SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

INVESCO SENIOR SECURED MANAGEMENT, INC., Plaintiff, v. ROBERTSHAW US HOLDING CORP., ONE ROCK CAPITAL PARTNERS LLC, BAIN CAPITAL LP, EATON VANCE MANAGEMENT, CANYON PARTNERS, LLC, AND JOHN DOE I Defendants.	**VERIFIED COMPLAINT**

Plaintiff Invesco Senior Secured Management, Inc. ("Plaintiff" or "Invesco"), for its complaint against defendants Robertshaw US Holding Corp. ("Robertshaw" or the "Company"), One Rock Capital Partners, LLC ("One Rock" or the "Equity Sponsor"), Bain Capital LP ("Bain Capital"), Eaton Vance Management ("Eaton Vance"), Canyon Partners, LLC ("Canyon Partners" and, together Bain Capital and Eaton Vance, the "Minority Lenders"), and John Doe I (together with the Minority Lenders, Robertshaw, and One Rock, "Defendants"), alleges upon knowledge as to itself and otherwise upon information and belief as follows:

NATURE OF THE ACTION

1. Having voting control over a distressed company's credit facility is the goal of every distressed debt investor. A lender's contractual, bargained-for right to direct the reorganization of an insolvent corporation is akin to a controlling shareholder's right to direct the management of a solvent corporation – these rights have no quantifiable value.

2. Plaintiff Invesco worked tirelessly to garner these rights in respect of the Company. It sponsored a series of financing transactions designed to keep the Company afloat; in exchange, Invesco was promised voting control and consent rights over the Company's inevitable

restructuring. Until December 8, 2023, Invesco, through various investment funds that it manages and controls, owned more than 50% of the combined total of the Company's First-Out New Money Term Loan and Second-Out Term Loan.[1] By virtue of its majority ownership of the senior tranches of the Company's debt, Invesco was able to make (in its sole discretion) all determinations that were afforded to "Required Lenders" under the Credit Agreement (as defined below), including (i) consenting to certain amendments of the Credit Agreement, (ii) accelerating the Loans upon an Event of Default, (iii) directing the Administrative Agents to exercise remedies upon an Event of Default, and (iv) waiving Events of Default.

3. Recognizing that it was critical to engage with Invesco given its status as Required Lender – a status that Invesco obtained legally and in good faith – the Company and its private equity sponsor, One Rock, had been negotiating potential solutions to address the Company's liquidity shortfall with Invesco. Invesco worked diligently and in good faith with the Company to find out-of-court alternatives to address the Company's liquidity needs and avoid bankruptcy. In tandem – recognizing that, despite their best efforts, an out-of-court solution may not be viable – Invesco, the Company, and the Equity Sponsor also negotiated the terms of a prepackaged Chapter 11 Plan of reorganization so that they could pivot quickly to an orderly restructuring and avoid a freefall bankruptcy. The parties memorialized the framework of the restructuring – including key milestones leading to a bankruptcy filing in January 2024 and a DIP loan to be provided by Invesco – in Amendment No. 4 to the Credit Agreement.

4. While Invesco was working in good faith with the Company and providing additional liquidity to forestall a freefall bankruptcy filing, the Equity Sponsor colluded with the

[1] Capitalized terms used but not defined herein shall have the meanings given to those terms in the Credit Agreement.

Minority Lenders to wrest that control away from Invesco through an illegal sham transaction that usurped Invesco's bargained-for rights as a "Required Lender" under the Credit Agreement. The Credit Agreement prohibits the incurrence of "additional Indebtedness that would be issued under the Loan Documents for the purpose of influencing the voting threshold" without the consent of each affected Lender. *Id.* § 9.02(b)(A)(9). To circumvent this prohibition, Defendants formed a new entity that made a purported equity contribution to Robertshaw. Robertshaw then used the proceeds of that equity contribution to repay the First-Out New Money Term Loan (almost) in its entirety. With its First-Out New Money Term Loan repaid, Invesco purportedly no longer met the definition of "Required Lender." The Minority Lenders then purportedly became "Required Lenders" by virtue of their Second-Out Term Loan holdings and used this fabricated status to amend the Credit Agreement to permit the incurrence of incremental first out term loans in the aggregate principal amount of $218 million, which was funded by the Minority Lenders and the Equity Sponsor (the "Sham First-Out Term Loan"). Robertshaw then simultaneously repaid the so-called "equity contribution" with the proceeds of the Sham First-Out Term Loan. The Minority Lenders allegedly remained "Required Lenders" by virtue of their combined holdings of the Second-Out Term Loan and the Sham First-Out Term Loan.

5. The equity contribution, thus, was of no economic substance: the practical reality is that the Company repaid Invesco's debt with the proceeds of the Sham First-Out Term Loan that the Company had no authority to issue without Invesco's consent (the various steps Defendants undertook to disenfranchise Invesco are collectively referred to herein as the "Sham Transaction"). Indeed, S&P Global downgraded the credit rating of Robertshaw's parent company as a result of the Sham Transaction because the rating agency determined that the Sham Transaction was a "debt-restructuring transaction" that "***replaced*** [the] $50 million asset-based lending (ABL)

facility and existing $117 million first-out super priority lending facility with a $218 million first-out facility." Ex. A (S&P Report) at 1 (emphasis added).[2] And even if the equity contribution were not illusory, the immediate conversion of the purported equity contribution to the Sham First-Out Term Loan – evidenced by the fact that the Company "repaid" the equity contribution to the entity that provided it with the proceeds of the loan– is *per se* voidable as a fraudulent transfer because Robertshaw was indisputably insolvent at the time of the conversion and received no consideration in connection therewith.

