IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

PATRICIA ABU GHAZALEH, Plaintiff, v. DECARBONIZATION PLUS ACQUISITION SPONSOR, LLC, RIVERSTONE INVESTMENT GROUP LLC, WRG DCRB INVESTORS, LLC ERIK ANDERSON, PETER HASKOPOULOS, DR. JENNIFER AAKER, JANE KEARNS, PIERRE LAPEYRE, JR., DAVID LEUSCHEN, ROBERT TICHIO, JIM McDERMOTT, JEFFREY TEPPER, and MICHAEL WARREN, Defendants.	C.A. No. 2022-1050 **PUBLIC [REDACTED] VERSION AS FILED ON NOVEMBER 28, 2022**

VERIFIED CLASS ACTION COMPLAINT

Plaintiff Patricia Abu Ghazaleh ("Plaintiff") alleges the following upon knowledge as to herself and her own actions, and upon information and belief as to all other matters, based upon an investigation conducted by counsel, which included, among other things, a books and records demand pursuant to Section 220 of the Delaware General Corporation Law (the "Inspection Demand") and review of United States Securities and Exchange Commission ("SEC") filings, news reports, press releases and other publicly available documents.

I. INTRODUCTION

1. Decarbonization Plus Acquisition Corporation (the "SPAC") was a SPAC created to complete a business combination in the clean energy industry.

2. Its sponsor, Decarbonization Plus Acquisition Sponsor, LLC (the "Sponsor"), was an affiliate of Riverstone Investment Group LLC ("Riverstone"), and the members of the SPAC's Board of Directors (the "SPAC Board") are affiliated with Riverstone and serve on the boards of multiple other SPACs offered by Riverstone.

3. The SPAC completed its IPO in October 2020. Although Defendants had two years to identify a business combination, they began negotiating within days of the IPO with Hyzon Motors Inc. ("Hyzon"). Hyzon was, itself, only a few months old at the time, having just been spun off by a Chinese company that failed in its initial foray into hydrogen-powered vehicles and had been delisted from its Chinese exchange.

4. By February 2021, Riverstone and the Sponsor were set on the Hyzon transaction, and the SPAC Board announced the proposed deal in the middle of ongoing due diligence, without a fairness opinion from a financial advisor, and without meaningfully evaluating Hyzon's claims with respect to existing customers and production capabilities.

5. Thereafter, in order to secure shareholder approval of the transaction, the SPAC Board began to hype the deal through outlandish statements that numerous "blue-chip" international customers, including in the United States and Europe, would purchase nearly 100 hydrogen-powered vehicles from Hyzon in 2021 for "100% certain" revenue of $40 million. Revenue in 2022 would supposedly grow to $200 million, as Hyzon's vehicles deliveries grew six-fold to over 600 vehicles.

6. None of these representations had a factual basis. In contrast to the "blue-chip" premier customers touted to investors, the SPAC Board knew from internal documents that the majority of Hyzon's 2021 sales were to derive, if at all, from a combination of [redacted], and a category labeled as [redacted] Moreover, Hyzon would not even have [redacted]

7. Hyzon's suspect customer list and limited production capacity rendered the SPAC's near-term growth projections a fantasy, but the Board continued to market them to investors.

8. Enticed by Hyzon's supposed growth prospects, the vast majority of investors voted to approve the transaction and gave up their right to redeem their shares at $10 per share. The transaction closed in July 2021.

9. Within months, the SPAC Board's scheme unraveled and the bottom fell out of the company. None of the sales in 2021 described in connection with the

merger (or even those described internally to the Board) materialized. By October 2021, Hyzon had delivered only *two vehicles for less than $1 million in revenue*, but management continued to reaffirm its delivery projections.

10. In a ploy to prop up its numbers before year-end, Hyzon orchestrated transactions in November and December 2021 with different Chinese entities at loss-leading prices. One of the entities had been created only three days before entering the sales contract, and Hyzon issued warrants to the supposed buyer to encourage it to make the purchases immediately, rendering the sales even more unprofitable.

11. The hollowness of Hyzon's scheme was further revealed in March 2022 with the disclosure of its 2021 financial results. While Hyzon claimed to have delivered 80+ vehicles in 2021, it booked only $6 million in revenue—*i.e.*, 15% of its "100% certain" projection—which it attributed to a customer "mix shift towards China."

12. Sales in 2022 appear to be even worse. Hyzon has reported only $400,000 in the first quarter. Since then, it has failed to file any additional quarterly results and has received warnings from Nasdaq. Hyzon has also retracted its prior financials because of revenue recognition issues arising from the sales in China.

13. Hyzon appears to have no "blue-chip" customers and bears no resemblance to the internationally leading hydrogen-powered vehicle manufacturer pitched to investors by the SPAC Board. Its stock trades at $1.80 or less, its CEO

and CFO have been removed, and the SEC's enforcement division has launched an investigation.

