IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: GWG HOLDINGS, INC., *et al.*[1] Debtors.	Chapter 11 Case No. 22-90032 (MI) (Jointly Administered)
MICHAEL I. GOLDBERG, as Trustee of the GWG LITIGATION TRUST, Plaintiff, v. ANKURA CONSULTING GROUP, LLC, Defendant.	Adv. Pro. No. ______________________

COMPLAINT

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, were: GWG Holdings, Inc. (2607); GWG Life, LLC (6955); GWG Life USA, LLC (5538); GWG DLP Funding IV, LLC (2589); GWG DLP Funding VI, LLC (6955); and GWG DLP Funding Holdings VI, LLC (6955). Information regarding these chapter 11 cases is available at www.gwgholdingstrust.com.

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I. NATURE OF THE ACTION

1. This action arises out of Defendant Ankura Consulting Group, LLC's ("Ankura") knowing (or reckless) facilitation of a billion-dollar accounting fraud perpetrated by The Beneficient Company Group, L.P. ("BEN LP," and including all affiliates, "BEN") against GWG Holdings, Inc. (together with its wholly owned subsidiaries and affiliated debtors, "GWG"). Ankura knowingly (or recklessly) aided in BEN's financial statement window-dressing and accounting fraud by providing bogus valuations for purposes of BEN's financial reporting. Ankura's reports were not the result of good faith, objective, and reasoned financial analysis, but rather the product of Ankura: (a) using information supplied by BEN that Ankura knew was dubious and unreliable; and (b) financial "goal-seeking" and tweaking its financial models—which it outsourced to India—to arrive at BEN's desired outcomes.

2. Based on Ankura's bogus valuation reports (and Ankura's reassurances to BEN's auditors regarding its analysis), BEN's financial statements reported billions of dollars of equity value, intangible assets, and goodwill, thereby fraudulently inducing GWG to provide hundreds of millions of cash to BEN in exchange for nearly worthless BEN securities. Moreover, because Ankura provided additional valuation reports that helped BEN avoid any impairment charges to its more than $2.3 billion in reported goodwill (that BEN recognized in the first place based on Ankura's earlier analyses), GWG continued to double down on its investment in BEN and effectively mortgage its core business to bet on BEN. In the aggregate, GWG suffered hundreds of millions of damages as a result of BEN's fraudulent financial reporting, which Ankura knowingly (or at least recklessly) facilitated and substantially assisted.

3. Throughout Ankura's multi-year tenure as BEN's outside accounting and valuation firm, Steven Huffines ("Huffines"), an Ankura managing director, was the point person for the

engagement. Huffines' relationship with BEN commenced in 2013, when Huffines was at a predecessor firm (that Ankura acquired in mid-2018). At the time of Huffines' initial contact with BEN in 2013 and the additional valuation report he provided to BEN in 2015, BEN was still at the earliest stages of its development, essentially just an idea on paper. Huffines helped BEN understand possible ways of propping up its valuation on paper that auditors would accept.

4. BEN's business idea was to serve as a "liquidity" provider to holders of illiquid alternative assets, primarily holders of limited partnership interests in private equity funds. BEN itself had minimal capital at inception, however. In turn, BEN hoped that it would be able to obtain alternative assets by swapping BEN equity in exchange. As alleged more fully below, this business plan was conceptually flawed and doomed to fail from the start. Nevertheless, in a misguided scheme to induce potential customers to either pay cash for BEN common units or to swap alternative assets for BEN common units, BEN deployed accounting smoke and mirrors to cook its books and make BEN equity seem much more valuable than it was really worth, or that could be justified by BEN's actual financial performance.

5. BEN's effort to materially inflate values reported on its financial statements, *i.e.,* cook its books, initially entailed two main strategies, each of which Huffines enabled from the start. First, BEN sought out quid pro quo transactions with holders of alternative assets in which BEN would agree to grossly inflated values for those alternative assets (far above their fair market value) in exchange for those sellers to agree to an inflated price for BEN equity. Huffines was, in his own words, "heavily involved" in BEN's earliest such transaction. Second, BEN prepared pie-in-the sky projections wholly untethered from its historical performance or economic reality to assert that its business was worth billions—all based on projected "terminal year" perpetual cash flows starting more than five years into the future. Huffines accepted those projections—despite

knowing they were dubious and unreliable—and issued reports stating that BEN's business enterprise value was $965 million as of September 30, 2015 and $1.437 billion as of March 31, 2016—nearly two years and eighteen months, respectively, before BEN's first "liquidity" transaction in September 2017. Those bogus valuations helped set the foundation for BEN's accounting fraud.

6. In May 2018 and then again in December 2019, BEN added another tool to the financial statement manipulation toolbox. Specifically, BEN made illusory changes to BEN director designation rights as purported changes of control that would constitute "business combinations" within the meaning of Accounting Standard Codification ("ASC") 805, thereby enabling BEN to gross up its balance sheet further still. By triggering ASC 805, BEN was able to undertake "purchase price allocation" accounting exercises, in which BEN's assets, liabilities, and equity would be marked to "fair value" on BEN's balance sheet (as opposed to historical cost). In turn, BEN could report a much higher value for its intangible assets and equity—provided that it could find support for the made-up numbers it wanted to report that would pass muster with its auditors. To justify the grossly inflated asset and equity figures it wanted to report, BEN again enlisted the aid of Huffines (then at Ankura) to provide ASC 805 reports to value BEN and its assets and total equity as of the two purported change in control dates: May 31, 2018 and December 31, 2019.

7. Huffines and Ankura delivered the bloated valuations that BEN sought. Ankura delivered ASC 805 reports valuing BEN's business enterprise value at ***$2.197 billion*** as of May 31, 2018 and at ***$2.725 billion*** as of December 31, 2019. Those valuations were wholly untethered from BEN's financial condition and financial performance. Indeed, BEN did not yet have the regulatory charters necessary to fully operate its business, BEN was unprofitable, BEN had

negative operational cash flow, and BEN's revenue was only a few million dollars. Yet Ankura delivered sky high valuations for BEN anyway, while also helping BEN persuade its auditors to sign off on those lofty, wildly unrealistic valuations. Based on Ankura's dubious, results-oriented ASC 805 reports, BEN reported $1.53 billion in goodwill and $2.36 billion in goodwill on its balance sheet as of December 31, 2018 and December 31, 2019, respectively.

8. The grossly overstated valuations of BEN in Ankura's ASC 805 reports were the product of a results-oriented, "goal-seeking" exercise to give BEN the results it wanted—not objective financial analysis. Specifically, Ankura improperly utilized an option pricing model ("OPM") "backsolve" method to derive a valuation of total BEN equity and knowingly fed bad inputs into that model to hit BEN's targets. Indeed, Ankura utilized factually incorrect data points, made numerous methodological errors, and utilized internally inconsistent assumptions (that Ankura later admitted were wrong and/or unrealistic) to back into BEN's desired result.

9. First, Ankura improperly relied on OPM backsolve valuation method based on transactions that Ankura knew were not with third parties acting at arm's-length. An OPM backsolve is a type of market approach to valuation, and it is only appropriate to use when there is an arm's-length transaction between unrelated parties that reflects a fair market price for a given class of equity security. Yet Ankura utilized an OPM backsolve and assigned 100% weight to it in its valuation analysis, even though Ankura knew that doing so was improper because the underlying transactions were not with unrelated, third parties (as Ankura knew).

10. Second, Ankura improperly utilized transaction prices in conducting its OPM backsolve analysis that were not representative of the economic deal terms. A critical variable in performing an OPM backsolve analysis is the price of the junior equity security in the subject transaction on which the analysis is based; too high of a price will necessarily lead to an inflated

valuation. Yet in performing its OPM backsolve analyses to deliver inflated values in its ASC 805 reports, Ankura baselessly used transaction prices that exceeded or were not otherwise representative of the actual underlying deal terms.

11. Third, Ankura utilized circular, and largely made-up values for BEN's senior class of equity, NPC-A preferred equity, in conducting its OPM backsolve analysis. In an OPM backsolve calculation, the value attributed to a company's senior class of equity is used to set a "breakpoint." Practically speaking, this means that the total equity value—and, in turn, enterprise value—derived from an OPM backsolve analysis can never be less than the value attributed to the senior class of equity in setting the breakpoint. Huffines and Ankura were well-versed in performing OPM backsolve analyses, and fully understood that using an artificially high figure for a senior class of equity to set the breakpoint would necessarily result in an artificially high and unreliable output of the OPM backsolve analysis. Yet despite being fully aware of this mathematical certainty, Ankura plugged in billion-dollar valuations for NPC-A value that were largely made-up and did not reflect economic reality. Ankura did so despite knowing that the value of NPC-A it utilized was unsupported. Indeed, Ankura knew: (a) that the initial balance of NPC-A was based on Ankura's prior analyses built on projections that Ankura knew were unreliable; (b) that BEN's founders had not contributed real value in exchange for the NPC-A account; and (c) of subsequent transactions in NPC-A equity at far less than face amount.

12. Fourth, and finally, Ankura exacerbated its fundamental errors in falsely assuming that the underlying transactions were arm's-length, using erroneous transaction prices, and utilizing made-up figures for NPC-A equity by making unprincipled, Goldilocks-esque adjustments to its OPM backsolve model to reach a result that was just right according to BEN's wishes. For instance, Ankura utilized time to monetization assumptions that were inconsistent

with BEN's own projections and the status of BEN's development. In addition, Ankura utilized artificial volatility figures for BEN (around 19%) that Ankura knew were inappropriate for an early-stage, start-up company (for which a 50% to 80% volatility assumption would be appropriate). That volatility assumption was fundamentally inconsistent with BEN's own projections. And Ankura itself later used 48-52% volatility figures for BEN to hit a different valuation target, at which point Huffines admitted that a "high volatility" made sense "given that [BEN] is essentially a start-up."

13. At bottom, therefore, Ankura's OPM backsolve analysis was a results-oriented sham designed to give BEN the inflated valuation it wanted for purposes of financial reporting. Ankura should not have utilized an OPM backsolve approach in the first place because the underlying transactions were not arm's-length, and Ankura knew it. And on top of that, every key variable Ankura plugged into its OPM backsolve analysis—transaction price, value of senior equity, time, and volatility—was factually unsupported. Ankura employed its "garbage in, garbage out" OPM backsolve analysis because Ankura was focused on hitting BEN's desired valuation target—not objective financial analysis.

14. Recognizing that the results it reached were dubious, Ankura tried to justify the grossly over-inflated results of its OPM backsolve analysis through "corroborative" discounted cash flow (DCF) analyses in both of its ASC 805 reports. But those additional analyses were also results-oriented exercises in financial goal-seeking—not legitimate, objective analysis. Indeed, Ankura tweaked the inputs of its DCF analyses to ensure that the output was almost identical to the result reached from the OPM backsolve analysis. Specifically, Ankura's OPM backsolve as of May 31, 2018 yielded a total enterprise value of $2.196556 billion, while its DCF analysis of the same date spit out a value of $2.196557 billion. Similarly, Ankura's OPM backsolve as of

December 31, 2019 yielded a total equity value of $2.393122 billion, while Ankura's DCF analysis of the same date indicated a total equity value of $2.393123 billion. Had Ankura attempted to perform objective DCF analyses in good faith, rather than results-oriented sham exercises with inputs fudged to hit a number, the outputs would not have come within a mere $1,000 of each other on a supposed $2+ billion company.

15. The sham nature of Ankura's discounted cash flow analyses in its ASC 805 reports is further manifest in the assumptions Ankura made. In particular:

- Ankura used discount rates of only 20.4% and 21.2% in valuing BEN as of May 31, 2018 and December 31, 2019, respectively. But because BEN was essentially a start-up company (and did not yet even have its charter), a discount rate of at least 40-60% would have been far more appropriate;

- Ankura accepted BEN's projection even though those projections attributed a majority of BEN's forecast revenue and EBITDA to charters that Ankura knew BEN did not have;

- The entirety of the valuation in Ankura's DCF analysis was based on projected cash flow in the terminal year of the projections, more than five years out. This was highly atypical; and

- Ankura did not account for the dilutive effects or costs of capital necessary to fuel BEN's rapid projected growth.

Moreover, in conducting its DCF analysis, Ankura accepted BEN's patently unreasonable projections at face value, with no independent verification or assessment of reasonableness of those projections.

16. Shockingly, Ankura utilized BEN's farcical projections—with no adjustment or verification—even though Ankura knew that those projections were wildly unrealistic and unreliable. Indeed, Ankura itself recognized at the time of its ASC 805 analysis that:

- BEN's projections amounted to "***a swag***," shorthand for a Scientific Wild A** Guess;

- "Trees don't grow to the stars, and frankly [BEN's] forecasts…reflect quite a bit of optimism about the business during the first five years;" and
- "The visibility of revenue and profits 5 years out is…***extremely weak***."

(Emphases added). Moreover, years after delivering its ASC 805 reports, Ankura acknowledged that BEN's "***historical track record is [still] not yet sufficient to have as high a degree of confidence in [BEN's] projections,"*** and Ankura declined to perform a discounted cash flow analysis because any such analysis would be "***too subjective to be reliable***." (Emphasis added). Yet Ankura nevertheless utilized projections that it knew were unreliable to try to support its OPM-derived inflated valuations for BEN over $2 billion in its ASC 805 reports.

17. In addition to delivering grossly over-inflated total equity values and total enterprise values for BEN, Ankura also engaged in fraudulent financial goal-seeking to hit BEN's target value for a supposed intangible asset related to regulatory charters as of May 31, 2018 in its ASC 805 report. Even though BEN did not yet have its charters, Ankura valued the charters at a whopping $882 million as of May 31, 2018. Soon after issuing its initial "final" ASC 805 report in October 2018, Huffines learned that BEN did not yet have its charters, and expressed concerns such as ***"[a]uditors may have some heartburn ascribing considerable value to an asset you didn't own as of the valuation date***," and ***"[i]t seems unusual to ascribe so much value to assets BEN didn't own as of the Valuation date***." (Emphasis added). Nevertheless, in collaboration with BEN, Ankura reissued the "final" version of its report in November 2018, attributing an even higher $883 million value to the charters. Ankura did so by lowering the discount rate associated with charters to drive up the value and then apply a 95% probabilistic discount, so Ankura could ***"still get to the same result"***—as Huffines put it—at BEN's request. (Emphasis added).

18. Moreover, despite learning that BEN did not have its charters as of the May 31, 2018 valuation date, Ankura made no downward assumptions—at BEN's request—to its

calculated values for BEN's total enterprise value and BEN's total equity. Consequently, when BEN was forced to later restate its 2018 financial statements, the entire balance of the $882 million value for charters that BEN initially reported was reclassified as goodwill. Accordingly, and based on Ankura's ASC 805 report(s) valuing BEN as of May 31, 2018, BEN reported $1.53 billion of goodwill as of December 31, 2018. And based on Ankura's ASC 805 report valuing BEN as of December 31, 2019, BEN's reported goodwill as that date ballooned to $2.36 billion.

19. Ankura's malfeasance in knowingly helping BEN cook its books did not end with BEN's initial recognition of goodwill in 2018 and 2019 based on Ankura's ASC 805 reports. Thereafter, Ankura helped BEN keep the inflated goodwill on BEN's balance sheet by providing two goodwill impairment testing reports under ASC 350, finding that no impairment was necessary. Like its earlier analyses, both of Ankura's ASC 350 reports were results-oriented shams designed solely to give BEN the result it wanted—no goodwill impairment—regardless of the facts.

20. Ankura delivered its first ASC 350 report on or about May 26, 2021, which tested BEN's goodwill impairment as of October 1, 2020. At the outset of Ankura's ASC 350 engagement, Huffines observed "***we'll probably have to find that their goodwill is impaired***" if BEN still did not have its charter. (Emphasis added). But despite confirming that BEN still did not have its charter, Ankura ultimately concluded that no impairment was necessary. Instead, Ankura implausibly found that BEN's business enterprise value and total equity value had increased in value to $3.10 billion and $2.827 billion, respectively, from December 31, 2019 to October 1, 2020. In other words, Ankura concluded that BEN had somehow increased in value by over $433 million in just nine months during the onset of the COVID-19 pandemic.

21. Ankura reached the implausible result purely based on a discounted cash flow (DCF) analysis that, once again, took BEN's wildly unrealistic projections at face value and made the same conceptual errors as before (such as using too low a discount rate and assigning all value to BEN's "terminal year" assumptions, following the first five years in its projection). By this time, BEN's projections had grown even more absurd, such as assuming 241.1% revenue growth and a five-fold increase in EBITDA from 2021 and 2022, and a nearly twenty-fold growth in revenue from 2021 to 2025. The net effect of those facially absurd assumptions was that BEN's projected terminal year free cash flow had ballooned to $1.650 billion, far higher than in BEN's projections as of Ankura's earlier valuation reports:

Valuation Date	Projected Terminal Free Cash Flow
9/30/15	$295.2 million
3/31/16	$490.9 million
5/31/18	$883.8 million
12/31/19	$1.181 billion
10/1/20	$1.650 billion

Ankura knew full well that BEN had consistently failed to hit even its "year 1" projections dating back years, and that BEN's projections had nevertheless grown more aggressive over time as BEN's actual performance remained mired in money-losing futility. Yet Ankura still assigned a $3.1 billion valuation purely based on a terminal year projection more than five years in the future.

22. To try to justify the absurd result it reached, Ankura performed a "corroborative" comparable companies analysis (although Ankura's ultimate valuation assigned 0% weight to this analysis and 100% weight to the discounted cash flow analysis). In doing so, Ankura's modeling team struggled to make the numbers mesh, as the 6x revenue multiple they had utilized in their initial draft "***appears overly optimistic and difficult to defend in audit***." (Emphasis added). But so as "***not to contradict our conclusion of ~$3.0 [billion] BEV***," Huffines nevertheless "changed the revenue multiple to 6.5x to narrow the gap with the DCF indication." (Emphasis added). In

other words, Ankura—yet again—used figures it knew were unsupportable purely to prop up an unreasonable target result.

23. In September 2022, Ankura delivered a second ASC 350 report testing BEN's reported goodwill for impairment, this time as of October 1, 2021. By this time, Ankura and BEN had determined that OPM backsolve was "no longer workable" due to pushback from BEN's auditors. Likewise, Ankura determined that using discounted cash flow to value BEN was "too subjective to be reliable" (notwithstanding that Ankura itself had relied on such an analysis in testing BEN's goodwill for impairment the year before). So instead, Ankura used what Huffines admitted was a "***'non-standard' approach to goodwill impairment testing***," interposing BEN's value based on two related-party "bookend" transactions that were temporally distant from the October 1, 2021 testing date: (a) BEN's December 31, 2019 transaction with GWG; and (b) a de-SPACing merger that BEN publicly announced in September 2022 and did not finally close until June 2023. (Emphasis added). Based on this "non-standard" approach and two transactions that were not reflective of arm's-length marketplace transactions, Ankura again determined that no impairment to BEN's reported goodwill was necessary.

