JURY TRIAL DEMANDED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GENUINE LIFETIME, LLC, TYLER LUCK, AND OCTOBER 3RD HOLDINGS, LLC,	§	
Plaintiffs,	§	
v.	§	**CIVIL ACTION NO. _____**
CAREGARD WARRANTY SERVICES INC., RALPH WRIGHT BREWER III, AFG COMPANIES, INC., AUTOMOTIVE FINANCIAL GROUP, INC., AFG TECHNOLOGIES, LLC A/K/A TRONIX, SOUTHWEST COLONIAL REINSURANCE, LTD., DELAPORTE LEARNING INC., PRIME RESERVE PLUS, INC., DAIDAX, INC., (FKA PATHWAI, INC., AND BEN AUTOMOTIVE INC.), & CAREGARD DEALER SERVICES, LLC,	§	
Defendants.	§	

PLAINTIFFS' ORIGINAL COMPLAINT

COME NOW, Plaintiffs Genuine Lifetime, LLC ("**Genuine Lifetime**"), Tyler Luck ("**Luck**"), and October 3rd Holdings, LLC (collectively, "**Plaintiffs**") who hereby file this their Original Complaint against Defendants CareGard Warranty Services Inc., Ralph Wright Brewer III, Automotive Financial Group, Inc., AFG Companies, Inc., AFG Technologies, LLC d/b/a Tronix, Southwest Colonial Reinsurance, Ltd., Prime Reserve Plus Inc., DeLaporte Learning Inc., DaidaX, Inc. formerly known as Pathwai, Inc. and Ben Automotive Inc., and CareGard Dealer Services, LLC (collectively, "**Defendants**"), and in support thereof, would show the Court the following:

I. PARTIES

1. Genuine Lifetime is a limited liability company formed in the State of Wyoming. Its members are both individuals and entities. The individual members are (1) Michael Lucas, a citizen of the State of California, (2) Shawn Lucas, a citizen of the State of California, (3) James D. Henderson Jr., a citizen of the State of California, and (4) Lynda Shea, in her capacity legal trustee of the Shea Family Trust, a citizen of the State of Nevada. Genuine Lifetime's entity members are: (5) October 3rd Holdings, LLC, a limited liability company formed in the State of Wyoming having two members of its own: (a) Tyler Luck, a citizen of the State of Wyoming, and (b) Michael Lucas, a citizen of the State of California; and (6) Great North Capital Corp., a for-profit corporation incorporated in the State of Nevada and having its principal place of business in the State of California.

2. Plaintiff Tyler Luck is an individual residing in Jackson Hole, Wyoming and serves as a member of October 3rd Holdings LLC and is the personal guarantor to the loan agreement.

3. Plaintiff October 3rd Holdings, LLC is a Wyoming limited liability company formed in the State of Wyoming. Its members are both individuals. The individual members are (1) Michael Lucas, a citizen of the State of California and (2) Tyler Luck, a citizen of the State of Wyoming.

4. Defendant Ralph Wright Brewer III ("**Brewer**") is an individual residing in Bartonville, Texas, and serves as the Chairman, CEO, and/or principal officer of CareGard Warranty Services, AFG Companies Inc., its subsidiaries, and all other defendant entities named in this lawsuit.

5. Defendant CareGard Warranty Services, Inc. ("**CareGard**") is a Texas corporation specializing in automotive warranty services. CareGard is a key party in the Mercedes-Benz USA

LLC ("**MBUSA**") and Southeast Toyota Distributors LLC ("**SET**") Dealer Agreements (defined below) with Genuine Lifetime. CareGard's failure to honor these agreements and conspiracy with Brewer and the other AFG entities to defraud Genuine Lifetime and enrich themselves at the same time caused significant harm to Genuine Lifetime. Its principal place of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051,

6. Defendant AFG Companies, Inc. ("**AFG**") is a Texas domestic for-profit corporation that played a key role in facilitating the misconduct alleged in this lawsuit with its principal place of business in Grapevine, Texas. Its principal place of business of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

7. Defendant Automotive Financial Group, Inc. is a Texas domestic for-profit corporation with its principal place of business in Grapevine, Texas. AFG was the primary counterparty to the Exclusive Reseller Agreement and failed to fulfill its contractual obligations by concealing the ransomware attack and breaching its data security and performance requirements. Its principal place of business of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

8. Defendant AFG Technologies, LLC d/b/a Tronix, is a Texas limited liability company focused on developing and delivering technology solutions for the automotive industry. This entity directly participated in the misrepresentations and omissions made during the negotiation of the Reseller Agreement (defined below), particularly regarding data security and operational readiness. Upon information and belief, all members of Defendant AFG Technologies, LLC d/b/a Tronix are residents of the State of Texas. Its registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

9. Defendant CareGard Dealer Services, LLC is a Texas limited liability company also owned by AFG and affiliated with Brewer, its registered agent for service of process. Like CareGard Warranty Services, Inc., this entity was instrumental was directly involved in the breached broker dealer agreements and the fraudulent schemes pled in this lawsuit, which resulted in financial harm to Genuine Lifetime. Upon information and belief, all members of Defendant CareGard Dealer Services, LLC are residents of the State of Texas.

10. Defendant Southwest Colonial Reinsurance, Ltd. is a reinsurance entity affiliated with the AFG entities that resides in Texas. This entity was instrumental in managing financial transactions and reinsurance programs related to the misconduct alleged herein. Its involvement ties it directly to the financial harm caused to BEN and Genuine Lifetime. Upon information and belief, all partners of Defendant Southwest Colonial Reinsurance, Ltd. are individuals domiciled in the state of Texas, corporations incorporated and having their principal place of business in the State of Texas, and unincorporated associations whose members or partners are also domiciliary or citizens of the state of Texas.

11. Defendant Prime Reserve Plus, Inc. is a Texas corporation engaged in financial activities tied to the AFG entities. It acted in concert with Brewer and the other counter-defendants to facilitate the fraudulent schemes described in this lawsuit. Its principal place of business of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

12. Defendant DaidaX, Inc., formerly known as Pathwai, Inc. and Ben Automotive, Inc. is a Texas Corporation engaged in software technology and a subsidiary of AFG. It acted in concert with Brewer and other counter-defendants to facilitate the fraudulent schemes described in this lawsuit. Its principal place of business of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

13. Defendant DeLaporte Learning, Inc. is a Texas corporation that is controlled by Brewer and AFG. It acted in concert with Brewer and other counter-defendants to facilitate the fraudulent schemes described in this lawsuit. Its principal place of business of business and registered office and headquarters is: 1900 Champagne Blvd Grapevine, TX 76051.

II. JURISDICTION AND VENUE

A. Subject Matter Jurisdiction.

14. Diversity jurisdiction exists under 28 U.S.C. § 1332(a), as this controversy is between parties who do not share citizenship and the amount in controversy for this case exceeds $75,000.00 (U.S.), exclusive of interest and costs.

15. Plaintiffs consist of one individual and two limited liability companies. Taken together, Plaintiffs are citizens of three different states for diversity jurisdiction purposes: (1) California, (2) Nevada, and (3) Wyoming. Genuine Lifetime's citizenship is derived from the citizenship of its six members: (1) Michael Lucas, a natural person domiciled in the State of California, (2) Shawn Lucas, a natural person domiciled in the State of California, (3) James D. Henderson Jr., a natural person domiciled in the State of California, and (4) Lynda Shea, legal trustee of the Shea Family Trust, a natural person domiciled in the State of Nevada, (5) October 3rd Holdings, LLC, a limited liability company having two members of its own: (a) Tyler Luck, a natural person domiciled in the State of Wyoming, and (b) Michael Lucas, a natural person domiciled in the State of California, and (6) Great North Capital Corp., a for-profit corporation incorporated in the State of Nevada and having its principal place of business in the State of California. Therefore, Genuine Lifetime is a citizen of California, Nevada, and Wyoming, only. October 3rd Holdings, LLC (a citizen of Wyoming and California) and Tyler Luck (Wyoming) are the remaining two plaintiffs.

