



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CHARTER TOWNSHIP OF SHELBY
FIRE & POLICE RETIREMENT
SYSTEM, MVS MARINE LLC and
KURTIS SOLBERG,

Plaintiffs,

v.

PERSHING SQUARE CAPITAL
MANAGEMENT, L.P., PERSHING
SQUARE HOLDCO, L.P., WILLIAM
ACKMAN, BEN HAKIM, DAVID EUN,
DANA HAMILTON, BETH KAPLAN, R.
SCOT SELLERS, STEVEN SHEPSMAN,
and ANTHONY WILLIAMS,

Defendants,

and

HOWARD HUGHES HOLDINGS INC.,

Nominal Defendant.

C.A. No. 2026-0184-BWD

Public Version Dated:

February 13, 2026

VERIFIED CLASS ACTION AND DERIVATIVE COMPLAINT

Plaintiffs Charter Township of Shelby Fire & Police Retirement System, MVS Marine LLC and Kurtis Solberg (“Plaintiffs”), on behalf of themselves and all other similarly situated public stockholders of Nominal Defendant Howard Hughes Holdings Inc. (“HHH” or the “Company”) bring the following Verified Class Action and Derivative Complaint (the “Complaint”) for breach of fiduciary duty against Defendants Ben Hakim, David Eun, Dana Hamilton, Beth Kaplan, R. Scot Sellers, Steven Shepsman, and Anthony Williams (collectively, the “Director Defendants.”). Plaintiffs also assert claims for aiding-and-abetting those breaches of fiduciary duty

against Pershing Square Capital Management, L.P. (“PSCM”), Pershing Square Holdco, L.P., (“Pershing Holdco”) and William (“Bill”) Ackman (collectively, “Pershing” or the “Pershing Defendants”). Finally, Plaintiffs assert a claim for declaratory judgment that the Services Agreement (defined below) violates Section 141(a) of the Delaware General Corporation Law.¹

The allegations of the Complaint are based on Plaintiffs’ knowledge as to themselves, and on information and belief, including the investigation of counsel, documents produced by the Company in response to Plaintiffs’ books-and-records demands, and the review of publicly available information, as to all other matters.

¹ The “DGCL.”

INTRODUCTION

Ackman seems to have this ‘Superman complex[.] ... If he jumped off a building in pursuit of superhuman powered flight but then slammed to the ground, I’m pretty sure he’d blame the unanticipated and unfair force of gravity.

- Hedge fund manager quoted in William D. Cohan, *The Big Short War*, VANITY FAIR (April 2013)

1. Standing up to Bill Ackman is not a job for the faint of heart. Ackman is a prominent activist investor and short-seller.² When Ackman doesn’t get his way, he often responds with threats. When those fail, he responds with public demonization campaigns—through the press and his 1.9-million-follower Twitter³ account—aimed at destroying the reputation of his recalcitrant target(s).⁴

2. For years, Ackman, through his investment fund, Pershing held a large, but non-controlling position in HHH. As of 2024, Pershing held approximately 37%

² Over his career, Ackman has waged high-profile public short campaigns against MBIA and Herbalife. He conducted activist campaigns against, among others, J.C. Penney, Canadian Pacific Railway, Target Corporation, and Automatic Data Processing Inc.

³ Now known as “X.”

⁴ In recent years, for example, Ackman was credited with pushing out the presidents of two Ivy League universities. Anemona Hartocollis and Anna Betts, *Wife of Investor Who Pushed for Harvard President’s Exit Is Accused of Plagiarism*, N.Y. TIMES (Jan. 5, 2024) (“Mr. Ackman played a large role in discrediting Dr. Gay, posting frequent broadsides against her.”); Calder McHugh, *Bill Ackman’s Big Bet Against University Presidents*, POLITICO (Dec. 14, 2023) (Ackman “happily adopt[ed] the role of the tip of the spear in public accusations of impropriety against [Harvard President Claudine] Gay, [University of Pennsylvania President Liz] Magill and [M.I.T. President Sally] Kornbluth, with a particular focus on his alma mater of Harvard. When Magill resigned on Dec. 9, Ackman posted a simple message on X (formerly known as Twitter): ‘One down.’”).

of HHH’s outstanding shares, which gave it the right to call special stockholder meetings under the Company’s bylaws. In mid-2024, Ackman embarked on a grandiose plan to make himself the next Warren Buffett. HHH was at the center of the plan; Ackman envisioned restructuring HHH and Pershing’s investment in the Company to make HHH his Berkshire Hathaway, through a transaction that would increase Pershing’s ownership and hand it functional day-to-day control of the Company.

3. There was just one problem. A special committee of HHH directors told Ackman no. The committee pushed back on the terms of Ackman’s proposal. It asked about conditioning any transaction on approval by non-Pershing stockholders. It considered adopting a poison pill.

4. This is what an effective special committee—an independent bargaining agent—is supposed to do. But Ackman was outraged. On the eve of a specially called meeting of the full Board, Ackman sent an unhinged eight-page letter threatening, among other things, to call a special meeting and run a proxy contest to remove the recalcitrant special committee members, including attacking them on social media:

- “The notion that the Special Committee considers me to be a threat to Howard Hughes is the most aggressive and disrespectful act levelled against me and my firm in my 33 years in this business. And believe me, I have dealt with some very bad boards.”

- “We will pursue our Special Meeting agenda and put forth our proposal in front of shareholders and propose a new board composition including the addition of some new independent directors.”
- “We expect an overwhelming shareholder vote against the Special Committee. I remind you that the directors that do not receive a majority of the votes cast are required under our bylaws to tender their resignations to the board. As noted previously, because 20% or more of shareholders do not vote in these elections, our 37.6% stake already likely represents the required majority necessary to trigger director resignations.”
- “I don’t understand the judgment of a Special Committee and its advisors behaving in this manner when the person that they have disrespected and whose time they have wasted is pretty sophisticated about transactions, corporate governance, bylaws, and poison pills, and has 1.675 million followers on X, with a track record of being extremely transparent on his views on business, politics, corporate malfeasance, and other related and unrelated topics. If I were to post this letter it might actually tip me above 1.7 million followers.”

5. The committee—and the rest of the Board—promptly caved in the face of Ackman’s threats to their seats and reputations. The Board agreed to a multi-part transaction that would transfer control of HHH to Pershing without obtaining a control premium for Plaintiffs and other minority investors.⁵ Pursuant to the terms of the Transaction, which were not submitted for stockholder approval:

- The Company sold 9 million shares of the Company’s common stock to Pershing, at a purchase price of \$100 per share (approximately 15% below the Company’s publicly disclosed net asset value⁶ per share), increasing Pershing’s economic stake to approximately 46.9% of the Company’s outstanding shares of common stock. The Company also entered into a Shareholder Agreement with Pershing, giving Pershing

⁵ The “Transaction.”

⁶ “NAV.”

director nomination rights and various consent rights, and providing that Ackman will be the Company's Executive Chairman.⁷

- The Company entered into a Services Agreement with Pershing that gave Pershing day-to-day control over most key operational decisions and committed to paying Pershing substantial management fees. The Services Agreement has an initial term of ten years and it is nearly impossible for HHH to terminate early. The Services Agreement automatically renews after ten years unless 100% of the Company's disinterested directors and 70% of the then-outstanding common stock held by non-Pershing stockholders approves the non-renewal.

6. In combination, the Transaction agreements transferred control of the Company from public investors to Pershing. The Defendants caused this to happen without giving stockholders a vote or providing them with an appropriate premium for the loss of control. The Director Defendants breached their fiduciary duties, aided-and-abetted by Ackman and the other Pershing Defendants. And the Services Agreement violates Section 141(a) of the DGCL because it represents the directors' abdication of their obligation to manage the Company.

PARTIES

7. **Plaintiff Charter Township of Shelby Fire & Police Retirement System** ("Shelby") has continuously been an owner of the Company's common stock since prior to the Transactions' announcement.

⁷ The Company also entered into a standstill and registration rights agreement with Pershing.

8. **Plaintiff MVS Marine LLC** (“MVS”) has continuously been an owner of the Company’s common stock since prior to the Transactions’ announcement.

9. **Plaintiff Kurtis Solberg** has continuously been an owner of the Company’s common stock since prior to the Transactions’ announcement (together with Shelby and MVS, “Plaintiffs”).

10. **Defendant PSCM** is an activist hedge fund and investment manager founded by Ackman in 2003 and led by him since then. PSCM manages all funds controlled by Ackman and Pershing. PSCM initially invested in the Company when it spunoff into a publicly traded company from real estate conglomerate General Growth Properties, Inc. (“GGP”) in 2010 and has consistently held and/or controlled shares in the Company since then. Immediately before the Transactions, PSCM—with Pershing Holdco, Pershing funds managed by PSCM entities, and Ackman—owned 37.5% of HHH, and it currently owns 46.9% of the Company. In connection with the Transactions, PSCM executed the Services Agreement, Shareholder Agreement and Registration Rights Agreement, with Ackman as PSCM’s signatory.

11. **Defendant Pershing Holdco** was founded by Ackman in 2024 to hold all of PSCM’s equity interests—Pershing Holdco is the 100% owner of PSCM and is managed by PSCM. Ackman and other Pershing principals own around 90% Pershing Holdco, and Ackman serves as Pershing Holdco’s CEO. In connection with the Transactions, Pershing Holdco executed the Share Purchase Agreement,

Shareholder Agreement, Standstill Agreement and Registration Rights Agreement, with Ackman as Pershing Holdco's signatory.

12. **Defendant William Ackman** has served as HHH's Executive Chairman since May 2025. Ackman previously served as Board Chairman from November 2010, when the Company was founded, to May 2024, when he stepped down to pursue the Transactions. Ackman founded PSCM in 2003 and Pershing Holdco in 2024, serves as CEO of both companies, and owns and/or controls all Pershing entities and related funds.

13. Defendants PSCM, Pershing Holdco and Ackman are collectively referred to herein as "Pershing," as the context requires.

14. **Defendant Ben Hakim** has served on the Board since May 2024. Hakim has been a partner at Pershing since 2012 and President of PSCM since May 2024. He is also President of Pershing Square SPARC Holdings, Ltd. and previously served as President of Pershing Square Tontine Holdings, Ltd., both special purpose acquisition companies controlled by Pershing. Hakim replaced Ackman as a Pershing representative on the Board when Ackman stepped down from the Board in 2024.

