This is Exhibit "F" referred to in the

Affidavit of Mark Palmer

sworn before me virtually by Zoom at Toronto, Ontario, this

13th day of January, 2023

A Commissioner for taking Affidavits in the Province of Ontario

Jeffrey Levine, LSO# 55582H

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: OLD BPSUSH, INC., *et al.*, Debtors.	Chapter 11 Case No. 16-12373 (BLS)
KARYN BARSA, JOAN DEA, C. MICHAEL JACOBI, MATTHEW MANNELLY, BERNARD MCDONELL, BOB NICHOLSON, MARK VENDETTI, and JULIE ZALESKI, Plaintiffs, v. THESEUS STRATEGY GROUP LLC, Defendant.	Adv. Pro. No. 19-50726-BLS
THESEUS STRATEGY GROUP LLC, in its capacity as Litigation Representative for and on behalf of the Old PSG Wind Down Liquidation Trust, Old BPSUSH Inc. (f/k/a BPS US Holdings Inc.), Old BH Inc. (f/k/a Bauer Hockey, Inc.), Old EBS Inc. (f/k/a Easton Baseball/Softball Inc.), Old BHR Inc. (f/k/a Bauer Hockey Retail Inc.), Old BPSU Inc. (f/k/a Bauer Performance Sports Uniforms Inc.), Old PLG Inc. (f/k/a Performance Lacrosse Group Inc.), Old BPSCI Inc. (f/k/a BPS Diamond Sports Inc.), Old PSGI Inc. (f/k/a PSG Innovation Inc.), Old BHR Wind-down Corp. (f/k/a Bauer Hockey Retail Corp.), Old EBS Winddown Corp. (f/k/a Easton Baseball/Softball Corp.), Old PSGI Wind-down Corp. (f/k/a PSG Innovation Corp.), Old BPSDS Wind-down Corp. (f/k/a BPS Diamond Sports Corp.), Old BPSU Wind-down Corp. (f/k/a Bauer Performance Sports Uniforms Corp.), Old PLG Wind-down Corp. (f/k/a Performance Lacrosse Group Corp.), and Old PSG	

Wind-down Ltd. (f/k/a Performance Sports Group Ltd.), KBAU Holdings Canada, Inc., Bauer Hockey Corp., BPS Canada Intermediate Corp., Counterclaim Plaintiff, v. KARYN BARSA, JOAN DEA, C. MICHAEL JACOBI, MATTHEW MANNELLY, BERNARD MCDONELL, BOB NICHOLSON, MARK VENDETTI, and JULIE ZALESKI, Counterclaim Defendants.

ANSWER AND COUNTERCLAIMS

Theseus Strategy Group LLC (the "**Litigation Representative**"), as the Court-appointed Litigation Representative for and on behalf of the Old PSG Wind Down Liquidation Trust (the "**PSG Trust**") and Old BPSUSH Inc. (f/k/a BPS US Holdings Inc.), Old BH Inc. (f/k/a Bauer Hockey, Inc.), Old EBS Inc. (f/k/a Easton Baseball/Softball Inc.), Old BHR Inc. (f/k/a Bauer Hockey Retail Inc.), Old BPSU Inc. (f/k/a Bauer Performance Sports Uniforms Inc.), Old PLG Inc. (f/k/a Performance Lacrosse Group Inc.), Old BPSCI Inc. (f/k/a BPS Diamond Sports Inc.), Old PSGI Inc. (f/k/a PSG Innovation Inc.), Old BHR Wind-down Corp. (f/k/a Bauer Hockey Retail Corp.), Old EBS Winddown Corp. (f/k/a Easton Baseball/Softball Corp.), Old PSGI Wind-down Corp. (f/k/a PSG Innovation Corp.), Old BPSDS Wind-down Corp. (f/k/a BPS Diamond Sports Corp.), Old BPSU Wind-down Corp. (f/k/a Bauer Performance Sports Uniforms Corp.), Old PLG Wind-down Corp. (f/k/a Performance Lacrosse Group Corp.), and Old PSG Wind-down Ltd. (f/k/a Performance Sports Group Ltd.) (including KBAU Holdings Canada, Inc., Bauer Hockey Corp., BPS Canada Intermediate Corp.) (the foregoing, collectively, "**PSG**" or "**Old PSG**"), denies all allegations contained in the headings and sub-headings preceding individually numbered paragraphs of the Adversary Complaint (the "**Complaint**"). The Litigation Representative denies all allegations to the extent not expressly admitted. The Litigation Representative hereby responds to the individually numbered paragraphs of the Complaint as follows:

1. Paragraph 1 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Karyn Barsa, Joan Dea, C. Michael Jacobi, Matthew Mannelly, Bernard McDonell, Bob Nicholson, Mark Vendetti, and Julie Zaleski filed a complaint against it for monetary, injunctive, and declaratory relief, and that Performance Sports Group, Inc. was once a developer and manufacture of sports equipment and apparel under such brands as Bauer Hockey and Easton. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 1.

2. Paragraph 2 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that in its capacity as Court-appointed Litigation Representative for and on behalf of the PSG Trust and Old PSG, the Litigation Representative is vested with the exclusive responsibility, power, and authority to investigate, prosecute, settle or otherwise liquidate certain retained claims and/or causes of action on behalf of the PSG Trust and Old PSG. The Litigation Representative further admits that it has determined that Mark Vendetti and Julie Zaleski (together, the "**Officer Defendants**") breached fiduciary duties that they respectively owed to PSG, and that Old PSG and the PSG Trust hold claims and causes of action against the Officer Defendants. The Litigation Representative denies the remaining allegations in Paragraph 2.

3. Paragraph 3 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that in its capacity as Court-appointed Litigation Representative for and on behalf of the PSG Trust and Old PSG, the Litigation Representative is vested with the exclusive responsibility, power, and authority to investigate, prosecute, settle or otherwise liquidate certain retained claims and/or causes of action on behalf of the PSG Trust and Old PSG. The Litigation Representative further admits that it has determined that Karyn Barsa, Joan Dea, C. Michael Jacobi, Matthew Mannelly, Bernard McDonell, and Bob Nicholson (collectively, the "**Director Defendants**") breached fiduciary duties that they respectively owed to PSG, and that Old PSG and the PSG Trust hold claims and causes of action against the Director Defendants. The Litigation Representative denies the remaining allegations in Paragraph 3.

4. Paragraph 4 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 4.

5. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5, and thus denies. To the extent that Paragraph 5 purports to quote, paraphrase, or characterize a document, the document speaks for itself. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 5.

6. Paragraph 6 consists of characterizations that are not factual allegations, such that no response is required. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 6. Further answering, the Litigation Representative notes that, pursuant to the *Findings of Fact, Conclusions of Law and Order*

Confirming First Amended Joint Chapter 11 Plan of Liquidation of Old BPSUSH Inc. and Its Affiliated Debtors [D.I. 1566] (the "**Confirmation Order**"), the *First Amended Joint Chapter 11 Plan of Liquidation of Old BPSUSH Inc. and Its Affiliated Debtors* [D.I. 1473] (the "**Plan**"), and the Old PSG Wind Down Liquidation Trust Agreement [D.I. 1532] (the "**Trust Agreement**"), on December 21, 2017 (the "**Effective Date**"), the reorganized Old PSG and the PSG Trust were established, all of PSG's assets were vested jointly in Old PSG and the PSG Trust, and Theseus Strategy Group LLC was appointed Litigation Representative for Old PSG and the PSG Trust, with all of the rights, powers, and interests as set forth in the Confirmation Order, the Plan, and the Trust Agreement. Pursuant to the Confirmation Order, the Plan, and the Trust Agreement, all of PSG's assets, including all of the "Retained Causes of Action" under the Plan, were expressly preserved and, on the Effective Date, automatically vested jointly in Old PSG and the PSG Trust. Confirmation Order ¶ 18; Plan Art. X.E.1 and 2; Trust Agreement § 1.3. Under the Plan, the "Retained Causes of Action" were defined to include all causes of action of PSG as of the Effective Date, including, but not limited to, "any and all causes of action against any party relating to or arising from the Debtors' failure to file their Annual Report for the fiscal year ended May 31, 2016 or alleged irregularities in the Debtors' sales practices." Plan Art. I.A.164. Further, on the Effective Date, Theseus Strategy Group LLC, as the Litigation Representative for both Old PSG and the PSG Trust, was vested with the exclusive responsibility, power, and authority to investigate, prosecute, settle or otherwise liquidate the Retained Causes of Action jointly on behalf of Old PSG and the PSG Trust. Confirmation Order ¶ 17; Plan Art. V.E.2 and 12; Trust Agreement § 4.1.