24. Ultimately, the combined effect of Ankura's two ASC 805 reports (allowing BEN to record goodwill) and two ASC 350 reports (allowing BEN to keep the goodwill on its books) was that BEN's financial statements reflected that BEN had between $1.53 billion and $2.36 billion of goodwill throughout the entire period from December 31, 2018 through March 31, 2023.

25. During that period, and in reliance on BEN's fraudulent financial statements, GWG invested nearly $235 million in BEN from May 2019 to March 2021 in exchange for nearly worthless BEN equity interests. In November 2021, GWG—again relying on BEN's fraudulent financial statements and claimed value—accepted nearly worthless BEN common units as

repayment on a $208 million note receivable due from BEN. Thereafter, still operating on the mistaken belief that BEN had substantial value, GWG suffered tens of millions of dollars of additional harm in transactions with secured lenders to help extend BEN's runway prior to GWG's bankruptcy filing (in April 2022), and in connection with professional fees during a bankruptcy case related to disputes over BEN's prospects. GWG would not have suffered those substantial harms BEN's financial statements not reported over-inflated goodwill in the first place and/or had BEN recognized appropriate goodwill impairment charges. And the billion-dollar accounting fraud BEN perpetrated on GWG would not have been successful if not for Ankura's complicity.

26. After GWG had already suffered hundreds of millions of dollars of damages, the truth about BEN finally emerged in June 2023 once BEN's business was finally put to the test in the marketplace. BEN stock started trading on June 7, 2023, and BEN promptly lost two-thirds of its market cap by the end of the month (and lost over 90% of its market cap by October 2023). BEN recognized a $1.096 billion impairment charge to goodwill in the quarter ended June 30, 2023, an additional $307.7 million impairment charge in the quarter ended September 30, 2023, and an additional $883.2 million impairment charge in the quarter ended December 31, 2023. For the fiscal year ended March 31, 2024, BEN reported a whopping ***$2.354 billion goodwill impairment charge***, writing off ***over 99.4% of the goodwill*** it initially recorded and continued to report based on Ankura's reports.

27. These staggering changes in BEN's reported financial condition were not the result of some intervening force or change in BEN's business, but instead the result of an adjustment from Ankura-enabled mark-to-fantasy valuation to actual fair market value. BEN was never worth anything close to the eye-popping valuations that Ankura ascribed. BEN's business plan was doomed to fail from inception due to myriad conceptual flaws that ignored several fundamental

economic concepts. And BEN has never been profitable, has never generated meaningful revenue or revenue growth, and has always suffered negative operating cash flow (*i.e.*, burned through cash). In fact, precisely because BEN has always been a financial trainwreck, Ankura itself was unwilling to take on any "credit risk" associated with BEN throughout the relevant period; instead, Ankura demanded that BEN, "a bit of an unusual client," pre-pay for all work upfront because of BEN's terrible track record of slow payment of its bills.

28. At bottom, Ankura egregiously misvaluing BEN over a multi-year period was not the result of mere negligence or incompetence on Ankura's part. Rather, Ankura knowingly delivered grossly over-inflated values of BEN in order to appease its client, all while knowing that BEN would use Ankura's reports to grossly overstate the reported value of its assets and equity in its balance sheet. In other words, Ankura knowingly (and/or recklessly) facilitated BEN's egregious, billion-dollar accounting fraud.

II. PARTIES AND RELEVANT NON-PARTIES

A. Plaintiff Litigation Trust and the Debtors.

29. On April 20, 2022 (the "Petition Date"), GWG initiated a bankruptcy proceeding involving itself and its subsidiaries GWG Life, LLC, GWG Life USA, LLC, GWG DLP Funding IV, LLC, GWG DLP Funding VI, LLC, and GWG DLP Funding Holdings VI, LLC in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court" or the "Court"), Case No. 22-90032 (MI). On June 20, 2023, the Bankruptcy Court confirmed Debtors' Chapter 11 plan of liquidation (the "Plan").

30. Plaintiff Michael I. Goldberg is the Litigation Trustee of the GWG Litigation Trust, which was created pursuant to the Plan (Goldberg, in his capacity as the Litigation Trustee, defined herein as the "Litigation Trust"). Under the Plan and the Litigation Trust Agreement (ECF No.

1910), certain claims and causes of action belonging to Debtors, including the claims asserted in this action, were assigned to the Litigation Trust as a representative of the bankruptcy estate pursuant to 11 U.S.C. § 1123(a)(5), (a)(7), and (b)(3)(B). The Litigation Trust is the successor-in-interest of Debtors and their respective bankruptcy estates for the purpose of pursuing the assigned claims and therefore has standing to pursue the claims asserted in this action.

B. Defendant Ankura.

31. Defendant Ankura Consulting Group, LLC ("Ankura") is a limited liability company organized under the laws of Delaware. Ankura has offices in Texas and Florida, amongst other states. Upon information and belief, Ankura has members who reside in Texas and Florida. Ankura is the successor-in-interest to certain business segments, including those that previously provided services to BEN, of Navigant Consulting, Inc. ("Navigant").

III. JURISDICTION AND VENUE

32. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334(b), in that the Complaint asserts causes of action arising in, arising under, and/or relating to the above-captioned bankruptcy case.

33. Pursuant to Federal Rule of Bankruptcy Procedure 7008, the Litigation Trustee does not consent to the entry of final orders or judgment by the Bankruptcy Court.

34. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. § 1409 because GWG's bankruptcy case is pending in this District.

35. This Court has personal jurisdiction over Ankura in this proceeding because Ankura had sufficient contacts with the United States of America to be subject to nationwide service of process under Federal Rule of Bankruptcy Procedure 7004. Moreover, Ankura has offices and members located in Texas.

IV. FACTUAL BACKGROUND

A. Overview of BEN's Ill-Conceived Business Plan and Origins.

36. After more than a decade of futility and losing money running a "family office" investment business, BEN's founder, Brad Heppner, developed a new business idea in the mid-2010's that ultimately gave rise to BEN in the restructured form analyzed by Ankura.

37. Heppner's business plan for BEN was for BEN to serve as a "liquidity provider" to mid-to-high net worth individuals and smaller institutions holding alternative assets (*e.g.*, limited partnership interests in private equity funds), effectively functioning as a buyer to allow those investors to sell their otherwise illiquid alternative assets. BEN would then earn revenue—from various fees and interest on intercompany loans—via a complicated network of related trusts designed to hold the alternative assets, as those alternative assets were gradually monetized or otherwise liquidated over time.

38. As conceived by Heppner, however, BEN's business was doomed to fail from the start. First, it was grossly undercapitalized. Second, BEN's business plan had fundamental conceptual and logical flaws. Third, and finally, its projections and business plan were untethered to reality. For those reasons, BEN's business struggled from the outset, including in its initial so-called "liquidity transactions" involving junk assets dumped on BEN.

1. BEN's Business Was Undercapitalized from the Start.

39. BEN was undercapitalized at inception. BEN had minimal amounts of cash, as Heppner did not contribute cash to BEN upon founding it. Instead, Heppner orchestrated a convoluted spin-off and restructuring through which: (a) interests in entities associated with a ranch were transferred to Heppner; and (b) a $141 million debt to a Heppner-affiliated entity, HCLP Nominees, LLC was layered into the top of BEN's capital stack. Thus, despite planning to enter business as a "liquidity" provider, BEN itself did not have any liquidity.

2. BEN's Business Plan Had Fundamental Conceptual and Logical Flaws.

40. Because BEN did not have cash or capital with which to provide "liquidity" to its target customers, Heppner and BEN instead hoped that investors would be willing to exchange their alternative assets for newly issued BEN equity interests. As such, BEN's business plan depended on two wholly untested assumptions: (1) that customers in need of "liquidity transactions," *i.e.*, cash in exchange for illiquid and not readily saleable alternative assets, would be willing to accept (illiquid) equity in BEN—not cash—in exchange for their alternative assets; and (2) that BEN's equity price would increase over time. But these assumptions defied logic and economic reality.

41. It was doubtful whether BEN's prospective customers would have much appetite for BEN equity—instead of cash—in exchange for their alternative assets. An investor willing to sell an alternative asset to BEN at an appropriate discount to fair value—for lack of liquidity of that asset—would only rationally sell that asset at a discount if that investor needed liquidity, *i.e.*, cash. If the investor/BEN customer did not need cash now, then the investor would be better off holding the alternative investment and obtaining its full value over time. Therefore, most prospective customers willing to sell their alternative assets to BEN at a discount could be expected to have immediate cash needs.

42. Accordingly, even to the extent that customers were willing to accept BEN equity units in exchange for their alternative assets as a first step, there would be strong reason to believe that such customers would rapidly try to sell those BEN equity units—in exchange for cash—assuming BEN's equity units were liquid. In other words, for the very reason that BEN's customers would come to BEN for a "liquidity transaction" in the first place (immediate cash needs), those customers could be expected to immediately sell any BEN equity they obtained from BEN (to obtain cash).

43. The likelihood that a large portion of BEN customers would quickly sell any BEN equity they received in "liquidity transactions" directly undercut BEN's second key assumption, that BEN's stock price would increase over time. In fact, market forces made the opposite likely to happen. BEN's stock price would face immediate selling pressure every time new acquirers of BEN shares sold them to acquire the "liquidity," *i.e.*, cash. Making matters worse, such equity issuances could create additional downward selling pressure due to the dilutive effect of such new equity issuances on pre-existing BEN equity holders (at least with respect to short-term earnings per share). And on top of that, if those sources of selling pressure became sufficiently high, it could have a cascading effect as the market for BEN's stock grew increasingly imbalanced between buyers and sellers, causing additional holders to sell their BEN equity and cut their losses before the equity became worthless.

44. Accordingly, BEN's assumptions that: (1) it could grow its business through issuing BEN equity in exchange for alternative assets in "liquidity transactions;" and (2) BEN's stock price would somehow simultaneously grow over time were internally inconsistent. The economic law of supply and demand apparently did not factor into BEN's business plan and financial models and projections. And BEN's financial projections were unreasonable and unrealistic for that reason, amongst several other reasons.

3. BEN's Wildly Unrealistic Projections Were Untethered from Reality.

45. In addition to the foregoing conceptual, logical, and economic flaws, BEN's financial projections were wildly unrealistic and unreasonable because they were not based on historical results, but instead speculatively assumed—while making additional conceptual and economic errors—that: (a) BEN would achieve rapid growth; and (b) BEN would be able to acquire high quality assets at opportune times.

46. First, BEN's financial projections assumed rapid growth, with annual revenue growth rate assumptions of over 60% (and over 200% in some iterations of its projections). But BEN's projections did not provide a realistic path to achieve such growth, instead relying on two flawed assumptions regarding: (a) BEN's ability to fuel growth through cash flow generated from operations; and (b) BEN's ability to fuel growth through additional issuances of BEN equity to customers.

47. BEN's projected growth rate assumed that it would generate significant cash flows in early years that would be reinvested in the business. But this was a dubious assumption because most of the net alternative assets BEN obtained through so-called "liquidity transactions" would be unlikely to generate cash in the near-term because of the nature of the assets that BEN acquired. BEN's target market was customers who needed cash quick and were hence willing to sell their alternative assets to BEN at a steep discount to fair value. But if the alternative assets BEN acquired were likely to generate a significant return in the short-term, then it is doubtful that the customer would need liquidity from BEN (as opposed to just waiting for the return from the investment itself), let alone sell that asset to BEN at a discount. In other words, the assets that BEN would likely acquire were not the types of assets that would generate cash quickly. Nevertheless, BEN's projections unrealistically assumed that a substantial portion of the illiquid assets would yield cash returns in the near term.

48. BEN's other assumed path to growth, that investors would exchange alternative assets for BEN equity, was likewise problematic. As discussed above, it was dubious that customers desiring "liquidity transactions" would be willing to take BEN equity—rather than cash—in exchange for alternative assets. And BEN also ignored that any customers who were so willing would likely try to sell the BEN equity they received almost immediately, thereby creating

downward pressure on BEN's stock price, which would make future investors even less likely to accept BEN stock in exchange for their alternative assets.

49. Moreover, BEN's assumption that it could rapidly grow by issuing BEN equity to acquire illiquid assets defied economic theory and practical market reality in other ways. At a fundamental level, BEN's financial performance depended on the alternative assets it obtained through "liquidity transactions" generating a return. Cutting through BEN's convoluted business structure, accounting gimmicks, and myriad of intercompany fees and transactions, therefore, in substance BEN's business model was similar to a "fund of funds"-type hedge fund business model (although BEN's income depended on fees and interest, and not carry like a typical fund). There is no reason why an economically rational holder of BEN equity would value BEN equity as worth more than a proportionate claim on net future cash flows associated with returns from the alternative asset portfolio.

50. Yet BEN's projections implicitly assumed that it would "beat the market" and, in turn, that its equity would skyrocket in value over time, despite dilutive equity issuances in exchange for alternative assets and downward selling pressure. And on top of those problems with BEN's projected growth, BEN's financial projections did not adequately or appropriately account for the dilutive effects and costs of such equity issuances. The implausible end-result of such compound errors was that BEN projected that it would be more profitable and grow faster than almost any other financial services company in history.

51. <u>Second</u>, BEN's projections were untethered from actual historical results or an existing alternative asset portfolio, but rather were based on financial modeling of hypothetical market share capture giving rise to a purely hypothetical portfolio of high-quality alternative assets that: (a) BEN did not actually have; and (b) BEN did not have a realistic means of acquiring. Those

untested assumptions, fed into a financial model BEN dubbed "the Beast," made the financial model's output even less reasonable and reliable.

52. BEN's projections were, in part, derived from speculative assumptions regarding: (a) the size of the addressable market for BEN's liquidity-providing services; and (b) the share of that market that BEN would capture each year by supposedly providing liquidity. BEN's assumed addressable market was dubious because its "pawn shop for the rich" business model assumes that the rich frequently need pawn shops, *i.e.*, that there are large numbers of mid-to-high net worth individuals so desperate for cash that they would be willing to unload alternative assets to BEN at a steep discount. And BEN's assumptions regarding the share of that market captured each year were likewise dubious because BEN assumed that rich-but-cash-strapped individuals willing to sell their alternative assets at a discount would be willing to take something instead of cash in exchange for those assets.

53. Making matters worse, despite no track record of success, BEN assumed that the assets that it acquired would perform in line with industry averages. Thus, BEN based its projections not on past performance or any existing portfolio, but rather on future performance of a simulated, hypothetical portfolio. Specifically, BEN's projections were primarily based on a private equity "cash flow simulation model" derived mostly from academic literature and statistical simulation techniques. As BEN explained it:

> A key component of BEN's fair valuation approach is the "PE cash flow simulation model". In our model, investment value (NAV) is modeled as a function of the expected systematic and idiosyncratic volatility of private equity fund returns. This relationship is captured in the form of modified version of the Fama-French 3-factor model. Using fitted estimates of the risk-free rate, beta and alpha across PE sub-asset classes, we develop an expectation NAV returns by simulation. Returns on the NAV of a fund are randomly generated from a normal distribution with constant mean, constant volatility, and a constant correlation with aggregate stock market returns. . . .

As BEN further described, "BEN's models of cashflows is based on . . . academic work," Preqin's database of private equity funds across sub-asset classes, and then "calibration" of BEN's model through "statistical goodness-of-fit" analysis. BEN's cash flow model also "use[d] Monte Carlo simulations to generate cash flow projections for each PE fund in a given portfolio. Randomness in market dynamics and in fund dynamics is achieved using standard Brownian motions."

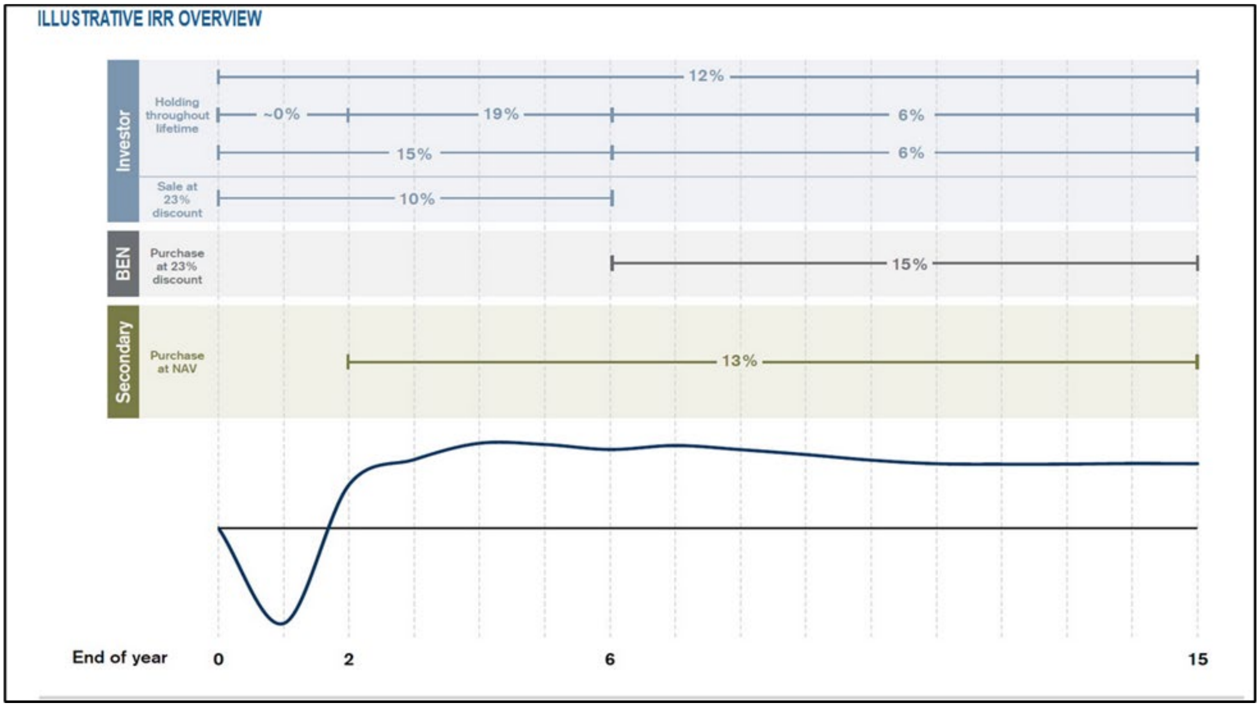
54. Because BEN's projections were based on academic theory and statistical simulation, they were entirely theoretical and speculative and wholly untethered to any actual results. That was reason enough to make them unreliable. Even more unrealistic, however, BEN's projections assumed that BEN would perform in line with average private equity investment performance. But BEN itself was not making average private equity investments, instead seeking to pick up assets from those eager to sell.