15. **Defendant David Eun** has served on the Board since May 2021. Eun served on the Board committee that reviewed the Transactions (the "Special Committee" or "Committee"). Eun and Ackman attended Harvard together.

16. **Defendant Dana Hamilton** served on the Board from June 2024 until May 2025. Hamilton served on the Special Committee. Hamilton has a longstanding personal and professional relationship with Sellers that spans more than three decades. Hamilton worked under Sellers at Archstone from 1994 to 2013—during almost all of that time Sellers served as Archstone’s CEO. That relationship led to, among other things, Hamilton taking several joint trips with Sellers and his family to Cambodia, Canada and Nepal from 2014 to 2018.

17. **Defendant Beth Kaplan** served on the Board from December 2017 until October 2025. Kaplan served on the Special Committee. Kaplan has a longstanding relationship with Ackman and his wife, Neri Oxman. For example, Kaplan helped Ackman and his wife find a dance instructor for their wedding in early 2019, and Kaplan was invited to Ackman’s wedding.

18. **Defendant R. Scot Sellers** has served on the Board since November 2010, *i.e.*, since the Company’s founding served as Board Chairman from May 2024 to May 2025, and currently is the Board’s Presiding Director (a role in which he served before he was Chairman). Sellers served as the Special Committee’s Chair.

19. Sellers has a longstanding relationship with Ackman and Pershing. Ackman personally selected Sellers as an original Board member in 2010 and the two have worked closely together for the past 15 years. Sellers replaced Ackman as Board Chair when Ackman stepped down in 2024 to pursue the Transactions. After

the Transactions, Ackman rejoined the Board as its Chairman, and Sellers went back to his role as Presiding director.

20. **Defendant Steven Shepsman** served on the Board from November 2010 until October 2025. Shepsman served on the Special Committee.

21. Shepsman, like Sellers, has a longstanding relationship with Ackman and Pershing. Shepsman is the founder and executive managing director of New World Realty Advisors, which advised GGP on its Chapter 11 bankruptcy and HHH spinoff in 2010. Shepsman also served as chair of the Committee of Equity Holders during the GGP bankruptcy, working with Pershing to value GGP's real estate portfolio. Ackman then personally selected Shepsman as an initial Board member in 2010, where he remained until 2025. Shepsman is also an investor of Seaport Entertainment Group ("SEG"), a company spunoff from Howard Hughes in 2025 in which Pershing owns 40% of the outstanding stock.

22. **Defendant Anthony Williams** has served on the Board since February 2021. Williams served on the Special Committee.

23. Defendants Hakim, Eun, Hamilton, Kaplan, Sellers, Shepsman, and Williams are collectively referred to herein as the "Director Defendants."

24. **Nominal Defendant Howard Hughes Holdings Inc.** (previously defined as "HHH" or the "Company") is a Delaware corporation headquartered in

Texas. The Company trades on the New York Stock Exchange (the “NYSE”) under the ticker symbol “HHH.”

JURISDICTION

25. This Court has subject-matter jurisdiction over this action, which asserts claims for, among other things, breaches of fiduciary duty, pursuant to *10 Del. C.* § 341, which provides that this Court “shall have jurisdiction to hear and determine all matters and causes in equity.”

26. This Court has personal jurisdiction over the Director Defendants regarding this Action pursuant to *10 Del. C.* § 3114, as they were directors of the Company at the time of the Transactions.

27. This Court has personal jurisdiction over the Company because it is a Delaware corporation.

28. This Court has personal jurisdiction over Pershing Holdco because it is a Delaware limited partnership.

29. This Court has personal jurisdiction over PSCM because it is a Delaware limited partnership.

30. This Court also has personal jurisdiction over the Pershing Defendants (*i.e.*, PSCM, Pershing Holdco, and Ackman) regarding this Action because Pershing consented to the Court’s jurisdiction in the documents executed to effectuate the Transactions. Specifically, in connection with the Transactions, PSCM and/or

Pershing Holdco (with Ackman as signatory for both) executed with the Company the Share Purchase Agreement, Shareholder Agreement, Standstill Agreement and Registration Rights Agreement. In all four of those documents the Pershing Defendants agreed as follows:

This agreement will be governed by and construed in accordance with the internal laws of the state of Delaware. Each of the parties hereby agrees that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement (whether brought by any party or any of its Affiliates or against any party or any of its Affiliates) shall be brought in the Court of Chancery of the State of Delaware

31. This Court also has jurisdiction over the Pershing Defendants pursuant to the Company's Charter, which states as follows:

The Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director or officer of the Corporation to the Corporation or the Corporation's stockholders

SUBSTANTIVE ALLEGATIONS

I. THE HISTORY OF THE COMPANY

32. Over the course of his life, billionaire Howard Hughes accumulated vast amounts of property and land, including much of what became Summerlin, Nevada, named for Hughes's paternal grandmother Jean Summerlin. Hughes's business and property interests were held in Summa Corporation, which after Hughes's death in 1976, focused on developing Summerlin, and eventually other holdings, into master planned communities ("MPCs").

33. In 1994, Summa Corporation was renamed The Howard Hughes Corporation, which was acquired by The Rouse Company in 1996. That company, including Hughes's former real estate assets, was then acquired by real estate conglomerate GGP in 2004.

34. During the 2008 financial crisis, GGP's stock tanked and it faced a liquidity crisis, prompting Pershing to acquire 20% of GGP in November 2008. GGP filed for Chapter 11 bankruptcy in 2009. When it emerged in 2010, it spun off its long-term assets (*i.e.*, primarily the Hughes MPCs, mixed use developments and undeveloped land) into a new public company, then named The Howard Hughes Corporation (“HHC”), and eventually renamed Howard Hughes Holding Inc. (Howard Hughes Holdings Inc. and HHC are collectively referred to herein as HHH or the Company). The new Company was capitalized by a \$250 million rights offering at \$47.62 per share, in which Pershing invested along with other large funds such as Brookfield Asset Management and Blackstone Inc.

35. Following the initial capitalization, Pershing was the Company's largest stockholder, with a combined economic interest (including stock, warrants, and total return swaps) representing approximately 28% of HHH's outstanding shares. In connection with the capitalization, Pershing and other large investors entered into a stockholders' agreement that allowed Pershing to nominate directors to the Board. Ackman was installed as the Company's Board Chairman. The

Company also entered into a Standstill Agreement with Pershing that limited Pershing's control over the Company, including by preventing it from acquiring over 40% of HHH's stock or voting more than 30% of its stock against the Board.

36. Pershing ensured that the Company's bylaws included provision that permitted any stockholder with over 15% of HHH's shares to call a special meeting at any time. That is a powerful tool for any an activist stockholder like Pershing, as it provides a mechanism to apply significant pressure on the Company's management and Board outside of the normal annual meeting cycle.

37. For the next decade, while Ackman remained the Company's Chairman, Pershing's ownership in the Company declined. By 2019, Pershing owned less than 5% of HHH. In 2020, Pershing invested an additional \$500 million into HHH, increasing its ownership back to almost 30%.

38. The Company restructured into its current iteration and changed its name to Howard Hughes Holdings Inc. in 2023, attempting to further broaden its scope beyond MPCs into a diversified real estate and development entity. The Company remained publicly traded and its governing documents remained primarily the same. The Company's bylaws still included a provision that permitted any stockholder with over 15% of HHH's shares to call a special meeting at any time, specifically, stating “[a] special meeting of stockholders shall be called by the Secretary promptly upon and in accordance with the written request, stating the

purpose, date, time and place within or without the State of Delaware of the meeting, of stockholders of record who together hold fifteen percent (15%) or more of the voting power of the issued and outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors.” Section 7(b) of Article I of the bylaws provided that directors may be elected at a special meeting called by a 15% stockholder. Section 8(a) of Article I of the bylaws provided that directors are elected by a plurality standard in a contested election.

II. ACKMAN WANTS HIS OWN MODERN-DAY BERKSHIRE HATHAWAY

39. In May 2024, Ackman stepped down from the Company’s Board, relinquishing his Board Chairman role to Sellers.

40. On August 6, 2024, Pershing—which at the time owned around 37% of the Company—amended its Schedule 13D to announce its intent to take the Company private, stating that Pershing “and/or one or more of their affiliates (either alone or together with one or more potential co-investors) may acquire all or substantially all of the shares of Common Stock in the Issuer not owned by them and their affiliates and in connection therewith take the Issuer private.” Pershing also stated that it intended to engage in confidential discussions with potential co-investors, and that it had hired Jefferies LLC as a financial advisor. In a later letter (the January 13, 2025 letter discussed below), Ackman would write of the grandiose ambitions for HHH underlying his plan: “With apologies to Mr. Buffett, HHH would

become a modern-day Berkshire Hathaway that would acquire controlling interests in operating companies.”

41. The Board met the next day (*i.e.*, August 7, 2024) to discuss Pershing’s disclosure of its intent to acquire the Company. Hakim did not recuse himself from the meeting and instead fully participated in the Board’s deliberations. At that meeting, Morgan, Lewis & Bockius LLP (“Morgan Lewis”), the Company’s outside counsel, presented to the Board, and the Board decided to form a Special Committee because of, among other reasons, Pershing’s representation on the Board (through Hakim) and general influence over the Company.

42. The minutes state that the Board, including Hakim, formed a Special Committee consisting of directors Sellers, Eun, Hamilton, Kaplan, Shepsman and Williams. Two sets of conflicting resolutions are attached to those minutes. One set states that Board authorized a committee of just Kaplan, Sellers, Shepsman and Williams (and not Hamilton and Eun), determining that only those directors were independent from Pershing. The other set of resolutions appoints Sellers, Eun, Hamilton, Kaplan, Shepsman, and Williams to the Committee, but only determines that they are generally independent and does not determine that they are specifically independent from Pershing.

43. During the meeting, the Board discussed the independence of Sellers, Eun, Hamilton, Kaplan and Shepsman, but did not discuss Williams’s independence

from Pershing (or lack thereof), as Williams was not present—the Board and the Special Committee did not discuss Williams’s independence at any other meetings.

44. The Special Committee met later on August 7, 2024. The Committee elected Sellers as Committee Chair and selected Morgan Lewis—the Company’s outside counsel—as the Committee’s counsel. The Committee never discussed Morgan Lewis’s conflicts.