6. This action seeks to rescind the Sham Transaction as a breach of the Credit Agreement, as a breach of the covenant of good faith and fair dealing, and as a fraudulent conveyance. Plaintiff seeks immediate injunctive relief to ensure that Invesco retains the voting control and consent rights it bargained for and the right and ability to pursue the restructuring it negotiated with the Company. If this relief is not granted, there will be no limit to the sophistry and deceit that will infect the distressed debt market for syndicated secured loans. No amount of thoughtfully negotiated credit agreement covenants can ever effectively prevent other transaction parties from nefariously circumventing contractual rights to garner the controlling votes in credit facilities.

7. Invesco is not the only party that has protested the Sham Transaction. Acquiom Agency Services LLC ("Acquiom") and Seaport Loan Products LLC ("Seaport") who serve as co-Administrative Agents (collectively, the "Administrative Agent") under the Credit Agreement, immediately resigned in protest. Defendants signed Amendment No. 5 to the Credit Agreement, which effectuated the Sham Transaction, on December 8, 2023. Defendants did not disclose the

[2] Citations to "Ex. _" refer to exhibits attached to the Affirmation of Andrew K. Glenn filed in support of Plaintiff's Application for a Temporary Restraining Order.

Sham Transaction to the Administrative Agent prior to signing even though the Administrative Agent's consent was required both by Amendment No. 5 (which explicitly states that the Administrative Agent's consent is a condition precedent to its effectiveness) and by the Credit Agreement itself (because the Sham Transaction impacted the Administrative Agent's substantive rights). Defendants first disclosed the Sham Transaction to the Administrative Agent on December 14, almost a week after signing, when they delivered Amendment No. 5 without a complete set of transaction documents. The Administrative Agent never consented to the Sham Transaction or received *any* of the documents Defendants were required to provide as a condition precedent to closing. Amendment No. 5 is therefore ineffective by its own terms.

8. But Defendants' fraudulent conduct did not end there. Amendment No. 5 includes outright lies about the Administrative Agent's participation in the Sham Transaction. Amendment No. 5 misrepresents that:

- "***The Administrative Agent*** and the Consenting Lenders ***are willing***, subject to the satisfaction of the conditions precedent to effectiveness set forth in Section 4 hereof, ***to consent to all amendments, modifications and agreements set forth by this Amendment*** and the Amended Credit Agreement." (Whereas Clause No. 7) (emphasis added). This statement is false because the Amendment was never executed and delivered by the Administrative Agent or even provided to the Administrative Agent before December 14.

- "***The Administrative Agent shall have received a funds flow in form and substance reasonably acceptable to the Administrative Agent*** and Consenting Lenders. . . . (emphasis added). But the Administrative Agent never received a funds flow, so this statement is yet another misrepresentation.

- The Administrative Agent will receive compliance certificates, an opinion from counsel, and borrowing requests that were apparently never delivered.

9. The inescapable conclusion from Defendants' fraudulent conduct – causing the Company to issue unauthorized, voidable debt, intentionally trampling on Invesco's contractual rights, trampling on the Administrative Agent's contractual rights, hiding the amendment for

nearly a week, and then lying about the Administrative Agent's role – is that they have no respect for the law and the rights of third parties.

10. The Court must stop them now. The Court should (i) enjoin any transactions, arrangements, amendments, variations, adjustments, compromises, waivers or settlements under or pursuant to the Loan Documents purportedly requiring only the consent or the direction or instruction of the Minority Lenders and/or the Equity Sponsor, including but not limited to those contemplated in Amendment No. 5, and (ii) direct the Company to consummate the restructuring transaction negotiated with Invesco and memorialized in Amendment No 4.

PARTIES

11. Plaintiff Invesco is a Delaware corporation with its principal place of business in New York.

12. Defendant Robertshaw is a Delaware corporation with its principal place of business in Illinois.

13. Defendant One Rock is a Delaware limited liability corporation with its principal place of business in New York. One Rock is the private equity sponsor for Robertshaw and wholly owns, through various funds and entities under its control, Robertshaw's parent company, Range Parent, Inc. ("Range Parent").

14. Defendant Bain Capital is a Delaware limited partnership with its principal place of business in Massachusetts. Bain Capital or funds managed by Bain Capital are Minority Lenders who participated in the Sham Transaction.

15. Defendant Eaton Vance is a Massachusetts business trust with its principal place of business in Massachusetts. Eaton Vance or funds managed by Eaton Vance are Minority Lenders who participated in the Sham Transaction.

16. Defendant Canyon Partners is a Delaware limited liability company with its principal place of business in Texas. Canyon Partners or funds managed by Canyon Partners are Minority Lenders who participated in the Sham Transaction.

17. Upon information and belief, Defendant John Doe I is an entity created by the Minority Lenders and the Equity Sponsor for the sole purpose of implementing the Sham Transaction.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this action and Defendants under CPLR 301 because Defendants transact business in New York state and Defendants have consented to this Court's jurisdiction under the contracts governing this dispute.

19. Section 5-1402 of the New York General Obligations Law also provides for this Court's jurisdiction over this action and Defendants because this action arises out of contracts that (i) contain a clause in which the parties have submitted to jurisdiction in New York (Credit Agreement § 9.10(b)); (ii) contain a clause choosing New York as the governing law (*id.* § 9.01(a)); and (iii) relate to an obligation arising from a transaction involving more than $1 million in the aggregate.

20. Venue is proper in this Court because a substantial part of the events or omissions giving rise to the claims occurred in New York County and the contracts governing this dispute provide for venue in New York County.