55. This meant that BEN's business faced an enormous moral hazard problem: the investors most willing to exchange their alternative assets to BEN—especially for BEN equity—were those holding sub-par assets. And because BEN might serve as a dumping ground for those trying to unload junk assets, it was highly likely that the alternative assets BEN acquired in "liquidity transactions" would perform below industry average.

56. The inherent moral hazard problem BEN's business faced was exacerbated by timing dynamics surrounding private equity and venture capital investments. Potential customers would be more likely to engage in "liquidity transactions" with BEN—especially in exchange for BEN equity—to exchange older, stale investment assets because: (a) such investments were more likely to have little remaining upside; and/or (b) the odds of an investor having some other reason to sell would increase as time passed (*e.g.*, due to divorce, death, an institutional investor winding down a fund, etc.). (As alleged below, this dynamic was pervasive in the alternative assets acquired

in connection with BEN's initial transactions; the vast majority of fund investments were 10-15+ years old when acquired.)

57. Yet BEN's business plan unrealistically did not account for the likelihood that it would obtain a disproportionate amount of old, stale alternative asset investments. Instead, BEN unrealistically assumed that it would obtain alternative assets at the perfect time and vintage:



And due to its expected impeccable market timing, BEN assumed it would enjoy high returns. It was wildly unrealistic to assume that rational economic actors would exchange their alternative assets to BEN—especially in exchange for BEN equity—at the *least opportune* time for those investors to sell and at the most opportune time for BEN to buy.

58. In sum, BEN's business plan and speculative projections ignored what happened and what was likely to happen, instead unrealistically predicting what might happen in a hypothetical scenario based on a statistical simulation that failed to account for the economic

realities facing BEN's business and the economic incentives of its customers. As a result, BEN's business model and projections were patently unreasonable and unreliable.

4. BEN's Initial Liquidity Transaction.

59. Because BEN faced difficulty convincing investors to exchange their alternative assets for BEN common units (and BEN did not have cash to otherwise pay them), Heppner and BEN concocted a convoluted scheme to obtain capital from third parties that BEN would then provide to sellers of alternative assets in so-called "liquidity transactions." BEN did so with the aid of a middleman, MHT Financial, L.L.C. ("MHT Financial"). BEN and MHT Financial structured the transactions such that MHT Financial, as buyer, could purchase assets from a seller and immediately settle them in an "Exchange Trust" (aka "Seller Trust") whose first act would be to exchange the economic interests in those assets for BEN common units. The Exchange Trusts, or Seller Trusts, would then try to sell—or, more specifically, auction off—the BEN common units in exchange for consideration that the beneficiaries of the trusts, the original sellers of alternative assets, found acceptable (unlike the BEN common units).

60. The first such "liquidity transactions" involving BEN occurred on or about September 1, 2017, when fund manager Paul Capital Advisors, L.L.C. ("Paul Capital") contributed alternative assets from its liquidating funds to the Seller Trusts formed specifically to facilitate the exchange. Pursuant to a Purchase and Sale Agreement between MHT Financial and Paul Capital and a Transaction Agreement among Paul Capital and its affiliated funds, MHT Financial, BEN LP, and certain BEN affiliates, MHT Financial acquired alternative assets from Paul Capital at a cost of $489.2 million, representing the Net Asset Value ("NAV") as of the closing dates, and settled the Seller Trusts with those assets. The Paul Capital asset exchange was soon followed by similar exchanges of alternative assets by other "co-sellers" totaling $244.0 million in supposed NAV. The Seller Trusts assigned the economic interests in those secondary assets to BEN in

exchange for BEN common units, which were to be "auctioned off" to pay Paul Capital (and later, the co-sellers, also dubbed "bulk sellers") up to 110% the NAV of their assets in cash.

61. These transactions were the result of a corrupt bargain between BEN and MHT Financial on one side, and the sellers of alternative assets on the other. On paper, the planned transactions gave rise to a huge windfall for Paul Capital and the other initial "bulk sellers" of alternative assets, as the price to be paid—over 100% of NAV—significantly exceeded the fair market value of the alternative assets (which was far less than NAV). The sellers' alternative assets were highly illiquid. Most were stale investments that pre-dated the great financial crisis of 2008-2009. And the NAV reported by Paul Capital and the bulk sellers was based on rosy estimates that were largely untethered from what a third party would contemporaneously be willing to pay for those alternative assets in an arm's-length transaction in the marketplace.

62. On the other side of the bargain, this arrangement favored Heppner's and BEN's interests in two key respects. First, by artificially inflating the supposed value of the alternative assets acquired, these initial formative transactions allowed BEN to imply a higher value for BEN common units (and, in turn, BEN's total equity value) than what BEN equity was really worth. Second, Heppner was able to layer debt owed to his affiliates into BEN's capital stack—while Paul Capital looked the other way.

63. In effect, therefore, the transaction involved Paul Capital and other sellers receiving above-market nominal prices for their alternative assets in exchange for agreeing to above-market nominal prices for BEN equity (and not asking questions about BEN's purported senior debt to Heppner's affiliates). Thus, from the start of BEN's first liquidity transaction on September 1, 2017, BEN's business was built on artificially propping up the paper value of BEN equity far beyond what any third party would pay in an arm's-length transaction. And BEN's initial liquidity

transaction with Paul Capital and other co-sellers set the stage for a massive accounting fraud that BEN would later perpetrate on GWG.

B. Huffine's Substantial Role in BEN's Formative Transactions.

64. The quid pro quo arrangement between BEN (which received a grossly overinflated price for BEN equity) and Paul Capital (which received over 100% of NAV prices for illiquid secondaries worth much less) faced two interrelated obstacles. BEN still needed to find some third party willing to pay cash for the BEN common units parked in the Seller Trusts in the initial "liquidity" transaction. At the same time, however, the stale alternative assets that BEN's affiliated trusts obtained were unlikely to generate sufficient cash flow and income for BEN to entice potential investors to ascribe real value to BEN equity interests.

65. Accordingly, it was imperative for BEN to find some means of propping up its claimed value—and the reported value of its assets and equity on its financial statements—that did not depend on its actual financial results. BEN did so through accounting smoke and mirrors, with the aid of Steve Huffines and Navigant (prior to its merger with Ankura in mid-2018). Indeed, Huffines/Navigant provided accounting-related and valuation work to BEN beginning as early as 2013, at BEN's germination stage.

66. Thereafter, as Huffines later admitted, he and Navigant "were heavily involved in the Paul Capital transaction." Specifically, while at Navigant, Huffines was co-engaged by BEN and Paul Capital beginning in 2015, in connection with the initial transaction between BEN/MHT and Paul Capital. Huffines prepared various analyses to prop up the value of the new BEN entity's business enterprise value and intangible assets. (Paul Capital also requested that Huffines/Navigant "provide a fairness opinion, but the Navigant (Ankura predecessor) committee nixed it, saying that [Navigant's] prior work for BEN made [it] conflicted," according to Huffines.)

67. In the co-engagement by BEN and Paul Capital, Huffines/Navigant delivered reports ascribing billion-dollar valuations for BEN, without justification, to help BEN and Paul Capital report a materially inflated supposed value of BEN equity. For instance, in a valuation report dated September 30, 2015 addressed to both BEN and Paul Capital (the "September 2015 Report"), Huffines/Navigant opined that BEN's business enterprise valuation was $965 million, based on the following methodologies:

Business Enterprise Value Summary

($000s)

Methodologies	Weight	Fair Value
Discounted Cash Flow Analysis	50.0%	$ 966,700
Publicly-Traded Guideline Companies Analysis	30.0%	969,600
Guideline Company Transactions Analysis	20.0%	951,400
Controlling, Marketable Enterprise Value at Valuation Date		**$ 965,000**

This analysis was oriented to reach a particular result, and all three methodologies were tweaked to that end—resulting in a convergence of outcomes that would not have occurred had those valuation methodologies been approached objectively.

68. In particular, the Huffines/Navigant valuation analysis was fundamentally flawed because each component of the analysis relied—without verification—on BEN's unrealistic financial projections. Thus, the analysis was "garbage in, garbage out." And Huffines knew it. Huffines knew of BEN's history and that its entire business model and projections were based on ill-logical theory because Huffines helped BEN put it all together.

69. Making the result even more unreliable, Huffines/Navigant made numerous methodological errors in each step of its analysis:

- The discounted cash flow (DCF) analysis utilized a discount rate of only 18.0%. A far higher discount rate of at least 40-60% would have been appropriate for a company that had not even started business;
- All of the value in the discounted cash flow analysis was attributed to the terminal year several years in the distant future, an unusual assumption;
- The comparable companies analysis cherry-picked established companies, applied high EBITDA multiples (based on BEN's unrealistic forward projected EBITDA), and added a 20% control premium (while ignoring lack of marketability for BEN securities); and
- The comparable transactions analysis again cherry-picked unrepresentative transactions and applied high EBITDA multiples (18x) to unrealistic BEN transactions.

Huffines/Navigant did so in order to hit a target of over $900 million in total enterprise value, as that would give roughly half of the value to BEN's contribution (the business idea and purported intangible assets) and roughly half to the agreed-upon, inflated value of the alternative assets provided by Paul Capital.

70. Notably, the September 2015 Report assumed that "[b]oth [Paul Capital] and BEN acknowledge the net asset value of the assets" to be provided by Paul Capital was "between $400 million to $450 million." Thus, in order to hit the target and value BEN's contribution at slightly more than half of the total value, the September 2015 Report valued BEN's intangible assets as follows:

Intangible Assets	Fair Value
$ 000's	
Charters	$ 328,100
Technology	26,200
Insurance License	4,600
Workforce (Goodwill)	8,600
Goodwill (excluding Workforce)	181,605
Total Investment Value of Intangible Assets	**$ 549,105**

These figures were essentially made up, based on nothing more than BEN's baseless projections. Indeed, at that time of the report, BEN had not yet obtained the necessary regulatory charters to operate its business—yet Huffines/Navigant valued the charters at $328 million.

71. In early 2016, BEN and Paul Capital asked Huffines/Navigant to "reopen" the valuation and gross up the reported values. This time, Paul Capital and BEN asked Huffines/Navigant to assume that the net asset value—over-inflated through an agreement between BEN and Paul Capital—was closer to $650 million.

72. In turn, in an updated analysis dated March 31, 2016 (the "March 2016 Report"), Huffines/Navigant estimated BEN's business enterprise value as follows:

Business Enterprise Value Summary

($000s)

Methodologies	Weight	Fair Value
Discounted Cash Flow Analysis	60%	1,447,900
Publicly-Traded Guideline Companies Analysis	20%	1,408,100
Guideline Company Transactions Analysis	20%	1,433,900
Controlling, Marketable Enterprise Value at Valuation Date		$ 1,437,000

Once again, Huffines and his team reverse-engineered a pre-arranged outcome that was approximately 50% higher than the report from just six months earlier (because the assumed net asset value from Paul Capital increased from $400-450 million to $600-650 million) while again attributing slightly more than half of the value to the intangible contributions from BEN:

Intangible Assets		Fair Value
$ 000's		
Charters	$	518,000
Technology		40,800
Insurance License		4,883
Workforce (Goodwill)		8,500
Goodwill (excluding Workforce)		308,558
Total Investment Value of Intangible Assets	**$**	**880,741**

73. These results were the product of financial engineering and goal-seeking, not a good faith analysis. All three of Huffines/Navigant's chosen valuation methods once again miraculously converged on the pre-arranged result. And to hit its target result (because BEN's projections were higher than before in a non-linear fashion), Huffines/Navigant made adjustments such as using: (a) a slightly higher (but still inappropriate discount rate) in its discounted cash flow (DCF) analysis; (b) lower EBITDA multiples in its comparable companies analysis despite using the same companies; and (c) higher EBITDA multiples in its comparable transactions analysis (despite few changes in the selected comparable transactions).

74. None of Huffines/Navigant's updated analysis was based on reality. BEN still did not have its charter (notwithstanding that Huffines/Navigant now valued those non-existent charters at $518 million). BEN's projections were still wildly unrealistic, but now even more so (*e.g.*, BEN's projected terminal year cash flow, on which Huffines/Navigant based the entirety of its DCF calculation, skyrocketed from $295.2 million to $490.9 million). And the supposed net asset value provided by Paul Capital was "agreed upon" by BEN and Paul Capital, not supported by an independent third-party appraisal, as Huffines/Navigant knew and observed in its reports.

75. Nevertheless, Huffines/Navigant went along with providing valuation analyses that they must have known were bogus to help BEN and Paul Capital push through their planned

transactions. In doing so, Huffines/Navigant were fully aware that their analysis was nonsensical and were fixated on liability risk—carefully limiting distribution of their reports and analyses for that reason. Huffines/Navigant were indifferent to whether BEN and Paul Capital would try to dupe others based on sham valuations that Huffines/Navigant helped support—provided that liability exposure could be managed by: (a) limiting distribution of the reports; and (b) using amorphous, non-technical "language to hedge our opinion" (*i.e.*, using "Investment Value" instead of "Fair Value") given that "folks were potentially transacting based on" those "values."

C. Ankura's Dubious, Results-Oriented Valuation Report as of May 31, 2018 Resulted in BEN Recognizing $1.5 Billion of Overinflated Goodwill.

76. As part of a broader financial engineering effort to prop up BEN's value, Heppner gave Paul Capital certain board designation rights at BEN in mid-2018, thereby giving rise to a change of control for accounting purposes that would allow BEN to mark its assets, liabilities, and equity to fair value. Once again, BEN turned to Huffines and his team, now at Ankura following Ankura's acquisition of Navigant in mid-2018, to help with financial statement window dressing.

77. Specifically, BEN requested that Ankura provide a valuation opinion for financial reporting purposes in accordance ASC 805, which provides accounting rules for business combinations, published by the Financial Accounting Standards Board ("FASB"). ASC 805 applies to business combinations, such as a merger or other changes of control, and typically entails a purchase accounting exercise. This process typically entails a "purchase price allocation," in which all of the assets acquired and liabilities assumed by the acquiring entity are each marked to "fair value" in accordance with applicable accounting rules, such as ASC 820.

78. On October 10, 2018, Ankura delivered a "final" version of its valuation report of BEN's business enterprise value and intangible assets prepared for purposes of ASC 805 and ASC 820 and BEN's financial statements (the "First May 2018 ASC 805 Report"). Ankura's analysis

in the First May 2018 ASC 805 Report provided that BEN's business enterprise value, or "BEV," was as follows (in thousands of dollars):

Indicated BEV		
Equity Value	$	2,081,403
Add: Debt	$	122,147
Less: Cash	$	6,994
Indicated BEV on a Marketable, Controlling Basis, rounded	**$**	**2,196,556**

Based on that overall business enterprise value, Ankura assigned over $1.6 billion to implied goodwill and other intangible assets, as follows:

	Indicated Fair Value
Intangible Assets	
Charters	882,000
Technology	60,500
Insurance License	3,100
Workforce	7,300
Total Intangible Assets	952,900
Implied Goodwill	647,847
Total Fair Value of Intangible Assets	$1,600,747

(Results reported in thousands of dollars).

79. As described in more detail below, the First May 2018 ASC 805 Report erroneously stated that BEN had already obtained all required regulatory charters to operate its business. Upon being informed of that error, Ankura ultimately re-issued its "final" valuation report—of the fair value of BEN's intangible assets as of May 31, 2018—on November 12, 2018 (the "Second May 2018 ASC 805 Report"). In the Second May 2018 ASC 805 Report, Ankura's assessed business enterprise value for BEN remained identical at a whopping $2.197 billion. But now, despite

realizing that BEN did not yet have its charters, Ankura's revised analysis increased the charter value to $883 million (effectively allocating $1 million of additional value to "charters" and away from goodwill).

	Indicated Fair Value
Intangible Assets	
Charters	883,000
Technology	60,500
Insurance License	3,100
Workforce	7,300
Total Intangible Assets	953,900
Implied Goodwill	646,847
Total Fair Value of Intangible Assets	$1,600,747

(Results reported in thousands of dollars).

80. None of these results were grounded in the facts or economic reality. Rather, from the start, Ankura cast aside accounting rules, professional integrity, and objective analysis. Ankura approached its mission—in bad faith—as a financial goal-seeking exercise to help justify the made-up figures that BEN reported on its balance sheet. At every step, Ankura's analysis was untethered from reality and facts regarding: (a) the non-existent, supposed change-in-control transaction that gave rise to the accounting exercise; (b) the actual terms of BEN's transactions with Paul Capital; and (c) the current state of BEN's business, assets (*e.g.*, its non-existent charter), and capital stack. And Ankura took all of those bad inputs and fed them into results-oriented analyses to spit out BEN's desired results, while aware that doing so would lead to material misstatements in BEN's financial statements.

1. Ankura Helped BEN Use Purchase Price Accounting to Engage in Financial Statement Window-Dressing and Fraud Even Though There Was No Real Change in Control Transaction.

81. Ankura delivered its ASC 805 reports even though there was no transaction that warranted a purchase price allocation accounting exercise. The genesis for this purchase price accounting exercise was Heppner's desire to gross up BEN's balance sheet (and his reported NPC-A capital account balance) by engaging in accounting smoke and mirrors through a change to BEN organizational documents that permitted Paul Capital to designate certain directors to BEN's board. In reality, there was no substantive change in BEN's control. BEN operated exactly as it had before—under the firm control of Heppner and his inner circle, just with additional directors unaffiliated with Paul Capital that followed Heppner's lead, and not Paul Capital's direction.

2. Ankura Erroneously Asserted That the "Fair Value" of Regulatory Charters that BEN Had <u>Not</u> Yet Obtained Was Over $880 Million.

82. Ankura opined in its First May 2018 ASC 805 Report that the "fair value" of BEN's charters was a whopping $882 million even though BEN did *not* yet possess a charter. Even worse, when Ankura learned shortly after issuing its opinion that BEN did not yet have a charter, necessitating the issuance of the revised Second May 2018 Report one month later, Ankura doubled down and attributed $883 million in "fair value" to a charter even though Ankura *knew* that BEN did not have a charter. Ankura did so to support the bogus number that BEN wanted to report in its financial statements.

83. Specifically, the discussion of "Valuation of Charters" in the First May 2018 ASC 805 Report (in which Ankura attributed $882 million of fair value to charters) stated that "BEN has obtained the regulatory charters and approvals required to operate its Businesses," and "BEN owns a charter in Texas." But this was untrue; BEN did not yet have its charters. And in fact,

BEN never succeeded in obtaining a charter from the applicable regulatory Texas authorities. (BEN eventually obtained a charter in Kansas more than three years later in late 2021.)

84. After Ankura issued the First May 2018 ASC 805 Report on October 10, 2018, the Texas Department of Banking requested that BEN provide a copy of Ankura's report, which BEN relayed to Huffines on or about October 30, 2018. This presented a major problem, as providing an Ankura report that falsely stated that BEN already had obtained its regulatory charter to the very regulatory agency tasked with reviewing BEN's application and deciding whether to issue that charter would have been a major red flag to regulators. Accordingly, BEN requested that Ankura edit and reissue its report, and provided Ankura with proposed edits (on November 1, 2018) providing that BEN merely "expects" to obtain its charters.

