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Case No. 2025-0305-LWW

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

MICHIGAN ELECTRICAL EMPLOYEES' PENSION FUND and GLAZER CAPITAL, LLC, Plaintiffs, v. VISTA EQUITY PARTNERS MANAGEMENT, LLC, VEP GROUP, LLC, ONEX CORPORATION, LAURENCE GOLDBERG, MONTI S. SAROYA, HARDEEP GULATI, ZACH LEVITT, JUDY COTTE, BETTY HUNG, GWEN REINKE, AMY MACINTOSH, RONALD D. MCCRAY, and BARBARA BYRNE, Defendants.	C.A. No. 2025-0305-LWW **PUBLIC [REDACTED] VERSION AS FILED ON MARCH 25, 2025**

VERIFIED CLASS ACTION COMPLAINT

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TABLE OF CONTENTS

Page (s)

Plaintiffs Michigan Electrical Employees' Pension Fund and Glazer Capital, LLC[1] (together, "Plaintiffs"), on behalf of themselves and similarly situated former stockholders of PowerSchool Holdings, Inc. ("PowerSchool" or the "Company"), bring this Verified Class Action Complaint (the "Complaint") asserting breach of fiduciary duty claims against the defendants named herein in connection with the take-private acquisition of the Company (the "Squeeze Out") by Bain Capital Private Equity, LP ("Bain").

The allegations herein are based on Plaintiffs' knowledge as to themselves and, as to all other matters, on information and belief, including counsels' review of publicly available information and the books and records produced by PowerSchool in response to Plaintiffs' demands made pursuant to 8 *Del. C.* § 220 ("Section 220").

INTRODUCTION

1. This action challenges the fairness of the Squeeze Out by which Bain acquired PowerSchool for the unfair price of $22.80 per share in cash. As part of the Squeeze Out, PowerSchool's controlling stockholders, Vista Equity Partners Management, LLC and VEP Group, LLC (together "Vista") and Onex Corp. ("Onex," and together with Vista the "Controllers")—who jointly controlled

[1] Glazer brings this action on behalf of and with authority from accounts that it manages, including Glazer Capital Management, L.P., Glazer Enhanced Fund, L.P., Glazer Enhanced Offshore Fund, Ltd., Glazer Index Plus Fund, Ltd., and Highmark Limited, in respect of its segregated account, Highmark Multi-Strategy 2.

approximately 70% of the Company's total voting power and who approved the Squeeze Out on behalf of PowerSchool's minority stockholders through a written consent—received significant non-ratable benefits. Specifically, the Controllers rolled over more than half of their investment into the post-Squeeze Out company and obtained valuable governance and IPO rights, giving them the ability to capture the Company's future upside and to control the future liquidation of their remaining PowerSchool investments.

2. The Squeeze Out was a conflicted controller transaction, as the Controllers were both net buyers, received disparate consideration from minority stockholders, and secured unique benefits. Despite so, the Company's fiduciaries failed to implement adequate procedural safeguards.

3. *First*, there was no majority-of-the-minority ("MotM") stockholder vote. In fact, the Controllers repeatedly signaled their disapproval of a MotM vote, preferring instead to wield their 70% voting control to force through the Squeeze Out that provided them (but not the Company's public, minority stockholders) with non-ratable benefits by written consent.

4. *Second*, the sale process leading to the Squeeze Out's approval was not negotiated by a fully empowered and independent committee of the Company's board of directors (the "Board"). Instead, the sale process was piloted by Controller-appointed directors and PowerSchool's conflicted financial advisor. The Controller-

dominated Board then belatedly formed a special committee, which was comprised of two conflicted directors with significant personal and professional ties to Bain and Vista (the "Special Committee"), to rubberstamp the Controllers' preferred deal terms.

5. The Controllers will be unable to demonstrate at trial that the Squeeze Out was entirely fair to PowerSchool's minority stockholders, as neither the process nor price were fair to the minority.

6. *First*, the sale process was unfair. The sale process was controlled by the Board—a majority of which was comprised of Controller-appointed directors who, at all relevant times, were employed by either Vista or Onex—and the Board's conflicted financial advisor, Goldman Sachs, which had received hundreds of millions of dollars in fees for work done for the Controllers and Bain, and whose $55 million transaction fee was *entirely* contingent on the closing of the Squeeze Out. Together, the Board and Goldman Sachs steered the bidding process in favor of Bain, including by giving Bain a months'-long head start and advanced access to diligence materials, and by allowing the Controllers to help select the field of potential bidders from the outset. Strikingly, Goldman Sachs sent process letters barring all potential bidders, *except Bain*, from submitting bids contemplating rollover financing.

7. Ultimately, Bain capitalized on its manufactured advantages by seeking significant rollover financing from the Controllers in its proposal to acquire the Company. Then, with the Controllers situated as buyers, Bain downwardly revised its offer to $22.17—a steep drop from the $25.50 to $27.50 per share price range that the Controllers initially demanded to continue Squeeze Out negotiations. Only after the Controllers secured the rollover and ownership of 49% of the post-Squeeze Out company, they waived their right to receive from the Company a change of control payment pursuant to a tax receivable agreement (the “Tax Receivable Agreement,” or the “TRA”) worth more than $2.00 per share. Yet, the Special Committee failed to even negotiate to capture this value for minority stockholders; accepting just a modest price increase after an unexpected third-party bidder commenced due diligence.

8. *Second*, the unfair process yielded an unfair price. Centerview, the Special Committee’s conflicted financial advisor, presented several valuation analyses demonstrating the inadequacy of the $22.80 per share Squeeze Out price. For example, the deal price sat well-below the midpoints of Centerview’s trading multiple, precedent transaction, and discounted cash flow analyses, all of which indicated that Bain’s final offer undervalued the Company.

9. The unfairness of the deal price is also underscored by PowerSchool’s strong May 7, 2024 earnings report, which was released approximately six weeks

before the Company agreed to the Squeeze Out and disclosed 16% year-over-year total revenue growth (meeting outlook) and 24% year-over-year adjusted EBITDA growth (exceeding outlook)—results PowerSchool's CEO characterized as reflecting a "strong first quarter." However, the market did not have the opportunity to react organically to this positive news because, in an apparent attempt to cap the Company's stock price (and thus its sale price), someone leaked Bain's interest in acquiring PowerSchool, including the expected sale price, to the *Wall Street Journal* before the opening of the market the following day. This leak artificially anchored the Company's stock "unaffected" stock price to the price on the trading day before the leak, allowing Defendants to claim a higher deal premium.

10. Furthermore, the Controllers' receipt of non-ratable benefits included: (i) the ability to participate in the Company's post-Squeeze Out upside; (ii) the right to force an IPO of the post-Squeeze Out company six or seven years after closing (depending on certain conditions), the typical timeline for a new investment fund to bring a recently "gone-private" company public again; (iii) tax savings of approximately $275 million due to the rollover; (iv) an annual retainer fee of approximately $4 million and compensation of 1% of certain post-Squeeze Out transactions; and (v) additional equity protection and governance rights discussed herein. These non-ratable benefits incentivized the Controllers to support the sale price despite its unfairness to the minority stockholders.

11. In sum, the belatedly formed, conflicted Special Committee lacked independence and failed to adequately monitor and negotiate the sale process, which allowed the Controllers to tailor the Squeeze Out to meet their needs. At the Controllers' insistence, there was no MotM voting condition, and as a result, the minority stockholders were precluded from disapproving of the Squeeze Out and its unfair price. Consequently, the Complaint pleads non-dismissible claims sufficient to subject the Squeeze Out to entire fairness review.

PARTIES

I. PLAINTIFFS

12. **Plaintiffs Michigan Electrical Employees' Pension Fund and Glazer Capital, LLC** each owned PowerSchool common stock at all relevant times and received $22.80 per share in cash for those shares when the Squeeze Out closed.

II. DEFENDANTS

a. The Controllers

13. **Defendant VEP Group, LLC and Vista Equity Partners Management, LLC** (as defined above, "Vista") are Delaware limited liability companies headquartered in Austin, Texas. On August 4, 2015, Vista acquired PowerSchool for $350 million in cash. On April 16, 2018, Vista and Onex announced that Onex would make an investment in PowerSchool, and the two firms would become equal equity partners in the Company.

14. Vista held its equity in PowerSchool through various entities associated with Vista Equity Partners Fund VI, an investment fund formed in 2016, which is one of Vista's Flagship Funds.

15. Vista has stated that its investment funds seek to capitalize on growth over a five- to ten-year period. Private equity firms generally exit an investment within "two to six years" and their funds generally must be liquidated within ten years of closing the capital raise.

16. On July 30, 2021, Vista and Onex took PowerSchool public through an initial public offering ("IPO"). Following the IPO, the Company had two classes of common stock: Class A stock, which was publicly traded, carried one vote per share and was initially priced at $18.00 per share; and Class B stock, which was not publicly traded, corresponded on a one-to-one basis to limited liability units of PowerSchool that remained outstanding after the IPO due to the Company's "Up-C" structure (*see* ¶¶69-70, below), and carried voting power equal to Class A stock but no economic rights. Following the IPO, Vista beneficially owned 22.9% of the outstanding Class A shares and 100% of the outstanding Class B shares (corresponding to limited liability units of PowerSchool), giving it 38.4% of PowerSchool's voting power.

17. In connection with the IPO, on July 27, 2021, Vista executed a stockholders agreement (the "Stockholders Agreement") with the Company, which

granted Vista the right to designate (i) three Board nominees so long as Vista controlled 25% or more of PowerSchool's voting stock; (ii) two Board nominees so long as Vista controlled 15% or more of PowerSchool's voting stock; and (iii) one Board nominee so long as Vista controlled 5% or more of PowerSchool's voting stock. The Stockholders Agreement further provided that: (i) the Board be divided into three staggered classes, with each to serve three-year terms, and with one Vista nominee in each class; and (ii) Vista had the right to designate one member of each committee of the Board. The Stockholders Agreement also prohibited the Company from increasing or decreasing the size of its Board without the prior written consent of Vista.

18. The Stockholders Agreement provided Vista with several other favorable terms, including, among other things, that: (i) Vista's Board nominees were permitted to share non-public Company information with Vista (subject to certain confidentiality obligations); and (ii) any amendments to the Stockholders Agreement required Vista's approval so long as Vista maintained at least 5% of the Company's voting power.

19. At the closing of the Squeeze Out, PowerSchool had a ten-member Board. Vista directly appointed three of those Board members: Betty Hung, Gwen Reinke, and Co-Chair of the Board, Monti S. Saroya—who were Vista employees. Each of those appointees voted to approve the Squeeze Out. Moreover, Vista-

affiliated directors held two of the four seats on the Board's Compensation and Nominating Committee,[2] effectively influencing the appointment of the Board members not designated by Vista or Onex.

20. On June 7, 2024, Vista submitted a written consent approving the Squeeze Out on behalf of the stockholders.[3] In August 2024, prior to the closing of the Squeeze Out on October 1, Vista controlled 35.2% of the Company's total voting power.

21. In connection with the Squeeze Out, Vista entered into a support and rollover agreement with PowerSchool, dated June 6, 2024 (the "Vista Support and Rollover Agreement"). Pursuant to this agreement, Vista rolled over into Class A shares of the post-Squeeze Out Company approximately 37 million of its 72 million Class A shares and limited liability units of PowerSchool. Upon completion of the transaction, Vista's ownership interest in the surviving entity was approximately 24.5%.

[2] The Board's Compensation and Nominating Committee was responsible for, among other matters, "identifying and recommending to [the] Board the persons to be nominated for election as directors and to each of [the] Board's committees[.]" *See* PowerSchool Holdings, Inc., Definitive Information Statement (Form DEF 14A) at 21 (May 4, 2022).

[3] PowerSchool_00005067.

22. **Defendant Onex Corporation** (as defined above, "Onex") (together with Vista, the "Controller Defendants" or "Controllers") is a Canadian investment management firm founded in 1984 and headquartered in Toronto, Ontario.

23. Prior to PowerSchool's IPO, Onex's ownership stake in PowerSchool was equal to Vista's. Following the IPO, Onex beneficially owned 47.6% of the Company's outstanding Class A shares and no Class B shares, giving it approximately 38% of the Company's voting power.

24. Onex held its equity in PowerSchool through various entities associated with Onex Partners IV, a buyout fund formed by Onex in 2014.

25. Onex was also a party to the Stockholders Agreement; consequently, Onex holds the same rights as Vista, as outlined above in ¶¶16-17.

26. Onex appointed three of the Company's ten Board members: Judy Cotte, Zach Levitt, and Co-Chair of the Board, Laurence Goldberg—who were Onex employees. Each of those appointees voted to approve the Squeeze Out. Moreover, Onex-affiliated directors held two of the four seats on the Board's Compensation and Nominating Committee, effectively influencing the appointment of the remaining Board members.

27. Accordingly, the Controller Defendants directly appointed six of the ten directors, including the two Co-Chairs, and indirectly appointed the remaining four directors.

28. On June 7, 2024, Onex submitted a written consent approving the Squeeze Out on behalf of the stockholders.[4] In August 2024, prior to the closing of the Squeeze Out on October 1, 2024, Onex controlled approximately 34.8% of the Company's total voting power. Thus, as of August 2024, the Controller Defendants collectively controlled approximately 70% of the Company's total voting power.

29. In connection with the Squeeze Out, Onex also entered into a support and rollover agreement with PowerSchool dated June 6, 2024 (together, with the Vista Support and Rollover Agreement, the "Support and Rollover Agreements"). Pursuant to this agreement, Onex rolled over into Class A shares of the post-Squeeze Out Company approximately 37 million of its 71 million shares of Class A stock. Upon the completion of the transaction, Onex's ownership interest in the surviving entity was approximately 24.5%.

b. The Director Defendants

30. **Defendant Laurence Goldberg** ("Goldberg") was appointed to the Board in July 2021 and continuously served as the Board's Co-Chair from July 2021 through the closing of the Squeeze Out. Goldberg is a Managing Director at Onex Partners, a position he has held since 2017. In that capacity, Goldberg "covers Onex's investment in the Company . . . ."[5] Previously, and as described more below,

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[4] PowerSchool_00005067.

[5] PowerSchool_00002154 at _2155.

Goldberg worked with Byrne at Barclays and Lehman Brothers for more than a decade.[6] In connection with the Squeeze Out, Goldberg played a key role in the sale process by, among other things, serving as a point of communication with potential buyers regarding their interest in PowerSchool. In his role as a Company director, Goldberg voted to approve the Squeeze Out.

31. **Defendant Monti S. Saroya** ("Saroya") was appointed to the Board in July 2021 and continuously served as the Board's Co-Chair from July 2021 through the closing of the Squeeze Out. Saroya joined Vista in 2008 and, at all relevant times, he served as Vista's Senior Managing Director and Co-Head of the Vista Flagship Fund and sat on the Investment Committee for Vista's Flagship Fund.

32. In connection with the Squeeze Out, Saroya played a key leadership role in the sale process by, among other things, serving as a point of communication (along with Goldberg) with potential buyers regarding their interest in PowerSchool. In his role as a Company director, Saroya voted to approve the Squeeze Out.