FACTS

I. The Company Faces Liquidity Shortfall and Debt Maturity Wall Amid Macro Headwinds and Supply Chain Pressures.

21. Robertshaw is a leading global provider of components, systems, and services used in the appliance industry and in heating, air conditioning and refrigeration for the residential and

commercial markets. In March 2018, Defendant One Rock purchased Robertshaw from Sun Capital Partners Inc. for an enterprise value of roughly $900 million.

22. One Rock financed the acquisition through a $510 million first-lien term loan (the "First Lien Loan"), maturing in February 2025, and a $110 million second-lien term loan (the "Second Lien Loan"), maturing in February 2026. The First Lien Loan was secured by (i) a first priority security interest in substantially all the present and after-acquired tangible and intangible assets of Robertshaw and its subsidiaries (the "Term Loan Priority Collateral") and (ii) a second priority security interest in accounts receivable, inventory, cash deposit accounts, and securities and commodity accounts (the "ABL Priority Collateral"). The Second Lien Loan was secured by a second priority security interest in the Term Loan Priority Collateral and a third priority security interest in the ABL Priority Collateral. To finance its operations, the Company also issued a $50 million asset-based lending ("ABL") facility maturing in December 2023.

23. The Company's financial condition began to deteriorate in the summer of 2022, as rising inflation and the Ukraine conflict (among other factors) lowered demand for the Company's products and supply-chain issues crippled production. By the fourth quarter of 2022, the situation was dire: the Company reported EBITDA of $4.2 million (a 78% decline year over year) and revenue of $118 million (a 17% decline year over year). During a December 7, 2022 lender call, the Company revealed that it was having difficulties satisfying trade payables and had limited working capital. Shortly thereafter, the Company retained Latham & Watkins LLP as restructuring counsel and Guggenheim Securities as financial advisor to evaluate options to address the Company's dwindling liquidity and near-term ABL maturity wall.

II. Invesco Provides Rescue Financing in Exchange for Voting Control and Consent Rights.

A. The May 2023 Financing

24. In May 2023, Invesco, together with and as member of an ad hoc group of lenders that included the Minority Lenders (collectively, the "Ad Hoc Group") holding 76% of the First Lien Loan and 59% of the Second Lien Loan, agreed to provide additional financing to address the Company's liquidity shortfall. The parties' agreement (the "May 2023 Financing") was memorialized in that certain Super-Priority Credit Agreement, dated May 9, 2023 (the "Credit Agreement"), by and among the Company as Borrower, certain of the Company's subsidiaries as Subsidiary Borrowers, Range Parent, certain of Range Parent's subsidiaries as Subsidiary Guarantors, Acquiom and Seaport, as Co-Administrative Agents for the Lenders, and Acquiom as Collateral Agent.

25. Pursuant to the Credit Agreement and related Loan Documents, the Ad Hoc Group (i) invested $95 million of new money in the form of a first-out new money term loan (the "First-Out New Money Term Loan"); (ii) exchanged $370 million of their existing First Lien Loan holdings for a second out term loan (the "Second-Out Term Loan"), at par; and (iii) exchanged $65 million of their existing Second Lien Loan holdings for a third out term loan (the "Third-Out Term Loan"), at par. The remaining portions of the First Lien Loan and Second Lien Loan became subordinated to the First-Out New Money Term Loan, Second-Out Term Loan, and Third-Out Term Loan.

B. Invesco Bargained for Voting Control Over Any Future Restructuring.

26. In July 2023, Invesco acquired via the secondary market more than 50% of the sum of the total First-Out New Money Term Loan and Second-Out Term Loan issued in connection with the May 2023 Financing. In exchange for this sizable (and risky) investment, the Credit

Agreement afforded and promised Invesco voting control and consent rights over any future restructuring. Specifically, as a majority owner of the most senior tranches of debt, Invesco became the sole "Required Lender" under the Credit Agreement (*id.* § 1.01).

27. The Credit Agreement defines "Required Lenders" as being, at any time, "Lenders having Loans representing more than 50.0% of the sum of the total First-Out New Money Term Loans and Second-Out Term Loans at such time."[3] *Id.* Prior to the Sham Transaction, Invesco owned (i) $73.8 million (62.7%) of the $117.7 million First-Out New Money Term Loan; (ii) $183.2 million (49.2%) of the $372.2 million of the Second-Out Term Loan; and (iii) $59.2 million (81.1%) of the $73 million Third-Out Term Loan. Because Invesco owned 52.5% of the sum of the total First-Out New Money Term Loan and Second-Out Term Loan, it was the sole "Required Lender" under the Credit Agreement.

28. As the only "Required Lender," Invesco had the right (in its sole discretion) to, among other things:

(i) Amend the Credit Agreement (*id.* § 9.02(b)) to modify the terms of the negative covenants, including the covenants prohibiting the incurrence, issuance, or making of Indebtedness (*id.* § 6.01), Liens (*id.* § 6.02), Restricted Payments (*id.* § 6.05), and Investments (*id.* § 6.07);

(ii) Accelerate the Loans upon an Event of Default (*id.* § 7.01);

(iii) Direct the Administrative Agent to exercise remedies upon an Event of Default (*id.*); and

(iv) Waive an Event of Default (*id.*).

Its status as "Required Lender" therefore gave Invesco the right and the practical ability control any potential future restructuring, including the ability to support the Company with additional liquidity at Invesco's sole discretion, provide the Company with covenant and payment waivers,

[3] As part of the Ad Hoc Group that negotiated the Credit Agreement with the Company and the Equity Sponsor, the Minority Lenders were keenly aware of this foundational defined term.

provide debtor-in-possession financing ("DIP Financing"), and direct the Administrative Agent to credit bid the debt issued pursuant to the Credit Agreement if the Company sold its assets in a Chapter 11 proceeding.