16. Conversely, the state citizenship of all Defendants is the State of Texas. As explained in paragraphs 4 through 13 above, Defendants are a collection of individuals, corporations, and unincorporated business associations that are domiciled in, have members or partners domiciled in, or are both incorporated and chiefly operated in the State of Texas. *Infra*, at ¶¶ 4–13. Therefore, in accordance with contemporary diversity of citizenship jurisprudence, Plaintiff alleges based upon the information available to it that all Defendants are citizens of the State of Texas only.

17. Because Plaintiffs and Defendants do not share state citizenship, there is complete diversity between the parties, and because Plaintiffs hereby plead that the amount in controversy in this matter exceeds $75,000, this Court has subject matter jurisdiction over all of Plaintiffs' claims in this case under 28 U.S.C. § 1332(a).

B. Personal Jurisdiction.

18. This Court has general personal jurisdiction over all Defendants because they reside, are incorporated, or conduct substantial business in the Northern District of Texas. Defendant Brewer resides in the Northern District of Texas and personally participated in the misconduct alleged herein from within this jurisdiction. All corporate defendants are Texas-based entities whose operations are within Texas such that they are essentially "at home" within the State of Texas, and this Court has general personal jurisdiction over them. Moreover, the specific misconduct on Defendants' part, complained of herein, took place squarely within the State of Texas, such corporate defendants and central to the Plaintiffs claims in this case. By entering into agreements with Genuine Lifetime and performing actions in breach of those agreements within the Northern District of Texas, Defendants purposefully availed themselves of the jurisdiction of this Court.

III. FACTUAL BACKGROUND

A. Introduction of the Parties and the Case.

19. This is a case about broken promises and the fraud, greed, and subterfuge of Defendant Ralph Wright Brewer, III and his multitude of alter ego entities, who together in 2023 approached Genuine Lifetime, Luck, and October 3rd Holdings, LLC to feign interest in deepening business ties and jointly innovating their businesses through shared artificial intelligence technology to induce Plaintiffs into entering a deceptive loan agreement and consenting to harmful key stock transactions—all to ultimately derive a benefit from insider trading, raid Genuine Lifetime, and eliminate it from the market.

20. Brewer is the owner and president of a host of entities, including limited liability companies AFG and CareGard.[1] Brewer also owns and controls companies called "AFG Technologies, LLC,"[2] a domestic for profit corporation, a domestic for-profit corporation called "Automotive Financial Group, Inc."[3] wholly owned by Brewer, and the other entities named in this Complaint. As verified by public records, Brewer and all his AFG entities operate out of a single location, two buildings in Grapevine, Texas with main street address 1900 Champagne Blvd. with some operations at 1904 Champagne Blvd., Grapevine, Texas 76051. Brewer so dominates

[1] Under Federal Rule of Evidence 201, Counter-Plaintiffs request the Court take judicial notice of Automotive Financial Group, Inc.'s latest Public Information Report (PIR), filed on December 31, 2022 with document number 1215071450001, available publicly on the Texas Secretary of State's website, which shows "Wright Brewer" is president, director, and chief executive.

[2] Under Federal Rule of Evidence 201, Counter-Plaintiffs request the Court take judicial notice of AFG Technology, LLC's latest Public Information Report (PIR), filed on December 31, 2023 with document number 1300619320001, available publicly on the Texas Secretary of State's website, which shows "AFG Companies, Inc." as the sole member and Wright Brewer as its sole director.

[3] Under Federal Rule of Evidence 201, Counter-Plaintiffs request the Court take judicial notice of Automotive Financial Group, Inc.'s latest Public Information Report (PIR), filed on December 31, 2023 with document number 1302641540001, available publicly on the Texas Secretary of State's website, which shows that "Wright Brewer" is president of Automotive Financial Group, Inc.

AFG and its related entities that there has ceased to be any separation between them, if one ever existed at all.

21. Genuine Lifetime is a company engaged in providing technology solutions, extended warranty coverage programs, lifetime limited warranties, and service contracts for automotive manufacturers, automotive dealers, parts distributors, tire distributors, wholesale clubs, retail locations, third party software solution providers, ecommerce platforms, independent repair facilities, and collision repair facilities.

22. But for the most part, Genuine Lifetime's business is creating automotive service contracts and "Lifetime Limited Warranties" that dealerships may then offer, provide and/or sell to their customers. These service contracts and Lifetime Limited Warranties cover a wide range of common automobile parts and accessories, including batteries, axles, windshield wiper blades, etc. And after a successful sale of one of these contracts or providing a Lifetime Limited Warranty, Genuine Lifetime provides the dealership with a third-party administrator ("**TPA**") that capably manages and administers the ongoing warranty program. This TPA acts as a liaison between the customer and the dealership, reviews and processes claims under the warranties sold, processes payments to repair facilities for covered repairs, and much more. Throughout the administration of the warranty programs, Genuine Lifetime works closely with the TPAs, providing technical support, software solutions, and other forms of assistance to ensure its automotive service contracts and Lifetime Limited Warranties

23. Over the years, Genuine Lifetime has established prosperous business relationships with major automotive dealerships located in the United States, including titans Mercedes Benz U.S.A. ("**MBUSA**") and Southeast Toyota Distributors ("**SET**").[4] Using these industry

[4] SET is a group of over 175 Toyota dealerships in various Southern states.

connections, Genuine Lifetime successfully *brokers* major service contracts between automotive dealerships and TPAs that Genuine Lifetime has developed working relationships with. These brokered transactions are made pursuant to a binding broker agreement between Genuine Lifetime and its TPAs entered at the outset. Importantly, these broker agreements contain Performance Award Programs ("**PAP**") whereby Genuine Lifetime derives its primary ongoing source of income. The PAPs in each broker agreement obligate the TPA to split proceeds from sales of brokered service contracts with dealerships with Genuine Lifetime during periods where the sales are highly profitable.

24. To break this down, one simply looks at the amount of money earned from providing Lifetime Limited Warranty contracts or selling service contracts which includes fees as well as "**Earned Reserves**," and then compares that with the amount of money lost from paying out and administering claims and pending claims covered under the same service contracts and Lifetime Limited Warranty agreements, which is referred to as "**Losses**." If the percentage of *Losses* to *Earned Reserves*, called the "**Loss Ratio**," reaches a specific threshold (less than 75%), then the TPA retains as compensation the first 25% of Earned Reserves for that period (called the "**Risk Fee**") and Genuine Lifetime receive the remaining 75% of Earned Reserves and can divide that up with its partners as negotiated. The fees per product and money from the Earned Reserves are its income for that underwriting year. This is Genuine Lifetime's primary business model.

B. *Above the Surface.* GL and AFG/CareGard enter into valuable broker dealership agreements.

25. Genuine Lifetime first began doing business with Defendants CareGard, AFG, and Brewer in 2020. It was in January of that year that Genuine Lifetime brokered a program between MBUSA and CareGard, whereby CareGard (as TPA) would administer some of Genuine Lifetime's lifetime limited warranties. This initial three-party program was limited to the sale and

administration of Genuine Lifetime's warranties for wiper blades on vehicles at MBUSA's dealerships. Genuine Lifetime and CareGard agreed to a PAP, and both parties began dutifully performing under the terms of that PAP with positive results.

26. Over the next two years, the MBUSA program proved to be a profitable and mutually enjoyable arrangement that fostered a closer relationship between Genuine Lifetime and CareGard.

27. In 2022, an opportunity arose for CareGard when Genuine Lifetime was called upon by Southeast Toyota/SET to replace the existing TPA Genuine Lifetime was using for very lucrative battery and axle warranty contracts. Because of the historic success of the MBUSA wiper program, Genuine Lifetime naturally considered working again with CareGard and offered to broker a deal between CareGard and SET.