45. On August 8, 2024, HHH filed a Form 8-K disclosing that it had created the Special Committee to review any proposals from Pershing “following an announcement by the Company’s largest stockholder that the stockholder is evaluating potential alternatives with respect to its investment in the Company, including a potential take private transaction.”

46. The Special Committee met again on August 9, 2024, and formed a sub-committee (the “Sub-Committee”) of Hamilton (Sub-Committee chair), Shepsman and Kaplan to evaluate potential financial advisors.

47. On August 19 and 28, 2024, the Sub-Committee met with several potential advisors, including J.P. Morgan Securities LLC (“JP Morgan”) and Morgan Stanley & Co. LLC (“Morgan Stanley”). Those advisors, among other things, warned of Pershing’s aggressive tactics and reaffirmed that the Company was in a strong financial position and did not need to acquiesce to an undervalued sale.

48. For example, JP Morgan warned that Pershing had “many escalation tactics that they can utilize to pressure the Special Committee, including, public agitation, calling a special meeting or removing directors” and that the Committee “should expect Pershing Square to engage with the media, investors, and research community” to apply pressure. JP Morgan also stressed that the Company was in a strong financial position and had many strategic alternatives, and that its “[d]iversified portfolio of income producing real estate provides recurring and stable cash flow” and “[s]elf-funding business cycle and flexible balance sheet allow for continued investment in future growth.” Indeed, JP Morgan noted that Pershing had acknowledged that the Company trades at “a deep discount to its intrinsic value given its uniquely advantaged business model and long-term growth prospects.” JP Morgan advised that the Committee was “under no obligation to engage with Pershing Square and engaging does not put the Company ‘in play’ or force a sale of the Company.”

49. Similarly, Morgan Stanley stressed the importance of its “activism and defense credentials” and experience as “the leading activist and hostile defense advisor” given the likely tactics from Pershing. Morgan Stanley also highlighted the Company’s strong financial position and strategic alternatives other than a sale to Pershing. Morgan Stanley noted that “[s]ince 2019, HHH has traded at an average

discount to NAV [*i.e.*, net asset value] of 35%,” and that analysts valued HHH’s price per share at almost \$130 based on its NAV.

50. After soliciting Eun’s advice, on September 6, 2024, the Sub-Committee recommended that the Special Committee retain Morgan Stanley as the Committee’s financial advisor.

51. The Special Committee met again on September 10, 2024. At that meeting, the Committee decided to replace Morgan Lewis as the Committee’s counsel with Hogan Lovells US LLP (“Hogan Lovells”). As with Morgan Lewis, the Committee failed to discuss or investigate Hogan Lovells’s potential conflicts.

52. On September 25 and 26, 2024, the Board held a regular meeting attended by Hakim and discussed, among other things, “the impact of Pershing Square’s announcement on employee retention and morale.” The Committee also met on September 25 and discussed “concerns [about] the morale of employees at the Company in response to the uncertainty resulting from” Pershing’s August 6, 2024 13D announcement.

53. On October 2, 2024, the Special Committee met and decided to engage investor relations firm Joele Frank Wilkinson Brimmer Katcher (“Joele Frank”).

54. On October 7, 2024, the Committee formally engaged Morgan Stanley, executing an engagement letter that incentivized Morgan Stanley to facilitate a sale of the Company. Specifically, Morgan Stanley was entitled to tens of millions of

dollars in transaction and other fees if the Company was sold to Pershing or another buyer, but could earn less than \$3 million if there was no sale.

55. The Special Committee met again on November 7, 2024. The Committee discussed “[t]wo third-party communications that had been received by the Company and directed to the Committee: (a) an email to David O'Reilly, CEO of the Company, from Presario International [“Presario”], expressing interest in acquiring a 100% interest in the Company and (b) a letter from an investor of the Company, Zilkha Investments, L.P., urging the Committee to remain mindful of its fiduciary responsibilities to shareholders and expressing other concerns about the Company's stock price.” The Committee completely ignored Presario's acquisition interest, failing to reach out to Presario or further discussing its interest in HHH at any other meetings.

56. The Special Committee did not meet again until over two months later, on January 12, 2025. At that meeting, Sellers updated the Committee regarding a call he received from Ackman the day before, “during which Mr. Ackman stated that he intended to publicly release an updated proposal to the Board of Directors of the Company on the morning of January 13, 2025, regarding a potential transaction.”

III. PERSHING AND ACKMAN MAKE THE FIRST OFFER

57. On January 13, 2025, Ackman sent the Company a letter on behalf of Pershing (the “First Proposal”—which it publicly disclosed the same day—

proposing to acquire HHH in a cash-and-stock acquisition where Pershing would roll over its 37.6% stake. The First Proposal proposed that Company stockholders could elect to receive \$85 per share in either cash or stock (*i.e.*, a rollover), subject to a proration feature that ensured that at least 30.8% of the Company's common stock remained publicly traded. If consummated, the First Proposal would result in Pershing owning between 61.1% and 69.2% of HHH.

58. Setting the stage for future offers, the First Proposal contemplated that the post-Transactions Company would pursue a different investment mandate as a diversified holding company managed by Pershing pursuant to an evergreen services agreement with a 1.5% annual fee based on HHH's market capitalization. The First Proposal also contemplated Ackman becoming HHH's Chairman and CEO, PSCM's CIO, Ryan Israel, becoming HHH's CIO, Hakim becoming HHH's President, and other Pershing officers serving as CFO and Chief Legal Officer.

59. Pershing stated that First Proposal was subject to the approval of the Special Committee as well as a purportedly non-waivable condition requiring the approval of a majority of the common stock not owned by Pershing or its affiliates. Pershing also notably stated: “[I]f the Special Committee chooses not to recommend, or the public stockholders do not approve, the Transaction, our relationship with the Company would not be adversely affected.” Pershing would quickly abandon those principles.

60. That same day, the Committee held a meeting to discuss the First Proposal. Richards, Layton & Finger, P.A. (“RLF”) attended that meeting and the minutes state that RLF was “engaged by the Committee in October 2024,” but there is no evidence in the record to substantiate that claim. The Committee reviewed the First Proposal and prepared a list of questions for Pershing to clarify certain aspects of the First Proposal. The Committee also determined to formally retain Joele Frank to finalize the release of a public statement confirming receipt of the First Proposal. Finally, out of an apparent concern that Ackman would go hostile, the Committee held a discussion concerning a potential poison pill. The Company redacted the substance of this discussion for privilege when producing the minutes.

IV. PERSHING AND ACKMAN MAKE THE SECOND OFFER; THE COMMITTEE CONSIDERS A STOCKHOLDER RIGHTS PLAN AND BYLAW AMENDMENT TO PROTECT AGAINST AN UNPREDICTABLE ACKMAN

61. On January 27, 2025, in response to the Special Committee’s questions, Pershing submitted a revised proposal with a different transaction structure (the “Second Proposal”). The Second Proposal contemplated Pershing spending \$1 billion to purchase shares of common stock directly from the Company for \$90.00 per share. Public stockholders would not receive any direct consideration pursuant to the revised proposal.

62. The Second Proposal contemplated that Pershing would immediately purchase \$900 million worth of shares without any stockholder vote. Then, Pershing

would purchase an additional \$100 million worth of shares following the affirmative vote of all HHH shareholders (*i.e.*, not excluding Pershing as the First Proposal contemplated). The purpose of the two-tiered structure was to comply with New York Stock Exchange rules that required stockholder approval before selling 20% or more of the Company's shares. Notably, Pershing abandoned its prior commitment to proceed only with the approval of disinterested stockholders.

63. If consummated, the Second Proposal would result in Pershing increasing its ownership of the Company to 48.9%. Ackman claimed this meant the Second Proposal would not result in a change of control.

64. The Second Proposal maintained Ackman's plan to convert HHH into a diversified holding company run by himself and other Pershing management, including Hakim, pursuant to a services agreement that would require HHH to pay Pershing 1.5% of its market capitalization per year. Notably, the Second Proposal made clear that Ackman intended to pursue a different investment strategy that is distinct from Pershing's investment mandate, which merely raises the question why Pershing management were the right people to pursue that new mandate.

65. On January 30, 2025, the Special Committee met to discuss the Second Proposal. The Committee determined to allow Ackman to give a presentation regarding the Second Proposal and prepared a new list of targeted questions to ask

Ackman at the meeting. The new questions reflected significant pushback from Committee members, including:

- **Public vs. Private Proposals:** Why was the second proposal submitted privately and the first one publicly?
- **Shareholder Vote:** Are you open to structure the \$1Bn investment so that shareholders are provided with the opportunity to vote on the transaction? If so, would you agree that approval would be a majority of the minority voting standard (same standard as the initial proposal)?
- **Limited Independence of Board:** The proposal outlines the formation of a majority independent Board, which however is then limited in its power due to a major decision approval structure. Why not just rely on the Board?
- **Material Strategic Shift While Shareholders Give up Effective Control:** The proposed transaction represents a major change in both the strategy of the company and you receive effective control without a shareholder vote. How would you justify such a change to shareholders? What are Pershing Square's qualifications for acquiring controlling interests and investing in private companies and why would shareholders agree it would be in their best interests to pursue such a major strategy change with Pershing Square in full control?

66. In sum, the Committee recognized that the Second Proposal would result in an effective change of control of the Company in favor of Ackman and Pershing that, if accepted, should at a minimum be subject to non-waivable condition of approval by a majority of minority stockholders—a condition to which Ackman had previously agreed.

67. On February 6, 2025, the Special Committee met to discuss a call between Sellers and Ackman regarding the Second Proposal. The call prompted the Committee to determine to arrange a videoconference with Pershing.

68. The Special Committee also discussed that, if consummated, the Second Proposal would not constitute a “change of control” as that term was defined in certain executives’ employment arrangements. Because the Second Proposal would in fact result in an effective change of control of the Company, the Committee discussed amending the arrangements so the Second Proposal would constitute a change of control to protect those executives, but ultimately deferred a decision to a later date.

69. On February 13, 2025, the Special Committee held a meeting at which Ackman, Hakim, and other members of Pershing management to discuss the Second Proposal. After Pershing’s representatives left the meeting, the Committee discussed recent outreach from stockholders and in light of the Second Proposal, subsequently contacted Ackman regarding Pershing making the Second Proposal publicly available.

