



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TOMAS ENRIQUE GOMEZ

Plaintiff,

v.

RAAC MANAGEMENT LLC,
ACCELERATION CAPITAL
MANAGEMENT LLC,
REVOLUTION SPECIAL
OPPORTUNITIES LLC, JOHN J.
DELANEY, STEPHEN M. CASE,
STEVEN A. MUSELES, PHYLLIS R.
CALDWELL, JASON M. FISH, and
THOMAS WAGNER,

Defendants.

C.A. No. 2024-0744-PAF

Redacted Public Version

Filed: July 22, 2024

VERIFIED CLASS ACTION COMPLAINT

Plaintiff Tomas Enrique Gomez (“Plaintiff”), on behalf of himself and similarly situated current and former stockholders of Revolution Acceleration Acquisition Corp. (“RAAC” or the “Company”), now renamed Berkshire Grey, Inc. (“New Berkshire Grey”), by and through his undersigned Counsel, brings this Verified Class Action Complaint asserting: (i) breach of fiduciary duty claims arising from the Company’s Merger (the “Merger”) with private company Berkshire Grey, Inc. (“Legacy Berkshire Grey”) against (a) John J. Delaney (“Delaney”), Stephen M. Case (“Case”), Steven A. Museles (“Museles”), Phyllis R. Caldwell (“Caldwell”), and Jason M. Fish (“Fish”) (collectively, the “Director

Defendants”), in their capacities as members of RAAC’s board of directors (the “Board”); (b) RAAC’s Chief Executive Officer (“CEO”) Delaney (the “Officer Defendant”) in his capacity as RAAC’s Officer; and (c) RAAC Management LLC (“Sponsor”), Acceleration Capital Management LLC (“ACM”), Revolution Special Opportunities LLC (“RSO”), Delaney, and Case, (collectively, the “Controller Defendants,” and together with the Director Defendants and the Officer Defendant, the “RAAC Defendants”), in their capacities as RAAC’s controllers; (ii) unjust enrichment claims against all RAAC Defendants; and (iii) aiding and abetting of breaches of fiduciary duty against Legacy Berkshire Grey’s CEO and board member Thomas Wagner (“Wagner”). Defendants’ actions described herein impaired stockholders’ ability to exercise their redemption rights on a fully informed basis.

The allegations are based on Plaintiff’s knowledge as to himself, and as to other matters, on information and belief, including Counsel’s investigation, which included a review of non-public documents produced in response to a demand for books and records pursuant to 8 *Del C.* § 220 (“Section 220 Demand”), and a review of publicly available information.¹

¹

NATURE OF THE ACTION

1. RAAC, now named Berkshire Grey, Inc. (“New Berkshire Grey”), is a Delaware corporation that was formed as a special purpose acquisition company (“SPAC”) on September 10, 2020, by Sponsor, Delaney, and Case.

2. A SPAC, also known as a “blank check company,” is a publicly traded company without commercial operations. It is formed for the sole purpose of raising capital through its initial public offering (“IPO”). Following the IPO, the SPAC holds the proceeds in trust for the benefit of its public stockholders. It seeks out a business combination (typically a merger with a private company that will go public as a result of the business combination). Once it agrees to the business combination, the SPAC’s public stockholders are given a choice: they can either redeem all or a portion of their SPAC shares in exchange for a proportionate share of the IPO funds held in trust, or they can invest those funds in the post-combination company. Only after all public stockholders have been given a chance to redeem their shares in connection with a proposed business combination do the funds become corporate assets. If a SPAC does not close a business combination within the time specified in its charter, it is required to liquidate, in which circumstance each public stockholder receives a proportionate share of liquidating distributions from the trust.

3. RAAC's history continues the disturbing trend of SPAC transactions in which financial interests of sponsors and insiders override good corporate governance and the interests of public stockholders. RAAC failed to observe the most basic principle of Delaware corporate governance: that a corporation's fiduciaries should protect and promote the interests of public stockholders, not the financial interests of its insiders and controllers. Instead, Defendants granted themselves financial interests in the SPAC that diverged from those of public stockholders. They then allowed their financial interests to override their fiduciary duties and responsibilities as controlling stockholders, directors, and/or officers of a Delaware corporation by forcing through a value-destroying merger with Legacy Berkshire Grey, which was accomplished through the distribution of materially misleading disclosures.

4. Defendants had a powerful incentive to cause Berkshire Grey to enter into any business combination and avoid liquidation. Prior to the IPO, the Controller Defendants caused RAAC to issue 8,625,000 shares of RAAC Class B common stock ("Founder Shares") to the Sponsor for the nominal sum of \$25,000 (or \$0.0001 per share). In addition, concurrently with RAAC's IPO, the Sponsor purchased 5,166,167 warrants (the "Private Placement Warrants") in a private placement for \$7.75 million (or \$1.50 per warrant). With respect to the Founder Shares, the Sponsor and RAAC's directors and officer waived their redemption

rights to liquidating distributions from the trust if RAAC did not consummate a business combination (all stockholders of pre-IPO issued Founder Shares are collectively referred to herein as the “Initial Stockholders”). In addition, the Private Placement Warrants were not transferrable, assignable, exercisable, or salable until 30 days after the completion of a business combination.

5. On November 20, 2020, Sponsor exchanged 4,791,667 Founder Shares—which were cancelled by RAAC—for 5,750,000 Class C shares (“Alignment Shares”). The Alignment Shares would convert to Class A public shares if specified conditions were met, most notably if New Berkshire Grey shares rose in value to specified levels. On the same day, Sponsor then transferred 16,000 Founder Shares and 24,000 Alignment Shares to each of Museles, Caldwell, and Fish, RAAC’s supposedly “independent directors,” to align their interests with those of the Controller Defendants. The Sponsor also transferred 50,000 Founder Shares and 50,000 Alignment Shares to Andrew Wallace (“Wallace”), who purportedly advised the Sponsor in connection with the Merger.

6. The Founder and Alignment Shares (Class B and Class C shares, respectively) had the exclusive right to vote on the election of directors, and to

remove directors, of the Board. Class A common shares did not.² The Controller Defendants thus maintained control of the Board through and until the Merger.

7. RAAC's structure created an inherent conflict of interest between Defendants and the public stockholders. If RAAC succeeded in consummating any business combination, Defendants would hold shares and warrants in the combined company. But if RAAC failed to close a business combination within two years of its IPO and liquidated, Defendants' shares and warrants would be worthless, and the Sponsor would lose its entire investment. Thus, Defendants' interests in getting *any* deal done—even a value destructive transaction—to avoid liquidation gave them a perverse incentive to complete a merger regardless of whether it was in the best interests of the Company's public stockholders.

