SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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RICHARD D. SEGAL, Index No. [_____]

Plaintiff,

v.

RETHINK CAPITAL PARTNERS, INC., DOUGLAS F. RAY, JONATHAN L. WINER, MICHAEL WALDEN, SHAK CHOWDHURY, and ANDERSON TAX LLC,

COMPLAINT

Defendants.

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Plaintiff Richard D. Segal ("Plaintiff" or "Segal"), as and for his Complaint against defendants Douglas F. Ray ("Ray"), Jonathan L. Winer ("Winer"), Michael Walden ("Walden") (collectively, the "RCP Defendants"), ReThink Capital Partners, Inc. ("Manager"), Shak Chowdhury ("Chowdhury"), and Andersen Tax LLC ("Andersen", and together with the RCP Defendants, Manager, and Chowdhury, the "Defendants"), alleges as follows upon information and belief:

NATURE OF THE ACTION

1. This action arises from an egregious and fraudulent scheme perpetuated by the majority members of Rethink Capital Partners, LLC ("ReThink" or the "Company"), an investment adviser to private funds registered with the Securities and Exchange Commission ("SEC"), against Plaintiff, the minority member and holder of a 40.9% membership interest. Through dishonest and unethical conduct, the majority members attempted to oust Plaintiff and acquire his membership interest at an artificially depressed value by manipulating the buy-out procedure in the operating agreement.

2. Plaintiff started ReThink (formerly known as Seavest Investment Group) forty years ago and through his hard work, skill, dedication and business acumen turned it into a profitable business with over two and a half billion dollars ($2,500,000,000.00) in assets under management. He served as the Chairman and Chief Executive Officer of the Company.

3. ReThink is worth over $50,000,000. As the holder of a 40.9% membership interest, Plaintiff's interest is worth over $20,000,000, and he was entitled to payment of that amount upon his retirement, payable on a schedule, pursuant to ReThink's Operating Agreement (defined below).

4. Unfortunately, however, when Plaintiff experienced health issues, the junior partners who he brought into the business used his heart condition to try and force Plaintiff to sell his membership interest to them at an insulting discount. Plaintiff correctly refused.

5. Under the Operating Agreement, the valuation of a retiring member's interest requires an honest appraisal of the fair value of his membership interest on the day after his retirement conducted by an independent valuation firm for the purpose of a buy-out.

6. What happened next was anything but an honest, fair, or independent valuation. The RCP Defendants caused the Company to hire Andersen, a valuation firm, to value Plaintiff's membership interest but secretly created and gave Andersen all of the inputs for the valuation, including the cash flows for Andersen's discounted cash flow "analysis" and the comparable companies for Andersen's market "analysis," and excluded Plaintiff -- the person with the most experience and knowledge about the Company -- from the entire appraisal process. Andersen took direction only from the RCP Defendants, not Plaintiff, and accepted their financials, newly manufactured projections and factual representations regarding the company without verifying or assessing any of the data. By controlling the appraisal process, the RCP Defendants tainted its

independence and unethically influenced Andersen to lower the valuation of Plaintiff's interest, by among other things, understating revenue, overstating expenses, omitting key financial information, and presenting the company as a third-rate business.

7. ReThink makes money like most similarly situated investment advisers, from: (i) 'front-end' fees, e.g., a 2% management fee and (ii) 'back-end' profit sharing equal to 20% of the profitability of the private funds advised by ReThink ("Carried Interest"). Consistent with the industry norm, back-end profit sharing is a major source of income for ReThink and its members.

8. Yet, despite the substantial revenue generated from Carried Interest, Andersen issued an appraisal that omitted Carried Interest. The omission of Carried Interest as a component of value lowers the value of the Company by millions of dollars and thereby understates Plaintiff's membership interest.

9. Further, ReThink has historically increased its assets under management and generated more revenue than some of the other 'comparable' companies identified by Andersen. The growth has increased in recent years. For example, in September 2024 alone, ReThink launched a $250 million fund, known as ReThink Impact III. The addition of assets under management generates new revenue and the profitability of those new funds generates new Carried Interest.

10. Yet, despite the rapid growth over the last decade and the recent launch of the $250 million ReThink Impact fund, Andersen issued an appraisal that applied a 5% revenue increase year-over-year arbitrarily based on 'comparable' companies, without regard for the actual growth of ReThink, which is historically almost double.