14. The Sponsor and SPAC Board had enormous financial and personal incentives to push through the transaction despite the known deficiencies in Hyzon's operations and significant discrepancies between the true state of the business and the growth story sold to investors.

15. Defendants held millions of shares of Class B common stock ("Founder Shares"), which would be worth tens of millions of dollars if a transaction was completed (even at today's stock price), but otherwise would expire as worthless.

16. Moreover, the entire SPAC Board served as directors of multiple other SPACs offered by Riverstone, and thus stood to receive millions of additional dollars if they stayed within Riverstone's good graces and completed the business combination.

17. The end result was that stockholders purchased a shell with no legitimate prospects of the near-term success touted by Defendants, but Defendants will still profit, given that they acquired Founder Shares at for less than a penny per share.

18. This action seeks damages for Defendants' breaches of fiduciary duty in connection with the SPAC's business combination with Hyzon.

II. PARTIES

19. Plaintiff Patricia Abu Ghazaleh has been a continuous holder of the SPAC and Hyzon stock since at least February 2021 and was entitled to redeem her shares in connection with the Merger.

20. Defendant Riverstone Investment Group LLC ("Riverstone") is a Delaware limited liability company that founded and controlled both the SPAC and the Sponsor. Riverstone is a private equity firm that has sponsored at least four SPACs in the clean energy industry under the brand "Decarbonization Plus."

21. Defendant Decarbonization Plus Acquisition Sponsor, LLC is a Delaware limited liability company and affiliate of Riverstone. It was the SPAC's sponsor and purchased and held Class B Founder Shares.

22. Defendant Erik Anderson was the SPAC's CEO and a member of the SPAC Board. He founded and is the CEO of WestRiver Group, an investment firm. He simultaneously served as the CEO and a director for other "Decarbonization Plus" SPACs sponsored by Riverstone. Mr. Anderson is also a member of the Hyzon Board.

23. Defendant WRG DCRB Investors, LLC ("WRG") is an affiliate of WestRiver Group and Defendant Anderson, who serves as CEO. It was created to purchase and hold Founder Shares for the benefit of Defendant Anderson.

24. Defendant Haskopoulos was the SPAC's Chief Financial Officer, Chief Accounting Officer and Secretary. Mr. Haskopoulos is a managing director of Riverstone and serves as Riverstone's chief financial officer.

25. Defendant Dr. Jennifer Aaker was a member of the SPAC Board. She simultaneously served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone.

26. Defendant Jane Kearns was a member of the SPAC Board. She simultaneously served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone.

27. Defendant Pierre Lapeyre, Jr. was a member of the SPAC Board. He simultaneously served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone. He is the co-founder and a senior managing director of Riverstone.

28. Defendant David Leuschen was a member of the SPAC Board. He simultaneously served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone. He is the co-founder and a senior managing director of Riverstone.

29. Defendant Robert Tichio was a member of the SPAC Board and served as the SPAC's CEO until September 2020. He has also previously served as a director of other "Decarbonization Plus" SPACs created by Riverstone and

temporarily served as their CEOs as well. Defendant Tichio was also a director and a managing partner at Riverstone.

30. Defendant Jim McDermott was the lead "independent" director of the SPAC Board. He also served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone.

31. Defendant Jeffrey Tepper was a member of the SPAC Board. He also served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone.

32. Defendant Michael Warren was a member of the SPAC Board. He also served as a director of other "Decarbonization Plus" SPACs sponsored by Riverstone.

33. The Defendants served on the following other "Decarbonization Plus," or "Decarb," SPACs sponsored by Riverstone:

Defendant	The SPAC In This Case	Decarb II	Decarb III	Decarb IV	Decarb V
Aaker	Director	Director	Director	Director	Director
Anderson	Director	Director	Director	Director	Director
Haskopoulos	CFO	CFO	CFO	CFO	CFO
Kearns	Director	Director	Director	Director	Director
Lapeyre	Director	Director	Director	Director	Director
Leuschen	Director	Director	Director	Director	Director
McDermott	Director	Director	Director	Director	Director
Tepper	Director	Director	Director	Director	Director

Defendant	The SPAC In This Case	Decarb II	Decarb III	Decarb IV	Decarb V
Tichio	Director	Director	Director	Director	Director
Warren	Director	Director	Director	Director	

34. Defendants Anderson, Haskopoulos, Aaker, Kearns, Lapeyre, Leuschen, Tichio, McDermott, Tepper and Warren are referred to as the "SPAC Defendants."

35. Defendants Riverstone, the Sponsor, and WRG, by virtue of their controlling stock ownership interests, along with Defendants Anderson, Haskopoulos, Lepeyre, Leuschen, and Tichio, by virtue of their senior management positions within those entities, are referred to herein as the "Sponsor Defendants."

