject to the waiver  
3 cannot exceed the amount of incentive fees earned during the period,  
4 as calculated on a quarterly basis. The Adviser will not be entitled to  
recoup any amount of incentive fees that it waives. This waiver will be  
effective for the fourth quarter of 2015 and will continue for 2016,  
unless otherwise publicly disclosed by the Company.

5 The Company's Chairman and CEO, Joseph B. Alala, III, added, In  
6 light of continued pressure on net investment income caused by  
7 nonperforming investments, mostly related to energy, we have agreed  
8 to waive incentive fees to help support distribution coverage.  
Management, which as a group is the Company's largest shareholder,  
continues to be focused on doing the right thing and maintaining  
proper alignment with shareholders.

9 32. On March 8, 2016, Capitala filed an Annual Report on Form 10-K with the  
10 SEC, announcing the Company's financial and operating results for the quarter and fiscal  
11 year ended December 31, 2015 (the "2015 10-K"). The 2015 10-K was signed by  
12 Defendants Alala and Arnall. The 2015 10-K also contained signed certifications  
13 pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") by Defendants Alala and Arnall  
14 attesting to the accuracy of financial reporting, the disclosure of any material changes to  
15 the Company's internal controls over financial reporting, and the disclosure of all fraud.  
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19 33. The 2015 10-K stated the following regarding Capitala Investment  
20 Advisors:  
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## 22 **OUR INVESTMENT ADVISOR**

23 We are managed by the Investment Advisor, whose investment team  
24 members have significant and diverse experience financing, advising,  
25 operating and investing in smaller and lower middle-market  
26 companies. Moreover, *our Investment Advisor's investment team has  
27 refined its investment strategy by sourcing, reviewing, acquiring and  
28 monitoring 114 portfolio companies totaling more than \$980 million  
of invested capital from 2000 through December 31, 2015.* The  
Investment Advisor's investment team also manages CapitalSouth  
Partners SBIC Fund IV, L.P. ("Fund IV"), a private investment limited  
partnership providing financing solutions to companies that generate

1 between \$5 million and \$50 million in annual revenues and have  
2 between \$1 million and \$5 million in annual EBITDA. Fund IV had its  
3 first closing in March 2013 and obtained SBA approval for its SBIC  
4 license in April 2013. In addition to Fund IV, affiliates of the  
5 Investment Advisor manage several affiliated funds. We will not  
6 coinvest in transactions with other entities affiliated with the  
Investment Advisor unless we obtain an exemptive order from the  
SEC, for which we have applied, or do so in accordance with existing  
regulatory guidance. We do not expect to make co-investments, or  
otherwise compete for investment opportunities, with Fund IV because  
its focus and investment strategy differ from our own.

7 ***Our Investment Advisor is led by Joseph B. Alala, III, our chief***  
8 ***executive officer, president, chairman of our Board of Directors (the***  
9 ***“Board”), and the managing partner and chief investment officer of***  
10 ***our Investment Advisor, Hunt Broyhill, a partner of our Investment***  
11 ***Advisor, Stephen A. Arnall, our chief financial officer, and John F.***  
12 ***McGlenn, our chief operating officer, secretary and treasurer, and a***  
13 ***director of our Investment Advisor. Messrs. Alala, Broyhill and***  
14 ***McGlenn serve as our Investment Advisor’s investment committee.***  
15 ***They are assisted by Christopher B. Norton, who serves as the chief***  
16 ***risk officer and a director of our Investment Advisor, Michael S.***  
17 ***Marr, Richard Wheelahan, Adam Richeson, and Davis Hutchens***  
18 ***who each serve as directors of our Investment Advisor, as well as***  
19 ***thirteen other investment professionals.***

20 Our Investment Advisor’s investment committee, as well as certain  
21 key investment team members that are involved in screening and  
22 underwriting portfolio transactions, have worked together for more  
23 than ten years. These investment professionals have an average of over  
24 20 years of experience in various finance-related fields, including  
25 operations, corporate finance, investment banking, business law and  
26 merchant banking, and have collectively developed a broad network of  
27 contacts that can offer us investment opportunities. Much of our  
28 Investment Advisor’s investment team has worked together screening  
opportunities, underwriting new investments and managing a portfolio  
of investments in smaller and lower middle-market companies through  
two recessions, a credit crunch, the dot-com boom and bust and a  
historic, leverage-fueled asset valuation bubble.