11. The omission of new assets under management, overstatement of expenses, and the application of an artificially low revenue growth projection lowers the value of the Company and thereby understates Plaintiff's membership interest.

12. In the last several years, members of ReThink took home millions of dollars in earnings from management and other fees alone. On top of those earnings, members of ReThink also took home millions more in income from Carried Interest.

13. An appraiser is required to be objective, consider all assets and cash flows and substantiate deviations from generally accepted valuation methodologies. But Andersen deliberately ignored the massive cash payments ReThink and its members earned from Carried Interest, arbitrarily applied a substantial discount to the median earnings multiple of comparable companies, and applied yet another improper "marketability discount" to the value of Plaintiff's membership interest. These (and other) manipulations resulted in a valuation many millions of dollars below fair value.

14. The appraisal was so clearly divorced from reality that Andersen expressly disclaimed the reliability of the valuation as an indicator of a fair price for Plaintiff's membership interest. Yet, the RCP Defendants wrongly seek to compel Plaintiff to sell his membership interest to them at this artificially depressed price.

15. By this action, Plaintiff seeks a declaration that the valuation performed by Andersen is invalid under the Operating Agreement and also seeks damages resulting from the Defendants' conspiracy to defraud him of the true value of his membership interest in an amount to be determined at trial, but in no event less than $20,000,000.

PARTIES

16. Plaintiff Richard D. Segal is an individual resident of Indian River County, Florida.

17. Plaintiff founded ReThink Capital Partners, LLC (f/k/a Seavest Investment Group, LLC) (the "Company") in 1981. From the Company's conception until April 2022, Segal served as the Chairman of the Board of the Company and Chief/Co-Chief Executive Officer and held a 40.9091% membership interest in the Company. Segal has served on the board of directors of numerous public and private entities.

18. Plaintiff is deeply committed to creating better communities through his philanthropic engagements, which are primarily focused on health, education, and providing opportunities for low-income children and the arts. Plaintiff serves as a life trustee of New York Presbyterian Hospital and is a board member of Plan A Health, an organization delivering mobile care to rural women who are not otherwise served. He is the President of the A. L. Mailman Family Foundation. Additionally, he previously served as a Trustee of the Whitney Museum of Art in New York City, where he served as Treasurer and chair of the Finance Committee. He also sat on the Board of New York Academy of Art, serving as Treasurer and Vice-Chair. He was also previously a board member and Finance Chair of the Africa Center in New York.

19. ReThink's principal office and place of business is located at 707 Westchester Avenue, Suite 401, White Plains, New York, 10604.

20. Defendant Douglas F. Ray ("Ray") is an individual resident of the State of New York. Defendant Ray joined the Company in 1995 and currently serves as Chief Executive Officer. Prior to joining the Company, Defendant Ray had no prior experience in investment management and worked in politics. Defendant Ray holds a 40.9091% membership interest in the Company.

21. Defendant Jonathan L. Winer ("Winer") is an individual resident of the State of Connecticut. Defendant Winer joined the Company in 2008 and currently serves as Managing Director as well as President and Investment Officer of Rethink Healthcare Real Estate. Prior to

joining the Company, Defendant Winer was a director at EY LLP in its Healthcare Real Estate Advisory practice. Defendant Winer holds a 9.0909% membership interest in the Company.

22. Defendant Michael Walden ("Walden") is an individual resident of the State of Connecticut. Defendant Walden joined the Company in 2011 and currently serves as the Company's Chief Operating Officer and Chief Compliance Officer. Defendant Walden holds a 9.0909% membership interest in the Company.

23. Defendant Shak Chowdhury ("Chowdhury") is an individual resident of the State of New Jersey. Defendant Chowdhury joined the Company in 2013 and serves as the Company's Chief Financial Officer ("CFO").

24. Defendant ReThink Capital Partners, Inc. (formerly Seavest Inc.) (the "Manager") is a New York corporation and may be served through its CEO, Douglas Ray, at 707 Westchester Avenue, Suite 401, White Plains, New York 10604**.** Defendant Manager is the non-member manager of the Company.

25. Defendants Ray, Winer, and Walden are the members and managers of the Manager and therefore, are de facto managers of the Company.