70. On February 18, 2025, Pershing filed an amended Schedule 13D disclosing that it had withdrawn its First Proposal and offered the Second Proposal.

71. On February 23, 2025, O’Reilly, HHH’s CEO, sent a memorandum to the Special Committee requesting approval to implement a retention plan for key employees. O’Reilly’s stated “the NEOs should receive Change in Control rights given the nature of the proposed transaction (including the Pershing Square

executive team coming in to manage the company, and the nature of control Pershing will have following the closing).”

72. On February 24, 2025, the Special Committee met to discuss the Second Proposal and potential responses thereto.

73. On February 27, 2025, the Committee met again and unanimously decided to reject the Second Proposal. The Special Committee then discussed potential reactions from Pershing and received a presentation from its advisors about a potential poison pill to protect the Company from Ackman, whom they worried would go hostile.

74. On February 28, 2025, the Special Committee met to discuss recent communications from Ackman. Ackman indicated a willingness to agree to a standstill agreement so long as there were active discussions between the Special Committee and Pershing. The Committee noted that a standstill would alleviate the need for a poison pill.

75. At some point on Friday February 28, talks broke down. On that date, Sellers distributed a notice for a special meeting of the Board to discuss: (1) an update from the Special Committee; (2) the Committee’s request for a short-term standstill agreement with Pershing; and (3) in the absence of a standstill agreement, consider: (a) a stockholder rights plan, or (b) an amendment to the Bylaws to

establish procedures related to stockholders' ability to call a special meeting. The special Board meeting was scheduled for Sunday March 2, 2025.

H.V. ACKMAN THREATENS TO REPLACE THE SPECIAL COMMITTEE FOR REJECTING PERSHING'S OFFERS

76. Notice of the special Board meeting was only given to Board members, but Pershing's designee and longtime Ackman employee Hakim immediately leaked word to Ackman.

77. As soon as Hakim leaked news of the meeting to Ackman, Ackman scrambled to take immediate action. On March 1, 2025, ahead of the scheduled meeting, Pershing submitted a request for a special meeting of stockholders, the purpose of which was to vote on : (i) Pershing's pending transaction proposal; (ii) "corporate governance matters, which may include a change in the size of the board, the removal of certain incumbent directors and/or the election of new directors;" and (iii) any additional forthcoming proposals. The request was signed by Ackman on behalf of Pershing.

78. Concurrently with the special meeting requests, Ackman submitted an eight-page hostile letter (the "Ackman Letter") in which he threatened to use Pershing's large stockholdings to remove each Special Committee member unless they caved and agreed to his transaction proposals.

79. The full text of the Ackman Letter is remarkable and is attached hereto as Exhibit 1.

80. The Ackman Letter began by Ackman’s history with the Company, the Company’s recent trading history, and Pershing’s proposals to date. Then Ackman launched into a tirade criticizing the Committee for rejecting the proposals and the Committee’s (correct) belief that the proposal would “transfer[] control to us for no consideration.”

81. Despite his prior commitment to a majority-of-the-minority vote, Ackman rebelled against the idea of giving minority investors any say in this transformative transaction, stating:

When I suggested that we bring the transaction to a shareholder vote, [Sellers] insisted that it be majority of the minority vote despite his having read my detailed explanation as to why such an approach is not viable when a shareholder owns nearly 40% of the outstanding shares. I again explained to [Sellers] why such an approach makes no sense and is the opposite of shareholder democracy, particularly in light of the large number of retail investors buying the stock since we announced our proposal.

In short, as I explained in my detailed email to the board, the fact that 20-25% of the shareholders do not vote means that, once you remove our shares, only about 20% of the votes or 10 million shares control the outcome of the election, handing control to three large shareholders who decide the outcome for the other 80%. Furthermore, our investors have owned HHH stock for 14 years and are highly supportive of our proposed transaction. The notion that we would deny them the right to vote their shares in the most important and material election about the future of the company is absurd.

82. Ackman emphasized his intent to remove Committee members who stood in his way:

- “We have worked exclusively via the Special Committee and have never even considered imposing our will and our voting power on the corporation.”
- “[W]e had no choice but to call for a special meeting...[and] would never ever have taken this step had the Special Committee not behaved in such an egregious manner.”
- “The notion that the Special Committee considers me to be a threat to Howard Hughes is the most aggressive and disrespectful act levelled against me and my firm in my 33 years in this business. And believe me, I have dealt with some very bad boards.”
- “We will pursue our Special Meeting agenda and put forth our proposal in front of shareholders and propose a new board composition.”
- “We expect an overwhelming shareholder vote against the Special Committee. I remind you that the directors that do not receive a majority of the votes cast are required under our bylaws to tender their resignations to the board. As noted previously, because 20% or more of shareholders do not vote in these elections, our 37.6% stake already likely represented the required majority necessary to trigger director resignations.”

83. Ridiculing the Special Committee throughout the letter, Ackman began his most damning paragraph with: “What Could Stop This Train?” Ackman then all but directly called for every Committee members’ removal saying “if I were a member of this Special Committee I would resign” and particularly emphasized his frustrations towards Sellers, stating: “For obvious reasons, I am no longer willing to engage with [Sellers]. I would strongly encourage a new Special Committee to be formed and elect a new chairman.” Ackman also urged the Special Committee to retain new advisors who would oversee the negotiation of the Transactions on Ackman’s preferred terms.

84. The Ackman Letter ended with a threat to turn Ackman’s social media followers against the Special Committee:

I don’t understand the judgment of a Special Committee and its advisors behaving in this manner when the person that they have disrespected and whose time they have wasted is pretty sophisticated about transactions, corporate governance, bylaws, and poison pills, and has 1.675 million followers on X, with a track record of being extremely transparent on his views on business, politics, corporate malfeasance, and other related and unrelated topics. If I were to post this letter it might actually tip me above 1.7 million followers.

85. This was a significant threat, given Ackman’s history of highly aggressive public fights. In December 2023, for example, Ackman had led a largely successful Twitter campaign that culminated in the resignation of two Ivy League presidents over their response to campus protests.

86. The Ackman Letter had its intended effect.

87. The Committee met at noon the next day, March 2, 2025, to discuss the Ackman Letter. The Committee determined to revise its original press release on the Second Proposal seemingly to walk back its original minority-stockholder-protective stance and then adjourned the meeting to engage with Pershing further. The Committee then reconvened again at 5 p.m., an hour before the special Board meeting, noting that Ackman was amenable to a standstill.

88. The Special Committee recessed again as the full Board convened for a 6 p.m. meeting. Hakim attended and participated in the meeting, recusing himself only for the Board’s final vote to support entering into a standstill with Pershing.

Sellers updated the Board on recent events, including that he called Ackman on February 28 to “inform him that the Special Committee had determined to turn down Pershing Square’s latest offer, and … conveyed to Mr. Ackman the Special Committee’s request that Pershing Square enter into a standstill agreement with the Company to facilitate further discussions.”

89. Sellers described the communication sent by Pershing requesting a special stockholder meeting to vote “on certain corporate governance matters … includ[ing] a change in the size of the board, the removal of certain incumbent directors and/or election of new directors.” Sellers discussed the Special Committee’s belief that the Board should adopt a poison pill and amend the Company’s bylaws should it be unable to agree to a standstill with Pershing.

90. The special Board meeting adjourned, and the Special Committee reconvened for a third time at 7:20 p.m. on March 2 to further discuss the draft press release regarding the Second Proposal and adjourned at 8 p.m. as the parties continued to negotiate over the terms of a standstill.

III.VI. WITH THEIR BOARD POSITIONS AT STAKE, THE SPECIAL COMMITTEE AND PERSHING ENTER INTO A STANDSTILL AGREEMENT

91. On March 3, 2025, the Company announced it had entered into a ten-day standstill with Pershing (the “Standstill”). Pursuant to the agreement, Pershing agreed not to “acquire additional beneficial ownership of the [Company], undertake

certain extraordinary transactions involving the Issuer, solicit certain proxies from stockholders of the [Company], seek to call a special meeting or present proposals for consideration by stockholders, propose a nominee for election to the Board of Directors or seek the removal of any member of the Board of Directors, or form, join or participate in a ‘group’ with respect to the [Company].”

92. The short duration of the Standstill ensured that the Special Committee was forced to operate under maximum pressure and coercion as Pershing was only ever days away from calling another special stockholder meeting to replace the Special Committee members. The Committee took this threat to heart and caved to Ackman’s substantive demands.

93. On March 5, 2025, the Board’s Compensation Committee, including Hakim, met and discussed employee and executive retention policies in relation to Pershing’s proposal.

94. On March 6, 2025, the Special Committee met to discuss Pershing’s updated proposal (the “Third Proposal”) which was largely similar to the Second Proposal. One of the few differences was that the Third Proposal tweaked the advisory fee from a fully guaranteed 1.5% fee based on total market capitalization of HHH to a \$30 million base fee annually and a 1.5% fee equal to the increase in

the share price over a reference share price multiplied by a fixed share count (the “Variable Fee”).⁸

95. The Third Proposal still contemplated inserting Ackman as Chairman of the Board and Pershing fiduciary, Israel, as a director while Hakim retained his seat. The only concession that Pershing offered in the Third Proposal was that Pershing’s voting power (inclusive of its Funds) would be capped at 40%. The most glaring difference in the Third Proposal however, was that it did not contemplate *any* vote by the Company’s stockholders (in stark contrast to the First Proposal, which included a supposedly non-waivable majority-of-the-minority condition).

96. The Special Committee reviewed the Third Proposal and determined to extend the Standstill Agreement for ten days. There is no evidence in the March 6 minutes that the Committee considering insisting on public disclosure of the Third Proposal or a majority-of-the-minority vote condition as it had previously demanded from Pershing in connection with the Second Proposal. There was no public disclosure of the Third Proposal until Pershing and HHH entered into an agreement on May 4.

⁸ The reference price was the share price at transaction close which was \$66.15 and the fixed share count at close was 59.4M shares. Pershing Square reported that the advisory fee was worth \$7.1 million for Q3 ending on September 30, 2025. On an annualized basis this would be \$28.4 million.

97. The full Board, including Hakim, also met on March 6, 2025, to receive a presentation from Ackman on Pershing’s latest proposal.