33. **Defendant Hardeep Gulati** ("Gulati") served as PowerSchool's CEO and as a member of the Board from August 2015 through the closing of the Squeeze Out. In connection with the Squeeze Out, Gulati played a key role in the sale process by serving as a point of communication (along with Goldberg and Saroya) with

[6] PowerSchool_00000001.

potential buyers regarding their interest in PowerSchool. Gulati also facilitated conversations with Bain concerning the treatment of equity awards (including his own) and other key transaction terms. In his role as a Company director, Gulati voted to approve the Squeeze Out.

34. As discussed more below, Gulati directly negotiated the treatment of the Company's equity awards with Bain during the sale process, including the treatment of PowerSchool's then-outstanding and unvested restricted stock units. PowerSchool Holdings, Inc., Definitive Information Statement (Form DEF 14A) (the "Information Statement") indicates that Gulati was set to receive approximately $43.8 million upon consummation of the Squeeze Out or upon certain qualifying employment termination conditions—approximately $43.3 million of which is to be payable in the form of equity, including through the accelerated vesting and settlement of the stock units that Gulati negotiated with Bain. In comparison, in 2023, the last full year before the Squeeze Out, Gulati's total compensation was approximately $13.9 million, approximately $12.8 million of which was payable in the form of stock awards. Gulati was ultimately retained as the CEO of the post-Squeeze Out company.

35. **Defendant Zach Levitt** ("Levitt") was appointed to the Board in November 2023 and continuously served as a member of the Board through the closing of the Squeeze Out. At all relevant times, Levitt was a Senior Principal at

Onex Partners, a position he held since 2016. In his role as a Company director, Levitt voted to approve the Squeeze Out.

36. **Defendant Judy Cotte** ("Cotte") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. At all relevant times, Cottee was the Managing Director and Head of Environmental, Social, and Governance at Onex, a role she has held since July 2021. In her role as a Company director, Cotte voted to approve the Squeeze Out.

37. **Defendant Betty Hung** ("Hung") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. Hung joined Vista in 2007, and at all relevant times, she was a Managing Director and a member of both the Executive Committee and the Investment Committee for Vista's Flagship Funds. In her role as a Company director, Hung voted to approve the Squeeze Out.

38. **Defendant Gwen Reinke** ("Reinke") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. At all relevant times, Reinke served as Vista's Chief Compliance Officer, Senior Managing Director, and Co-Head of Vista's Legal and Compliance department, the latter being a role she has held since 2014. In her role as a Company director, Reinke voted to approve the Squeeze Out.

39. **Defendant Amy McIntosh** ("McIntosh") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. McIntosh served as a member of the Special Committee established to review and evaluate the Squeeze Out and related matters. She initially participated in key discussions but later resigned from the Special Committee on April 28, 2024, upon disclosing a financial interest in the Tax Receivable Agreement. In her role as a Company director, McIntosh voted to approve the Squeeze Out.

c. The Special Committee

40. **Ronald D. McCray** ("McCray") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. McCray served on the Special Committee. Following McIntosh's resignation from the Special Committee, McCray continued to serve as one of two members of the Special Committee along with Byrne (defined below). In his role as a Company director, McCray voted to approve the Squeeze Out.

41. As discussed herein, McCray had multiple conflicts of interest, including: (i) a personal friendship with Vista founder Robert Smith ("Smith"); (ii) a shared alumni affiliation with Smith at Cornell University; (iii) membership in the same Cornell fraternity as Smith; (iv) membership in the same Cornell alumni association as Smith (the "CBAA"), for which McCray is a trustee; (v) shared role as a supporter and advisor of the early-stage venture capital firm 645 Ventures; (vi)

an investment of approximately [redacted] in a Vista fund; and (vii) a prior co-investment with Bain in a professional sports franchise.

42. **Barbara M. Byrne** ("Byrne") was appointed to the Board in July 2021 and continuously served as a member of the Board through the closing of the Squeeze Out. Along with McCray, Byrne served on the Special Committee. In her role as a Company director, Byrne voted to approve the Squeeze Out.

43. As described below, Byrne had several conflicts of interest that undermined both her independence and disinterestedness in the Squeeze Out, including: (i) her long-standing relationship with Goldberg, (ii) her husband's connections with Vista, and (iii) her longstanding professional relationship with a member of Centerview's deal team.

44. Byrne worked in investment banking for approximately 37 years. From 2004 to 2008, Byrne served as Lehman Brothers' Vice Chairman of Investment Banking, with Goldberg working under her as Head of Technology from 2005 to 2008.[7] From 2008 to 2018, she was Vice Chairman of Investment Banking at Barclays, again, with Goldberg working under her as Global Head of Technology, Media & Telecommunications from 2008 to 2017.[8] Thus, prior to each of them

[7] PowerSchool_00000001.

[8] PowerSchool_00000001.

joining the Board in July 2021, Byrne and Goldberg worked together for more than a decade.

45. Additionally, Byrne's husband, Brendan Thomas Byrne, Jr. ("Tom Byrne"), served as a member of the New Jersey State Investment Council (the "NJSIC") from 2010 to 2018, and as its Chairman from 2015 to 2018. In 2016, during Tom Byrne's tenure as its Chairman, the NJSIC made several investments in Vista funds, including the NJSIC's March 2016 approval of a $200 million investment in Vista Equity Partners Fund VI LP and a $100 million investment in Vista Foundation Fund III, LP. In 2018, Tom Byrne led the NJSIC's investment of $300 million in another one of Vista's funds, Vista Equity Partners Fund VII, L.P., which reflected New Jersey's then-largest allocation to a Vista fund. In total, the NJSIC allocated approximately $520 million in four different Vista funds during Tom Byrne's tenure as Chairman of the NJSIC.

46. Tom Byrne's relationship with Vista dates back to at least 2010 when he joined the NJSIC alongside Christine Pastore ("Pastore"), who worked for the NJSIC starting in 2005 and served as Co-Head of Alternative Investments from 2010 to March 2012. In 2013, Pastore was hired by Vista "to lead the firm's new investor relations team" and "ensure [Vista's limited partners] are in tune with [Vista's] strategies . . . ."

47. Additionally, Centerview's relationship disclosure letter to the Special Committee noted that "Todd Davidson, a senior member of the [Centerview] deal team, has a longstanding professional relationship with Barbara Byrne, a member of the [Special] Committee."[9] The disclosure letter provides no further details concerning this relationship.

48. Collectively, Goldberg, Saroya, Gulati, Levitt, Cotte, Hung, Reinke, McIntosh, McCray, and Byrne are defined as the "Director Defendants." The Director Defendants with the Controller Defendants are defined as the "Defendants."

III. RELEVANT NON-PARTIES

49. **PowerSchool Holdings, Inc.** (as defined above, "PowerSchool" or the "Company") is a leading provider of cloud-based software solutions for K-12 education, supporting over 60 million students and more than 18,000 customers in over 90 countries. Founded in 1997, the Company is headquartered in Folsom, California and was incorporated in Delaware in 2020. Prior to the Squeeze Out, the Company's stock traded on the New York Stock Exchange under the ticker symbol "PWSC."

50. On June 6, 2024, PowerSchool entered into a definitive agreement to be acquired by Bain through the Squeeze Out (the "Merger Agreement"), a

[9] PowerSchool_00002293.

transaction valued at approximately $5.6 billion. Pursuant to the Squeeze Out, PowerSchool stockholders received $22.80 per share in cash, and Vista and Onex rolled over more than half of their equity into the post-Squeeze Out entity. The acquisition was completed on October 1, 2024, transitioning PowerSchool into a privately held company.

51. **Bain Capital Private Equity, LP** (as defined above, “Bain”) acquired a majority stake in PowerSchool in the Squeeze Out, structuring the deal through a merger with its wholly owned subsidiary. Bain is a global private investment firm specializing in private equity, venture capital, credit, and real estate. Founded in 1984 and headquartered in Boston, Massachusetts, Bain has a track record of investing in technology and education companies.

52. Bain and Vista have a longstanding history of collaboration and strategic asset exchanges, particularly within the software sector. In 2006, Bain acquired insurance software, Applied Systems, from Vista for $675 million. Then, in 2016, the firms jointly acquired Vertafore, an insurance technology company, in a $2.7 billion leveraged buyout. They later exited together in 2020, selling Vertafore for $5.35 billion. In 2018, Bain and Vista again collaborated by merging their respective portfolio companies to form CentralSquare Technologies, a leading public-sector software provider. These transactions demonstrate a pattern of strategic coordination between Bain and Vista.

53. **Goldman Sachs & Co. LLC** ("Goldman Sachs") served as the Board's financial advisor in connection with the Squeeze Out, with its engagement formalized on March 6, 2024. In connection with the Squeeze Out, Goldman Sachs provided financial analyses, advised on strategic alternatives, and took a leading role in the negotiations. Under the terms of its engagement, Goldman Sachs would be paid a $55 million transaction fee only if the Squeeze Out successfully closed. Additionally, PowerSchool agreed to reimburse Goldman Sachs for certain expenses and indemnify it against liabilities arising from its engagement.

54. In a relationship disclosure provided to the Board in connection with the Squeeze Out, Goldman Sachs revealed that it had received $150 million in aggregate compensation for advisory services to Bain, as well as approximately $100 million and $7.5 million for advisory services to Vista and Onex, respectively. Additionally, at least two members of Goldman Sachs' deal team had previously worked on the advisory teams serving Bain, Vista, and/or Onex.

55. **Kirkland & Ellis LLP** ("Kirkland") served as outside legal advisor to the Board in connection with the Squeeze Out. The firm provided legal advice on the transaction process, including drafting the initial Merger Agreement and other key transaction documents. Kirkland also engaged in extensive negotiations with Bain's legal representatives, Ropes & Gray LLP, on behalf of PowerSchool, addressing key terms of the transaction.

56. Kirkland has deep ties to Vista and Bain, providing them legal services worth more than a hundred million dollars annually and advising on key transactions and leadership matters. Kirkland represented Vista in its $1.25 billion acquisition of Model N and advised Bain on its $250 million minority growth investment in Sikich. Kirkland has also counseled Bain on major acquisitions, including the controversial $6.6 billion buyout of Toys "R" Us. Beyond transactional work, Kirkland played a role in negotiating the agreement that shielded Vista's chairman, Robert Smith, from prosecution for tax evasion. The firm's connection to Vista is further strengthened by former Kirkland attorney David Breach, who now serves as Vista's President and Chief Operating Officer.

57. Kirkland partners also have a well-documented practice of investing hundreds of millions of their own money into the private equity funds and individual deals of the firm's clients—a group that notably includes Bain and Vista. For example, an internal Kirkland investment vehicle took stakes in Bain's investment in Aveanna Healthcare. Kirkland also discloses in the Information Statement that "certain partners of Kirkland are members of a limited partnership that is an investor in one or more investment funds affiliated with Vista and Bain."

58. In addition, Kirkland's pooled funds are managed by a handful of Kirkland partners, including mergers and acquisitions partner, Matthew Steinmetz, who has helped represent Bain on multiple deals. The firm's lawyers have put so

much money into their clients' funds that Kirkland even created an internal market for partners to trade those investment stakes.

59. **Centerview Partners LLC** ("Centerview") served as the financial advisor to the Special Committee during the Squeeze Out, with its engagement formalized on May 2, 2024. Centerview was the only investment banking firm interviewed by the Special Committee.

60. Under its engagement, Centerview was entitled to an aggregate fee of approximately $24 million, of which $18 million was contingent upon the successful completion of the Squeeze Out. Centerview also received expense reimbursements and indemnification against certain liabilities in connection with its advisory role.

61. Centerview has multiple conflicts of interest involving Bain, Vista, and Onex. [redacted] Centerview has also advised Bain on significant transactions and received significant fees. In late 2023, Centerview served as financial advisor to Cerevel Therapeutics—a company in which Bain held a substantial stake—in its acquisition by AbbVie. In early 2025, the firm served as lead financial advisor to Bain and its portfolio company, Evident Corp., on the $1.78 billion sale of Evident's Inspection Technologies division to Wabtec. Additionally, since January 1, 2021, [redacted]

[redacted][10]

62. Similarly, Centerview has provided advisory services in key Vista transactions. In 2021, Centerview acted as exclusive financial advisor to TripleLift, an ad-tech firm, for Vista's $1.4 billion majority investment in the company. Further, one of Centerview's senior bankers advised on the $2.7 billion sale of Vertafore to Bain and Vista in 2016. These relationships underscore Centerview's extensive financial ties to Bain, Vista, and Onex.

63. **Freshfields Bruckhaus Deringer US LLP** ("Freshfields") served as the legal advisor to the Special Committee in connection with the Squeeze Out. On April 25, 2024, the Special Committee selected Freshfields without interviewing any other legal advisor.

64. **Ernst & Young LLP** ("Ernst & Young") advised PowerSchool on accounting, tax, and transaction matters, including the impact of the Tax Receivable Agreement in connection with the Squeeze Out.

65. **Ropes & Gray LLP** ("Ropes") served as legal counsel to Bain in connection with the Squeeze Out.

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[10] PowerSchool_00002158 at 2160.

SUBSTANTIVE ALLEGATIONS

A. Vista and Onex Control PowerSchool

66. On August 4, 2015, Vista acquired PowerSchool from Pearson plc ("Pearson") for $350 million in cash. The transaction marked Vista's entry into the K-12 ed-tech sector, with plans to expand PowerSchool's product offerings and market presence through strategic investments and acquisitions.

67. On April 16, 2018, Vista and Onex announced that Onex would acquire a substantial stake in PowerSchool, making the two firms equal equity partners in the Company. PowerSchool remained privately held, with Vista and Onex jointly controlling the company.

68. On July 29, 2021, PowerSchool completed its IPO at $18.00 per share for its Class A common stock, raising approximately $711 million. Following the IPO, the Controller Defendants, comprising Vista and Onex, collectively held approximately 76.4% of the Company's voting power.

69. Following the IPO, PowerSchool had an "Up-C" organizational structure. Vista owned Class A stock, Class B stock, and LLC units. Onex held Class A stock and LLC units.

70. The Company's prospectus filed in connection with the IPO explained:

> Our Up-C structure, together with the Tax Receivable Agreement [described below], will allow the existing owners of Holdings LLC [primarily, Vista and Onex] to continue to realize tax benefits associated with owning interests in an entity that is treated as a

partnership, or "pass-through" entity, for income tax purposes following the offering.

71. In connection with the IPO, PowerSchool entered into the Stockholders Agreement and Tax Receivable Agreement with Vista and Onex. The TRA provided that the Company would pay to its pre-IPO stockholders the cash tax savings from its use of certain tax attributes at current effective tax rates. Vista and Onex were entitled to receive 97.5% of these payments as well as a lump-sum payment triggered by certain events, such as a change of control transaction. If there were no tax savings, there would be no payments under the TRA unless there was a triggering event.

72. Upon a change of control transaction, the Company was obligated to make a TRA payment based on the present value of the Company's projected tax savings, calculated using certain "valuation assumptions" set forth in the TRA.[11] These valuation assumptions were designed to maximize the potential value of the change of control payment by, for example, assuming that the Company has sufficient taxable income to utilize all of the TRA-related tax deductions.[12]

73. From November 2023 through the closing of the Squeeze Out, as permitted by the Stockholders Agreement, the Controller Defendants appointed a

[11] PowerSchool_00001925.

[12] *Id.*

majority of the ten-member Board, with Vista appointees Saroya, Hung, and Reinke, and Onex appointees Goldberg, Cotte, and Levitt. Saroya and Goldberg, appointees of Vista and Onex, respectively, served as Co-Chairs of the Board.