85. Upon receiving the proposed edits to Ankura's report, Huffines responded to BEN on November 2, 2018: "When we did our valuation, ***I was not aware that the charters had not yet been awarded. Auditors may have some heartburn ascribing considerable value to an asset you didn't own as of the valuation date***." (Emphasis added).

86. Later that morning, Huffines then reached out to senior colleagues at Ankura, Richard Hitt (Senior Managing Director) and Sara Askey (Senior Director) to request their advice on how to handle the mess. Huffines explained that "we were not aware that the Charters had not yet been awarded," and expressed concern that ***"[i]t seems unusual to ascribe so much value to assets BEN didn't own as of the Valuation date.***" (Emphasis added). Huffines wondered aloud if Ankura could "thread the needle with the awarding of the Charters as a material subsequent event," but wanted his colleagues' take on whether "***we're too far out on a limb***" in giving "***so much value to Charters that weren't held as of the Valuation Date***."

87. In response to Huffines' questions, Ms. Askey responded that "it depends on what was known or knowable at close," suggesting that perhaps the Charters could be valued with a "probability of award" discount. Huffines thought that idea "ma[de] perfect sense" and decided to go with "some probabilistic approach." In doing so, Huffines endeavored to "see if there's something we can do to introduce probability weightings and ***still get to the same result***," making the new report match the value for charters already attributed in BEN's financial statements. (Emphasis added).

88. Thereafter, Huffines discussed the proposed "probabilistic method" with BEN to make sure BEN agreed with Ankura's planned approach. BEN gave its blessing, provided that there were no changes to "the overall enterprise value or equity value." And on November 12, 2018, Ankura delivered the updated, final version of its ASC 805 report valuing BEN and its intangible assets as of May 31, 2018, the Second May 2018 ASC 805 Report.

89. The Second May 2018 ASC 805 report baselessly stated that "the issuance of the Charters appears highly likely," and that Ankura "assumed a 95% probability that the charters will be granted to BEN." After applying that probabilistic discount, Ankura estimated that the fair value of the Charters was $883.0 million as of the May 31, 2018 valuation date—almost identical to, but slightly higher than, the $882.0 million figure reported in the First May 2018 ASC 805 Report.

90. The end-result of Ankura's analysis was nonsensical and Ankura knew it. <u>First</u>, accounting rules only permit a company to record an asset on its balance sheet if the company actually holds that asset—not merely hopes to obtain it in the future. Moreover, under ASC 805, while intangible assets may be identified and broken out from goodwill when conducting a purchase price allocation, only those assets that are identifiable, and satisfy contractual-legal

criterion or separability criterion, may be recognized as intangible assets. At the time Ankura issued its Second May 2018 ASC 805 Report, BEN still had *not* obtained its charter (as Ankura knew full well), and thus there was no basis to assign any value to the charter.

91. Second, and relatedly, there was no basis to try to apply a retroactive "probabilistic discount" to the valuation date based on a subsequent event. Indeed, there was no subsequent event because BEN still had not obtained its charter at the time of Ankura's report, and thus there was no legitimate basis to assign a "probabilistic" discount to a non-existent asset. Nor did Ankura have any factual basis or support to assume BEN had a 95% chance of obtaining its charter in Texas as of the valuation date, the date of its report, or any other time.

92. Third, Ankura's "probabilistic approach" was nonsensical. There was no legitimate explanation for why the value of the charter should be \$883.0 million *after* applying a 95% discount when Ankura just weeks before had assigned a value of \$882.0 million while assuming that BEN actually had its charter.

93. Fourth, and finally, Ankura merely fudged the numbers in its revised analysis to goal-seek and "to introduce probability weightings and still get to the same result," as Huffines admitted was Ankura's plan. In the First May 2018 ASC 805 Report, Ankura calculated the fair value of the (non-existent) charter under the income approach as follows:

Present Value of Cash Flows		63,721	58,963	96,853	112.767	130,145
Sum of Present Value of Cash Flows		462,449				
Present Value of Terminal Year		413,416				
Tax Benefit of Amortization	(3)	6,051				
Fair Value of Charters		**881,916**				
Fair Value of Charters (Rounded)		**882,000**				

Residual Calculation	
Terminal Year Cash Flow	277,629
Capitalization Rate	23.4%
Cash Flow After Terminal Year	1,186,448
Present Value Factor	0.3484
Present Value of Terminal Year	413,416

In the Second May 2018 ASC 805 Report, Ankura's calculation used a lower capitalization rate and higher terminal cash flow in the "residual calculation," resulting in a slightly higher number that Ankura then multiplied by its made-up 95% probabilistic discount to arrive at the same result:

Present Value of Cash Flows			63,721	58,963	96,653	112,767	130,145

Sum of Present Value of Cash Flows			462,449
Present Value of Terminal Year			460,830
Tax Benefit of Amortization		(3)	6,101
Fair Value of Charters			**929,380**
Probability of Charter Being Granted	95.0%		882,911
Fair Value of Charters (Rounded)			**883,000**

Residual Calculation	
Terminal Year Cash Flow	283,020
Capitalization Rate	21.4%
Cash Flow After Terminal Year	1,322,522
Present Value Factor	0.3484
Present Value of Terminal Year	460,830

(Emphasis added). This was not an objective financial analysis, but rather reverse-engineered financial goal-seeking to reach BEN's desired end-result.

3. Ankura Deliberately Reverse-Engineered its Results-Oriented Valuation of BEN's Non-Existent Charters to Reach BEN's Pre-Desired Result While Knowing That the Result Made No Sense.

94. Compounding Ankura's malfeasance, Ankura's initial assessment that the fair value of non-existent charters was $882.0 million (and later $883 million) was also the product of results-oriented, financial engineering. In its First May 2018 ASC 805 Report, Ankura considered other valuation metrics under the cost approach—but assigned 100% weight to the income approach:

Approach		Indicated Fair Value	Weight	Weighted Value
Income Approach				
Excess Earnings Method	$	882,000	100.0%	882,000
Cost Approach				
Historical Cost Method		56,061	0.0%	-
Replacement Cost Method		62,096	0.0%	-
Concluded Fair Value of Charters				**$ 882,000**

Note:
(1) Concluded fair value relies exclusively on the income approach.

Ankura did the same in the Second May 2018 ASC 805 Report:

Approach		Indicated Fair Value	Weight	Weighted Value
Income Approach				
Excess Earnings Method	$	883,000	100.0%	883,000
Cost Approach				
Historical Cost Method		56,061	0.0%	-
Replacement Cost Method		62,096	0.0%	-
Concluded Fair Value of Charters				**$ 883,000**

Note:
(1) Concluded fair value relies exclusively on the income approach.

These weightings and Ankura's supposed valuation of the (non-existent) charters were not based on objective financial analysis but instead resulted from financial goal-seeking.

95. Indeed, Ankura wrestled internally about whether it made sense to assign some other weighting between the different valuation approaches—while at the same time recognizing that the huge gap between the income approach and cost approach was a red flag.

96. For instance, on September 20, 2018, Huffines' primary subordinate at Ankura on the BEN engagement, Neeli Kohan, provided Huffines with an updated draft of the model, noting that she had shifted from "weighting income approach 75% and cost approach 25%" to "100% income approach" and was "debating whether cost approach should even be shown given ***significant gap in values***." (Emphasis added). Huffines replied:

> ***The reason why we continued to include the cost approach is because without it the Charters got really high.*** At one point in our prior analysis, I believe they actually exceeded the total intangible value. Now they aren't quite that high, but still account for what auditors will probably view as an excessive amount of total intangibles + goodwill. There's no hard and fast rule, but my understanding was always that goodwill typically should account for 40-50% of total intangibles. We have it as roughly 10%.
>
> ***If you look at BEN's model, they have put a placeholder of $560mm for the trust platform and $750 million in Goodwill. That is their current expectation and that will almost certainly be more palatable to the auditors. So I suggest we head closer to that number by weighting the cost approach.***

(Emphasis added).

97. That same day (September 20, 2018), Kohan provided Huffines with a revised draft that "switched the income/cost approach on charters to 75/25% consistent with last time which got us to $1,167 [million] on charters and $564 [million] for goodwill," further explaining that "[i]f we go to 50/50 the value goes to $799 [million] on charters and $932 [million] on goodwill." (For purposes of these calculations, Ankura had calculated the value of BEN's charters at $1.536 billion, using BEN's revenue attribution figures.) Huffines replied later that evening:

> Let's go 50/50.
>
> I just don't believe the charters are worth over $1 billion. Yes – that's what BEN's revenue attribution model implies, but it just doesn't ring true – ***which suggests that BEN management has been way excessive in their allocation of profitability to the Charters. I'm not sure if they were trying to game the system*** or didn't fully understand what all goes into revenue attribution, or maybe a little of both.
>
> Either way, a 50/50 weighting is easier to justify than hashing it out with them to ask for revised revenue attribution.

(Emphasis added).

98. After several rounds of Ankura trial and error to try to make the numbers hit Ankura's and BEN's target to no avail, however, a week later Huffines reached out to BEN to discuss adjustment to revised revenue allocation after all. On September 27, 2018, Huffines wrote to BEN:

> We also want to discuss the Charter valuation with you. ***We need to adjust the revenue attribution because the value which results from it simply isn't credible. We're currently modifying that by mixing it with the Cost Approach, but using two so widely divergent inputs isn't ideal.***

(Emphasis added).

99. After obtaining revised projections from BEN and re-running the model, Kohan thereafter reported to Huffines on October 1, 2018 as follows:

> Charters based on income approach is $1.068 bn vs $1.536 bn on income approach prior. When weighted with cost previously we were at $799 mn. I suggest we scrap

> the cost approach and just go with the $1.068 bn because it's much more supportable than weighting the 2 approaches which are so far apart.

Kohan also reported that "Goodwill is still at a decent level $459 mn." Huffines ultimately accepted the suggestion to drop the weight to the cost approach to zero, instead adjusting the total value of charters downward by reducing the percentage of revenue allocable to the charters in the terminal year of the projections. (At the same time, Huffines and Kohan also decided to drive goodwill higher by lowering the discount rate.)

100. Even after Huffines and Kohan agreed to drop any weighting to the cost approach for valuing the charters and rely entirely on the income approach, Kohan still was inclined to drop any discussion of the cost approach to the charters because of the troubling questions it might raise with BEN's auditors. On October 3, 2018, Kohan emailed Huffines:

> For the charters do you want to show the table that weights income approach 100% and cost approach 0% and discuss cost approach in report or just delete the entire discussion of it. I'm inclined to exclude it because ***the auditors will ask why we choose one value and not the other and it makes the income approach look realistic. Also if you could spend $60 mn and realize $900 why aren't others doing it as well?***

(Emphasis added). Huffines acknowledged that the $60 million under the cost approach was "much less than our valuation," but still wanted to "leave it in" as a means of helping to "explain why the revenue attribution declines as much and as quickly as it does" in Ankura's model.

101. Ultimately, Ankura included a reference to the cost approach to valuing the charters, which indicated a value of $56 million to $62 million, while assigning it zero weight. This resulted in the overall concluded value of the charters going up in the First May 2018 ASC 805 Report (and Second May 2018 ASC 805 Report) compared to in Ankura's original draft shared with BEN. When BEN questioned why the value for the charters had gone up (even though BEN's revenue attribution to charters had gone down in its revised projections), Huffines replied as follows on October 8, 2018:

> ***We previously weighted the Cost Approach and the Income Approach equally – despite the fact that the 2 values implied by each were extremely divergent. It's never ideal to use inputs which are strongly at odds with each other, but it was the only way we could get the value of the Charters down to a reasonable number.*** Whitely Penn's initial response to our draft was ***a strong aversion to that disconnect, and I agreed*** with them from the start. So, we asked you to reduce the revenue attribution specifically so that we could be able to rely solely on the Income Approach, which we did. But the reduction in revenue attribution was not enough to offset the exclusion of the Cost Approach. We might want to consider a further reduction in the revenue attribution. Deloitte seems to be concerned about how high the Charter valuation is, and I share their concern to some degree. Alternatively, another approach we considered was to make the terminal value equal to the cost approach, thinking that your window of exclusivity would eventually close and the value eventually would be the cost to replicate. That has a logical appeal to me, but it brings the value down quite a bit.

(Emphasis added).

102. In sum, Ankura's approach to valuation of BEN's (non-existent) charters was financial goal-seeking trying to hit a target number in accordance with BEN's wishes, not objective financial analysis. Ankura first applied different weightings of the income approach and cost approach to get the final number where it and BEN wanted it. When that didn't work, Ankura asked BEN to tweak its projections so Ankura could back into the number through solely the income approach. And throughout this entire process, Ankura recognized again and again that "wildly divergent" cost approach and income approach results raised serious questions. That disconnect would have led any objective valuation firm to question the reasonableness and reliability of the results of the income approach.[2] But instead, Ankura just swept the problem under the rug to help BEN record the charter value it wanted in its financial statements.

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[2] Further alarming, almost all the costs associated with the charters were legal fees. There were not real research and development costs associated with the charters, meaning that supposed barriers to entry would be fairly minimal. That was all the more reason to doubt a $882 million (or $883 million) valuation for the charters.

4. Ankura Inexplicably Never Made any Downward Adjustment to its Estimate of BEN's Business Enterprise Value After Learning That BEN Had Not Obtained its Necessary Charter.

103. Despite learning that BEN had not yet obtained the charter necessary to operate its business and making up and applying a baseless "probabilistic discount" to the charters for that reason in the Second May 2018 ASC 805 Report, Ankura wholly failed to take that into account in assessing the reasonableness of its assessment of BEN's business enterprise value. Instead, both the First May 2018 ASC 805 Report and the Second May 2018 ASC 805 Report valued BEN's total equity at $2.081 billion and its total business enterprise value as $2.197 billion.

104. Ascribing a $2.197 billion value to a business that had no profit history and that Ankura knew had not yet obtained its regulatory charters made no rational sense and did not pass the smell test. Moreover, Ankura failed to question the reasonableness of its conclusions of BEN equity value upon learning that BEN did not have its charters notwithstanding that Ankura knew full well that non-existent charters accounted for a material portion of forecast revenue and EBITDA in BEN's projections (even as modified in response to Ankura's concerns). Specifically, in the projections that Ankura utilized in attributing over $880 million in value to non-existent charters under the income approach, BEN reflected that "Revenue Attributable to Uniqueness of the Charters" ranged from 88.8% in year 1, 79.1% in year 2, and 70.3% in year 3, and accounted for more than half of revenues in all five years of BEN's projections (before the terminal year). Similarly, those BEN projections reflected that charters would account for 56.7% to 75.6% of BEN's total EBITDA margin.

105. Accordingly, once it learned that BEN did not have its charters, Ankura must have known that its prior estimation of BEN's valuation was inflated. At a minimum, Ankura knew that its valuation of BEN in the Second May 2018 ASC 805 Report—which assumed no changes to BEN's projections—should have been lower than in the first report because BEN's lack of

necessary charters necessarily required: (a) a higher discount rate to account for execution risk and/or (b) a discount associated with delays until BEN could obtain its charter and BEN's projected cash flows could commence (to account for the time value of money). Ankura made no such adjustments, however, because BEN asked Ankura not to lower the total equity value and enterprise value when the "probabilistic method" was mentioned. And Ankura simply did not care about reaching an objectively accurate result—but instead cared only about financial goal-seeking to give BEN what it wanted: inflated values for assets and equity in its financial statements.

5. Ankura's "OPM Backsolve" Calculation of BEN's Business Enterprise Value Was Based on Multiple Flawed Factual Assumptions and Methodological Errors.

106. In both the First May 2018 ASC 805 Report and Second May 2018 ASC 805 Report, Ankura stated that it "relied upon the OPM Backsolve Method" to "determine the Fair Value of the business enterprise" of BEN. As Ankura further explained, "[t]he OPM Backsolve Method uses the Black-Scholes option pricing model ("OPM") to calculate the implied equity value of the firm such that the implied price of the recent round of financing is equal to its issuance price," with the "resulting equity value" then "allocated across investors." In conducting this OPM backsolve analysis, however, Ankura again delivered a results-oriented analysis (to give BEN what it wanted) that was untethered from reality. Indeed, every data point and assumption that Ankura used its in OPM backsolve analysis was factually or conceptually wrong or unsupportable.

107. <u>First</u>, Ankura used an OPM backsolve analysis to value BEN as of May 31, 2018 based on a supposed purchase of BEN Class A units for $10, even though no transactions in Class A units occurred in temporal proximity to that date. Rather, without drawing any link to the May 31, 2018 valuation date, Ankura flatly stated that "[b]eginning September 1, 2017," BEN "issued Class A Units to certain unitholders" and BEN "raised $746.7 million by issuing 74,760,839 Class A Units." It was inappropriate for Ankura to use BEN's formative transaction given the scant

temporal connection between that supposed predicate transaction in September 1, 2017 and the May 31, 2018 valuation date. And even worse, the transaction did not occur as Ankura stated in its report, as alleged more fully herein.

108. Second, Ankura's OPM backsolve calculation was based on the factually untrue assumption that the purchase price of Class A units in the predicate transaction was $10, and that "some of the Class A Units were sold for cash at $10.00 per Unit." But no entity had ever paid $10 cash per BEN Unit as of the transaction date. Indeed, none of MHT, the Seller Trusts, or Paul Capital paid $10 cash per Unit in BEN's formative transactions in September 1, 2017, nor did GWG pay $10 cash in the "Exchange Transactions" that closed in August 2018 and December 2018. Rather, BEN's underlying transactions with Paul Capital and the other sellers (and later GWG): (a) were non-cash transactions in which the assets BEN received in exchange for BEN common units were marked up significantly above fair market value; and (b) involved contractual agreements that plainly specified that $10 was not a fixed, cash price for BEN common units. The fair value of the assets exchanged was substantially less than $10 per unit.

109. Third, Ankura compounded its error involving the Class A unit price by assuming that an arm's-length transaction had occurred. The supposed change of control transaction triggering the purchase price allocation exercise was between Paul Capital and BEN. But Ankura knew that a transaction between BEN and Paul Capital was not a representative arm's length transaction. Indeed, Ankura knew that Paul Capital and BEN had previously co-engaged Ankura for a similar analysis, that Paul Capital and BEN had previously marked up BEN equity in exchange for marking up the value of alternative assets contributed by Paul Capital, and that Paul Capital and BEN both had every incentive to overstate the value of BEN common units. Absent an arm's-length transaction with a disinterested third party, it was inappropriate for Ankura to rely

on an OPM backsolve methodology. Yet Ankura utilized an improper methodology anyway in order to artificially inflate BEN's supposed value.