28. After conferring, Brewer said "yes," and on August 3, 2022, Genuine Lifetime and CareGard entered the contract which now forms the basis of Genuine Lifetime's breach of contract claim—the Broker, Marketing, Product, and License Agreement (the "**Original Broker Agreement**"). Under the Original Broker Agreement, Genuine Lifetime and CareGard agreed to replace and supersede all prior contracts, and entered into a new binding agreement with an indefinite term for all warranty programs going forward. The Original Broker Agreement contained thirty-nine pages of overarching terms, and included an updated Statement of Work ("**SOW**") for all the MBUSA and SET warranty programs. The Original Broker Agreement and each of these SOWs contained uniform PAP terms as follows: For all SOWs and warranty programs between CareGard and Genuine Lifetime, if the Loss Ratio from an underwriting year is less than 75%, then CareGard retains the first 25% of Earned Reserves and the remaining 75%

is paid to Genuine Lifetime. If the Loss Ratio is 75% or above, then CareGard retains all Earned Reserves.

29. Additionally, the Original Broker Agreement obligated CareGard to pay Genuine Lifetime a fee for each automotive warranty contract successfully issued to the dealership. The amount of each fee varied depending on the program and SOW, but in the Original Broker Agreement a range of "a minimum of $0.50 cents (US$) up to a maximum of $6.75 (US$) per Contract issued" was provided.

30. The term of the Original Broker Agreement is indefinite. Wright Brewer personally signed the Original Broker Agreement on August 3, 2022, and the contract became fully executed and binding.

31. From there, Genuine Lifetime introduced CareGard to SET and brokered the Lifetime Limited Warranty Program Master Services Agreement, dated November 2, 2022, between CareGard & SET. SOWs between CareGard and SET followed soon thereafter, and a new Genuine Lifetime-CareGard-SET business relationship began.

32. Once both the SET and MBUSA brokered programs were well underway and humming, Genuine Lifetime began to enjoy an average revenue of about $35,000 *per month* under the Original Brokered Agreement, and revenues were on pace to grow significantly from there. An SET executive informed Genuine Lifetime that it was pleased with the TPA transition over to CareGard and stated that additional automotive parts were going to be added to the program. Genuine Lifetime's industry experience will show that including such parts was reasonably certain to increase Genuine Lifetime's monthly revenue to, conservatively, $100,000 per month under the agreements with CareGard.

C. *Above the Surface.* Brewer takes interest in a new AI-technology startup being pioneered by BEN, a company owned by some of Genuine Lifetime's members.

33. Meanwhile, in 2023, Genuine Lifetime's members were looking to capitalize on a different business opportunity in the burgeoning field of artificial intelligence ("**AI**"), which they had been working on for years separately from Genuine Lifetime.

34. This tech startup was and still is called Brand Engagement Network, Inc. ("**BEN**"), formed originally in 2018. BEN was formed to create powerful AI assistants capable of improving the automotive industry, heath care, and even more. In the world of cars and auto dealerships, BEN's technology was designed to be a customer-facing AI assistant that could increase dealership sales, improve data management systems, and lower labor costs. In health care, BEN invented a similar AI assistant that was capable of listening to, processing, and analyzing symptoms of healthcare patients with the goal of one day providing accurate diagnoses of simple health conditions through large data sets approved by medical professionals. This same technology was also customizable to fill any business' customer service needs.

35. Ultimately, across all these industries (but particularly auto and health care), BEN designed its AI products to be secure, ethical, and legally compliant. Part of BEN's value was its promise to business clients that their end-user's consumer data and protected health information would be safe and kept in conformity with global data privacy regulations.

36. Due to rapid advancements in AI in recent years, BEN's proprietary technology was well-poised to succeed. At or around June of 2023, BEN filed a business registration application in the State of Texas, with the intention of transacting business with dealerships in this State. Around this time, BEN also began a securities transaction with Genuine Lifetime, whereby BEN issued 500,000 shares of Class B Common Stock in BEN to Genuine Lifetime with certificate number CSB-79.

37. Upon learning about BEN through his business relationship with Genuine Lifetime, Brewer became very interested in BEN's AI technology. Brewer informed his contacts at Genuine Lifetime that he badly wanted to integrate BEN's AI technology into CareGard's TPA systems and even into the systems of his other business entities, including the entity that wholly owns CareGard: AFG Companies, Inc. Defendant Brewer also represented for the first time that AFG had a valuable database with a large volume of secure customer data that could leverage BEN's AI technology. Defendant Brewer assured BEN and Genuine Lifetime that AFG's databases were fully operational, compliant with data security standards, and capable of legally integrating BEN's AI-powered customer engagement solutions technology. Defendant Brewer also specifically represented to BEN and Tyler Luck that AFG and its subsidiaries had robust data security protocols in place and that its IT infrastructure was fully prepared to support BEN's proprietary technology. Brewer emphasized AFG's long-standing reputation in the automotive industry, presenting AFG as a reliable and trustworthy partner. Defendant Brewer even went so far as to propose an acquisition of all his entities, including AFG and CareGard, by BEN for $140 million dollars. Clearly, Brewer was all in, and he wanted to be in business with BEN.

38. Obviously, Defendant Brewer's representations in connection with these business proposals were material to the officers of Genuine Lifetime, as any misuse or data leak of sensitive customer data forever disrupt or jeopardize Genuine Lifetime's ongoing brokered deals with automotive dealerships, distributors and manufacturers and harm Plaintiff Genuine Lifetime's reputation in the industry. It was no secret that these databases included sensitive customer information from at least 175 Toyota dealerships through the SET programs and SOWs. Simply put, Genuine Lifetime would not have agreed to any deal with AFG involving BEN AI-Technology

or BEN securities if the robust data security protocols represented by Brewer were not in properly in place.

D. Genuine Lifetime and CareGard Amend the Broker Deal and BEN enters the Picture.

39. After negotiations between Plaintiff Genuine Lifetime, Defendant Brewer, and BEN, on or about August 18, 2023, Genuine Lifetime and CareGard agreed upon and signed a First Amendment to their Original Broker Agreement (the "**First Amended Broker Agreement**"). This amendment made a few material changes to the Original Broker Agreement entered on back on August 9, 2022.

40. First, it modified Genuine Lifetime's compensation structure slightly so that Genuine Lifetime's fee from each contract issued to the dealership was lowered from $0.50 cents to $0.25 cents. Second, the amendment added Defendant CareGard's parent company, Defendant AFG Companies, Inc., as a party and signatory to the broker deal. Third, the deal was modified to add an acknowledgement that the certificate of 500,000 shares of BEN shares originally issued to Plaintiff Genuine Lifetime would be transferred to Defendant Brewer and his relatives. Specifically, 470,000 shares to Tina & Wright Brewer (Tina is Brewer's wife); 10,000 shares to Ralph Wright Brewer IV (Brewer's son); 10,000 shares to Taylor Ann Brewer (Brewer's daughter); and 10,000 shares to Morgan Sue Brewer (Brewer's daughter). Apart from a few other minor changes, the terms of the Original Broker Agreement expressly remained in full force and effect.

41. The following day, on August 19, 2023, BEN and Defendant AFG entered into a bilateral Exclusive Reseller Agreement ("**ERA**" or "**Reseller Agreement**"). This ERA was a professional services contract whereby AFG and all its subsidiaries (including CareGard) would integrate BEN's innovative AI technology into all ongoing dealership systems, including the major dealer agreements in place with Plaintiff Genuine Lifetime. As a part of the Reseller Agreement,

Defendant AFG promised it would invest a substantial amount of cash in BEN annually over the next five years as well as purchase a set number of BEN shares. In exchange, Defendant AFG received favorable stock purchase terms and it was able to deepen its partnership with Plaintiff Genuine Lifetime.

42. Additionally, because the Reseller Agreement involved BEN's provision of its proprietary AI-technology to Defendants Brewer and AFG, the contract contained several express restrictive covenants of non-competition during the deal's full 5-year term, including a total prohibition on modifying, translating, reverse engineering, or otherwise building products or services to compete with BEN. Obviously, these safeguards were included because Defendant Brewer and his entities were about to become deeply involved with BEN and see behind the wizard's curtain. So, close cooperation would be essential, and gamesmanship was unacceptable.