98. Thereafter, the Committee held eight short meetings, but the minutes do not reflect the substance of any discussion. The eight sets of minutes for Committee meetings on March 8, March 12, April 3, April 11, April 15, April 18, April 25, and April 30 merely contain conclusory statements of discussions regarding the Transactions and a determination to extend the standstill agreement. The minutes do indicate, however, that Hakim personally participated in at least one call with Ackman and Sellers to discuss open issues in the transaction documents. The Committee’s failure to keep even minimally descriptive minutes is evidence of its bad faith, including by failing to keep an accurate record of the Transactions process.

99. One Board meeting during that period, held on April 28, was the only meeting for which the minutes include more than a few sentences describe deliberations of the Transaction. Hakim attended the portion of the meeting where the Board potentially adopting a poison pill prior to the expiration of the Standstill.

100. During this time, the parties extended the standstill period on four occasions—March 12 until April 7, April 5 until April 15, April 15 until April 30, and April 30 until May 30. Those short extensions kept pressure on the Committee

to agree to Ackman’s proposal, as the Committee knew Ackman could quickly call another stockholder meeting to force their removal.

101. One issue that the Committee flagged as problematic was the ten-year term of the services agreement with successive ten-year renewal terms, which the Committee and Board described as “perpetual.” But the Special Committee failed to secure a clean termination right.

102. Moreover, although the final agreement reflects a base fee of \$15 million annually as opposed to the initially contemplated \$30 million base fee, the March 6 presentation from Pershing shows that it only intended to directly derive fees of \$16 million annually and the delta is attributable to Pershing waiving fees on the share of HHH’s market capitalization represented by its own holdings.⁹ Thus, the eventual \$15 million annual base fee agreed to by the Committee was effectively no different than the initial offer by Pershing.

103. Pershing’s primary “concession” in negotiations was an increase in the per share purchase price from \$90 to \$100. But even the extremely limited financial analysis provided by Morgan Stanley—consisting of one eight-page presentation the day the parties signed the documents for the Transactions—highlighted that the Company’s publicly disclosed NAV was \$117.61 per share. Indeed, Morgan Stanley

⁹ The presentation states that Pershing “effectively derives incremental fees only from the portion of HHH shares in the free float (52% of total shares)[.]”

earlier confirmed that analysts valued HHH’s price per share at almost \$130 based on its NAV.

104. Adding to the problematic process, just five days before the Transactions were consummated, the Committee amended its agreement with Morgan Stanley to ensure that Morgan Stanley would be paid a fee upon agreement of the Transactions even though Morgan Stanley did not provide a fairness opinion and the Company was not taken private.

IV.VII. ACKMAN GETS HIS TERMS AND THE TRANSACTIONS ARE APPROVED

105. On May 4, 2025, Ackman’s shakedown officially succeeded. The Special Committee held its final meeting and “determined to update the proposed resolutions [approving the Transactions] to authorize the Chief Executive Officer, Chief Financial Officer and General Counsel of the Company to make changes to the transaction documents, as they deem necessary of advisable, to resolve the remaining open points in accordance with the Committee’s positions with respect thereto[.]” Again, the minutes of this meeting are vague and provide no further context as to what was actually discussed by attendees. At the end of the meeting, the Special Committee unanimously voted to recommend that the Board approve the Transactions.

106. Fifteen minutes after the Special Committee meeting ended, the full Board (other than director Mary Ann Tighe) met to discuss and vote on the

Transactions. Hakim attended the meeting briefly and “described the rationale of Pershing Square for the transaction and strategic change to the Company. He summarized Pershing Square’s historical involvement with and investment in the Company, and its believe [sic] that the change in approach, the injection of new capital, the continued involvement of existing management along with the addition of access to Pershing Square’s skills and experience, and the diversification into additional areas, collectively have the potential to bring strong returns.” After Hakim left the meeting, the remaining Board members voted to approve the Transactions.

107. The next day, on May 5, 2025, the Company and Pershing announced the Transactions. In connection with the Transactions, Board members Adam Flatto, Dana Hamilton, and Allen Model resigned from the Board and Pershing, pursuant to the Shareholder Agreement (as described below), nominated Ackman, Israel, and Jean-Baptiste Wautier in their place.

108. The Transactions include five distinct agreements, cementing the relationship between the Company and Pershing and giving the latter sweeping control over HHH’s operations as Pershing transforms it into a diversified holding company.

109. **(1) The Purchase Agreement.** Under the Purchase Agreement, the Company sold 9 million shares of the Company’s common stock to Pershing, at a

purchase price of \$100 per share, for a total purchase price of \$900 million. The sale closed on May 5, 2025, after which Pershing owned approximately 46.9% of the Company’s outstanding shares of common stock.

110. **(2) The Services Agreement.** Under the Services Agreement (attached in full as Exhibit 2), PSCM, in its capacity as a defined “Service Provider,”¹⁰ provides investment advisory and other services to the Company in support of its new diversified holding company strategy, such as (i) investment advisory services, (ii) making recommendations with respect to hedging, balance sheet optimization and capital allocation, (iii) executing transactions, (iv) assisting the Company with business and corporate development functions, (v) making voting recommendations for the Company’s investments, (vi) assisting with and advising on fundraising, (vii) monitoring operations of the Company and its investments, subject to the day-to-day authority and responsibility of management of the Company, (viii) providing recommendations for persons to serve as designees or deputies of the Chief Investment Officer, (ix) engaging and supervising third-party service providers, (x) making dividend payment recommendations, and (xi) providing other services as may be agreed upon.

¹⁰ “Service Provider” is defined as PSCM and any other Affiliate(s) of PSCM that is appointed by PSCM from time to time to act as a provider of Services pursuant to this Agreement.

111. Notably, the Services Agreement prohibits the Company’s Board from allowing anyone other than PSCM to provide any of these services. Section 4.2 of the Services Agreement provides that “the [Company] will not, during the term of this Agreement, engage any other Person to provide any services comparable to those to be provided by [PSCM] hereunder without the prior written consent of [PSCM], which may be withheld in the absolute discretion of [PSCM].”

112. In exchange for the services, HHH will pay PSCM a quarterly base fee of \$3,750,000 (amounting to \$15 million per year). Additionally, HHH will also pay Pershing a quarterly variable fee equal to 0.375% of the excess value of the quarter-end stock price of the Company’s common stock, minus the reference price of \$66.1453, multiplied by existing share count of 59,393,938 shares. The base fee and the reference share price are subject to annual adjustment based on the Core PCE Price Index. The Services Agreement has an initial ten-year term and will have successive renewal terms of ten years unless either party terminates or elects not to renew the Services Agreement in accordance with the terms of the agreement.

113. HHH can only extricate itself from the Services Agreement in extremely limited circumstances unless PSCM sells down its holdings. During its term, HHH cannot terminate the Services Agreement unless: (i) two thirds of the disinterested directors agree; and (ii) one of five conditions are met: (a) PSCM materially breaches the agreement and the breach goes uncured; (b) PSCM commits

fraud; (c) PSCM acts in bad faith or is engaged in criminal conduct; (d) PSCM goes bankrupt; or (e) HHH undergoes a subsequent change of control.

114. Moreover, the Services Agreement automatically renews unless 100% of the Company's disinterested directors and 70% of the then outstanding common stock held by non-Pershing stockholders approves the non-renewal.

115. The Services Agreement represents the Board of Directors abdicating its fiduciary obligation to manage the Company to PSCM. The Services Agreement is not entered into with PSCM in PSCM's capacity as a stockholder of the Company. The Services Agreement violates Section 141(a) of the Delaware General Corporation Law.

116. **(3) The Shareholder Agreement.** Under the Shareholder Agreement, Pershing and the Company agreed to the following subscription rights and certain governance provisions:

- *Director Nomination Rights.* So long as Pershing Square beneficially owns at least 17.5% of the Company's common stock, Pershing Square may nominate for election a number of directors equal to 25% of the total number of members of the Board of Directors of the Company, rounded up. If Pershing Square beneficially owns less than 17.5% but at least 10% of the Company's common stock, Pershing Square may nominate for election a number equal to 10% of the total number of members of the Board, rounded up. If Pershing Square beneficially owns less than 10% of the Company's common stock, it no longer has the right to nominate anyone.
- *Executive Chairman.* So long as Pershing Square beneficially owns at least 17.5% of the Company's common stock, Ackman will serve

as the Executive Chairman of the Board (unless unwilling). Additionally, any Board committee (except for special committees established for potential conflict of interest situations) will include proportional representation of the Pershing Square designees.

- *Consent Rights.* If Pershing Square files a Form S-1 for an initial public offering, the Company cannot, without prior written consent of Pershing Square, (i) acquire or dispose any shares, assets, business or operations that, taken as a whole, would exceed the conditions of significance contained in the definition of “significant subsidiary” at the 30% level under the total asset test set forth in Rule 3-05 of Regulation S-X under the Securities Act of 1933, as amended; (ii) incur any third-party indebtedness if the Company’s Indebtedness to Consolidated Tangible Net Ratio (as defined in the Company’s existing indentures) would exceed 2.5; (iii) materially change the business of the Company and its subsidiaries, taken as a whole, in a manner that would constitute a significant departure from the Company’s intended strategy of acquiring controlling interests in private and public operating companies and becoming a diversified holding company; (iv) provided that the Services Agreement remains in effect, cause or permit the appointment, removal or replacement of the Chief Investment Officer; or (v) provided that the Services Agreement remains in effect, amend, modify or alter the scope of the authority, duties or responsibilities of the Executive Chairman or the Chief Investment Officer. The consent rights terminate if Pershing Square no longer beneficially owns at least 17.5% of the Company’s common stock.
- *Subscription Rights.* If the Company issues or sells any shares of common stock to third parties (other than shares issued pursuant to options or other stock incentives issued to an employee, director or consultant of the Company or its subsidiaries), Pershing Square has the right to acquire shares of common stock for the same price and on the same terms as such shares are offered to such third parties.