8. RAAC's negotiations with Legacy Berkshire Grey were infected by these substantial financial conflicts and dominated by Delaney and Case who evaluated potential target businesses without any Board oversight. The Board served as a rubberstamp, [REDACTED] and without conducting adequate diligence on Legacy Berkshire Grey. [REDACTED]

[REDACTED]

[REDACTED]

² These provisions of the Charter could only be amended if 90% of the outstanding shares voting at a stockholder meeting approved such a change.

9. Given the RAAC Defendants' extensive financial conflicts that were tied to closing any business combination, it is no surprise that [REDACTED] the Board approved the Merger. It is also no surprise that the RAAC Defendants disseminated a materially misleading Proxy Statement (the "Proxy") that omitted material information to induce the stockholder vote in favor of the Merger and to interfere with RAAC public stockholders from exercising their redemption rights.

10. *First*, the Proxy omitted material information concerning the value of public stockholders' investment in the Merger. Specifically, it withheld critical information from RAAC's public stockholders concerning the high degree of dilution of RAAC shares and dissipation of cash that would occur in connection with the Merger.

11. RAAC's sole asset was cash. Hence, the value of a RAAC share was the amount of net cash underlying the share. The Proxy failed to disclose to stockholders the net cash underlying their RAAC shares. Based on information one can find scattered across the Proxy and certain assumptions needed due to material information that was omitted, [REDACTED]

[REDACTED] Furthermore, with every redemption, the net cash per share available to contribute to the combined company would decrease.

12. The amount of net cash underlying the RAAC shares was material information because the value an RAAC stockholder could reasonably expect to receive from Legacy Berkshire Grey stockholders in exchange for their shares—and hence, the post-Merger value of the shares they would hold—could be expected to be roughly equal to the amount of net cash underlying the RAAC shares.

13. Despite their actual value of [REDACTED] Defendants explicitly, and falsely, represented to stockholders in the Proxy that the shares were worth \$10.00.

14. To get a fair deal under the share exchange provided for in the Merger, Legacy Berkshire Grey stockholders would have to inflate its own valuation commensurately with the inflation of RAAC's valuation, and it did just that. Because the RAAC share value was inflated, so too was the value of Legacy Berkshire Grey.

15. The Proxy also failed to disclose that an independent advisor, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In contrast, the

transaction value attributed to the Company in the Proxy—on a pre-transaction basis—was \$2.25 billion, or more than twice as much.

16. The RAAC Defendants likely knew about or should have obtained this valuation in their purported “extensive due diligence” of Legacy Berkshire Grey.

17. After the Merger closed, the truth was revealed about the value of the Merger, the extent to which Defendants’ conflicts infected the sale process, and the extent to which the Proxy overstated Legacy Berkshire Grey’s value and New Berkshire Grey’s prospects:

- On November 12, 2021—just months after the Merger closed—New Berkshire Grey reported a net loss of \$40.5 million for Q3 2021 (while the Proxy Projections projected a loss of \$91 million for the entire year).
- On March 29, 2022, New Berkshire Grey announced that it drastically missed its prior guidance for FY2021.³ New Berkshire’s actual revenue was only \$50.9 million for 2021, and its Adjusted EBITDA was negative \$111.8 million; significant misses compared with the Proxy Projections, which estimated 2021 revenue at \$59 million and EBITDA at negative \$91 million.⁴ At the same time, New Berkshire Grey announced that it would be necessary to lower its expected revenue guidance for FY 2022 from \$119 million to \$90 million.
- Despite two capital raises post-Merger, throughout 2022, New Berkshire Grey continued to burn through its cash reserves and witnessed a near decimation of its stock value.

³ New Berkshire, Form 8-K (Mar. 29, 2022).

⁴ *Id.* at Ex. 99.1; Proxy at 171.

- In January 2023, Nasdaq threatened to delist New Berkshire Grey because its stock price had failed to close above \$1.00 for thirty consecutive trading days.
- On March 24, 2023, New Berkshire announced that the Company had entered into a merger agreement with SoftBank Group Corp. (“SoftBank”), pursuant to which SoftBank would acquire all of the outstanding capital stock of New Berkshire for \$1.40 per share.⁵ The deal was valued at approximately \$375 million, compared with the over \$2.25 billion valuation assigned to the Merger less than two years before.

18. No directors, officers, or controlling stockholders faithfully fulfilling their fiduciary duties to stockholders would have entered into the Merger with Legacy Berkshire Grey, let alone recommended that the Merger was in the best interest of RAAC’s public stockholders. Defendants did. As the truth about New Berkshire Grey unfolded, New Berkshire Grey’s stock price plummeted, ultimately trading at \$1.40 on the day the Company was acquired by SoftBank, with RAAC’s public stockholders left holding the bag.

19. The conflicted fiduciaries of RAAC breached their duty of loyalty and candor by conducting a conflicted sale process, entering into an unfair Merger, impairing public stockholders’ redemption rights by recommending the Merger, providing materially false and misleading information in the Proxy, and omitting from the Proxy information that was highly material to public stockholders’ decision whether to redeem their shares or invest in the Merger. Wagner aided and

⁵ New Berkshire, Form 8-K at Ex. 99.1 (filed Feb. 10, 2023).

abetted this breach of duty. Defendants did this to promote their own self-interest in seeing the redemptions minimized and the Merger consummated, due to the fact that they would only receive their windfall from their Founder Shares, Alignment Shares, and Private Placement Warrants if a business combination closed.

20. Although an abysmal deal for RAAC public stockholders, who were not provided all material information in connection to their redemption rights, the Merger was a financial windfall for the Defendants. On the day the Merger closed, based on then-current trading prices, the 3,833,333 Founder Shares were worth approximately \$38.3 million.⁶ Following the one-year lockup, the Founder Shares were still worth approximately \$6.4 million.⁷ On its last trading day as a public company, July 19, 2023, with its stock trading at just \$1.40, the insiders' Founder Shares were worth \$5.3 million, meaning they could have capitalized on an over 21,000% return on that investment.

21. Due to the RAAC Defendants' conflicts of interests, the Merger is subject to entire fairness judicial review. Defendants cannot meet the exacting entire fairness test.

⁶ On July 22, 2021, the Company's stock closed at \$10.00 per share.

⁷ On July 22, 2022, the Company's stock closed at \$1.67 per share.

PARTIES

A. PLAINTIFF

22. Plaintiff Tomas Enrique Gomez was a RAAC/New Berkshire Grey stockholder until the Company's acquisition on July 20, 2023, by SoftBank Group Corp. (the "SoftBank Acquisition"). Plaintiff purchased shares of RAAC Class A common stock on March 25, 2021, and held those shares at all times relevant to this action.