III. SUBSTANTIVE FACTUAL ALLEGATIONS

A. History Of Hyzon Before The SPAC Transaction

36. Hyzon is a spin-off of Horizon Fuel Cell Technologies ("Horizon"), a Singapore-based company purporting to develop and manufacture various fuel-cell electric energy solutions and products. Horizon maintains majority control of Hyzon through its subsidiaries and holds roughly 63% of Hyzon's shares.

37. Before Horizon spun off Hyzon into a standalone subsidiary, Hyzon operated as Horizon's Heavy Vehicle Business Unit and was responsible for the development of fuel cell systems for Horizon's fuel-cell powered commercial vehicles.

38. Since its inception, Hyzon has painted itself as a new and vital innovator in the zero-emissions frontier. In reality, Hyzon operates as a second life for Horizon's failed attempts to commercially market its fuel-cell technology over the past seventeen years through its Chinese subsidiaries. By reorganizing and rebranding its flailing electric vehicle operation as Hyzon, Horizon hoped to jettison its economically tarnished reputation and begin anew.

39. In its early years, Horizon initially focused on the commercialization of small-scale hydrogen-fuel-cell powered projects. In 2004, for example, Horizon launched its first proton-exchange membrane fuel cell stack as an alternative to other fuel-cell technologies. That same year, Horizon also began to develop, produce, and ship hydrogen-themed science experiment kits for students.

40. As research and development progressed, Horizon shifted its trajectory to scaling up the size of its fuel cells for larger, power consuming equipment and applications. In 2015, Horizon began to develop fuel cells for transportation applications and general hydrogen-electric-based mobility. In 2018, Horizon successfully manufactured hydrogen fuel cells to power mid-sized buses and light delivery trucks. And in 2019, Horizon announced the commencement of volume production of its "high-performance" VLS-II series fuel stacks for commercial vehicles, with an initial focus on heavy duty trucks.

41. As part of these commercialization efforts, Horizon's vehicle operations increasingly centered on China, where it established at least two subsidiary companies to provide fuel cell stacks, hydrogen generators, and hydrogen storage solutions to East Asian markets.

42. Through these subsidiaries, Horizon would sell its fuel cell technology to third-party original equipment manufacturers ("OEMs"), which would then either retrofit an existing vehicle to utilize Horizon's fuel cell stacks or construct a new vehicle by installing Horizon fuel cell stacks into the empty shell and chassis of an established vehicle brand.

43. Using this business model, Horizon enjoyed some initial success by selling to a small number of light-to-medium sized commercial vehicle operators in China. Horizon and/or its subsidiaries reportedly installed its fuel-cell battery systems in approximately 400 vehicles by the end of 2019, resulting in a spike in revenue of nearly 540%.

44. These sales, however, depended in large part on a single purchaser, Shanghai SunLong Bus Co., Ltd. ("SunLong"), which in 2019 accounted for nearly three quarters of self-reported vehicle sales and 85% of its receivables. Thus, Horizon's future revenue expectations hinged on the continued financial viability of SunLong, its primary customer.

45. This single-customer risk materialized at the end of 2019 when SunLong's parent company defaulted on multiple bonds in the course of one month. Horizon's sales thereafter fell by 36% and it collected only a small percentage of its outstanding SunLong receivables.

46. By the end of 2020, Horizon's fuel cell sales had plummeted, resulting in only 100 fuel cell sales in 2020 and 38 cells during the first half of 2021—an 81% decline from 2019.

47. As of June 2021—a month before the SPAC Merger (discussed below)—Horizon had sold, in total, only 538 vehicle fuel-cell stacks since the inception of Horizon's electric vehicle enterprise, 369 of which were installed in vehicles in China.

48. Horizon conceded in Chinese public filings that there was little remaining demand for its fuel cell technology, and Horizon has been delisted from its Chinese stock exchange.

B. Horizon Spins Off Hyzon To Solicit U.S. Capital

49. In the early stages of its financial collapse in 2020, Horizon determined that it needed to expand beyond East Asia—characterized by low demand, low sales prices, and limited investor interest—in order to survive.

50. The United States—which found itself square in the middle of "SPAC mania"—offered a fertile ground to raise new capital for a purportedly fresh start.

51. In January 2020—just weeks before Horizon would be delisted—Horizon filed paperwork establishing Hyzon as a spin-off and spiritual successor of Horizon's in-house commercial vehicle unit.

52. As initially conceived, Hyzon was to focus on the development of heavy-duty HFCEVs and hydrogen fuel cell stacks exceeding 100kW using Horizon's fuel-cell technology.