117. (4) **The Standstill Agreement.** Under the Standstill Agreement,

Pershing and the Company agreed to provisions regarding over-boarding and

committee size and composition, ownership limits, voting caps, transfer restrictions, and related party transactions as follows:

- *Governance Matters.* So long as Pershing Square owns more than 10% of the Company’s common stock, Pershing Square will not take any action that is inconsistent with its support for certain specified corporate governance principles, including: (i) a majority of the Board shall be “independent” under applicable stock exchange standards; (ii) the Board shall have a nominating committee, a majority of which shall be independent and not affiliated with or nominated by Pershing Square; (iii) the size of the Board will be fixed at 11 members and cannot be changed without approval of 75% of the Board; and (iv) any change of control transaction involving stockholders holding more than 10% of the outstanding shares of Common Stock requires approval of (a) a majority of the disinterested directors, and (b) a majority of the voting power of the unaffiliated stockholders.
- *Ownership Cap.* Pershing Square cannot acquire beneficial or economic ownership of more than 47% of the Company’s common stock.
- *Voting Cap.* For all matters being voted on at a stockholder meeting or in a consent solicitation that the Board recommends that stockholders approve, Pershing Square will be limited to 40% of the total voting power, with the excess of any shares to be voted in proportion to the votes cast by stockholders unaffiliated with Pershing Square. The voting cap is uniformly applied across all matters, except with respect to voting to elect the Pershing Square board designees, for which no voting cap applies. For all matters that the Board recommends that stockholders not approve, Pershing Square may vote all of their shares “against” such matter.
- *Transfer Restrictions.* Without the approval of a majority of the disinterested directors, Pershing Square may not sell or otherwise transfer any shares of common stock that they hold if the person would beneficially own more than 10% of the Company’s common stock after such transfer.

- *Related Party Transactions.* Without the approval of a majority of the disinterested directors, Pershing Square may not engage in (i) any transaction or series of related transactions, directly or indirectly, between the Company or any subsidiary of the Company, on the one hand, and Pershing Square on the other hand, or (ii) with respect to the purchase or sale of Company common stock by Pershing Square, any waiver of any limitation or restriction with respect to such purchase or sale in the Transaction Documents, except for (i) transactions expressly contemplated in the Transaction Documents, (ii) customary compensation arrangements for Board designees and (iii) transactions in the ordinary course of the Company’s business that do not involve payments by the Company in excess of \$10,000,000.

118. **(5) The Registration Rights Agreement.** Under Registration Rights Agreement, HHH has agreed to provide Pershing with demand rights and customary piggyback registration rights. The Registration Rights Agreement also requires the Company to file a shelf registration statement, upon request, to register for resale all or a part of the shares of common stock owned by Pershing.

V. VIII. THE UNFAIR PROCESS RESULTED IN UNFAIR TERMS

119. Where, as here, fiduciaries of a Delaware corporation enter into a transaction that allows control to pass from public stockholders to a single controller, they have an obligation to act reasonably and maximize stockholder value. The Director Defendants breached their duties and allowed Pershing’s influence to unfairly skew the process.

A. The Process Was Unfair

120. *First*, while the Company established a Special Committee to negotiate a transaction with Pershing, the Special Committee was coerced and bullied and

rendered incapable of acting as a good-faith, independent bargaining agent. Instead, its members were on the receiving end of explicit insults and threats from Ackman, including:

- “The notion that the Special Committee considers me to be a threat to Howard Hughes is the most aggressive and disrespectful act levelled against me and my firm in my 33 years in this business. And believe me, I have dealt with some very bad boards.”
- “We will pursue our Special Meeting agenda and put forth our proposal in front of shareholders and propose a new board composition including the addition of some new independent directors.”
- “We expect an overwhelming shareholder vote against the Special Committee. I remind you that the directors that do not receive a majority of the votes cast are required under our bylaws to tender their resignations to the board. As noted previously, because 20% or more of shareholders do not vote in these elections, our 37.6% stake already likely represents the required majority necessary to trigger director resignations.”

121. Ackman, a billionaire notorious for being an agitator and activist investor who often airs his grievances to his millions of followers on Twitter (n/k/a X), has far-reaching influence with public investors so this was a serious threat.

122. Board minutes and presentations show that the Special Committee feared Ackman and was advised of various ways it could deter Ackman’s threats. For example, Morgan Stanley and Hogan Lovells gave presentations at the February 27 and March 2, 2025 meetings on “Perspectives on Shareholder Rights Plan Adoption[,]” which recognized that “[t]he key benefit of a rights plan is to prevent an opportunistic party from achieving a position of substantial influence or control

without paying a control premium to other shareholders” and also included a slide on “Hercules’ [HHH] Structural Defenses.”

123. Similarly, at the March 2, 2025 Board meeting, the Board discussed “an amendment to the Company’s bylaws to establish procedures related to stockholders’ ability to call a special meeting … which would be intended to protect the Company’s non-Pershing Square stockholders from a potentially disadvantageous unsolicited takeover.” Both strategies were a direct response to Pershing’s actions. Fearing for their Board positions, the Special Committee dismissed these options.

124. The Special Committee’s bad-faith acquiescence to Ackman’s threats is highlighted by the fact that O’Reilly received an email “from Presario International, expressing interest in acquiring a 100% interest in the Company[.]” But no other information is given regarding Presario or the Company’s response to the outreach. In fact, Presario’s outreach is not mentioned again in the Section 220 materials produced to Plaintiffs. Inferably, the Special Committee brushed off Presario because Committee members feared that further engagement would enrage Ackman and cause him to carry through on his threats.

125. Additionally, the minutes of the Special Committee meetings (all 31 Special Committee meeting minutes are attached as Exhibit 3) are skeletal at best and do nothing to explain the actual substance of discussions at the meetings. None

of the minutes are longer than two pages. Of the 31 Special Committee meeting minutes, 23 are a single page in length, including the heading and introduction and attendance paragraphs. From the lack of information contained in the minutes, it is reasonable for the Court to infer that no real negotiations or substantive discussions were had by the Special Committee, let alone any consideration of what they were handing to Pershing.

126. *Second*, while Sellers initially “insisted that [the transaction be brought to a] majority of the minority vote[,]” Ackman gave a “detailed explanation as to why such an approach is not viable when a shareholder owns nearly 40% of the outstanding shares”—*i.e.*, Ackman anticipated that unaffiliated stockholders would vote the Transactions down. So the Special Committee acquiesced to letting this dramatic restructuring—completely changing the Company’s business model—go forward without affording the Company’s unaffiliated stockholders a vote.

127. As a result, stockholders were forced to endure a fundamental change to their investment without their consent. To that end, on December 18, 2025, HHH announced an agreement to acquire Vantage Group Holdings, Ltd. (“Vantage”) for \$2.1 billion. Vantage is a privately held specialty insurance and reinsurance company, a completely new business line for HHH. And, as part of the transaction, Pershing is acquiring up to \$1 billion in non-voting preferred stock from HHH that guarantees Pershing a return equal to the greater of 4% per annum and or 1.5 times

Vantage's book value, multiplied by the ownership percentage of Vantage represented by the preferred shares. The preferred shares will also be convertible into common stock of Vantage if not redeemed within seven years.

128. *Third*, the record suggests that there was a deeply confused process to evaluate the Special Committee's membership and independence. Board minutes state that the Board formed a Special Committee consisting of Sellers, Eun, Hamilton, Kaplan, Shepsman, and Williams. The documents produced in response to Plaintiffs' demand include inconsistent resolutions. One set states that Board authorized a committee of just Kaplan, Sellers, Shepsman and Williams (and not Hamilton and Eun), determining that only those directors were independent from Pershing. The other set of resolutions appoints Sellers, Eun, Hamilton, Kaplan, Shepsman, and Williams to the Committee, but only determines that they are generally independent and does not determine that they are specifically independent from Pershing.

129. Moreover, during the meeting, the Board discussed the independence of Sellers, Eun, Hamilton, Kaplan, and Shepsman, but did not discuss Williams's independence from Pershing (or lack thereof), as Williams was not present—the Board and the Special Committee did not discuss Williams's independence at any other meetings.

130. *Fourth*, despite believing the Transaction represented a change-of-control, the Special Committee failed to run anything resembling a standard sale process. The Special Committee contacted no other potential counterparties (whether for an acquisition of HHH or as alternative investment managers). At a minimum, the Special Committee should have attempted to determine whether a different investment manager would provide better terms or services than Pershing.

131. Moreover, the Special Committee's financial advisor, Morgan Stanley, provided no fairness opinion and no financial analysis whatsoever until the day the parties signed the documents for the Transactions. Morgan Stanley's bare-bones analysis did not include standard valuation metrics. Nor did it include any information on alternative counterparties to Pershing.

132. *Fifth*, Morgan Stanley was conflicted by virtue of the contingent nature of its fee structure, which was modified days before the parties agreed to the Transactions.

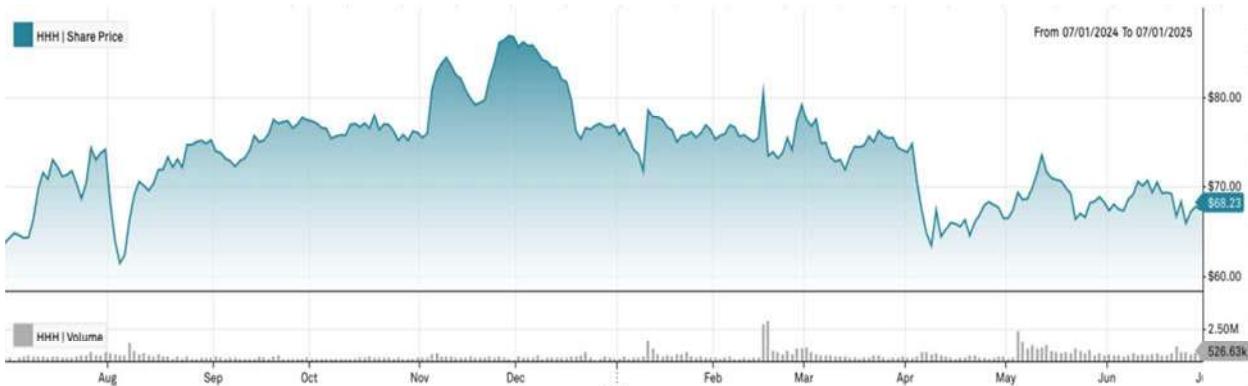
133. *Sixth*, as set forth above, at critical moments, Hakim (a dual fiduciary) acted as a negotiator for Pershing, leveraging his insider knowledge about the Company and leaking information to Ackman.