26. Defendant Andersen Tax LLC ("Andersen") is Delaware limited liability company and may be served through its registered agent, Corporation Service Company, at 251 Little Falls Drive, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

27. Defendants Ray, Winer, Walden, and Manager are subject to the personal jurisdiction of the courts of the State of New York in connection with this action pursuant to a certain Amended and Restated Operating Agreement dated January 1, 2015 (the "Operating

Agreement"). A true and accurate copy of the Operating Agreement is attached and incorporated herein as **Exhibit "A"**.

28. Defendant Andersen is subject to the personal jurisdiction of the courts of the State of New York as Andersen conducts business in the state of New York and conducted business in the state of New York as alleged in this complaint.

29. Defendant Chowdhury is subject to the personal jurisdiction of the courts of the State of New York as Chowdhury conducts business in the state of New York where ReThink maintains its principal office.

30. Venue is proper in this Court pursuant CPLR Sections 501 and 503 and/or N.Y. General Obligations Law § 5-1402, as Defendants have consented to venue in this Court under, and/or are bound by, the forum selection clause in Section 12.8 of the Operating Agreement, the Company's offices are in Westchester County, and Defendant Ray is a resident of Westchester County.

31. Pursuant to Section 202.70 of the Uniform Civil Rules for the New York State Supreme Court, this action should be assigned to the Commercial Division of this Court because it concerns a complex commercial dispute, the amount in controversy is in excess of $100,000 (exclusive of punitive damages, interest, costs, disbursements, and counsel fees), and Plaintiff's claims include the following: breach of contract; breach of fiduciary duty, and aiding and abetting thereof; and breach of the implied covenant of good faith and fair dealing.

FACTS

ReThink Capital Partners, LLC

32. The Company is a Securities and Exchange Commission registered investment advisor to private funds. It specializes in healthcare real estate and venture capital investments.

33. The Company makes investments that "seek to drive both financial returns and contribute to the betterment of our society, our communities, and our planet."

34. To that end, the Company, through various funds, invests in companies that promote education technology, food systems, female and other minority led businesses, affordable and community-based housing, and healthcare real estate.

35. One of the Company's funds, ReThink Impact, currently runs the largest US venture fund backing female-led companies.

36. As of March 2024 the Company has approximately $2.5 billion in assets under management through funds including RTH Properties VI, LLC, Seavest Core Fund I LLC, Seavest Core Fund I Investors LLC, Seavest Properties V, LLC, SP V-II, LLC, Seavest Buckeye I, LLC, Seavest White Oak, LLC, White Oak AHF-1 Manager, LLC, TREA SV MOB Venture I, LLC, TREA SV MOB Venture II, LLC, Rethink Education LP, Rethink Education II LP, Rethink Education III LP, Rethink Education Seed, Rethink Impact LP, Rethink Impact II LP, Rethink Impact Ellevest B LLC, Rethink Impact Ellevest LLC, Rethink Impact Neurotrack LLC, Rethink Community I, LP, Rethink Community Nashville Partners II, LLC, Rethink Community Nashville Partners, LLC, and Rethink Food LP.

37. The Company and its members make their money, among other ways, through management fees generated from the management of each fund—which are typically 2%, annually, of a fund's assets under management.

38. The Company also generates revenue through oversight and administrative fees, acquisition fees, disposition fees, financing fees, leasing commissions, development management fees, and construction management fees.

39. However, the majority of the Company and members' compensation comes from Carried Interest made upon the disposition of assets held and managed by the various funds.

Prior Valuation of Segal's Membership Interest

40. In the past, the Defendant Chowdhury had represented to Segal that the Company was worth at least $20,000,000 and valued his membership interest at least $8,000,000 in 2018 and again in 2019. However, Defendant Chowdhury would generally not report values through email, instead he would call or personally visit to advise on the value.

41. In April 2019, Defendant Chowdhury began gathering and submitting information to Bank of America to secure lines of credit for each of the Company's members. Plaintiff provided a net worth statement reflecting his interest in the company to be worth $8,000,000.00, which the Company ratified.

42. The revenue since April 2019 has increased with positive growth and the value of Plaintiff's membership interest should be greater, not less.

Defendants Scheme to Oust Segal

43. Plaintiff is 70 years old. He previously dealt with health issues which ultimately resulted in a heart transplant in February 2009. He was advised at the time that the transplant would likely last for 10-12 years before facing risk of death.

44. Accordingly, Plaintiff began to consider planning for his retirement. To that end, he asked Defendant Chowdhury to obtain an independent third-party valuation of ReThink. Chowdhury, at the direction of Ray, ignored his request.