7. Paragraph 7 consists of characterizations that are not factual allegations, such that no response is required. Paragraph 7 also consists of legal argument to which no response is

required. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 7.

8. Paragraph 8 consists of characterizations that are not factual allegations, such that no response is required. Paragraph 8 also consists of legal argument to which no response is required. To the extent that a further response is required, the Litigation Representative denies the allegations in Paragraph 8 of the Complaint. Further answering, the Litigation Representative states that, pursuant to the Confirmation Order and the Plan, to the extent any holders of any shares of stock of PSG elected to participate in the PSG Trust, such holders' shares were cancelled on the Plan effective date and exchanged for Beneficial Trust Interests (as defined under the Plan).

9. Paragraph 9 consists of characterizations that are not factual allegations, such that no response is required. Paragraph 9 also consists of legal argument to which no response is required. To the extent that a further response is required, the Litigation Trustee denies the allegations in Paragraph 9. The Litigation Representative further states that, since the Effective Date, the substantial accomplishments of Old PSG, led by the Court-appointed Chief Wind-down Officer, Mark E. Palmer in conjunction with the Canadian Monitor, and the PSG Trust, led by Theseus Strategy Group LLC, as the Court-appointed trustee of the PSG Trust (and Mark E. Palmer, and Managing Director of Theseus), speak for themselves. Old PSG and the PSG Trust have, among other things: (i) resolved and made full and final distributions in respect of all allowed general unsecured claims (except for one Canadian claim that is pending resolution); (ii) recovered approximately $7.321 million in incremental recoveries for the benefit of Old PSG shareholders and PSG Trust beneficiaries (with the potential for additional incremental recoveries); and (iii) worked extensively with Canadian taxing authorities, as required under the

Plan, to make an interim distribution to Old PSG shareholders and PSG Trust beneficiaries, which interim distribution Old PSG and the PSG Trust presently anticipates will be within the ranges previously set forth in PSG's disclosure statement. *See Fifth Status Report of Liquidation Trustee* [D.I. 1887]. In addition, and as required under and pursuant to the Confirmation Order, the Plan, and the Trust Agreement, and with the approval of the Old PSG board of directors and the PSG Trust advisory board, Old PSG and the PSG Trust have conducted an extensive and good faith investigation into the Retained Causes of Action, pursuant to which, and as set forth more fully in the Counterclaims, Old PSG and the PSG Trust have determined that the Officer Defendants and Director Defendants breached their fiduciary duties to PSG.

10. Paragraph 10 is a prayer for relief and does not contain factual allegations, such that no response is required.

11. Paragraph 11 consists of legal argument to which no response is required.

12. Paragraph 12 consists of legal argument to which no response is required. The Litigation Representative further answers that, pursuant to Local Rule 7008-1, the Officer Defendants and Director Defendants have failed to include a statement in their Complaint stating whether they do or do not consent to the entry of final orders or judgments by the Court and have, therefore, waived the right to contest the authority of the Court to enter final orders or judgments. The Litigation Representative further answers that, pursuant to Fed. R. Bankr. P. 7012 and Local Rule 7012-1, the Litigation Representative consents to the entry of final orders or judgments by this Court.

13. Paragraph 13 consists of legal argument to which no response is required. To the extent that Paragraph 13 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

14. Paragraph 14 consists of legal argument to which no response is required.

15. Paragraph 15 consists of legal argument to which no response is required.

16. Paragraph 16 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Karyn Barsa is a former member of PSG's board of directors. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 16. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 16.

17. Paragraph 17 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Joan Dea is a former member of PSG's board of directors and the former chair of PSG's audit committee. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 17. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 17.

18. Paragraph 18 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that C. Michael Jacobi is a former member of PSG's board of directors and a former member of PSG's audit committee. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 18. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 18.

19. Paragraph 19 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that

Matthew Mannelly is a former member of PSG's board of directors and a former member of PSG's audit committee. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 19. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 19.

20. Paragraph 20 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Bernard McDonell is the former chairman of PSG's board of directors and a former member of PSG's audit committee. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 20. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 20.

21. Paragraph 21 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Bob Nicholson is a former member of PSG's board of directors. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 21. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 21.

22. Paragraph 22 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Mark Vendetti is the former CFO of PSG. Further answering, the Litigation Representative admits that PSG announced Vendetti's appointment as its CFO on or about December 1, 2015 and that Vendetti assumed his duties as CFO in mid-December 2015. The Litigation Representative lacks

sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 22. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 22.

23. Paragraph 23 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that PSG's finance organization was decentralized. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 23 of the Complaint.

24. The Litigation Representative admits that Julie Zaleski is PSG's former Senior Director, Controller, and Treasurer. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 24. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 24.

25. Paragraph 25 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 25. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 25.

26. The Litigation Representative admits that Theseus Strategy Group LLC is an LLC organized under the laws of New York. The Litigation Representative further answers that the principal place of business of the PSG Trust is located at 270 Lafayette Street, Suite 502, New York, New York 10012. The Litigation Representative further answers that Theseus Strategy Group LLC was nominated to serve as trustee of the PSG Trust and Litigation Representative by the former equity committee formed in PSG's bankruptcy cases after a review and interview

process involving several firms. Further answering, Theseus Strategy Group LLC's appointment as trustee of the PSG Trust and Litigation Representative was approved by the Court and by the Ontario Superior Court of Justice (Commercial List), pursuant to the Confirmation Order and the Plan (and the accompanying approval order entered in the CCAA proceedings), on notice to all parties in interest to PSG's bankruptcy cases (including the Officer Defendants and Director Defendants), and with no party in interest raising any objections to or otherwise responding to such appointment. Further answering, the restructuring and other advisory experience of Theseus Strategy Group LLC and/or Mr. Palmer include the following: (i) serving on the board of directors and/or litigation trusts of BFC Enterprises d/b/a GetSmart, VentureOne, Crescent Communities, Global Aviation Holdings, Arrow Air, Advantix/duCool, Idearc Litigation Trust, Boston Generating Litigation Trust, and Global Aviation Holdings; (ii) Chief Transformation Officer for Loot Crate, Inc. and its affiliated debtors in their Chapter 11 cases; (iii) restructuring consultant to Ad Hoc Consortium of holders of $215 million in outstanding EPL notes in the Energy XXI Ltd. Chapter 11 cases; (iv) transaction consultant to SportsDirect.com Retail Ltd. in its acquisition through a Section 363 sale of the assets of Eastern Outfitters LLC; and (v) advisor to a US-based global enterprise software technology company in the potential acquisition, multi-stage corporate reorganization, and general liability management from legacy activities. Further answering, Mr. Palmer's extensive professional experience further includes: (a) corporate mergers and acquisitions attorney at Sullivan & Cromwell LLP; (b) Director of Strategic Transactions at Reuters America; (c) General Counsel at TIBCO Finance, a technology subsidiary of Reuters; (d) Head of Business Affairs and VP, Americas, of NextSet Software; (e) corporate restructuring partner at Stroock, Stroock & Lavan LLP; (f) partner and head of the New York Corporate practice at Linklaters LLP; (g) partner and head of Corporate and Private

Funds practice at Bracewell & Giuliani LLP; and (h) Managing Director and Investment Partner at MatlinPatterson.

27. To the extent that Paragraph 27 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The Litigation Representative denies the last sentence in Paragraph 27.

28. Admitted.

29. Admitted.

30. Admitted. The Litigation Representative notes that substantially all of Old PSG's assets were acquired by Peak Achievement Athletics Inc. ("**Peak**"), an entity formed by Sagard Capital Partners and Fairfax Financial Holdings.

31. The Litigation Representative admits that KPMG was PSG's outside auditor since 2010 and that David Wilson was historically the audit engagement partner. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 31. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 31.

32. Paragraph 32 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 32. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 32.

33. The Litigation Representative admits that KPMG never completed the annual audit for PSG's fiscal year ended May 31, 2016. Further answering, the Litigation Representative admits that, on August 15, 2016, PSG announced that it would fail to timely file

its annual report and audited financial statements. The Litigation Representative further admits that PSG released a statement with respect to its failure to timely file its annual report and audited financial statements, which read as follows:

> The delay is a result of the decision of Performance Sports Group's Audit Committee to conduct an internal investigation in connection with the finalization of the Company's financial statements and the related certification process. To assist with this matter, the Audit Committee has retained independent counsel, Richards Kibbe & Orbe LLP, and independent financial advisors. The Audit Committee and its advisors are working diligently to complete the investigation with a view to having the Company finalize the Form 10- K as soon as practicable, although at this time it is uncertain when this will occur. The failure to file the Annual Report on Form 10-K on time is expected to result in a default under the Company's credit facilities. The Company has initiated discussions with its lenders to address this issue. There can be no assurances as to the outcome of such discussions.

Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 33. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 33.

34. The words and/or phrases "With no other source of liquidity", "immediately", "Despite the Company's best efforts", and "PSG commenced bankruptcy proceedings to pursue a sale of its businesses at the highest and best value" consists of characterizations that are not factual allegations, such that no response is required and to the extent a response is required, that allegation is denied. The Litigation Representative admits that substantially all of PSG's assets were sold to Peak for an aggregate gross purchase price of $575 million, subject to certain adjustments, set-offs, and/or reductions (including with respect to certain capitalized lease obligations).

35. Admitted.

36. Paragraph 36 consists of characterizations that are not factual allegations, such that no response is required. The Litigation Representative admits that Amir Rosenthal was PSG's former CFO and, thereafter, served as PSG's President of PSG Brands. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 36. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 36.

37. Paragraph 37 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 37. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 37.

38. Paragraph 38 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 38. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 38, except that the Litigation Representative admits that Team Express filed for Chapter 11 relief in or around December 2015.

39. The Litigation Representative admits that PSG's former CEO and Chairman sent the company two letters on or about June 12, 2015 and December 24, 2015, respectively, alleging that PSG had been engaging in improper sales practices. The remainder of Paragraph 39 consists of characterizations that are not factual allegations, such that no response is required.

To the extent that Paragraph 39 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

40. Paragraph 40 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 40. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 40.

41. Paragraph 41 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 41. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 41.

42. Paragraph 42 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 42. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 42, except that the Litigation Representative admits that AlixPartners assisted PSG with a review of the allegations of improper sales practices made by PSG's former CEO and Chairman.

43. Paragraph 43 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 43. To

the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 43.

44. The first sentence of Paragraph 44 consists of characterizations that are not factual allegations, such that no response is required. To the extent that Paragraph 44 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The Litigation Representative admits the second sentence of Paragraph 44.

45. Paragraph 45 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 45. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 45.

46. Paragraph 46 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 46, except that the Litigation Trustee admits that Vendetti started work with PSG as CFO on or about December 15, 2015, and Scott Frerichs resigned from his position with PSG in or around January 2016. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 46.

47. Paragraph 47 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 47, except that the Litigation Representative admits that The Sports Authority, Sports Chalet, and

Total Hockey filed for Chapter 11 bankruptcy in 2016. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 47.

48. To the extent that Paragraph 48 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The Litigation Trustee admits that two securities fraud class action lawsuits were filed against PSG and other defendants after the March 8, 2018 press release was issued.

49. Paragraph 49 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 49, except that the Litigation Representative admits that former CEO Kevin Davis left PSG in March 2016 and Amir Rosenthal was thereafter named as Interim CEO. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 49.

50. Admitted, except that the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in footnote 9 of the Complaint. The Litigation Representative further states that the scope of the SEC and OSC investigations was not limited to the circumstances surrounding the revised earnings guidance.

51. To the extent that the first sentence of Paragraph 51 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The second sentence of Paragraph 51 consists of characterizations that are not factual allegations, such that no response is required. To the extent a further response is required, the Litigation Representative denies the allegations in the second sentence of Paragraph 51.

52. Paragraph 52 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that prior to and throughout the annual audit process for fiscal year ended May 31, 2016, KPMG worked with Old PSG's accounting and finance departments, and specifically Vendetti and Zaleski, with respect to the annual audit. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 52. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 52.

53. The first and last sentences of Paragraph 53 consist of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of such allegations, except that the Litigation Representative admits that Combat was out of the scope of KPMG's annual audit process.

54. Paragraph 54 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 54, except that the Litigation Representative admits that PSG had made the decision to close the Combat business by June 2016.

55. Paragraph 55 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 55, except that the Litigation Representative admits that Vendetti, Zaleski, and Shelley Filocamo were aware of right of return issues in the Combat segment by no later than June 2016. To the

extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 55.

56. The Litigation Representative admits that, by no later than early June 2016, Vendetti learned of a large return of product at Combat by customer Dunham's Sports ("**Dunham's**"). The remainder of Paragraph 56 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 56.

57. The Litigation Representative admits that on or about June 12, 2016, Vendetti determined to conduct an internal audit of the Combat segment. Further answering, commencing on June 20, 2016, Alex Byrne, at Vendetti's direction, conducted a two-day field audit on-site at Combat's offices in Kent, Washington and Byrne completed the audit by mid-July. Through the audit, Byrne discovered the existence of four Combat customers with non-standard-term contracts containing guaranteed rights of return. One of the Combat customers with guaranteed return rights was Dunham's. Further answering, these four contracts were entered into in contravention of stated PSG policy and had resulted in improper revenue recognition by PSG. Further answering, Byrne, thereafter, engaged in an extensive sampling regimen to ensure that no other non-standard-term contracts existed at Combat. In or around mid-July, Byrne advised both Vendetti and Zaleski of his findings regarding his internal audit and the rights of return at Combat. Further answering, Vendetti and Zaleski did not immediately inform KPMG of the existence of these non-standard-term contracts at Combat, including the Dunham's right-of-return agreement. Upon information and belief, Vendetti did not immediately inform KPMG of non-standard-term contracts at Combat out of his subjective concern that KPMG would, in his view, overreact. The remainder of Paragraph 57 consists of characterizations that are not factual

allegations, such that no response is required. To the extent a response is required, the Litigation Representative denies the remaining allegations in Paragraph 57.

58. The Litigation Representative admits that on or about July 26, 2016, in an in-person meeting between Vendetti and KPMG lead audit partner, David Wilson, Vendetti informed Wilson of the results of the Combat internal audit. Further answering, during this meeting, Vendetti informed Wilson that the internal audit had uncovered non-standard-term contracts involving guaranteed rights of return for four different customers, one of which was Dunham's, each of which had initially been improperly accounted for and later corrected. Further answering, Vendetti informed Wilson of the sampling protocol employed by Byrne to ensure that no additional non-standard-term contracts existed, or if they did, did not result in improper accounting treatment. Further answering, Vendetti and Wilson agreed that the issue of the non-standard-term contracts uncovered in the Combat internal audit should be brought to the attention of the audit committee meeting scheduled for later that day. The remainder of Paragraph 58 consists of characterizations that are not factual allegations, such that no response is required. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 58.

59. The Litigation Representative admits the allegation in the first sentence of Paragraph 59. To the extent that the second sentence of Paragraph 59 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The Litigation Representative denies the allegations in the third sentence of Paragraph 59.

60. The Litigation Representative admits that the Dunham's agreement was a non-standard-term agreement (i.e., a guaranteed sale contract with a right of return) entered into by an Easton sales representative. Further answering, Easton's Vice President of Sales, Robert

Diebold, was aware of the Dunham's contract at the time that it was entered into in August 2015. Further answering, the full amount of the sale ($513,400) was improperly recognized as revenue on or about November 25, 2015, in violation of PSG's standard revenue recognition policy.

61. The Litigation Representative admits that, no later than on or around May 16, 2016, Ricky Helland informed both Vendetti and Zaleski about the Dunham's guaranteed sale contract at Easton. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 61.

62. To the extent that Paragraph 62 purports to quote, paraphrase, or characterize a document, the document speaks for itself. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 62.

63. To the extent that Paragraph 63 purports to quote, paraphrase, or characterize a document, the document speaks for itself. Further answering, the Litigation Representative admits that between May and June 2016, Vendetti, Zaleski, and Rickey Helland engaged in a number of conversations and meetings with Easton personnel regarding the Dunham's guaranteed sale contract. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 63.

64. To the extent that Paragraph 64 purports to quote, paraphrase, or characterize a document, the document speaks for itself. Further answering, the Litigation Representative admits that in or around June 2016, Vendetti directed Zaleski to correct the accounting treatment of previously recognized revenue associated with product shipped under the Dunham's guaranteed sale contract. Further answering, Zaleski, in turn, directed Helland to make a manual

journal entry reversing the previously recognized revenue in the amount of $421,000, which manual journal entry was entered on June 22, 2016. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 64.

65. Paragraph 65 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 65.

66. Paragraph 66 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 66 of the Complaint.

67. Paragraph 67 consists of characterizations that are not factual allegations, such that no response is required. Paragraph 67 further consists of legal arguments to which no response is required. The Litigation Trustee admits that neither Vendetti nor Zaleski informed KPMG of the Dunham's guaranteed sale contract at Easton (or right of return thereunder) at any time between May and June 2016, or corrected prior erroneous representations regarding the Dunham's accounts receivable balance that were previously made to KPMG. Further answering, upon information and belief, this is because Vendetti and Zaleski recklessly and in breach of their fiduciary duties determined that the Dunham's right of return under its non-standard contract with Easton did not need to be disclosed to KPMG absent a specific request from KPMG, notwithstanding numerous general requests from KPMG that otherwise covered and/or implicated the Dunham's guaranteed sale contract. To the extent a further response is required,

the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 67.