B. The Price Was Unfair

134. The price of the Transactions was unfair.

135. Although Morgan Stanley did not perform standard valuation analyses on HHH, it did report to the Special Committee that the Company's publicly disclosed NAV was \$117.61 per share—well in excess of the purchase price.

136. After Pershing's initial proposal on January 13, 2025, HHH's stock price reached a high of \$81 per share, reflecting a floor for the market's expectation of an appropriate take-out price. On February 19, 2025, when Pershing's offer switched from a complete take-private to a take over of the Company through a \$900 million PIPE that transferred operational control, HHH's stock price declined dramatically. On February 18, HHH's stock closed at \$80.60 per share. On February 19, it closed at \$73.47 per share. After the announcement of the Transactions on May 5, 2025, the Company's stock price closed at \$68.80 per share. A chart showing HHH's share price over this period is below and demonstrates the Defendants' utter failure to obtain a control premium for public investors:



137. By comparison, the average analyst price target for the Company immediately preceding this period was \$89 per share.

138. Through the Purchase Agreement, the Services Agreement, and Shareholder Agreement, the Pershing Defendants obtained control of the Company without paying an appropriate control premium. They will now reap private benefits of control through, among other things, exorbitant fees for management services. Pershing is now responsible for hedging, balance sheet optimization and capital allocation, executing transactions, making voting recommendations for the Company's investments, advising on fundraising, monitoring operations of the Company and its investments, providing recommendations for persons to serve as designees or deputies of the Chief Investment Officer, engaging and supervising third-party service providers, making dividend payment recommendations, nominating three directors on the Board and the Executive Chairman, and the right to acquire shares of common stock for the same price and on the same terms as such shares are offered to such third parties.

139. Under the Services Agreement, Pershing stands to receive massive fees for these management services:¹¹ a \$15 million base management fee per year, plus a variable fee equal to 0.375% of the excess value of the quarter-end stock price of the Company's common stock, minus the reference price of \$66.1453, multiplied by existing share count of 59,393,938 shares. That is problematic for at least two

¹¹ Buffett's Berkshire Hathaway—the gold-standard comparison for holding companies and the model that Ackman purportedly wants to replicate—does not charge a management fee.

reasons. As an initial matter, inflation is an unreliable and abnormal benchmark to measure stock price growth. Moreover, the stock price growth is based on a depressed \$66 per share reference price, meaning that Pershing would capture an excessive fee on a mere return to fair value.¹²

VI. IX. THE TRANSACTIONS ARE NOT SUBJECT TO SECTION 144 SAFE HARBOR PROVISIONS

140. Section 144 of the DGCL, as amended by Senate Bill 21, provides potential safe harbors from liability for fiduciaries in the context of a transaction like this one. These safe harbors do not apply to the Transactions.

141. The safe harbors available under Sections 144(b) and (c) do not apply because Pershing was not the Company’s “controlling stockholder” at the time the Transactions were negotiated. Specifically, Pershing did not “own[] or control[] a majority in voting power of the outstanding stock of the corporation[,]”¹³ have “the right, by contract or otherwise, to cause the election of nominees who … constitute either a majority of the members of the board of directors or directors entitled to cast a majority in voting power of the votes of all directors on the board of directors[,]”¹⁴

¹² As noted above, when Pershing’s initial offer was announced, the Company’s stock price hit \$81 per share.

¹³ See Section 144(e)(2)(a).

¹⁴ See Section 144(e)(2)(b).

nor did it have the “power to exercise managerial authority over the business and affairs of the corporation.”¹⁵

142. The safeguards under Section 144(a) are also inapplicable. Section 144(a) creates a limited safe harbor where the act or transaction is challenged “because of the foregoing circumstances”—*i.e.*, that it is a “transaction involving or between a corporation..., on the 1 hand[,] ... [and] any other entity or organization in which 1 or more of its directors or officers are directors, stockholders, partners, managers, members, or officers, or have a financial interest, on the other hand[.]”¹⁶ In other words, Section 144(a) applies in the first instance only to claims based on a dual-fiduciary conflict. Here, however, none of the breach-of-fiduciary-duty claims against any of the Director Defendants, other than Hakim, rest upon that conflict. Instead, Plaintiffs’ claims against the other Director Defendants rest on allegations that they were uninformed, acted without due care and in bad faith, and were coerced by the Pershing Defendants.

143. As to Hakim—and even if Section 144(a) was triggered in the first instance as to the claims against the other Director Defendants—Section 144(a)’s safe harbor does not apply because, as explained throughout, the Special Committee

¹⁵ See Section 144(e)(2)(c). Section 144(c) also fails to apply because the Transactions were not a “going private transaction.”

¹⁶ See Section 144(a).

did not “in good faith and without gross negligence authorize[] the act or transaction” as required by Section 144(a)(1). Rather, the Special Committee caved to explicit threats from Pershing and Ackman, including threats to their positions on the Board. The minutes reflect no substantive discussions. So, it is reasonable to infer that the Special Committee did not in fact push back against Ackman whatsoever, but instead that Special Committee members were coerced into approving the Transactions in bad faith. Similarly, there was no vote by disinterested stockholders as required for cleansing under Section 144(a)(2), and the Transactions were not fair to the Company as required for cleansing Section 144(a)(3).

144. Finally, none of the safe-harbor provisions of Section 144 could apply to the aiding-and-abetting claims against the Pershing Defendants. Section 144(d)(6) explicitly states that none of the safe-harbor provisions shall “[l]imit or eliminate the right of any person to seek relief on the grounds that a stockholder or other person knowingly aided and abetted a breach of fiduciary duty by 1 or more of the directors of the corporation.”¹⁷

CLASS ACTION ALLEGATIONS

145. Plaintiffs bring this Action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other holders of Company common stock (except Defendants herein and any person, firm, trust, corporation, or other

¹⁷ See Section 144(d)(6).

entity related to or affiliated with them) who held shares when the Transaction closed (the “Class”).

146. This Action is properly maintainable as a class action.

147. The Class is so numerous that joinder of all members is impracticable. As of September 30, 2025, the Company had 59,387,488 shares outstanding. The number of Class members is believed to be (at least) in the thousands and they are likely scattered across the United States.

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

- Whether the Director Defendants breached their fiduciary duties to Plaintiffs and the Class;
- Whether the Pershing Defendants aided and abetted the Director Defendants’ breaches of fiduciary duties; and
- Whether Plaintiff and the other members of the Class were injured by the wrongful conduct alleged herein and, if so, what is the proper measure of damages.

149. Plaintiffs’ claims and defenses are typical of the claims and defenses of other Class members, and Plaintiffs have no interests antagonistic or adverse to the interests of other Class members. Plaintiffs will fairly and adequately protect the interests of the Class.

150. Plaintiffs are committed to prosecuting this Action and have retained competent counsel experienced in litigation of this nature.

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

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

DERIVATIVE ALLEGATIONS

153. Because the Transactions resulted in a shift in control from a diversified group of public equity holders to a controlling interest held by Pershing, Plaintiffs' claims are direct.¹⁸

154. In the alternative, however, and solely to the extent that the Court finds the claims are derivative, Plaintiffs also bring this Action derivatively to redress injuries suffered by the Company as a result of breaches of fiduciary duty and other misconduct by the Defendants as alleged herein. Plaintiffs are beneficial owners of

¹⁸ *Brookfield Asset Mgmt., Inc. v. Rosson*, 261 A.3d 1251, 1266-67 (Del. 2021).

HHH common stock and continuously owned HHH common stock at all times relevant to this Complaint. Plaintiffs will continue to hold HHH stock through the resolution of this Action.

155. Plaintiffs will adequately and fairly represent the interests of HHH and its stockholders in enforcing and prosecuting its rights and have retained counsel competent and experienced in stockholder derivative litigation.

156. Plaintiffs did not make a demand on the Board to institute this Action. Demand would be futile because the Board is incapable of making an independent and disinterested decision to institute and vigorously prosecute this action.

157. The current Howard Hughes Board (the “Demand Board”) has eleven members consisting of (i) Defendants Ackman, Eun, Hakim, Sellers, and Williams, and (ii) non-parties Israel, Thom Lachman, O’Reilly, Susan Panuccio, Tighe, and Wautier. A majority of those directors are incapable of considering a demand.

158. Defendants Eun, Sellers, and Williams each acted in bad faith by allowing Ackman’s threats to coerce them to enter into the Transactions on the precise terms Ackman preferred with no substantive discussion, negotiations, or pushback evidenced by the meeting minutes.¹⁹ Accordingly, each faces a substantial

¹⁹ *Firefighters’ Pension Sys. of City of Kansas City v. Found. Bldg. Mat’ls, Inc.*, 318 A.3d 1105, 1166 (Del. Ch. 2024); *Berteau v. Glazek*, 2021 WL 2711678, at *24 (Del. Ch. June 30, 2021) (finding committee did not act in good faith where “Plaintiff’s allegations support a reasonable inference that negotiations over deal terms were limited to the

risk of liability in this Action and cannot be expected to consider a demand impartially.

159. Defendant Hakim also faces a substantial risk of liability for breaching his fiduciary duties to HHH and its stockholder by prioritizing the interests of Pershing, where he serves as a Partner and a President of PSCM and other Pershing entities, and helping to facilitate the Transactions. Defendant Ackman likewise faces a substantial risk of liability for aiding and abetting the fiduciary breaches by the Director Defendants. Neither can impartially consider a demand.

160. In addition, at least six of the eleven directors have disabling conflicts that would prevent them from impartially considering a demand to sue Pershing.

161. **Defendants Ackman and Hakim** are dual fiduciaries. Ackman founded PSCM in 2003 and Pershing Holdco in 2024, serves as CEO of both companies, and owns and/or controls all Pershing entities and related funds. Hakim is the President of PSCM and joined the Pershing investment team as a Partner in 2012. Accordingly, they owe fiduciary duties to both HHH and Pershing and cannot impartially consider a demand.

minimum necessary to confer a scintilla of legitimacy to the Special Committee process, and that the Special Committee abdicated their fiduciary duties after the March 29 TPB Meeting.”); *In re CBS Corp. S’holder Class Action & Deriv. Litig.*, 2021 WL 268779, at *43 (Del. Ch. Jan. 27, 2021) (similar).