45. Knowing his mortality risk Plaintiff wanted to obtain a valuation of his membership interest years ago to avoid the burden of this process falling on the shoulders of his wife.

46. As time passed, despite improvements in is health, Plaintiff reiterated his request to Chowdhury to secure an appraisal, but Chowdhury, at the direction of Ray, continued to ignore the request.

47. Unable to secure a valuation from Chowdhury, in or about 2020, Plaintiff retained the Ready for Next Advisory Group ("RFN") to assist him with his retirement planning and to develop a valuation of his interest in the Company. Again, however, Defendants Ray and Chowdhury refused to provide RFN with any data from the Company, which frustrated their ability to value the company.

48. From the time Plaintiff had his transplant, defendants Ray, Winder and Walden would often ask Plaintiff whether he was healthy enough to continue working, and how much longer he thought he would live.

49. In response, Plaintiff advised them that he was considering retiring when he reached 70 and letting Defendant Ray become the sole CEO.

50. However, at no point did Plaintiff ever resign, verbally or in writing, from his role as Co-CEO of the Company.

51. Nonetheless, around the time Plaintiff turned 70, the RCP Defendants saw an opportunity to remove Plaintiff from the Company and schemed to oust him.

52. In early 2022, the RCP Defendants claimed that Plaintiff had resigned as Co-CEO and hoped that because of his health and age he would simply acquiesce.

53. When that didn't work, they claimed that a "harassment" claim had been filed against him. Plaintiff explained that there was no harassment. To the contrary, he was the victim of age discrimination and other improper conduct.

54. The Company hired the law firm Gibson, Dunn & Crutcher LLP to investigate the alleged "harassment" by Plaintiff, but did not investigate his claims.

55. Although no harassment by Plaintiff was found, the RCP Defendants used this false allegation to pressure Plaintiff to agree to resign, which he did to avoid unnecessary and costly litigation and because he was willing to resign if his interest would be fairly valued in the near future.

56. On April 5, 2022 (the "Separation Effective Date"), in resolution of the parties' dispute, Plaintiff, the Company, Defendants Ray, Walden, and Winer, entered into a Separation and Release Agreement (the "Separation Agreement").

57. Pursuant to the Separation Agreement, Plaintiff resigned from his management positions with the Company effective immediately as of April 5, 2022.

58. Under Paragraph 5 of the Separation Agreement, for two years following the Separation Effective Date, Segal held the title of "Executive Director" with the Company (the "Executive Director Period").

59. The Separation Agreement also included a provision stating that the Company could purchase half of Plaintiff's membership interest at a price of $4,500,000.00—which again makes clear that the Company and the RCP Defendants valued Plaintiff's entire membership interest at no less than $9,000,000.00 separate and apart from any formal valuation.

60. The Executive Director Period concluded on April 15, 2024, on which date Plaintiff resigned as Executive Director.

61. Under Paragraph 6 of the Separation Agreement, no later than six (6) months after the expiration of the Executive Director Period (the "Withdrawal Date"), Plaintiff was to resign

and withdraw as a Class A member of the Company and the Company was to purchase his membership interest in accordance with Section 10.6 of the Company's Operating Agreement.

62. The Withdrawal Date was October 15, 2024.

The Purchase Process of Segal's Membership Interest

63. Section 10.6 of the Operating Agreement provides that the Company shall purchase the membership of Class A member upon his withdrawal from the Company (the date of which being the "Purchase Event"). Plaintiff resigned and withdrew as a member on October 15, 2024.

64. Under Section 10.6(c), the purchase price (the "Purchase Price") shall be "the fair value of the Affected Class A membership interest immediately following the Purchase Event as determined by an independent valuation expert who is experienced in valuing companies such as the Company who is mutually agreed upon by the Manager and the selling Class A member. Such valuation expert shall be directed by the Manager and selling Class A Member to promptly prepare a written report of his determination."

Andersen's Valuation

65. The RCP Defendants caused the Company to enter into an agreement with Andersen (the "Valuation Agreement") on or about July 22, 2024.

66. Despite being retained by the Company, and despite Plaintiff still being a member of the Company, the RCP Defendants excluded Plaintiff from all of their communications with Andersen and insisted that all communication between Plaintiff and Andersen go through the Company even though Plaintiff was entitled to participate in conversations and document sharing with Andersen by virtue of his then-membership.