(Emphasis added.)

34. The 2015 10-K also stated the following regarding its dependence on  
Capitala Investment Advisors to attract and retain professional talent:

***Our success depends on the ability of Capitala Investment Advisors  
to attract and retain qualified personnel in a competitive  
environment.***

1 Our growth requires that the Investment Advisor retain and attract new  
2 investment and administrative personnel in a competitive market. Its  
3 ability to attract and retain personnel with the requisite credentials,  
4 experience and skills depends on several factors including, but not  
5 limited to, its ability to offer competitive wages, benefits and  
6 professional growth opportunities. Many of the entities with which it  
7 competes for experienced personnel, including investment funds (such  
8 as private equity funds and mezzanine funds) and traditional financial  
9 services companies, have greater resources than it will have.

6 (Emphasis added.)

7 35. On March 8, 2016, the Company also filed its annual proxy statement on  
8 Form DEF 14A with the SEC (the “2016 Proxy”), which stated the following regarding  
9  
10 Capitala Investment Advisor:

11 On September 24, 2013, the Company entered into an Investment  
12 Advisory Agreement with our Investment Advisor, which was initially  
13 approved by the Board of Directors of the Company on June 10, 2013.  
14 Unless earlier terminated in accordance with its terms, the Investment  
15 Advisory Agreement will remain in effect if approved annually by our  
16 Board of Directors or by a majority of our outstanding voting  
17 securities, including, in either case, by a majority of our noninterested  
18 directors. The Investment Advisory Agreement was reapproved by the  
19 Board of Directors of the Company, including by a majority of our  
20 non-interested directors, on August 6, 2015. Subject to the overall  
21 supervision of our Board, our Investment Advisor manages our day-to-  
22 day operations, and provides investment advisory and management  
23 services to us. In its consideration of the re-approval of the Advisory  
24 Agreement, the Board of Directors focused on information it had  
25 received relating to, among other things:

- 26 • the nature, quality and extent of the advisory and other services  
27 to be provided to us by Capitala Investment Advisors;
- 28 • *comparative data with respect to advisory fees or similar  
expenses paid by other BDCs with similar investment  
objectives;*
- *our historical and projected operating expenses and expense  
ratio compared to BDCs with similar investment objectives;*
- any existing and potential sources of indirect income to Capitala  
Investment Advisors or Capitala Advisors Corp. from their  
relationships with us and the profitability of those relationships,  
including through the Advisory Agreement and the  
Administration Agreement;

- 1 • *information about the services to be performed and the*  
2 *personnel performing such services under the Advisory*  
3 *Agreement;*
- 4 • the organizational capability and financial condition of Capitala  
5 Investment Advisors and its affiliates;
- 6 • Capitala Investment Advisors' practices regarding the selection  
7 and compensation of brokers that may execute our portfolio  
8 transactions and the brokers' provision of brokerage and  
9 research services to Capitala Investment Advisors; and
- 10 • the possibility of obtaining similar services from other third  
11 party service providers or through an internally managed  
12 structure.

13 (Emphasis added.)

14 36. On March 7, 2017, Capitala filed an Annual Report on Form 10-K with the  
15 SEC, announcing the Company's financial and operating results for the quarter and fiscal  
16 year ended December 31, 2016 (the "2016 10-K"). The 2016 10-K was signed by  
17 Defendants Alala and Arnall. The 2016 10-K also contained signed SOX certifications  
18 by Defendants Alala and Arnall attesting to the accuracy of financial reporting, the  
19 disclosure of any material changes to the Company's internal controls over financial  
20 reporting, and the disclosure of all fraud.

21 37. The 2016 10-K stated the following regarding Capitala Investment  
22 Advisors:

### 23 **OUR INVESTMENT ADVISOR**

24 We are managed by the Investment Advisor, whose investment team  
25 members have significant and diverse experience financing, advising,  
26 operating and investing in lower middle-market and middle-market  
27 companies. Moreover, *our Investment Advisor's investment team has*  
28 *refined its investment strategy by sourcing, reviewing, acquiring and*  
*monitoring 121 portfolio companies totaling more than \$1.1 billion*  
*of invested capital from 2000 through December 31, 2016.* The  
Investment Advisor's investment team also manages CapitalSouth  
Partners SBIC Fund IV, L.P. ("Fund IV"), a private investment limited