162. **Non-party Israel** is also a dual fiduciary. He has served as the Chief Investment Officer of PSCM since August 2022 and as a member of the board of directors of PSCM since June 2024. When Pershing hired Israel as PSCM’s very first CIO, Ackman stated that he chose Israel because he is a “once-in-a-generation talent as an investor, not just in equities, but also in macro instruments. He is an excellent leader, teacher, communicator, and partner, and has the respect of each member of the investment team.” Ackman also added that “[i]f the pie truck were to run me over tomorrow, Ryan [Israel] would be my choice to manage the portfolio,” a portfolio that was valued to be approximately over \$14 billion in Q3 2025.²⁰ He joined the Pershing investment team in 2009. Given his long history of working for Pershing, including his current role as CIO of PSCM and a member of its board of directors, Israel cannot be expected to impartially consider a demand.

163. **Non-party Wautier** became a director of the Company in May 2025, as one of Pershing’s three director nominees. Wautier has also served on the Board of Pershing Square Holdings, Ltd., the investment holding company incorporated with limited liability under the laws of the Bailiwick of Guernsey, since May 2025. PSCM is Pershing Square Holdings, Ltd.’s investment manager and has responsibility, subject to the overall supervision of the Board of Directors, for the

²⁰ William Ackman, Letter to Shareholders (June 30, 2022), <https://pershingsquareholdings.com/wp-content/uploads/2022/08/Pershing-Square-Holdings-Ltd.-June-2022-Interim-Letter.pdf>.

investment of Pershing Square Holdings, Ltd.'s assets and liabilities. Because he owes fiduciary duties to both the Company and Pershing, Wautier cannot impartially consider a demand.

164. **Non-party O'Reilly** is the CEO of the Company. Because Pershing now operates as HHH's effective controller through Pershing's voting power and wide-ranging management and authority over the Company's operations contractually guaranteed by the Services Agreement and the Shareholder Agreement, O'Reilly, as senior corporate officer of HHH, cannot impartially consider a demand. O'Reilly relies on his position as CEO for his primary source of income and livelihood. For the years 2022-2024, O'Reilly has received generous compensation from the Company:

Year	Salary (\$)	Stock Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	All Other Compensation (\$)	Total (\$)
2024	1,000,000	2,520,031	2,100,000	104,846	5,724,877
2023	750,000	2,321,025	1,725,000	170,971	4,966,996
2022	750,000	—	1,800,000	15,250	2,565,250

165. O'Reilly's stock awards in the table above represent the aggregate grant date fair value of stock awards in the form of restricted stock awards, which have either time-based vesting or performance-based vesting. In other words, O'Reilly must retain his CEO position and receive positive performance reviews for these shares to vest. Because Pershing now is the Company's effective controller through

Pershing's voting power and wide-ranging management and authority over the Company's operations contractually guaranteed by the Services Agreement and the Shareholder Agreement, O'Reilly cannot impartially consider a demand.

166. **Non-party Tighe** has been a member of the Board since 2011. She has known Ackman since at least the 1990s. Tighe was an early investor and limited partner in Ackman's first hedge fund, Gotham, Partners. In 1998, after Gotham Partners acquired a controlling stake in First Union, Ackman became First Union's chairman and packed the board with his people described as "friends and associates,"²¹ including Tighe. Ackman, through Gotham, also added Tighe to the Board of Imperial Parking Corporation, when Gotham owned over 30% of the company's stock.

167. In 2015, Tighe brokered a \$250 million acquisition of a New York City office building at 787 Eleventh Avenue by Pershing and Georgetown Company. Then, Pershing and Georgetown retained Tighe to rent the remaining space not used by Pershing. Ackman also retained CBRE, where Tighe has been CEO of the New York Tri-State region since 2002, to lease space in a twenty-two-story building he co-owned on Madison Avenue in 2019.

²¹ Matthew Goldstein, *REIT Deal Wasn't Gotham's First Rodeo*, THE STREET (Jan. 27, 2003), <https://www.thestreet.com/markets/reit-deal-wasnt-gothams-first-rodeo-10064701>.

168. Tighe attended The Pershing Square Foundation's 10th Anniversary Celebration, where Ackman sits on the Board of Trustees. Tighe also sits on the board of directors of the Lincoln Center for the Performing Arts alongside Ackman's mother, Ronnie Ackman.²² As noted above, likely because she lacked independence from Pershing, Tighe absented herself from the final vote to approve the Transactions. Due to Tighe's lengthy history with Ackman, she cannot impartially consider a demand.

COUNT I

Direct Claim for Breach of Fiduciary Duty Against The Director Defendants

169. Plaintiffs repeat and re-allege each and every allegation above as if set forth in full herein.

170. The Director Defendants, as Company directors, owed the Company and stockholders the utmost fiduciary duties of loyalty and good faith. By virtue of their positions as directors of the Company and their exercise of control and ownership over the business and corporate affairs of the Company, the Director Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the Transactions.

²² Ackman's parents are substantial donors to the Lincoln Center.

171. The Director Defendants were required to further the best interests of Plaintiffs and the Class and maximize stockholder value in a change-of-control sale.

172. The Director Defendants breached their fiduciary duties to Plaintiffs and the Class by causing the Company to enter into the Transactions through a process and a price that were unfair, which gave Pershing operational and managerial control over the Company while failing to negotiate for maximum value.

173. Defendants Eun, Hamilton, Kaplan, Sellers, Shepsman, and Williams allowed Ackman's explicit threats to their jobs and reputations to coerce them into the Transactions.

174. Defendant Hakim is a dual fiduciary who served on both the Company's board and as a Pershing Partner and President of PSCM and he could not act independently of the Pershing Defendants. Through his actions he helped steer the Company into the unfair Transactions.

175. As a result of the Director Defendants' breaches of fiduciary duty, Plaintiffs and the Class have been harmed.

176. Plaintiffs and the Class do not have an adequate remedy at law.

COUNT II

Derivative Claim for Breach of Fiduciary Duty Against The Director Defendants

177. Plaintiffs repeat and re-allege each and every allegation above as if set forth in full herein.

178. The Director Defendants, as Company directors, owed the Company and stockholders the utmost fiduciary duties of loyalty and good faith. By virtue of their positions as directors of the Company and their exercise of control and ownership over the business and corporate affairs of the Company, the Director Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the Transactions.

179. The Director Defendants were required to act in furtherance of the best interests of Plaintiffs and the Company.

180. The Director Defendants breached their fiduciary duties to Plaintiffs and the Company by causing the Company to enter into the Transactions through a process and a price that were unfair, which gave Pershing operational and managerial control over the Company while failing to negotiate for maximum value.

181. Defendants Eun, Hamilton, Kaplan, Sellers, Shepsman, and Williams allowed Ackman's explicit threats to their jobs and reputations to coerce them into the Transactions.

182. Defendant Hakim is a dual fiduciary who serves on the Company's board and as a Pershing Partner and President of PSCM and could not act independently of the Pershing Defendants.

183. As a result of the Director Defendants' breaches of fiduciary duty, Plaintiffs and the Company have been harmed.

184. Plaintiffs and the Company do not have an adequate remedy at law.

COUNT III

Direct Claim for Aiding and Abetting Breach of Fiduciary Duty (Against The Pershing Defendants)

185. Plaintiffs repeat and re-allege each and every allegation above as if set forth in full herein.

186. Defendant Hakim is a dual fiduciary who serves on HHH's board and as a Pershing Partner and President of PSCM. Accordingly, his acts and knowledge are imputed to Pershing.

187. The Pershing Defendants bullied the Special Committee members and coerced them into breaching their fiduciary duties.

188. The Pershing Defendants had actual knowledge of the Director Defendants' breaches of fiduciary duty and knowingly participated in those breaches.

189. Plaintiffs and the Class were damaged thereby.

190. Plaintiffs and the Class have no adequate remedy at law.

COUNT IV

Derivative Claim for Aiding and Abetting Breach of Fiduciary Duty (Against The Pershing Defendants)

191. Plaintiffs repeat and re-allege each and every allegation above as if set forth in full herein.

192. Defendant Hakim is a dual fiduciary who serves on HHH's board and as a Pershing Partner and President of PSCM. Accordingly, his acts and knowledge are imputed to Pershing.

193. The Pershing Defendants bullied the Special Committee members and coerced them into breaching their fiduciary duties.

194. The Pershing Defendants had actual knowledge of the Director Defendants' breaches of fiduciary duty and knowingly participated in those breaches.

195. Plaintiffs and the Company were damaged thereby.

196. Plaintiffs and the Company have no adequate remedy at law.

COUNT V

Direct Claim for Declaratory Judgment That the Services Agreement Violates Section 141(a) of the Delaware General Corporation Law And Injunctive Relief

197. Plaintiffs repeat and re-allege each and every allegation above as if set forth in full herein.

198. As set forth above, the Services Agreement removes the Board's ability to exercise discretion in the exercise of its fiduciary duty to manage the Company.

199. Plaintiffs and the Class are entitled to a declaration that Services Agreement is invalid and unenforceable as a matter of Delaware law and an order enjoining its enforcement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor and in favor of the Class and the Company as follows:

- A. Declaring, finding, and determining that this Action is properly maintainable as a class action and certifying Plaintiffs as the Class representative and Plaintiffs' counsel as Class Counsel;
- B. In the alternative, declaring that this Action is properly maintainable as a derivative action and that demand is futile;
- C. Declaring, finding, and determining that the Director Defendants breached their fiduciary duties;
- D. Declaring, finding, and determining that the Pershing Defendants aided and abetted the Director Defendants' breaches of fiduciary duties;
- E. Declaring that the Services Agreement violates Section 141(a) of the Delaware General Corporation Law and enjoining its enforcement;
- F. Awarding Plaintiffs and the Class and/or the Company such other equitable relief as is appropriate, including without limitation the appointment of new and independent directors and such other corporate governance reforms as may be appropriate;

G. Awarding actual, compensatory, rescissionary, lost-transaction, quasi-appraisal, nominal damages and/or disgorgement to Plaintiffs and the Class and/or the Company, plus pre-judgment and post-judgment interest;

H. Awarding Plaintiffs the costs and disbursements of this Action, including reasonable allowance of fees and costs for Plaintiffs' attorneys, experts, and accountants; and

I. Granting Plaintiffs, the Class, and the Company such other and further relief as the Court may deem just and proper.

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