B. Goldberg, Saroya, and Gulati Lay the Foundation for a Transaction With Bain Over an Eighteen-Month Period While Keeping the Non-Controller-Affiliated Directors in the Dark

74. In 2022, Onex launched a new investment fund: Onex Partners VI. In May 2023, Onex announced that it would stop raising funds for Onex Partners VI due to challenging market conditions, which were contributing to a lengthy and time-consuming fundraising process.

75. According to the Information Statement, on August 31, 2022, David Humphrey ("Humphrey"), a Managing Partner of Bain, emailed Goldberg, an Onex appointee, to initiate a conversation regarding PowerSchool. Humphrey asked to "contact[] [CEO] Hardeep Gulati . . . to discuss PowerSchool." Goldberg responded that it "[w]ould be so much fun to try to work on something with you."[13] The Information Statement does not say whether Goldberg informed any other director of this communication with Humphrey.

76. Goldberg and Humphrey held a follow-up meeting sometime in September 2022.[14] Other than an undated Zoom invitation, the Company produced

[13] PowerSchool_00001373.

[14] PowerSchool_00001366.

no books and records related to this meeting. It is reasonably conceivable that Humphrey and Goldberg discussed Bain's interest in PowerSchool.

77. A little over a year later, on December 13, 2023, Humphrey emailed Gulati, stating: "[We] [h]ave some ideas think you might think interesting [*sic*]."[15] This was purportedly the first time that Bain reached out to Gulati following Goldberg's authorization to do so approximately sixteen months prior. Humphrey also commented: "We got quite close to investing in your business (we should have!) before Vista launched a broader process and eventually pick[ed] Onex as a partner." And that he and Gulati "spent a lot of time together in 2017 (and then again in 2018) ahead of [the Company's] transaction with Onex." Gulati replied to Humphrey the same day, and the parties coordinated to schedule a meeting to discuss Bain's interest in the Company.[16]

78. On December 18, 2023, Gulati attended a Zoom meeting hosted by Humphrey and several other representatives of Bain "to discuss PowerSchool and PowerSchool's business generally."[17] Gulati and his assistant were the only PowerSchool representatives copied on this Zoom invite.

[15] PowerSchool_00001362.

[16] PowerSchool_00001362.

[17] PowerSchool_00001338.

79. On December 21, 2023, representatives of Bain followed up with Gulati via email "to find a mutually agreeable time in January to further discuss the organic and M&A opportunities ahead for the business."[18] To facilitate these discussions, Bain offered to sign a non-disclosure agreement ("NDA"). The same day, Gulati responded: "I enjoyed our conversations and [it was] great to hear about your expertise and interest in edtech [*i.e.*, education technology, PowerSchool's industry]. Let's connect in [the] new year and I am happy to spend time discussing organic and M&A opportunities."[19] With respect to Bain's offer to sign an NDA to facilitate discussions concerning organic and M&A opportunities, Gulati noted: "We have plenty of material public already on these topics, we don't need an NDA right now to get the discussions going. As things progress, I will be happy to engage our legal [team] and get [an] NDA in place."

80. These communications between Bain and Gulati referencing the Company's "organic and M&A opportunities" underscore that Bain was exploring an acquisition of PowerSchool, since: (i) Bain did not own any equity in the Company at the time, and thus, Bain had no other incentive to check in on the Company's organic growth or buy-side M&A opportunities; (ii) Bain expressed an

[18] PowerSchool_00001338.

[19] PowerSchool_00001337.

interest in expanding its investment in PowerSchool's industry; and (iii) Bain had previously explored an acquisition of the Company.

81. The same communications also underscore that Gulati was receptive to these types of conversations and willing to engage in them further, as he contemplated executing an NDA with Bain "[a]s things progress[.]" Gulati expressed to Bain that he preferred to hold additional conversations before involving the Company's legal team, and Gulati did not inform the other members of PowerSchool's Board (other than Goldberg and Saroya) of his discussions with Bain.

82. On January 14, 2024, Humphrey revived his email thread with Goldberg from August 2022 and asked whether Goldberg "had some time to connect this week" in order to "circle back on PowerSchool."[20] Three days later, on January 17, Goldberg and his Onex associate sent Humphrey a Zoom meeting invitation scheduled for January 19,[21] which Humphrey accepted the same day.[22] According to the Information Statement, Humphrey "again expressed Bain's interest in PowerSchool" during this meeting, and in response, Goldberg "indicated an openness to hearing more ***if Bain had a proposal***."

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[20] PowerSchool_00001392.

[21] PowerSchool_00001368.

[22] PowerSchool_00001401.

83. On January 23, 2024 Humphrey and several other Bain representatives emailed Gulati and stated: "We're looking forward to tomorrow's follow-up conversation, where we thought it could be mutually valuable to dive in a bit on organic and M&A topics."[23] Bain attached to this email a presentation to highlight "a few of the areas that [Bain is] most excited about exploring with [Gulati] in the context of a potential partnership." Among other things, these materials touted Bain's background as "active education and software investors"[24] and stated that Bain has made education technology "a significant area of focus for our investing efforts."[25] The materials also provided Bain's perspective on PowerSchool's domestic and international positions and opportunities, and stated that "Bain would be a valuable partner in achieving [the Company's] full potential."[26] The Information Statement does not disclose that Bain made this pitch-style presentation to Gulati during this meeting.

84. The same day, Gulati responded to Bain's email and stated that the presentation "is very useful and well thought through," adding that he was "[l]ooking forward to our discussion tomorrow and happy to plan next steps from there."[27]

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[23] PowerSchool_00001332.

[24] PowerSchool_00001351.

[25] PowerSchool_00001353.

[26] PowerSchool_00001354.

[27] PowerSchool_00001332.

85. Then, shortly after this meeting, on February 5, 2024, "a representative of Vista held a discussion with a representative of Bain to generally discuss Bain's interest in PowerSchool's business." Bain's outreach to Vista following the discussions and meetings with Gulati and Onex further suggests that Bain was seriously exploring an acquisition of the Company.

86. On February 14, 2024, Gulati met with representatives of Bain in person "to continue discussing PowerSchool."[28] The Information Statement provides virtually no detail as to the substance of this meeting, other than that Bain purportedly did not make a proposal and that the attendees purportedly did not discuss any "specific" transaction.

87. A week later, on February 21, 2024, the Board convened with non-Director representatives of Vista, and Onex in attendance.[29] The Information Statement asserts that "[d]uring an executive session ***before*** the meeting, Mr. Gulati informed the Board of recent discussions with representatives of Bain." No minutes were taken of this discussion. Further, the Information Statement does not specify the following:

- whether Gulati disclosed that Goldberg effectively invited Bain to make a proposal on January 19, 2024;

[28] PowerSchool_00001365.

[29] PowerSchool _00001759.

- whether Gulati disclosed that Bain had presented pitch materials to him on January 24, 2024; and
- whether Gulati disclosed that he had been keeping Goldberg and Saroya apprised of his discussions with Bain since at least December 2023, but not the other directors.

C. Bain Opportunistically Submits its Opening Proposal; the Controllers Influence the Universe of Potential Bidders

88. At the February 21, 2024 Board meeting, Gulati presented a "CEO Business Review,"[30] which included, among other things, his perspectives on the Company's Q4 2023 performance, "forward-looking priorities," and "areas of focus for the Company in FY'24."[31] Gulati's presentation highlighted that Adjusted EBITDA increased 12% year-over-year, Revenue increased 13% year-over-year (which was 1.9% above the Company's budget), and that annual recurring revenue increased 18% year-over-year.[32] Gulati attributed the Company's strong revenue growth in part to a "[b]road-based product growth with continued strength in data-

[30] PowerSchool_00001600-1613.

[31] PowerSchool_00001760.

[32] PowerSchool_00001601-02.

driven products."[33] Gulati also noted that the Company was "[w]ithin guidance on Revenue and beat on EBIDTA for Q4 [2023]."[34]

89. On February 26, 2024, the Company released its Q4 2023 earnings results, announcing increases in full year total revenue year-over-year by 11%, fourth quarter increases in total revenue year-over-year by 13%, fourth quarter increases in Adjusted EBITDA year-over-year by 12%, but full year and fourth quarter net income losses. On this news, the Company's stock price fell 6.6% to $21.70 per share.

90. Two days after the earnings release, on February 28, 2024, Humphrey and several other representatives of Bain hosted a Zoom meeting with Goldberg and offered to acquire all of PowerSchool's outstanding shares at a price between $25.00 per share and $27.00 per share (the "February 28 Proposal").[35] The Information Statement indicates that the February 28 Proposal did not specify Bain's proposed treatment of the Tax Receivable Agreement.

91. Later that day, Humphrey and several other representatives of Bain emailed Gulati to let him know that they "briefly caught up with Laurence [Goldberg] earlier today and expressed our interest in trying to find a way to partner

[33] PowerSchool_00001603.

[34] PowerSchool_00001606.

[35] PowerSchool_00001398-1400; PowerSchool_00001404.

together with you and the broader PowerSchool team."[36] Bain also complimented Gulati on the Company's earnings, despite its stock price decline, stating: "Congrats on a solid earnings report earlier this week—we continue to be impressed by everything you are driving."[37]

92. While Bain's February 28 Proposal reflected a premium range of approximately 19.8% to 29.4% over the Company's same day closing stock price of $20.86 per share, it reflected a meager premium range of only approximately 7.7% to 16.4% over the Company's 90-day volume-weighted average price ("VWAP") of $23.21 per share, as of March 1, 2024.[38] In fact, the Company's stock was trading at a 52-week high of $25.02 per share as recently as February 9, 2024, less than three weeks earlier, while Gulati and Bain were in active discussions concerning the Company.

93. Despite Goldberg inviting Bain to submit a proposal approximately six weeks earlier, Bain declined to do so until two days after the Company's earnings release that caused the stock price to decline. Bain is a sophisticated private equity firm, and had Bain believed that the Company's earnings report was likely to cause PowerSchool's stock price to increase following its disclosure, Bain logically would

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[36] PowerSchool_00001331.

[37] *Id*.

[38] PowerSchool_00001864.

have made its proposal prior to the earnings release. Thus, the timing of Bain's proposal strongly suggests that Bain had a basis to believe that the earnings report would be negatively received by the market and was, thus, opportunistic.[39]

94. On March 1, 2024, the Board convened a special meeting with representatives of Kirkland and certain non-director representatives of Vista and Onex in attendance. During this meeting, the Board discussed the February 28 Proposal, as well as "current perspectives on the Company's operational and stock price performance[.]"[40]

95. According to the Information Statement, the Board also discussed at this meeting "the recent conversations between the representatives of Bain, Mr. Goldberg and Mr. Gulati," however, the unredacted minutes for this meeting do not reflect that the Board engaged in such a conversation.

96. The Information Statement indicates that at the same meeting, "the representatives of [Vista and Onex] expressed their willingness to further consider supporting as stockholders a potential strategic transaction involving PowerSchool[.]"Notably, however, the meeting minutes reveal, and the Information Statement fails to disclose, that these "representatives" of Vista and Onex who

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[39] *See* PowerSchool_00001351-1353 (Bain presentation touting its background as "active education and software investors" and stating that Bain has made education technology "a significant area of focus for our investing efforts").

[40] PowerSchool_00001968.

voiced support for a potential transaction were Saroya and Goldberg— not the non-director representatives of the Controllers who were present, as the Information Statement misleadingly implies. As discussed, Goldberg already had conversations with Bain, including an invitation for Bain to make an offer as early as January 14, 2024.[41]

97. The Board then determined to invite Goldman Sachs to pitch itself to the Board as a potential advisor in connection with Bain's offer within the next several days.[42] The non-director representatives of Vista and Onex who were present at this meeting sat in on, and potentially participated in this discussion. The Board did not interview any other potential financial advisor.

98. On March 5, 2024, the Board convened its next meeting with representatives of Goldman Sachs and certain non-director representatives of Vista and Onex in attendance.[43] Goldman Sachs presented to the Board its perspectives on the Company's current position and noted that the "[m]arket backdrop in software is supportive and [PowerSchool] is operating from a position of strength" and that

[41] PowerSchool_00001969.

[42] PowerSchool_00001969.

[43] PowerSchool_00001969

"[PowerSchool] has a number of strategic growth levers to continue to drive performance[.]"[44]

99. Goldman Sachs noted that one such growth lever stems from PowerSchool being "[u]niquely [p]ositioned to [u]nlock the [p]ower of AI [*i.e.*, artificial intelligence] in [e]ducation" as "[c]utting-edge AI capabilities – and [PowerSchool's] new PowerBuddy AI Assistant – keep [PowerSchool] at the vanguard of K-12 technology solutions."[45] As another example, Goldman Sachs emphasized that the Company's "[s]trong [t]rack-[r]ecord of [c]ross-[s]ell [m]otion [s]upports [f]uture [m]argin [e]xpansion" as "[m]argin expansion [is] led by best-in-class cross-sell capabilities, with significant room for existing customers to expand platform usage."[46]

100. Goldman Sachs also indicated that a "targeted but robust [sale] process would likely best balance the goals of maximizing value to the Company and its stockholders" and that "other potential buyers [] may have interest in the Company and might value the Company similarly or greater than the parties who have recently submitted informal indications of interest [*i.e.*, Bain]."[47] Consequently, Goldman

[44] PowerSchool_00001855.

[45] PowerSchool_00001870.

[46] PowerSchool_00001871.

[47] PowerSchool_00001972.

Sachs recommended that PowerSchool "[a]pproach a targeted list of well-informed potential buyers" which "[m]ay include both strategic and financial buyers."[48] Goldman Sachs, with input from certain unknown representatives of Vista and Onex, identified at least seven potential financial buyers other than Bain in its "Tier 1" list, and it identified 10 more potential financial buyers in its "Tier 2" and "Tier 3" lists.[49] Goldman Sachs, with input from the Controllers, also identified five potential strategic buyers, including [redacted][50] This already diminutive list included only one company in the same technology space as PowerSchool.

101. Additionally, Goldman Sachs included in its presentation a list of price targets for the Company generated by ten analysts between January 2024 and March 2024. The median price target of these analysts was $27.00 per share, with the lowest price target being $26.00 per share and the highest being $30.00 per share.[51] Jefferies, one of the two analysts to post a $30.00 per share price target, released its price target in March 2024, *i.e.*, after the release of the Company's February 26 earnings report.

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[48] PowerSchool_00001875.

[49] PowerSchool_00001877.

[50] *Id*.

[51] PowerSchool_00001866.

102. At the March 5 meeting, the Board ultimately determined to engage Goldman Sachs as its financial advisor, and Goldman Sachs was formally engaged the next day, March 6, 2023.[52]

103. PowerSchool agreed to pay Goldman Sachs a transaction fee of $55 million—all of which was contingent upon the consummation of the Squeeze Out.[53]

104. Notably, the Board determined to engage Goldman Sachs prior to receiving Goldman Sachs' initial relationship disclosure letter, which was delivered to the Board on April 24, 2024, *i.e.*, nearly three weeks after this meeting.[54] Therein, Goldman Sachs disclosed for the first time that—in the prior two years alone—it had received $150 million in aggregate compensation for advisory services to Bain,[55] and approximately $100 million and $7.5 million in aggregate compensation for advisory services to Vista and Onex, respectively.[56] Furthermore, Goldman Sachs identified two members of its deal team who had worked on the teams that provided these advisory services to Bain, Vista, and/or Onex.[57]

[52] PowerSchool_00001972; PowerSchool_00002063.