68. Paragraph 68 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 68.

69. Paragraph 69 consists of characterizations that are not factual allegations, such that no response is required. The Litigation Representative admits that Easton and Combat were separate segments of PSG's business. To the extent a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 69.

70. Paragraph 70 consists of characterizations that are not factual allegations, such that no response is required. Paragraph 70 also consists of legal arguments to which no response is required. To the extent a further response is required, the Litigation Representative denies the allegations in Paragraph 70.

71. Paragraph 71 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Vendetti informed the audit committee of the Dunham's guaranteed sale contract on or about August 5, 2016 at an emergency meeting convened one day after Vendetti finally admitted to David Wilson, of KPMG, the existence of the Dunham's guaranteed sale contract at Easton (after initially denying the existence of such contract to Wilson). To the extent a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 71.

72. Paragraph 72 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that the audit committee asked outside counsel Paul, Weiss, Rifkind, Wharton & Garrison LLP to conduct a review in respect of the Dunham's guaranteed sale contract and related issues, and the audit committee discussed the possibility of hiring additional counsel to perform a review of the same. To the extent a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 72.

73. Paragraph 73 consists of characterizations that are not factual allegations, such that no response is required. The Litigation Representative admits that, for the reasons more fully explained in paragraphs 64-82 of the Counterclaims, KPMG increased the risk assessment with respect to the FYE 2016 annual audit, which resulted in KPMG increasing the level and degree of testing during the FYE 2016 audit, and applying increased scrutiny to PSG's responses to audit inquiries. Further answering, Vendetti and Zaleski interpreted KPMG's increased testing and scrutiny negatively, internally ascribing to KPMG and its interactions with PSG management negative attributes such as "agitated", "stressed" and "dark". To the extent that the Paragraph 73 purports to quote, paraphrase, or characterize a document, the document speaks for itself. To the extent a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 73.

74. Paragraph 74 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in

Paragraph 74, except that the Litigation Representative admits that, on or about April 14, 2016, PSG disclosed its consolidated financial results for Q3 2016, reporting (i) a decrease in year-over-year total revenues of 8% (to $126.1 million), (ii) adjusted EBITDA of negative $11 million (down from positive $14.6 million year-over-year), and (iii) a net loss of $188.1 million that included a non-cash impairment of $145.1 million related to PSG's $330 million acquisition of Easton in 2014

75. Paragraph 75 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 75, except that the Litigation Representative admits that, throughout the FYE 2016 annual audit, the relationship between KPMG and PSG's finance team, including, specifically, Vendetti and Zaleski, was strained.

76. Paragraph 76 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 76.

77. Paragraph 77 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 77.

78. Paragraph 78 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that Combat was outside the scope of KPMG's annual audit. To the extent a further response is

required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 78.

79. The Litigation Representative admits the first sentence of Paragraph 79, but clarifies that the meeting between Vendetti, Byrne, Wilson and Blessing occurred on July 28, 2016. To the extent that the second sentence of Paragraph 79 purports to quote, paraphrase, or characterize a document, the document speaks for itself. Further answering, the remaining allegations in Paragraph 79 include characterizations that are not factual allegations, such that no response is required, except that the Litigation Representative admits that, during the July 28th meeting, Wilson inquired as to whether any of the four Combat customers with rights of return, including Dunham's, were also customers of Easton, and, if so, whether there was a risk of similar non-standard-term contracts at Easton. Further answering, Vendetti confirmed that there were overlapping customers between Combat and Easton, but that the two divisions operated entirely separately from one another (*e.g.*, different employees, sales staffs), and there was no reason to believe that anything that occurred between Combat and its customers could occur between Easton and its customers. Further answering, despite this inquiry from Wilson and Blessing, Vendetti did not disclose the existence of the Dunham's guaranteed sale contract at Easton previously discovered internally in May 2016. To the extent a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 79.

80. The Litigation Representative admits that, following the July 28, 2016 meeting and despite Vendetti's assertion that no similar issues could exist at Easton, KPMG requested additional materials from Zaleski related to crossover customers, expressly stating that the additional requests were designed "to understand whether or not these things could be happening

at Easton." Further answering, the Litigation Representative admits that Vendetti and Zaleski, recognizing that KPMG's follow-up inquiries regarding Dunham's accounts with Easton would lead KPMG to discover the Dunham's guaranteed sale contract at Easton, considered disclosing the information to KPMG in a memorandum in which the transactions under the Dunham's guaranteed sale contract would be characterized as being part of a consignment arrangement. Further answering, Vendetti and Zaleski concluded that the "consignment" explanation would not pass muster and decided that the disclosure had to accurately describe the guaranteed return feature. Accordingly, in the late afternoon of August 4, 2016, after previously advising David Wilson and KPMG that there were no right of return issues at Easton, Vendetti and Zaleski approached Wilson and informed him about the guaranteed sale contract and right of return that Dunham's had at Easton, and that Easton's Vice President of Sales, Robert Diebold, was aware of the Dunham's contract at the time that it was entered into in August 2015. The remainder of Paragraph 80 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 80.

81. The Litigation Representative admits that after Vendetti and Zaleski finally disclosed the existence of the Dunham's guaranteed sale contract at Easton with him, David Wilson became very concerned about the fact that Vendetti had previously denied the existence of any such agreement at Easton and failed to timely disclose such information. The Litigation Representative further admits that at the August 8, 2016 audit committee meeting, KPMG informed the audit committee that it would not complete the FYE 2016 audit without the completion of an internal investigation, conducted by independent outside counsel, into the

events surrounding the disclosure of the Dunham's guaranteed sale contract at Easton, including a review of management's integrity with respect to the timing of the disclosure to KPMG. The remainder of Paragraph 81 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 81.

82. Paragraph 82 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that, based solely on the recommendation of its Canadian corporate counsel, Stikeman Elliott LLP, the audit committee retained Richards Kibbe & Orbe LLP ("**RKO**") on August 10, 2016 in connection with its investigation into the issues raised by KPMG, and that RKO and/or the audit committee, in turn, retained AlixPartners to assist in such investigation. Further answering, the audit committee decided to retain RKO despite the fact that RKO refused to commit to completing the investigation in a timeframe that would allow PSG to address KPMG's concerns, secure a completed audit, timely file its annual report and audited financial statements, and thereby remain in compliance with its secured loans. To the extent a further answer is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 82.

83. Paragraph 83 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative admits that on August 15, 2016, PSG announced that it would fail to timely file its 2015 annual report, and attributed this failure to "the decision of Performance Sports Group's Audit Committee to conduct an internal investigation in connection with the finalization of the Company's financial

statements and the related certification process." To the extent a further answer is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 83.

84. To the extent Paragraph 84 purports to quote, paraphrase, or characterize a document, the document speaks for itself. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the last sentence in Paragraph 84.

85. Paragraph 85 consists of characterizations that are not factual allegations, such that no response is required. To the extent a further answer is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 85.

86. To the extent the first three sentences of Paragraph 86 purport to quote, paraphrase, or characterize a document, the document speaks for itself. The remaining allegations in Paragraph 86 consist of characterizations that are not factual allegations, such that no response is required. To the extent a further answer is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 86.

87. The first sentence of Paragraph 87 consists of characterizations that are not factual allegations, such that no response is required. Further answering, the Litigation Representative answers that, from August 15, 2016 through October 31, 2016, neither the audit committee nor the PSG board of directors took any steps to ensure the timely completion of the audit committee investigation so that the FYE 2016 audit could be completed, the annual report filed, and PSG's secured loan default avoided. Further answering, on or around August 25, 2016, the PSG board

considered slowing down or stopping RKO's investigation altogether in light of board's decision to file for bankruptcy, but ultimately decided not to end RKO's investigation at the time because that would require public disclosure. Further answering, as of August 29, 2016, the audit committee investigation had not yet materially progressed. For example, neither Vendetti nor Zaleski (nor Rickey Helland, Alex Byrne, or George Tadros) had been interviewed at that time in connection with the investigation. To the extent a further answer is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 87.

88. The phrase "that were correct in all material respects" includes both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 88.

89. The first sentence of Paragraph 89 consists of characterizations that are not factual allegations, such that no response is required. To the extent the remainder of Paragraph 89 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

90. The first sentence of Paragraph 90 consists of characterizations that are not factual allegations, such that no response is required. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 90. To the extent that Paragraph 90 includes statements regarding AS 2810.15, the text of AS2810.15 speaks for itself and such statements in Paragraph 90 are legal conclusions to which no response is required.