1 partnership providing financing solutions to smaller and lower middle-  
2 market companies. Fund IV had its first closing in March 2013 and  
3 obtained SBA approval for its SBIC license in April 2013. In addition  
4 to Fund IV, affiliates of the Investment Advisor may manage several  
5 affiliated funds whereby institutional limited partners in Fund IV have  
6 the opportunity to co-invest with Fund IV in portfolio investments. An  
7 affiliate of the Investment Advisor also manages Capitala Private  
8 Credit Fund V, L.P. (“Fund V”); a private investment limited  
9 partnership providing financing solutions to the lower middlemarket  
10 and traditional middle-market. The Investment Advisor and its  
11 affiliates may also manage other funds in the future that may have  
12 investment mandates that are similar, in whole and in part, with ours.  
13 To the extent permitted by the 1940 Act and interpretation of the SEC  
14 staff, the Investment Advisor and its affiliates may determine that an  
15 investment is appropriate for us and for one or more of those other  
16 funds. In such event, depending on the availability of such investment  
17 and other appropriate factors, the Investment Advisor or its affiliates  
18 may determine that we should invest side-by-side with one or more  
19 other funds. Any such investments will be made only to the extent  
20 permitted by applicable law and interpretive positions of the SEC and  
21 its staff, and consistent with the Investment Advisor’s allocation  
22 procedures. We do not expect to make co-investments, or otherwise  
23 compete for investment opportunities, with Fund IV because its focus  
24 and investment strategy differs from our own. However, we do expect  
25 to make, and have made, co-investments with Fund V given its similar  
26 investment strategy.

15 On September 10, 2015, we, Fund II, Fund III, Fund V, and the  
16 Investment Advisor filed an application for exemptive relief with the  
17 SEC to permit an investment fund and one or more affiliated  
18 investment funds, including future affiliated investment funds, to  
19 participate in the same investment opportunities through a proposed  
20 co-investment program where such participation would otherwise be  
21 prohibited under the 1940 Act. On June 1, 2016, the SEC issued an  
22 order permitting this relief. This exemptive relief is subject to certain  
23 conditions designed to ensure that the participation by one investment  
24 fund in a co-investment transaction would not be on a basis different  
25 from or less advantageous than that of other affiliated investment  
26 funds.

22 *Our Investment Advisor is led by Joseph B. Alala, III, our chief*  
23 *executive officer, chairman of our Board of Directors (the “Board”),*  
24 *and the managing partner and chief investment officer of our*  
25 *Investment Advisor, Hunt Broyhill, a member of the Board and a*  
26 *partner of our Investment Advisor, Stephen A. Arnall, our chief*  
27 *financial officer, and John F. McGlenn, our chief operating officer,*  
28 *secretary and treasurer, and a director of our Investment Advisor.*  
*Messrs. Alala, Broyhill and McGlenn serve as our Investment*  
*Advisor’s investment committee. They are assisted by Christopher B.*  
*Norton, who serves as the chief risk officer and a director of our*  
*Investment Advisor, Michael S. Marr, Richard Wheelahan, Adam*

1 ***Richeson, and Davis Hutchens who each serve as directors of our***  
2 ***Investment Advisor, as well as eleven other investment professionals.***

3 Our Investment Advisor's investment committee, as well as certain  
4 key investment team members that are involved in screening and  
5 underwriting portfolio transactions, have worked together for more  
6 than ten years. These investment professionals have an average of over  
7 20 years of experience in various finance-related fields, including  
8 operations, corporate finance, investment banking, business law and  
9 merchant banking, and have collectively developed a broad network of  
10 contacts that can offer us investment opportunities. Much of our  
11 Investment Advisor's investment team has worked together screening  
12 opportunities, underwriting new investments and managing a portfolio  
13 of investments in lower middle-market and traditional middle-market  
14 companies through two recessions, a credit crunch, the dot-com boom  
15 and bust and a historic, leverage-fueled asset valuation bubble.

16 (Emphasis added.)

17 38. The 2016 10-K also stated the following regarding its dependence on  
18 Capitala Investment Advisors to attract and retain professional talent:

19 ***Our success depends on the ability of Capitala Investment Advisors***  
20 ***to attract and retain qualified personnel in a competitive***  
21 ***environment.***

22 Our growth requires that the Investment Advisor retain and attract new  
23 investment and administrative personnel in a competitive market. Its  
24 ability to attract and retain personnel with the requisite credentials,  
25 experience and skills depends on several factors including, but not  
26 limited to, its ability to offer competitive wages, benefits and  
27 professional growth opportunities. Many of the entities with which the  
28 Investment Advisor competes for experienced personnel, including  
investment funds (such as private equity funds, credit funds and  
mezzanine funds) and traditional financial services companies, have  
greater resources than the Investment Advisor has.