B. DEFENDANTS

1. The RAAC Defendants

23. **Defendant RAAC Management LLC** (as defined above, the "Sponsor"), a Delaware limited liability company, was RAAC's Sponsor. The Sponsor was formed as a partnership between an entity controlled by John Delaney and Revolution Special Opportunities LLC. Prior to the consummation of RAAC's IPO, the Sponsor acquired all of the Founder Shares for \$25,000 and eventually exchanged 4,781,667 of its Founder Shares for 5,575,000 Alignment Shares. The Sponsor also purchased 5,166,667 Private Placement Warrants at a price of \$1.50 per warrant. Each Private Placement Warrant was exercisable to purchase one share of RAAC Class A common stock at a price of \$11.50.

24. Delaney and Case controlled the Sponsor at all relevant times. Delaney and Case were the managing members of the Sponsor through their control of Defendants ACM and RCM, respectively. They had voting and

investment discretion as to the RAAC securities held of record by the Sponsor, and thus exercised voting and dispositive power of the securities held by the Sponsor.

25. **Defendant Stephen M. Case** is Chairman and CEO of Revolution LLC. Case was a controller of RAAC and served as a director of RAAC from November 2020 until the Merger. Case has served as partner of six Revolution LLC-related investment firms and is a director of another Revolution LLC-related SPAC, Revolution Acceleration Acquisition Corp II. Case, along with Delaney, beneficially owned the 8,625,000 Founder Shares issued to Sponsor prior to the IPO. Case was managing member of ACM, which was a member of the Sponsor.

26. **Defendant John K. Delaney** was RAAC's CEO and Chairman from September 2020 until the Merger. Delaney was managing member of RSO, which was a member of the Sponsor, and Delaney controlled the Sponsor. Delaney remained a director of New Berkshire Grey until his resignation on July 20, 2023, upon the closing of the SoftBank Acquisition. Delaney, along with Case, beneficially owned the Sponsor's Founder Shares. Delaney was also a director of another Revolution LLC-related SPAC, Revolution Acceleration Acquisition Corp II.

27. **Defendant Stephen M. Museles** was an RAAC director, having been appointed to the Board by the Controller Defendants. The Controller Defendants gave Museles 16,000 Founder Shares and 24,000 Alignment Shares, aligning his

interests with the Controller Defendants and incentivizing Museles to approve any business combination.

28. **Defendant Phyllis R. Caldwell** was an RAAC director, having been appointed to the Board by the Controller Defendants. The Controller Defendants gave Caldwell 16,000 Founder Shares and 24,000 Alignment Shares, aligning her interests with the Controller Defendants and incentivizing Caldwell to approve any business combination.

29. **Defendant Jason M. Fish** was an RAAC director, having been appointed to the Board by the Controller Defendants. In 2000, Fish and Delaney co-founded CapitalSource, Inc., where Fish served as its President, Chief Investment Officer, and Vice Chairman of the Board until 2007. The Controller Defendants gave Fish 16,000 Founder Shares and 24,000 Alignment Shares, aligning his interests with the Controller Defendants and incentivizing Fish to approve any business combination.

30. **Defendant Acceleration Capital Management** (defined above, “ACM”) was a member of the Sponsor. Delaney controlled ACM as its managing member and was therefore a beneficial owner of the shares held by Sponsor. According to the Proxy, the members of the Sponsor “elect and remove its managers.”⁸

⁸ Proxy at 127.

31. **Defendant Revolution Special Opportunities LLC** (defined above, “RSO”) was a member of the Sponsor. Case controlled RSO as its managing member and was therefore a beneficial owner of the shares held by Sponsor. According to the Proxy, the members of the Sponsor “elect and remove its managers.”⁹

2. **The Legacy Berkshire Grey Defendant**

32. **Defendant Thomas Wagner** was the founder, and at all relevant times, a director and the CEO of Legacy Berkshire Grey. Upon the closing of the Merger, Wagner became the CEO of New Berkshire Grey and owned 4,690,153 shares of New Berkshire Grey. Wagner signed the Merger Agreement on behalf of Legacy Berkshire Grey.

C. **RELEVANT NON-PARTIES**

33. **Non-Party RAAC** is a Delaware corporation formed as a SPAC by the Controller Defendants. Following the “de-SPAC” merger of RAAC and Legacy Berkshire Grey on July 21, 2021, RAAC changed its name to Berkshire Grey, Inc. (previously defined as “New Berkshire Grey”). New Berkshire Grey was a publicly traded company, listed on the Nasdaq under the ticker “BGRY.” New Berkshire Grey was acquired by SoftBank Group Corp. in the SoftBank Acquisition in an all-cash transaction valued at approximately \$375 million.

⁹ *Id.* at 127.

34. **Non-Party Andrew Wallace** (defined above, “Wallace”) is Vice President at Revolution LLC, the investment firm for which RSO is one of a family of investment vehicles. According to Revolution LLC’s website, Wallace served an “investment officer” for RAAC. According to the Proxy, Wallace was an “advisor” to the Sponsor as to the Merger.

35. **Non-Party Legacy Berkshire Grey** was a private company founded in 2013 by Wagner operating as a “pure play robotics company offering software-enabled, full spectrum automation solutions[.]”¹⁰ One of Legacy Berkshire Grey’s biggest customers was SoftBank Robotics Corp., an affiliate of SoftBank, revenues from which comprised 30 percent of Legacy Berkshire Grey’s annual revenue.

36. **Non-Party J.P. Morgan Chase Bank, N.A.** (“J.P. Morgan”) served as RAAC’s financial advisor in connection with the Merger.

37. **Non-Party Credit Suisse Securities (USA) LLC** (“Credit Suisse”) served as the underwriter of RAAC’s IPO and as placement agent for the syndication process of the PIPE investment in connection with the Merger. On December 21, 2020, Legacy Berkshire Grey engaged Credit Suisse to serve as its financial advisor in connection with the Merger.

38. **Non-Party** [REDACTED] is a valuation and advisory firm focused on emerging growth, technology related companies. Legacy

¹⁰ Legacy RAAC, Form 8-K at Exhibit 99.2 (filed Feb. 24, 2021).

Berkshire Grey retained [REDACTED] to provide a fair market valuation of the Company's common stock as of [REDACTED] in conjunction with Section 409A of the Internal Revenue Code.