III. Invesco Provides Additional Support As The Business Continues to Deteriorate.

29. The Company's business continued to deteriorate in the second half of 2023. At every step of the way, Invesco negotiated with the Company and the Equity Sponsor in good faith to provide covenant relief and additional financial support.

30. On October 5, 2023, pursuant to Amendment No. 1 to the Credit Agreement, Invesco provided the Company with a 5-day grace period extension to make an interest payment the Company missed on September 29.

31. On October 13, 2023, pursuant to Amendment No. 2 to the Credit Agreement, which the Company negotiated with Invesco as the Required Lender — a status that, as explained, Invesco had obtained legally and in good faith — Invesco provided the Company with $17 million of additional liquidity through incremental first-out term loans and committed to provide $40 million more (the "2023 Delayed Draw Term Loan"), subject to satisfactory due diligence and certain other conditions. The parties agreed that the Company's failure to secure additional liquidity via the 2023 Delayed Draw Term Loan by November 8, 2023 (the "2023 DDTL Outside Date") would constitute an Event of Default under the Credit Agreement, as amended by Amendment No. 2.

32. On November 5, 2023, the Company provided Invesco with due diligence that showed a significant liquidity hole and that the Company would not be able to repay its financial obligations as they became due. The Company and its advisors asked Invesco to invest an additional $20 million (on top of the $17 million it had already provided and the $40 million 2023 Delayed Draw Term Loan commitment). By that point, Invesco had grown suspicious of the

Company's ability to forecast and run the business. Despite its reservations, on November 8, pursuant to Amendment No. 3 to the Credit Agreement, Invesco gave the Company a 2-day extension of the 2023 DDTL Outside Date, to November 10. Absent this extension, the Company would have immediately been in default of its obligations. Invesco further extended the 2023 DDTL Outside Date twice more to November 13, in a further attempt to help the Company avoid defaulting on its obligations. The Company did not enter into the 2023 Delayed Draw Term Loan by November 13, triggering an Event of Default.

33. By mid-November 2023, the Company was hopelessly insolvent and in default of its obligations under the Credit Agreement. Recognizing that bankruptcy was inevitable, on November 13, pursuant to Amendment No. 4 to the Credit Agreement, Invesco, the Company, and the Equity Sponsor agreed to a process that would position the Company for an orderly Chapter 11 filing and avoid the harm and disruption of a freefall bankruptcy. Amendment No. 4 contemplates a value-maximizing restructuring framework, including (i) key milestones leading up to a Chapter 11 filing in January 2024, (ii) a DIP Facility provided by Invesco to fund the bankruptcy process, and (iii) the DIP Facility lenders, ABL Facility lenders, and Term Loan lenders serving as stalking horse bidders in a sale of substantially all of the Company's assets pursuant to Section 363 of the Bankruptcy Code.

34. Amendment No. 4 leveraged Invesco's "Required Lender" status to maximize potential recoveries in Chapter 11. This leverage is precisely what Invesco bargained for when it invested substantial time, effort, and money, and incurred the associated risk, to acquire a majority of the First-Out New Money Term Loan and Second-Out Term Loan.

IV. Equity Sponsor And Minority Lenders Execute Sham Transaction To Wrestle Control From Invesco And Deprive Invesco of the Benefit of its Bargain.

35. While Invesco was working in good faith with the Company and providing additional liquidity to forestall a freefall bankruptcy filing, Defendants were plotting to strip Invesco of the Required Lender status it bargained for to protect its investment.

36. The Credit Agreement did not allow the Loan Parties to issue new debt to refinance the First-Out New Money Term Loan without Invesco's consent (Credit Agreement § 6.01). While Invesco does not know all the details of the Sham Transaction because the Company has refused to disclose most of the transaction documents, Amendment No. 5 outlines the basic steps of Defendants' scheme, which occurred simultaneously:

(i) First, Defendants caused John Doe I, a sham entity created for the purpose of consummating the Sham Transaction (the "Sham Entity") to make an equity contribution (funded by the Equity Sponsor and the Minority Lenders) to Robertshaw.

(ii) Second, Robertshaw used the supposed equity contribution to repay all but $93,000 of the First-Out New Money Term Loan.

(iii) Third, after repaying the First-Out New Money Term Loan with the proceeds of the supposed equity contribution, Invesco lost its "Required Lender" status: the Minority Lenders now purportedly had the requisite votes to amend the Credit Agreement to permit the Loan Parties to incur incremental first out debt and purportedly did so. Robertshaw immediately incurred the Sham First-Out Term Loan in the aggregate principal amount of $218 million, which subordinated Invesco's Second-Out and Third-Out Term Loan holdings. Defendants used the proceeds of the Sham First-Out Term Loan to repay the "equity contribution" by the Sham Entity.

The equity contribution was of no economic substance: its sole purpose was to circumvent the Credit Agreement's unambiguous prohibition against incurring additional debt to refinance Invesco's First-Out New Money Term Loan without Invesco's consent. No rational investor, including the Company's own private equity sponsor, would have made an equity contribution behind the Company's mountain of debt, which is why the Sham Transaction involved an immediate, simultaneous conversion of the purported equity contribution to debt. Indeed, A&P

Global, a leading credit rating agency, described the transaction as a debt restructuring transaction, in which certain existing lenders replaced the Company's $50 million ABL and existing $117 million First-Out New Money Term Loan with the $218 million Sham First-Out Term Loan. *See* Ex. A (S&P Report) at 1.

