EFiled: Aug 10 2022 11:57AM EDT
Transaction ID 67900865
Case No. 2021-0300-LWW

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE MULTIPLAN CORP. STOCKHOLDERS LITIGATION	Consolidated C.A. No. 2021-0300-LWW

CORRECTED VERIFIED CLASS ACTION COMPLAINT

Plaintiff Anthony Franchi ("Plaintiff"), on behalf of himself and similarly situated current and former stockholders of MultiPlan Corp. f/k/a Churchill Capital Corp III. ("Churchill" or the "Company"), brings this Verified Class Action Complaint asserting: (i) breach of fiduciary duty claims stemming from the Company's merger (the "Merger") with Polaris Parent Corp. ("MultiPlan") against (a) Michael Klein, Jay Taragin, Jeremy Paul Abson, Glenn R. August, Mark Klein, Malcom S. McDermid, Karen G. Mills, and Michael Eck, in their capacities as members of Churchill's board of directors (the "Board") and/or Company officers, and (b) Michael Klein, M. Klein and Company, LLC ("M. Klein & Co."), and Churchill Sponsor III, LLC ("Sponsor"), in their capacities as Churchill's controlling stockholders; and (ii) aiding and abetting breaches of fiduciary duty by The Klein Group, LLC ("Klein Group").

The allegations are based on Plaintiff's knowledge as to himself, and on information and belief, including counsel's investigation and review of publicly available information.

NATURE OF THE ACTION

1. The typical structure for the securities market's "latest and greatest" innovation—the special purpose acquisition company ("SPAC")—is conflict-laden and practically invites fiduciary misconduct. Call it "SPAC 1.0."

2. This case arises because one of the biggest proponents of "SPAC 1.0" seems to have forgotten that core foundations of Delaware corporate law still apply. While SPACs as a concept can create immense value for many investors, the structure at issue in this case requires judicial review for entire fairness.

3. Where, as here, the transaction triggering entire fairness review arose from a deeply flawed and unfair process, including severe disclosure defects, and resulted in a grossly mispriced transaction, the entire fairness standard will not be satisfied, giving aggrieved stockholders the right to judicial recompense.

4. If and when this Court makes clear that the boards of SPACs like the one at issue here are subject to the same level of fiduciary duty review applicable to any other Delaware corporation, the proponents of future SPACs will surely adapt. Future sponsors of SPACs can easily choose to mitigate avoidable conflicts by structuring entities that better protect public stockholders. Call it "SPAC 2.0."

* * * * * * *

5. After 23 years with Citigroup that ended with him serving extended stints at the top of Citi's investment bank, Michael Klein ("M. Klein") was already

wealthy, but he then found a way to realize virtually unheard of returns on his time and resources. He decided to become a serial sponsor of SPACs, which are, in essence, pools of publicly traded money that acquire private companies. These private companies are thus able to become publicly traded and bypass the usual initial public offer ("IPO") process.

6. The SPAC at issue here is Churchill Capital Corp. III, M. Klein's third SPAC. In structuring Churchill, M. Klein (through his control of Sponsor) used the full panoply of tools that gave the Company's board of directors (the "Board") strong (indeed, overriding) incentives to get a deal done—any deal—without regard to whether it is truly in the best interest of the SPAC's outside investors (*i.e.*, whether the target private company is actually a good investment). Among other things:

- Sponsor received "founder shares" giving it the right to obtain 20% of the equity of the SPAC for nominal consideration, provided an acquisition was completed.

- Sponsor gave the directors of the Company (each of whom was selected by and had extensive familial, personal, or financial ties to M. Klein) a large number of founder shares, the value of which were also conditioned on a deal—any deal—closing.

- Thus, even in a "bad" deal for public SPAC investors (*i.e.*, where the post-transaction company's stock trades at less than $10 per share), completion of a business transaction would yield massive windfalls to holders of the founder shares.

- SPAC investors committed money (at the typical initial offering price of $10 per share), but they would receive a return of their funds if no deal was found within a two-year window and had the absolute right to redeem their shares if they did not support the proposed deal.

- Disclosures around the deal (which brought MultiPlan from being a struggling private portfolio company controlled by private equity firm Hellman & Friedman into the public markets) were not done with the rigor of the usual IPO process, yet were critical to outside investors' exercise of their redemption rights.

7. The massive windfalls available to Sponsor and the Board separate from any benefit to stockholders created a clear conflict of interest with respect to any proposed deal, thus warranting entire fairness review of any deal.

8. Critically, those conflicting interests manifested themselves in the Company's October 2020 acquisition of MultiPlan, a data analytics provider for healthcare companies and consumers (as defined above, the "Merger").

9. To be sure, the founder shares, held mainly by M. Klein but still giving the Board members multi-million-dollar windfalls, cost M. Klein just $25,000 yet were worth ***over $300 million*** upon the Merger's closing, representing a personal return on investment of ***1,219,900%***.

10. The process surrounding the Merger by Churchill of MultiPlan fails any entire fairness review for multiple reasons, including:

11. ***First***, the Board did not bother retaining their own independent, third-party financial advisor to assess the Merger. Indeed, it cannot even say it relied exclusively on M. Klein (who admittedly was a highly experienced investment banker) for financial guidance. Rather, the Board retained M. Klein's own vehicle,

Klein Group, thus transferring a $30.5 million "advisory fee" to M. Klein on top of his founder shares windfall.

12. ***Second***, while the Board had a duty to diligence MultiPlan before agreeing to buy the company, it either failed in that duty or ignored and concealed basic facts making clear the acquisition was a disaster waiting to happen. Indeed, pre-deal MultiPlan depended on UnitedHealth Group Inc. ("UHC") for about 35% of its revenues. Going back to late May / early June 2020, well before the deal to buy MultiPlan was even announced, UHC had disclosed its intention to create its own data analytics platform to provide services duplicative of those provided by MultiPlan, which would surely render its relationship with MultiPlan obsolete ***and*** create an additional competitor. Also, besides UHC's impending departure, MultiPlan's earnings were not just under pressure, but were practically cratering.

13. ***Third***, the disclosures surrounding the deal were not just marginally flawed but were affirmatively false and misleading. In soliciting Churchill's investors deciding whether to redeem their pre-deal shares or to support the Multiplan acquisition, the Board affirmatively highlighted the "extensive due diligence" it supposedly performed. The Board disclosed the Company's dependence on a customer for 35% of revenues but omitted that the customer was UHC and that UHC was in the process of abandoning MultiPlan in favor of its own

competing data analytics platform. The Board accepted M. Klein's projections for MultiPlan at face value, rather than disclosing the target's true financial picture.