43. Additionally, the Reseller Agreement served to benefit all parties to the already brokered dealer agreements with SET and MBUSA. Defendant CareGard's services would be improved, customers' and dealerships' experiences would be improved, and Plaintiff Genuine Lifetime's and CareGard's profits would also grow from increased sales and more parts contracts. Therefore, even though Plaintiff Genuine Lifetime was not a party to this Reseller Agreement between BEN and Defendant AFG, Plaintiff Genuine Lifetime was a notable beneficiary with an expectation interest and was involved in negotiating the ERA. Defendant Brewer and BEN officer Tyler Luck personally signed the ERA on behalf of their respective companies behalf on August 19, 2023.

44. On September 7, 2023, BEN further executed a Subscription Agreement with Defendant AFG (the "**Subscription Agreement**") to facilitate the future issuance, purchase, and delivery of an additional 650,000 initial shares of BEN common stock. As consideration,

Defendant AFG was required to make payment of $6.5 million to BEN, due on March 13, 2025, as the first of four consecutive yearly installments for a total investment into BEN of $32.5 million. The Subscription Agreement imposed clear, unconditional, and enforceable financial obligations on Defendant AFG, including its irrevocable commitment to purchase Initial Shares and subsequent Installment Shares in accordance with the agreed-upon schedule with no offsets.

45. By the end of September 2023, BEN had allocated 1.75 million shares of its common stock to Defendant AFG, subject to completion of the business combination agreement between BEN and the NASDAQ traded SPAC called DHC Acquisition Corp which would soon become NASDAQ traded BNAI in March of 2025.

E. *Above the Surface.* One month later, Genuine Lifetime enters a special loan agreement with AFG to raise capital for BEN.

46. In October of 2023, BEN was seeking additional working capital, and BEN approached Defendant AFG about accelerating a future payment it owed pursuant to the Reseller Agreement. Notably, around the timing of these conversations, Defendant Brewer and AFG were made aware of BEN's growth potential and that BEN had begun plans to raise capital through the public stock market. Indeed, BEN planned to go public on the NASDAQ via a merger with a Special Purpose Acquisition Company ("**SPAC**").

47. So, in response to BEN's question about a potential advance payment under the Reseller Agreement, Defendants Brewer/AFG expressed reluctance to accelerate any upcoming payments, and instead, Defendant Brewer stated he was willing to explore "loan possibilities" involving Plaintiffs Genuine Lifetime and Tyler Luck, personally. Trusting in Defendant Brewer's transparency up until this point and relying on his/AFG's commitments under the ERA and dealer agreements, Genuine Lifetime and Luck entered good-faith negotiations on the "loan possibilities" Brewer was envisioning.

48. Defendants AFG, through Brewer, represented that it would loan $4,000,000 to Genuine Lifetime, to directly purchase shares of BEN, all in order to help BEN meet its need for working capital and to be the catalyst for a successful launch in the automotive industry. During negotiations, Defendants Brewer and AFG openly represented that the intent for this loan of money was to *support* BEN and to accommodate BEN's sincere requests for funding.

49. These negotiations culminated in the October 17, 2023, loan agreement *between GL and AFG* which is the subject of Plaintiff's Original Petition (the "**Loan**"). Under the terms of the Loan, the parties agreed that Defendant AFG would lend to Plaintiff Genuine Lifetime, four million dollars ($4,000,000) upon two conditions which Brewer insisted: (a) **that Plaintiff Genuine Lifetime would use those funds to purchase shares of BEN before it went public**, and (b) **that Plaintiff Genuine Lifetime would pledge its assets and member interests as collateral for the loan**.[5] Additionally, per Defendant Brewer's insistence, Plaintiff Tyler Luck had to agree to personally guarantee the Loan, which he did through execution of a guaranty agreement on October 17, 2023 (the "**Guaranty**").

50. The first of the two conditions insisted by Defendants Brewer and AFG is significant. In essence, the Loan made Defendant Brewer and AFG insiders to what would be a major multi-million-dollar stock transaction of BEN before it went public. The second condition and the Guaranty terms were of course also very significant to Plaintiffs. Because pledging Genuine Lifetime and Luck's assets as a security for a $4,000,000 loan that could only be invested in BEN, that greatly increased the need for BEN having a successful launch and made Plaintiffs' and AFGs' joint investment and cooperation in BEN all the more important.

[5] Interest terms were also contained in the Loan.

51. On October 17, 2023, both the Loan and all security agreements, including the Guaranty, were entered. As promised, Plaintiff Genuine Lifetime used the proceeds of the Loan to purchase 493,333 shares in BEN, making those shares Genuine Lifetime's largest asset. And BEN used the increased working capital to proceed onward as hoped.

52. On March 15, 2024, BEN began trading publicly on the NASDAQ under the symbol **BNAI**. With this, the stage was set for one of the worst betrayals in either Genuine Lifetime's or BEN's history.

F. *Beneath the Surface*. AFG's data systems had been hacked at all relevant times, and AFG/Brewer concealed the date breach from everyone, including the government.

53. Hidden beneath the surface is the disturbing truth that Defendant Brewer and his web of sham entities had been engaging in a fraudulent scheme for many months, intentionally concealing crucial facts to both subvert and plunder Plaintiff Genuine Lifetime and BEN through the agreements described above. While it is unclear when Brewer *first* made the malicious move to turn on Plaintiff Genuine Lifetime, BEN, and their respective owners, whom he had entered into close ties with, the first evidence of his betrayal can be traced back to at least August of 2023.

54. ***Five days*** before Defendant Brewer and Plaintiff Genuine Lifetime amended the Original Broker Agreement to integrate BEN and *two months* prior to any negotiations on the Genuine Lifetime Loan Agreement, Defendant AFG had sustained a massively sweeping data security breach and ransomware attack on August 13, 2023 (the "**Hack**"). This Hack resulted in the involuntary disclosure of an enormous volume of sensitive consumer information—including the information of customers covered under the SET and MBUSA dealer agreements. But despite its systems being completely compromised, Defendants AFG and Brewer told no one about the Hack, despite having a fiduciary and statutory responsibility to do so.

55. This breach and ransomware attack was so serious, and the cover up so damning, that it led one of AFG's top executives—Travis Gates—to resign. At the time, Gates was the President of AFG Technologies, another one of AFG's wholly owned subsidiaries noted earlier. Gates also performed services for multiple other AFG-related companies, as those companies all operated out of the same office building in Grapevine, Texas where Brewer. Gates, because of position at AFG, was intimately familiar with AFG, AFG operational structure, the data breach, and AFG's response to it.

56. The Hack was conducted by the notorious "ALPHV" group, an affiliate of the BlackCat ransomware organization. BlackCat was the same hacking group or threat actor that infiltrated MGM Casinos and the same threat actor that elicited a multi-million-dollar extortion payment from Caesars Palace.

57. This attack rendered AFG's systems inoperable and compromised over 105,000 files, including sensitive consumer and dealership data. AFG's controller, Amanda Tettleton, confirmed that more than 105,000 files on AFG servers and employee workstations, including files containing personal information of customers and individual warranty policy holders, had been compromised and encrypted. "Encrypted" means that a threat actor infiltrated a computer network and changed password and security keys so that only the threat actor (ALPHV) had access to the encrypted files, holding them hostage. Generally—just like here—the threat actor then sends a ransomware note demanding an extortion payment in return for providing the owner with access to its own computer network.

58. AFG was first notified of the data breach by Integris, a cybersecurity company. Upon learning that there had been a ransomware attack and data breach, AFG's immediate initial response to this data breach was to contact its insurer Cowbell who put AFG in touch with its law

firm Mullen & Coughlin as well as Booz Allen, one of the nation's leading cybersecurity organizations, and to ask Integris to assess the extent of damage and data compromised by the breach. Integris's assessment revealed the damage done by the hack was severe and Booz Allen was going to provide advice for an informed, prudent response.

59. At this point, Defendants Brewer and AFG should have allowed Booz Allen and Integris to finish an investigation of what files, exactly, had been taken by the threat actor to determine what reporting obligations AFG needed to make to various state and federal agencies as well as its contracting business partners. Instead, ***Brewer and AFG affirmatively dismissed Booz Allen and Integris before the analysis could be completed and set about trying to cover up the ransomware and data breach***.