91. The Litigation Representative denies the first sentence of Paragraph 91. Further answering, the Litigation Representative admits that, on August 11, 2016, PSG retained Alvarez

& Marsal North America, LLC ("**A&M**") to assist PSG in preparing for a bankruptcy filing, and on August 19, 2016, PSG retained Centerview Partners LLC as investment banker to market PSG's assets for sale and provide restructuring advice.

92. Admitted.

93. The first sentence of Paragraph 93 consists of characterizations that are not factual allegations, such that no response is required. Further answering, as stated above, PSG retained A&M on August 11, 2016 to assist PSG in preparing for a bankruptcy filing.

94. The first sentence of Paragraph 94 consists of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. Further answering, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 94.

95. Admitted.

96. The Litigation Representative admits the first sentence of Paragraph 96. The second and third sentences of Paragraph 96 consist of legal argument to which no response is required. The phrase "[i]n an effort to preserve the Company's assets," is a characterization that is not a factual allegation, such that no response is required. The Litigation Representative admits that, following PSG's October 31, 2016 bankruptcy filings, the audit committee suspended the RKO investigation. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 96.

97. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 97.

98. The Litigation Representative admits that: (a) PSG and an entity formed by Sagard and Fairfax (which entity was subsequently renamed Peak) entered into a stalking horse

asset purchase agreement, dated as of October 31, 2016 (the "**Stalking Horse APA**"), which Stalking Horse APA was filed on October 31, 2016 in PSG's bankruptcy cases; (b) the base purchase price contemplated under the Stalking Horse APA was $575 million, subject to certain adjustments, set-offs, and/or reductions (including with respect to certain capitalized lease obligations); and (c) PSG and Peak closed the sale pursuant to the Stalking Horse APA on February 28, 2017. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the second sentence of Paragraph 98. The remaining sentences in Paragraph 98 consist of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. To the extent that a response is required, the Litigation Representative denies that any of the Officer Defendants or Director Defendants exhibited "skillful stewardship" or "exceptional effort", or in orchestrating the sale of PSG's operating business to Sagard, realized a price approaching PSG's total enterprise value before the bankruptcy.

99. The Litigation Representative answers that the sale to Peak pursuant to the Stalking Horse APA closed on February 28, 2017. The Litigation Representative admits the second sentence of Paragraph 99. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in the last sentence of Paragraph 99, except that the Litigation Representative admits that McDonell, Dea, and Mannelly remained on the PSG board and audit committee after the sale to Peak closed.

100. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 100. The Litigation Representative denies the allegation in Paragraph 100 that McDonell, Dea, and Mannelly "oversaw the maximization of the Company's assets." The Litigation Representative

admits that McDonell, Dea, and Mannelly resigned from the PSG board and audit committee in August 2017. To the extent Paragraph 100 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

101. Denied.

102. The first sentence of Paragraph 102 is a characterization that is not a factual allegation, such that no response is required, except that the Litigation Representative admits that the audit committee retained RKO and that RKO reported directly to the audit committee. To the extent Paragraph 100 purports to quote, paraphrase, or characterize a document, the document speaks for itself. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 102, except that the Litigation Representative admits that RKO developed a work plan.

103. The Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 103, except that the Litigation Representative admits that either the audit committee or RKO retained AlixPartner in connection with the investigation. To the extent Paragraph 103 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

104. Paragraph 104 consists of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. To the extent Paragraph 104 purports to quote, paraphrase, or characterize a document, the document speaks for itself. To the extent that a further responses if required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 105, except that the Litigation Representative denies the last sentence in Paragraph 104.

105. Paragraph 105 consists of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. To the extent that a further responses if required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 105, except that the Litigation Representative admits that Ernst & Young prepared an earnings report in connection with the sale of PSG's assets.

106. Paragraph 106 consists of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. To the extent that a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 106. To the extent Paragraph 106 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

107. Paragraph 107 consists of both characterizations that are not factual allegations and legal conclusions, neither of which requires a response. To the extent that a further response is required, the Litigation Representative lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 107, except that the Litigation Representative admits that KPMG resigned as PSG's auditor on or about March 27, 2017 and, in so resigning, cited "possible illegal acts" that came to KPMG's attention during the course of the FYE 2016 annual audit. To the extent Paragraph 107 purports to quote, paraphrase, or characterize a document, the document speaks for itself.

108. The Litigation Representative denies the first and last sentences of Paragraph 108. The remainder of Paragraph 108 consists of legal argument to which no response is required. To the extent a further response is required, the Litigation Representative denies the remaining statements in Paragraph 108.

109. Denied.

110. The Litigation Representative denies the first three sentences in Paragraph 110. The remainder of the allegations in Paragraph 110 consist of characterizations that are not factual allegations, such that no response is required. The Litigation Representative admits that David Wilson was scheduled to be replaced as lead audit partner the following year after the FYE 2016 audit. To the extent a further response is required, the Litigation Representative denies the remaining allegations in Paragraph 110.

111. The Litigation Representative denies the characterization that it is "threatening" any party, but admits that it has determined that Old PSG and the PSG Trust hold certain claims and causes of action against the Officer Defendants and Board Defendants, all as more fully set forth in the Counterclaims.

112. Denied.

113. Denied.

COUNT I

114. The Litigation Representative repeats, realleges, and incorporates by reference each of the foregoing responses as if fully set forth herein.

115. Denied.

116. The Litigation Representative admits that (i) on or about June 28, 2019, it sent counsel to the Officer Defendants and Director Defendants a letter regarding the claims set forth in the Counterclaims; (ii) the Officer Defendants and Director Defendants agreed to enter into a tolling agreement regarding the dispute; and (iii) on or about September 27, 2019, the Litigation Representative terminated such tolling agreement in accordance with its terms.

117. Paragraph 117 is a prayer for relief and does not contain factual allegations, such that no response is required.

COUNT II

118. The Litigation Representative repeats, realleges, and incorporates by reference each of the foregoing responses as if fully set forth herein.

119. Paragraph 119 consists of legal argument to which no response is required.

120. Paragraph 120 consists of legal argument to which no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 120.

121. Paragraph 121 consists of legal argument to which no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 121.

COUNT III

122. The Litigation Representative repeats, realleges, and incorporates by reference each of the foregoing responses as if fully set forth herein.

123. Paragraph 123 consists of legal argument to which no response is required.

124. Paragraph 124 consists of legal argument to which no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 124.

125. Paragraph 125 consists of legal argument to which no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 125.

COUNT IV

126. The Litigation Representative repeats, realleges, and incorporates by reference each of the foregoing responses as if fully set forth herein.

127. Paragraph 127 consists of characterizations that are not factual allegations, such that no response is required. To the extent a response is required, the Litigation Representative denies the allegations in Paragraph 127.

128. Denied.

129. Paragraph 129 is a prayer for relief and does not contain factual allegations, such that no response is required.

130. The Litigation Representative denies that the Officer Defendants and Director Defendants can demand a jury trial in this Court. Further answering, pursuant to 28 U.S.C. § 157(e), the bankruptcy judge cannot conduct a jury trial in this case because (1) the bankruptcy judge has not been designated to exercise such jurisdiction by the district court, and (2) the Litigation Representative does not consent to the bankruptcy judge conducting a jury trial in this adversary proceeding. Further answering, the Officer Defendants and Director Defendants must withdraw their jury demand or move to withdraw the reference pursuant to 28 U.S.C. § 157(d) or the Court must, on its own motion, withdraw this proceeding to the United States District Court for the District of Delaware.

131. Paragraph 131 is a prayer for relief and does not contain factual allegations, such that no response is required. The Litigation Representative denies that the Officer Defendants and Director Defendants are entitled to any of the relief sought in the Complaint. Upon resolution of the Litigation Representative's Counterclaims, the Litigation Representative

respectfully requests that the Court award the relief set forth in the Counterclaims and any other relief the Court deems just and appropriate.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Failure to State a Claim

132. The Complaint fails to state a claim on which relief can be granted.

SECOND DEFENSE

Standing

133. All plaintiffs other than Vendetti lack standing to assert breach of fiduciary duty and permanent injunction claims.

THIRD DEFENSE

Immunity

134. Plaintiff Vendetti's claims of breach of fiduciary duty and permanent injunction (Counts II-IV) are barred on the basis of quasi-judicial immunity and any other applicable form of immunity.

FOURTH DEFENSE

Claims Barred Under Trust Agreement, Plan, and Confirmation Order

135. Plaintiff Vendetti's breach of fiduciary duty and permanent injunction claims (Counts II-IV) are barred by applicable law and the exculpation provisions accorded the Litigation Representative under the express terms of the Confirmation Order, the Plan, and the Trust Agreement.