14. Less than 10% of the Company's outside investors redeemed their shares before the Merger closed on October 7, 2020.

15. The unlucky investors who believed the Board's disclosures and put their faith in M. Klein's skills and abilities received a rude—but prompt—awakening. Barely a month after the Merger closed, a market research report by Muddy Waters LLC ("Muddy Waters") about MultiPlan publicly disclosed—for the first time—both the loss of UHC's business and the effective cratering of MultiPlan's financial position.

16. The result has been a financial catastrophe. Following the post-closing, Muddy Waters research report, the Company's stock price plummeted. Indeed, the Company's shares—which had traded in a fairly tight range around $10 (and actually represented $10 per share, plus interest, of cash) before the Merger—closed at just $6.27 per share the day prior to the filing of this Complaint. In other words, a pool of approximately $1 billion of cash pre-deal is now only worth $627 million, reflecting the destruction of over $370 million of stockholder value.

17. In sum, the entire fairness standard applies to this deeply conflicted Merger. In light of the conflict-laden structure of this SPAC and the manner in

which M. Klein and the Board acted with respect to those conflicts and the deal process in general, the Merger cannot meet the test of entire fairness.

18. Accordingly, the Court should award monetary damages arising from the unfair acquisition of MultiPlan and, in the alternative for public stockholders who purchased Company stock prior to the Record Date and continue to hold such stock, equitably reopen the redemption window to allow them to put back their Class A shares for $10 per share, plus interest.

PARTIES AND RELEVANT NON-PARTIES

I. Plaintiff

19. Plaintiff Anthony Franchi has consistently held, and has been the beneficial owner of, Churchill stock since September 22, 2020, shortly after the September 14, 2020 record date for the Merger (the "Record Date").

II. Defendants

20. Defendant Churchill Capital Corp III. (as defined above, "Churchill" or the "Company") is a blank check company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination. Defendant M. Klein created Churchill on October 30, 2019, and the Company closed its $1.1 billion IPO on February 19, 2020. On October 8, 2020 (the "Closing Date"), Churchill merged with MultiPlan, with

Churchill as the surviving entity. The post-Merger company's shares trade on the New York Stock Exchange ("NYSE") under the ticker "MPLN."

21. Defendant Michael Klein (as defined above, "M. Klein") served as Churchill's chief executive officer ("CEO"), president, and Chairman of the Board, and he currently serves as a member of the post-Merger company's board of directors. M. Klein is one of the world's most prolific SPAC founders, having launched seven such entities and raised billions of dollars since September 2018 under his "Churchill" banner. M. Klein founded and controls Defendants M. Klein and Company, LLC (as defined above, "M. Klein & Co."), Churchill Sponsor III, LLC (as defined above, "Sponsor"), and The Klein Group, LLC (as defined above, "Klein Group"). Until 2008, M. Klein held a wide number of senior management positions within Citigroup's investment bank, ultimately achieving the title of Chairman of the Citigroup's Institutional Clients Group and Vice Chairman of Citigroup itself.

22. Defendant Jay Taragin ("Taragin") served as chief financial officer ("CFO") of Churchill prior to the Merger. He also serves as CFO at a number of other M. Klein affiliates, including M. Klein & Co. and other SPACs created under the "Churchill" banner.

23. Defendant Jeremy Paul Abson ("Abson") served as a member of the Board prior to the Merger. Abson also serves as a director on the board of directors of Churchill Capital Corp. II, a SPAC founded by M. Klein.

24. Defendant Glenn R. August ("August") served as a member of the Board prior to the Merger and currently serves as a member of the post-Merger MultiPlan's board of directors. August also serves and/or served as a director on the boards of directors of Churchill Capital Corp. II, Churchill Capital Corp. IV, Churchill Capital Corp. V, Churchill Capital Corp. VI, and Churchill Capital Corp. VII.

25. Defendant Mark Klein is Michael Klein's brother and served as a member of the Board prior to the Merger. Mark Klein also serves and/or served as a director on the boards of directors of Churchill Capital Corp. II, Churchill Capital Corp. IV, Churchill Capital Corp. V, Churchill Capital Corp. VI, and Churchill Capital Corp. VII. Since 2010, Mark Klein has served as a managing member and majority partner of Defendant M. Klein & Co.

26. Defendant Malcom S. McDermid ("McDermid") served as a member of the Board prior to the Merger. McDermid also serves and/or served as a director on the boards of directors of Churchill Capital Corp., Churchill Capital Corp. II, Churchill Capital Corp. IV, Churchill Capital Corp. V, Churchill Capital Corp. VI, and Churchill Capital Corp. VII.

27. Defendant Karen G. Mills ("Mills") served as a member of the Board prior to the Merger. Mills also serves and/or served as a director on the boards of directors of Churchill Capital Corp., Churchill Capital Corp. II, Churchill Capital Corp. IV, Churchill Capital Corp. V, Churchill Capital Corp. VI, and Churchill Capital Corp. VII.

28. Defendant Michael Eck ("Eck") served as a member of the Board prior to the Merger. Eck is a Managing Director at M. Klein & Co., where he has been employed since 2016.

29. Defendant M. Klein & Co. is a global strategic advisory firm founded by M. Klein in 2012. M. Klein serves as the managing partner of M. Klein & Co., while Mark Klein serves as its managing member and majority partner.

30. Defendant Sponsor is a Delaware limited liability company, which served as Churchill's sponsor and purchased and held Class B founder shares. Sponsor's managing member is M. Klein Associates, Inc., whose sole stockholder is M. Klein. As set forth in Paragraphs 61 and 62 below, several Board members received membership interests in the Sponsor, and, in turn, the founder shares, which gave them the opportunity to make millions of dollars as long as they approved a transaction in which Churchill acquired another business.

31. Defendant Klein Group is an affiliate of M. Klein and wholly owned subsidiary of M. Klein & Co. In other words, M. Klein controls M. Klein & Co.,

whose subsidiaries and/or affiliates included the Sponsor and Klein Group (both also controlled by M. Klein). Klein Group was engaged by Churchill to act as Churchill's financial advisor in connection with the Merger and related financing transactions, and it was paid $30.5 million for those "services."