53. In March 2020, the company officially launched with reported plans to start its integration facility in Honeoye Falls, New York by mid-year. Hyzon repeatedly stated that it saw "incredible growth in Asia in recent years at Horizon, and now with the experience gained from hundreds of trucks in commercial service, we aim to bring our technology to the roads of the world."

54. Before it produced a single vehicle, Hyzon began a barrage of press releases announcing purported deals with global customers and partners, including that the company had purportedly co-founded a European subsidiary, Hyzon Motors Europe B.V. (which was really just a rebrand of Netherlands-based vehicle retrofitter, Holthausen Clean Technology) and entered into an agreement to supply hydrogen fuel cell-powered coaches to Western Australian miner Fortescue Metals Group.

55. Shortly thereafter, Hyzon's management retained Goldman Sachs & Co. ("Goldman") and began to capitalize on the "SPAC mania" prevelant at the time.

Between October 13, 2020 and November 30, 2020, Hyzon executed non-disclosure agreements with at least ten SPACs interested in exploring a potential business combination.

C. The SPAC Conducts An IPO For The Purpose Of A Business Combination With A Clean Energy Company

56. The SPAC was formed by Riverstone and the Sponsor Defendants for the purpose of effecting a business combination with a "company whose principal effort is developing and advancing a platform that decarbonizes the most carbon-intensive sectors, including the energy and agriculture, industrials, transportation and commercial and residential sectors."

57. Prior to the IPO, the Sponsor acquired 11,500,000 Class A Founder Shares of the SPAC in exchange for a capital contribution of $25,000, or approximately $0.002 per share.

58. In the event of a business combination, the Founder Shares were convertible to shares of Class A common stock at no additional cost, and thus provided Class B holders with an enormous financial incentive to execute a transaction of some kind.

59. On August 19, 2020, the Company filed a preliminary Registration Statement on Form S-1 disclosing an anticipated $400 million IPO consisting of 40 million units at $10 each. The IPO was later downsized to $200 million pursuant to an October 13, 2020 amendment.

60. On October 22, 2020, the SPAC completed its IPO of 20 million public units, with each unit consisting of one share of Class A Common Stock and one-half of one public warrant, raising gross proceeds of approximately $200 million.

61. Simultaneously with the closing of the IPO, the SPAC completed a private sale of 6 million private placement warrants to the Sponsor, the members of the SPAC Board, and WRG, generating gross proceeds of approximately $6 million.

62. In addition, the Sponsor transferred an aggregate of 1,064,329 Founder Shares to Defendants Anderson, Aaker, Kearns, McDermott, Tepper and Warren.

63. Thus, the Sponsor, its beneficial owners Defendants Lapeyre and Leuschen, and each of the other Defendants except Defendant Tichio held significant financial interests in the Founder Shares and stood to benefit only if the SPAC were able to complete a transaction.

64. Moreover, if the SPAC failed to complete a transaction, each of the Sponsor, the members of the SPAC Board and WRG would lose their collective $6 million investment in warrants and the Sponsor would further lose all expenses it had incurred launching the SPAC.

65. The SPAC had two years to identify a transaction or else it would be forced to liquidate at no profit to the Sponsor and other Defendants.

D. The SPAC Quickly Negotiates A Merger With Hyzon

66. On October 30, 2020—only a few days after the IPO—Defendants Tichio and Anderson participated in a video conference with Goldman, on behalf of Hyzon, to discuss a potential business combination.

67. By November 30, 2020, Hyzon had "discontinued discussions with the other SPACs" and by early December the SPAC was negotiating a "non-binding letter of intent and binding exclusivity agreement with Hyzon."

68. Between December 7, 2020 and February 8, 2021, the SPAC's representatives and advisors purportedly "performed extensive due diligence," but by a January 7, 2021 meeting, the SPAC Board had already formally decided that the SPAC would "pursue the business combination with Hyzon over the other potential targets."

69. On February 8, 2021, the SPAC Board finalized the transaction and approved the merger agreement. The minutes of that meeting suggest superficially that the Board had [redacted] but neither the minutes nor other documents produced in response to Plaintiff's Inspection Demand suggest that the Board conducted meaningful diligence on Hyzon's potential to deliver on its aggressive sales and revenue projections (or that the underlying customers and contracts were even real).

70. Further, the SPAC Board declined to obtain a fairness opinion from an independent, third-party financial advisor because it had purportedly already reviewed the company's "revenue potential," including its "orders with various clients, *including blue-chip Fortune 100 companies* as well as Hyzon's rapidly growing visibility," as well as its supposed "existing global footprint" and "near-term backlog to customers in Europe, Asia and Australia." (Emphasis added.)