110. Fourth, Ankura's OPM backsolve analysis relied on a baseless valuation for NPC-A preferred equity. Ankura assumed that there were 95,334,970 shares or units of NPC-A preferred equity outstanding. But in actuality, no such NPC-A units existed; it was merely a "non-unitized" capital account balance that BEN and Heppner had essentially just made up (and was untethered to actual capital contributions or prior profits).

111. Moreover, Ankura compounded its error by assuming that NPC-A preferred equity had a legitimate, principled liquidation preference of slightly over $1 billion. In reality, however, NPC-A preferred equity (mostly owned by Heppner) had a negative capital balance prior to the purported May 31, 2018 change in control transaction. Heppner merely made up a liquidation preference of approximately $1 billion based on his desired value for BEN and plan to gross up BEN's balance sheet through the purchase price allocation exercise. In effect, therefore, Ankura's analysis was circular; Heppner based the NPC-A liquidation preference on his hoped-for-value and Ankura used that liquidation preference to derive the total equity value for BEN.

112. Because Ankura used an unsupported, circular, and baseless values for NPC-A, its OPM backsolve analysis was based on a fundamentally flawed key input. In an OPM backsolve analysis, the value of the senior class of equity (here, the NPC-A) provides a "breakpoint." In effect, it is treated as if it is "in the money" when "backsolving" from the subject transaction in the junior class of equity (here, Class A BEN common units). This means that the total equity value from an OPM backsolve analysis can never be less than the assumed valued of the senor equity (here, the NPC-A) used to set the breakpoint. In effect, therefore, Ankura set an artificially high

floor for the BEN value to be derived from its OPM backsolve analysis by using an assumed NPC-A value that was unsupported and circular.

113. Ankura knew that the NPC-A value and breakpoint was a critical input to its OPM backsolve analysis. Moreover, Ankura knew that using an artificially high NPC-A value and breakpoint would necessarily lead to an overstated, artificially high figure for BEN's total equity value. Yet Ankura utilized an artificially high value for the NPC-A value anyway, all to prop up BEN's reported value.

114. Fifth, Ankura's OPM backsolve calculation assumed that the time to distribution of cash to BEN's investors was only one year, even though BEN had not yet obtained its charter and had no history of profitability. Ankura went along with a patently unreasonable assumption of one year to distribution based solely on "discussions with management and their outlook on the various future liquidation scenarios." Ankura did so even though the assumption that BEN was one-year away from having \$2 billion in cash to distribute was directly contradicted by information known to Ankura. BEN did not yet have its charter. And on top of that, BEN's wildly optimistic projections only called for \$138.7 million in total revenue in "Year 1" even after BEN obtained its charter. Accordingly, it was non-sensical for Ankura to assume that BEN would have \$2 billion in value—over 15.5x of total revenue—available to shareholders in just one year.

115. Sixth, Ankura's OPM backsolve calculation was based on a nonsensical volatility assumption of only 19.0%, far below a more appropriate volatility assumption for an early-stage company of 40% to 80%. Ankura's wildly unrealistic volatility assumption was indefensible and a product entirely of its own making.

116. In option pricing models such as that utilized by Ankura, the reported volatility essentially reflects the anticipated standard deviation of price movements. Consequently, in

probabilistic terms, Ankura assuming that BEN equity's volatility was 19.0% was akin to assuming that there was over a 97.5% chance that BEN equity would be worth $1.3 billion in one year, and over a 99.85% chance that BEN equity would be worth $900 million in one year. Those figures bore no relation to BEN's historical results, BEN's current lack of charter, and/or BEN's own projections for what would occur within the first year following its launch.

117. Nevertheless, to try to justify its 19% assumed volatility figure, Ankura compared BEN to several publicly traded banks, as follows:

Volatility Analysis

Company Name	Market Cap (1)	Debt	Equity Volatility (2)
BOK Financial Corporation	$6,630	6,651	19.06%
Boston Private Financial Holdings, Inc.	1,501	826	21.38%
City Natural Resources High Yield Trust plc	108	46	19.97%
East West Bancorp, Inc.	10,066	658	23.73%
First Republic Bank	16,973	10,197	22.96%
Hancock Whitney Corporation	4,286	1,775	27.45%
LPL Financial Holdings Inc.	6,172	2,488	26.09%
Piper Jaffray Companies	1,042	315	29.41%
Raymond James Financial, Inc.	13,727	3,199	25.80%
Signature Bank	6,844	5,258	27.75%
SVB Financial Group	16,679	1,916	34.57%
Synovus Financial Corp.	6,546	2,062	21.16%
The Charles Schwab Corporation	77,835	4,928	25.39%
Umpqua Holdings Corporation	5,183	1,461	23.36%
Washington Trust Bancorp, Inc.	1,053	843	19.54%
Zions Bancorporation, N.A.	11,370	5,306	24.34%
Average			24.5%
Median			24.0%
First Quartile			21.3%
Third Quartile			26.4%
Maximum			34.6%

But none of those comparisons had volatilities as low as 19.00% (although some were close), and the average was around 24%. In other words, Ankura chose a value below that of any of its cherry-picked comparable companies, even though those companies were established companies with stable earnings and stock prices, and BEN was an early-stage start-up.

118. Moreover, Ankura's selection of an artificially low volatility figure for BEN was no accident. Ankura knew that it was inappropriate to use such a low volatility (19%) figure for an early-stage start-up company and to draw comparisons to established companies. In fact, more than two years later, when BEN was farther along in its development, Ankura itself used 48-52% volatility figures for BEN when it served Ankura's ends in hitting a different valuation target. Huffines was "fine using a high volatility" in early 2021 "given that [BEN] is essentially a start-up," and hence "[m]uch less established than the comps."

119. Making matters even worse, Ankura's selected comparisons, which were all relatively stable, conventional financial entities, were not similar to BEN's planned business. Indeed, BEN tried to justify its unrealistic pie-in-the-sky projections (and the absurd $882 million in value that Ankura attributed to its "charters") based on the supposedly unique nature of its business. It was incongruous for Ankura to: (a) assume that BEN could achieve 59.6% to 91.3% revenue growth each year and attribute $882 million in value to BEN's (non-existent) charters because it was like some disruptive tech company and yet: (b) at the same time treat BEN as if it was a stable, financial institution with modest growth, and very stable earnings and equity value.

120. Likewise, it was fundamentally inconsistent for Ankura to: (a) accept that BEN would rapidly grow 59.6% to 91.3% every year; and (b) yet assume for purposes of its OPM backsolve analysis that the volatility of BEN equity was only 19%. In effect, the volatility figure utilized by Ankura implied a 99%+ chance that BEN would fall far short of its lofty growth targets. In other words, the projected rate of return bore little relation to the modest equity price movement (and minimal risk) assumed by Ankura's OPM backsolve analysis.

121. In short, none of the inputs provided by BEN or that Ankura selected for its OPM backsolve valuation were accurate or conceptually appropriate. Ankura knew that the inputs it

utilized lacked support, were circular, were internally inconsistent, and/or made no conceptual sense. And Ankura's OPM backsolve valuation was wildly overstated, and Ankura knew it.

6. Ankura's Corroborative Valuation Analysis Was Likewise Nonsensical.

122. In a disingenuous attempt to justify its patently unreasonable OPM backsolve analysis, Ankura performed a supposedly corroborative discounted cash flow (DCF) analysis.[3] But Ankura's corroborative DCF was just as broken as its primary OPM backsolve methodology, and Ankura knew it.

123. First, Ankura's DCF analysis, like much of its other analysis, was purely an exercise in financial goal-seeking. Ankura's DCF analysis valued BEN's total enterprise value of $2.196557 billion, almost identical to the BEN total equity value of $2.196556 billion that Ankura calculated based on its OPM backsolve. The near-identical results were not mere coincidence, but rather stemmed from Ankura trying to adjust inputs on its DCF analysis until it reached the target result. Had Ankura attempted to perform an objective DCF analysis in good faith, rather than a results-oriented sham exercise merely to hit a number, the outputs would not have come within a mere $1,000 of each other on a supposed $2.2 billion company.

124. Second, and relatedly, Ankura used several wildly unrealistic assumptions to reach its target result. Specifically:

- Ankura used a discount rate of only 20.4%. But because BEN was essentially a start-up company (and did not yet even have its charter), a discount rate of at least 40-60% would have been far more appropriate;

[3] Ankura also performed a comparable companies analysis and comparable transactions analysis. Those alternative methodologies were likewise flawed because: (a) Ankura used unrealistic projected revenue and EBITDA figures; (b) the comparable companies and transactions that Ankura selected were not fairly comparable to BEN; and (c) Ankura used unrealistically high multiples at or near the top of the range derived from its cherry-picked comparables. Ankura assigned zero weight to those alternative valuation methodologies in both the First May 2018 Report and Second May 2018 Report, however. Accordingly, the Litigation Trustee has not described all of the shortcomings of those alternative analyses (because Ankura itself did not assign them any weight).

- The entirety of the valuation in Ankura's DCF analysis was based on cash flow from the terminal year and beyond, more than five years out. This was highly atypical. Moreover, the assumptions in the modeled cash flows were fundamentally inconsistent with the 1-year term in Ankura's OPM backsolve, as discussed above; and

- Ankura did not account for the dilutive effects or costs of capital necessary to fuel BEN's rapid projected growth.

Accordingly, Ankura's fundamental methodological errors by themselves rendered its result wholly unreliable, separate and apart from BEN's wildly unrealistic assumptions.

125. Third, and finally, in conducting its DCF analysis, Ankura accepted BEN's patently unreasonable projections at face value, with no independent verification or assessment of reasonableness of those projections. Those projections were fundamentally flawed and wildly unrealistic on their face. Indeed, BEN's lack of necessary charter alone established that BEN's financial projections (which Ankura fed into its discounted cash flow (DCF) analysis) were unreliable; as alleged above, the majority of BEN's projected revenue an EBITDA was attributed to the non-existent charters.

126. On top of that, Ankura knew or must have known that BEN's projections were unreasonable and reliable for many other reasons, including, but not limited to:

- Huffines had been involved in the conceptualization of BEN's business and financial projections dating back to 2013, and was thus well positioned to recognize the conceptual flaws in BEN's business model and projections;

- Huffines, having previously provided 2015 and 2016 valuation reports for BEN, knew that BEN had badly missed its prior projections; and

- Huffines knew that all value was attributable to terminal year projections after year 5 in the model, and that BEN's projected terminal projections had inexplicably ballooned from $295.2 million as of September 2015, to $490.9 million by May 2016, to $883.8 million by May 2018, even as BEN continued to financially struggle.

Accordingly, Ankura knew that BEN's pie-in-the sky projections were unreliable (and later admitted it). Yet Ankura fed those projections into its DCF analysis anyway to try to prop up the grossly over-inflated result generated by Ankura's results-oriented OPM backsolve analysis.

7. Ankura Knew That its Analysis Would be Utilized in BEN's Financial Statements and Was Fixated on Helping BEN Slip its Overstated Intangible Assets Past BEN's Auditors.

127. In conducting its results-oriented and unsupportable valuation analysis and delivering its ASC 805 report to BEN, Ankura was fully aware that the overstated values it provided would result in gross overstatements and errors in BEN's financial statements. Indeed, the purpose of Ankura's report was to provide BEN cover for its financial reporting. Both the First May 2018 ASC 805 Report and the Second May 2018 ASC 805 Report expressly acknowledged that Ankura knew that its analysis would be relied upon in BEN's financial statements: "We understand our valuation report will be used by management…of BEN in meeting their financial reporting requirements."

128. Moreover, throughout its engagement, Ankura was fixated on helping BEN make sure that its inflated financial statements would pass muster with BEN's auditors—both its then current auditor, Whitley Penn LLP ("Whitley Penn"), and BEN's anticipated future auditor, Deloitte & Touche LLP ("Deloitte").

129. In particular, on October 2, 2018, while transmitting updated drafts of Ankura's analysis, Huffines cautioned "[w]e don't have buy in with Deloitte yet, so it will be interesting to see if they have any issues with the analysis." Huffines further warned BEN:

> You'll need to be prepared to defend the 1 year time horizon to IPO and the revenue attribution, since those are both sourced to you – and because those are the two most important determinants of the valuation in terms of subjective inputs. I thought that discussion was fine last week [with Whitley Penn], but I would ***expect Deloitte to probe a little deeper***.

(Emphasis added). In other words, Huffines was fully aware that the one-year timeline fed into Ankura's OPM backsolve analysis and the revenue allocation to charters that drove its substantial value would draw questions from auditors. But Huffines' concern was not about whether those assumptions were reasonable—but rather was about helping BEN persuade its auditors to sign off on the grossly inflated valuations.

130. Likewise, a few days later, as BEN was pressing Ankura to finalize its report, Huffines explained the dangers in doing so given ongoing questions from both BEN's current auditor (Whitley Penn) and prospective future auditor (Deloitte). Huffines wrote in an October 7, 2018 email:

> …I'm concerned about finalizing our report. ***We still have substantive issues being questioned by both audit firms, as this asset allocation study relies on unusually subjective inputs.***
>
> The ***most impactful questions related to management inputs, particularly IPO timing and revenue attribution. Mandated changes in these assumptions could result in very large swings in values.*** The questions that relate to Ankura inputs are less impactful in magnitude, but further discussions could still result in different "final" results from what would go into our report if we finalized today.
>
> Also, we're ***currently the servant of two masters here, with the two accounting firms each issuing separate and somewhat conflicting concerns*** that they want addressed. WP has concerns about terminal year growth and tax benefit, both of which if changed would drive the Charter value substantially higher, while Deloitte seems to feel the Charter value may already be substantially too high.
>
> My suggestion is to conclude our conversations [with] Deloitte and Whitley Penn, the finalize our report – once we are reasonably assured that our conclusions will be accepted.

(Emphasis added).

131. The next day (October 8, 2018), in response to specific questions from Whitley Penn that BEN forwarded to Ankura, Huffines again reiterated: "I'm feeling a bit like we're the servant of two masters responding to somewhat conflicting concerns from the two audit firms," indicating that he "would rather get all the issues on the table from both firms and address them

simultaneously" and "would rather avoiding making changes for Whitley Penn that will be overturned by Deloitte."

132. Despite his reservations, Huffines nevertheless provided guidance for BEN to answer Whitley Penn's questions. And on October 9, 2018, with Ankura's responses, Whitley Penn signed off on Ankura's methodology. On October 10, 2018, BEN requested that Ankura issue its report without waiting on Deloitte, explaining that Deloitte had not yet been formally engaged and "BEN and Deloitte agreed over the weekend that there should be no further work on their part until after the Whitley Penn audit report has been issued, and we have fully negotiated our engagement." Ankura obliged, and issued the First May 2018 Report the same day.

133. In short, Ankura was fully cognizant that the dubious and unreliable valuations that it provided would be utilized by BEN in its financial statements, and Ankura helped BEN get its auditors to sign off on the inflated valuations that Ankura delivered. Ankura was thus fully aware that it was helping BEN generate financial statements that grossly inflated the value of its assets and equity, *i.e.*, preparing fraudulent financial statements.

8. Ankura's May 2018 ASC 805 Reports Enabled BEN to Report Over $1.5 Billion of Goodwill and/or Other Intangible Assets in its Financial Statements.

134. On October 18, 2018, BEN issued financial statements audited by Whitley Penn. Those financial statements reported that BEN had a "trust platform" intangible asset (related to its charters) of $882 million, $62.4 million in "technology related" intangible assets, $3.1 million in "other intangibles," and $567.5 million in goodwill as of June 1, 2018. The figures reported on BEN's balance sheet were close to those set forth by Ankura in its May 2018 ASC 805 Reports. The BEN financial statements audited by Whitley Penn were provided to GWG in late 2018, before GWG consummated transactions with BEN in December 2018.

135. Thereafter, Deloitte replaced Whitley Penn as BEN's auditor. On June 14, 2019, BEN issued financial statements audited by Deloitte and provided those financial statements to GWG shortly thereafter. Deloitte forced BEN to restate its previously issued financial statements, including dropping the value of the charter-related "trust platform" from $882 million to $0. At the same time, however, Deloitte still accepted Ankura's business enterprise valuation analysis, meaning that much of the overstated value Ankura reported was reclassified as goodwill. In turn, the Deloitte-audited BEN financial statements reported that BEN had $1.531 billion in goodwill as of December 31, 2018, and $4.8 million in net intangible assets as of that date. (BEN's financial statements were attached as an exhibit to GWG's Form 10-K annual report for the fiscal year ended December 31, 2018, filed in July 2019.)

136. As alleged more fully below, GWG relied on those financial statements in making substantial investments in BEN from 2019 through 2021.

D. Ankura's Dubious, Results-Oriented Valuation of BEN as of December 31, 2019 Increased BEN's Overinflated Goodwill to $2.3 Billion.

137. On December 31, 2019, GWG transferred approximately $79 million to BEN in exchange for BEN equity interests. Almost immediately after the transaction closed on December 31, 2019, BEN forwarded the investment agreement to Huffines, explaining that GWG had obtained purported board designation that supposedly constituted an additional change of control. Accordingly, BEN explained, "we need to get started on updating equity & enterprise valuations," and wanted Ankura's help on "purchase accounting as of 12/31/19."

138. Huffines replied later that day (December 31, 2019), while confirming that BEN's charters still had not been awarded as of the valuation date. BEN confirmed (on January 6, 2020) that it still did not have its charter.

139. In conducting this new ASC 805 purchase price accounting exercise, Ankura did not attempt to ascribe any value to a non-existent charter (unlike the Second May 2018 ASC 805 Report where Ankura applied a "probabilistic" discount and still attributed $883 million to a charter that Ankura knew did not exist). But even though BEN still did not have its charter after an eighteen-month delay, Ankura did not deem it necessary to make any other changes to its approach or analysis. Rather, Huffines assured BEN on January 13, 2020 that the process of completing the report and getting it past BEN's auditor (now Whitley Penn again, after Deloitte resigned as BEN's auditor in mid-2019) would be quick because "WP has audited essentially the same analysis previously" and "[n]othing about our methodologies will change, other than not including the Charter."

140. On March 23, 2020, Ankura delivered the final version of its ASC 805 valuation as of December 31, 2019 (the "December 2019 ASC 805 Report"). Ankura's December 2019 ASC 805 Report set forth "Valuation Results" as follows:

Valuation Results

Based on the valuation methods described in this report, we have determined the following business enterprise value of the Company and the Securities value as of the Valuation Date:

		Indicated BEV	Weight	Weighted Value
Income Approach				
Discounted Cash Flow Method	(1)	$2,724,934	100.0%	$2,724,934
Market Approach				
Guideline Company Method	(2)	2,784,990	0.0%	0
			100.0%	2,724,934
Indicated BEV on a Marketable, Controlling Basis, rounded				**$2,724,934**
Add: Cash and Cash Equivalents				17,500
Less: Debt				349,311
Indicated Equity Value on a Marketable, Controlling Basis, rounded				**$2,393,123**

Notwithstanding the presentation, the $2.72 billion business enterprise value (and corresponding $2.39 billion in total equity value) was based on Ankura conducting another OPM backsolve analysis. As was the case in its May 2018 ASC 805 Reports, Ankura's OPM backsolve analysis and other "corroborative" analysis was marred by fundamental flaws, as Ankura once again provided a results-oriented analysis wholly untethered to reality despite knowing of substantial risk of material misstatement on BEN's financial statements.