32. Defendants M. Klein, Abson, August, Mark Klein, McDermid, Mills, and Eck are referred to herein as the "Director Defendants."

33. Defendants M. Klein and Taragin are referred to herein as the "Officer Defendants."

34. Defendants M. Klein, M. Klein & Co., and Sponsor are referred to herein as the "Controller Defendants."

III. Relevant Non-Parties

35. MultiPlan is a provider of data analytics and technology management solutions to the U.S. healthcare industry. MultiPlan merged with Churchill on October 8, 2020, and is a wholly-owned subsidiary of the Company.

36. Hellman & Friedman LLC (together with its subsidiaries, affiliates, and funds, "H&F") is a private equity firm founded in 1984. H&F owned MultiPlan prior to the Merger and remains the beneficial owners of 32% the post-Merger company.

SUBSTANTIVE ALLEGATIONS

I. SPAC 1.0: An Innovation with Misplaced Incentives

37. SPACs, also known as "blank-check companies," are publicly traded shells created to merge with privately-held businesses. Once a SPAC identifies a target and they agree to a deal, the parties effect a business combination through a reverse merger.

38. This transactional structure allows the target company to take the SPAC's places on a public exchange, permitting the target to bypass the traditional IPO process while allowing their equity to become publicly traded in an expedited manner without the traditional regulatory scrutiny.

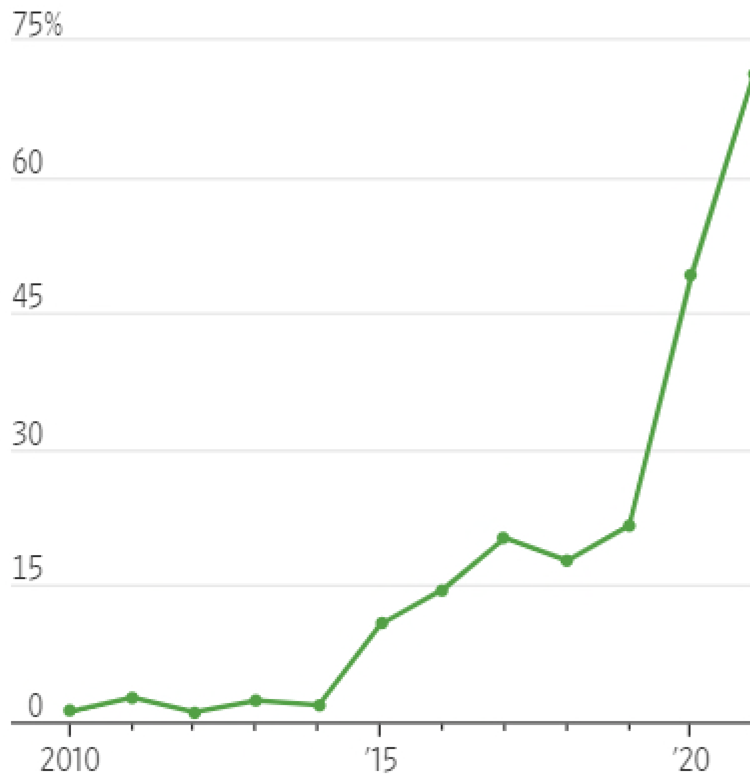
39. In addition, while the traditional IPO process lets investors as a whole (*i.e.*, the market) set the price at which the company is valued, the SPAC process switches the usual order of events. With a SPAC, investors can buy shares of the empty-shell public entity in order to have the "opportunity" to see their shares converted into shares of an-as-yet unidentified operating business. In other words, investors rely on the managers of the SPAC in which they invest to find the right opportunity for an acquisition in order to create value.

40. Previously dismissed as "a shady Wall Street relic," *The New York Times* said "[t]his year [*i.e.*, 2020] was all about the SPAC." And, as *The Wall Street Journal* observed, "there is no end in sight to the SPAC attack." Indeed, the amount

of capital raised by SPACs as of the date of this Complaint has surpassed the total amount raised by SPACs in all of 2020, which was by far the largest in history:

Year	Amount Raised ($bn)	# IPOs	Average Size ($mm)
2021	98.9	306	323.4
2020	83.4	248	336.4
2019	13.6	59	230.5
2018	10.8	46	233.7
2017	10.0	34	295.5
2016	3.5	13	269.2
2015	3.9	20	195.1
2014	1.8	12	145.8
2013	1.4	10	144.7

41. Moreover, SPACs do not constitute a mere niche of U.S. capital markets—the relative percentage of money raised by SPACs in IPOs has become the majority of all funds raised across ***all*** IPOs:



42. There are currently 558 SPACs actively seeking acquisition targets, and they have nearly $179.3 billion in funds that their disposal. Andrew Ross Sorkin ("Sorkin") of *The New York Times* reported (cringe-worthily) that several financiers have told him "I know more people who have a SPAC than have Covid."[1]

43. Most SPACs to date have the same basic structure. A SPAC will raise funds from public investors through an IPO, and then hold those funds in "trust" for

[1] Andrew Ross Sorkin, *Wall Street's New Favorite Deal Trend Has Issues*, N.Y. TIMES (Feb. 10, 2021), https://www.nytimes.com/2021/02/10/business/dealbook/spac-wall-street-deals.html.

those investors while the SPAC seeks an acquisition target. The SPAC will then have a "completion window"—generally two years—to identify and execute a business combination. If the SPAC fails to do so during the completion window, then it must return the funds in trust to its public stockholders, and then the SPAC dissolves.

44. If the SPAC does identify a target and proposes a business combination, but certain SPAC public stockholders do not like the deal, these stockholders have the right to redeem their stock for approximately the same amount as their initial investment, plus interest. Critically, the value of this redemption right is directly tied to the quality of the disclosures surrounding the proposed acquisition, and the disclosures surrounding SPAC deals are to date far less regulated than those made in connection with an IPO (for instance, there is no "quiet period" or practical prohibition on disclosures of projections for SPAC mergers).

45. The currently common SPAC structure creates problematic incentives for their founders, whose interests are not directly aligned with those of the public investors. In a typical SPAC, founders receive, for a nominal price, "founder shares," often amounting to 20% of the post-IPO, pre-business combination stock of the blank check company. In other words, as Sorkin wrote: "This is not pay for performance. It is pay before performance."[2]

---

[2] *Id.*

46. Once the SPAC finds a business combination to effectively take a company public, these founder shares convert into regular, common stock of the post-merger company. As a result, founders are greatly incentivized to complete a deal prior to the close of the completion window even if that deal is not the best outcome for SPAC public stockholders. Put simply, in many SPACs, the founder shares are worthless absent any deal, yet are worth massive gains (often in the hundreds of millions of dollars) if a deal closes.