71. In reality, the SPAC Board had done little if anything to confirm the viability of Hyzon's sales and revenue claims in the near-term or otherwise, despite obvious holes in the company's story. Between January 7, 2021—when the SPAC Board decided to do the Hyzon deal in the middle of incomplete diligence—to February 8, 2021—when the SPAC Board formally approved the merger agreement—it appears from the materials produced in response to the Inspection Demand that [redacted] and received only [redacted] and [redacted]

72. No materials show meaningful diligence on Hyzon's purported near-term sales revenue or its supposed "blue-chip" customers.

73. At best, the Board's "diligence" through [redacted]

[redacted]

74. On February 9, 2021, the SPAC announced that it had agreed to a business combination with Hyzon (the "Merger").

E. Defendants Promote A Fictional Growth Story In Order To Obtain Shareholder Approval

75. Following the announcement of the Merger, Defendants began to falsely promote Hyzon's growth prospects in advance of the shareholder vote schedule for July 2021.

76. In a press release, Defendants stated that the Merger would "fully fund and accelerate Hyzon's well-defined growth strategy" and that Hyzon's technology was "already commercialized with [an] existing global footprint" and had a "sales pipeline with blue-chip Fortune 100s and municipalities."

77. Hyzon, for its part, stated that expected "[d]eliveries of Hyzon fuel cell powered heavy trucks to customers in Europe and North America will occur this year [*i.e.*, 2021], well ahead of our competitors, and our committed sales pipeline is proof that the world is truly recognizing the need to develop innovative solutions to mitigate climate change and accelerate efforts to move the world economy down the path to net-zero emissions."

78. On a conference call with investors, Hyzon's executives stated that the company "has a sales pipeline for 2021 that is *100 percent under contract* or MOU, providing real runway visibility, and its customers include some of the most recognizable global brands and the largest municipalities in the world." (Emphasis added.)

79. An internal presentation in November 2020, however, [redacted] and thus significant deliveries in 2021 were exceedingly unlikely.

[redacted]

80. Nevertheless, the SPAC continued this misleading narrative in a series of investor presentations that touted contradictory and implausible sales and delivery projections for Hyzon.

81. For example, [redacted] the SPAC claimed that Hyzon had [redacted]

[redacted]

82. Further, it claimed [redacted]

83. [redacted]

84. However, non-public reports received by the SPAC Board told a different story.

85. [redacted]

86. At the same time, [redacted] as advertised by the SPAC, and [redacted] (as discussed further below).

87. [redacted] expressly stated that [redacted]

88. This heavy tilt toward Chinese customers meant not only that Hyzon had not actually established traction with premier international companies (as was the original premise of the company), but also that the Chinese-dominated mix of sales would result in lower per-vehicle revenue.

89. Further, while [redacted]

90. As time would tell, not even the [redacted] was "fully" accounted for, [redacted]

91. On January 29, 2021, the Board received a report from Citibank and Credit Suisse (the "Citi/CS Report") regarding, in large part, the [redacted]

92. The Citi/CS Report was not a fairness opinion, [redacted]

93. The Citi/CS Report was [redacted]

[redacted]

[redacted]

94. The Board also engaged Goldman Sachs and Morgan Stanley & Co. LLC "to serve as placement agents for the PIPE [f]inancing," but they "did not provide any advice to" regarding the "valuation of Hyzon or the terms of the business combination." Rather, the Board acknowledge that Goldman would be conflicted as a financial advisor to the SPAC with respect to the Merger, given its representation of Hyzon before being retained by the SPAC. Indeed, the SPAC and Hyzon "each signed a consent letter with Goldman Sachs acknowledging Goldman Sachs' roles as financial advisor to Hyzon in connection with the business combination and as co-placement agent to [the SPAC] in connection with the PIPE [f]inancing and waiving any potential conflicts in connection with such dual roles."

95. In a February 9, 2021 Form 8-K, the SPAC stated that "Hyzon has rapidly expanded its commercial reach with supply agreements to customers around the world," and that deliveries of "Hyzon fuel cell powered heavy trucks to customers in *Europe and North America will occur this year* [*i.e.*, 2021], well ahead of our competitors." (Emphasis added.)