39. **Non-Party SoftBank Group Corp.** (defined above, as “SoftBank”) is a multinational investment holding company headquartered in Minato City, Tokyo, Japan, focusing on *inter alia*, investment management. One of Legacy Berkshire Grey's biggest customers was SoftBank Robotics Corp., an affiliate of SoftBank, revenues from which comprised 30 percent of Legacy Berkshire Grey's annual revenue. On July 20, 2023, SoftBank acquired all of the outstanding capital stock of New Berkshire for \$1.40 per share in the SoftBank Acquisition.¹¹ The deal was valued at approximately \$375 million, compared with the over \$2.25 billion valuation assigned to the Merger less than two years prior.

SUBSTANTIVE ALLEGATIONS

I. RAAC IS FORMED AND CONSUMMATES A \$250 MILLION IPO

40. On September 10, 2020, Delaney and Case formed RAAC as a SPAC, the purpose of which was to effect a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination.

41. In September 2020, Sponsor caused RAAC to sell to it 8,625,000 shares of RAAC's Class B common stock (as defined above, the “Founder

¹¹ New Berkshire, Form 8-K at Ex. 99.1 (filed Feb. 10, 2023).

Shares”) for \$25,000, amounting to approximately \$0.003 per share. Sponsor then exchanged 4,791,667 Founder Shares, which were cancelled by RAAC, for 5,750,000 Class C alignment shares (“Alignment Shares”). The Alignment Shares would be converted into public Class A shares if RAAC succeeded in consummating a merger, and if in the nine years following the merger, those shares traded above specified levels, or if the company consummated a change of control transaction in which the shareholders all had the right to exchange their shares.

42. On December 10, 2020, RAAC completed its IPO, selling 25,000 units (“Public Units”) to public investors for \$10.00 per Public Unit and raising \$287,500,000 in proceeds, including units sold when the underwriter exercised its over-allotment option. Each public unit consisted of one share of Class A common stock (“Public Share(s)”) and one-third of one warrant with each whole warrant (“Public Warrant(s)”) exercisable for the purchase of one share of Class A common stock at an exercise price of \$11.50 per share following an eventual business combination. In the event that RAAC would enter into a business combination (or seek an extension on the Charter’s deadline to merge), each public share was redeemable for \$10.00—the price of the Public Units paid in the IPO—plus interest. Even if public stockholders redeemed their Public Shares, they could retain their Public Warrants.

43. The funds raised in RAAC's IPO were placed and maintained in a trust account for the benefit of the public stockholders. These funds could be used only to pay stockholders that redeemed their shares, to return the public stockholders' investment if RAAC liquidated rather than completing a merger, or to contribute to a merger after all redemptions were paid, if RAAC were to find a merger partner and obtain stockholder approval.

44. RAAC was required under its Charter to enter into a business combination within 24 months—or liquidate and return the cash proceeds to RAAC's public stockholders.¹² If RAAC entered into a merger agreement, its public stockholders would be given a choice: they could redeem their shares at a price equal to approximately \$10.00 per share plus interest *or* they could invest in the merger.

45. Concurrently with the IPO, the Sponsor purchased 5,166,667 Private Placement Warrants in a private placement for approximately \$7.75 million (or \$1.50 per warrant). RAAC used the funds raised in the private placement to pay the Initial IPO underwriting fee and for working capital.

¹² RAAC could seek an extension of its liquidation deadline upon a stockholder vote in favor thereof, but would need to give public stockholders the right to redeem their Public Shares at that time.

46. Post IPO, and following the forfeiture and exchange of certain Founder Shares for Alignment Shares by the Sponsor, the Initial Stockholders collectively held 3,833,333 Founder Shares and 5,750,000 Alignment Shares.

II. THE CONTROLLER DEFENDANTS CONTROLLED RAAC AND INCENTIVIZED THE BOARD TO APPROVE NEARLY ANY BUSINESS COMBINATION

47. The Controller Defendants controlled RAAC. As discussed above, Delaney and Case are effectively the “Managing Members” of Sponsor through the control of ACM and RSO respectively, and had voting control over the securities held of record by Sponsor. As the Company disclosed in its IPO Prospectus, the Controller Defendants could “exert a substantial influence on actions requiring stockholder vote[.]”¹³

48. The Controller Defendants also consolidated day-to-day control to Delaney and Case. RAAC only had one officer: Delaney. Delaney acted as RAAC’s CEO.

49. Case and Delaney took steps to ensure that any “independent” director would also support any transaction they pursued. Through the control of the Sponsor, Case and Delaney were able to pack the Board with loyalists who they could count on and who would be incentivized to quickly approve a business combination, even one that would be value destructive. Only Founder Shares and

¹³ IPO Prospectus at 62.

Alignment Shares could elect, remove, or replace directors. With 97% of the Founder Shares and 98% of the Alignment Shares, the Sponsor controlled the Board.

50. The Controller Defendants appointed Museles, Caldwell, and Fish to the Board and caused Sponsor to transfer to each director 16,000 Founder Shares and 24,000 Alignment Shares to further incentivize them to push through a business combination.

51. The Founder Shares, Alignment Shares, and Private Placement Warrants differed in important respects from the Class A common shares. Pursuant to an agreement entered into before the IPO, the initial stockholders, including the Sponsor, waived their right to redeem their Founder Shares and Alignment Shares and also waived any right to any liquidating distribution from the trust account with respect to those shares should RAAC fail to complete a merger within the allotted time. The Private Warrants also had no liquidation or redemption rights and would expire as worthless if RAAC did not complete a merger.

52. Thus, the worst-case scenario for the RAAC Defendants was that no deal would occur. If RAAC was not able to close an initial business combination within the two-year window (i.e., on or before December 10, 2022) the Founder

Shares and Alignment Shares would expire worthless, as would the Sponsor's 5,166,667 Private Placement Warrants, and the Sponsor would lose its investment.

53. Accordingly, the entirety of RAAC's Board had starkly divergent interests from public stockholders of Class A common stock. Indeed, using New Berkshire Grey's closing price on its last trading day before the SoftBank Acquisition (\$1.40 per share), the Founder Shares would still yield over \$5.2 million in proceeds for the Controller Defendants (assuming they had not sold any shares) and over \$67 thousand for Museles, Caldwell, and Fish. When viewed in light of the \$0.003 per share cost basis for the Founder Shares "purchased" by Sponsor, the holders of the Founder Shares still received a 21,000% premium.

54. At base level, given this incentive structure, the RAAC Defendants were motivated to push through a deal, even a value destructive deal, to realize significant economic windfalls.

55. Finally, as detailed below, Case and Delaney dominated the process leading to the Merger, often taking material actions without even providing the Board a courtesy notice, further demonstrating the Controller Defendants' control over RAAC.