[53] PowerSchool_00002063.

[54] PowerSchool_00005280-5295.

[55] PowerSchool_00005287.

[56] PowerSchool_00005288-89.

[57] PowerSchool_00005289-90.

105. At the conclusion of the meeting, the Board directed Company management to "prepare an updated long-range plan of the Company as a baseline against which the Board can evaluate potential offers" (the "Management Projections").[58]

D. Goldberg and Saroya Orchestrate Bain's Receipt of Diligence Before Other Potential Bidders and Bain Then Seeks a Rollover From Vista and Onex

106. On March 12, 2024, at the instruction of the Board, Goldman Sachs informed Bain that it would have to increase its offer price to continue to engage in negotiations with the Company.

107. On March 13, 2024, Bain raised its indicative price range from $25.00 to $27.00 per share to $25.50 to $27.50 per share (the "March 13 Proposal"). Again, Bain did not specify any treatment of the Tax Receivable Agreement.

108. The same day, Goldman Sachs informed representatives of Bain—following a conversation with Goldberg and Saroya, ***but not the other directors***—"that Bain should continue advancing its due diligence . . . and would be able to meet with PowerSchool management as part of their due diligence[.]"Additionally, Goldman Sachs informed Bain that "PowerSchool may be willing to provide more access to PowerSchool's data and its management in the coming weeks in order to

[58] PowerSchool_00001972.

facilitate Bain refining its valuation of PowerSchool." It is unclear how or why Goldberg and Saroya determined that Bain's March 13 Proposal was sufficient for Bain to continue negotiations with the Company when Company management had not yet completed the Management Projections.

109. At this point, Goldman Sachs had not yet reached out to any of the potential bidders that it had identified to the Board more than a week earlier at the Board meeting on March 5, 2024.

110. Two days later, Bain began conducting diligence "[o]ver a period of several days," including by meeting with members of PowerSchool's management," and Goldman Sachs informed Bain that it expected Bain to submit another revised proposal within "approximately three weeks." Only *after* Bain began conducting diligence and had been given a timeline for a revised offer did Goldman Sachs begin conducting outreach to the other potential bidders.

111. Sometime after March 15, seven of the 13 potential bidders that Goldman Sachs reached out to executed confidentiality agreements. Five of these parties were financial sponsors, and two were purported strategic counterparties.

112. On March 21, 2024, representatives of Bain "conducted a due diligence session with certain representatives of PowerSchool. Later that night, "representatives of Bain attended a dinner with representatives of PowerSchool." The Information Statement does not identify these Company representatives.

113. On March 25, 2024, the Board convened for the first time since March 5, with certain non-director representatives of Vista and Onex in attendance. Goldman Sachs "present[ed] a review of the current discussions with prospective bidders[,]"[59] which included a schedule for meetings between Company management and all potential bidders who remained in the sale process.[60] Bain was scheduled to meet with management again on March 28 and April 2, while the remaining financial sponsors were scheduled to meet with management between April 1 and April 9. As of March 25, neither of the two strategic counterparties had management meetings scheduled.

114. On March 26, 2024, Bain purportedly requested permission from Goldman Sachs to seek "third-party equity financing" due to the size of the equity commitment, and Bain indicated that it would potentially seek this financing ***from Vista and Onex***. It is unclear how or why Bain—one of the world's most sophisticated and accomplished private equity firms[61]—did not realize that it would need significant equity financing to acquire PowerSchool until after it had conducted

[59] PowerSchool_00001975.

[60] PowerSchool_00001890-91.

[61] Bain's pitch material to Gulati on January 24, 2024 touts its performance history, noting that its private equity division currently has [redacted] of assets under management. PowerSchool_00001348. Indeed, Bain notes that it is one of the largest private equity sponsors in the world, having amassed [redacted] worth of deal volume since 2011, putting it behind only six other private equity firms in the world. PowerSchool_00001349-1350.

approximately one month of diligence and had submitted two proposals to acquire the Company.

115. On March 27, 2024, the Board convened with non-director representatives of Vista and Onex in attendance. PowerSchool's chief financial officer presented to the Board the Management Projections for the period 2024 through 2034, which the Board had requested at the March 5 Board meeting.[62] The minutes confirm that the Management Projections were to be used "as a base case valuation model for the standalone business as a public company for the Board to evaluate the merits of proposals received by prospective bidders."

116. At the conclusion of the March 27 meeting, the Board authorized Goldman Sachs to share the Management Projections with potential bidders.[63]

117. The Information Statement states that the same day, "[t]he Board approved Bain reaching out to a limited number of equity financing sources." The March 27 Board meeting minutes however do not reflect this discussion.[64]

118. The following day, March 28, Bain executed a non-disclosure agreement with the Company.[65] Although it prohibited Bain from having "any

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[62] PowerSchool_00001977-78.

[63] PowerSchool_00001978.

[64] PowerSchool_00001977-78.

[65] PowerSchool_00002332.

discussions or communications" with respect to a contemplated transaction involving PowerSchool "with any [p]erson (including, without limitation, with any potential source of capital or financing []debt, equity or otherwise)" without the Board's prior written consent,[66] the Section 220 record contains no written consent from the Board to Bain concerning discussions or communications with financing sources.

119. The same day, representatives of Bain attended a presentation hosted by Company management. A few days later, on April 2, 2024, "following a request from Bain, representatives of PowerSchool held two additional in-person due diligence sessions with representatives of Bain."

120. The next month, in April 2024, Vista announced that it had closed funding for its flagship Fund VIII, which it had formed in 2023.

E. The Board Drives Away Bidders Other Than Bain By Instructing Them to Assume That the Company Will Make a $500 Million TRA Payment and That Rollover Financing Is Prohibited

121. On April 9, 2024, Goldman Sachs sent a process letter to the five potential bidders who were financial sponsors—but not Bain—requesting that they submit an indicative non-binding offer by April 16, 2024 (the "Process Letter"). Despite Bain communicating its interest in obtaining rollover financing from the

[66] PowerSchool_00002333.

Controllers nearly two weeks earlier, the Process Letters required all cash offers and prohibited stock rollovers.[67] Raising the bar for non-Bain bidders even higher, the Process Letter discouraged any financing contingencies all together, saying that they "will have a substantial negative impact on our view of your proposal."

122. The Process Letter also advised that the parties should assume a fixed total dollar value to terminate the Tax Receivable Agreement and that the value would be made available by April 16.

123. When the Process Letter was delivered to the financial sponsors, there were eight potential interested parties, including Bain. However, the two strategic parties, Party F and Party G, did not receive the Process Letter purportedly because, in the case Party F, it was still internally assessing a potential transaction with PowerSchool, and, in the case of Party G, it had indicated to Goldman Sachs that it required additional time to submit a proposal.

124. Goldman Sachs sent Bain "materials related to the Tax Receivable Agreement." But Goldman Sachs did not send Bain a Process Letter, purportedly

[67] PowerSchool_00005303 (Process Letter to Blackstone) ("Your proposal should assume all shareholders receive cash consideration with no rollover from existing shareholders."); PowerSchool_00005307 (Process Letter to Hellman & Friedman) (same); PowerSchool_00005311 (Process Letter to Leonard Green & Partners) (same); PowerSchool_00005315 (Process Letter to TPG) (same); PowerSchool_00005319 (Process Letter to Veritas Capital) (same).

because Bain "had already submitted a proposal and was continuing to conduct due diligence, including to refine its valuation."

125. On April 10, 2024, the Board convened with non-director representatives of Vista and Onex in attendance, as well as with representatives of Ernst & Young, the Company's "accounting advisor."[68]

126. Ernst & Young's analysis highlighted the TRA's low value to the Controllers, absent the change of control transaction. To date, the Company had not made any TRA payments to the Controllers, as they were prohibited under the Company's credit agreement. And in the nearly three years since the Company's IPO in July 2021, only $41.6 million in TRA payments had accrued—roughly $19 million per year.[69] At that rate, it would have taken approximately 26 years for the Controllers to earn $500 million in TRA payments (and even longer if the time value of money is taken into account). Consistent with this analysis, stock analysts placed no value on the Company's obligations to the Controllers under the TRA.[70]

127. Ernst & Young discussed the impact and potential treatment of the TRA in the context of evaluating potential proposals. To that end, it noted that upon a

[68] PowerSchool_00001980-81.

[69] PowerSchool_00001926.

[70] PowerSchool_00002233 (showing that no stock analyst treated the TRA as debt).

change-of-control transaction, PowerSchool "becomes obligated to make an early termination payment" to the Controllers.[71]

128. Ernst & Young explained that the value of this early termination payment was determined based on the Company's share price, with each incremental $1 change in the per share price changing the value of the TRA change of control payment by about $5 million. It presented potential termination payments at various "[a]ssumed share price[s]," ranging from $25.00 per share to $42.50 per share, as illustrated below:[72]

Picasso Early Termination Payment

Assumed share price	Existing TRA attribute payment	Hypothetical exchange TRA attribute and iterative payment	Total payment due at close
$25.00 per share	$335,611,626	$136,275,266	$471,886,892
$27.50 per share	$335,611,626	$150,727,410	$486,339,036
$30.00 per share	$335,611,626	$165,179,523	$500,791,149
$32.50 per share	$335,611,626	$179,631,611	$515,243,237
$35.00 per share	$335,611,626	$194,083,679	$529,695,305
$37.50 per share	$335,611,626	$208,535,730	$544,147,356
$40.00 per share	$335,611,626	$222,987,767	$558,599,393
$42.50 per share	$335,611,626	$237,439,792	$573,051,417

129. The Company ultimately instructed potential bidders to assume that the termination payment would cost $500 million, based on an assumed a sale price of ***$30.00 per share***, as indicated by the highlighted row above [highlight in original].

130. The Information Statement indicates that at sometime "[f]ollowing the [April 10 Board] meeting, ***a representative of the Board*** authorized Goldman Sachs

[71] PowerSchool_00001925.

[72] PowerSchool_00001926.

to provide to potential counterparties an assumed value of the Tax Receivable Agreement of $500 million for the purpose of submitting proposals as contemplated in the [P]rocess [L]etter . . . .” But because this purported authorization occurred after the meeting, the April 10 meeting minutes do not reflect it.

131. On April 15, 2024, Bain submitted a revised proposal dropping its offer price to $24.00 per share (the “April 15 Proposal”). The April 15 Proposal offered $1.50 per share less than the low-end of the $25.50 to $27.50 per share price range of Bain’s March 13 Proposal, which the Board had required of Bain simply to continue negotiations.

132. The April 15 Proposal also “included an assumption of a full waiver by all beneficiaries of the Tax Receivable Agreement of potential tax payments to be owed by PowerSchool under the Tax Receivable Agreement in connection with a change of control transaction.” In other words, Bain’s proposal was now explicitly contingent on Vista and Onex waiving their right to receive payments for termination of the Tax Receivable Agreement—a violation of the Process Letter, which was given to the potential bidders except for Bain.

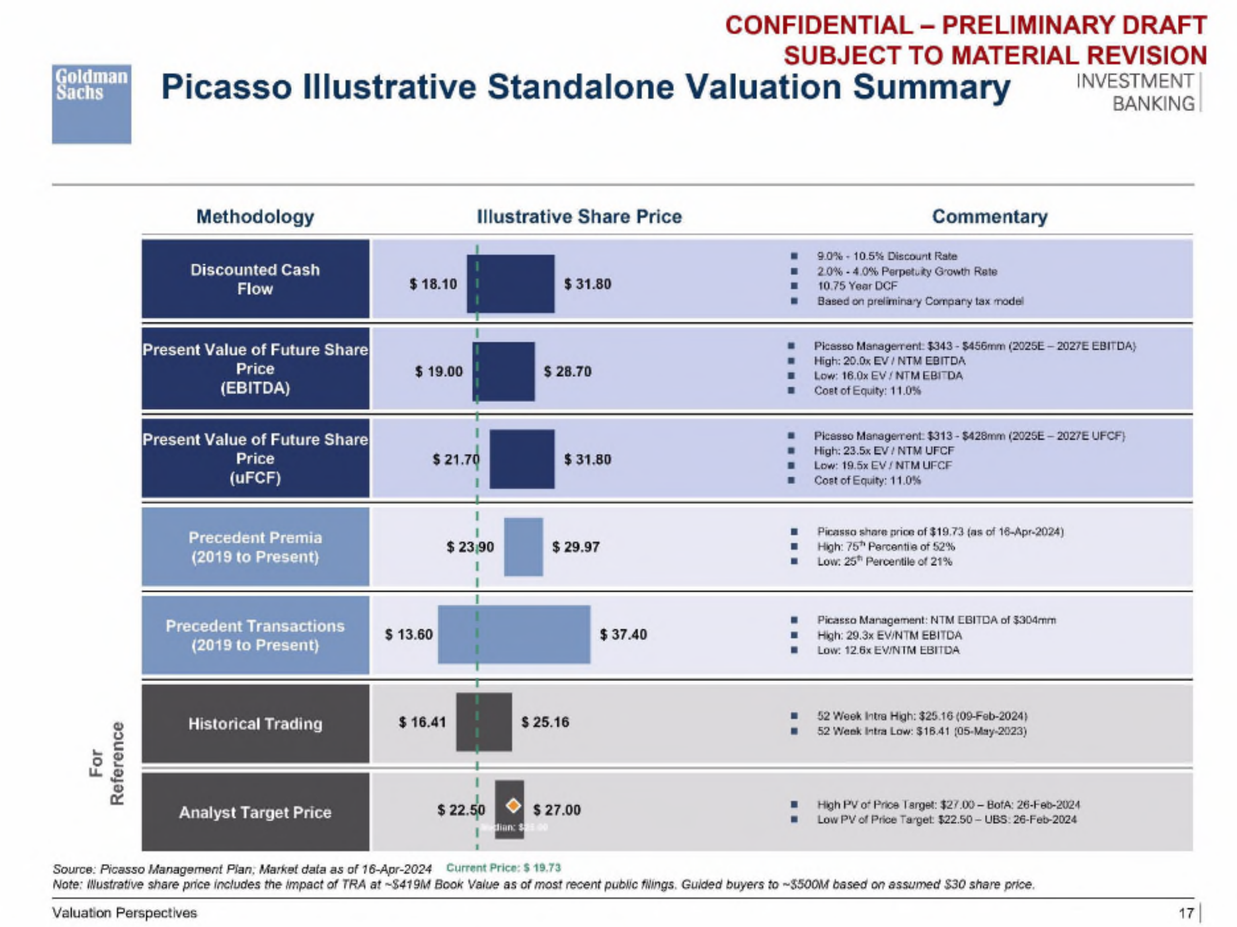
133. Between April 10 and April 16, 2024, six of the seven non-Bain bidders “declined to participate further in the strategic transaction process and did not submit indications of interest.” Thus, by the bid deadline on April 16, only Bain and [redacted]

[redacted] (a purported strategic counterparty) remained interested in pursuing an acquisition of PowerSchool.

134. On April 17, 2024, Spruce Point Capital Management LLC ("Spruce Point") published a "short seller" report (the "Spruce Report") detailing several purported concerns with PowerSchool's operations. The day before the Spruce Report, the Company's stock was trading at $19.73 per share. The day after the Spruce Report, the Company's stock was trading at $17.43 per share.