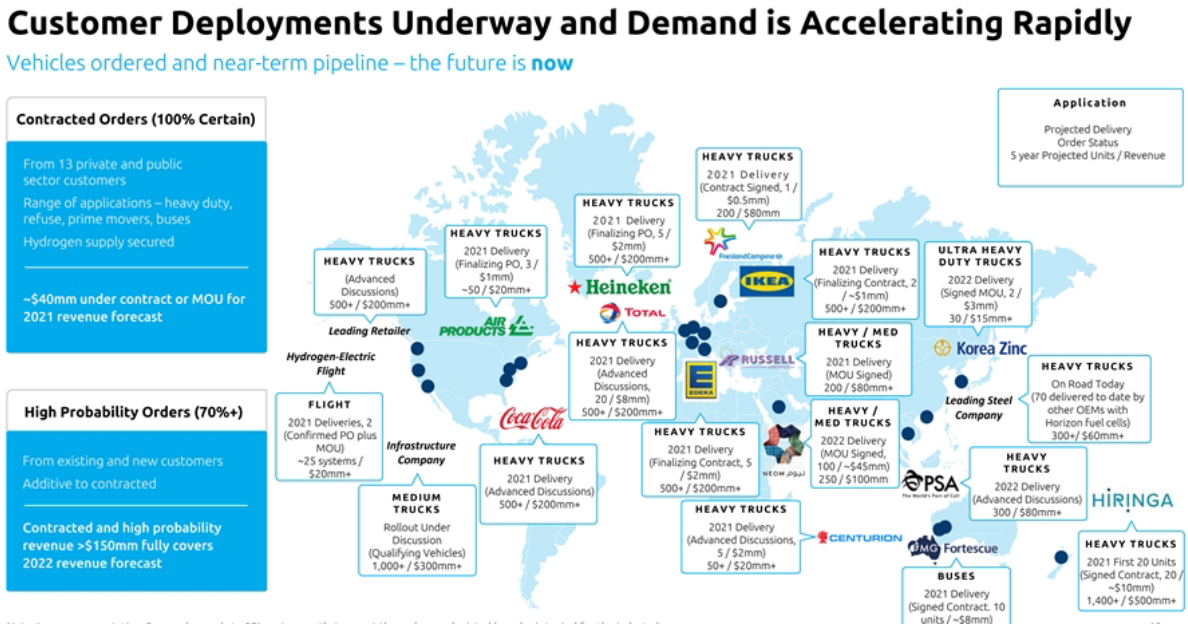
96. In a February 9, 2021 investor presentation (the "February 2021 Presentation"), the SPAC stated that Hyzon would deliver 85 vehicles[redacted] but stated that the sales were "100%

[c]ertain" and demand was "accelerating rapidly." [redacted] that 2022 revenue of $150 million or more was "contracted and high probability," despite [redacted]

97. The February 2021 Presentation also continued to tout "blue-chip Fortune 100s" within its 2021 backlog, which were purportedly "under contract," as

- **2021 backlog of ~$40 million under contract or MOU** from blue-chip Fortune 100s and municipalities with exceptional (and rapidly growing) 2022+ visibility
- Revenues rooted in sales to customers with **existing and secured hydrogen production / supply** – hydrogen infrastructure investments will be opportunistic, with recurring revenue potential
- 80% of near-term backlog to customers in **Europe, Asia and Australia**

98. These projected sales allegedly included near-term purchases by household names from around the world, like Coca-Cola, IKEA, Heineken, Total and a Seattle-based "leading retailer," a thin veil for Amazon.



99. For example, the February 2021 Presentation stated that, among other companies:

- Total was in "advanced discussions" for a 20-unit order in 2021 for $8 million in revenue;
- Heineken was "finalizing" a 5-unit order in 2021 for $2 million in revenue;
- Coca-Cola was in "advanced discussions" for a vehicles with a 2021 delivery;
- IKEA was "finalizing contract" for a 5-unit order in 2021 for $2 million in revenue;
- A U.S.-based hydrogen-electric flight company had a "confirmed" purchase order for 2 units with 2021 delivery;
- Air Products was "finalizing" a purchase order for 3 units in 2021 for revenue of $1 million; and
- Edeka was "finalizing contracts" for 5 units in 2021 for revenue of $2 million.

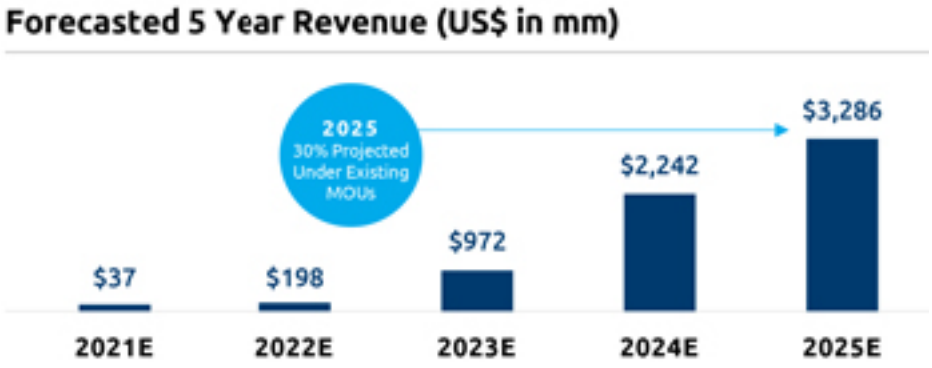
100. None of these companies were reflected in the 2021 or 2022 sales mix in [redacted] nor do any other SPAC Board materials suggest that the Defendants had any basis whatsoever (plausible or