III. THE UNFAIR MERGER PROCESS

56. The Proxy touts that the Board reached its decision to enter into and approve the Merger based on RAAC's "extensive due diligence." This due

diligence was orchestrated almost entirely by Case and Delaney, individuals who had no experience in Legacy Berkshire Grey's industry. Yet they claim to have thoroughly vetted the company and negotiated a multi-billion-dollar deal over the course of *just seven weeks*. The Controller Defendants' due diligence of Legacy Berkshire Grey could not have been, and was not, adequate.

57. The deal process began on [REDACTED]

[REDACTED]

[REDACTED] Credit Suisse had just served as RAAC's underwriter in the Company's IPO, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

58. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

59.

[REDACTED]

60.

[REDACTED]

61.

[REDACTED]

62.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

63. It is not surprising that Legacy Berkshire Grey jumped at the deal; after all, [REDACTED] [REDACTED]. Delaney, for his part, was glad to get any deal done, given the incentives created by his beneficial ownership of millions of Founder and Alignment Shares. [REDACTED]

[REDACTED]

[REDACTED]

64. On February 23, 2021, Delaney (on behalf of RAAC) and Wagner (on behalf of Legacy Berkshire Grey) executed the Merger Agreement. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Board never sought a fairness opinion or independent valuation from any third-party. Instead, the Board told stockholders to rely on its own purported due

diligence and the collective experience of RAAC’s Officer and Directors, none of whom in fact had any experience in the robotics industry.

65. The Board also represented that, in addition to the judgment of the RAAC Defendants, they would also be relying on the advice of the “RAAC Advisors,” including as to valuation issues concerning Legacy Berkshire Grey. The term is defined as “certain natural persons who advise RAAC and its affiliates on the Business Combination.”¹⁵ The Proxy also states that the term includes “Ted Leonsis and Andrew Wallace,” but the Proxy does not state whether there were any other “RAAC Advisors.” This information would be material to stockholders because the Proxy explicitly states that stockholders must rely on the RAAC Advisors’ judgment, as well as the RAAC Defendants’ judgment, in determining the value of the Merger. The Proxy also fails to disclose that Ted Leonsis, is a founder (with Case) and partner of Revolution Group and that Wallace is its Vice President. Because the Sponsor is controlled by RSO—which is its investment vehicle belonging to the Revolution Group—individuals had an incentive to see the Merger completed.¹⁶

66. The Board knew or should have known that the Merger would be a losing proposition for RAAC public stockholders, but nevertheless approved and

¹⁵ Merger Agreement at viii.

¹⁶ As discussed further above, Wallace had added incentives in the form of 50,000 Founder Shares and 50,000 Alignment Shares.

recommended the Merger, because even a bad deal for public stockholders was highly lucrative for the RAAC Defendants.

IV. DEFENDANTS DISSEMINATE A MATERIALLY FALSE AND MISLEADING PROXY TO DETER REDEMPTION AND INDUCE STOCKHOLDER APPROVAL OF THE DEAL

67. Defendants had a strong motive to induce stockholders to approve the Merger and to minimize redemptions. Approval of the Merger required an affirmative vote of a majority of RAAC stockholders at the special meeting. If the Merger did not close—and if RAAC could not find another merger partner before the expiration of the 24-month window—Defendants’ Founder Shares, Alignment Shares, and Private Placement Warrants would expire worthless, and the Sponsor would lose its entire investment. Moreover, even if the Merger closed with more than the minimum amount of cash delivered, redemptions would reduce the value of the remaining shares and reduce the liquidity available to the post-Merger company. Defendants, therefore, had an incentive to deter redemptions.

68. To comply with their fiduciary duties, the RAAC Defendants were required to disclose all material information to public stockholders so they could make a fully informed decision on whether to redeem their shares or to invest in the post-Merger company. They did not do so.

69. On June 24, 2021, Defendants caused the Proxy to be filed with the SEC and disseminated to stockholders. Both the RAAC Defendants and Legacy

Berkshire Grey had legal and contractual obligations to ensure that the Proxy did not contain material omissions or misleading statements.

70. The Merger Agreement, which was executed by Wagner and Delaney, obligated RAAC and Legacy Berkshire Grey to jointly prepare and file the Proxy:

Acquiror and the Company shall jointly prepare and Acquiror shall file with the SEC, mutually acceptable materials which shall include the proxy statement to be filed with the SEC as part of the Registration Statement and sent to the Acquiror Stockholders . . . ¹⁷

71. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁸

72. The Merger Agreement also provided that both parties were required to ensure that the Proxy complied with SEC rules and to provide any information necessary for the Proxy:

Each of the Acquiror and the Company shall use its reasonable best efforts to cause the Proxy Statement/Registration Statement to comply with the rules and regulations promulgated by the SEC Each of the Acquiror and the Company agrees to furnish to the other party all information concerning itself, its Subsidiaries, officers, directors, managers, stockholders, and other stockholders and information regarding such other matters as may be reasonably necessary or

¹⁷ Proxy §8.2(a)(i).

¹⁸ [REDACTED]

advisable or as may be reasonably requested in connection with the Proxy Statement/Registration Statement¹⁹

73. Both RAAC and Legacy Berkshire Grey were obligated by the Merger Agreement to ensure that the Proxy did not contain any material omissions or misrepresentations:

Each of the Acquiror and the Company shall ensure that none of the information supplied by or on its behalf for inclusion or incorporation by reference in (A) the Registration Statement will, at the time the Registration Statement is filed with the SEC and at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading or (B) the Proxy Statement will, at the date at the date it is first mailed to the Acquiror Stateholders at the time of the Acquiror Stockholders' Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.²⁰

74. Both RAAC and Legacy Berkshire Grey were also required to notify the other party if they discovered nay untrue information, and cause an amendment to be made to the Proxy so that it not contain any material misstatements or omissions:

If at any time prior to the Effective Time any information relating to the Company, Acquiror or any of its Subsidiaries, Affiliates, director or officers is discovery by the Company or the Acquiror, which is required to be set forth in an amendment or supplement to the Proxy Statement or the Registration Statement, so that neither of such documents would include any misstatement of a material fat or omit

¹⁹ Proxy §8.2(a)(i).

²⁰ Proxy §8.2(a)(iii).

to state any material fact necessary to make the statements therein, with respect to the Proxy Statement, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other parties and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by Law, disseminated to the Acquiror Stockholders.

75. The Proxy incorporated by reference all previous and subsequent SEC filings related to the Merger. The Proxy informed stockholders of a special meeting to be held on July 20, 2021, at which time stockholders would vote whether to approve or disapprove of the Merger. The Proxy also informed the stockholders that the deadline for them to decide whether or not to redeem their shares was July 16, 2021, two business days before the special meeting. The Proxy was false and misleading and contained material omissions.