60. For lack of a better term, Defendant Brewer then ordered Gates to "throw out" AFG's old servers and workstations and replace them with new servers and workstations containing updated security systems. Defendant Brewer refused to engage in any kind of communication with the threat actor or pay the ransom to officially put a cork in ALPHV's ransomware attacks. Accordingly, instead of determining what personal information of consumers had been comprised by the breach, Defendants Brewer and AFG simply buried their collective heads in the sand and acted like nothing had happened.

61. Moreover, Defendants AFG and CareGard had no Incident Response Plan ("**IRP**") in place to adequately respond to any cyber-attack. As required by various laws and regulations, including the Federal Trade Commission, Gramm-Leach-Bliley Act ("**GLBA**") and FTC Safeguard, AFG had a duty to protect its investors, stockholders, and most importantly its consumers and customers. Despite full knowledge of the cyberattack, Defendants AFG and Brewer failed to file data breach notifications with any state governments or federal agencies, including

the Federal Trade Commission under the GLBA and the updated Federal Trade Commission Safeguards Rule.

62. AFG also omitted crucial information about the Hack to Genuine Lifetime and BEN. Defendant Brewer knew that disclosing the existence of the Hack would have jeopardized his plans with respect to the ERA and his personal financial gains tied to BEN's stock and warrants (discussed further below). So, Defendants Brewer and AFG proceeded to enter into the Reseller Agreement with BEN less than a week later on August 19, 2023, beginning toward a possible full integration of BEN's AI-technology with the compromised consumer data, effectively tainting BEN's maiden voyage into the southern automotive industry. Defendants Brewer, AFG, and CareGard also said nothing to Plaintiff Genuine Lifetime, or Genuine Lifetime's customers SET, or MBUSA about the compromise of their dealership data or their customer's data. And Defendants Brewer/AFG continued to say nothing to Plaintiffs Genuine Lifetime or Luck about this breach before the parties entered the Loan Agreement and Guaranty, which was premised on transparency and BEN's future market success, which was now doomed if the Hack ever came to light.

63. Before making the decision to leave Defendant AFG over this cover up, former AFG Technologies president Travis Gates continued to implore Brewer to have Defendant AFG make reporting obligations as required by law, but Defendant Brewer was insistent on a cover up. Because of the inaction by Defendant AFG, Gates notified the Office of the Attorney General of the State of Maryland of Defendant AFG's failure to file data breach notifications within the state and filed "whistleblower" notices of the breach (upon information and belief) with the Attorney General offices of 48 states, including Texas. On or about March 23, 2024, a separate individual whistleblower, upon information and belief, notified the Office of the Attorney General of the State of California of AFG's failure to file data breach notifications within the state. On April 22, 2024,

Automotive News published an article under its finance and insurance section outlining a data breach event within Defendant CareGard.

64. When it first received notice of the whistleblower notices, Plaintiff Genuine Lifetime asked Defendant AFG to confirm. Two days later, on March 26, AFG's counsel responded as follows:

> *Yes, AFG Companies suffered a data breach last August. And the company did everything it was supposed to have done, in response. That included properly reporting to the FBI, working with special counsel and the company's insurance carrier, doing the necessary forensic work, and ultimately hardening the company's systems.*

65. This response was replete with half-truths, as the claim that Defendant AFG had done "the necessary forensic work" is controverted by Defendant AFG dismissing its own forensic experts before their work was complete.[6] In fact, no final forensic report was ever generated. Accordingly, AFG was, and remains, in violation of various federal and state reporting requirements, including the State of Texas. Tex. Bus. & Com. Code Ann. §§ 521.002, 521.053.

66. But ultimately, Defendants Brewer, CareGard, and AFG's total concealment of the ransomware Hack constituted a material omission that directly induced Plaintiff Genuine Lifetime to enter the Loan and continue working at risk with Defendants AFG, CareGard, and Brewer. Had Plaintiff Genuine Lifetime been made aware of the attack, it would not have entered into the Loan or agreed to provide Defendant Brewer and his relatives the 500,000 shares of BEN stock originally issued to Genuine Lifetime. The concealed breach created immediate risks to Plaintiff Genuine Lifetime's relationship with SET and MBUSA, and Plaintiff GL has suffered damages as a result of this deception.

[6] As for the claim that AFG contacted the FBI, GL submitted a Freedom of Information Act request on April 20, 2024 to determine the veracity of that claim by AFG. The FBI responded on April 24, 2024, informing GL that there was ***no record of any report made by AFG or any of its related companies***.

G. *Beneath the Surface*. At all relevant times, Wright Brewer and AFG began to compete against BEN and develop their own AI engagement technology through stolen secrets

67. Furthermore, rather than acting as BEN's ally and reseller, as agreed to in the ERA, Defendant AFG immediately embarked on a path to compete against BEN and "slow-roll" any agreements with customers to aid the development of Defendant Brewer's own competing brand of AI customer service products.

68. As early as October 2023, Brewer explicitly declared in an internal meeting with executive leadership of Defendant AFG that AFG was, "going to war" and "had to own all of this" (referring to the intellectual property of BEN and its AI trade secrets). Around this point in time after both the hack had occurred and the term of the Reseller Agreement had begun, Defendant AFG continued to demand access to BEN's source code.

69. Defendant AFG was, in fact, creating new competing AI technology platforms known as "Symphonai," "Pathwai," and/or "DaidaX," and engaged in discussions with a different AI company and competitor to BEN, DriveCentric; AI-Driven Automotive Industry Software, to advance their new platform.

70. Upon information and belief, on March 7, 2024, Defendant Brewer convened a clandestine off-site executive meeting at 8343 Hilltop Road, Argyle, Texas ominously titled "AFG Executive Vision Meeting" to conspire with others to compete against BEN. During this meeting, Defendant Brewer unveiled a five-year plan centered on creating a new entity to compete against BEN, its new business partner, known as "Pathwai." Specifically, Pathwai (now DaidaX) was designed to compete against BEN in the automotive AI market. Brewer openly declared "war on" BEN as AFG's direct competition. This declaration came despite the fact that Defendant Brewer had already reaped significant personal financial gains from his BEN stock holdings. His

calculated betrayal laid bare his intent to undermine BEN even as he grossly enriched himself to BEN's detriment in the automotive market.

71. Defendant Ralph Wright Brewer, III, Chief Executive Officer of AFG, Jason DeLaporte (President of DAIDAX, f/k/a Pathwai Inc., and BEN Automotive Inc.) William "Bill" Bigley (Chief Financial Officer of AFG), Amanda Tettleton (Chief Accounting Officer of AFG), Keith Cooper (Chief Operations Officer of AFG), Dave Duggan (Chief Technology Officer of AFG), Travis Gates (Former Chief Compliance Officer of AFG) and Erick Roberts (Former Vice President of Software of AFG) were all in attendance.

72. According to witnesses at the meeting on March 7, 2024, Defendant AFG's President of now DAIDAX, Jason De Laporte, stated that AFG "*did not have the operational capacity to fulfill the exclusive reseller agreement*" with BEN and also planned to violate the exclusivity clauses within the Reseller Agreement. De Laporte continued on, stating, "*If we do the SET deal, because now I don't have to go to market, I don't have to sell, I don't have to do all these things*."

73. Defendant AFG's Chief Technology Officer Dave Duggan stated: "*if the technology were developed now and ready to go, they would all be signing up . . . We might be able to accelerate this actually because the technician assistant, BEN AI can do most of that without a ton of development on our side, because its feeding manuals*." This statement by Defendant AFG not only demonstrates AFG's utter lack of any intention to fulfill its commitment to BEN, but it further shows how wholly unprepared Defendant AFG was to move forward with any agreements with BEN.

74. Also, according to witnesses present at the March 7th meeting, Defendant Brewer blatantly admitted his intention to violate the exclusivity and non-compete provisions of the

exclusive reseller agreement with BEN even before receiving BEN stock. Specifically, Wright Brewer stated, "*to be quite frank [ ], the person we have to compete against (BEN), potentially on those ten companies, would be BEN Inc.*" Defendant Brewer exclaimed to the AFG team, "*Oh no we keep everything*," which was Defendant Brewer's strategy all along to compete against BEN, and to never provide BEN with any automotive dealer systems information for BEN AI Automotive.