39. On March 20, 2017, the Company also filed its annual proxy statement on  
Form DEF 14A with the SEC (the "2017 Proxy"), which stated the following regarding  
Capitala Investment Advisor:

The Investment Advisory Agreement was re-approved by the Board of  
Directors of the Company, including by a majority of our non-  
interested directors, at an in-person meeting held on August 4, 2016. In  
its consideration of the re-approval of the Investment Advisory

1 Agreement, the Board of Directors reviewed a significant amount of  
information and considered and concluded, among other things:

- 2 • The nature, extent and quality of advisory and other services  
3 provided by Capitala Investment Advisors, including  
4 information about the investment performance of the Company  
5 relative to its stated objectives and in comparison to the  
6 performance of the Company's peer group and relevant market  
7 indices, and concluded that such advisory and other services are  
8 satisfactory and the Company's investment performance is  
9 reasonable;
- 10 • *The experience and qualifications of the personnel providing  
11 such advisory and other services, including information about  
12 the backgrounds of the investment personnel, the allocation of  
13 responsibilities among such personnel and the process by  
14 which investment decisions are made, and concluded that the  
15 investment personnel of Capitala Investment Advisors have  
16 extensive experience and are well qualified to provide advisory  
17 and other services to the Company;*
- 18 • *The current fee structure, the existence of any fee waivers, and  
19 the Company's anticipated expense ratios in relation to those  
20 of other investment companies having comparable investment  
21 policies and limitations, and concluded that the current fee  
22 structure is reasonable;*
- 23 • The advisory fees charged by Capitala Investment Advisors to  
24 the Company and comparative data regarding the advisory fees  
25 charged by other investment advisers to business development  
26 companies with similar investment objectives, and concluded  
27 that the advisory fees charged by Capitala Investment Advisors  
28 to the Company are reasonable;
- *The direct and indirect costs, including for personnel and  
office facilities, that are incurred by Capitala Investment  
Advisors and its affiliates in performing services for the  
Company and the basis of determining and allocating these  
costs, and concluded that the direct and indirect costs,  
including the allocation of such costs, are reasonable;*
- *Possible economies of scale arising from the Company's size  
and/or anticipated growth, and the extent to which such  
economies of scale are reflected in the advisory fees charged  
by Capitala Investment Advisors to the Company, and  
concluded that some economies of scale may be possible in the  
future;*
- Other possible benefits to Capitala Investment Advisors and its  
affiliates arising from their relationships with the Company, and  
concluded that any such other benefits were not material to  
Capitala Investment Advisors and its affiliates; and

- Possible alternative fee structures or bases for determining fees, and concluded that the Company's current fee structure and bases for determining fees are satisfactory.

(Emphasis added.)

40. The statements referenced in ¶¶ 31-39 above were materially false and/or misleading because they misrepresented and/or failed to disclose the following adverse facts pertaining to the Company's business, operational and financial results, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Capitala Investment Advisors had been losing professional talent in both underwriting and portfolio management due to the waiving of its incentive fee; (ii) such loss of talent negatively impacted the quality of the Company's investment portfolio; and (iii) as a result, Capitala's public statements were materially false and misleading at all relevant times.

### **The Truth Begins to Emerge**

41. On August 7, 2017, the Company issued a press release during aftermarket hours announcing its results for the second quarter of 2017. The Company disclosed that that six of its investments were on non-accrual status— twice as many as in the previous quarter.