A. DEFENDANTS MADE MATERIAL MISSTATEMENTS AND OMISSIONS CONCERNING THE VALUE OF RAAC SHARES EXCHANGED IN THE MERGER AND THE VALUE OF LEGACY BERKSHIRE GREY

76. Defendants omitted material information from, and made materially false and misleading representations in, the Proxy regarding the value of RAAC shares that RAAC stockholders would, in effect, invest in the Merger. The value of those shares was directly related to the value RAAC stockholders could reasonably expect to receive from legacy Berkshire Grey stockholders in the Merger, and hence the value RAAC expect to hold in post-Merger shares. The

Proxy presented public stockholders with a choice: either redeem their shares for \$10.00 per share plus interest or invest in the Merger.

77. The Proxy did not disclose that the value of the shares public stockholders would, in effect, invest in the Merger would be substantially less than the redemption value of their shares. In fact, the Proxy repeatedly, and falsely, represented that the post-Merger New Berkshire Grey shares would be worth \$10.00.²¹ By failing to disclose full and accurate information, which was reasonably available to Defendants, Defendants deprived RAAC public stockholders of the ability to exercise their redemption rights in an informed manner.

78. RAAC's sole asset was cash, and the value of the RAAC shares was the net cash underlying those shares. RAAC's cash included stockholder funds held in the trust account, funds to be received at closing from the PIPE offering, and net cash outside of the trust. To determine net cash per share, costs would be subtracted from cash, and that value would be divided by the number of pre-merger shares:

²¹ See, e.g., Proxy at 2 (stating that the "shares of newly issued RAAC Class A Common Stock" were each "valued at \$10.00"); 7 (calculating total consideration as "\$2.25 billion or 225.0 million shares (\$10.00 per share price)"); Proxy at 189 (referring to the value of RAAC Class A Common Stock as "\$10.00 per share").

$$\text{Net Cash per Share} = \frac{\text{Cash} - \text{Costs}}{\text{Pre-Merger Shares}}$$

79. The costs to be subtracted from the cash component of the numerator include: (1) transaction costs, including deferred underwriter fees and other Merger-related fees to be paid by RAAC and Legacy Berkshire Grey; and (2) the value of the warrants. The denominator, pre-Merger shares, consists of: (1) public shares issued in the IPO; (2) the Founder Shares; (3) the Private Placement Shares; and (4) shares issued to PIPE investors. In addition, the Alignment Shares would have to be factored in. Those shares, which would have had value if New Berkshire Grey shares reached certain values within nine years following the Merger, are similar to warrants exercisable at those specified threshold levels, but with an exercise price of zero. They are dilutive of shareholder value.

80. After accounting for considerable dilution and dissipation of cash due only to RAAC's issuance of warrants, Founder Shares, and transaction costs—even before taking into account any redemptions—RAAC stockholders' investment in the Merger was significantly less than the redemption value. This is already substantially less than the redemption value of the shares. Factoring in the Alignment Shares reduces net cash per share even further.

81. The Proxy does not disclose the actual value of RAAC shares in the Merger. If a stockholder were to scour the Proxy for only the inputs to this

calculation, the raw data was either absent or presented in the most indirect form. Furthermore, the Proxy did not indicate to public stockholders that the net case underlying their shares was even relevant to their redemption decision. Instead, RAAC's public stockholders were left to rely on the Board's explicit representations that the shares were worth \$10.00 and that the Merger was in their best interests.

82. The failure to disclose to stockholders that the net cash per share to be invested in the Merger [REDACTED] was a material omission. Because RAAC had [REDACTED] to contribute to the Merger, RAAC's stockholders could not logically expect to receive [REDACTED] of value in exchange from Legacy Berkshire Grey stockholders. Thus, stockholders could not reasonably expect that their shares would be worth [REDACTED] following the Merger.

83. At best, the Board knowingly turned a blind eye to the dilution of RAAC's shares and the dissipation of its cash. The Board failed to consider how much better off the stockholders would be had they received \$10.00 per share (plus interest) in a liquidation or redemption, compared to allowing their funds to be invested in the Merger in which they would be investing [REDACTED]

84. Further, this omission exacerbated other disclosure issues as the Merger Agreement set the value of the Merger consideration at \$10.00 per share.

Because RAAC was not worth \$10.00 per share, and through the due diligence process (including because of the [REDACTED] Legacy Berkshire Grey would have known that RAAC was not worth \$10.00 per share, Legacy Berkshire Grey management had incentive to inflate the value of Legacy Berkshire Grey at least to match the inflated value of RAAC. Indeed, the Proxy represents that the “fair value” of “Berkshire Grey Common Stock” was \$10.00. To support the inflated value, Legacy Berkshire Grey would have to inflate its projections. Defendants knew all of this, and because they needed the Merger to close to realize their windfall, they had an incentive to accept the inflated valuation and inflated projections of Legacy Berkshire Grey. Thus, instead of fully and accurately disclosing information material and necessary for public stockholders to make an informed redemption decision, Defendants created and/or accepted and disclosed inflated projections for Legacy Berkshire Grey built on unrealistic sales and revenue projections and passed this information along to RAAC’s public stockholders in the Proxy.

B. DEFENDANTS PROVIDED MATERIALLY FALSE AND MISLEADING INFORMATION REGARDING LEGACY BERKSHIRE GREY’S VALUATION AND BUSINESS

85. While not disclosed in the Proxy, Legacy Berkshire Grey retained independent third-party [REDACTED] to determine a fair market value for Legacy Berkshire Grey’s common stock [REDACTED]

86. On January 11, 2021, [REDACTED] provided Legacy Berkshire Grey with the [REDACTED] In the report, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

87. [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

88. None of this was in the Proxy. Defendants did not disclose that Legacy Berkshire Grey had engaged an independent firm to value its shares [REDACTED]
[REDACTED], nor did they disclose what valuations [REDACTED] had performed. To the extent there was any information in the Proxy that was derived from the [REDACTED]

22 [REDACTED]
[REDACTED]

23 [REDACTED]
[REDACTED]

██████████, it was obfuscated, making it impossible for public stockholders to assess what an investment in the merger was likely to yield.

89. ██████████ valuations materially altered the total mix of information available that stockholders would consider in putting weight on the Board’s recommendation and approval of the Merger based upon the Board’s diligence efforts. The ██████████ valuations are material for a number of reasons including, but not limited to: (i) Legacy Berkshire Grey relied on the ██████████ valuations; and (ii) the RAAC Defendants did not obtain a fairness opinion or independent third-party valuations.