1. Ankura Primarily Relied on an OPM Backsolve Methodology Even Though Ankura Knew That the Transaction Was Not Arm's-Length.

141. In the December 2019 ASC 805 Report, Ankura stated: "In order to determine the Fair Value of the Company as of the Valuation Date, we relied on the OPM Backsolve Method." In addition, Ankura stated "to determine the Fair Value of the total assets of Ben, we had to extrapolate the entire capital structure from the exchange of some of the Common Units at $15.00 per Unit," referring to BEN's issuance of 666,666 units at a price of $15.00 per unit for a total of $10 million from GWG. Ankura further stated that the $15.00 per unit "price for the Common Units represents a negotiated, ***arm's length transaction***," and justified employing an OPM backsolve methodology on that basis. (Emphasis added). But Ankura's foundational assumption, that the transaction was "arm's length," was unjustified, and Ankura knew it. Indeed, Ankura knew full well that the $10 million transaction of common units at a price of $15 per unit was not representative of what a disinterested third party would have paid in the marketplace.

142. First, the December 2019 ASC 805 Report itself contained numerous statements reflecting that Ankura knew that GWG was not an independent third party. For instance, the December 2019 ASC 805 Report provided:

- "In April 2019, Ben and GWG [] extended their strategic partnership;"
- "The partnership was initially entered in 2018 [and] was further enhanced in April 2019;" and

- "The partnership deal [was] executed through a series of transactions which lead to cross holdings among BEN and GWG [] group companies."

Thus, Ankura knew that BEN and GWG were related parties.

143. Second, BEN kept Ankura apprised of the status of negotiations, and Ankura itself provided analysis that BEN used to achieve its targeted result of $15 per unit. Specifically, on December 27, 2018, Huffines wrote the Ankura team in India to relay "our marching orders from BEN." Because BEN was currently "negotiating with GWG for GWG's purchase of" additional "Class A shares" in the range of "$15 to $18.25," BEN "would like us to run our model tying to those two Class A share prices – shown as illustrations, not Ankura's opinions of value." Huffines suggested that "[w]e can use a corroborating BEV determined by the DCF only by adjusting the specific risk premium only"—in other words, change the discount rate to goal-seek to a matching number. Thereafter, Ankura provided such "sensitivity" analyses, which BEN then relayed to GWG and utilized to convince GWG to approve a $15 per unit price based on Ankura's analysis. Ankura had no legitimate basis to conclude that GWG's and BEN's negotiations were arm's-length given that the last-minute, hurried negotiations were influenced by Ankura's sensitivity analyses provided to BEN to influence GWG.

144. Third, Ankura knew—as reflected in the December 2019 ASC 805 Report—that GWG's $10 million purchase of common units at a price of $15 per unit was part of a single, integrated transaction in which GWG also paid $69.03 million in exchange for an NPC-A preferred equity account in the stated (made-up) amount of $319 million. As part of the same transaction, BEN's founders' NPC-A capital accounts were also increased by approximately $235 million—without providing any new consideration. Those other components of the same transaction between related parties provided additional reason to doubt that the purchase of common units was

reflective of what a third-party purchaser in the marketplace would pay for BEN common units in an arm's-length transaction.

145. Accordingly, Ankura was aware of numerous circumstances reflecting that GWG's purchase of a relatively small amount of common units was not fairly representative of an arm's-length transaction in the marketplace. In turn, Ankura knew that an OPM backsolve analysis was inappropriate. Yet Ankura relied on the OPM backsolve method anyway in order to give BEN the over-inflated valuation that it wanted for purposes of cooking its books.

2. In Conducting its OPM Backsolve Analysis, Ankura Made Numerous Unrealistic Assumptions in Order to Hit BEN's Target Result.

146. Because GWG's year-end transaction with BEN was between related parties and not fairly representative of arm's-length negotiations in the marketplace, Ankura never should have conducted an OPM backsolve analysis in the first place. But in conducting an analysis that Ankura knew was improper for that reason, Ankura made matters worse by making numerous improper assumptions and yet again engaging in "goal-seeking" to deliver BEN's desired result.

147. First, it was inappropriate for Ankura to focus on just one component of an integrated transaction, while ignoring the far larger component. While Ankura focused on solely the purchase of common units for $10 million at a price of $15 per unit, the ***same*** transaction also involved a much larger component of $69.03 million paid by GWG in exchange for an NPC-A preferred equity account with an agreed-upon, stated (albeit made-up) value of $319 million. There was no legitimate reason for Ankura to ignore this far larger component of the singular transaction in conducting an OPM backsolve analysis, especially given that OPM analysis necessarily entails examination of the entirety of BEN's capital stack.

148. Second, and relatedly, Ankura ignored the import of GWG obtaining a $319 million NPC-A account in exchange for $69 million. The NPC-A preferred equity enjoyed a far superior

position in BEN's capital stack, including dividends and a liquidation preference of over $1.5 billion, as Ankura knew full well (as reflected in the various scenarios it modeled in conducting its OPM backsolve analysis). In turn, no purchaser of BEN equity in the marketplace would pay $15 per common unit if far superior NPC-A preferred equity could be obtained in a stated amount of over 4.6 times the amount of cash paid, thereby further establishing that the purchase of common units—a small part of the broader transaction—was not representative of the value of BEN common units.

149. Third, despite knowing that GWG purchased NPC-A as part of the transaction, Ankura did not utilize the price paid for the NPC-A in determining its value and setting the breakpoint in its OPM backsolve analysis. Because GWG obtained a $319 million paper value NPC-A account in exchange for $69 million, it was obvious that the face value of NPC-A was inflated. And, in turn, any OPM backsolve analysis should have used a discounted value of NPC-A tied to actual transactions as the breakpoint, not the made-up paper value. Had Ankura done so, its overall valuation conclusion would have been substantially lower.

150. Fourth, as it did in conducting its May 2018 ASC 805 analysis, Ankura once again utilized wildly improper volatility figures in conducting its OPM backsolve analysis. Ankura modeled various scenarios, using either 19.0% or 19.2% annualized volatility in each one. Those volatility figures were drastically off base for many of the same reasons as before when Ankura used a similar figure in its May 2018 analysis. In particular:

- Appropriate volatility assumptions for an early-stage start-up company like BEN (which did not yet have its charter) would be 40-80% (or more). As alleged above, Huffines acknowledged that far higher volatility figures were appropriate in conducting subsequent analyses of BEN;
- Ankura's selected comparable companies to derive equity volatility for BEN were all established banks or other financial service companies with

relatively stable profits and stock prices and modest growth (unlike BEN's planned business and projections);

- Ankura's selected 19.0% (or 19.2%) volatility was below the lowest of the selected comparable companies (23.01%), and well below the average (28.4%); and
- Ankura's selected volatility was fundamentally inconsistent with BEN's projected rapid revenue and earnings growth (effectively implying a 99%+ chance that BEN would miss its targets).

In effect, Ankura utilized a volatility figure that could not be reconciled with BEN's stage of development, BEN's hope to be a disruptive technology company, and BEN's own projections.

151. Fifth, because the initial results of its OPM backsolve calculations were too high, Ankura fudged the numbers by using longer time periods to monetization and introducing several different scenarios, which it weighted to deliver the desired end-result. Specifically, the increase of the NPC-A liquidation preference by over $500 million and the 50% increase in the common unit price (from $10 to $15 per unit) in the December 2019 transaction had unintended consequences, in that it resulted in total equity value of $3.98 billion in Ankura's initial modeling efforts, even after Ankura tried to apply a substantial discount for lack of marketability (which it had not applied before) to try "to moderate the increase" (as Huffines put it). This led to questions from BEN's auditors, and BEN explained to Ankura (on March 10, 2020): "we don't have an answer that would fully explain a $3.9 B equity value."

152. To get around that problem and give BEN the result it wanted, Ankura—in collaboration with BEN—then resorted to running various scenarios and weighting them:

	Reversion Scenario	Non Reversion - Base Case Dividend Payout Scenario	Non Reversion - Low Dividend Payout Scenario	Non Reversion - High Dividend Payout Scenario
BEN Preferred Units / NPC-A Unit	$ 10.63	$ 9.89	$ 9.54	$ 11.12
Common Units	13.25	15.67	16.80	11.68
Class S Ordinary Units	13.25	15.67	16.80	11.68
Class S Preferred Units	15.94	18.63	19.67	14.63
Scenario Weightings	10.0%	60.0%	15.0%	15.0%

Each of these scenarios assumed 3 to 4 years for the time to distribution, in sharp contrast to the 1-year time to distribution that Ankura had utilized in its prior May 2018 ASC Reports. Thus, eighteen months after Ankura had previously assumed that BEN was only one-year out to an IPO to hit its target, Ankura now assumed that BEN was 3 or 4 years away from a possible monetization event in order to fudge the numbers in the opposite direction and deliver the result BEN wanted (rather than a result that was too high for BEN to get past its auditors).

153. Accordingly, Ankura's OPM backsolve analysis in its December 2019 ASC 805 Report was an unreliable, results-oriented analysis that bore little connection to reality. Ankura used improper assumptions on the underlying transaction, utilized an improper breakpoint, utilized an artificially low volatility figure, and then "moderated" the too high results it obtained from using those flawed assumptions by introducing various weighted scenarios (that were inconsistent with Ankura's own prior analysis and BEN's projections). Ankura provided this analysis, which it knew was unsound, to facilitate BEN's inflated reported values of goodwill and equity in BEN's financial statements.

3. Ankura's "Corroborative" Analysis Was Once Again a Results-Oriented Exercise That Was Riddled With Errors.

154. As it had done in its earlier May 2018 ASC 805 Reports, Ankura conducted "corroborative" other valuation analyses to try to justify the results of its OPM backsolve analysis

in the December 2019 ASC 805 Report. Once again, Ankura's "corroborative" analysis amounted to financial goal-seeking built on numerous unrealistic assumptions and errors.

155. First, Ankura's results-oriented DCF analysis spit out a business enterprise value of $2.725 billion. That figure, when adding cash and subtracting debt, translated to a total indicated equity value of $2.393123 billion—almost identical to the $2.393122 billion for equity value based on Ankura's OPM backsolve approach. The near-identical results were not mere coincidence, but rather stemmed from Ankura trying to adjust inputs on its DCF analysis until it reached the target result. Had Ankura attempted to perform an objective DCF analysis in good faith, rather than a results-oriented sham exercise merely to hit a number, the two outputs would not have come within a mere $1,000 of each other on a supposed $2.7 billion company.

156. Second, and relatedly, Ankura again used several wildly unrealistic assumptions to reach its target result. Specifically:

- Ankura used a discount rate of only 21.2%. But because BEN was essentially a start-up company (and did not yet even have its charter), a discount rate of at least 40-60% would have been far more appropriate;

- The entirety of the valuation in Ankura's DCF analysis was based on cash flow from the terminal year and beyond, more than five years out. This was highly atypical; and

- Ankura did not account for the dilutive effects or costs of capital necessary to fuel BEN's rapid projected growth.

Accordingly, Ankura's fundamental methodological errors by themselves rendered its result wholly unreliable, separate and apart from BEN's wildly unrealistic assumptions.

157. Third, and finally, in conducting its DCF analysis, Ankura accepted BEN's patently unreasonable projections at face value, with no independent verification or assessment of reasonableness of those projections. Those projections were fundamentally flawed and wildly unrealistic on their face and Ankura knew it, for all the reasons alleged above. But on top of that,

the increase in value from the DCF was driven entirely by an increase in BEN's projected terminal year free cash flow from $883.8 million (as utilized by Ankura in valuing BEN as of May 31, 2018) to $1.181 billion. There was no legitimate basis for why BEN's terminal year free cash flow after year 5 in its projections (which kept getting pushed back) kept creeping higher and higher, even as BEN continued to struggle and consistently miss its projections year after year.

158. Accordingly, Ankura's "corroborative" discounted cash flow analysis was fundamentally flawed. And two years later, Ankura attempted to distance itself from it, as alleged below.

4. Ankura Knew that its December 2019 Report Would Form the Basis for a Substantial Increase in BEN's Reported Goodwill.

159. In performing its results-oriented financial analysis and delivering the December 2019 ASC 805 Report to BEN, Ankura was fully aware that BEN would rely on that report as justification for reporting massive amounts of goodwill in its financial statements. Indeed, Ankura's engagement letter (dated January 13, 2020) expressly acknowledged: "we understand our valuation report will be used by [BEN] Management for financial reporting purposes."

160. Moreover, Ankura was kept apprised of BEN's contemporaneous discussions with its auditors, and tweaked its analysis to help BEN optimize a goodwill figure—albeit grossly inflated—that would not be rejected by Whitely Penn.

161. Indeed, Ankura was so accommodating of BEN's wishes that Ankura even allowed BEN to directly make proposed edits to its report. On March 19, 2020, Huffines provided BEN with a Word version of Ankura's reports so BEN could directly make changes, acknowledging: "We don't usually do this" (and requesting that BEN track changes). BEN then provided its direct edits to Ankura's report, which Ankura mostly accepted.

5. Ankura's December 2019 ASC 805 Report Enabled BEN to Increase its Reported Goodwill to a Whopping $2.358 Billion.

162. On March 27, 2020, BEN issued its audited financial statements for the year ended December 31, 2019 (audited by Whitley Penn). BEN's financial statements reflected $2.358 billion in goodwill, a more than $827 million increase from the prior year. Thus, BEN drastically improved its balance sheet year-over-year, even though BEN had: (a) not yet obtained its charter; (b) only $60.3 million in reported revenues during 2019; (c) suffered a $167 million net loss during 2019; and (d) burned through nearly $51.2 million in negative operational cash flows. BEN was only able to do so purely based on Ankura's results-oriented, dubious December 2019 ASC Report. Had it not been for Ankura's willingness to give BEN the results it wanted despite obvious flaws with its analysis, BEN would never have been able to report substantial increases in goodwill. Indeed, no valuation firm providing objective, reasoned analysis in good faith would have concluded that BEN effectively increased in value by over $800 million given BEN's financial performance during the year and uncertain regulatory status at year-end. Yet Ankura delivered the results BEN wanted anyway, despite knowing of the substantial risk of material misstatement on BEN's financial statements.

E. Ankura's Results-Oriented and Warped Goodwill Impairment Analysis Enabled BEN to Continue to Fraudulently Report Billions of Dollars of Bogus Goodwill on its Financial Statements.

163. As alleged above, Ankura's ASC 805 (purchase price allocation) reports as of May 31, 2018 and December 31, 2019 helped BEN recognize and record over $1.53 billion in goodwill in 2018 and nearly $2.36 billion of goodwill on its balance sheet as of December 31, 2019. Those reported goodwill figures were improper and indefensible because: (a) BEN did not have its charter; (b) BEN had no history of profitability (and only had $60 million in total revenue in the year ended December 31, 2019); (c) the fair value of BEN's liabilities exceeded its other assets;

(d) BEN's business model was fundamentally flawed; and (e) BEN's projections were wildly unrealistic and unsupportable. All of this was readily apparent and known to Ankura.

164. Thereafter, Ankura helped BEN keep the entirety of its $2.36 billion in bogus goodwill on its balance sheet by providing additional, results-oriented accounting valuation analyses. Under applicable accounting rules, specifically ASC 350, a company that reports goodwill on its balance sheet—like BEN—is required to assess whether that goodwill is overstated and should be written or "impaired." As alleged below, Ankura provided two separate reports to BEN under the auspices of ASC 350 reflecting that BEN's overall enterprise value and equity value exceeded the carrying value of BEN's goodwill and hence no impairment was necessary. Ankura's goodwill impairment-related reports helped BEN continue to artificially prop up its balance sheet, thereby defrauding GWG and other future investors in BEN.

1. Ankura's Goodwill Impairment Analysis as of October 1, 2020 Enabled BEN to Continue to Report $2.36 Billion in its FY2020 Financial Statements.

165. In November 2020, BEN reached out to Ankura to request that Ankura prepare a goodwill impairment report for purposes of ASC 350, and Huffines promptly sent a draft engagement letter, "expect[ing] it to come back immediately." A few weeks later, when Huffines had still not received the engagement letter, Huffines pointedly observed on December 9, 2020: "I suspect they are stalling, hoping to get the Trust Charter that is key to their business, ***because otherwise we'll probably have to find that their goodwill is impaired***." (Emphasis added). Yet despite Huffines' express acknowledgement that "we'll probably have to find that their goodwill is impaired" if BEN failed to obtain its charter and BEN's confirmation (on January 21, 2021) that it still did not have its charter, Ankura did not find any goodwill impairment in its ensuing ASC 350 report.

166. Rather, Ankura's final ASC 350 report dated May 26, 2021 with a valuation date of October 1, 2020 (the "October 2020 Goodwill Impairment Report") stated that no impairment was required because BEN's business enterprise value was $3.100 billion and the fair value of its equity was $2.827 billion as of the October 1, 2020 impairment testing date, exceeding the book value of equity (and goodwill) by approximately $468 million. Notably, those figures represented significant increases in value from Ankura's December 2019 ASC 805 Report, in which Ankura determined that BEN's business enterprise value was $2.725 billion and its equity value was $2.393 billion. In effect, Ankura's ASC 350 analysis concluded that BEN's business enterprise value and the value of BEN equity had both ***increased by over $433 million in just nine months*** from December 31, 2019 to October 1, 2020, ***during the onset of the COVID-19 pandemic***.

167. The nonsensical result Ankura delivered was, yet again, the product of Ankura engaging in financial goal-seeking to spit out a number to give BEN the result it wanted—no impairment to goodwill—regardless of financial reality. Indeed, both the discounted cash flow (DCF) analysis upon which Ankura primarily relied and its corroborative comparable companies' analysis were fundamentally flawed, results-oriented, bad faith exercises in financial engineering. And Ankura knew it, and that BEN's goodwill was overstated as a result.

168. In performing its discounted cash flow analysis, Ankura once again relied on BEN financial projections that were wildly unrealistic. Those projections suffered the same conceptual and methodological defects present in BEN's earlier projections. And the BEN projections Ankura accepted at face value for purposes of its impairment analysis were particularly dubious. For instance:

- BEN projected a whopping 241.1% revenue growth from $117.3 million in 2021 to $400.2 million to 2022;

- BEN projected an over five-fold increase in EBTIDA from $44.2 million in 2021 to $247 million in 2022;
- BEN projected that its revenue would grow from $117.3 million in 2021 to over $2.2 billion in 2025; and
- BEN, which had never turned a profit, projected EBIT margins steadily improving each year from 37% in 2021 to a whopping 73.9% by 2025.