67. Plaintiff attempted to discuss Andersen's valuation efforts with Defendant Chowdhury, but Chowdhury refused.

68. RCP Defendants and Chowdhury met privately with Andersen and had complete control over what documentation and other information was provided for Andersen's valuation.

69. On October 15, 2024, Andersen issued a valuation report (the "Valuation Report") setting forth the purported fair market value of Plaintiff's 40.9091% Class A interest as of April 15, 2024.

70. The Valuation Report valued Plaintiff's total membership interest at $4,740,000.00, nearly the same price the RCP Defendants valued half of Plaintiff's membership interest in April 2022 when the Separation Agreement was executed.

71. The Valuation Report states that Andersen "has relied upon information furnished by others, which is believed to be reliable. We have not independently verified the accuracy or completeness of the information."

72. It further states: "During the course of our analysis, we were provided certain financial information, including estimates of cash flow, by management."

73. The Valuation Report also states that Andersen primarily relied upon: "Discussions with Management," and "A forecast developed by Management."

74. The Valuation Report also states that the list of comparable companies, which were used for the valuation analysis in the Market Approach and to calculate a revenue growth rate in the Discounted Cash Flow analysis, was developed with management's assistance.

75. Plaintiff was precluded from joining Andersen's "discussions with Management," and from providing any input into or reviewing the "forecast developed by Management," which Andersen "primarily" relied upon.

76. After receiving the Valuation Report, Plaintiff discovered that the projections and forecasts provided to Andersen are not conceivably reasonable or realistic. The forecast was not

consistent with the Company's historical performance, current business operations or future prospects and was materially misleading.

77. The RCP Defendants used their control of the valuation process to depress the value of Plaintiff's membership interest.

78. The Valuation Report used two valuation methods: the income approach and the market approach.

79. Some of the defects in the income approach, all of which lower the value of the Company, include, for example:

a. That the income approach omits the addition of revenue from new investment funds, as well as a $250M fund that had actually launched in September 2024, a month before the Valuation Report was issued;

b. That the analysis assumes 4% revenue growth, even though the Company's historical revenue growth is substantially higher; and

c. That the analysis overstates expenses and the weighted average cost of capital.

80. Some of the defects in the market approach, all of which lower the value of the Company, include, for example:

a. The "comparable companies" analysis undervalued Plaintiff's membership interest by using multiples aligned with the lower quartile multiple of comparable companies rather than the median multiples of the comparable group of companies without justification;

b. That a 12.5% marketability discount was incorrectly applied; and

c. The failure to perform a comparable precedent transactions analysis.

81. There are also many other issues with the Valuation Report including:

a. The Valuation Report does not account for Carried Interest;

b. The Valuation Report calculates the value of Plaintiff's membership interest as of April 15, 2024, rather than October 16, 2024, when Plaintiff resigned as a member of the Company as prescribed by Section 10.6 of the Operating Agreement;

c. The Valuation Report improperly values Plaintiff's shares at the "fair market value" rather than the "fair value" as prescribed by Section 10.6 of the Operating Agreement; and

d. By valuing Plaintiff's shares using the fair market value rather than the fair value, Andersen improperly discounted the value of Plaintiff's membership interest due to a lack of marketability, which should not have been a factor in the valuation; and

82. Andersen failed to comply with the IRS Business Valuation Guidelines, which provide that "valuators will employ independent and objective judgment in reaching conclusions and will decide all matters on their merits, free from bias, advocacy and conflicts of interest."[1]

83. Andersen failed to comply with the Association of International Certified Professional Accountants code which provides, in relevant part, that a "member should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities. A member in public practice should be independent in fact and appearance when providing auditing and other attestation services."

84. Andersen was not an independent or objective valuation expert. Andersen took direction solely from the Company, particularly the RCP Defendants and Chowdhury, excluded Plaintiff from conversations and meetings through which the Valuation Report was developed and precluded Plaintiff from giving input in the documents Andersen used to prepare the Valuation Report.

[1] I.R.M. 4.48.4.3.2

85. Andersen failed to comply with the American Society of Appraisers' valuation standards by, among other things, failing to identify and use the proper standard of value and failing to use the proper effective date for the appraisal.