135. On April 18, 2024, Goldman Sachs made a presentation to the Board and indicated that despite the impact of the Spruce Report on the Company's stock price, the intrinsic value of PowerSchool far exceeded the Company's current trading levels.[73] Goldman Sachs' "Discounted Cash Flow" analysis yielded an "Illustrative Share Price" range for the Company between $18.10 per share and $31.80 per share, a range entirely above the then current stock price, implying a midpoint of $24.95 per share:

[73] PowerSchool_00001788-1811.



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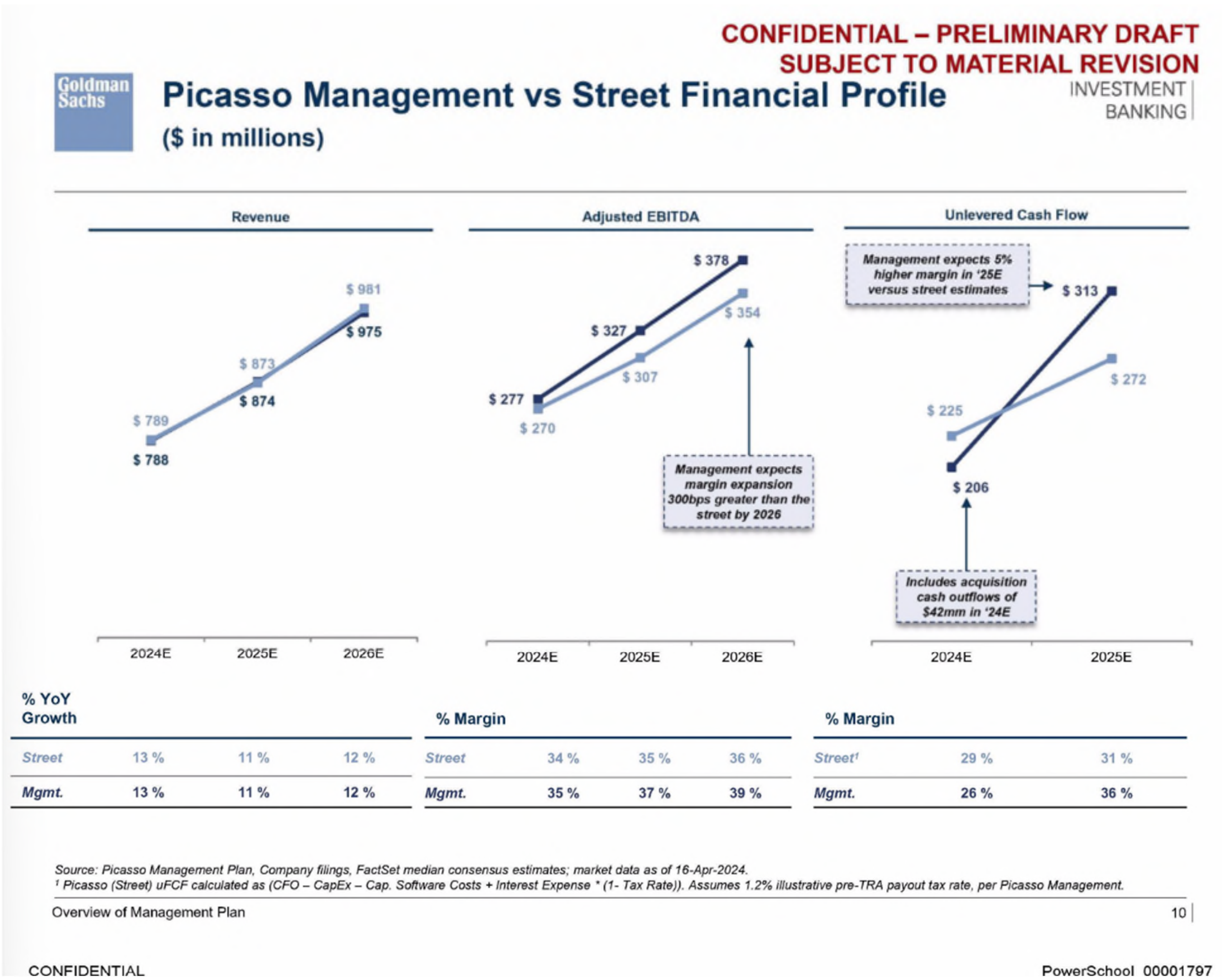
136. The Board was informed that the Management Projections tracked the Wall Street consensus with respect to revenue and materially exceeded adjusted EBITDA and unlevered cash flow consensus estimates:



137. On April 20, 2024, Bain presented a revised proposal to acquire PowerSchool for $24.40 per share, a $0.40 per share increase over its prior proposal (the "April 20 Proposal"). The April 20 Proposal again required a full waiver of the early termination payment under the Tax Receivable Agreement.

138. On April 21, 2024, the Board convened with non-director representatives of Vista and Onex in attendance to discuss the April 20 Proposal and "potential next steps to seek to improve the valuation." At the conclusion of the meeting, "Goldman Sachs recommended as a next-step that the Co-Chairmen [*i.e.*,

Goldberg and Saroya] reach out to [Bain] to push them to improve the total enterprise value of [Bain's proposal]."[74] The Board then approved that plan. Neither the Board meeting minutes nor the Information Statement explain the Board's decision to allow Goldberg and Saroya, who represented the Controllers and knew that Bain desired the Controllers to rollover their shares, to hold a meeting with Bain independently of Goldman Sachs.

139. The same day, Goldberg and Saroya "discussed the Bain April 20 Proposal directly with representatives of Bain and encouraged Bain to further increase its offer price[, and] [r]epresentatives of Goldman Sachs also had discussions with representatives of Bain to communicate the same message."

140. On April 22, 2024, Bain orally communicated that it was raising its offer to $24.50 per share, again conditioned on a waiver of any early termination payments on the Tax Receivable Agreement (the "April 22 Proposal"). Bain indicated that the April 22 Proposal was its "best and final" offer, and that Bain was prepared to negotiate and sign definitive agreements prior to PowerSchool's quarterly earnings report on May 7, 2024.

[74] PowerSchool_00001984.

F. The Board Belatedly Creates the Conflicted Special Committee As the Controllers Seek to Extract Non-Ratable Benefits in the Transaction

141. On April 22, Goldman Sachs discussed with the Board Bain's request for equity financing from the Controllers. The Board asked Goldman Sachs to request that Bain submit a written proposal detailing the material terms for the acquisition.

1. The Controllers Secure the Non-Ratable Benefit of the Rollover in the Squeeze Out

142. On April 24, 2024, Bain submitted a written proposal that, again, dropped the price, this time down to $22.17 per share—$2.33 per share less than Bain's April 22 Proposal—contingent on the following: (i) the Company's payment of $500 million due under the Tax Receivable Agreement, (ii) a "significant" equity rollover from the Controllers (the "Rollover"), (iii) Special Committee approval, and (iv) approval by a majority-of-the-minority ("MotM") of the Company's stockholders ("MotM Approval") (together, the "April 24 Proposal").

143. Given that no event occurred in the approximately 48 hours since Bain's last proposal that would negatively impact PowerSchool's operations or financial position,[75] it is reasonably conceivable that Bain factored the $500 million TRA payment into its valuation. Accordingly, the difference between Bain's April 22 and

[75] PowerSchool's stock closed at approximately $17.65 per share on April 22, 2024, and $17.40 per share on April 24, 2024.

April 24 Proposals implies that Bain valued the TRA payments at $2.33 per share. During the April 24, 2024, Board meeting, the Board discussed Bain's most recent offer and "determined to move forward with continued discussions on [Bain's] written proposal."[76] The Board made this decision "with the support of Vista and Onex."

144. The Information Statement states that, during this meeting, the Controllers told the Board that they were willing to roll over certain equity to facilitate a transaction with Bain but they would *not* agree to MotM Approval. The Controllers' presumably desired to forego a seller-protectionary MotM Approval condition because they valued deal certainty and their own non-ratable benefits over the added leverage to negotiate a better price through the MotM Approval condition.

145. Only after getting this blessing from the Controllers did the Board determine "to form a special committee[.]"[77] The same day, [redacted] informed Goldman Sachs that it would not be able to submit an offer. Thus, by April 24, 2024, Bain was the Company's sole potential transaction partner.

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[76] PowerSchool_00001991.

[77] PowerSchool_00001991.

2. The Special Committee Was Formed Too Late in the Transaction Process and Given an Inadequate Mandate

146. The Board belatedly created the Special Committee after the economic negotiations with Bain had been ongoing for months and all bidders other than Bain had dropped out.

147. At the end of the April 24 meeting referenced above, the Board resolved to form a special committee purportedly empowered to determine the fairness of any "[t]ransaction that involves a [rollover by the Controllers] or any particular treatment of the TRA that results in the [Controllers] receiving payment thereunder[.]"[78]

148. However, the Board gave the Special Committee an inadequate mandate. It did not grant the Special Committee the authority to represent the interests of the Company's minority stockholders. Instead, the Board's authorizing resolution required that the Special Committee "determine whether the Potential Transaction is advisable and fair to and in the best interests of ***the company and its stockholders***."[79] With this mandate, the Special Committee was required to consider the perspective of Vista and Onex, rather than solely represent the interests of PowerSchool's ***minority*** stockholders.

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[78] PowerSchool_00001996.

[79] *Id.* (emphasis added).

149. Nor was the Special Committee actually empowered to negotiate the Squeeze Out. The Board empowered the Special Committee only to "review and provide input with respect to the price, structure, form, terms and conditions of the [p]otential [t]ransaction . . . and the form, terms and conditions of any definitive agreements in connection therewith[.] "[80]

3. The Special Committee and Its Advisors Are Not Independent and Have Ties to the Controllers and Bain

150. Each member of the Special Committee, *i.e.*, Byrne and McCray, had disabling conflicts with Vista, Onex, and/or Bain.[81]

151. As discussed, Byrne and Goldberg worked with one another for more than a decade during their respective tenures at Barclays and Lehman Brothers.[82] Byrne was Vice Chairman of Investment Banking at Lehman Brothers from 2004 to 2008 and Barclays from 2008 to 2018. Goldberg worked under Byrne at each bank, as the Head of Technology investment banking at Lehman Brothers from 2005 to 2008 and as the Global Head of Technology, Media & Telecommunications investment banking at Barclays from 2008 to 2017. Then, Byrne and Goldberg each joined PowerSchool's Board in July 2021. Accordingly, Byrne's long-standing

[80] PowerSchool_00001996.

[81] McIntosh resigned from the Special Committee once it emerged that she had an economic interest in the TRA.

[82] PowerSchool_00000022.

relationship with Goldberg, who in turn was an employee and appointee of Onex, tainted the Special Committee's independence.

152. Byrne also has a strong connection to Vista through her husband, who invested in Vista funds through his work as a member of the New Jersey State Investment Council.

153. Byrne's conflicts also extend to Centerview. Davidson is a senior member of the Centerview deal team, and according to Centerview's conflict disclosure, he "has a longstanding professional relationship" with Byrne.[83] Accordingly, Byrne was incentivized to complete a deal so that Davidson and Centerview would receive $17 million in compensation that was contingent upon the closing of the Squeeze Out.

154. McCray and Vista founder Robert Smith are both alumni of Cornell University and are members of the same Cornell fraternity. Further, McCray is a trustee of Cornell and Smith is a member of the same Cornell alumni association, the CBAA. In November 2017, the CAA held an event at the opening of an exhibit at the National Museum of African American History—where Smith is a major donor. They have attended functions and interacted due to these associations.

[83] PowerSchool_00002161.

155. Further, McCray and Smith are both part of the 645 Ventures "connected network" of investors, through which they support and advise the startups that it funds.

156. Additionally, in a LinkedIn post, McCray offered high praise to Smith and said he considers Smith a "friend[]."[84]

157. McCray also has an investment in a Vista fund worth approximately [redacted] and he formerly had an investment, along with Bain, in a professional sports franchise.[85]

158. As discussed, McIntosh resigned from the Special Committee due to a financial interest in the TRA. Neither the Information Statement nor the Section 220

[84] PowerSchool_00002155.

[85] *Id.*

record explain how the Board failed to uncover this conflict prior to appointing her to the Special Committee.

159. Additionally, the Special Committee selected advisors that were not independent from the Controllers or Bain.

160. At its meeting on April 24, 2024, the Special Committee selected Centerview as its financial advisor. The Special Committee apparently did not interview any other potential financial advisor, despite Centerview having several obvious conflicts with Vista, Onex, and Bain. In fact, the Special Committee retained Centerview prior to receiving Centerview's relationship disclosure letter on April 28, which disclosed the following conflicts:

- [redacted][86]
- [redacted][87]

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[86] PowerSchool_00002161.

[87] PowerSchool_00002160.

- "Todd Davison, a senior member of the [Centerview] deal team, has a longstanding professional relationship with Barbara Byrne, a member of the [Special] Committee."

161. Despite Centerview disclosing these conflicts of interest to the Special Committee, the Information Statement disclosed only the fees Centerview received from Bain or Bain-affiliated entities and Onex or Onex-affiliated entities for the two years preceding June 6, 2024. The Information Statement thus misleadingly disclosed that Centerview *only* received $15 to $20 million in fees from Bain and $3 to $6 million from Onex, excluding [redacted]

162. Moreover, the Information Statement entirely omits any reference to Special Committee member Byrne's "longstanding professional relationship" with a senior member of Centerview's deal team. Defendants' failure to disclose this material information rendered the Information Statement misleading and incomplete concerning Centerview's ability to provide independent advisory services to the Special Committee.

163. At the Special Committee's meeting on April 25, 2024, the Special Committee selected Freshfields as its legal advisor. The Special Committee apparently did not interview any other potential legal advisor.

164. Freshfields noted in its conflict disclosure that "it was currently providing, and during the preceding two years had provided, legal services to Bain," purportedly unrelated to the Squeeze Out.

165. McCray's and Byrne's actions in failing to even interview additional advisors further calls into question both their ability to act independently from the Controllers and whether the Special Committee was properly functioning, as it appears their advisors' retention was pre-ordained and designed merely to check a box and move as quickly as possible towards completion of the Squeeze Out.

166. In sum, the Squeeze Out contemplated a non-ratable benefit for the Controllers via a rollover early in the process; however, the Board belatedly formed the Special Committee after economic negotiations with Bain had already taken place. Even then, the members of the Special Committee were conflicted and not independent of the Controllers, and McCray and Byrne's actions demonstrate an improperly functioning Special Committee.

G. The Special Committee Capitulates to the Controllers' Preferences and is Advised that the Transaction Will be Subject to Entire Fairness Review

167. Despite the lack of protections for the Company's minority stockholders, the conflicted Special Committee pushed forward and approved an unfair transaction.

168. On April 26, 2024, the day after the Special Committee engaged Freshfields, the Company's counsel, Kirkland, delivered to Freshfields "an initial draft of the rollover governance term sheet" concerning the Controllers' Rollover (the "Governance Term Sheet").

169. During an April 28, 2024 meeting, Freshfields informed the Special Committee that: "the Potential Transaction could potentially be subject to the 'entire fairness' standard of review under Delaware law, given the intention of Vista and Onex, who together control the Company, to 'roll' their equity interests in the Company in connection with the Potential Transaction."[88]

170. On April 29, 2024, Ropes (Bain's counsel) informed Kirkland that Bain expected the Controllers to roll over an amount of equity such that they would collectively own 49% of the post-Transaction Company on a pro forma basis. Such

[88] PowerSchool_00002156.

a rollover would amount to a majority of the Controllers' equity in the pre-Squeeze Out Company.