37. As a preliminary matter, the Sham Transaction is void because several of the conditions precedent to effectiveness of Amendment No. 5 have not taken place. Amendment No. 5, which purported to effectuate the Sham Transaction, explicitly requires, as a condition precedent to its effectiveness, that the Administrative Agent (i) execute the Amendment (*id.* § 7(a)), (ii) receive an opinion from counsel from the Loan Parties (*id.* § 7(e)), (iii) receive compliance certificates (*id.* § 7(g)), (iv) receive a Borrowing Request (*id.* § 7(h)), and (v) receive a flow of funds (*id.*). The Administrative Agent has not consented to the Sham Transaction, executed Amendment No. 5, or received any of the documents Defendants were required to provide as a condition precedent to effectiveness. Amendment No. 5 is therefore ineffective, and the Sham First-Out Term Loan is unauthorized, voidable debt.

38. Defendants' utter failure to provide the Administrative Agent with the required documents also inhibited the Administrative Agent's ability to carry out its basic duties under the Credit Agreement, including updating and maintaining the register and calculating interest payments, the next of which is due to be paid imminently on December 29, 2023.

39. Even if Defendants had satisfied all the conditions precedent to closing Amendment No. 5, the Sham Transaction and the Sham First-Out Term Loan would still be voidable because the Sham Transaction clearly and unequivocally breached at least three separate provisions of the Credit Agreement.

40. First, the Sham Transaction violated Section 6.01 of the Credit Agreement which, subject to narrow exceptions not applicable here, provides that the Loan Parties "shall not directly or ***indirectly***, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness." Credit Agreement § 6.01 (emphasis added). "Indebtedness" is defined broadly to include, among other things, "all indebtedness for borrowed money." *Id.* § 1.01.

41. Second, the Sham Transaction violated Section 9.02(b)(A)(9) of the Credit Agreement, which prohibits Credit Agreement amendments that "authorize additional Indebtedness that would be issued under the Loan Documents for the purpose of influencing the voting threshold" without the consent of each affected Lender. That is exactly what Defendants did here: they designed a Sham Transaction specifically for the purpose of disenfranchising Invesco and depriving it of Required Lender status.

42. Section 9.02(b) provides that the Credit Agreement may not be "waived, amended or modified, except…pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders." Credit Agreement § 9.02(b). Some of the Lenders' rights – like the right incorporated into Section 9.02(b)(A)(9) described above – however, are considered so fundamental that 50% consent is insufficient to effectuate a waiver, amendment, or modification of those rights. These so called "sacred rights" require the consent of all Lenders who are adversely affected by such changes. Section 9.02(b)(A)(9) of the Credit Agreement describes such a "sacred right," designed specifically for the purpose of preventing Lender disenfranchisement. Defendants should not be allowed to trample on Invesco's "sacred right."

43. Third, the Sham Transaction violated Section 9.02(b)(C)(1) of the Credit Agreement, which requires the consent of Lenders owning 75% of the sum of the total First-Out New Money Term Loan and Second-Out Term Loan to subordinate the Term Facility to any other

Indebtedness. Had Defendants repaid the First-Out New Money Term Loan in full, they would have needed Lenders owning 75% of the Second-Out Term Loan to consent to subordinating their Second-Out Term Loan holdings to the Sham First-Out Term Loan. Because Invesco owns almost 50% of the Second-Out Term Loan, the vote would have failed.

44. Defendants attempted to circumvent this problem by leaving $93,000 of the First-Out New Money Term Loan outstanding. Defendants presumably took the position that, so long as *any* amount of First-Out New Money Term Loan remained outstanding, the Company could incur the Sham First-Out Term Loan with the consent of only a simple majority of the Lenders owning the Second-Out Term Loan and the nominal amount of First-Out New Term Money Term Loan still outstanding. By contrast, if the entire First-Out New Money Term Loan had been repaid in full, issuing the Sham First-Out Term Loan would have required the consent of 75% of the Lenders owning the Second-Out Term Loan because the Sham First-Out Term Loan would have subordinated the remaining tranches.

45. In other words, according to Defendants, if $1,000,000 of the Second-Out Term Loan and $1 of the First-Out New Money Term Loan remain outstanding, the Company can incur additional first out debt with the consent of Lenders owning more than $500,000.5 of the Second-Out Term Loan (*i.e.* more than 50% of the combined total of First-Out and Second-Out Term Loan outstanding). By contrast, if $1,000,000 of the Second-Out Term Loan remains outstanding but the First-Out New Money Term Loan has been repaid in full, incurring first out debt would require the consent of Lenders owning more than $750,000 of the Second-Out Term Loan (*i.e.* 75% of the Second-Out Term Loan outstanding). The Court should reject Defendants' absurd, commercially unreasonable interpretation of the Credit Agreement. The Court should adopt the only reasonable interpretation of Section 9.02(b)(C)(1), which, in this case, required that Lenders owning more

than 75% of the sum of the First-Out New Term Loan and Second-Out Term Loan consent to the issuance of additional first out debt.

V. The Administrative Agent Resigns in Protest of the Sham Transaction.

46. Invesco is not the only party that protested the Sham Transaction. The Administrative Agent resigned immediately upon realizing that Amendment No. 5, which effectuated the Sham Transaction, knowingly misrepresented their involvement in the transaction.

47. Pursuant to Amendment No. 5 (*id.* § 7(a)), the Administrative Agent's consent to the Sham Transaction was a condition precedent to its effectiveness. Defendants executed Amendment No. 5 on December 8, 2023. However, they did not disclose the Sham Transaction to the Administrative Agent ***until December 14, 2023***. Even then, Defendants failed to provide the Administrative Agent with a complete set of the transaction documents.