47. As one analyst has observed, "[a] business model that incentivizes promoters to do something—anything—with other people's money is bound to lead to significant value destruction on occasion."[3] The possibility for value destruction is only magnified by the sheer amount of SPAC capital—ticking time bombs of dry powder—chasing a limited universe of private targets. According to one veteran investment banker: "We have a massive demand-supply imbalance problem coming. It's inevitable . . . We know how it's going to end."[4]

---

[3] *MultiPlan: Private Equity Necrophilia Meets The Great 2020 Money Grab*, MUDDY WATERS CAPITAL, LLC (Nov. 11, 2020), https://d.muddywatersresearch.com/content/uploads/2020/11/MW_MPLN_11112020.pdf.

[4] Andrew Ross Sorkin, *Wall Street's New Favorite Deal Trend Has Issues*, N.Y. TIMES (Feb. 10, 2021), https://www.nytimes.com/2021/02/10/business/dealbook/spac-wall-street-deals.html.

48. Additional inherent conflicts abound, since the founders control the SPACs' investment and financing decisions with little, if any, oversight. For instance, a founder may cause a SPAC to merge with a private company in which he or she holds a substantial equity interest. This is what happened when famed restauranteur and owner of the Houston Rockets basketball team Tilman Fertitta caused a SPAC he controlled to acquire the Golden Nugget Casino and the Landry's restaurant chain, both of which he also controlled.

49. Also, founders often allow themselves and selected investors to participate in additional investments—at especially favorable terms—to their SPAC acquisitions through private warrant placements and private investment in public equity, or "PIPE" financings. In an IPO, the underwriters buy the shares to be issued, and then sell those shares to investors of their choosing. When a SPAC conducts an acquisition using this form of PIPE financing, the SPAC managers essentially dilute the existing SPAC investors by selecting their preferred investors—whether they are existing SPAC investors or not—who will acquire cheap post-deal equity by providing the financing for a PIPE deal.

50. Another opportunity for misconduct inherent in the current SPAC structure is where founders richly compensate affiliated entities to provide consulting or advisory services to their SPACs. As described below, despite standing to review a windfall through his own founder shares (and ultimately

receiving hundreds of millions of dollars in equity based on completing the MultiPlan acquisition), M. Klein opportunistically caused the payment of an additional $30.5 million advisory fee by the SPAC to his affiliate, Klein Group, in connection with the Merger. This fee was a naked misallocation of corporate value, permitted because a majority of the Board had their own multi-million-dollar windfalls riding on closing the deal that M. Klein preferred.

51. Despite the potential for misconduct by the directors, officers, and controllers of SPACs, however, there is the overlay of fiduciary duties to regulate their behavior. After all, Delaware blank check corporations are still Delaware corporations, governed by the State's statutory and common law.

52. Accordingly, if a SPAC choses to incorporate in Delaware, then its fiduciaries are bound by non-waivable duties of loyalty, care, and disclosure. The reason this case is necessary is that Defendants enjoyed all the powers and opportunities given them by their chosen conflict-laden SPAC structure, but now must justify the MultiPlan acquisition by the applicable test of entire fairness.

II. M. Klein Forms Churchill and Raises $1.1 Billion in the IPO

53. M. Klein is one of the world's most prolific SPAC founders, having launched at least seven blank check companies under the "Churchill" umbrella since September 2018. These seven SPACs have raised billions of dollars from public investors. This action relates to M. Klein's third SPAC, Churchill Capital Corp. III.

54. On October 30, 2019, M. Klein caused the Sponsor to incorporate Churchill under the laws of Delaware. M. Klein served as the Company's CEO, president, and Chairman of the Board. Taragin served as the Company's CFO, a role he serves at a number of other M. Klein affiliates, including M. Klein & Co. and other SPACs under the "Churchill" banner.

55. In his managerial roles, M. Klein was responsible for sourcing, negotiating, and executing a business combination for Churchill. As the Form S-1 (the "S-1") filed in connection with the Company's IPO states: [t]he sourcing, valuation, diligence and execution capabilities of our management team, M. Klein and Company and our Strategic and Operating Partners will provide us with a significant pipeline of opportunities from which to evaluate and select a business that will benefit from our expertise." As noted, M. Klein's prior history with Citigroup established that the main skill set he brought to his role as SPAC sponsor is his expertise and ability as an investment banker.

56. On February 19, 2020, Churchill closed its IPO of 110 million units. Each unit consisted of one share of Class A stock and one-fourth of one warrant. The units from the IPO were sold at an offering price of $10 per unit, generating total gross proceeds of $1.1 billion. These Class A shares composed 80% of Churchill's float. The Sponsor reserved the other 20% in the form of Class B founder shares, which the Sponsor "purchased" for the nominal payment of $25,000.

Simultaneously with the IPO, the Sponsor also purchased 23 million private placement warrants, at $1 per warrant.

57. Churchill went public with a completion window of approximately two years, keyed off its February 19, 2020 IPO date. In other words, the Company had to complete a business combination by about February 19, 2022 or the founder shares would be forfeited, the private placement warrants would be worthless, the IPO proceeds held in trust would be returned to the public stockholders, and Churchill would be dissolved.

III. M. Klein Packs the Board with Loyalists and Ensures Their Fealty with a Windfall of Founder Shares

58. M. Klein controlled Churchill through the Sponsor, which held all of the Class B shares. The S-1 acknowledged as much:

> Our initial stockholders [*i.e.*, the Sponsor] will control the election of our board of directors until consummation of our initial business combination and will hold a substantial interest in us. As a result, they will elect all of our directors prior to the consummation of our initial business combination and may exert a substantial influence on actions requiring a stockholder vote, potentially in a manner that you do not support.

59. M. Klein initially appointed himself and Defendants Abson, August, Mark Klein, McDermid, and Mills to the Board. M. Klein later added Eck and Bonnie Jonas ("Jonas") to the Board. As the controller of a majority of the Class B shares (in fact, he controlled all of them), M. Klein could remove any directors at any time.