75. Defendant AFG executives also outwardly acknowledged during this meeting that the ransomware attack and data breach in August of 2023 were concealed from BEN so AFG could fraudulently obtain BEN stock grants. Keith Cooper (AFG's COO) stated, "*we're just lucky*" that SET hasn't asked for any kind of notification since the data breach. Dave Duggan chimed in and acknowledged that Defendant AFG was still behind in meeting AFG's cyber security industry standards and regulatory compliance. He stated, "*I'm sorry, I'm looking at accelerate completion of SOC2 and FTC Safeguards compliance*."

76. Finally, at the March 7th meeting, Defendant Brewer acknowledged that even eight months later, AFG still had no database or dealer systems information to launch any products for AFG, let alone data sets for BEN under AFG's contractual obligations. Defendant Brewer made this utter lack of functional data systems at AFG as of March 7, 2023 clear: "*So knowing the type of reports that their looking for, and knowing when we can put our database, finish our database with all the CareGard data, what does that look like*" and "*that depends on when the database is going to be completed*."

77. Further evidence of AFG's direct competition against BEN in the automotive AI industry can be found through the Texas Secretary of State. On December 21, 2023, AFG formed a new wholly owned entity called "BEN Automotive, Inc.," which it registered with the State the

next day. This entity turned out to be the entity Defendants AFG and Brewer was using to compete with BEN, given that, on June 28, 2024, AFG amended BEN Automotive, Inc.'s registered name with the State to Pathwai, Inc. This name amendment was not disclosed to BEN or Plaintiff GL. After the departure of another employee, and in order to further conceal their fraudulent scheme, on October 28, 2024, AFG then filed another amended name with the Texas Secretary of State of Pathwai, Inc. to DaidaX, Inc. On February 12, 2025, Defendant AFG filed a change of DaidaX, Inc.'s registered office address to the same address as all his other sham entities: 1900 Champagne Blvd., Grapevine, TX 76051.

78. Neither Plaintiffs nor BEN were ever informed of these devious plans by Defendant Brewer and his entities to violate the exclusive Reseller Agreement and directly compete with BEN. Neither Plaintiffs nor BEN were ever told about Defendant AFG's relationship with another test dealership or Defendant AFG's intent not to meet its contractual requirements related to BEN's AI software. Additionally, neither Plaintiffs nor BEN were ever informed of Defendant Brewer or his AFG entities' October statements to "go to war" or create competing AI companies using BEN's intellectual property and trade secrets.

79. The existence of these overt plans at the time that Plaintiff Genuine Lifetime entered the Loan and Luck entered the Guaranty were absolutely material to their decisions to sign. Had Plaintiffs known for a moment that Defendant Brewer was planning to directly compete against BEN concurrently with his open, warm promises to become a collaborative stakeholder in BEN and resell its technology, then Plaintiff Genuine Lifetime would have never agreed to accept a loan of $4 million from Defendant AFG to invest directly in the tech company Defendant Brewer was conspiring to destroy.

H. *Beneath the Surface*. Wright Brewer used the Exclusive Reseller agreement and Loan Agreement to make millions through insider trading.

80. In addition to Defendant Brewer's undisclosed plans to compete against BEN, Brewer had other undisclosed plans to use his insider knowledge of Plaintiff Genuine Lifetime's loaned investment of $4 million and Defendants Brewer/AFG's own positions in AFG acquired in the fall of 2023.

81. Again, *before* BEN went public, by September 2023, BEN had allocated 1.75 million shares of its common stock to Defendant AFG in September 2023, subject to the completion of the merger with the DHCA SPAC, valued at $10 per share at the time of issuance. Those shares were subsequently transferred in March of 2024 to Defendant AFG. This initial allotment provided Defendant AFG with free trading stock valued at $17.5 million.

82. Shortly *after* BEN began publicly trading on or about March 15, 2024, BEN's stock price rose to $19 per share, significantly increasing the value of Defendant AFG's holdings to approximately $33.5 million, creating a personal financial windfall for Defendants Brewer and AFG.

83. Upon information and belief, in addition to the stock allotment, Defendant AFG also secured a warrant agreement as part of the Reseller Agreement. This warrant agreement granted Defendant AFG the right to purchase an additional one million shares of BEN stock at $10 per share, subject to performance benchmarks related to Defendant AFG's obligations and performance under the Reseller Agreement. At the time the stock price reached above $19, this warrant provided Defendant Brewer with an unrealized potential profit of approximately $9 million if exercised.

84. So, on March 15, 2024, Defendant Brewer's scheme had reached its apex. BEN's stock became publicly traded, instantly making Defendant Brewer and his family

multimillionaires. On information and belief, these sales began on or around March 15, 2024, when BEN AI stock was trading on the NASDAQ under the stock symbol BNAI and the stock traded as high as $19.75 a share on March 18, 2024. Witnesses observed Defendant Brewer in his office, pressuring his Goldman Sachs stockbroker, Sean Baird, to liquidate as much BEN stock as possible at the market's opening. On information and belief, Defendant Brewer acknowledged to the witness the sale of securities on Friday, March 15, 2024, the day BEN began trading on the NASDAQ. At this time, Defendant Brewer was an insider holding more than 5% of BEN's stock, and knowingly concealed from BEN, the public markets, and the SEC in direct violation of securities laws the sale of those securities and subsequent required 13d filings. This concealment was integral to Defendant Brewer's fraudulent scheme, allowing him to profit while evading disclosure obligations.

85. Defendant Brewer not only hid this planned, rapid sell off of BEN shares, he failed to file the required Rule 13 disclosure and all subsequent disclosures to the detriment of Plaintiff Genuine Lifetime, one of BEN's other investors and shareholders.

86. By May 15, 2024, hardly two months after going public, BNAI stock traded at a low of around $1.00, wiping out hundreds of millions of dollars in value to BEN and decimating Plaintiff Genuine Lifetime's acquired $4 million position in BEN through Defendant AFG's Loan. At the high on March 18, 2024, the value of each of Plaintiff Genuine Lifetime's BEN shares was $13.72 (excluding the intra-day high of $19.75), making its total position worth $6,768,528.76. However, by March 25, 2024, the value of that position tanked to $2,925,464.69, and continued to tumble down to only $517,999 by May 15, 2025. The public share price of BNAI stock has never remotely recovered, and as of the time of this position, Plaintiff Genuine Lifetime's position is still worth only approximately $187,466.54.

87. Upon information and belief, this dramatic sell-off and fall in the BEN share price was planned and known to Defendant Brewer at all times when he negotiated the Loan between Plaintiff Genuine Lifetime and Defendant AFG. Had Plaintiff Genuine Lifetime known that Defendant Brewer planned to compete with BEN and immediately sell-off almost all his BEN positions, his family member's BEN positions, or his entities' BEN positions, at the opening in March and April of 2024, which would dramatically impact the stock, harm its own position, harm BEN, and ultimately kill the parties' original goal of working together to implement BEN in the automotive market, then Plaintiff Genuine Lifetime would have never entered the Loan in the first place.

I. CareGard Breaches the Original Broker Agreement and Payments to Genuine Lifetime.

88. Amid all this betrayal in March of 2024, it is unsurprising that Defendant Brewer's original entity doing business with Plaintiff Genuine Lifetime, Defendant CareGard, also took action to harm Plaintiff Genuine Lifetime and tear up their original business agreements.

89. As previously discussed, Defendant CareGard was obligated to pay Plaintiff Genuine Lifetime a percentage of Earned Reserves as well as contract fees, as agreed to in the Original Broker Agreement and First Amended Broker Agreement. The terms of these agreements provided a monthly payment schedule, whereby all contract fees were due to be paid on or before the 15th business day of each calendar month and profit-sharing PAP payments due to Plaintiff Genuine Lifetime were due within one-hundred and twenty (120) days after each annual December 31st evaluation date.