171. On May 1, 2024, the Special Committee instructed Freshfields to reach out to Kirkland to discuss whether the Transaction should be structured to require a MotM Approval. Later that day, Kirkland informed Ropes of the Controllers' position that the Transaction should not include a requirement for MotM Approval, purportedly "because of the thorough strategic transaction process that Goldman Sachs had conducted as instructed by the Board."

172. The same day, Freshfields and Kirkland held a call. Freshfields informed Kirkland that the Special Committee was not yet in a position to provide a view on Bain's April 24 Proposal, including with respect to the requirement for MotM Approval and the treatment of the TRA. In response, Kirkland told Freshfields of the Controllers' position that the Transaction should not include the MotM Approval requirement, again citing the purportedly thorough process conducted by Goldman Sacks.

173. On May 2, 2024, the Special Committee met and discussed MotM Approval. Freshfields informed the Special Committee of the proposal for the Controllers to roll over a majority of their ownership interest in the Company and that the Controllers had not agreed to condition the Squeeze Out on MotM Approval.

Freshfields relayed the Controllers' concern that a MotM Approval condition "could jeopardize the transaction closing."[89]

174. On May 3, 2024, the Special Committee met and Centerview presented on the Company's financial outlook. Centerview stated that projected revenue was roughly in line with consensus and that projected gross profit and EBITDA exceed the consensus.[90] Byrne stated that the Q2 2024 earnings release will include revenue results that are in line with market expectations, and the Company would beat the market consensus on EBITDA. In sum, this was positive financial news for the Company that should have warranted a higher price per share and showed the Special Committee knew that the Company was in good financial shape.[91]

175. During this meeting, Freshfields advised that it would be in the Special Committee's interest for the Controllers "to agree to the MoM Vote condition . . . prior to engaging in negotiations over the TRA."[92] The Special Committee also discussed the Company's push to announce the Squeeze Out in just four days so that it could be made contemporaneously with the Company's earnings announcement on May 7.[93]

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[89] PowerSchool_00002194.

[90] PowerSchool_00002196.

[91] *Id*.

[92] PowerSchool_00002196-97.

[93] PowerSchool_00002197.

176. On May 5, 2024, representatives of the Controllers met with Bain "to attempt to resolve remaining open transaction items." The same day, Kirkland informed Freshfields that the Controllers would not "discuss the Special Committee's request for the MotM Approval requirement [until] after receiving the Special Committee's proposal on the treatment of the Tax Receivable Agreement."

H. The Special Committee Surrenders the Majority-of-the-Minority Condition Without Negotiating a Higher Sale Price; Bain Capitalizes on the Special Committee's Pliability By Negotiating a Lower Squeeze Out Price

177. On May 6, 2024, Freshfields told the Special Committee that Kirkland had discussed with Vista and Onex the Controllers' view of the MotM Approval condition.[94] The Controllers were refusing "to provide a view on a [majority-of-the minority] [v]ote condition without understanding the Committee's proposal on the treatment of the tax receivable agreement of the Company[.]" The Special Committee capitulated to the Controller's position and agreed to make its TRA proposal after the meeting.[95]

178. Freshfields then reported that "Vista and Onex had agreed to each roll sufficient proceeds to enable them to hold up to 24.5% of the post-closing entity" but noted that rollover negotiations were still ongoing. To that end, the Special

[94] PowerSchool_00002214-2217.

[95] PowerSchool_00002215.

Committee indicated that "it did not intend to insert itself into the rollover negotiations"[96] despite the fact that the Board empowered the Special Committee to "review and evaluate the [p]otential [t]ransaction, including the Stockholder Acquisition Financing [*i.e.*, the rollover]" and to "review and provide input with respect to the price, structure, form, terms and conditions of the [p]otential [t]ransaction . . . and the form, terms and conditions of any definitive agreements in connection therewith."[97]

179. At the same meeting, Centerview presented "its preliminary valuation analyses" concerning the treatment of the Tax Receivable Agreement and the Company as a whole. Centerview noted that a full payout of the $500 million due under the Tax Receivable Agreement, as contemplated by the April 24 Proposal, "implied [a] price per share to be received by stockholders of the Company [worth] approximately $22.17 per share," but if the same payments are waived in full, the "implied price per share would be approximately $24.50."[98] In other words, Centerview confirmed that the value of the TRA change of control payment was $2.33 per share.

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[96] *Id.*

[97] PowerSchool_00001996.

[98] PowerSchool_00002215.

180. Centerview also presented a discounted cash flow analysis yielding a valuation range of $21.15 to $32.80 per share, implying a midpoint of $26.98 per share.[99]

181. According to the Information Statement, later on May 6, Kirkland conveyed to Freshfields that the Controllers were willing to waive all payments under the Tax Receivable Agreement, other than $40 million that was owed but deferred, but that the Controllers were unwilling to proceed with a transaction subject to a MotM voting condition. Minutes from the Special Committee's May 6, 2024 meeting state that Vista and Onex believed "not having a MoM Vote condition" was "justified" because they "were willing to agree to such a substantial economic concession on the TRA[.]"[100]

182. Following the conversation between Kirkland and Freshfields, the Special Committee convened for the second time on May 6. Freshfields conveyed to the Committee that "Vista and Onex . . . would not proceed with [] a [MotM] condition."[101] Freshfields also stated that Bain had reversed course and was now "amenable" to not having a MotM vote condition. There is no explanation as to when or how Bain's willingness to abandon the MotM condition was determined. The

[99] PowerSchool_00002231.

[100] PowerSchool_00002249.

[101] PowerSchool_00002249.

Special Committee immediately caved and agreed to the Controllers' demand not to have MotM Approval.[102]

183. During this meeting, Centerview also "noted that Company management had inadvertently provided Centerview with the wrong projections file and that Goldman Sachs, financial advisor to the Company, had subsequently provided Centerview with the correct set of projections (which were the ones Goldman Sachs had been utilizing), which showed stronger growth after the sixth year in the projection period as compared to the projections that Centerview had been using."[103] Had Centerview been using the correct version of the Company's projections, its valuation analyses would have indicated an even higher fair value of PowerSchool.

184. Thus, on May 6, 2024, the Special Committee began the day apparently fixated on pushing for both a MotM Approval condition and a full waiver of the payout for termination of the Tax Receivable Agreement. However, within hours, the Special Committee surrendered the MotM Approval condition after the Controllers expressed unwillingness to include such a condition.

185. The Special Committee's appeasement of the Controllers with Bain's blessing had flow through effects, as Bain (and the Controllers, who were rolling

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[102] PowerSchool_00002250.

[103] *Id.*

over) realized that they could leverage the Special Committee even further without the risk of PowerSchool's minority shareholders rejecting the deal. Later that day, Bain informed Goldman Sachs that "Bain was no longer willing to pursue a transaction at the per-share valuation set forth in the [April 24 Proposal] . . . ." Bain then indicated that it would continue to conduct diligence to determine whether to make a revised proposal.

186. The next day, on May 7, 2024 after the market's close, PowerSchool released its earnings report for Q1 2024 (the "May 7 Earnings Announcement") and announced, among other things, that first quarter total revenue increased 16% year-over-year (meeting outlook) and adjusted EBITDA increased 24% year-over-year (exceeding outlook). In a press release, Gulati stated: "We opened 2024 with a strong first quarter in which we met our revenue guidance and exceeded the high end of our profitability guidance."

187. In what appears to be an attempt to avoid basing the deal premium on an increased stock price following the Company's positive first quarter earnings release, someone leaked Bain's interest to the *Wall Street Journal* prior to the market's opening on May 8, 2024. The *Wall Street Journal* reported that Bain was pursuing an acquisition of PowerSchool that would value the Company at approximately $6 billion, including debt, and would represent a per-share value "somewhere in the $20s per share." The reported deal price would go on to prevent

the market from organically reacting to the Company's positive earnings beat, permitting Bain to artificially claim a higher deal premium by anchoring the Company's "unaffected" stock price as the price on the day prior to the Company's positive Q1 earnings announcement.

I. Goldberg and Saroya, With Help From the Board's Advisors, Steer the Transaction to Bain and Bain Coerces the Company to Accept Its Lowball Proposal

188. On May 8, 2024, the same day the *Wall Street Journal* published its article, [redacted] contacted Goldberg and Saroya to express interest in a potential transaction with the Company. [redacted] noted that it "could move quickly to conduct due diligence" and conveyed that "it might be able to transact at the $23 per share level . . . ."[104] In response, Goldberg and Saroya informed [redacted] that "Goldman Sachs was managing the strategic transaction process"—not the Special Committee and its advisors.

189. Saroya had several discussions with [redacted] about its interest in a potential transaction. The Information Statement does not explain why Saroya held these discussions with [redacted] outside the purview of the Special Committee and its advisors, who were empowered to review and provide input on any potential transaction.

[104] PowerSchool_00002254.

190. On May 10, 2024, [redacted] executed a confidentiality agreement with PowerSchool and was granted access to the Company's virtual data room to conduct diligence.[105] The same day, [redacted] informed Goldman Sachs that it "would be willing to execute a transaction on substantially similar terms as the contemplated transaction involving Bain and indicated that it would require a significant equity rollover by the [Controllers]."

191. On May 11, 2024, "[r]epresentatives of Kirkland [] updated representatives of Freshfields with respect to the status of discussions with [redacted] and a member of PowerSchool's management also provided an update to the Special Committee with respect to the status of discussions with [redacted]" Neither the Special Committee nor its advisors were involved in those discussions, as they were only updated by the Board and/or its advisors on the progress of discussions between [redacted] and the Controllers.

192. Later on May 11, "representatives of Goldman Sachs provided an update to representatives of Centerview and Freshfields on the status of discussions with each of Bain and [redacted]"

193. On May 12, 2024, Kirkland delivered to representatives of [redacted] a draft of a merger agreement and several related transaction documents. And

[105] PowerSchool_00002404.

Goldman Sachs updated representatives of Centerview and Freshfields on the status of discussions with each of Bain and [redacted]

194. On May 14, 2024, "certain members of the Board ***who were available to meet that day***, along with representatives of Goldman Sachs and Kirkland and certain members of PowerSchool's management, held an informal meeting where representatives of Goldman Sachs provided attendees with an update on the status of discussions with representatives of Bain and representatives of [redacted]" The Company produced no documents in connection with Plaintiffs' Section 220 investigations evidencing or memorializing this "informal" meeting of the Board. Following the Board's informal meeting, the Special Committee convened separately to update Centerview and Freshfields as to the Board's discussions earlier that day, indicating that the Special Committee's advisors continued to be sidelined from the sale process.

195. In response to competition from [redacted] on May 24, 2024, Bain submitted a revised written proposal increasing its offer by $0.33 to $22.50 per share (the "May 24 Proposal").[106] The May 24 Proposal was again conditioned on a full waiver of the Tax Receivable Agreement termination payments and required that the Controllers roll over their equity such that they own, in the aggregate, 49% of the

[106] PowerSchool_00005254.

post-close company.[107] Despite the fact that the May 24 Proposal contemplated that the Controllers would fully waive the TRA change of control payment, the May 24 Proposal offered $2.00 per share ***less*** than the last proposal that contemplated a full waiver, which Bain made on April 22 (*i.e.*, the April 22 Proposal). Bain indicated that it was prepared to sign definitive documentation by May 26, 2024.

196. The Information Statement indicates that the Board reviewed the May 24 Proposal later that day, and following that review, but without formally meeting, "the Board instructed representatives of Goldman Sachs to communicate to representatives of Bain that the [May 24 Proposal] was not sufficient, and also to continue to engage with [redacted] . . . ." There are no Board minutes in the Section 220 record evidencing this communication.

197. On May 26, 2024, [redacted] "communicated ***to representatives of Vista*** and Goldman Sachs that [it] was progressing its diligence in order to refine its mid-$20 per share valuation range." Neither the Information Statement nor the Section 220 record explain how Vista became directly involved in sale process negotiations.

198. On May 29, 2024, Kirkland and Freshfields held a teleconference for Kirkland to "update … Freshfields on the status of discussions with each of [redacted] and Bain."

[107] PowerSchool_00005254.

199. The Special Committee convened on June 1, 2024.[108] Freshfields noted that [redacted] comments to the merger agreement and transaction documents delivered to Kirkland were "manageable" and that "the merger agreement could be finalized in short order." With respect to Bain, the attendees noted that Bain had indicated that it planned to submit a revised proposal in the near future.

200. At the conclusion of the June 1 Special Committee meeting, "[t]he Committee [] instructed Freshfields and Centerview to remain in communication with Kirkland and Goldman [Sachs], respectively, in case of any further updates with respect to the [p]otential [t]ransaction." Again, the Special Committee was standing idly by and merely receiving updates while the Board and its advisors ran the sale process.

201. On June 1, 2024, Bain submitted another revised written proposal to representatives of Goldman Sachs offering to acquire the Company for $22.75 per share in cash (the "June 1 Proposal").[109] The June 1 Proposal was substantively similar to the May 24 Proposal in that it contemplated the Controllers fully waiving the TRA payment and contemplated the Controllers rolling over equity such that they would come to own, in the aggregate, 49% of the post-closing Company. The June 1 Proposal also indicated that its offer expired at midnight the following day.

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[108] PowerSchool_00002254-2255.

[109] PowerSchool_00002419.

202. The Information Statement indicates that between June 1, 2024 and the execution of the Merger Agreement on June 6, 2024, "Gulati had several discussions with representatives of Bain with respect to the treatment of PowerSchool's outstanding equity awards, including PowerSchool's outstanding and unvested restricted stock units." And during those discussions, "representatives of Bain conveyed at a high-level [to Gulati] the types of management incentive plans that are typical at portfolio companies of Bain[.]" In other words, Gulati was negotiating his payday with Bain before the Special Committee had agreed to a deal with Bain (or another bidder, like [redacted]).

203. On June 2, 2024, Goldman Sachs "encouraged Bain to increase its proposal to $23.50 per share." The Information Statement does not explain how or why Goldman Sachs chose that value, which was still below the $24.50 per share value Bain offered in the April 22 Proposal.

204. Later on June 2, 2024, Bain submitted a final revised written proposal to representatives of Goldman Sachs offering to acquire the Company for $22.80 per share in cash, a $0.05 per share increase over its previous proposal (the "June 2 Proposal").[110] The June 2 Proposal was substantively identical to the June 1 Proposal with respect to the treatment of the TRA and the Controllers' rollover. The June 2

[110] PowerSchool_00005259.

Proposal indicated that its offer expired at midnight that evening. Bain indicated that this was its "best and final" offer.

205. The same day, Goldman Sachs held discussions with [redacted] regarding the state of its diligence, and [redacted] indicated that it "would need additional time and diligence before it would be in a position to transact."[111]

206. Also on June 2, 2024, for the first time in nearly a month since May 6, when Bain reneged on its April 24 Proposal, representatives of the Special Committee's financial advisor, Centerview, had direct discussions with representatives of Bain. Following its prolonged absence as a direct player in the sale process, Centerview purportedly made a half-hearted request that Bain increase its $22.80 per share offer, without even offering any counter. Naturally, Bain rejected Centerview's request and stated that "if that value was inadequate for the Special Committee, the transaction would not be achievable."