42. On August 8, 2017, the Company held an earnings conference call for the second quarter of 2017. During the call, Defendant Alala revealed that the Company had been losing professional talent due to the waiving of the incentive fee, stating in part:

As far as waive, we've waived million [sic] since we first announced it early 2016. We always want to look at the waiver as an alignment



1 vehicle but we also need to realize that you have to have a cohesive  
2 team to address some issues. *So we did experienced some slight*  
3 *professionals in '15 and '16 when we began waiving fees.* We have  
4 recently, over the past few months, re-staffed six to seven people that  
5 we just announced last week or two. And we actually have plans to  
6 add more to the portfolio side. So we will always look at the waiver in  
7 sort of a best interest mindset. *But sometimes the best interest is to*  
8 *commit more resources to maybe the portfolio and doing things*  
9 *that's going to grow NAV and ultimately grow earnings versus*  
10 *waiving fees and been short-term focus.* So we'll look at it. But like  
11 you said, we didn't have any fee to waive this quarter. But we'll look it  
12 at on a quarter-by-quarter basis. But ultimately, we got to make a  
13 decision on what is the best use of our limited resources and how is  
14 that ultimately going to affect our NAV and our earnings, because you  
15 don't want to be short sighted there.

9 (Emphasis added.)

10 43. During the call, Defendant Alala also acknowledged that the rising number  
11 of nonaccrual investments was connected to the loss in underwriting and portfolio  
12 management talent in the following exchange with an analyst:

14 Ryan Lynch

15 And then moving to just the underwriting process and maybe even  
16 portfolio management. I mean, in the past, maybe two years ago, call  
17 it, some of the credit issues were primarily surrounding energy  
18 investment as you look at the current non-accruals today, is a pretty  
19 wide variety of mix of different industries. And Jack you talked about  
20 there are couple, maybe one-off type events that resulted in these  
21 individual companies going on non-accrual. But if you step back and  
22 look at several different investments in several different industries on  
23 non-accrual today. *So I just wanted to have you guys give some*  
24 *commentary on, are there any changes that you guys are internally*  
25 *reviewing about the investment process that can help prevent some of*  
26 *these non-accruals, going forward?* I know you guys hired, I think,  
27 six new folks a month ago or so, so any commentary or color if you  
28 can provide on the investment process. How you guys are internally  
looking at that, given the current non-accrual situation, any  
improvements you guys are looking to make to that?

25 Joe Alala

26 I'm going to answer the first part and then Jack to the second part. *The*  
27 *first part is, and this goes back to your comment on fee waiver. It is*  
28 *always unintended consequence of sometimes pursuing what you*  
*think is a right action. When we begin waive of fees, we did lose*  
*significant loss of professionals in both underwriting and portfolio*

1 *that mainly occurs in the '15 through when we start hiring again last*  
2 *December. So we did have a drain of talent, a lot of people that had*  
3 *underwritten some deals, were no longer at the firm.*

4 So we have overhauled our entire investment process from  
5 underwriting to, which is involved of active portfolio management.  
6 And we did that and we beefed-up all the thresholds that we just  
7 announced. *And we've changed all our internal processes. And big*  
8 *part of the change we have add bodies to it to make it work which we*  
9 *have done. But we have basically changed all of our processes,*  
10 *improved and added the bodies to and then committed the resources*  
11 *to them.* And with that, what would you add to that Jack?

12 (Emphasis added.)

13 44. Following these news, shares of the Company fell \$3.82 per share, or  
14 approximately 30%, over the next three trading days to close at \$8.99 per share on  
15 August 10, 2017, damaging investors.

16 45. As a result of Defendants' wrongful acts and omissions, and the precipitous  
17 decline in the market value of the Company's common shares, Plaintiff and other Class  
18 members have suffered significant losses and damages.

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

20 46. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil  
21 Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or  
22 otherwise acquired Capitala common shares traded on the NASDAQ during the Class  
23 Period (the "Class"); and were damaged upon the revelation of the alleged corrective  
24 disclosures. Excluded from the Class are Defendants herein, the officers and directors of  
25 the Company, at all relevant times, members of their immediate families and their legal  
26  
27  
28

1 representatives, heirs, successors or assigns and any entity in which Defendants have or  
2 had a controlling interest.

3 47. The members of the Class are so numerous that joinder of all members is  
4 impracticable. Throughout the Class Period, Capitala common shares were actively  
5 traded on the NASDAQ. While the exact number of Class members is unknown to  
6 Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff  
7 believes that there are hundreds or thousands of members in the proposed Class. Record  
8 owners and other members of the Class may be identified from records maintained by  
9 Capitala or its transfer agent and may be notified of the pendency of this action by mail,  
10 using the form of notice similar to that customarily used in securities class actions.  
11

12 48. Plaintiff's claims are typical of the claims of the members of the Class as all  
13 members of the Class are similarly affected by Defendants' wrongful conduct in  
14 violation of federal law that is complained of herein.  
15