90. However, on May 15, 2024, Defendant CareGard did not pay to Plaintiff Genuine Lifetime the monthly contract fees required by the Original Broker Agreement and First Amended

Broker Agreement. The last payment received was on April 15, 2024, for approximately $37,000 for the February 2024 earned fees.

91. Moreover, on April 29, 2024, the 120th day of FY 2024, when profit-sharing PAP payments were due, no payments were delivered or other accounting provided to Plaintiff Genuine Lifetime. Defendants Brewer, CareGard, and AFG had openly breached and repudiated those fundamental contracts.

92. Through its contacts with SET, Plaintiff Genuine Lifetime obtained a Defendant CareGard invoice for the month of March 2024 that shows that Defendant CareGard continues to provide and bill for brokered TPA services to SET. Accordingly, upon information and belief, Defendant CareGard to this day still receives fees and proceeds from Plaintiff Genuine Lifetime's brokered warranty contracts and owes valuable contract fees and profit-sharing payments to Plaintiff Genuine Lifetime.

93. As a direct result of Defendants CareGard and AFG's breach of the Original Broker Agreement and First Amended Broker Agreement, Plaintiff Genuine Lifetime has suffered damages in the amount of unpaid contract fees and profit-sharing payments from April 15, 2024, to the present.

94. Upon information and belief, the total amount of these fees exceeds $75,000.

J. *Beneath the Surface*. Alter Ego and Veil Piercing.

95. At all relevant times, Defendant Brewer has exercised complete control over all other Defendants named in this lawsuit ("**AFG Defendants**"), disregarding corporate formalities and using the entities as his alter ego to commit fraud and evade contractual obligations. Defendant Brewer's misconduct demonstrates personal liability under theories of fraud, securities violations, and piercing the corporate veil.

96. Defendant Brewer is the alter ego of AFG Defendants, including CareGard and AFG, and vice versa. Moreover, AFG Defendants are alter egos of one another.

97. Plaintiff Genuine Lifetime is informed and believes, and thereon alleges, that at all times mentioned in this complaint, that each of Defendants were the agent and employee of each of the other remaining Defendants, and in doing the things alleged in this counter-complaint, were acting within the course and scope of this agency and employment, and each has ratified and approved the acts of its agent.

98. Defendant Brewer's misuse of AFG Defendants demonstrates a clear need to pierce the corporate veil and hold him personally liable. Defendant Brewer disregarded corporate formalities, undercapitalized AFG Defendants, and used them as his alter ego to carry out fraudulent and retaliatory actions.

99. Defendant Brewer's actions show a consistent pattern of personal enrichment and bad faith conduct, which cannot be shielded by the corporate entities he controlled. Holding Brewer personally liable is essential to ensure accountability for the harm caused to Plaintiff Genuine Lifetime.

100. The harm caused by Defendant Brewer and AFG Defendants continue to affect Plaintiff Genuine Lifetime, requiring significant resources to address and mitigate. GL has suffered long-term financial and reputational damage, limiting its ability to pursue business opportunities and maintain trust with partners and clients.

101. This lawsuit seeks to hold Defendant Brewer and AFG Defendants accountable for their actions and secure the relief necessary to compensate Plaintiff Genuine Lifetime for the harm they have suffered.

IV. CAUSES OF ACTION

COUNT 1

Breach of Contract

(Genuine Lifetime against CareGard Warranty Services, Inc. and AFG Companies, Inc.)

102. Plaintiff realleges each and every allegation set forth above and incorporates them herein.

103. The stated governing law of the Original Broker Agreement and First Amended Broker Agreement is the law of the State of Texas.

104. To establish a breach of contract claim under Texas law, the Plaintiff must prove (1) the existence of a valid contact; (2) the plaintiff performed or tendered performance; (3) the defendant breached of the contract; and (4) the plaintiff sustained damages as a result of the breach.

105. On August 3, 2022, AFG entered into the Original Broker Agreement with Plaintiff Genuine Lifetime, which is a valid and enforceable agreement. On August 18, 2023, Plaintiff Genuine Lifetime, Defendant CareGard, and also Defendant AFG entered the First Amended Broker Agreement, which is also a valid and enforceable agreement.

106. Under the terms of the Original Broker Agreement and First Amended Broker Agreement, Defendants CareGard and AFG agreed to, among other things: (a) pay to Plaintiff Genuine Lifetime a fee for each contract issued to a brokered dealership, including SET and MBUSA, and (b) under the PAP, pay to Genuine Lifetime 75% of Earned Reserves from the brokered dealership warranty contracts, after CareGard retains the first 25%, so long as the Loss Ratio for the underwriting period fell below 75%.

107. After execution of these agreements, Plaintiff Genuine Lifetime performed its obligations and/or tendered performance.

108. However, on March 15, 2024, Defendants CareGard and AFG did not pay to Plaintiff Genuine Lifetime the monthly contract fees required by the Original Broker Agreement and First Amended Broker Agreement. And on April 29, 2024, the 120th day of FY2024, when profit-sharing payments for FY2023 were due, Defendants AFG and CareGard failed to deliver payment of the profit-sharing payments due to Plaintiff Genuine Lifetime. These acts constitute Defendants CareGard and AFG's breach of the Original Broker Agreement and First Amended Broker Agreement.

109. Upon information and belief, for every month after March 2024 to the present, Defendants CareGard and AFG have continued to receive income through its contracts through dealerships brokered by Plaintiff Genuine Lifetime, for which monthly contract fees are due to Plaintiff Genuine Lifetime.

110. Upon information and belief, for FY2023 and FY2024 the Loss Ratios for these same brokered contract remain below 75%, meaning that profit-sharing payments remain due and owing under the agreements as well.

111. Defendants CareGard and AFG's breaches were willful and deliberate, as evidenced by CEO Ralph Wright Brewer III's active concealment of the ransomware attack, concealment of his plans to compete against BEN, concealment of his scheme to sell-off his BEN positions and harm Plaintiff Genuine Lifetime, and fraudulent inducement of the Loan.

112. As a direct and proximate result of Defendants CareGard and AFG's breaches, Plaintiff Genuine Lifetime has suffered substantial financial harm.

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COUNT 2

Declaratory Judgment that the Loan is Void

(Plaintiffs against AFG Companies, Inc.)

113. Plaintiffs re-allege and incorporates by reference each and every allegation set forth above.

114. "[F]raud vitiates whatever it touches." *Morris v. House*, 32 Tex. 492, 495 (1870); *see also Bannum, Inc. v. Mees*, No. 07-12-00458-CV, 2014 WL 2918436, at *1 (Tex. App.—Amarillo June 24, 2014, no pet.) (mem. op.) (noting that void contract "is something that never occurred," and thus after contract at issue was rendered null and void, party could not sue for breach of contract because there was no contract susceptible to breach); *Pathfinder Oil & Gas, Inc. v. Great W. Drilling, Ltd.*, 574 S.W.3d 882, 890 (Tex. 2019) (stating one element of breach-of-contract claim is existence of valid contract).

115. Pursuant to Chapter 37 of the Texas Civil Practice & Remedies Code, Plaintiffs seek a declaration that Defendant AFG fraudulently induced Plaintiff Genuine Lifetime into entering the Loan on October 17, 2023, and Tyler Luck into entering the Guaranty simultaneously, and that the Loan is both void and unenforceable.

116. To establish a contract was fraudulently induced under Texas law, a plaintiff must prove that: (1) the defendant made a material misrepresentation; (2) the defendant knew at the time that the representation was false or lacked knowledge of its truth; (3) the defendant intended that the plaintiff should rely or act on the misrepresentation; (4) the plaintiff relied on the misrepresentation; and (5) the plaintiff's reliance on the misrepresentation caused injury. A "misrepresentation" can occur when the defendant falsely promises to perform a future act while having no present intent to perform it.