J. The Company Accepted Bain's Proposal Despite Clear Analyses Showing that it Did Not Provide Adequate Value to Minority Stockholders

207. On June 2, 2024, the Special Committee met with Centerview and Freshfields. Centerview discussed how the June 2 Proposal's price "compared to the preliminary financial analysis that Centerview had previously presented to the

[111] PowerSchool_00002256 at -2257.

Special Committee," and noted that it was "in the process of finalizing an updated version" of that analysis. Consequently, the Special Committee determined to allow unidentified representatives of PowerSchool to "respond positively to Bain" while deferring its final evaluation of the June 2 Proposal. Additionally, the Special Committee determined to approve Bain's exclusivity request, despite [redacted] still engaging in diligence, upon confirmation from Bain that the June 2 Proposal was indeed its best and final.

208. Centerview reported that Goldman Sachs believed that $22.80 was Bain's best offer. It also reported that the Controllers had agreed to waive payments under the TRA, but would not condition the Squeeze Out on MotM Approval.[112]

209. Overnight on June 2, 2024 into June 3, 2024, Kirkland sent a letter on behalf of the Board to Ropes expressing the Board's support for the June 2 Proposal (the "June 3 Company Letter").[113] The June 3 Company Letter also indicated that the Company was willing to enter into a 48-hour exclusivity period with Bain so long as Bain accepted certain terms outlined in the June 3 Company Letter, including, among other things, the treatment of certain Company equity awards. Concurrently with the delivery of the June 3 Company Letter, Kirkland delivered to Ropes a letter on behalf of the Controllers (the "June 3 Controllers' Letter"). The

[112] PowerSchool_00002256-57.

[113] PowerSchool_00005262.

June 3 Controllers' Letter set forth the Controllers' "positions with respect to the remaining open items in the Governance Term Sheet."

210. In the June 3 Controllers' Letter, the Controllers demanded that Bain agree to, among other things, a "Forced Sale Right" permitting the Controllers to force a sale of the post-Squeeze Out Company after seven years if it would yield at least a 2.0 times cash-on-cash return.[114] They also demanded a "Forced IPO Right" giving them the right to force an IPO after six years if it would result in at least a 2.0 times cash-on-cash return or after seven years if it would result in at least a 1.5 times cash-on-cash return.[115] It is reasonably conceivable that these six- and seven-year time periods align with the investment horizons of the Vista and Onex funds that would hold their respective interest in the post-Squeeze Out company. And given that these price targets were multiples of the Squeeze-Out price, a lower Squeeze-Out price benefits the Controllers by increasing the likelihood that the targets are achieved, thereby allowing them to force an IPO to sell their remaining 49% investment in PowerSchool before reaching their funds' investment horizons.

211. On June 3, 2024, the Special Committee met and Centerview conjectured that Bain may have lowered its offer price to $22.80 per share—from its April 22 Proposal of $24.50 per share—because analysts had lowered their

[114] PowerSchool_00005252.

[115] *Id.*

PowerSchool price targets after the Company's May 7 Earnings Announcement and that peer companies had been facing contraction in their trading multiples.[116] However, the $22.80 price still fell below eight out of the eleven analyst price targets that Centerview would present to the Special Committee two days later, all of which were set after the Company's May 7 Earnings Announcement. The median price target of those eleven analysts was $25.00 per share.[117]

– Draft for Discussion Purposes –

Research Analyst Price Targets

Broker	Price Target	Prem. to Unaff. SP	Valuation Methodology	As of 5/7/24 Pre Earnings Price Targets
BANK OF AMERICA	$31.00	86.3%	23.5x EV / CY25E EBITDA	$30.00
Jefferies	$30.00	80.3%	22.0x EV / FY25E EBITDA supported by DCF	$30.00
MACQUARIE	$27.00	62.3%	DCF (11.7% WACC, 3.5% TGR)	$27.00
Goldman Sachs	$26.00	56.3%	24.0x EV / FCF on Q5 - Q8 estimates Lowered from 27x based on lower peer multiples	$30.00
Needham	$26.00	56.3%	7.5x EV / FY24E Revenue	$26.00
Cantor Fitzgerald	$25.00	50.2%	EV / CY24E EBITDA	$30.00
PIPER | SANDLER	$24.00	44.2%	6.5x EV / CY25E Revenue Downward revision given peer group multiple compression	$29.00
BARCLAYS	$23.00	38.2%	18.0x EV / CY25E EBITDA Reduced multiple from 21x CY25E EBITDA	$28.00
RBC Capital Markets	$22.00	32.2%	7.0x EV / CY24E Revenue Lowered from 8x based on peer group multiple contraction	$27.00
RAYMOND JAMES®	$22.00	32.2%	18x EV / '25E EBITDA and 27x EV / '25E FCF	$26.00
UBS	$20.00	20.2%	21.6x EV/ CY25E FCF Multiple based on regression of peers	$25.00
Median	**$25.00**	**50.2%**		

Buy Hold

CENTERVIEW PARTNERS 7

Source: Wall Street research, Bloomberg and FactSet.

CONFIDENTIAL PowerSchool_00002272

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[116] PowerSchool_00002260.

[117] PowerSchool_00002272.

212. On June 3, 2024, in response to the June 3 Company Letter and June 3 Controllers' Letter, Bain submitted a list of issues that remained outstanding with respect to the Merger Agreement. Notably, Bain accepted the Controllers' demand for a "Forced IPO Right."[118] Bain rejected the Controllers' demand for a "Forced Sale Right," but accepted their request to allow the Controllers a 12-month period to transfer their PowerSchool holdings to other investment vehicles, *i.e.*, newer funds, managed by the Controllers.[119]

213. On June 5, 2024, Centerview provided to the Special Committee a revised valuation analyses for the Company which continued to show that Bain's offer price of $22.80 per share was at the lower end of the Company's valuation.[120]

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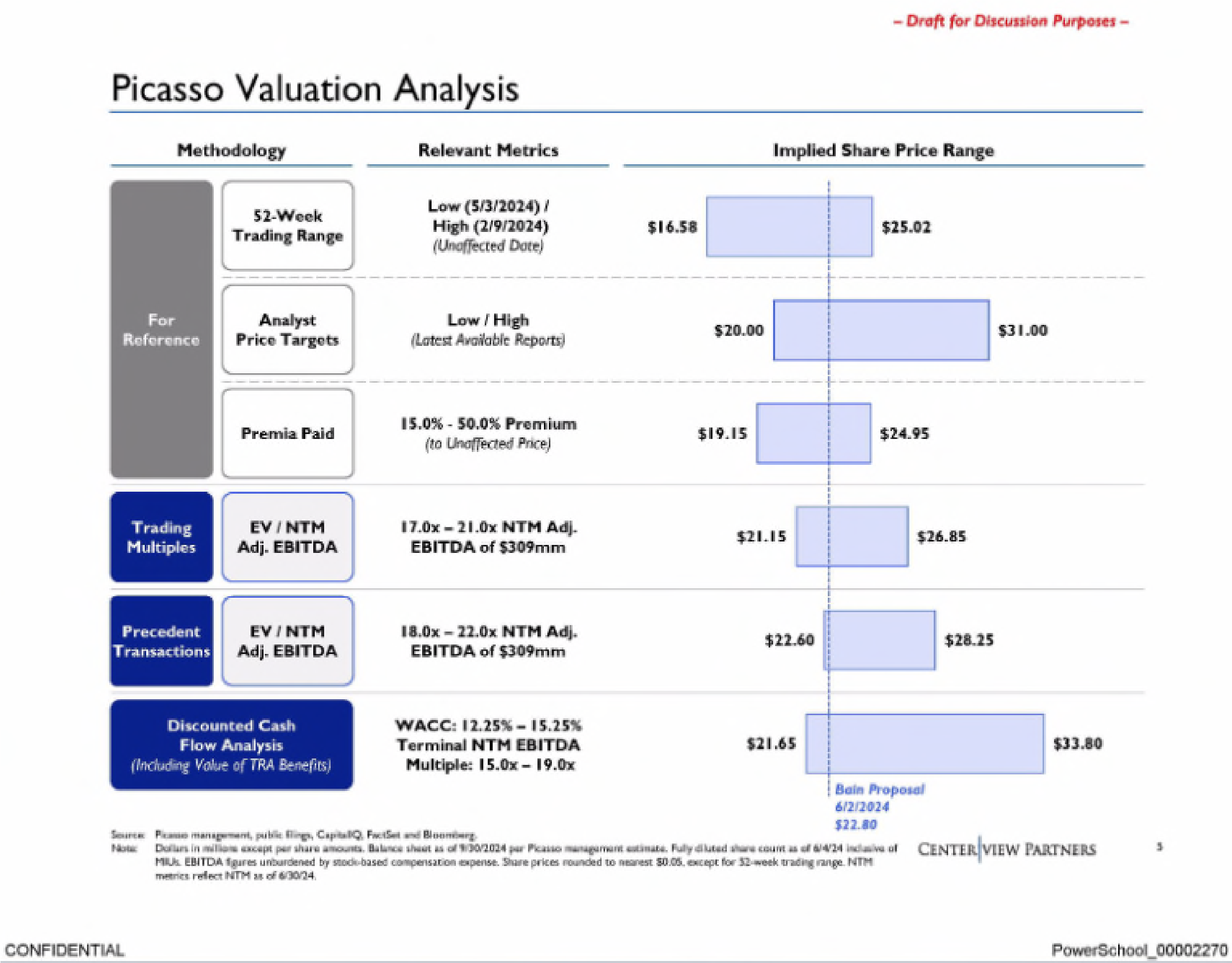
[118] PowerSchool_00012402.

[119] PowerSchool_00012400.

[120] PowerSchool_00002270.



214. As seen above, the trading multiples, precedent transactions, and discounted cash flow analyses all indicate that $22.80 undervalues the Company.

215. Also during this meeting, Freshfields again warned the Special Committee that the "Potential Transaction would be subject to the entire fairness standard of review (potentially with burden shifting) since it contemplated Vista and Onex each 'rolling' their equity in the Company[.]"[121]

[121] PowerSchool_00002261-62.

216. On June 6, 2024, the Board met, with representatives of the Controllers in attendance, to review the Merger Agreement and corresponding transaction documents.[122] At that meeting, Goldman Sachs reviewed with the Board an "updated relationship disclosure letter," and Kirkland orally reiterated its prior oral disclosures. Then, Goldman Sachs reviewed its financial analysis of the merger consideration. "During a break in the Board meeting," the Board's audit committee (the "Audit Committee") reviewed an amendment to the TRA (the "TRA Amendment") and observed that it provided for a full waiver by the beneficiaries of the payments owed pursuant to the TRA in connection with a change of control transaction, which totaled approximately ***$450 million***. This amount was $50 million lower than the $500 million demanded from the prospective bidders because of the depressed Squeeze Out price. The Audit Committee then approved the TRA Amendment.[123]

217. The same day, Freshfields once again advised the Special Committee that "the Transaction would likely be subject to the 'entire fairness' standard of review under Delaware law, given the intention of Vista and Onex, who together control the Company, to 'roll' their equity interests in the Company in connection

[122] PowerSchool_00002012.

[123] PowerSchool_00002013.

with the Transaction, and that the 'entire fairness' inquiry is one with respect to fair price and fair process."[124]

218. Freshfields again raised that that the Squeeze Out potentially could instead have been subject to the deferential "business judgment rule" standard of review if it were conditioned up front upon the approval of "(i) a fully empowered and independent special committee and (ii) a vote of the majority of the minority stockholders of the Company" and further "discussed with the Committee that[] the Transaction was not conditioned on a [MotM] [v]ote (*i.e.*, so only one of the two MFW 'prongs' would be utilized)[.]"[125,126]

219. In addition to the rollover, the Controllers received non-ratable benefits in the form of contractual rights with respect to the post-Squeeze Out Company. For example, the Controllers secured the right to force an initial public offering of the Company if the price satisfies certain thresholds based on the Squeeze Out price:

- Six years after the Squeeze Out if the price to the public in an IPO "is reasonably expected to be (and ultimately is) at least 2x the price at which the [Controllers] received [their] Rollover Securities"; and

[124] PowerSchool_00002287.

[125] The Special Committee prong also was not adequately utilized in the Squeeze Out.

[126] PowerSchool_00002287.

- Seven years after the Squeeze Out if the price to the public in an IPO "is reasonably expected to be (and ultimately is) at least 1.5x the price at which the [Controllers] received [their] Rollover Securities.[127]

220. The Controllers would not have demanded from Bain such IPO rights if they did not believe that their investment would grow ***at least*** one and a half to two times in value within the next six to seven years.

221. The Controllers also secured the right to prevent a sale of the Company or IPO within two or three years of the Squeeze Out if the price does not satisfy certain thresholds based on the Squeeze Out price, including:

- Approval rights over a sale of the Company prior to two years after the Squeeze Out if the price is less than 3 times the Squeeze Out price or prior to four years if the price is less than 2 times the Squeeze Out price to the Controllers; and
- Approval rights over any IPO prior to two years after the Squeeze Out if the implied IPO price is less than the Squeeze Out price.

222. In addition, the Controllers obtained other governance and equity protection rights including, for example:

[127] PowerSchool_00003916.

- The right to designate one of the four managers to sit on the post-Squeeze-Out Company's board of managers;
- Preemptive rights in the event that the post-Squeeze Out Company issues any new equity or debt securities;
- Tag-along rights to sell PowerSchool stock at the same price and on the same terms as arranged by Bain;
- Approval rights for governance issues such as certain amendments to governing documents, certain acquisitions and divestitures, debt over a certain EBITDA threshold, changes to the annual budget, hiring and firing the CEO, and changes to the size of the board;
- Information rights regarding access to certain non-public Company information; and
- The right to enter into a tax receivable agreement upon a future IPO.[128]

223. In addition, by rolling over instead of selling a majority of their interest in the Company, the Controllers realized significant tax savings of approximately $275 million, calculated based on publicly available information.

[128] PowerSchool_00003902.

224. During the June 6, 2024 meeting, Centerview provided its "Fairness Opinion" regarding the Squeeze Out and stated that its valuation analysis had not changed from the previous meeting.[129] Centerview provided decks with identical information to the valuation analysis from June 5, 2024 shown above.[130] As such, the price of $22.80 per share still fell in the lower range of Centerview's valuations.

225. The Special Committee determined to recommend that the Board approve the TRA Amendment (which provided for termination of the agreement upon the effectiveness of the Squeeze Out) and approve and adopt the Merger Agreement.

226. As required by its mandate, the Special Committee did not find that the Squeeze Out was in the best interests of minority stockholders. Instead, the Special Committee resolution approving the Squeeze Out "determines that it is fair to, and in the best interests of, ***the Company and its stockholders***."[131] The Special Committee did not even attempt to articulate how it weighted the interests of the Controllers verses the minority stockholders in reaching this determination.

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[129] PowerSchool_00002288-89.

[130] PowerSchool_00002306; PowerSchool_00002308.

[131] PowerSchool_00002324.

227. After the Special Committee meeting concluded, the Board meeting resumed and the Board approved the Squeeze Out.[132] The Board approved both the TRA Amendment and the Merger Agreement.[133]

228. Later that day, Vista and Onex, as controlling stockholders, approved the transaction through written consent, which represented approximately 70% of the Company's aggregate voting power.[134] This approval rendered a stockholder vote unnecessary and allowed the transaction to proceed without further approval from minority stockholders. The Controllers' acceptance of the unfair $22.80 per share deal price indicates that the Controllers believe that the combination of immediate liquidity, tax savings, a rollover of equity into the post-close company, the IPO rights and other governance rights, and the approximately $4 million plus annual payment provided by the Retainer Agreement (discussed below) were more valuable than their waiver of the TRA change of control payment and difference between the Squeeze Out price and fair value of the Company.