16 49. Plaintiff will fairly and adequately protect the interests of the members of  
17 the Class and has retained counsel competent and experienced in class and securities  
18 litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.  
19

20 50. Common questions of law and fact exist as to all members of the Class and  
21 predominate over any questions solely affecting individual members of the Class.  
22 Among the questions of law and fact common to the Class are:

- 23 • whether the federal securities laws were violated by Defendants' acts  
24 as alleged herein;  
25  
26  
27  
28

- 1 • whether statements made by Defendants to the investing public  
2 during the Class Period misrepresented material facts about the  
3 financial condition, business, operations, and management of  
4 Capitala;
- 5 • whether Defendants caused Capitala to issue false and misleading  
6 financial statements during the Class Period;
- 7 • whether Defendants acted knowingly or recklessly in issuing false  
8 and misleading financial statements;
- 9 • whether the prices of Capitala securities during the Class Period were  
10 artificially inflated because of Defendants' conduct complained of  
11 herein; and
- 12 • whether the members of the Class have sustained damages and, if so,  
13 what is the proper measure of damages.

14 51. A class action is superior to all other available methods for the fair and  
15 efficient adjudication of this controversy since joinder of all members is impracticable.  
16 Furthermore, as the damages suffered by individual Class members may be relatively  
17 small, the expense and burden of individual litigation make it impossible for members of  
18 the Class to individually redress the wrongs done to them. There will be no difficulty in  
19 the management of this action as a class action.  
20  
21

22 52. Plaintiff will rely, in part, upon the presumption of reliance established by  
23 the fraud-on-the-market doctrine in that:  
24

- 25 • Defendants made public misrepresentations or failed to disclose  
26 material facts during the Class Period;
  - 27 • the omissions and misrepresentations were material;
- 28

- 1 • Capitala common shares are traded in efficient markets;
- 2
- 3 • the Company's shares were liquid and traded with moderate to heavy
- 4 volume during the Class Period;
- 5 • the Company traded on the NASDAQ, and was covered by multiple
- 6 analysts;
- 7 • the misrepresentations and omissions alleged would tend to induce a
- 8 reasonable investor to misjudge the value of the Company's common
- 9 shares; and
- 10 • Plaintiff and members of the Class purchased and/or sold Capitala
- 11 common shares between the time the Defendants failed to disclose or
- 12 misrepresented material facts and the time the true facts were
- 13 disclosed, without knowledge of the omitted or misrepresented facts.

14 53. Based upon the foregoing, Plaintiff and the members of the Class are  
15 entitled to a presumption of reliance upon the integrity of the market.

16 54. Alternatively, Plaintiff and the members of the Class are entitled to the  
17 presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of*  
18 *the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants  
19 omitted material information in their Class Period statements in violation of a duty to  
20 disclose such information, as detailed above.  
21

## 22 23 **COUNT I**

### 24 **Violation of Section 10(b) of The Exchange Act and Rule 10b-5** 25 **Against All Defendants**

26  
27 55. Plaintiff repeats and realleges each and every allegation contained above as  
28 if fully set forth herein.

1           56. This Count is asserted against Capitala and the Individual Defendants and is  
2 based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5  
3 promulgated thereunder by the SEC.  
4

5           57. During the Class Period, Capitala and the Individual Defendants,  
6 individually and in concert, directly or indirectly, disseminated or approved the false  
7 statements specified above, which they knew or deliberately disregarded were  
8 misleading in that they contained misrepresentations and failed to disclose material facts  
9 necessary in order to make the statements made, in light of the circumstances under  
10 which they were made, not misleading.  
11

12           58. Capitala and the Individual Defendants violated §10(b) of the 1934 Act and  
13 Rule 10b-5 in that they:  
14

- 15
- 16           • employed devices, schemes and artifices to defraud;
  - 17           • made untrue statements of material facts or omitted to state material  
18 facts necessary in order to make the statements made, in light of the  
19 circumstances under which they were made, not misleading; or
  - 20           • engaged in acts, practices and a course of business that operated as a  
21 fraud or deceit upon plaintiff and others similarly situated in  
22 connection with their purchases of Capitala common shares during  
23 the Class Period.