60. M. Klein's chosen directors had deep financial and personal ties to him. As illustrated by the table below: (a) Mark Klein is M. Klein's brother; (b) Mark Klein and Eck each work at M. Klein & Co.; (c) M. Klein granted to each of Abson, August, McDermid, Mills, Eck, and Jonas founder shares worth ***millions of dollars*** (so long as Churchill completed an acquisition); (d) M. Klein appointed Abson, August, Mark Klein, McDermid, Mills, and Jonas to multiple boards of directors of other "Churchill" SPACs; and (e) M. Klein allowed Abson and McDermid to buy a portion of M. Klein's $23 million in private placement warrants:

	Director at Other Churchill SPACs									
Director	**I**	**II**	**IV**	**V**	**VI**	**VII**	**Founder Shares**	**Private Placement Warrants**	**M. Klein & Co. Employee**	**Other Ties to M. Klein**
Michael Klein	✓	✓	✓	✓	✓	✓	20,710,281	✓	Founder and managing partner	
Jeremy Paul Abson		✓					294,985	✓		
Glenn R. August		✓	✓	✓	✓	✓	3,933,137			
Mark Klein		✓	✓	✓	✓	✓			Managing member / majority partner	M. Klein's brother
Malcolm S. McDermid	✓	✓	✓	✓	✓	✓	786,672	✓		
Karen G. Mills	✓	✓	✓	✓	✓	✓	294,985			
Michael Eck							294,985		Managing director	
Bonnie Jonas			✓		✓	✓	294,985			

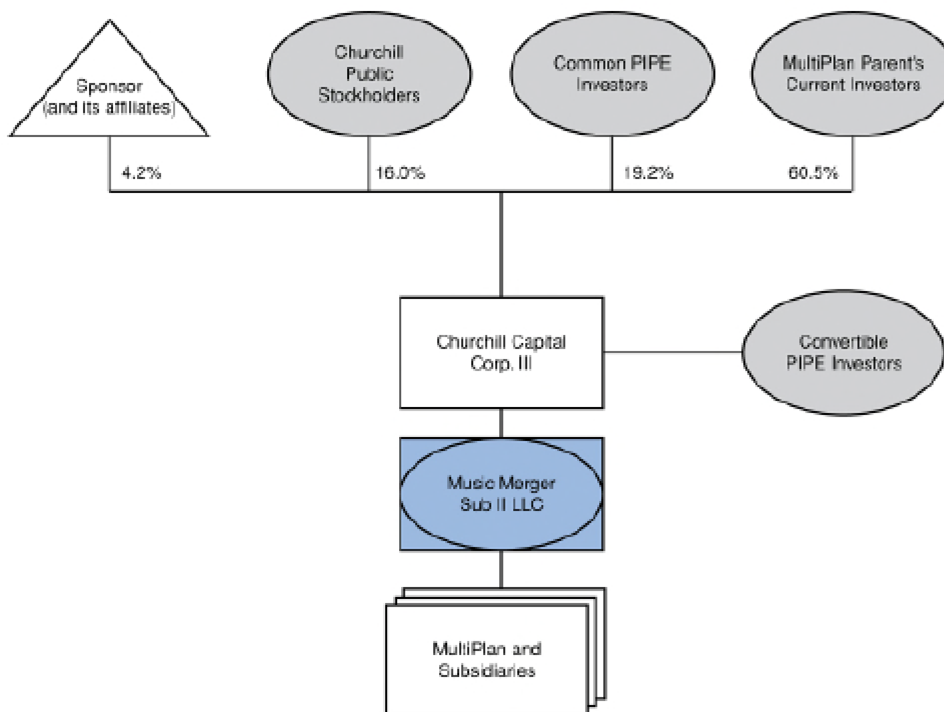
61. Importantly, by appointing Abson, August, Mark Klein, McDermid, Mills, and Jonas to the boards of directors of his other SPACs, M. Klein provided them with the opportunity to receive additional founder shares in those SPACs. Thus, consummation of the Merger did not provide an isolated, one-time multi-million-dollar payday for these directors. Rather, ***each*** "Churchill" SPAC business combination presents a multi-million-dollar opportunity for them.

62. In short, these strong personal financial incentives for a majority of the Board members—potentially amounting to tens of millions of dollars—neutered their ability to act independently and "say no" to M. Klein.

IV. Churchill Merges with MultiPlan

63. On the morning of July 13, 2020, Churchill and MultiPlan announced the Merger and related financing transactions (together, the "Transactions"). The prior day, July 12, 2020, the Board had unanimously approved the Merger. Also on July 12, 2020, Churchill had formally retained Klein Group in connection with the Transactions. In this advisory role, Klein Group was paid a fee of ***$30.5 million***, despite M. Klein, as Churchill's CEO, president, and Chairman of the Board, already being tasked with identifying, negotiating, and executing a deal.

64. Under the terms of the Merger, following a series of transactions, MultiPlan would become a wholly-owned subsidiary of Churchill, as depicted by the chart below from the deal proxy:



65. The Merger valued the post-transaction company at $11 billion and, according to the above chart, the pre-Merger owners of MultiPlan (presumably, H&F) would own 60.5% of the post-Merger company. Public Class A stockholders would own 16.0% of the post-Merger company, and the Sponsor and its affiliates (including many of the Director Defendants) would own 4.2% of the post-Merger company. The Merger also contemplated incremental financing in the form of PIPE investments.

66. Approval of the Merger by Churchill stockholders only required affirmative votes of a majority of the stockholders at the special meeting. The Company set the Record Date for the meeting as September 14, 2020, issued its

definitive proxy statement (the "Proxy") on September 18, 2020, and held the meeting on October 7, 2020.

67. As of the Record Date, the closing price of Churchill common stock was $11.09. That price implied a market value of approximately $305 million for the Class B founder shares, which had been purchased a few months prior for a mere $25,000 (*i.e.*, the founder shares enjoyed a ***1,219,900% gain***). At this valuation, members of the Board were poised to realize enormous proceeds following the Merger, as illustrated by the table below:

Director	**Founder Shares**	**Implied Value @ $11.09 per share**
Michael Klein	20,710,281	$229,677,016.29
Jeremy Paul Abson	294,985	$3,271,383.65
Glenn R. August	3,933,137	$43,618,489.33
Mark Klein	0	$0.00
Malcolm S. McDermid	786,672	$8,724,192.48
Karen G. Mills	294,985	$3,271,383.65
Michael Eck	294,985	$3,271,383.65
Bonnie Jonas	294,985	$3,271,383.65

68. The Proxy touted the Board's purported reasons for recommending the Merger, including:

- ***"Attractive Valuation"***
- ***"Reasonableness of Aggregate Consideration"***
- ***"Opportunities for Growth in Revenues, Adjusted EBITDA and Free Cash Flow"***
- ***"Industry Leadership in End-to-End Healthcare Cost Management and Value-Add Claims Payment Processing in the U.S. Healthcare Industry as measured by revenue and claims processed"***

- ***"Commitment of MultiPlan's Owners,"*** *i.e.*, H&F's continued ownership of a majority of the post-Merger company.