229. The Squeeze Out was completed on October 1, 2024.

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[132] PowerSchool_00002013-14; Resolutions: PowerSchool_00002016; Resolutions of Audit Committee: PowerSchool_00002027.

[133] PowerSchool_00002030.

[134] PowerSchool_00005067 at -5068.

230. Upon the closing of the Squeeze Out on October 1, 2024, Vista and Onex entered into an agreement with Bain and the post-Squeeze Out company to provide various advisory and operational services (the "Retainer Agreement" or "Retainer"), securing additional non-ratable compensation.[135] Under the Retainer Agreement, Vista and Onex are paid a roughly [redacted] annual fee for their availability to provide the post-Squeeze Out company with business consulting, financial analysis, governance support, and transaction-related advisory services, among other services. This annual fee is payable regardless of whether their services are requested or provided, and Vista and Onex retain full discretion over the time and effort they devote when performing these services. Vista and Onex are also entitled to reimbursement for out-of-pocket expenses incurred in providing these services.

231. In addition, pursuant to the Retainer Agreement, Vista and Onex profit from every major transaction involving the post-Squeeze Out company. For example, if the post-close company completes an IPO, Vista and Onex are entitled to a lump-sum payment equal to [redacted] the then-applicable retainer fee—meaning that at the initial approximately [redacted] rate, Vista and Onex would receive roughly [redacted] upon an IPO. For each acquisition, sale, or debt financing

[135] PowerSchool_00015257.

involving the post-Squeeze Out company, Vista and Onex receive a [redacted] fee on the gross transaction value, payable at closing. Further, if the post-close company acquires more than [redacted]

232. The Retainer also provides broad indemnification protections, shielding Vista, Onex, and their affiliates from virtually all liabilities, including legal claims, judgments, settlements, financial penalties, and damages arising from the Squeeze Out and the services provided under the Retainer. And the Retainer Agreement remains in effect indefinitely unless terminated by Bain, the Controllers or Bain's equity ownership falls below certain thresholds, or there is an IPO or change of control transaction.

THE TRANSACTION'S PROCESS AND PRICE WERE UNFAIR FOR THE MINORITY STOCKHOLDERS

A. The Process Was Not Entirely Fair

233. As described in detail above and summarized below, the process leading to the Squeeze Out was conflicted, deficient, and unfair.

234. *First*, the process was overseen by PowerSchool's Board which was dominated by dual fiduciaries employed by both Vista and Onex. Notably, the Board's Co-Chairs, Goldberg and Saroya—fiduciaries of Onex and Vista, respectively—engaged directly with Bain and led the negotiations, including with

other potential bidders. Goldberg played a central role from the outset, attending the February 28, 2024, Zoom meeting, where Bain presented its first offer, which he had solicited. Goldberg continued negotiating with Bain and others throughout the sale process, either independently or alongside Saroya.

235. Saroya was also involved early on, directing Goldman Sachs on how to engage with Bain after Bain's second bid on March 13, 2024, and negotiating with Bain and others independently, or alongside Goldberg, throughout the sale process.

236. The Board also heavily relied on PowerSchool's CEO, Gulati, to lead discussions with Bain. As PowerSchool's CEO, he lacked independence from the Controller Defendants and had a personal stake in the Squeeze Out, given his continued employment as CEO of the post-Squeeze Out company. Gulati also got out ahead of the Special Committee and began negotiating his post-transaction compensation prior to the Special Committee approving exclusivity with Bain.

237. *Second*, the Board's mandate was insufficient and hamstrung the Special Committee's ability to negotiate for the benefit of minority stockholders. Specifically, the Special Committee was required to "determine whether the Potential Transaction [*i.e.*, the Squeeze Out] is advisable and fair to and in the best interests of ***the company and its stockholders*** [*i.e.*, including the Controllers]," rather than assessing its fairness to minority stockholders. And the Board empowered the Special Committee only to "review and provide input with respect

to the price, structure, form, terms and conditions of the Potential Transaction . . . and the form, terms and conditions of any definitive agreements in connection therewith[,]"[136] It was not authorized to negotiate with Bain on behalf of the Company or its minority stockholders.

238. *Third*, the conflicted Board retained conflicted advisors. The Board interviewed only one potential financial advisor, Goldman Sachs, which it formally engaged on March 6, 2023. Nearly three weeks later, Goldman Sachs disclosed its conflicts, revealing that it had recently received $150 million in aggregate compensation for advisory services to Bain and approximately $100 million and $7.5 million for advising Vista and Onex, respectively. Additionally, two members of Goldman Sachs' deal team had previously worked on advisory teams for Bain, Vista, and/or Onex.

239. Goldman Sachs led negotiations with potential bidders even after the actual Special Committee was formed. The counterparties Goldman Sachs engaged were selected from a list developed with input from Vista and Onex. Moreover, Goldman Sachs enabled a process where Bain was able to decrease the deal price twice, once from a range of $25.50 to $27.50 down to $24 and then again down to $22.17. Yet, in response, Goldman Sachs pushed for just a modest bump to $22.80

[136] PowerSchool_00001996.

in the face of last-minute competitive pressure from [redacted] Goldman Sachs's laissez faire attitude is unsurprising considering that its entire $55 million fee was contingent on the Squeeze Out closing.

240. Further, the Board's external legal advisor, Kirkland, has extensive financial and professional ties to Vista and Bain, having provided legal services worth hundreds of millions and advised on major transactions. The firm also played a role in shielding Vista's chairman from prosecution, while former Kirkland attorney David Breach now holds the position of Vista's President and Chief Operating Officer. Additionally, Kirkland partners invest heavily in Bain and Vista through pooled funds.

241. *Fourth*, the Board and Goldman Sachs structured the sale process to allow Bain significant advantages. The Controllers engineered for Bain to receive significant timing and informational advantages. By early March, when Goldman Sachs first reached out to potential bidders, Bain had already submitted two proposals and begun due diligence. And, the Controllers allowed Bain, and only Bain, a rollover financing option not available to other potential bidders. Goldman Sachs provided Process Letters to the other potential bidders prohibiting them from proposing a rollover of the Controller's investment in the Company. Bain, on the other hand, did not receive a Process Letter and submitted a bid contingent on a significant rollover of the Controller's PowerSchool investment.

242. *Fifth*, the Special Committee was formed too late. The conflicted Board did not undertake to create a special committee until April 24, 2024—nearly a month after Bain first indicated on March 26, that it might request a rollover from Vista and Onex.

243. *Sixth*, the Special Committee was conflicted. McIntosh initially served on the three-member Special Committee but resigned on April 28, 2024, after disclosing a financial interest in the TRA. McCray had multiple conflicts, including personal, social, and professional ties to Vista founder Robert Smith, co-investments with Smith and Bain, and a [redacted] investment in a Vista fund. Byrne's independence was similarly compromised due to ties to Goldberg, her husband's connections to Vista, and a longstanding professional relationship with a Centerview deal team member.

244. *Seventh*, the Special Committee's advisors were conflicted. Centerview had multiple conflicts with Bain, Vista, and Onex, including [redacted] Moreover, Byrne, a member of the Special Committee, also had a "longstanding professional relationship" with a senior member of Centerview's deal team. Despite these conflicts, most of which were not disclosed in the Information

Statement, the Special Committee does not appear to have considered any other financial advisor.

245. *Eighth*, the Special Committee failed to negotiate on behalf of minority stockholders and instead sought to appease Bain and the Controller Defendants. Despite its already limited mandate to "review and evaluate" the Rollover and provide input on its price, structure, and terms,[137] the Special Committee shockingly declared at its May 6, 2024, meeting that it "did not intend to insert itself into the rollover negotiations."[138] As a result, the Special Committee conducted no meaningful assessment of the Rollover and failed to secure any fairness analysis from Centerview—an essential step in ensuring minority stockholders were treated equitably.

246. The Special Committee also failed to effectively leverage the Controller's waiver of TRA payments to secure a better price for minority stockholders. As the Company itself explained, "[t]he forfeited payments under the Tax Receivable Agreement correspond in the aggregate to an estimated per share value *in excess of $2.00 per share that was available to be redirected to the Unaffiliated Stockholders* [*i.e.*, minority stockholders.]" Yet, the final Squeeze Out consideration of $22.80 per share was only $0.63 higher than Bain's April 24

[137] PowerSchool_00001996.

[138] PowerSchool_00002215.

Proposal of $22.17 per share, which did not include a TRA waiver—far short of the $2.33 per share that should have been redirected to minority stockholders. Countervailing market factors do not justify this shortfall. On the contrary, the Company's May 7 Earnings Announcement was well received by the market, reinforcing the case for a higher valuation.

247. Moreover, although the Special Committee initially sought to require a MotM vote, it abandoned this critical minority stockholder protection at the Controllers' insistence. Vista and Onex said that eliminating the MotM vote condition was "justified" because they "were willing to agree to such a substantial economic concession on the TRA[.]"[139] Yet, the Special Committee never even attempted to capture the full $2.00-plus per share value of the TRA for minority stockholders. These are not the actions of a well-functioning special committee of independent directors.

B. The Price Was Not Entirely Fair

248. The Squeeze Out consideration of $22.80 per share was unfair because it failed to reflect PowerSchool's true value.

249. As discussed, analysts' price targets showed that the $22.80 per share price was inadequate. Centerview's analysis confirmed that the price fell below eight

[139] PowerSchool_00002249.

of the eleven analyst targets reviewed, which were based on market data from May 7, 2024, the day of PowerSchool's strong May 7 Earnings Announcement,[140] and well-below the median analyst price target of $25.00 per share.

250. Additionally, Centerview's financial analysis indicated that Bain's $22.80 per share offer undervalued the Company. For example, the Squeeze Out price hugged the bottom of the DCF range of $21.65 to $33 per share and was barely within the precedent transaction range of $22.60 to $28.25.

251. The inadequacy of the Squeeze Out price is reinforced by PowerSchool's May 7 earnings report, which highlighted 16% year-over-year total revenue growth (meeting outlook) and 24% year-over-year adjusted EBITDA growth (exceeding outlook), financial results that CEO Gulati characterized as a "strong first quarter." If not for the mysterious leak to the *Wall Street Journal* just before the Company announced earnings, the deal premium to the Company's stock price would have been more in line with the Company's 90-day volume-weighted average price ("VWAP") premium of 14% and six-month VWAP premium of 7%.

252. Further, through the Rollover, the Controllers received superior and preferential benefits that were not shared with minority stockholders. For example, these benefits include: (i) the ability to participate in the Company's post-Squeeze

[140] PowerSchool_00002272.

Out growth and upside, (ii) the right to force an IPO of the post-Squeeze Out entity if the price hits certain targets and prevent an IPO if the price fails to hit certain targets, (iii) numerous governance rights, and (iv) deferral of approximately $275 in taxes.

253. Based on these facts, it is reasonable to infer that the $22.80 per share Squeeze Out price was not entirely fair to the Company's minority stockholders.

CLASS ACTION ALLEGATIONS

254. Plaintiffs bring this action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other former holders of PowerSchool Class A common stock (other than Defendants) who were injured by Defendants' wrongful actions alleged in this Complaint (the "Class").

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

256. The Class is so numerous that joinder of all members is impracticable. There were approximately 166,088,147 shares of PowerSchool Class A common stock issued and outstanding at the time of the Squeeze Out. Public stockholders unaffiliated with Defendants held tens of millions of these shares. Accordingly, the Class is believed to include thousands of geographically dispersed stockholders.

257. There are questions of law and fact common to the Class, including:

i. Whether the Controller Defendants breached their fiduciary duties to the Class in connection with the Squeeze Out;

ii. Whether the Director Defendants breached their fiduciary duties to the Class in connection with the Squeeze Out;

iii. Whether Plaintiffs and the Class were injured by the wrongful conduct alleged herein; and

iv. The proper measure of damages or other appropriate relief owed to Plaintiffs and the Class.

258. Plaintiffs are committed to prosecuting the action and have retained competent counsel experienced in litigation of this nature. Plaintiffs' claims are typical of the claims of the other members of the Class, and Plaintiffs have the same interests as the other members of the Class.

259. The prosecution of separate actions by individual members of the Class would, moreover, create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants or adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of the interests of the other members not party to the adjudications or substantially impair their ability to protect their interests in connection with the subject matter of this action.

COUNT I

Breach Of Fiduciary Duty Against The Controller Defendants

260. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

261. As detailed above, at all relevant times, Vista and Onex had the ability to, and did in fact, exercise control over PowerSchool.

262. As the Company's controlling stockholders, Vista and Onex owed PowerSchool and its stockholders the highest duties of loyalty, care, and candor.

263. Vista and Onex breached their duties by disloyally prioritizing their own interests above the interests of the Class and causing PowerSchool to enter the Squeeze Out on terms that were not entirely fair to Plaintiffs and the Class.

264. Vista and Onex also breached their fiduciary duties to the PowerSchool public stockholders by causing the Company to disseminate a materially misleading and deficient Information Statement.

265. As a result of these breaches of fiduciary duty, Plaintiffs and the Class suffered harm.

266. Plaintiffs and the Class have no adequate remedy at law.

COUNT II

Breach Of Fiduciary Duty Against The Director Defendants

267. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

268. The Director Defendants, as directors of PowerSchool, owed the Class the highest duties of loyalty, care, and candor.

269. The Director Defendants breached their duties to the Class, as described herein, by *inter alia*: (i) allowing the sale process to be controlled by a Board dominated by dual fiduciaries employed by both Vista and Onex; (ii) establishing a conflicted Special Committee without granting it proper authority; (iii) delaying the formation of the Special Committee; (iv) retaining advisors with conflicts of interest to counsel both the Board and the Special Committee; (v) structuring the sale process in a manner that gave Bain significant timing and informational advantages; (vi) enabling the Special Committee to neglect its fundamental duty to effectively negotiate on behalf of minority stockholders; and (vii) causing the Company to disseminate a materially misleading and deficient Information Statement. By doing so, the Director Defendants prioritized the interests of Vista, Onex, and Bain over those of Plaintiffs and the Class, ultimately causing PowerSchool to enter into the Squeeze Out on terms that were not entirely fair to Plaintiffs and the Class.As a result of these breaches of fiduciary duty, Plaintiffs and the Class suffered harm.

270. Plaintiffs and the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the Class, request judgment as follows:

A. Declaring that this action is properly maintainable as a class action and certifying Plaintiffs as the Class's representatives and Plaintiffs' counsel as the Class's counsel;

B. Declaring the Controller Defendants were the Company's controlling stockholders;

C. Declaring that the Controller Defendants and the Director Defendants breached their fiduciary duties to the Class;

D. Awarding monetary damages to Plaintiffs and the Class, including pre- and post-judgment interest;

E. Ordering disgorgement of the Defendants' profits (plus pre-judgment and post-judgment interest);

F. Awarding Plaintiffs the costs and disbursements of this action, including attorneys' and experts' fees and expenses; and

G. Granting Plaintiffs and the Class further relief as the Court deems just and equitable.

Dated: March 20, 2025

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