117. Fraud by Defendants CareGard and AFG that voids the subject Loan may also be proven through common law fraudulent concealment, which requires proof that (1) the defendant concealed from or failed to disclose certain facts to the plaintiff, (2) the defendant had a duty to disclose the facts to the plaintiff, (3) the facts were material, (4) the defendant knew the plaintiff was ignorant of the facts, and the plaintiff did not have an equal opportunity to discover the facts, (5) the defendant was deliberately silent when it had a duty to speak, (6) by failing to disclose the facts, the defendant intended to induce the plaintiff to take some action or refrain from acting, (7) the plaintiff relied on the defendant's nondisclosure, and (8) the plaintiff was injured as a result of acting without the knowledge of the undisclosed facts. A duty to disclose arises when the defendant creates a false impression by making a partial disclosure and when the defendant voluntarily discloses some information but fails to disclose the whole truth. A false impression arises when the defendant discloses some facts and conceals others knowing that the plaintiff is ignorant of the undisclosed facts and does not have an equal opportunity to discover the truth.

118. Defendant AFG, led by Defendant Brewer, made deliberate and material misrepresentations and false promises to induce Genuine Lifetime into entering the Loan. First, Defendant AFG, through Defendant Brewer, specifically represented and promised that Defendant AFG and its subsidiaries had robust data security protocols in place and that its IT infrastructure was fully prepared to support BEN's proprietary technology. This representation and all other positive assertions of fact that Defendants AFG and CareGard made to Plaintiffs that it had secure databases and robust data security systems was false, misleading, and partial disclosure, as prior to making these allegations, Brewer and Defendants had suffered the Hack described in this Complaint and were engaging in an illegal coverup of the Hack. Defendants Brewer and AFG both knew about the Hack and the subsequent coverup at the times that these representations were

made, yet remained deliberately silent. Defendants AFG and CareGard knew that Plaintiffs were ignorant of the Hack and coverup and did not have an equal opportunity to discover the existence of the same. Plaintiffs relied to their detriment on Defendant AFG's misrepresentations and false promises about Defendants' supposedly secure data and systems as well as Defendant AFG's silence about the existence of the Hack and coverup when Plaintiffs entered the Loan and Guaranty. And obviously, the Hack was material to Plaintiff Genuine Lifetime, and Genuine Lifetime would not have entered the Loan had Defendant AFG properly disclosed the Hack and subsequent coverup.

119. Second, Defendant AFG entered the Reseller Agreement and promised to honor the obligations of anti-competition provisions stated therein, but Defendants AFG and Brewer had no intention of honoring those promises at the time they were made, as Defendant AFG made those promises only to obtain access to BEN's AI-Technology and compete against it, creating new competing AI technology platforms known as "Symphonai," "Pathwai," and/or "DaidaX," and possibly assisting competitor Drive Centric or others to advance a competing AI customer service platform. Defendant AFG made these false promises to both BEN and Plaintiffs, as these misrepresentations of working together with BEN and not competing against BEN were a material reason for why Plaintiff Genuine Lifetime transferred its 500,000 shares of BEN to Defendant Brewer and his family through the First Amended Broker Agreement. Defendant AFG reiterated these positive promises of collaboration with BEN and non-competition with BEN when Defendant Brewer faked interest in a BEN acquisition and when Defendant AFG pitched the Loan to Plaintiffs to "help" BEN with its funding needs. Ultimately, Defendant AFG made these false promises and misrepresentations to Plaintiffs with the intent that Plaintiffs would rely on them and to induce Plaintiff Genuine Lifetime into entering the Loan. In reliance on these false promises,

misrepresentations, and Defendants AFG and Brewer's concealment of the active plans to compete against BEN, Plaintiff Genuine Lifetime signed the Loan and Plaintiff Luck signed the Guaranty.

120. Finally, Defendant AFG falsely represented that it was loaning $4 million to Plaintiff Genuine Lifetime to invest in BEN to provide BEN financial funding for a successful launch in the automotive industry and to accommodate BEN's request for working capital. In truth, when Defendants AFG and Brewer made these representations, they simultaneously were planning a mass sell-off their own BEN shares purely to profit from the Loan as an insider and not for the purpose of supporting BEN. To the contrary, when Defendant AFG and Brewer made the representations of supporting BEN in connection with negotiating the Loan, they knew that their plans would devastate BEN , depress the stock, and harm Plaintiffs, ultimately killing the parties' original goal of working together to implement BEN in the automotive market. Had Plaintiffs known of these false promises, misrepresentation, and concealed plans of the sell-off, Plaintiffs would have never entered the Loan or the Guaranty in the first place.

121. All of these misrepresentations have proximately caused Plaintiffs to suffer injury, and all elements of fraudulent inducement of the Loan are proven by these alleged facts. Consequently, the Court should declare that Defendant AFG's fraud renders the Loan void and that Plaintiff Genuine Lifetime bears no obligation to Defendant AFG pursuant to its terms. Additionally, the Court should that Defendant AFG's fraud renders the Guaranty void and that Plaintiff Luck bears no obligation to Defendant AFG pursuant to its terms.

122. Pursuant to Texas Civil Practice and Remedies Code Section 37.009, 38.001, and any other applicable statute for which attorney's fees in this scenario are recoverable, Plaintiffs also hereby seek recovery of all reasonable and necessary attorney's fees incurred in order to obtain the aforesaid declaratory relief.

COUNT 3

Piercing the Corporate Veil (Alter Ego)

(All Plaintiffs against all Defendants)

123. Plaintiffs re-allege and incorporate by reference each and every allegation set forth above.

124. In Count One of this Complaint, Plaintiff Genuine Lifetime sues Defendants AFG and CareGard for breach of contract.

125. Moreover, upon information and belief, Defendants Brewer, Automotive Financial Group, Inc., AFG Technologies, LLC d/b/a Tronix, Southwest Colonial Reinsurance, Ltd., Prime Reserve Plus Inc., DeLaporte Learning Inc., DaidaX, Inc., formerly known as Pathwai, Inc. and Ben Automotive Inc., and CareGard Dealer Services, LLC ("**Alter Ego Defendants**") utilized Defendants CareGard and AFG to perpetrate a fraud on Plaintiffs and fraudulently induce them into entering the First Amended Broker Agreement, the Loan, and the Guaranty for the Alter Ego Defendants' benefit, such that the corporate veil should be pierced and all Defendants should be held liable for AFG and CareGard's breach of the Original Broker Agreement and the First Amended Broker Agreement.

126. Additionally, in Count Two of this Complaint, Plaintiffs sue Defendant AFG for declaratory judgment that the Loan and Guaranty are void.

127. Because Alter Ego Defendants and Defendant CareGard utilized AFG and CareGard to perpetrate a fraud on Plaintiffs and fraudulently induced them into entering into the Loan and Guaranty, and because this fraud by Alter Ego Defendants and Defendant CareGard forms the basis of the declaratory relief Plaintiff seeks from the Court, Alter Ego Defendants and

Defendant CareGard should likewise be liable for all reasonable and necessary attorney's fees incurred in order to obtain the aforesaid declaratory relief.

CONCLUSION

128. Plaintiffs seek judgment against Defendants, jointly and severally, for:

(a) Actual and consequential damages, including lost revenue, denied compensation, and mitigation costs;

(b) A declaration that the fraudulently induced Loan and Guaranty are void;

(c) Attorneys' fees and litigation costs;

(d) Pre- and post-judgment interest on all damages awarded; and

(e) Any additional relief the Court deems just and proper.

Respectfully submitted,

MCCATHERN, PLLC

/s/ Justin N. Bryan
Levi G. McCathern
State Bar No. 00787990
lmccathern@mccathernlaw.com
Justin N. Bryan
State Bar No. 24072006
jbryan@mccathernlaw.com
Asher K. Miller
State Bar No. 24131512
amiller@mccathernlaw.com
3710 Rawlins, Suite 1600
Dallas, Texas 75219
Telephone: (214) 741-2662
Facsimile: (214) 741-4717

YARBROUGH BLACKSTONE LAW FIRM

Matthew E. Yarbrough
Texas State Bar No. 00789741
Matthew@ybfirm.com

Jason A. Blackstone
Texas State Bar No. 24036227
Jason@ybfirm.com
YARBROUGH BLACKSTONE, PLLC
100 Crescent Ct.,
Suite 700
Dallas, Texas 75201
Telephone: (214) 263-7500

ATTORNEYS FOR PLAINTIFFS