FIFTH DEFENSE

Business Judgment Rule

136. Plaintiff Vendetti's breach of fiduciary duty and permanent injunction claims (Counts II-IV) are barred by the business judgment rule.

SIXTH DEFENSE

Waiver

137. Plaintiff Vendetti's fiduciary duty and permanent injunction claims (Counts II-IV) are barred by the doctrine of waiver.

SEVENTH DEFENSE

138. Count I is not a proper declaratory judgment claim.

EIGHTH DEFENSE

139. At all times, Theseus Strategy Group LLC acted within the scope of its authority as the Litigation Representative for Old PSG and the PSG Trust, and as the trustee of the PSG Trust.

NINTH DEFENSE

140. Counts II-IV fail because they are premature and, therefore, not ripe.

PRAYER FOR RELIEF

The Litigation Representative requests that the Court dismiss the Complaint in its entirety, with prejudice, and award such other and further relief as the court deems just and appropriate.

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COUNTERCLAIMS

This is an action for breaches of fiduciary duty against (i) certain former officers of Performance Sports Group Ltd. (n/k/a Old PSG Wind-down Ltd.) ("**PSG**") and PSG's wholly-owned direct and indirect subsidiaries, and (ii) the former directors of PSG, which was at all relevant times a limited company organized under the laws of British Columbia, including against certain directors in their capacities as members of the audit committee formed by the board of directors of PSG. Specifically, this is an action for:

(i) breach of fiduciary duty against the former chief financial officer of PSG and each of the PSG Subsidiaries (as defined below), and the former controller and treasurer of PSG and each of the PSG Subsidiaries, for grossly mismanaging the fiscal year 2016 audit process for PSG and each of the PSG Subsidiaries, which resulted in PSG's auditor, KPMG LLP, refusing to complete PSG's fiscal year 2016 audit in the absence of the completion of an internal investigation conducted by outside independent counsel;

(ii) breach of the fiduciary duty of loyalty and good faith against the former directors of PSG for abdicating their duty to ensure that the aforementioned internal investigation and annual audit were timely completed; and

(iii) breach of fiduciary duty and the duty of care under applicable British Columbia law against the former directors of PSG for failing to adequately oversee the finance function of PSG (and the PSG Subsidiaries), failing to adequately oversee and mismanaging the fiscal year 2016 audit process, and abdicating their duty to ensure that the aforementioned internal investigation and annual audit were timely completed.

The result of these collective breaches of duty directly and proximately caused each of PSG and the PSG Subsidiaries to unnecessarily file for bankruptcy, incur tens of millions of dollars in associated wasteful expenses (both on a futile investigation and the bankruptcy itself), and sell their operating businesses in a distressed sale for substantially less than their intrinsic value. The breaches by the officers and directors, as set forth herein, were the result of grossly negligent and reckless behavior.

The facts set forth below are based on the results of an investigation conducted pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure by Theseus Strategy Group LLC, trustee of the Old PSG Wind Down Liquidation Trust, and court-appointed Litigation Representative for and on behalf of PSG, the PSG Subsidiaries, and the Trust. Unless otherwise stated as "upon information and belief," all allegations set forth herein are predicated on the aforementioned investigation.

JURISDICTION

1. This Court has subject matter jurisdiction over this action pursuant to §§ 157, 1332, and 1334, paragraph 38 of the Confirmation Order (defined below), and Section 12.7 of the Plan (defined below). Venue is proper in this District pursuant to 18 U.S.C. § 1391(b) and 28 U.S.C. § 1409(a). This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

TOLLING

2. On July 10, 2019, the parties described below entered into a tolling agreement ("**Tolling Agreement**"), which tolled the limitations periods applicable to the claims in this complaint. Pursuant to its terms, the Tolling Agreement could be terminated upon 30 days written notice. Attached as Exhibit A is a copy of the Tolling Agreement.

3. On September 27, 2019, the Plaintiff sent a certified letter Notice of Termination in accordance with Section 2 and 8 of the Tolling Agreement. The Tolling Agreement therefore terminated on October 27, 2019 and Plaintiff thereafter filed this lawsuit. Attached as Exhibit B is a copy of the Notice of Termination.

PARTIES

I. Plaintiff.

4. Plaintiff Theseus Strategy Group LLC ("**Theseus**" or "**Plaintiff**") is a New York company with a principal place of business in New York, New York.

5. Pursuant to the *Findings of Fact, Conclusions of Law and Order Confirming First Amended Joint Chapter 11 Plan of Liquidation of Old BPSUSH Inc. and Its Affiliated Debtors* (the "**Confirmation Order**"), the *First Amended Joint Chapter 11 Plan of Liquidation of Old BPSUSH Inc. and Its Affiliated Debtors* (including all exhibits and supplements thereto and, as amended, modified or further supplemented from time to time, the "**Plan**"), and the *Old PSG Wind Down Liquidation Trust Agreement* (the "**Trust Agreement**"), Theseus was appointed to serve as trustee of the Old PSG Wind Down Liquidation Trust (the "**Trust**").

6. Pursuant to the Confirmation Order, Plan, and Trust Agreement, Theseus has also been appointed to serve as Litigation Representative, and brings this action solely in its capacity as Litigation Representative, for: (a) the Trust; (b) PSG, a British Columbia limited company which, at all relevant times, had a principal place of business located in Exeter, New Hampshire; and (c) each of the following wholly-owned subsidiaries of PSG (which subsidiaries are referred to herein, collectively, as the "**PSG Subsidiaries**"):

(i) Old BPSUSH Inc. (f/k/a BPS US Holdings Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(ii) Old BH Inc. (f/k/a Bauer Hockey, Inc.), a Vermont corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(iii) Old EBS Inc. (f/k/a Easton Baseball/Softball Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(iv) Old BHR Inc. (f/k/a Bauer Hockey Retail Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(v) Old BPSU Inc. (f/k/a Bauer Performance Sports Uniforms Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(vi) Old PLG Inc. (f/k/a Performance Lacrosse Group Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(vii) Old BPSCI Inc. (f/k/a BPS Diamond Sports Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(viii) Old PSGI Inc. (f/k/a PSG Innovation Inc.), a Delaware corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(ix) Old BHR Wind-down Corp. (f/k/a Bauer Hockey Retail Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(x) Old EBS Winddown Corp. (f/k/a Easton Baseball/Softball Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xi) Old PSGI Wind-down Corp. (f/k/a PSG Innovation Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xii) Old BPSDS Wind-down Corp. (f/k/a BPS Diamond Sports Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xiii) Old BPSU Wind-down Corp. (f/k/a Bauer Performance Sports Uniforms Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xiv) Old PLG Wind-down Corp. (f/k/a Performance Lacrosse Group Corp.), a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xv) KBAU Holdings Canada, Inc., a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xvi) Bauer Hockey Corp., a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

(xvii) BPS Canada Intermediate Corp., a Canadian corporation which, at all relevant times, had a principal place of business located in Exeter, New Hampshire.

7. Pursuant to the Confirmation Order, Plan, and Trust Agreement, Theseus, as Litigation Representative, was vested with the exclusive responsibility, power, and authority to investigate, prosecute, settle or otherwise liquidate certain "Retained Causes of Action" jointly on behalf of PSG and the PSG Subsidiaries (referred to herein, collectively, as the "**Company**" or the "**Debtors**"), and the Trust, all as more fully set forth in the Confirmation Order, Plan, and Trust Agreement.

8. Under the Plan, the Debtors' "Retained Causes of Action" were defined to include all causes of action of the Debtors as of the Effective Date, including, but not limited to, "any and all causes of action against any party relating to or arising from the Debtors' failure to file their Annual Report for the fiscal year ended May 31, 2016 or alleged irregularities in the Debtors' sales practices."

9. Pursuant to the Confirmation Order, Plan, and Trust Agreement, all of the Debtors' assets, including all of the Debtors' "Retained Causes of Action," were expressly preserved and, on the Effective Date, automatically vested jointly in the Debtors and the Trust.

II. Defendants.

10. Defendant Karyn O. Barsa was at all relevant times a member of the Board of Directors of Performance Sports Group Ltd. (n/k/a Old PSG Wind-down Ltd.) (the "**Board**"). Upon information and belief, Barsa presently resides and maintains her domicile in Oregon.

11. Defendant Joan T. Dea was at all relevant times a member of the Board and the chairperson of the Audit Committee of the Board of Directors of Performance Sports Group Ltd. (n/k/a Old PSG Wind-down Ltd.) (the "**Audit Committee**"). Upon information and belief, Dea presently resides and maintains her domicile in California.