In essence, BEN—which had consistently lost money, never generated anywhere close to even its 2021 projected revenue, and not yet obtained its charter—was claiming that it would be several times faster growing and more profitable than almost any financial services company in history. Because BEN's projections were detached from reality, Ankura's resulting DCF results were yet another instance of "garbage in, garbage out" analysis.

169. In addition to using hopelessly unreliable cash flow projections, Ankura's discounted cash flow analysis was further flawed due to two fundamentally flawed assumptions that Ankura utilized in homing in on its pre-conceived valuation target (to negate any need for impairment). First, Ankura utilized a discount rate of 22.9%, which, although higher than the rate used by Ankura previously, was still too low for an unestablished company like BEN. A 40-60% discount rate would have been more appropriate for an early-stage company like BEN, especially given the aggressiveness of BEN's projections.

170. Second, Ankura once again based the entirety of its DCF calculation on BEN's terminal year projection. In this most recent iteration of BEN's projections, the terminal year contemplated a whopping $1.650 billion in free cash flow. This was substantially higher than the $1.181 billion free cash flow in the terminal year in BEN's projections just a few months before, as of December 31, 2019. The massive increase was even more dubious because it was the result of BEN unrealistically projecting both higher growth and higher profit margins in the midst of a global pandemic. And on top of that, it was yet another instance of BEN's terminal projections

(following its five-year model) going progressively higher over time, even as BEN continued to lose money and struggled year-after-year to obtain its charter.

171. Moreover, by the time Ankura performed its analysis in the spring of 2021 and assessed BEN's valuation as of October 1, 2020, Ankura had seen BEN badly miss its projections and continue to lose money year-after-year, while Ankura had delivered one report after another valuing BEN at higher and higher levels. As a provider of valuation reports for BEN over the prior five years, Ankura knew firsthand that BEN's projections had progressively grown far more optimistic, even though BEN consistently failed to experience meaningful revenue and continued to lose money. Specifically, the projected terminal year free cash flow at the time of each of Ankura's valuation reports leading up to the October 2020 Goodwill Impairment Report were as follows:

Valuation Date	**Projected Terminal Free Cash Flow**
9/30/15	$295.2 million
3/31/16	$490.9 million
5/31/18	$883.8 million
12/31/19	$1.181 billion
10/1/20	$1.650 billion

Given that history, Ankura knew that BEN's projected terminal cash flow more than five years in the future was not a reliable basis to value BEN's business. Yet the entirety of Ankura's discounted cash flow analysis hinged solely on that wildly speculative and unsupportable terminal year assumption.

172. Making matters worse, in determining BEN's business enterprise value and conducting its goodwill impairment analysis, Ankura relied entirely on that dubious discounted cash flow analysis. Although Ankura also performed a corroborative comparable companies analysis, Ankura assigned 100% weight to the discounted cash flow test.

173. Moreover, Ankura's comparable companies analysis was an utter farce, as Ankura utilized a valuation multiple that it knew was not supportable solely in order to spit out a number that was close to its DCF calculation.

174. In connection with an initial draft of the report, Ankura's team in India informed Huffines on January 27, 2021: "We have currently selected a multiple of 6x, which is higher than the third quartile of 3.2x and close to a high of 7.3x. ***This appears overly optimistic and difficult to defend in audit***." (Emphasis added).

175. Upon realizing that the comparable companies analysis was problematic for BEN and, Huffines suggested that BEN consider moving the date for impairment testing from October 1, 2020 to December 31, 2020 because "[c]omparable company valuations recovered considerably, which will make it much easier to support a higher valuation, which hopefully will lead to lower impairment."

176. BEN replied that "[w]e have already disclosed a 10/1 impairment testing date so don't think we can change," but asked Huffines if Ankura would be willing to consider subsequent prices of the comparable companies anyway. Huffines responded (on February 4, 2021):

> ***Well … The answer is technically no, but usually there is a little wiggle room. We're supposed to use valuation inputs as of the valuation date***. To use later data is sort of like asking for a past stock trade to be marked down, because the stock went down after you bought it. But while it's not really consistent with Fair Value, in the context of ASC 350 – accountants are more willing to consider subsequent events – but note that his is used on the downside more often tha[n] the upside.
>
> ***Fortunately, because the inputs are subjective anyway*** and because GAAP considered subsequent events in other contexts, ***there is usually a little more leeway.***

(Emphasis added). Huffines then concluded his email by asking: "When do you expect [Ankura's] invoice to be paid?" BEN paid Ankura's fees (and pre-billed expenses) the next day.

177. A few days later, Huffines employed "wiggle room" and "leeway" to fudge the numbers to spit out an overly high valuation for BEN. Specifically, on February 10, 2021, Huffines informed the India team that even though BEN was wed to a valuation date of October 1, 2020: "***I changed the revenue multiple to 6.5x to narrow the gap with the DCF indication***. We're not weighting anyway, ***but better not to contradict our conclusion of ~$3.0 [billion] BEV***." In other words, Huffines increased the multiple to 6.5x solely in order "to narrow the gap with the DCF indication," even though his financial modeling team had informed him that the previously used 6x was "higher than the third quartile of 3.2x" and "overly optimistic and difficult to defend in audit." Had Huffines approached the engagement objectively to measure BEN's value, the fact that even an "overly optimistic" comparable companies analysis was yielding a different result than the DCF analysis would have led him to question the DCF result and its underlying assumptions. But instead, Huffines just fudged the numbers to gloss over what should have been a strong indication and glaring risk that BEN's stated equity values and goodwill were substantially over-inflated.

178. The next day, Huffines provided BEN with draft valuations—using his cherry-picked 6.5x multiple—that valued BEN at $3.066 billion using the comparable companies approach, and $3.100 billion using the discounted cash flow (DCF) method. Those figures and that analysis were carried forward verbatim in the final version of its ASC 350 report, the October 2020 Goodwill Impairment Report issued in May 2021.

179. As a result of Ankura's results-oriented, sham analysis, BEN did not recognize any impairment to goodwill in its financial statements. Consequently, GWG and other investors in BEN were lulled into a false sense of security regarding BEN's value and prospects. Meanwhile, at the same time Huffines and Ankura knowingly helped BEN prop up its financial statements by

avoiding writing down bogus goodwill that never should have been recognized in the first place, Huffines and Ankura insisted that BEN pre-pay Ankura for its work "***due to the credit risk***" associated with BEN, as Huffines reminded Ankura's billing department in March 2021. (Emphasis added).

2. Ankura's Goodwill Impairment Analysis as of October 1, 2021 Enabled BEN to Continue to Report Over $2 Billion in Goodwill.

180. The following year, Ankura analyzed BEN's goodwill for impairment under ASC 350 as of October 1, 2021. Ankura concluded that BEN's fair value was $2.48 billion and that no goodwill impairment was necessary as of the valuation date, issuing its report on or about September 28, 2022 (the "<u>October 2021 Goodwill Impairment Report</u>"). Yet again, Ankura departed from accounting and valuation norms to give BEN the result it wanted, knowing full well that BEN management would use Ankura's report in BEN's financial reporting to inflate BEN's reported equity and goodwill. This time, however, Ankura employed a new—albeit still dubious—approach to deliver the results BEN wanted and facilitate BEN's accounting fraud.

181. By this time, Ankura and BEN had determined that an OPM backsolve approach was "no longer workable" due to push back from BEN's auditors. Likewise, the "corroborative" analyses that Ankura had performed using discounted cash flow (DCF) and comparable companies analyses had come under additional scrutiny.

182. Accordingly, Ankura decided to assess BEN's value as of October 1, 2021 by using two "bookend" transactions in BEN equity, even though those transactions were: (a) temporarily remote from the valuation date; and (b) not arm's-length transactions.

183. The first "bookend" transaction Ankura relied upon was a $79 million investment that GWG made in BEN on December 31, 2019. That transaction was twenty-one months before the valuation date. The second "bookend" transaction Ankura relied upon was a de-SPACing

transaction with Avalon Acquisition Inc. ("Avalon") that was publicly announced in September 2022. BEN's transaction with Avalon was not first memorialized in a term sheet until mid-August 2022 (which was modified thereafter) and did not finally close until June 7, 2023—long after Ankura issued its report and nearly a year and a half after the valuation date.

184. Because its two selected "bookend" transactions were not closely linked in time to the October 1, 2021 valuation date, Ankura's "bookend" approach was improper. Indeed, Huffines recognized that "given the time separation" between the two "bookend dates" and the valuation date, "some may view [Ankura's approach] as a '***non-standard' approach***" to goodwill impairment testing. Nevertheless, Ankura opted for this "non-standard" valuation approach anyway as "the least bad solution," while suggesting that BEN pre-clear Ankura's plan with its new auditors.

185. In addition to the temporal disconnect, Ankura's "bookend" approach was also improper because neither of the "bookend" transactions was an arm's-length, market transaction with a third party. First, the December 2019 transaction was not in substance an arm's-length transaction in the marketplace for all the reasons discussed above in section D.1.

186. Second, BEN's de-SPACing transaction with Avalon was also not an arm's-length transaction, but instead a ploy by Heppner with the aid of a long-time friend and BEN insider to prop up BEN's value in connection with GWG's bankruptcy case. Specifically, Avalon was led by Don Putnam, founder of Grail Partners LLC ("Grail Partners"), who had a decades-long personal and business relationships with Heppner. Moreover, Putnam's fund, Grail Partners, had significant entanglements with BEN dating back to 2017-2018 and held a substantial amount of BEN common units. The Avalon de-SPACing transaction allowed Putnam's main entity, Grail Partners, to significantly increase the holding value of the BEN common equity on its books. Accordingly, the

merger between BEN and Avalon was not a true arm's-length transaction, but rather the product of Heppner's and Putnam's mutual admiration and willingness to help each other in a relationship dating back decades, and their mutual benefit in engaging in a transaction that would inflate the paper value of their pre-existing holdings.

187. Ankura knew that Avalon was not controlled by independent, disinterested third parties and that the de-SPACing merger was not an arm's-length transaction in the marketplace. Grail Partners was one of the early "sellers" of alternative assets in BEN's initial liquidity transactions in 2017 and 2018 (that Ankura had previously examined). And in late February 2022, BEN emailed Huffines to ask that provide a copy of the December 2019 Report to Grail Partners, which BEN characterized as "one of BEN's shareholders" while indicating that Putnam was the point of contact.

188. Moreover, Ankura knew the price that Putnam and Avalon agreed to was similar to the December 2019 transaction with GWG, reflecting an outcome-oriented rather than market-based valuation of BEN. Indeed, Huffines observed that "the valuation of BEN has not been very market sensitive" and that the transactions in BEN securities "appear to be entirely uncorrelated to the market" in that "market levels" had no "impact on the value of BEN securities." The disconnect from broader equity markets should have called into doubt the circumstances surrounding the Avalon transaction, but Ankura instead utilized it to try to justify making no market-based adjustments to BEN equity in its goodwill impairment analysis. Nevertheless, Ankura assumed for purposes of its goodwill impairment analysis that "the price implied by this transaction [was] at arm's length."

189. Given the temporal disconnect and related party nature of the two "bookend" transactions, Ankura's goodwill impairment analysis as of October 1, 2021 was fundamentally

flawed. Yet Ankura relied solely on that methodology, now eschewing its prior methodologies and failing to perform—unlike all of its prior reports—any "corroborative" discounted cash flow (DCF) or comparable companies analysis.

190. In the October 2021 Goodwill Impairment Report, Ankura tried to justify its failure to perform a discounted cash flow analysis by claiming that "***the historical track record is not yet sufficient to have as high a degree of confidence in [BEN's] projections***," and "analysis based on the Income Approach was determined to be ***too subjective to be reliable***." In other words, after having utilized BEN's projections and running results-oriented DCF analysis in five separate reports dating back to 2015 all before BEN obtained its charter, Ankura now took the position that BEN's projections—after BEN had finally obtained its charter—were unreliable.

191. To try to downplay that significant change in approach, Ankura—in the October 2021 Goodwill Impairment Report—tried to distance itself from its earlier analyses. Ankura claimed that its prior DCF analysis "was for corroborative purposes only," and that "some readers erroneously concluded that the Income Approach was somehow deterministic of our findings" in the December 2019 Report. Ankura then explained that "[g]iven that misunderstanding of our prior work" in the December 2019 Report, "we have omitted the corroborating analysis based on the Income Approach in our analysis as of the Valuation Date from this report."

192. In the end, despite concluding that BEN's projections were unreliable and trying to distance itself from its prior valuations (that led to recognition of goodwill in the first place), Ankura nevertheless determined that no impairment to BEN's over $2.3 billion in reported goodwill was necessary. And as a result, BEN continued to maintain the illusion that it was a company with substantial value until June 2023, at which point BEN promptly crashed and burned.

F. BEN's Disastrous Stint as a Public Company.

193. BEN's de-SPACing merger transaction with Avalon closed on June 7, 2023. The first few days of trading post-merger saw heavy trading volume and progressively lower closes. Moreover, the closing price of BEN's stock went down every single day for over two weeks, losing two-thirds of its value almost immediately. From there, BEN's stock price continued to decline, and by October 2023 BEN had lost over 90% of its wildly over-inflated initial market cap—all within just the first four months of trading.

194. During the same period, BEN recognized massive impairment charges to goodwill. For the quarter ended June 30, 2023, BEN recognized a $1.096 billion impairment charge to goodwill (reducing the reported balance of goodwill from $2.368 billion to $1.262 billion). In other words, over $1 billion of the goodwill that BEN recorded based on Ankura's ASC 805 reports and continued to report as a result of Ankura's ASC 350 reports was written off within BEN's first month as a public company. For the quarter ended September 30, 2023, BEN recognized an additional $307.7 million in goodwill (reducing the balance further still to $964.9 million), meaning that nearly 60% of the goodwill BEN booked based on Ankura's reports was written off in just the first four months following BEN's transaction with Avalon.

195. Thereafter, BEN recognized an additional $883.2 million impairment charge to goodwill in the quarter ending December 31, 2023, leaving a remaining balance of just $81.7 million—less than 3.5% of the goodwill that BEN had reported based on Ankura's ASC 805 and ASC 350 reports. And by the end of the fiscal year ended March 31, 2024, BEN's reported goodwill dipped to just $13.6 million. For the fiscal year (and less than a year into BEN's stint as a public company), BEN reported a whopping ***$2.354 billion goodwill*** impairment charge, ***writing off over 99.4% of the goodwill*** it initially recorded and continued to report based on Ankura's

reports. Moreover, BEN's Form 10-K for the fiscal year ended March 31, 2024 reflected that BEN had negative revenue, negative operating cash flow, and negative total cash flow, and included a going concern qualification from BEN's auditors.

196. Since then, BEN has remained a financial trainwreck. In its Form 10-K annual report for the fiscal year ended March 31, 2025, BEN's auditors again included a going concern qualification in their audit opinion, stating that: "the Company has experienced recurring net losses, liquidity constraints and has a net capital deficiency that collectively raise substantial doubt about its ability to continue as a going concern." As of fiscal year end, BEN's reported goodwill fell to just $9.9 million. And once again, BEN reported operating losses, negative operating cash flow, and negative total cash flow.

197. BEN's current disastrous financial condition was entirely predictable; indeed, it was the true state of BEN's terrible business all along. As discussed above in section A, BEN's business plan and financial modeling efforts and projections were ill-conceived and wildly unrealistic from the start. BEN consistently burned cash and lost money, and never came close to hitting its projections, year after year. Yet Ankura kept delivering higher and higher valuations for BEN despite BEN's continuous streak poor performance and badly missed projections.

198. Had Ankura acted in good faith and provided objective accounting and valuation analyses, rather than deliver results-oriented analyses designed to back into the results BEN wanted to cook its books, Ankura's valuations would not have missed market-based valuations of BEN's business by several orders of magnitude.

V. <u>GWG'S SUBSTANTIAL DAMAGES</u>

199. Due to Ankura's malfeasance and facilitation of BEN's efforts to cook the books, BEN's audited financial statements issued by Whitley Penn in October 2018, by Deloitte in July

2019, and by Whitley Penn in March 2020, respectively, reflected that BEN had $1.51 billion, $1.55 billion, and $2.36 billion in goodwill and other intangible assets. Moreover, the Deloitte audited financial statements (issued July 2019) and the Whitley Penn audited financial statements (issued March 2020) reflected that BEN had $1.531 billion and $2.358 billion, respectively, of goodwill. The fair value of BEN's goodwill and intangible assets, however, was substantially less than reported in BEN's financial statements.

200. Because BEN's financial statements grossly overstated the fair value of BEN's intangible assets and total equity value, GWG made several substantial investments in BEN equity from May 2019 through March 2021, including the following:

- $10 million for BEN common units (at a price of $10 per unit) approved in May 2019 and transferred on June 12, 2019;
- $10 million for BEN common units at a price of $15 per unit on December 31, 2019;
- $69.03 million for BEN NPC-A preferred equity on December 31, 2019;
- $61 million for BEN preferred Series C equity on July 16, 2020;
- $25 million for BEN preferred Series C equity on September 9, 2020;
- $19.2 million for BEN preferred Series C equity on October 2, 2020;
- $25 million for BEN preferred Series C equity on December 9, 2020; and
- $14.8 million for BEN preferred Series C equity on March 9, 2021.

GWG would not have invested nearly $235 million to obtain BEN equity interests at grossly over-inflated prices had BEN's financial statements not been grossly overstated with the material assistance of Ankura's malfeasance. GWG's nearly $235 million investment in BEN securities resulted in a massive loss, as GWG sold its BEN securities for approximately $21.2 million ($14.8

million in late 2021 plus $6.4 million in post-confirmation sales, including for securities obtained in exchange for forgiveness of a note receivable from BEN).

201. Had it not been for BEN's fraudulent financial statements (and Ankura's knowing complicity in BEN's accounting fraud), GWG would also have avoided hundreds of millions of additional losses it sustained in connection with forgiving and taking on debt associated with betting on BEN. Specifically, had BEN not recognized $2.36 billion in goodwill in its financial statements issued in May 2020 (based on Ankura's December 2019 ASC 805 Report) and/or had BEN recognized impairment charges goodwill (as it would have if not for October 2020 Goodwill Impairment Report issued in May 2021), then GWG would not have agreed to accept (worthless) BEN common units as repayment of an outstanding $208 million obligation BEN owed to GWG on or about November 26, 2021. Likewise, GWG would have filed for bankruptcy far earlier, rather than taking on additional debt and incurring substantial financing fees in November 2021 and December 2021 to try to give BEN more runway; such transactions with secured lenders cost GWG at least $55 million in harm associated with otherwise avoidable fees and interest, while further contributing to a needlessly costless bankruptcy case.