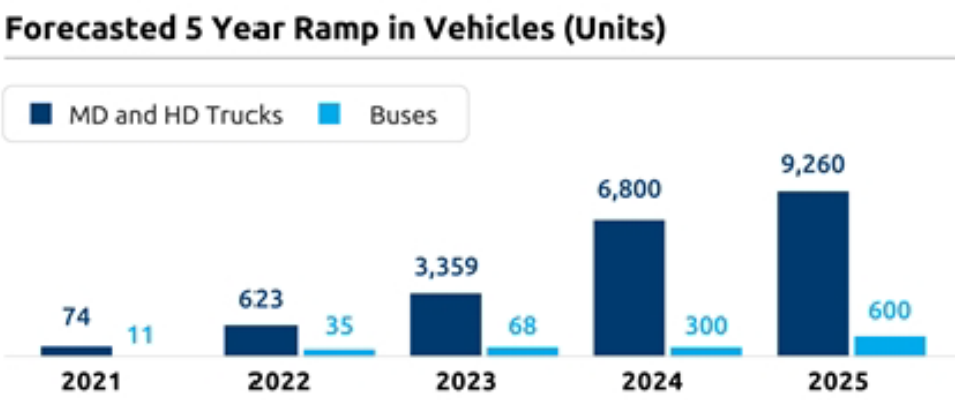
implausible) to believe that any "blue-chip" company would be a near-term customer of Hyzon.

101. At best, the SPAC Board had been told, at least superficially, that [redacted]

102. Thus, at least [redacted] of expected revenue was suspect on its face, but the SPAC Board appears to have done no additional diligence whatsoever on the "blue-chip" representations in the public materials disseminated by the SPAC.

103. Rather, Defendants continued to tout a wide-range of "blue-chip" household-name customers and exponential projected revenue growth year-over-year. Not only would Hyzon sell nearly $200 million worth of vehicles (over 600 vehicles) in 2022, but it would sell nearly a billion (over 3000 vehicles) in the year following, as shown below, [redacted]





104. On February 17, 2021, Hyzon disclosed that it had "signed a vehicle supply agreement" with Hiringa for 20 vehicles "expected to enter service in New Zealand by the end of 2021," but concealed that Hiringa was merely a distribution channel partner, not an actual customer, and the end-users, if any, were undisclosed. As time would tell, this purported contract, like the others touted at the time, would not come to fruition.

105. Again, the SPAC Board appears to have done little if any diligence on this sales contract, and it does not appear in the materials produced in response to Plaintiff's Inspection Demand.

106. During a March 10, 2021 interview, Hyzon's then-CEO advanced the charade even further, claiming that Hyzon now had even "more customer commitments than we have [in the] 2021 revenue forecasts, so we're feeling quite confident about our 2021 outlook."

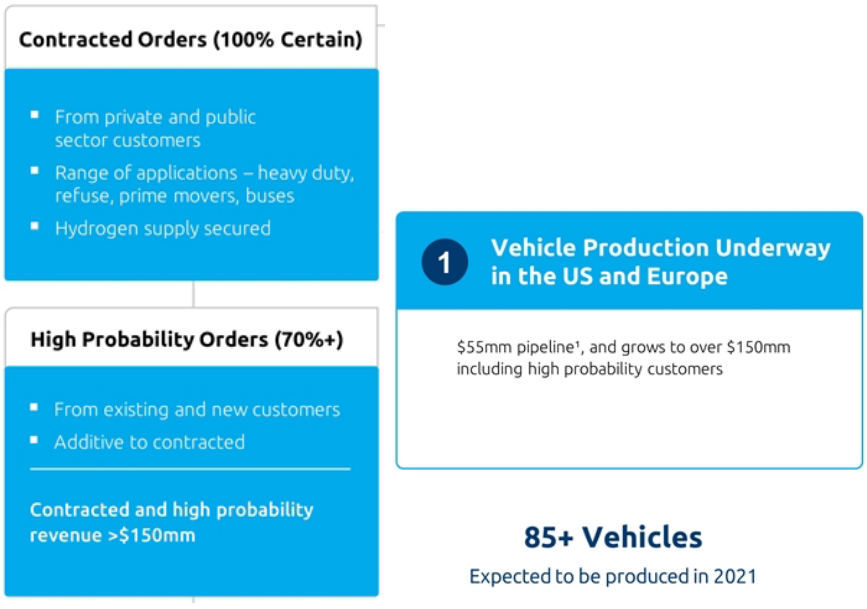
107. In an April 29, 2021 investor presentation (the "April 2021 Presentation"), Defendants echoed that claim, stating that Hyzon had "$55 million

of backlog under contract or MOU (up from $40 million in February 9, 2021 transaction announcement presentation)."