69. The Board purported to have reached these conclusions after ***extensive*** due diligence. According to the Proxy:

> After conducting ***extensive due diligence***, along with their familiarity with MultiPlan's business from prior commercial experiences, the Churchill Board and Churchill management ***had knowledge of, and were familiar with***, MultiPlan's business, financial condition, results of operation (including favorable free cash flow generation and current EBITDA margins, ***as well as the recurring nature of MultiPlan's revenues) and future growth prospects***. The Churchill Board considered the results of the due diligence review of MultiPlan's business, including . . . ***Churchill management having had the opportunity to communicate with senior leaders of several large customers of MultiPlan to better understand the quality and nature of those relationships, as well as the competitive environment in which MultiPlan operates***.

70. Notably, the Proxy did not provide an independent, third-party fairness opinion as to whether the Merger was fair, from a financial perspective, to public Class A Churchill stockholders.

71. Rather, Churchill presented its own financial analyses to support the Board's recommendation of the Merger. The valuation analyses adopted the below projections, which show sudden jumps in expected 2020 revenues and adjusted EBITDA, following a stark downward trend in actual revenue and adjusted EBITDA over the previous three years:

($ in thousands)	2017A	2018A	2019A	2020E
Revenue	$ 1,067,266	$ 1,040,883	$ 982,901	$1,085,000 - $1,125,000
Adjusted EBITDA	$ 812,086	$ 828,886	$ 750,350	$845,000 - $875,000

72. However, as noted above, the Board affirmatively represented its extensive diligence of MultiPlan, and these representations specifically assured Churchill's public stockholders that these projections were reasonable.

73. After having received these disclosures, on October 7, 2020, Company stockholders approved the Merger. The post-transaction entity's stock trades on the New York Stock Exchange under the ticker "MPLN."

V. The Muddy Waters Report

74. The rosy outlook for the post-Merger company portrayed by Churchill management was short-lived.

75. Barely a month after the deal closed, on November 11, 2020, research firm Muddy Waters published a report entitled "MultiPlan: Private Equity Necrophilia Meets The Great 2020 Money Grab" (the "Report"). In the Report, Muddy Waters exposed MultiPlan as a rapidly deteriorating business, highlighting a number of facts that were either entirely omitted or misleadingly characterized in the Proxy and/or other public disclosures concerning the Merger. Among other things, Muddy Waters reported:

- MultiPlan was in the process of losing its largest client, UHC. In 2019, UHC accounted for ***35%*** of MultiPlan's revenues.

- UHC was forming a competitor to MultiPlan, Naviguard, which purportedly offered significantly lower prices and fewer conflicts of interests than MultiPlan. UHC apparently planned to move all of its key accounts from MultiPlan to Naviguard by the end of 2022.

- Notwithstanding the departure of UHC and the formation of Naviguard, MultiPlan was already in decline, with revenues falling consistently in recent years. MultiPlan, however, tried to mask its financial condition through an accounting sleight of hand. According to Muddy Waters, in 2018, MultiPlan released revenue reserves, dropping them from approximately 30% to 10% of revenue and allowing them to show EBITDA growth that year despite slumping sales. *See* ¶72, *supra*.

- MultiPlan had been facing declining revenues due to, in part, increased competition and pricing pressures. In certain instances, insurers were cutting commissions paid to MultiPlan in half, from 12% to 6%. Misleadingly, during a joint MultiPlan/Churchill/H&F analyst day presentation on August 18, 2020, declines in 2018 and 2019 revenue were attributed to "idiosyncratic customer behavior." M. Klein participated in this presentation.

- H&F was desperate to offload MultiPlan because of its declining prospects. Prior to the Merger, H&F had attempted to merge or shop MultiPlan in other contemplated transactions. The Merger turned out to be the best way for H&F to sell out of at least a portion of MultiPlan.

76. In the wake of the Report, MultiPlan stock fell to a closing low of $6.27 per share on November 12, 2020, or 37.3% below the IPO price of $10 per share.

77. On March 10, 2021, the post-Merger company announced its fiscal year 2020 financial results. These results were significantly below the projections contained the Proxy that the Board had adopted in connection with its "extensive due diligence." In particular, despite the Proxy (filed on September 18, 2020, so the Board at least had actual financials for half of fiscal year 2020) disclosing expected

revenues of $1.085 billion to $1.125 billion, MultiPlan had revenues of $937.8 million, or 13.6% below the ***low*** end of the range. And, despite the Proxy disclosing expected adjusted EBITDA of $845 million to $875 million, MultiPlan had adjusted EBITDA of $706.3 million, or 16.5% below the ***low*** end of the range. In other words, these were gigantic misses, even after the Board had a half year of actual financial data and had conducted "extensive due diligence."

VI. The Merger Was Unfair to Unaffiliated Holders of Class A Stock

A. The Merger Process Suffered from a Myriad of Conflicts of Interest

78. For at least three reasons, Churchill's fiduciaries were hopelessly conflicted when sourcing, negotiating, and executing the Merger.

79. ***First***, due to their economic interests in Class B founder shares, the Director Defendants were incentivized to get a deal done—any deal at all—even if it was not in the best interests of the public Class A stockholders. As described above, the Sponsor initially contributed $25,000 to the Company in exchange for the founder shares. Thus, even if the post-Merger company's stock price fell well below Churchill's $10 per share IPO price (which it did), holders of Class B shares were still poised to realize proceeds in the hundreds of millions of dollars. While economic windfalls are nice for SPAC sponsors like M. Klein and others, creating a structure that provides such perverse incentives carries legal consequences.