48. Amendment No. 5 baldly misrepresents the Administrative Agent's role and participation in the Sham Transaction. Specifically, it states:

> "***The Administrative Agent*** and the Consenting Lenders ***are willing***, subject to the satisfaction of the conditions precedent to effectiveness set forth in Section 4 hereof, ***to consent to all amendments, modifications and agreements set forth by this Amendment*** and the Amended Credit Agreement." (Whereas Clause No. 7) (emphasis added).
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> ***
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> ***The Administrative Agent shall have received a funds flow in form and substance reasonably acceptable to the Administrative Agent*** and Consenting Lenders. . . . (emphasis added).
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> The Administrative Agent will receive compliance certificates, an opinion from counsel, and borrowing requests that were apparently never delivered.

Having received Amendment No. 5 almost a week after it was executed, the Administrative Agent could not have, for example, received a funds flow or declared its willingness to consent to the

amendment. On December 15, 2023, in protest of Defendants' bald-faced lies, the Administrative Agent resigned.

49. Amendment No. 5 still has not been fully executed by the Administrative Agent, and, thus, its provisions are of no force and effect. Upon information and belief, Defendants are searching for a replacement to the Administrative Agent that will do their bidding in the wake of Administrative Agent's resignation.

50. Consequently, Plaintiffs seek injunctive relief against any effort to execute any documents in furtherance of the Sham Transaction, including.

FIRST CAUSE OF ACTION
Breach of Contract
(Against Robertshaw, Bain Capital, Eaton Vance, and Canyon Partners)

51. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

52. The Credit Agreement is a valid and enforceable agreement.

53. Robertshaw and the Minority Lenders were parties to, or assignees and successors in interest to, the Credit Agreement.

54. Invesco performed all conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of the Credit Agreement.

55. Robertshaw and the Minority Lenders breached: (i) Section 6.01 of the Credit Agreement, which explicitly prohibited the incurrence of the Sham First-Out Term Loan; (ii) Section 9.02(b)(A)(9) of the Credit Agreement by incurring Indebtedness specifically for the purpose of divesting Invesco of its "Required Lender" status; and (iii) Section 9.02(b)(C)(1) of the Credit Agreement by subordinating the remaining tranches of debt to the Sham First-Out Term

Loan without the consent of Lenders owning more than 75% of the sum of the First-Out New Money Term Loan and Second-Out Term Loan.

56. Invesco has suffered damages as a result of Robertshaw's and the Minority Lender's breach, in an amount to be proven at trial.

57. If the Sham Transaction is allowed to stand, Invesco will also suffer irreparable harm by (i) losing voting control and consent rights over the Company's restructuring and (ii) losing the benefits of Amendment No. 4, which proposed a restructuring transaction that offered Invesco a far better recovery than it stands to recover now, sitting behind the $218 million Sham First-Out Term Loan. The loss of these rights – participation in future transactions and exclusive investment opportunities – has no quantifiable value and is therefore not fully compensable in money damages. Even if Invesco's injuries were fully compensable in money damages (which they are not), the Sham Transaction will almost certainly cause Invesco irreparable harm because Invesco is unlikely to receive any meaningful recovery on account of its subordinated debt owing by the indisputably insolvent Robertshaw.

SECOND CAUSE OF ACTION
Breach of Implied Covenant of Good Faith and Fair Dealing
(Against Robertshaw, Bain Capital, Eaton Vance, and Canyon Partners)

58. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

59. If the Court finds that the Sham Transaction did not violate the terms of the Credit Agreement, Invesco alleges, in the alternative, that the Sham Transaction violated the implied covenant of good faith and fair dealing.

60. Robertshaw's and the Minority Lenders' actions in pursuing and then consummating the Sham Transaction deprived Invesco of the fruits of its contract by concocting a

scheme with no economic substance to circumvent Invesco's legal and contractual rights. Invesco reasonably believed and was justified in believing that it was entitled to all the rights of "Required Lender" under the Credit Agreement and that minority lenders could not usurp those rights.

61. Robertshaw and the Minority Lenders also breached the covenant of good faith and fair dealing by making false and misleading statements in Amendment No. 5 concerning the Administrative Agent's involvement in and consent to the Sham Transaction, hiding the Sham Transaction from the Administrative Agent for several days, and failing to provide the Administrative Agent with a complete set of transaction documents.

62. Robertshaw and the Minority Lenders also breached the covenant of good faith and fair dealing by leaving a nominal $93,000 of the First-Out New Money Term Loan outstanding to deprive Invesco of the benefit of the higher voting threshold for subordination under Section 9.02(b)(C)(1) of the Credit Agreement.

63. Invesco has suffered damages as a result of Robertshaw's the Minority Lenders' breach, in an amount to be proven at trial.

64. If the Sham Transaction is allowed to stand, Invesco will also suffer irreparable harm by (i) losing voting control and consent rights over the Company's restructuring and (ii) losing the benefits of Amendment No. 4, which proposed a restructuring transaction that offered Invesco a far better recovery than it stands to recover now, sitting behind the $218 million Sham First-Out Term Loan. The loss of these rights has no quantifiable value and is therefore not fully compensable in money damages. Even if Invesco's injuries were fully compensable in money damages (which they are not), the Sham Transaction will almost certainly cause Invesco irreparable harm because Invesco is unlikely to receive any meaningful recovery on account of its subordinated debt owing by the indisputably insolvent Robertshaw.