12. Defendant C. Michael Jacobi was at all relevant times a member of the Board and a member of the Audit Committee. Upon information and belief, Jacobi presently resides and maintains his domicile in Connecticut.

13. Defendant Matthew M. Mannelly was at all relevant times a member of the Board. Upon information and belief, Mannelly presently resides and maintains his domicile in Connecticut.

14. Defendant Bernard J. McDonell was at all relevant times the chairperson of the Board and a member of the Audit Committee. Upon information and belief, McDonell presently resides and maintains his domicile in Ontario, Canada.

15. Defendant Robert Nicholson was at all relevant times a member of the Board. Upon information and belief, Nicholson presently resides and maintains his domicile in Alberta, Canada.

16. Defendant Mark J. Vendetti was at all relevant times the Chief Financial Officer of PSG and each of the PSG Subsidiaries. Upon information and belief, Vendetti presently resides and maintains his domicile in California.

17. Defendant Julie L. Zaleski was at all relevant times the Controller and Treasurer of PSG and each of the PSG Subsidiaries. Upon information and belief, Zaleski presently resides and maintains her domicile in Massachusetts.

FACTUAL ALLEGATIONS

I. <u>General Audit Overview And Relationship</u>.

18. PSG was, at all relevant times, a publicly traded company whose stock traded on both United States and Canadian stock exchanges. PSG traded on the New York Stock Exchange under the call letters: "PSG". PSG operated, at all relevant times, on a fiscal year basis beginning on June 1 and ending May 31.

19. KPMG LLP ("**<u>KPMG</u>**") was, at all relevant times, a public accounting firm providing auditing services to the Company pursuant to a written engagement letter. KPMG assembled a team of professionals (hereafter, the "**<u>KPMG Audit Team</u>**") to conduct and complete the Company's annual audit, including the audit for the fiscal year ended May 31, 2016 (the "**<u>FYE 2016 Audit</u>**"). The lead audit partner assigned by KPMG to the Company's account was David Wilson. David Wilson was assisted by James Holland, Matthew Warden, and Peter Blessing, among others.

20. Audits are an interactive process between the auditor and the company being audited in which the auditor relies on the company's management to provide it with all information requested by the auditor and to inform it of any other information not requested that could inform the auditor in arriving at its opinion as to whether the company's financial statements are fairly stated.

21. Because audits of publicly traded companies can be lengthy, complex and sample-driven exercises, it is critical that the auditor repose trust and confidence in the company's management, both in terms of faith that it is receiving fulsome responses to its information requests, as well as confidence that it can rely on management representations for those areas not directly sampled.

22. Beginning in August 2015 and throughout FYE 2016, KPMG informed the Board, Audit Committee, Vendetti, and Zaleski that, according to KPMG, there was a significant deficiency in respect of the Company's contract management practices and policies, specifically, that the Company did not maintain a central repository for their customer contracts, and that, as a result, the Company's finance department was unable to properly monitor and account for all of the Company's contracts. Notwithstanding multiple warnings from KPMG, the Board, Audit Committee, Vendetti, and Zaleski recklessly failed to take necessary, appropriate, and timely action to remediate what KPMG determined to be the Company's significantly deficient contract management practices, and instead permitted such reckless practices to continue throughout FYE 2016. These persistent and reckless contract management practices resulted in (i) the Board, Audit Committee, Vendetti, and Zaleski not having complete and accurate information regarding the material terms of all of the Company's customer contracts (including whether such terms included impermissible provisions such as offering a customer a right to return goods or guaranteeing the sale of a certain percentage of goods), and (ii) the Company, including Vendetti and Zaleski, being unable to promptly respond to KPMG inquiries regarding customer contracts and providing inaccurate responses to initial KPMG inquiries regarding specific customer contracts, which, in turn, contributed to the erosion of trust and deterioration of the relationship between KPMG and the Company's management.

23. As CFO, Vendetti was the officer for PSG and the PSG Subsidiaries responsible for overseeing the preparation of the Company's financial statements. Vendetti was hired as the Company's CFO on or about December 15, 2015. Vendetti had nearly thirty years of experience in corporate finance, including a previous tenure as the chief financial officer of a public

company responsible for overseeing the annual audit of that company in the years immediately prior to joining PSG.

24. As Controller, Zaleski was the officer for PSG and the PSG Subsidiaries responsible for managing the day-to-day accounting functions of the Company. Zaleski maintained certified public accountant licenses in both New York and Ohio, was a member of the America Institute of Certified Public Accountants, had substantial finance and accounting experience, including approximately 15 years of experience with PSG, and was responsible for overseeing the Company's annual audit process from 2009 through 2016.

25. As CFO and Controller, Vendetti and Zaleski were the officers responsible for managing the FYE 2016 Audit process on behalf of PSG and the PSG Subsidiaries. Vendetti and Zaleski were the principal points of contact with the KPMG Audit Team, and were responsible for ensuring that the KPMG Audit Team received all requested information in a timely manner, and maintaining open, healthy, and trusting communication with the KPMG Audit Team.

26. As CFO and Controller, Vendetti and Zaleski owed PSG and the PSG Subsidiaries the duty of care, loyalty, and good faith to, among other things, (i) ensure that KPMG received timely responses to requested information, (ii) openly and honestly respond to all questions posed by the KPMG Audit Team, and (iii) otherwise refrain from taking any actions that would negatively impact the relationship of trust between KPMG and Company management.

27. As detailed below, Vendetti and Zaleski recklessly failed to timely implement and enforce reasonable contract management procedures and practices to ensure that the Company's finance department was able to properly monitor and account for all of the Company's contracts,

even after being expressly informed by KPMG that, according to KPMG, the Company's contract management controls were significantly deficient. As a result, Vendetti and Zaleski were unable (and, irrespective, were simply unwilling at obviously critical points) to promptly respond to KPMG inquiries regarding the Company's customer contracts during the FYE 2016 Audit. Thereafter, Vendetti and Zaleski (i) recklessly withheld information from the KPMG Audit Team during the course of the FYE 2016 Audit that they knew, or should have known, would be considered by KPMG relevant, or that they knew, or should have known, they had a duty to disclose, and then (ii) recklessly made late disclosures to KPMG of such previously withheld information in such a manner as to create the impression to the KPMG Audit Team that management was attempting to mislead it.

28. Specifically, when the KPMG Audit Team queried Vendetti, Zaleski, and the Company's finance department regarding particular customer contracts, Vendetti and Zaleski acted in a grossly negligent and reckless manner and in breach of their fiduciary duties by, among other things, making determinations of the timing and content of disclosures to the KPMG Audit Team based on Vendetti's and Zaleski's perception of how KPMG would react to such information. Vendetti and Zaleski recklessly and in breach of their fiduciary duties determined not to timely disclose certain adverse information based on their belief that KPMG would react negatively to such disclosure, and that such disclosure could have resulted in KPMG demanding more testing and analysis, thus making timely completion of the FYE 2016 Audit more uncertain and expensive. Vendetti and Zaleski recklessly and in breach of their fiduciary duties gambled that, with respect to certain information, KPMG's sampling protocol would not require a response that disclosed such information. That gamble proved wrong and caused KPMG to conclude that the Company's management was intentionally misleading and

concealing information from it, which, in turn, caused KPMG to refuse to complete the FYE 2016 Audit unless and until an internal investigation was completed. An ordinarily careful and prudent officer would have disclosed such information to KPMG as early as possible to avoid these dire consequences.

29. The Board was ultimately responsible for ensuring that PSG timely completed the annual audit and timely filed the annual report and consolidated financial statements for PSG and the PSG Subsidiaries so that the Company remained in compliance with its secured loan agreements. To assist it in fulfilling these responsibilities, the Board formed the Audit Committee as a sub-committee of the Board and appointed its members (who were required to also serve as directors). The Audit Committee was responsible for, among other things, overseeing the Company's annual audit on behalf of the Board, interfacing with KPMG throughout the audit process, and resolving any disagreements between Company management and KPMG regarding financial reporting. KPMG reported directly to the Audit Committee throughout the annual audit process.

30. As detailed below, the members of the Board and Audit Committee breached their fiduciary duties to PSG by, among other things: (i) failing to implement a Company policy requiring the Company's finance department to inform the Audit Committee and KPMG of any non-standard customer contracts entered into without proper authorization, upon discovering or learning of the same, to the extent such contracts led to improper revenue recognition, particularly given what KPMG found to be a significant deficiency in the Company's contract management controls that was known to the Audit Committee, the context of the FYE 2016 Audit, and the critical importance of ensuring the timely completion of the FYE 2016 Audit; (ii) mismanaging the FYE 2016 Audit process, including failing to take reasonable action to ensure

the timely completion of the audit so as to enable the Company to timely complete the FYE 2016 Audit, file its annual report and financial statements, and provide the same to its secured lenders; and (iii) after KPMG demanded the completion of an internal investigation as a precondition to completing the FYE 2016 Audit, acceding to KPMG's demand but thereafter completely abdicating their responsibilities in respect of the investigation and audit, including by recklessly failing to take reasonable steps to ensure that both were timely completed so as to enable the Company to timely complete the FYE 2016 Audit, file its annual report and financial statements, and provide the same to its secured lenders.