24           59. Capitala and the Individual Defendants acted with scienter in that they knew  
25 that the public documents and statements issued or disseminated in the name of Capitala  
26 were materially false and misleading; knew that such statements or documents would be  
27 issued or disseminated to the investing public; and knowingly and substantially  
28 participated, or acquiesced in the issuance or dissemination of such statements or

1 documents as primary violations of the securities laws. These Defendants by virtue of  
2 their receipt of information reflecting the true facts of Capitala, their control over, and/or  
3 receipt and/or modification of Capitala allegedly materially misleading statements,  
4 and/or their associations with the Company which made them privy to confidential  
5 proprietary information concerning Capitala, participated in the fraudulent scheme  
6 alleged herein.  
7  
8

9         60. Individual Defendants, who are the senior officers and/or directors of the  
10 Company, had actual knowledge of the material omissions and/or the falsity of the  
11 material statements set forth above, and intended to deceive Plaintiff and the other  
12 members of the Class, or, in the alternative, acted with reckless disregard for the truth  
13 when they failed to ascertain and disclose the true facts in the statements made by them  
14 or other Capitala personnel to members of the investing public, including Plaintiff and  
15 the Class.  
16  
17

18         61. As a result of the foregoing, the market price of Capitala common shares  
19 was artificially inflated during the Class Period. In ignorance of the falsity of Capitala's  
20 and the Individual Defendants' statements, Plaintiff and the other members of the Class  
21 relied on the statements described above and/or the integrity of the market price of  
22 Capitala common shares during the Class Period in purchasing Capitala common shares  
23 at prices that were artificially inflated as a result of Capitala's and the Individual  
24 Defendants' false and misleading statements.  
25  
26  
27  
28





1 they knew the adverse non-public information regarding the Company's inadequate  
2 internal safeguards in data security protocols.

3  
4 67. As officers and/or directors of a publicly owned company, the Individual  
5 Defendants had a duty to disseminate accurate and truthful information with respect to  
6 Capitala's financial condition and results of operations, and to correct promptly any  
7 public statements issued by Capitala which had become materially false or misleading.  
8

9 68. Because of their positions of control and authority as senior officers, the  
10 Individual Defendants were able to, and did, control the contents of the various reports,  
11 press releases and public filings which Capitala disseminated in the marketplace during  
12 the Class Period. Throughout the Class Period, the Individual Defendants exercised their  
13 power and authority to cause Capitala to engage in the wrongful acts complained of  
14 herein. The Individual Defendants therefore, were "controlling persons" of Capitala  
15 within the meaning of Section 20(a) of the Exchange Act. In this capacity, they  
16 participated in the unlawful conduct alleged which artificially inflated the market price  
17 of Capitala common shares.  
18  
19  
20

21 69. By reason of the above conduct, the Individual Defendants are liable  
22 pursuant to Section 20(a) of the Exchange Act for the violations committed by Capitala.  
23

24 **PRAYER FOR RELIEF**

25  
26 WHEREFORE, Plaintiff demands judgment against Defendants as follows:  
27  
28

1 A. Determining that the instant action may be maintained as a class action  
2 under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the  
3 Class representative;

4  
5 B. Requiring Defendants to pay damages sustained by Plaintiff and the Class  
6 by reason of the acts and transactions alleged herein;

7  
8 C. Awarding Plaintiff and the other members of the Class prejudgment and  
9 post- judgment interest, as well as their reasonable attorneys' fees, expert fees and other  
10 costs; and

11  
12 D. Awarding such other and further relief as this Court may deem just and  
13 proper.