80. ***Second***, the Director Defendants were beholden to M. Klein, who controlled Churchill. M. Klein controlled all of the founder shares through the Sponsor, placed each of the Director Defendants on the Board, and had the power to remove any of them at any time. The Director Defendants had deep ties to M. Klein, whether familial, employment, and/or financial. Indeed, M. Klein repeatedly placed these Director Defendants on boards of SPACs founded under the "Churchill" umbrella, providing them opportunities to realize vast profits from ownership of additional founder shares in other SPACs. Given all of these ties, the Director Defendants could not act independently from M. Klein and entirely lacked the incentive or practical ability to "say no" to him. Notably, nothing stopped M. Klein from putting a majority of truly independent directors on the Churchill Board.

81. ***Third***, M. Klein had opportunities to skim side payments—which he did. In particular, despite the justification for M. Klein's role at Churchill being his personal ability to source, negotiate, and execute a deal (*i.e.*, the entire reason he got founder shares in the first place), he still caused a $30.5 million "advisory" fee to be paid to Klein Group (which only was formally retained the very same day that the Board approved the Merger, July 12, 2020). The very fact that the Board would approve paying Klein Group anything, much less $30.5 million, is absurd.

B. The Merger Was Not Fair to Class A Stockholders, Who Did Not Have a Fully Informed Opportunity to Elect Whether to Redeem their Stock

82. The market has shown that the Merger was not fair to holders of Class A stock. After the market learned the facts presented in Muddy Waters' Report, the Company's stock price plummeted and remains below the $10 per share IPO price. Indeed, the closing price of MultiPlan's stock on the day prior to the filing of this Complaint was only $6.27 per share.

83. Crucially, the Proxy and other public disclosures by Churchill insiders contained material omissions or were materially misleading, such that Class A stockholders were not provided with a fully informed decision whether to redeem their shares ahead of the Merger. In particular, disclosures concerning the Merger were grossly deficient for at least the following five reasons.

84. ***First***, the Proxy entirely fails to mention the imminent departure of UHC, MultiPlan's largest client, which provided 35% of its revenues in 2019. This omission is especially glaring, given the Proxy proclaims that Churchill management "had the opportunity to communicate with senior leaders of several large customers of MultiPlan to better understand the quality and nature of those relationships, as well as the competitive environment in which MultiPlan operates." It is also glaring given the Proxy's proclamation that that Board conducted "extensive due diligence." Any reasonable projections would not have contained such drastic upticks in expected 2020 revenue and adjusted EBITDA given the loss of business from UHC.

85. ***Second***, and relatedly, the Proxy entirely fails to mention that UHC would transfer its accounts to Naviguard, UHC's newly formed competitor. Churchill management knew, or certainly should have known, about this competitive threat, given their purportedly "extensive due diligence." Indeed, UHC was publicly discussing Naviguard by late May / early June 2020 ***at the latest***.[5] Accordingly, the concealment that UHC was the 35% client prevented Company investors from identifying why and how the imminent launch of Naviguard represented a potentially existential threat to H&F's investment in MultiPlan.

86. ***Third***, the Proxy touted MultiPlan's anticipated revenue and adjusted EBITDA growth, when Churchill management knew, or should have known, that MultiPlan's sales were shrinking and it faced pricing pressure. This was not, as the analyst day presentation tried to explain away, "idiosyncratic customer behavior," but rather a business facing existential threats.

87. ***Fourth***, the Proxy presents a materially misleading 2018 adjusted EBITDA number, because it was inflated by an undisclosed accounting sleight of

---

[5] *See Surprise Billing – An Overview*, UNITEDHEALTH GROUP (May 26, 2020, uploaded June 5, 2020), https://www.youtube.com/watch?v=C4ht5THJCYc&t=496s (providing an overview of Naviguard); *see also Attacking Out-of-Network Again*, EPIC INSURANCE BROKERS & CONSULTANTS (Sept. 15, 2020), https://epicbrokers.com/insights/attacking-out-of-network-again/ (discussing UHC's partnership with Naviguard on a date prior to the date that the Proxy was filed).

hand, *i.e.*, releasing revenue reserves from approximately 30% to 10% of revenue in order to buoy earnings. By employing this undisclosed accounting trick, the Proxy misleadingly showed MultiPlan's earnings growing, despite a decline in revenues (which have been shrinking consistently for years).

88. ***Fifth***, the Proxy misleadingly presents H&F's continued commitment as owners of MultiPlan as a reason for Churchill stockholders to support the Merger. In reality, H&F desperately wanted to exit its investment in MultiPlan—a fact well-known in the industry, according to Muddy Waters—and the deal with Churchill provided it with its most fruitful opportunity to do so. While the Proxy depicts H&F as owning 60.5% of the post-Merger company, according to more recent filings it owns only 32%.

89. As a result of these material omissions and/or misleading statements, Class A stockholders were not provided with adequate information for their decision whether to redeem their stock. And, those who did not redeem their stock have suffered substantial damages as a result.

CLASS ACTION ALLEGATIONS

90. Plaintiff, a stockholder in the Company, brings this action individually and as a class action pursuant to Rule 23 of the Rules of the Court of Chancery of the State of Delaware on behalf of himself and all record and beneficial holders of Churchill common stock (the "Class") who held such stock during the time period

from the Record Date through the Closing Date (except the Defendants herein, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants) and who were injured by the Defendants' breaches of fiduciary duties and other violations of law.

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

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

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

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

a. whether Defendants owed fiduciary duties to Plaintiff and the Class;

b. whether the Controller Defendants controlled Churchill;

c. whether "entire fairness" is the applicable standard of review;

d. which party or parties bear the burden of proof;

e. whether Defendants breached their fiduciary duties to Plaintiff and the Class;

f. whether Klein Group aided and abetted any breaches of fiduciary duties by Defendants owed to Plaintiff and the Class;

g. the existence and extent of any injury to the Class or Plaintiff caused by any breach;

h. the availability and propriety of equitable re-opening of the redemption period; and

i. the proper measure of the Class's damages.

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

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

97. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

98. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants; or adjudications with respect to individual members of the Class would,

as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

COUNT I

(Direct Claim for Breach of Fiduciary Duty Against the Director Defendants)

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

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

101. These duties required them to place the interests of Churchill stockholders above their personal interests and the interests of the Controller Defendants.

102. Through the events and actions described herein, the Director Defendants breached their fiduciary duties to Plaintiff and the Class by prioritizing their own personal, financial, and/or reputational interests and approving the Merger, which was unfair to public Churchill Class A stockholders.