31. Instead of fulfilling their fiduciary duties and preserving value and doing what was needed to complete the investigation and audit for the sake of *all* the Company's shareholders, members of the Board and Audit Committee focused their efforts on selling the company to its largest shareholder, Sagard Capital Partners, L.P. ("**Sagard**"). Indeed, discussions with Sagard regarding a potential sale transaction began immediately after the August 8, 2016 Audit Committee meeting in which KPMG demanded an internal investigation.

32. The Audit Committee's failure to ensure the timely completion of the FYE 2016 Audit was particularly egregious given that completion of the audit was necessary to the Company's ability to continue as a going concern. The Board and Audit Committee knew that the failure to timely complete the FYE 2016 Audit on or before the August 15, 2016 deadline would result in a default under the Company's secured loans, the acceleration of such loans, and a crippling of the Company's liquidity. Moreover, the Board and Audit Committee were made aware of numerous issues prior to and throughout the FYE 2016 Audit that they knew or should have known could materially affect the Company's ability to timely complete the FYE 2016

Audit by the August 15, 2016 deadline, yet in breach of their fiduciary duties, failed to take appropriate action to adequately and timely address such issues.

II. **Company Background**.

33. Prior to filing for bankruptcy on October 31, 2016, the Company was engaged in the manufacture and sale or sporting goods equipment and apparel in the hockey, baseball, softball, lacrosse and soccer sporting segments.

34. As of October 31, 2016, the Company generated annual revenues of approximately $600M, of which approximately 60% was derived from hockey sales, approximately 30% from baseball/softball sales, and approximately 10% from lacrosse, soccer and apparel sales collectively.

35. The Company maintained its corporate headquarters in Exeter, New Hampshire; however, critical accounting and finance functions, as detailed below, were located in different company offices over which corporate headquarters had limited oversight and control.

36. The Company began as principally a hockey-only company under the Bauer hockey brand. After April 2008, when it was sold by Nike, Inc. to private equity firm Kohlberg & Company ("**Kohlberg**"), Kohlberg took the Company public in Canada through an initial public offering on the Toronto Stock Exchange.

37. Thereafter the Company engaged in a series of acquisitions, including the purchase of Cascade Helmet Holdings, Inc., a supplier of lacrosse equipment, for $64 million in cash; the purchase of Inaria International, Inc., a soccer apparel company, for approximately Cdn $7 million in cash; the purchase of Combat Sports ("**Combat**"), a supplier of baseball and softball bats, for approximately Cdn $4 million in cash; and the purchase of Easton Baseball/Softball ("**Easton**"), a supplier of baseball and softball equipment, for approximately

$330 million in cash, plus a net working capital adjustment of approximately $21.7 million. These acquisitions occurred between 2012 and 2014; Easton being the last and largest.

38. In or about June 2014, the Company engaged in an initial public offering in the United States and began trading on the New York Stock Exchange.

39. As a result of having its stock listed on a public U.S. stock exchange, PSG was required to be compliant with the Sarbanes-Oxley Act of 2002 ("**SOX**") rules and regulations. Pursuant to SOX, PSG was required to: (i) have management certify the financial results of the Company; (ii) ensure the accuracy of its financial statements, including ensuring that such financial statements did not contain incorrect statements or omit to state material information; and (iii) include an internal control report in its annual report, including an assessment by management of the effectiveness of the Company's internal control structure.

40. SOX also established the Public Company Accounting Oversight Board ("**PCAOB**") and empowered the same to establish auditing standards for public companies and supervise auditors of public reporting companies. Pursuant to SOX, auditors must report all material accounting policies and practices to a company's audit committee, and must report on management's assertions about a company's financial system.

41. The Company was engaged in the business of selling sports equipment and apparel to large and small retail customers. The Company's internal sales policy was to sell product to customers pursuant to written contracts that transferred title to the product to the customer upon delivery; payment was subject to credit terms set forth in the contract such as net 90 days or net 120 days. Such contracts within the Company were referred to as "standard-term contracts."

42. Any contracts with customers which deviated from those set forth in the standard-term contract were referred to within the Company as "non-standard-term contracts." According to Company policy, a salesperson required prior authorization before entering into any non-standard-term contract.

43. The two non-standard-term contracts of relevance here include so-called "consignment" contracts and "guaranteed sale" or "right-of-return" contracts. Under a consignment contract, the Company would ship product to the customer but would retain title to that product until the product was sold by the customer to its end-user. Payment by the customer to the Company was due upon sale, but only upon sale. The Company could only properly recognize revenue once the customer reported product sold. Under a guaranteed sale or right-of-return contact, the customer retained the right to return all previously shipped unsold product if a certain percentage of the shipped product was not sold by a date certain. The Company could only properly recognize revenue under such a contract if the customer reported the sale of product or the return right contingency expired without the customer exercising its return rights.

III. Inadequate Integration.

44. The various stand-alone businesses acquired by the Company were operated as separate business segments and were never properly or adequately integrated into a cohesive or coherent business.

45. For example, the Company did not develop or maintain a centralized and coordinated accounting function, finance team, financial planning and analysis team, sales team, credit and collections team, or customer service staff. Rather, Combat, Easton, and Bauer each maintained their own separate staff for each of these functions, which were located at geographically different offices, utilized their own separate accounting systems, and did not coordinate with each other.

46. One example of this uncoordinated system involved the process of managing contracts entered into with customers. Contracts entered into between Easton and its distributor customers were physically maintained in Van Nuys (and later, Thousand Oaks), California, where Easton's manufacturing facility was located. Easton personnel from its customer service department were responsible for reviewing contract terms once entered and for invoicing customers in accordance with the terms of any given contract. As a consequence, the Company's corporate accounting department located in Exeter, New Hampshire, never had possession of the customer contracts, never reviewed the terms and conditions for compliance with Company policy, was not involved in invoicing the customer in accordance with contract terms, and did not interface with the customer to ensure compliance with contract delivery or payment terms. Instead, the Company's corporate accounting department relied entirely on the various staffs at the individual business segments' offices.

47. As a result of this structure, corporate management, especially Vendetti and Zaleski, possessed an attenuated understanding of many aspects of business fundamentals, such as contract management, customer credit and other critical accounting and financial controls.

48. The Board, Audit Committee, and Company management, including Vendetti and Zaleski, failed to take timely and adequate action to better integrate the different financial systems across the Company's various divisions.

IV. KPMG Found That The Company's Internal Controls, Specifically Regarding Contract Management, Were Significantly Deficient Prior To And Throughout FYE 2016 Audit.

49. In addition to the lack of integration and coordination among the Company's various business segments, the Company's internal sales, accounting, and finance controls, including, specifically with respect to the Company's contract management, were found by KPMG to be significantly deficient and remained un-remediated throughout the FYE 2016

Audit, despite the fact that KPMG advised the Company of the significant deficiency with respect to its contract management no later than August 2015. Pursuant to 17 C.F.R. 240.12b-2, a "significant deficiency" is defined as "a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of the registrant's financial reporting."

50. On August 24, 2015, David Wilson, KMPG lead audit partner, sent an email to Defendant Zaleski and Scott Frerichs, the Company's then Vice President of Finance, informing them of a "significant deficiency" in respect of the Company's contract management controls (the "**Contract Management Significant Deficiency**"), specifically that "there [was] a lack of communication between sales/operations personnel who have the ability to enter into customer agreements and finance to properly monitor the accounting consequences," and that such "lack of communication" had resulted in accounting errors and revenue reversals in fiscal years 2012, 2013 and 2014.

51. On August 25, 2015, KPMG informed the Audit Committee of the Contract Management Significant Deficiency. Specifically, KPMG informed the Audit Committee of the existence of a significant deficiency in respect of the Company's control associated with identifying the total population of customer contracts, and reported that such internal control was "not designed appropriately."

52. KPMG further reported that "[i]t appear[ed] there [was] a lack of communication between sales/operations personnel who have the ability to enter into customer agreements and finance to properly monitor the accounting consequences," and advised the Audit Committee that the Company had to correct revenue in the prior three fiscal years because of inappropriate revenue recognition as a consequence of the improperly designed control.