14  
15 **DEMAND FOR TRIAL BY JURY**

16 Plaintiff hereby demands a trial by jury.

17 Dated: January 3, 2018

18 Respectfully submitted,

19 **POMERANTZ LLP**

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*Attorneys for Plaintiff*

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Submission Date

2017-12-28 17:06:50

## CERTIFICATION PURSUANT TO FEDERAL SECURITIES LAWS

1. I make this declaration pursuant to Section 27(a)(2) of the Securities Act of 1933 ("Securities Act") and/or Section 21D(a)(2) of the Securities Exchange Act of 1934 ("Exchange Act") as amended by the Private Securities Litigation Reform Act of 1995.
2. I have reviewed a Complaint against Capitala Finance Corp. ("Capitala" or the "Company"), as well as media and analyst reports about the Company. Plaintiff believes and authorizes the filing of a comparable complaint on my behalf.
3. I did not purchase or acquire Capitala securities at the direction of plaintiffs' counsel or in order to participate in any private action arising under the Securities Act or Exchange Act.
4. I am willing to serve as a representative party on behalf of a Class of investors who purchased or acquired Capitala securities during the class period, including providing testimony at deposition and trial, if necessary. I understand that the Court has the authority to select the most adequate lead plaintiff in this action.
5. To the best of my current knowledge, the attached sheet lists all of my transactions in Capitala securities during the Class Period as specified in the Complaint.
6. During the three-year period preceding the date on which this Certification is signed, I have not sought to serve as a representative party on behalf of a class under the federal securities laws.
7. I agree not to accept any payment for serving as a representative party on behalf of the class as set forth in the Complaint, beyond my pro rata share of any recovery, except such reasonable costs and expenses directly relating to the representation of the class as ordered or approved by the Court.
8. I declare under penalty of perjury that the foregoing is true and correct.

### Name

Print Name

Stephanie Sandifer

### Acquisitions

Configurable list (if none enter none)

(see attached)



(see attached)

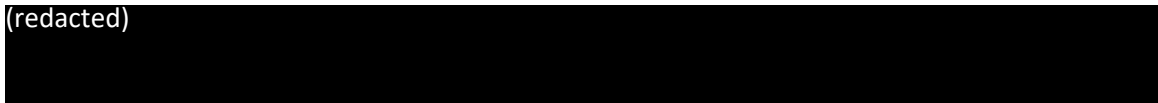


Sales

Documents & Message

Your Message

(redacted)



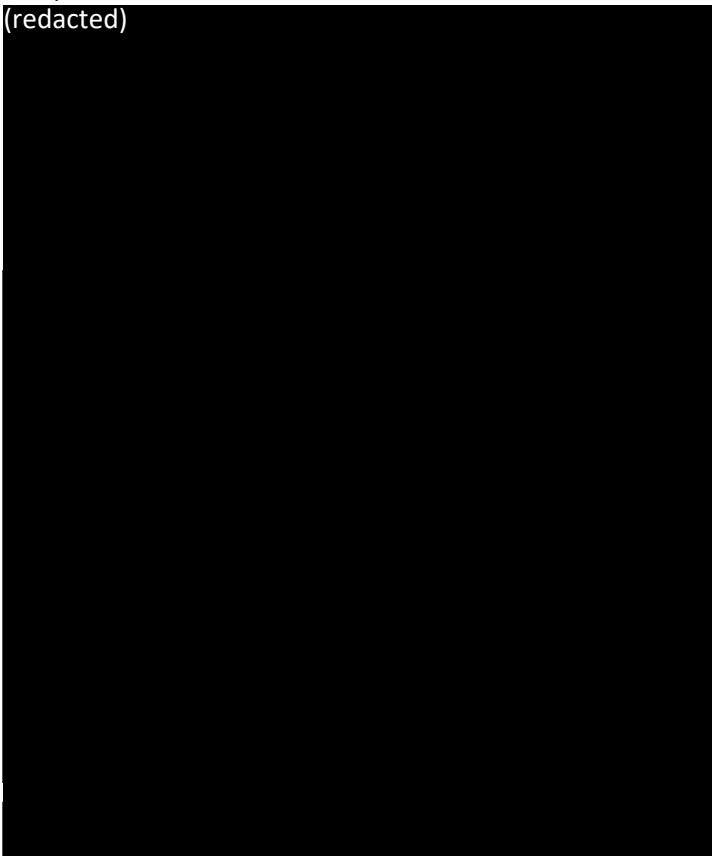
Signature



Full Name

Stephanie Sandifer

(redacted)



CAPITALA FINANCE CORPORATION (CPTA)

Sandifer, Stephanie

## LIST OF PURCHASES AND SALES

<b>DATE</b>	<b>PURCHASE OR SALE</b>	<b>NUMBER OF SHARES/UNITS</b>	<b>PRICE PER SHARES/UNITS</b>
5/19/2016	Purchase	100	\$13.1600
9/8/2016	Purchase	742	\$14.9800
11/1/2016	Purchase	23	\$12.8400
1/12/2017	Purchase	865	\$13.7200
1/17/2017	Purchase	270	\$13.8600
4/20/2017	Purchase	270	\$14.0700
5/10/2017	Purchase	32	\$13.5200
7/10/2017	Purchase	2,900	\$13.1600

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Capitala Finance Corp. Accused of Covering Up Allegedly Foreseeable Investment Failures](#)

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