86. Andersen accepted the information provided by the Company without independently verifying or assessing it and followed the Company's instructions, even though Andersen knew that the information was inconsistent with historical financials and the instructions were inconsistent with the valuation requirements of section 10.6 of the Operating Agreement.

87. Andersen's Valuation Report deviated from generally accepted valuation practices so strongly that it expressly disclaimed the reliability of the valuation as an indicator of a fair price for Plaintiff's membership interest.

88. Yet Andersen was retained exactly for that purpose. In the Valuation Report, Andersen states that it "understand[s] that our valuation of the Subject Interest, as developed in this report, will be utilized for business planning purposes in conjunction with the withdrawal of a Class A member. . . We have not been engaged to make any purchase or sale recommendations associated with the Company and this report should not be utilized for any other purpose."

89. After the Valuation Report was issued, the RCP Defendants represented to Plaintiff that his membership interest was worth $4,740,000.00, which they knew to be false.

90. Plaintiff asked for a meeting to discuss the Valuation Report.

91. The RCP Defendants declined to meet and made the first installment payment based on the knowingly false value of $4,740,000.00.

92. Plaintiff rejected the payment.

93. ReThink is holding the first installment payment on Plaintiff's behalf but maintains that the Valuation Report is valid and plaintiff is bound by it.

COUNT I – BREACH OF CONTRACT
(As to Defendants Ray, Winer, Walden, and Manager)

94. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

95. The Operating Agreement is a valid, binding, and enforceable agreement.

96. The Operating Agreement binds each of the RCP Defendants and Defendant Manager.

97. Plaintiff has performed all of his contractual duties and is not in breach under the Operating Agreement.

98. The RCP Defendants and Manager had a contractual duty to comply with the terms of Section 10.6 the Operating Agreement.

99. Under Section 10.6(c), the Purchase Price shall be "the fair value of the Affected Class A membership interest immediately following the Purchase Event as determined by an independent valuation expert who is experienced in valuing companies such as the Company who is mutually agreed upon by the Manager and the selling Class A member. Such valuation expert shall be directed by the Manager and selling Class A Member to promptly prepare a written report of his determination."

100. Further, the "Company shall bear the cost of producing the Valuation Report."

101. The RCP Defendants and Manager breached the contract by preventing Plaintiff from directing the valuation process, even though the 'valuation expert' was required to be "directed by [**both**] the Manager and selling Class A Member."

102. The RCP Defendants and Manager breached the contract by going one step further and excluding Plaintiff from the valuation process.

103. The RCP Defendants and Manager further breached the contract by failing to obtain a valuation that captured the "fair value" of Plaintiff's membership interest, by *inter alia* artificially lowering the value of the interest by providing misleading financial projections.

104. The RCP Defendants and Manager further breached the contract by failing to obtain an "independent" valuation by *inter alia* controlling the process to the exclusion of Plaintiff. Although the Company was permitted to "bear the cost of producing the Valuation Report," it was not entitled to influence the Valuation Report.

105. The RCP Defendants and Manager further breached the contract by failing to obtain a valuation that valued Plaintiff's membership interest as of the Purchase Event, which was October 15, 2024. The use of an earlier date understated the value of the membership interest.

106. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT II – BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
(As to Defendants Ray, Winer, Walden and Manager)

107. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

108. The Operating Agreement contains an implied covenant of good faith and fair dealing, which requires, parties bound by a contract agree to deal with each other honestly, fairly, and in good faith, and to avoid destroying the ability of the other party or parties to receive the benefits of the contract.

109. Implied obligations in the Operating Agreement prohibit the RCP Defendants from acting to deprive Plaintiff of receiving a fair valuation during the valuation process. These obligations require, among other things, that:

a) The Manager and selling Class A Member (Plaintiff) will be permitted to participate in the valuation of a membership interest under Section 10.6;

b) That the RCP Defendants would not exclude Plaintiff from developing and reviewing the documents or participating in the discussions with 'management' which were relied upon by the valuation expert;

c) That the RCP Defendants would not direct Andersen to take direction solely from them even though the Company paid for the service;

d) That the RCP Defendants would not provide projections that omitted financial information favorable to Plaintiff;

e) That the RCP Defendants would not provide projections which did not account for the addition of new funds and new assets under management in the coming years;

f) That the RCP Defendants would not influence Andersen to omit Carried Interest from the Valuation Report; and

g) That RCP Defendants would allow Andersen to perform an independent valuation.