90. The RAAC Defendants’ supposed “extensive due diligence”²⁴ of Legacy Berkshire Grey should have uncovered the aforementioned ██████████ valuation. Indeed, the Merger Agreement guaranteed RAAC and its advisors and agents access to “all of their respective properties, books, Contracts, commitments Tax Returns, records and appropriate officers and employees of the Company and its Subsidiaries” It also provided that Legacy Berkshire Grey must turn over “all financial and operating data and other information concerning the affairs of the Company and its Subsidiaries as such representative may reasonably request.”²⁵

²⁴ Proxy at 13.

²⁵ Merger Agreement § 6.2.

Accordingly, RAAC Defendants had access to, and should have reviewed, these documents as part of their due diligence of Legacy Berkshire Grey.

91. Wagner—as Legacy Berkshire Grey’s founder, CEO, and a director of the company—likely was aware of the [REDACTED]. [REDACTED] was issued on [REDACTED], just as Legacy Berkshire Grey was beginning discussions with RAAC concerning a potential de-SPAC deal. [REDACTED]

[REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED].

92. Although Wagner almost certainly was aware of the [REDACTED], he failed to ensure that material information concerning the valuations contained in the report was disclosed in the Proxy. His failure to do so may well be explained by his incentives to see that the deal with RAAC closed. Following the consummation of the merger, Wagner would hold 4,690,153 Class A New Berkshire Grey shares, which would be worth \$46.9 million, according to the Proxy. He would also hold 5,168,276 stock options, which, according to the

Proxy, would be worth over \$45 million post-Merger.²⁶ He thus would have over \$90 million in equity in the new public company. These equity holdings amount to *more than forty times* his total annual compensation for 2020. And because the post-Merger entity would be a public company, Wagner could more easily liquidate these holdings than his previously illiquid investments in Legacy Berkshire Grey. Wagner was thus incentivized to see the Merger completed to ensure his own financial windfall.

V. THE TRUTH IS REVEALED TO STOCKHOLDERS POST-MERGER

93. New Berkshire Grey struggled to generate sufficient demand given its substantial cash burn rate. Despite two capital raises post-Merger, New Berkshire Grey continued to burn through its cash reserves. Its net losses increased dramatically, from just \$49.5 million in 2019 and \$57.6 million in 2020, to \$154.3 million in 2021, recovering slightly to a net loss of \$102.7 million in 2022. Its operating cash flow decreased from a negative \$28.8 million in 2019 to a negative \$55.9 million in 2020, ballooning to a negative \$114.1 million in 2021 and \$111 million in 2022. New Berkshire Grey's stock was decimated throughout 2021 and 2022:

²⁶ Defendants calculated the value of Wanger's stock options as the number of stock options multiplied by the difference between (i) "the \$10.00 fair value of Berkshire Grey Common Stock under the Merger Agreement" and (ii) the options' exercise price.



94. By May 2023, its revenue growth began to suffer too. As the Proxy boasts, Legacy Berkshire Grey’s revenue growth was 337% from 2019 to 2020. But it slowed dramatically to 46.3% from 2020 to 2021, and then even further to 29% from 2021 to 2022.

95. On January 13, 2023—just a year and a half after the Merger closed—New Berkshire Grey disclosed that it had received a notice from Nasdaq that its stock would be delisted because its price had traded below \$1.00 for 30 trading days in a row. As of the date of the Nasdaq’s notice, New Berkshire Grey’s Class A shares had not closed at or above \$1.00 since November 2022. Nasdaq advised that New Berkshire Grey had six months to regain compliance with Nasdaq rules, which would require the price of its stock to close above \$1.00 per share for ten consecutive trading days. New Berkshire Grey decided instead to sell itself, announcing the SoftBank Acquisition on March 24, 2023.

96. Faced with the prospect of imminent delisting and a desperate need to raise additional capital, on March 24, 2023, New Berkshire Grey announced that the company would merge with SoftBank in an all-cash deal. At the time, SoftBank's affiliate was one of Legacy Berkshire Grey's customers, accounting for approximately 30% of Legacy Berkshire Grey's revenue. Yet SoftBank agreed to pay just \$1.40 per share for Legacy Berkshire Grey. The deal was valued at \$28 million—or about 10% of the \$2.25 *billion* valuation assigned to the Merger fewer than two years before.

97. SoftBank completed its acquisition of New Berkshire Grey on July 20, 2023, at which time New Berkshire Grey's stock was delisted.

CLASS ACTION ALLEGATIONS

98. Plaintiff brings this action individually and as a class action pursuant to Rule 23 of the Rules of the Court of Chancery on behalf of himself and holders of RAAC Class A common stock (the "Class") who held such stock as of the redemption deadline and who elected not to redeem all or some of their stock (except to the Defendants herein, and any person, firm, trust, corporation, or other entity related to, or affiliated with, any of the Defendants) and their successors in interests.

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

100. A class action is superior to other available methods of fair and efficient adjudications of this controversy.

101. The Class is so numerous that joinder of all members is impracticable.

102. The number of Class members is believed to be in the thousands, and Class members are likely scattered across the United States. Moreover, damages suffered by the individual Class members may be small, making it overly expensive and burdensome for individual Class members to pursue redress on their own.

103. There are questions of law and fact which are common to all Class members and which predominate over any questions affecting only individuals, including without limitation:

- a. whether the RAAC Defendants owed fiduciary duties to Plaintiff and the Class;
- b. whether “entire fairness” is the applicable standard of review;
- c. which party or parties bear the burden of proof;
- d. whether the RAAC Defendants breached their fiduciary duties to Plaintiff and the Class;
- e. whether Wagner aided and abetted the aforementioned breaches of the RAAC Defendants’ fiduciary duties;
- f. whether the RAAC Defendants were unjustly enriched;

- g. the existence and extent of any injury to the Class or Plaintiff caused by any breach;
- h. the availability and propriety of equitable remedies; and
- i. the proper measure of the Class's damages.

104. Plaintiff's claims and defenses are typical of the claims and defenses of other Class Members and Plaintiff has no interests antagonistic or adverse to the interests of other Class members. Plaintiff will fairly and adequately protect the interests of the Class.

105. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature.

106. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike.

107. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants; or adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

* * *

COUNT I

Direct Claim for Breach of Fiduciary Duty Against the Director Defendants

108. Plaintiff repeats realleges each and every allegation above as if set forth in full herein.

109. As directors of RAAC, the Director Defendants owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty, which subsume an obligation to act in good faith, with candor, and to make accurate material disclosures to RAAC stockholders.

110. The duties required them to place the interests of RAAC stockholders above their personal interests and the interests of the Controller Defendants.