THIRD CAUSE OF ACTION
Declaratory Judgment
(**Against Robertshaw, Bain Capital, Eaton Vance, and Canyon Partners**)

65. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

66. The Credit Agreement is a valid and enforceable agreement.

67. Robertshaw and the Minority Lenders were parties to, or assignees and successors in interest to, the Credit Agreement.

68. Invesco performed all conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of the Credit Agreement.

69. The execution of Amendment No. 5 and the subsequent transactions carried out to implement Amendment No. 5, including the creation of the Sham Entity, the Sham Entity's equity contribution to Robertshaw, Robertshaw's use of the alleged equity contribution to repay all but $93,000 of the First-Out New Money Term Loan, and the incurrence of the Sham First-Out Term Loan were all part of a single, integrated Sham Transaction. These transactions were interwoven, interdependent, involve and were executed by substantially the same parties, and were designed to effectuate one purpose.

70. Through the Sham Transaction, Robertshaw and the Minority Lenders breached: (i) Section 6.01 of the Credit Agreement, which explicitly prohibited the incurrence of the Sham First-Out Term Loan; (ii) Section 9.02(b)(A)(9) of the Credit Agreement by incurring Indebtedness specifically for the purpose of divesting Invesco of its "Required Lender" Status; and (iii) Section 9.02(b)(C)(1) of the Credit Agreement by subordinating the remaining tranches of debt to the Sham First-Out Term Loan without the consent of Lenders owning more than 75% of the sum of the First-Out New Money Term Loan and Second-Out Term Loan.

71. Even if the Sham Transaction did not violate the terms of the Credit Agreement, Robertshaw and the Minority Lenders violated the implied covenant of good faith and fair dealing in executing Amendment No. 5 and implementing the Sham Transaction, because, *inter alia,* their actions were taken in bad faith with the purpose of circumventing Invesco's legal and contractual rights and/or constituted an arbitrary and bad-faith exercise of contractual discretion.

72. CPLR 3001 permits this Court to declare the rights and obligations of the parties in this action.

73. An actual controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment exists between the parties. Specifically, the parties dispute whether the Sham Transaction was permitted by the Credit Agreement or whether the Sham Transaction breached the terms of the Credit Agreement.

74. Plaintiff seeks a declaration that the Sham Transaction was not permitted under the terms of the Credit Agreement or, alternatively, violated the implied covenant of good faith and fair dealing, and that Amendment No. 5 is not valid and enforceable, and is thus void.

FOURTH CAUSE OF ACTION
Tortious Interference with Contract
(Against One Rock)

75. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

76. The Credit Agreement is a valid and enforceable agreement.

77. One Rock was not a party to the Credit Agreement.

78. One Rock was aware of the Credit Agreement because it was the equity sponsor and controlling shareholder of Robertshaw, which is the borrower under the Credit Agreement, and itself became a party to Amendment No. 5 to the Credit Agreement.

79. One Rock colluded with Robertshaw and the Minority Lenders to breach (i) Section 6.01 of the Credit Agreement, which explicitly prohibited the incurrence of the Sham First-Out Term Loan; (ii) Section 9.02(b)(A)(9) of the Credit Agreement by incurring Indebtedness specifically for the purpose of divesting Invesco of its "Required Lender" Status; and (iii) Section 9.02(b)(C)(1) of the Credit Agreement by subordinating the remaining tranches of debt to the Sham First-Out Term Loan without the consent of Lenders owning more than 75% of the sum of the First-Out New Money Term Loan and Second-Out Term Loan.

80. One Rock's conduct was intentional, improper, and unjustified as it maliciously and in bad faith caused Robertshaw and the Minority Lenders to pursue the Sham Transaction with the knowledge that it violated Invesco's rights under the Credit Agreement.

81. Invesco has suffered damages as a result of One Rock's breach, in an amount to be proven at trial.

FIFTH CAUSE OF ACTION
Intentional Fraudulent Transfer
(Against One Rock, Bain Capital, Eaton Vance, and Canyon Partners)

82. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

83. Prior to, at the time of, and following the Sham Transaction, Invesco was a creditor of the Company by virtue of its claims against the Company arising under, and in connection with, the Credit Agreement.

84. The Sham Transaction included multiple transfers of property, in the form of liens and other contractual rights under Amendment No. 5, from the Company to One Rock and the Minority Lenders

85. The Sham Transaction included the incurrence of multiple obligations by the Company in the form of indebtedness in the form of the Sham First-Out Term Loan under the Credit Agreement, as amended by Amendment No. 5.

86. By the Sham Transaction, the Company transferred property and incurred obligations with the intent to hinder, delay, or defraud their creditors, including Plaintiff. Such intent is evident from the presence of multiple badges of fraud.

87. The Sham Transaction involved transfers to One Rock, an insider, including liens and contractual rights under the Credit Agreement. One Rock's insider status is evidenced by, among other things, its 100% indirect ownership of the Company and its subsidiaries, and its status as a person in control of the Company and its subsidiaries.

88. One Rock stood on both sides of the Sham Transaction and engaged in self-dealing. As equity sponsor, One Rock exercised control over the Company to ensure the completion of the Sham Transaction to the exclusion of potential financing alternatives.

89. The transfers made and obligations incurred by the Company were concealed. Had reports not leaked regarding the existence of negotiations between the Company and the Minority Lenders, the Sham Transaction would have remained a secret through the closing date. Even with the leaked information, the specifics of the Sham Transaction remained concealed. Further, even after the consummation of the Sham Transaction, the Company refused to grant Plaintiff or its advisors full access to materials evidencing the transaction.