110. The RCP Defendants breached each of the foregoing implied covenants and acted in bad faith to deprive Plaintiff of the benefit of the bargained for exchange.

111. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT III – BREACH OF FIDUCIARY DUTY
(As to Defendants Ray, Winer, Walden, and Manager)

112. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

113. Defendant Manager was the non-member Manager of the Company, controlled by Ray, Winer, and Walden, at the time of the valuation.

114. Defendant Ray was the Company's CEO, a member of the Company, and a de facto manager of the Company through his control of the Manager, at the time of the valuation.

115. Defendant Winer was the Managing Director of the Company, a member of the Company at the time of the valuation, and a de facto manager of the Company through his control of the Manager, at the time of the valuation.

116. Defendant Walden was the Company's Chief Operating Officer and Chief Compliance Officer, a member of the Company, and a de facto manager of the Company through his control of the Manager, at the time of the valuation.

117. Defendants Ray, Winer, and Walden owe fiduciary duties to Plaintiff and the Company in their capacities as managers, officers, and members.

118. Defendant Manager owes fiduciary duties to the Company and to Plaintiff in its capacity as a manager.

119. The RCP Defendants breached their fiduciary duties, including the fiduciary duty of loyalty and good faith, by acting dishonestly, unethically, and fraudulently to acquire Plaintiff's membership interest for themselves at an artificially low price, by *inter alia* creating bogus projections, controlling the valuation process and unduly influencing the result by providing incomplete and misleading information that was favorable to them.

120. The RCP Defendants breached their fiduciary duties, including the duty of loyalty, independence, and disinterestedness by acting in their own self-interests, in direct conflict with the interests of the Company, and above the interest of Plaintiff, by engaging in a self-dealing

transaction and exerting their influence over an appraisal in their favor, that was supposed to be performed on an independent basis.

121. The RCP Defendants breached their fiduciary duties as the majority members to force a minority member to sell his membership interest at an artificially depressed value through dishonest, unethical, and fraudulent means.

122. The RCP Defendants and Manager breached their fiduciary duties as managers of the Company by failing to make full disclosure of financial information to Plaintiff and Andersen, and making misleading financial disclosures, which resulted in an understated value of the Company and Plaintiff's membership interest and by having "discussions" which Andersen "primarily" relied upon outside the presence of Plaintiff.

123. The RCP Defendants deliberately manipulated the valuation process in their favor in breach of fiduciary duties so they could buy Plaintiff's interest at a severely depressed price.

124. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT IV – AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(As to Defendant Andersen &Chowdhury)

125. Plaintiff incorporates Paragraphs 1 through 93 and Paragraphs 111 through 123 as if fully set forth herein.

126. Defendants Chowdhury and Andersen, at all relevant times, had knowledge of the RCP Defendants' fiduciary duties and breach of fiduciary duties to Plaintiff.

127. Defendants Chowdhury and Andersen materially aided and abetted these breaches of fiduciary duty by *inter alia* helping the RCP Defendants create inaccurate and misleading projections, excluding Plaintiff from the valuation process and preparing a valuation report that

blatantly failed to comply with the requirements of the Operating Agreement. Anderson also failed to uphold the objectivity and independence required by an appraiser, taking direction exclusively from the other Defendants, and issuing a Valuation Report that lowered the value of Plaintiff's membership interest based on projections that were so unreasonable and unreliable that even though Andersen disclaimed that it was not "verifying" the data, any appraiser would have known the projections were misleading and that the valuation was being done under the wrong valuation standard and wrong valuation date.

128. Accordingly, Defendants Chowdhury and Andersen aided and abetted the RCP Defendants' breach of their fiduciary duties to acquire Plaintiff's membership interest in the Company at an understated value

129. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT V – CIVIL CONSPIRACY
(As to all Defendants)

130. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

131. Defendants Ray, Winer, Walden, and Manager owe fiduciary duties, owe contractual obligations, and owe the duty of good faith and fair dealing to Plaintiff.

132. Defendants Ray, Winer, Walden, and Manager, conspired with each other and with Chowdhury and Andersen to defraud Plaintiff and acquire his membership interest for a lower value.

133. In furtherance of the conspiracy, they created inaccurate and misleading projections, excluded Plaintiff from the valuation process, and prepared a valuation report that blatantly failed to comply with the requirements of the Operating Agreement, failed to comply

with generally accepted valuation methodologies, and understated the value of Plaintiff's membership interest.