111. Through the events and actions described herein, the Director Defendants breached their fiduciary duties of loyalty and candor to Plaintiff and the Class by prioritizing their own personal, financial, and/or reputational interests in a manner unfair to Plaintiff and the Class by failing to adequately inform public stockholders of material information necessary to allow them to make an informed redemption decision.

112. As a result, Plaintiff and the Class were harmed due to the impairment of their redemption rights prior to the Merger.

113. In addition, by virtue of misstatements and omissions in the Proxy, Class members could not exercise their vote in an informed manner and approved

the Merger with Legacy Berkshire Grey based on false and misleading information.

114. Plaintiff and Class members suffered damages in an amount to be determined at trial.

COUNT II

Direct Claim for Breach of Fiduciary Duty Against the Controller Defendants

115. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

116. The Controller Defendants owed Plaintiff and the Class fiduciary duties of care and loyalty which included an obligation to act good faith, and to provide accurate material disclosures to RAAC stockholders.

117. At all relevant times, the Controller Defendants had the power to control, influence, and cause—and actually did control, influence, and cause—RAAC to enter into the Merger and issue the materially misleading Proxy.

118. Through the events and actions described herein, the Controller Defendants breached their fiduciary duties of loyalty and candor to Plaintiff and the Class by failing to adequately inform public stockholders of material information necessary to allow them to make an informed redemption decision.

119. As a result, Plaintiff and Class members were harmed due to the impairment of their redemption rights prior to the Merger.

120. Plaintiff and Class members suffered damages in an amount to be determined at trial.

COUNT III

Direct Claim for Breach of Fiduciary Duty Against the Officer Defendant

121. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

122. As the most senior officers to the Company, the Officer Defendant owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty, which included an obligation to act in good faith, with candor, and to provide accurate material disclosures to the Company's stockholders.

123. These duties required the Officer Defendant to place the interests of the Company's stockholders above their personal interests and the interests of the Controller Defendants. The Officer Defendant was not exculpated for breaches of his duty of care of actions taken in his capacity as an officer (which includes all actions set forth herein except his formal vote to approve the Merger).

124. The Officer Defendant was heavily involved in the Merger process, including identifying Legacy Berkshire Grey as an acquisition target, conducting what the Company refers to as "extensive" due diligence, determining a valuation for Legacy Berkshire Grey, and negotiating the term sheet and other transaction documents.

125. Through the events and actions described herein, the Officer Defendant breached his fiduciary duties to Plaintiff and the Class by prioritizing his own personal, financial, and/or reputational interests and approving the Merger, which was unfair to the Company's public stockholders and which hampered the rights of those stockholders to make an informed redemption decision.

126. In connection with the Board's approval of the Merger, the Officer Defendant was authorized to prepare, execute, and file the Proxy. The Officer Defendant was the sole RAAC Officer. In the course of negotiations with Legacy Berkshire Grey, the Officer Defendant was evaluating information received from Legacy Berkshire Grey, and negotiating with the Company, including as to the deal valuation. The Officer Defendant breached his duty of candor in connection with the preparation and issuance of the false and misleading Proxy, which he signed.

127. Through the events and actions described herein, the Officer Defendant breached his fiduciary duties to Plaintiff and the Class by prioritizing his own personal, financial, and/or reputational interests over the interests of Plaintiff and the Class in a manner that was unfair to and that misled Plaintiff and the Class by failing to adequately inform public stockholders of material information necessary to allow them to make an informed redemption decision.

128. As a result, Plaintiff and Class members were harmed due to the impairment of their redemption rights prior to the Merger.

129. In addition, by virtue of misstatements and omissions in the Proxy, members of the Class could not exercise their vote in an informed manner and approved the Merger with Legacy Berkshire Grey based on false and misleading information.

130. Plaintiff and the Class suffered damages in an amount to be determined at trial.

COUNT IV

Direct Claim for Aiding and Abetting Against Wagner

131. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

132. Wagner was aware of the RAAC Defendants' fiduciary duties which, as set forth above, required that the RAAC Defendants ensure that RAAC's public stockholders' ability to make an informed redemption decision not be impaired.

133. Wagner knowingly participated in the RAAC Defendants' breaches of their duties including the fiduciary duties of care and loyalty, which included an obligation to act in good faith, with candor, and to provide accurate material disclosures to stockholders.

134. Wagner had significant financial incentives to close the deal, participated in and controlled due diligence and term sheet negotiations in the Merger process as Legacy Berkshire Grey's CEO, served as a director on the Legacy Berkshire Grey board, and provided RAAC with the Proxy Projections. At the time, Wanger was aware of [REDACTED] and either provided it to the RAAC Defendants or wrongfully withheld it.

135. As the primary member of Legacy Berkshire Grey's management team, Wagner was involved in the process of preparing the Proxy and was required to ensure that the Proxy did not contain untrue statements of materially misleading statements or material omissions. Wagner violated these duties and obligations by conspiring with the RAAC Defendants and providing false and misleading information, and omitting material information, which was incorporated in public statements and filings. Wagner did so because he stood to gain a substantial financial windfall if the Merger were to overstate the value of Legacy Berkshire Grey.

136. As a result of Wagner's aiding and abetting of the RAAC Defendants' breaches of fiduciary duty, Plaintiff and the Class were harmed because they were unable to make an informed decision with respect to the exercise of their redemption rights prior to the Merger.

137. Plaintiff and the Class suffered damages in an amount to be determined at trial.

COUNT V

Direct Claim for Unjust Enrichment Against the RAAC Defendants

138. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

139. As a result of the conduct described above, Defendants breached their fiduciary duties to RAAC public stockholders and were disloyal by putting their own financial interests above those of RAAC public stockholders.

140. Defendants were unjustly enriched by their disloyalty.

141. All unjust profits realized by the Defendants should be disgorged and recouped by Plaintiffs and Class members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and relief in his favor and in favor of the Class, and against Defendants, as follows:

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

B. Declaring that the Director Defendants breached their fiduciary duties owed to Plaintiff and the Class;

C. Declaring that the Officer Defendant breached his fiduciary duties owed to Plaintiff and the Class;

D. Declaring that the Controller Defendants breached their fiduciary duties, in their capacity as the controllers of RAAC, owed to Plaintiff and the Class;

E. Declaring that the RAAC Defendants were disloyal fiduciaries that were unjustly enriched;

F. Declaring that Wagner aided and abetted the RAAC Defendants' breaches of fiduciary duty;

G. Awarding Plaintiff and the other members of the Class damages in an amount which may be proven at trial, with interest thereon;

H. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

I. Granting such other and further relief as the Court may deem just and proper.

Dated: July 15, 2024

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