202. Finally, had it not been for Ankura's malfeasance, GWG's bankruptcy case would have proceeded in a more streamlined manner towards a liquidation, saving tens of millions of dollars of wasteful professional fees. Specifically, had BEN not recognized $2.36 billion in goodwill in its financial statements issued in March 2020 (based on Ankura's December 2019 ASC 805 Report) and/or had BEN recognized impairment charges goodwill as it would have but for the October 2020 Goodwill Impairment Report (issued in May 2021) and the October 2021 Goodwill Impairment Report (issued in September 2022 in the midst of the bankruptcy case), then the Debtors and their stakeholders would have realized that GWG's investment in BEN was of

minimal value. In turn, GWG's bankruptcy estate would have saved tens of millions of professional fees associated with disputes over BEN's value in a contentious bankruptcy case.

VI. TOLLING OF LIMITATIONS

203. From the date of GWG's bankruptcy filing (April 20, 2022) to present, all applicable limitations periods have been tolled: (a) as a matter of law pursuant to 11 U.S.C. § 108; and/or (b) by agreement between Ankura and the Litigation Trust. Accordingly, any of the Litigation Trust's claims against Ankura could only be time-barred to the extent that any such claim was time-barred as of the Petition Date.

204. Neither GWG, nor the Litigation Trust, could have reasonably discovered Ankura's misconduct and/or the resulting injury GWG suffered prior to when GWG filed for bankruptcy (or several years prior to the Petition Date, as would be required for limitations to have run before the Petition Date).

205. The Litigation Trust only learned of Ankura's misconduct through its post-petition investigation into the estate's potential claims, which entailed review of materials that were not readily accessible to GWG prior to the Petition Date, such as Ankura's internal communications. Ankura's culpable state of mind was discovered through the Litigation Trust's review of Ankura's internal communications.

206. Moreover, BEN's accounting fraud (*i.e.*, its gross overstatement of goodwill) was not discovered until after BEN went public in June 2023 and was finally exposed to market forces. Only thereafter did BEN recognize impairment charges to its goodwill, which BEN never should have recorded in the first place (and would not have recorded but for Ankura's ASC 805 reports) and/or which BEN should have previously written off (and would have written off but for Ankura's ASC 350 reports).

207. Finally, the Litigation Trust discovered GWG's injury—*i.e.*, the substantial difference in value between the funds advanced by GWG and the minimal value of what GWG received in exchange in the relevant transactions—following the Petition Date. While BEN was, in fact, a doomed entity with nearly worthless equity all along, that was not fully known until: (a) BEN completely collapsed once it went public after the Petition Date; and (b) documents obtained through the Litigation Trust's Rule 2004 discovery efforts revealed the utter unreliability of purported valuations of BEN and BEN's projections during the 2019 to 2021 period.

208. In short, the Litigation Trust discovered both Ankura's pre-petition misconduct and the injury suffered by GWG through information uncovered post-confirmation through Rule 2004 discovery and events that transpired in 2023 and thereafter, none of which was available or reasonably accessible to GWG prior to the Petition Date.

209. Nor could GWG have otherwise reasonably discovered Ankura's misconduct or the injury that GWG suffered through other means. GWG and GWG's full board were kept in the dark regarding BEN's valuation issues and were not privy to communications between BEN's finance team and Ankura. Moreover, BEN's (and GWG's auditors) ultimately accepted the grossly overstated valuations set forth in BEN's audited financial statements.

CLAIMS

Count I: Secondary Liability for Aiding Violations of the Texas Securities Act
(Tex. Gov't Code Ann. § 4008.055(c))

210. The Litigation Trust repeats and realleges each and every allegation contained above as if fully set forth herein.

211. GWG purchased or obtained: (a) BEN common units in June 2019, December 2019, and November 2021; (b) NPC-A preferred equity in BEN in December 2019; and (c) Series C preferred equity in BEN in July 2020, September 2020, October 2020, December 2020, and

March 2021. Each of those purchases was for cash consideration, with the exception of BEN common units that GWG obtained in exchange for forgiving a $208 million obligation owed by BEN on or about November 26, 2021. Each of the BEN common units, BEN NPC-A preferred equity, and BEN Series C preferred equity that BEN sold or issued to GWG (collectively, the "BEN Securities") constitutes a security within the meaning of the Texas Securities Act, Tex. Gov't Code Ann. § 4001.068(a). BEN is headquartered and located in Texas, and BEN sold the BEN Securities to GWG in Texas.

212. BEN offered or sold the BEN Securities to GWG by means of an untrue statement of material fact, or involving fraud or a fraudulent practice, within the meaning of the Texas Securities Act, Tex. Gov't Code Ann. §§ 4001.052 and 4008.058. Specifically, BEN perpetrated an accounting fraud on GWG, providing GWG with financial statements that grossly overstated the values of BEN's goodwill and equity, in connection with BEN offering or selling the BEN Securities to GWG. Moreover, BEN offered or sold the BEN Securities by means of untrue statements of material fact, *i.e.*, the fraudulently inflated value of goodwill and equity reflected on BEN's balance sheet. Accordingly, BEN violated the Texas Securities Act, Tex. Gov't Code Ann. § 4008.052.

213. Ankura materially aided and substantially assisted BEN's primary violations of the Texas Securities Act. Specially, Ankura acted with reckless disregard for the truth in providing ASC 805 reports that grossly overvalued BEN's goodwill and equity, and in providing ASC 350 reports that likewise overvalued BEN such that no impairment to goodwill was recorded on BEN's financial statements. Ankura provided its ASC 805 reports and ASC 350 reports knowing that BEN would base its financial reporting on those reports. Ankura knew that BEN was seeking investments in BEN equity securities based on the over-inflated values reported on BEN's financial

statements. Ankura nevertheless acted in the face of the known risk that BEN would utilize the inflated values on Ankura's reports to overstate its assets and equities on BEN's financial statements that would be used to induce investors to purchase BEN securities. In other words, Ankura was generally aware that the valuation reports it provided would be utilized by BEN to overstate the reported goodwill and equity values in its financial statements. And Ankura rendered assistance in providing those reports in the face of the perceived risk that doing would facilitate BEN's accounting fraud.

214. Moreover, in preparing and delivering its ASC 805 reports and ASC 350 reports to BEN, Ankura knew that the results reported were unprincipled, unjustifiable, and unreliable, yet still delivered grossly over-inflated values of BEN with reckless disregard for the truth. Specifically, in its ASC 805 reports, Ankura utilized OPM backsolve analyses to hit BEN's target numbers by: (a) using unsupported, circular, and essentially made-up values for NPC-A to set the breakpoints in its analysis; (b) using assumed transaction prices that were inconsistent with the underlying transactions; (c) using artificially low volatility assumptions that Ankura knew (and later expressly admitted) were several times lower than that warranted for a start-up, early stage company like BEN; (d) using unrealistic and/or internally inconsistent time assumptions to further massage the results of the analysis to hit BEN's targets; and (e) improperly basing its OPM backsolve on predicate transactions that Ankura knew were not truly arm's-length transactions in the marketplace. Then, because it knew the results of that sham analysis were grossly inflated, Ankura tried to support its sham results by running "corroborative" DCF analyses, in which: (a) Ankura engaged in financial goal-seeking to hit its target, in part by utilizing artificially low discount rates; (b) Ankura accepted BEN projections at face value and without verification, even though Ankura knew those projections were unrealistic; and (c) Ankura based all value on wildly

speculative and unreliable "terminal year" projections more than five years in the future, which Ankura knew were subjective and unreliable.

215. In the October 2020 Goodwill Impairment Report, Ankura relied solely upon discounted cash flow analysis, even though it knew that such an analysis was not reliable. Indeed, Ankura expressly admitted in its goodwill impairment testing as of a year later that a discounted cash flow analysis was too subjective and speculative to be reliable, in large part because BEN lacked a sufficient historical track record to provide sufficiently reliable projections. Moreover, in performing a discounted cash flow analysis in the October 2020 Goodwill Impairment Report, Ankura: (a) utilized an artificially low discount rate; (b) accepted BEN projections it knew were unreliable; and (c) derived all value from wildly unrealistic terminal year projections that Ankura knew were subjective, unrealistic, and inexplicably grew more aggressive over time. Ankura's sham, results-oriented analysis claimed that BEN increased in value by over $433 million in just nine months (during the onset of the COVID-19 pandemic), and consequently no goodwill impairment was necessary. Because the result of this analysis was unjustifiably high, Ankura tried to backstop it with a "corroborative" comparable company analysis in which Ankura utilized an artificially high revenue multiple that Ankura knew was unsupportable.

216. In the October 2021 Goodwill Impairment Report, Ankura acknowledged—in contrast to its prior reports—that BEN's projections were not reliable and that a discounted cash flow analysis was "too subjective to be reliable." To nevertheless reach BEN's desired result of no goodwill impairment, Ankura employed a "bookend" transaction approach that Ankura knew was "a 'non-standard' approach" to goodwill impairment testing (as Huffines acknowledged) because of the temporal disconnect between the valuation date and the supposed "bookend" transactions. Ankura utilized this "non-standard" approach anyway, even though it knew that the

transactions it relied upon involved related party transactions—not arm's-length transactions with third parties in the marketplace—again acting with reckless disregard for the truth.

217. Ankura's provision of the ASC 805 reports and ASC 350 reports materially aided, and provided substantial assistance to, BEN in overstating the value of its assets and equity on its financial statements in order to to sell BEN Securities at inflated prices, and in BEN's primary violations of the Texas Securities Act in selling the BEN Securities. Ankura exercised professional discretion and judgment in generating bogus valuation reports to serve BEN's aims. And Ankura was aware of its role in facilitating BEN's primary violations. BEN recorded its $1.53 billion and $2.36 billion of goodwill as of December 31, 2018 and December 31, 2019, respectively, and the related equity values on its balance sheet based on the ASC 805 reports that Ankura provided. Had it not been for the grossly inflated values set forth in Ankura's ASC 805 reports (and Ankura's assistance in coaxing BEN's auditors to sign off on its valuations), BEN never would have been able to report goodwill and equity values nearly that high (if at all) on its balance sheet. Likewise, had it not been for Ankura's ASC 350 reports that likewise grossly overstated BEN's equity value, BEN would have been forced to take impairment charges to write-off goodwill (that never should have been on BEN's balance sheet in the first place).

218. Accordingly, Ankura, as an aider of BEN's primary violations of the Texas Securities Act is jointly and severally liable for BEN's primary violations and for damages to GWG pursuant to Tex. Gov't Code Ann. § 4008.055(c). The Litigation Trust is entitled to monetary damages in the amount of the prices GWG paid or consideration given (plus statutory interest thereon), less the minimal consideration received in selling BEN securities, pursuant to Tex. Gov't Code Ann. § 4008.057(a). In addition, the Litigation Trust is entitled to costs and should be awarded attorney's fees pursuant to Tex. Gov't Code Ann. § 4008.060.

Count II: Civil Conspiracy to Commit Fraud

219. The Litigation Trust repeats and realleges each and every allegation contained above as if fully set forth herein.

220. BEN perpetrated an accounting fraud on GWG (and other prospective investors in BEN equity interests). BEN reported grossly inflated goodwill on its balance sheet of $1.53 billion as of December 31, 2018 and $2.36 billion as of December 31, 2019 (and did not recognize any goodwill impairment until the quarter ended June 30, 2023). Likewise, BEN reported grossly inflated corresponding equity values as of December 31, 2018 and December 31, 2019 and continuing thereafter. The grossly inflated values of goodwill and equity reported on BEN's financial statements were materially misleading. BEN knew that those statements were false or, at minimum, BEN made those statements recklessly. BEN made those false statements in its financial statements for the purpose of inducing GWG (and other prospective investors in BEN) to purchase or obtain BEN equity interests for cash or other valuable consideration, and BEN knew and intended that GWG (and other prospective investors) would rely on its financial statements. GWG actually and justifiably relied on BEN's fraudulent financial statements, suffering hundreds of millions of dollars as a result.

221. Ankura conspired with BEN and enabled BEN to perpetrate that accounting fraud. BEN and Ankura were two separate entities, and the object to be accomplished through their conspiracy was to overstate BEN's reported goodwill and equity values on its financial statements. Ankura knew that providing its results-oriented, inflated valuation reports to BEN would enable BEN to include such material misstatements on its financial statements, and Ankura provided its reports for that purpose.

222. Ankura and BEN, which had a long-standing relationship dating back to 2013 and BEN's origins, had a meeting of the minds on BEN's intended overstatement of its goodwill and equity on BEN's financial statements. Ankura provided its ASC 805 (and later ASC 350) reports fully aware that BEN would rely on those reports in its financial reporting, and BEN engaged Ankura for the purpose of providing such reports. Ankura knew that the values BEN would report on its balance sheet for goodwill and equity were overstated, and yet Ankura provided results-oriented, unprincipled analyses in order to deliver the inflated results BEN wanted.

223. Ankura engaged in wrongful, overt acts in furtherance of the conspiracy. Specifically, Ankura delivered ASC 805 reports overstating the value of BEN's business enterprise value, total equity, and goodwill and other intangible assets as of May 31, 2018 and December 31, 2019, knowing full well that BEN would overstate its reported goodwill and equity based on those reports. Thereafter, Ankura delivered ASC 350 reports testing BEN's reported goodwill for impairment as of October 1, 2020 and October 1, 2021, while knowing that such reports would facilitate BEN's ability to continue to report overstated goodwill (and equity) figures in its financial statements by enabling BEN to forego impairment charges (that should have been taken).

224. In preparing and delivering its ASC 805 reports and ASC 350 reports to BEN, Ankura knew that the results reported were unprincipled, unjustifiable, and unreliable, yet Ankura delivered grossly over-inflated values of BEN anyway.

225. Specifically, in its ASC 805 reports, Ankura utilized OPM backsolve analyses to hit BEN's target numbers by: (a) using unsupported, circular, and essentially made-up values for NPC-A to set the breakpoints in its analysis; (b) using assumed transaction prices that were inconsistent with the underlying transactions; (c) using artificially low volatility assumptions that Ankura knew (and later expressly admitted) were several times lower than that warranted for a start-up, early

stage company like BEN; (d) using unrealistic and/or internally inconsistent time assumptions to further massage the results of the analysis to hit BEN's targets; and (e) improperly basing its OPM backsolve on predicate transactions that Ankura knew were not truly arm's-length transactions in the marketplace. Then because it knew the results of that sham analysis were grossly inflated, Ankura tried to provide cover by running "corroborative" DCF analyses, in which: (a) Ankura engaged in financial goal-seeking to hit its target, in part by utilizing artificially low discount rates; (b) Ankura accepted BEN projections at face value and without verification, even though Ankura knew those projections were unrealistic; and (c) Ankura based all value on wildly speculative and unreliable "terminal year" projections more than five years in the future, which Ankura knew were subjective and unreliable.

226. In the October 2020 Goodwill Impairment Report, Ankura relied solely upon discounted cash flow analysis, even though it knew that such an analysis was not reliable. Indeed, Ankura expressly admitted in its goodwill impairment testing as of a year later that a discounted cash flow analysis was too subjective and speculative to be reliable because BEN lacked a sufficient historical track record to provide sufficiently reliable projections. Moreover, in performing a discounted cash flow analysis in the October 2020 Goodwill Impairment Report, Ankura: (a) utilized an artificially low discount rate; (b) accepted BEN projections it knew were unreliable (especially after many years of misses); and (c) derived all value from wildly unrealistic terminal year projections that Ankura knew were subjective, unrealistic, and inexplicably grew more aggressive over time. Ankura's sham, results-oriented analysis claimed that BEN increased in value by over $433 million in just nine months during the onset of the COVID-19 pandemic, and consequently no goodwill impairment was necessary. Because the result of this analysis was unjustifiably high, Ankura tried to backstop it with a "corroborative" comparable company

analysis in which Ankura utilized an artificially high revenue multiple that Ankura knew was unsupportable.

227. In the October 2021 Goodwill Impairment Report, Ankura acknowledged—in contrast to its prior reports—that BEN's projections were not reliable and that a discounted cash flow analysis was "too subjective to be reliable." To nevertheless reach BEN's desired result of no goodwill impairment, Ankura employed a "bookend" transaction approach that Ankura knew was "a 'non-standard' approach" to goodwill impairment testing (as Huffines acknowledged) because of the temporal disconnect between the valuation date and the supposed "bookend" transactions. Ankura utilized this "non-standard" approach anyway, even though it knew that the transactions it relied upon involved related party transactions—not arm's-length transactions with third parties in the marketplace.

228. The conspiracy between BEN and Ankura proximately caused hundreds of millions of dollars of damages suffered by GWG. GWG actually and justifiably relied on the false statements contained in BEN's audited financial statements pertaining to BEN's reported goodwill and equity values. In reliance on BEN's financial statements, GWG transferred nearly $235 million to BEN in exchange for nearly worthless BEN equity interests from June 2019 to March 2021. In addition, in reliance on BEN's fraudulent financial statements, GWG agreed to accept almost worthless BEN common units as repayment on a $208 million note receivable due from BEN in November 2021. Finally, in reliance on BEN's fraudulent financial statements, GWG incurred over $55 million in fees with secured lenders to delay GWG's bankruptcy filing and extend BEN's runway, and incurred tens of millions of dollars of otherwise unnecessary fees during the bankruptcy case. Accordingly, GWG suffered injury as a result of BEN's accounting fraud. GWG would not have suffered that harm had it not been for the accounting fraud that

Ankura's reports facilitated. And it was readily foreseeable that GWG would rely on BEN's overstated financial statements in deciding to enter into transactions with BEN.

229. Because GWG was harmed through fraud, exemplary damages should be awarded pursuant to Texas Civil Practice & Remedies Code § 41.003.

PRAYER FOR RELIEF

WHEREFORE, the Litigation Trust prays for relief and judgment as follows:

a. entering judgment against Ankura for civil conspiracy to commit fraud and awarding damages in an amount to be determined at trial;

b. entering judgment against Ankura for aiding BEN's primary violations of the Texas Securities Act, Tex. Gov't Code Ann. § 4008.055(c), and awarding damages pursuant to Tex. Gov't Code Ann. § 4008.057(a) in an amount to be determined at trial;

c. awarding exemplary damages pursuant to Texas Civil Practices & Remedies Code § 41.003 in the maximum amount allowable;

d. awarding pre-judgment and post-judgment interest at the maximum rate permitted by law or equity;

e. awarding reasonable attorney's fees and expenses, together with all costs of court, and other allowable costs in connection with this action pursuant to Tex. Gov't Code Ann. § 4008.060 and/or other applicable law; and

f. awarding such other and further relief as the Court deems just.

JURY DEMAND

The Litigation Trustee demands a trial by jury with respect to all claims and causes of action.

Dated: March 31, 2026

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By: */s/ William T. Reid, IV*

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