134. The RCP Defendants, Manager, and Chowdhury knowingly made false statements and omissions in furtherance of the conspiracy by *inter alia* providing projections and having discussions that omitted Carried Interest and omitted the addition of revenue from new funds and additional assets under management, that overstated salaries to the members to artificially increase expenses, that included losses in multiple years of projections when historically there have been no such losses and when revenue and assets under management have continued to increase.

135. Andersen knowingly accepted those facially deficient representations and looked the other way in the face of obvious omissions.

136. After the Valuation Report was issued, the RCP Defendants falsely represented to Plaintiff that his membership interest was worth $4,740,000.00, which they knew to be false.

137. The Company and RCP Defendants had previously valued Plaintiff's membership interest at no less than $8,000,000. And in 2022, the RCP Defendants valued Plaintiff's membership interest at $9,000,000 for purposes of obtaining a 90-day option to purchase 50% of Plaintiff's membership interest for $4,500,000.

138. Plaintiff asked for a meeting to discuss the Valuation Report.

139. The RCP Defendants declined to meet and made the first installment payment based on the knowingly false value of $4,740,000.00.

140. Plaintiff rejected the payment.

141. The Company is holding the first installment payment on Plaintiff's behalf but maintains that the Valuation Report is valid and plaintiff is bound by it.

142. The Defendants acted intentionally and with maliciously.

143. Plaintiff is entitled to punitive damages.

144. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT VII – BREACH OF CONTRACT
(As to Defendant Andersen)

145. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

146. The Valuation Agreement between Defendant Andersen and the Company is a valid, binding, and enforceable contract.

147. Plaintiff is an intended third-party beneficiary of Defendant Andersen's Valuation Agreement with the Company insofar as Plaintiff's claim concerns an impairment of Plaintiff's right to a valuation of his membership interest under the Operating Agreement.

148. Defendant Andersen knew that Plaintiff would benefit from the Valuation Agreement and that Plaintiff could be harmed by Defendant Andersen's breach of the Valuation Agreement.

149. Defendant Andersen assumed the obligations of a valuation expert under Section 10.6 of the Operating Agreement to independently value Plaintiff's membership interest at the fair value of the interest as of Purchase Event occurring on October 15, 2024.

150. Defendant Andersen breached the Valuation Agreement by failing to comply with the obligations set forth in Section 10.6 of the Operating Agreement, including by valuing Plaintiff's membership interest as the "fair market value" rather than its "fair value," by valuing Plaintiff's membership interest as of April 15, 2024, and not as of the Purchase Event, by failing to maintain independence in its valuation, and by dishonestly preparing a flawed valuation in a manner inconsistent with generally accepted valuation principles and methodologies.

151. Defendant Andersen breached the Valuation Agreement by failing to uphold the objectivity and independence required of an appraiser.

152. Plaintiff has been harmed as a direct and proximate result of these actions and suffered damages in an amount to be proven at trial.

COUNT VIII – DECLARATORY JUDGMENT
(As to All Defendants)

153. Plaintiff incorporates Paragraphs 1 through 93 as if fully set forth herein.

154. A bona fide, justiciable, and substantial controversy exists between Plaintiff and Defendants as to the validity of the Valuation Report based on Defendants' improper efforts to artificially minimize the value of Plaintiff's membership interest in the Company.

155. As alleged herein, Andersen's valuation of the Company is invalid because the valuation does not satisfy the requirements of the Operating Agreement.

156. Plaintiff has no adequate remedy at law for such harms and accordingly requires a remedy in the form of declaratory relief.

157. Accordingly, Plaintiff seeks a judicial determination that the Valuation Report is invalid, as well as such other and further relief as may follow from the entry of such a declaratory judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment in its favor against all Defendants, jointly and severally, and that the Court award the following relief:

a) Judgment in Plaintiff's favor on each and every allegation and claim for relief contained herein;

b) Monetary damages in an amount to be proven at trial;

c) Plaintiff's reasonable fees, costs, and expenses in this action;

d) Pre- and post-judgment interest on all awards of damages and fees, costs, and expenses;

e) A declaration that the Valuation Report is void; and

f) Such other and further relief as may be just and equitable.

Dated: New York, New York
November 4, 2024

NELSON MULLINS RILEY & SCARBOROUGH LLP

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