90. The Company utilized the Sham Transaction to remove assets. Before the Sham Transaction, Plaintiff enjoyed the status of a First-Out lender and Required Lender under the Credit Agreement. However, by eviscerating those rights and diverting them to the Minority Lenders,

the Company removed assets previously available to Plaintiff and transferred them exclusively to the Minority Lenders.

91. The Sham Transaction occurred when the Company was insolvent.

92. As shown through multiple badges of fraud, the transfers made and obligations incurred by the Company in connection with the Sham Transaction, all of which comprised a single integrated transaction, were made with the intent to hinder, delay, or defraud creditors, including Plaintiff. The Sham Transaction is therefore in violation of and voidable under applicable law, including, but not limited to 6 Del. Code Ann. § 1304 and N.Y. Debt & Cred. Law § 273.

93. Accordingly, the Sham Transaction should be avoided and unwound in its entirety.

SIXTH CAUSE OF ACTION
Constructive Fraudulent Transfer
(Against One Rock, Bain Capital, Eaton Vance, Canyon Partners)

94. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

95. Prior to, at the time of, and following the Sham Transaction, Plaintiff was a creditor of the Company by virtue of its claims against the Company arising under, and in connection with, the Credit Agreement.

96. The Sham Transaction included multiple transfers of property, in the form of liens and other contractual rights under Amendment No. 5, from the Company to One Rock and the Minority Lenders.

97. The Sham Transaction included the incurrence of multiple obligations by the Company in the form of indebtedness in the form of the Sham First-Out Term Loan under the Credit Agreement, as amended by Amendment No. 5.

98. The Sham Transaction was made by an insolvent entity without receiving reasonably equivalent value because the only purpose of the Sham Transaction was to eviscerate Plaintiff's

rights as Required Lender and terminate the Company's obligations to Plaintiff pursuant to Amendment No. 4. Likewise, the transfer of the lien and incurrence of obligations pursuant to Amendment No. 5 would be a fraudulent conveyance as a transfer made without receiving reasonably equivalent value.

99. The Company was insolvent on the date of the Sham Transaction; was left with unreasonably small capital on the date of the Sham Transaction or as a result of the Sham Transaction; or intended to incur or believed it would incur debts beyond its ability to pay as such debts matured.

100. By virtue of the foregoing, the Sham Transaction was a constructive fraudulent transfer avoidable under applicable law, including, but not limited to 6 Del. Code Ann. § 1304 and N.Y. Debt & Cred. Law § 273. Thus, Plaintiff is entitled to avoid the transfers made pursuant to the Sham Transaction.

101. Accordingly, the Sham Transaction should be avoided and unwound in its entirety.

SEVENTH CAUSE OF ACTION
Constructive Fraudulent Transfer
(Against Bain Capital, Eaton Vance, Canyon Partners and John Doe I)

102. Invesco repeats and realleges each and every allegation set forth above as if fully set forth herein.

103. Prior to, at the time of, and following the Sham Transaction, Plaintiff was a creditor of the Company by virtue of its claims against the Company arising under, and in connection with, the Credit Agreement.

104. The Sham Transaction included the incurrence of multiple obligations by the Company in the form of indebtedness in the form of the Sham First-Out Term Loan under the Credit Agreement, as amended by Amendment No. 5.

105. The Company simultaneously used the proceeds of the Sham First-Out Term Loan to repay the "equity contribution" by the Sham Entity, John Doe I.

106. Upon information and belief, John Doe I and the Minority Lenders were transferees or subsequent transferees of the funds used to repay the "equity contribution."

107. The repayment of the "equity contribution" was made by an insolvent entity without receiving reasonably equivalent value because the Company received no consideration in return for the repayment.

108. The Company was insolvent on the date of the repayment of the "equity contribution;" was left with unreasonably small capital on the date of the repayment or as a result of the repayment or intended to incur or believed it would incur debts beyond its ability to pay as such debts matured.

109. By virtue of the foregoing, the repayment of the "equity contribution" was a constructive fraudulent transfer avoidable under applicable law, including, but not limited to 6 Del. Code Ann. § 1304 and N.Y. Debt & Cred. Law § 273. Thus, Plaintiff is entitled to avoid the repayment of the "equity contribution" made in connection with the larger Sham Transaction.

110. Accordingly, the repayment of the "equity contribution" should be avoided and unwound in its entirety.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court:

1) Enjoin any transactions, arrangements, amendments, variations, adjustments, compromises, waivers or settlements under or pursuant to the Loan Documents purportedly requiring only the consent, direction, or instruction of the Minority

Lenders and/or the Equity Sponsor, including but not limited to those in Amendment No. 5;

2) Order Robertshaw to abide by the terms of Amendment No. 4 and consummate the restructuring transaction contemplated therein;

3) Order money damages in an amount to be determined at trial;

4) Costs and disbursements of this action, together with attorneys' fees; and

5) Such other and further relief as this Court may deem just and proper.

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Dated: New York, New York
December 20, 2023

Respectfully submitted,

GLENN AGRE BERGMAN & FUENTES LLP

By: */s/ Andrew K. Glenn*

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Attorneys for Plaintiff

VERIFICATION

STATE OF NEW YORK }
} SS.:
COUNTY OF NEW YORK }

I, Matthew Brooks, being duly sworn, deposes and says:

I am a Managing Director of the Plaintiff in this action. I have reviewed the contents of this complaint and verify that the statements contained herein are true to the best of my knowledge, except as to matters alleged on information and belief, and as to those matters, I believe them to be true. I am aware that if any of the statements contained in the complaint are willfully false, I am subject to punishment.

Matthew Brooks

Sworn to and subscribed
this 20 day of December
2023.

EVELYN FELICIANO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01FE6296947
Qualified in New York County
My Commission Expires 02-10-2026