103. The Director Defendants also breached their duty of candor by issuing the false and misleading Proxy.

104. As a result, Plaintiff and the Class were harmed by not exercising their redemption rights prior to the Merger.

105. In addition, members of the Class approved the acquisition of MultiPlan based on false and misleading information.

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

COUNT II

(Direct Claim for Breach of Fiduciary Duty Against the Officer Defendants)

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

108. As the most senior officers of Churchill, the Officer Defendants owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty, which include an obligation to act in good faith, with candor, and to provide accurate material disclosures to Churchill stockholders.

109. These duties required the Officer Defendants to place the interests of Churchill's stockholders above their personal interests and the interests of the Controller Defendants. The Officer Directors are not exculpated for breaches of their duty of care for actions taken in their capacity as officers (which include all actions set forth herein except their formal vote to approve the Merger).

110. Through the events and actions described herein, the Officer Defendants breached their fiduciary duties to Plaintiff and the Class by prioritizing their own personal, financial, and/or reputational interests and approving the Merger, which was unfair to public Churchill Class A stockholders.

111. The Officer Defendants also breached their duty of candor by issuing the false and misleading Proxy, as well as making false and misleading statements during the August 18, 2020 analyst day presentation.

112. As a result, Plaintiff and the Class were harmed by not exercising their redemption rights prior to the Merger.

113. In addition, members of the Class approved the acquisition of MultiPlan based on false and misleading information.

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

COUNT III

(Direct Claim for Breach of Fiduciary Duty Against the Controller Defendants)

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

116. The Controller Defendants were Churchill's controlling stockholders. Specifically, the Controller Defendants controlled all of the Class B founder shares, elected (and could remove at any time) the members of the Board, had deep personal

and financial ties to the members of the Board they selected (including by granting them material financial interests in the Class B founder shares and by appointing them to other boards of directors of SPACs created under the "Churchill" banner), and held officer roles at Churchill.

117. As such, the Controller Defendants owed Plaintiff and the Class fiduciary duties of care and loyalty, which include an obligation to act in good faith, with candor, and to provide accurate material disclosure to Churchill stockholders.

118. At all relevant times, the Controller Defendants had the power to control, influence, and cause—and actually did control, influence, and cause—the Company to enter into the Merger.

119. The Merger was unfair, reflecting an unfair price and unfair process.

120. Through the events and actions described herein, the Controller Defendants breached their fiduciary duties to Plaintiff and the Class by agreeing to and entering into the Merger without ensuring that it was entirely fair to Plaintiff and the Class.

121. As a result, Plaintiff and the Class were harmed by not exercising their redemption rights prior to the Merger.

122. In addition, members of the Class approved the acquisition of MultiPlan based on false and misleading information.

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

COUNT IV

(Direct Claim for Aiding and Abetting Breach of Fiduciary Duty Against Klein Group)

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

125. As an affiliate of M. Klein and M. Klein & Co., Klein Group was aware of the Director Defendants', Officer Defendants', and/or the Controller Defendants' fiduciary duties of care and, as set forth above, which required that such Defendants ensure that the Merger was entirely fair to Plaintiff and other public Class A stockholders.

126. M. Klein's knowledge of and participation in the breaches of fiduciary duty is imputed to Klein Group because of M. Klein's control over the entity and Klein Group's status as an affiliate of M. Klein. Klein Group's $30.5 million advisory fee paid in connection with the Transactions gave Klein Group strong financial incentive to ensure that the Merger was effectuated as desired by Klein Group affiliate and controller M. Klein, regardless of the Transactions' fairness to Churchill's public Class A stockholders.

127. Klein Group knowingly participated in the other Defendants' breaches of their duties (and any exculpated care breaches by the Director Defendants),

including by providing advisory services to Churchill and its Board, which presented materially misleading projections of MultiPlan and valuation analyses to support its recommendation that Churchill stockholders vote in favor of the Merger. As Churchill's financial advisor and an affiliate of M. Klein, Klein Group knew that these analyses were materially misleading, and that the Director Defendants and the Controller Defendants stood to profit immensely from the consummation of the Merger (due to their ownership of Class B founder shares), even if the Merger was unfair to public Class A stockholders. Klein Group essentially served as an intermediary vehicle for M. Klein to facilitate the Transactions and garner support for the unfair Merger, while also enabling M. Klein to syphon additional value away from the Company and its stockholders via the $30.5 million advisory fee.

128. As a result, Plaintiff and the Class were harmed by not exercising their redemption rights prior to the Merger.

129. In addition, members of the Class approved the acquisition of MultiPlan based on false and misleading information.

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

PRAYER FOR RELIEF

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

A. Declaring that this Action is properly maintainable as a class action;

B. Finding the Director Defendants liable for breaching their fiduciary duties owed to Plaintiff and the Class;

C. Finding the Officer Defendants liable for breaching their fiduciary duties, in their capacity as Churchill officers, owed to Plaintiff and the Class;

D. Finding the Controller Defendants liable for breaching their fiduciary duties, in their capacity as Churchill's controlling stockholders, owed to Plaintiff and the Class;

E. Finding Klein Group liable for aiding and abetting the breaches of fiduciary duties owed to Plaintiff and the Class by the Director Defendants, the Officer Defendants, and the Controller Defendants;

F. Certifying the proposed Class;

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

H. With respect to Class members who had the right to seek redemption and still hold their shares, equitably re-opening the redemption window to allow

them to redeem their shares, as per the terms of the Company's foundational documents.

I. In the alternative, rescinding the Merger and returning the capital raised in Churchill's IPO to the Company's public stockholders, as well as all other rescissory damages.

J. Awarding Plaintiff and the members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' and experts' witness fees and other costs; and

K. Awarding Plaintiff and the Class such other relief as this Court deems just and equitable.

Dated: August 10, 2022

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

/s/ Glenn R. McGillivray

Gregory V. Varallo (Bar No. 2242)
Glenn R. McGillivray (Bar No. 6057)
Mae Oberste (Bar No. 6690)
Daniel E. Meyer (Bar No. 6876)
500 Delaware Avenue, Suite 901
Wilmington, DE 19801
(302) 364-3601

Attorneys for Plaintiffs

OF COUNSEL:

Mark Lebovitch
Christopher J Orrico
Margaret Sanborn-Lowing
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1251 Avenue of the Americas
New York, NY 10020
(212) 554-1400

Richard A. Maniskas
RM LAW, P.C.
1055 Westlakes Dr., Ste. 300
Berwyn, PA 19312
(484) 258-1585