- **$55 million of backlog under contract or MOU** (up from $40 million in February 9, 2021 transaction annour presentation); commercial relationships include blue-chip Fortune 100s and municipalities with exceptional (ar growing) 2022+ visibility

108. The April 2021 Presentation again touted Hyzon's supposedly "Fortune 100" customers, and added even more household names to the list, including Bank of America and others.

109. Defendants reaffirmed Hyzon's projection of 85 vehicles in 2021 for at least $37 million in "100% certain" revenue, and touted potential upside of "$150mm including high probability customers."



110. On June 16, 2021, Hyzon's then-CEO minimized supply-chain challenges faced by the industry generally and stated that "there are no more nasty surprises in supply chains and those kind of things, we'll definitely hit this year's targets."

111. Likewise, on June 29, 2021, Defendant Tichio stated that Hyzon continued to project "$37 million of revenue [from] vehicles that will actually roll off its lot this year. That is what we had communicated back in February. We still feel extraordinarily comfortable with that assessment."

F. The Misleading Merger Proxy

112. On June 21, 2021, Defendants caused the SPAC to file a definitive proxy statement seeking shareholder approval of the Merger at the July 15, 2021 special meeting (the "Merger Proxy").

113. The Merger Proxy incorporated the false and misleading claims regarding Hyzon's projected sales and revenue set forth in the investor presentations above, but further embellished the misstatements by touting the Board's approval of the Merger after purportedly "extensive due diligence."

114. For example, despite having not performed "extensive due diligence" or obtained a fairness opinion from an independent financial advisor, the SPAC Board sold the Merger to investors through a number of baseless representations, including with respect to Hyzon's "revenue potential," "global scale," "orders with

various clients, including blue-chip Fortune 100 companies," "rapidly growing visibility" and "existing global footprint."

115. The Merger Proxy stated that the SPAC Board had "meetings and calls with Hyzon management and advisors regarding business model, operations and forecasts," "review[ed] of material contracts," and reviewed "financial projections prepared by Hyzon's management team," but Plaintiff's Inspection Demand did not reveal meaningful diligence on Hyzon's purported "blue-chip" customers, the actual customers likely to purchased vehicles in 2021 or 2022, or the basis for Hyzon's near-term sales and revenue projections.

116. While the SPAC Board disclosed the risk to investors that Hyzon would "not be able to convert non-binding orders, letters of intent or memoranda of understanding into orders or sales," it made no disclosure about the risk that some or all of the "100% certain" sales would fall through (or never even exist in the first place).

117. On July 15, 2021, the SPAC held a special meeting and subsequently announced that the Merger had been approved and that approximately 95% of the votes cast had been in favor of the deal.

118. On July 21, 2022, the Company announced that the Merger had been completed.

G. Following The Merger, Hyzon Pivots To Fake Deliveries To Meet Its Production And Revenue Projections

119. While Defendants were successful in getting the Merger approved, Hyzon had no legitimate way to meet the production and revenue projections it made in connection with the Merger. Its solution was to pivot to a multi-part scheme to create the appearance of having met its delivery projections but without the anticipated revenue.

120. On September 9, 2021, Hyzon announced an agreement with Shanghai Hydrogen HongYun Automotive Co., ltd ("HongYun") for the purchase of 500 hydrogen-powered electric trucks, some of which would purportedly be delivered in 2021, helping the company fill its enormous delivery shortfall.

121. HongYun was not one of the companies previously expected to receive deliveries in 2021 and [redacted] Based on Plaintiff's Inspection Demand, HongYun [redacted]

122. HongYun was registered in China only *three days* before the September 9, 2022 announcement, it had no physical offices or a website, its telephone number is inoperable, and the building at its listed address, a cultural center, was closed for renovations. It does not appear to have any employees, has only one primary shareholder (an individual), and has no parent company.

123. Although HongYun has "a registered scope of business [that] includes vehicle leasing, logistics and auto parts sales," it appears to lack licenses to offer leasing or other financing, or to move large commercial vehicles, suggesting that it was not even legally permitted to engage in such activities.

124. Further, despite allegedly committing to purchase 500 vehicles, which would generate as much as $125 to 250 million in revenue to Hyzon, HongYun had no paid-in capital and, at best, reported approximately $5 million in expected capital contributions. Nor did it appear to have relationships with other distributors or purchasers of commercial vehicles.

125. By the end of October 2021, Hyzon had delivered only two vehicles and booked less than $1 million in revenue.

126. In an October 11, 2021 special meeting, the Hyzon Board considered and approved [redacted] The Hyzon Board approved issuing [redacted]

127. Thereafter, Hyzon entered into an agreement with HongYun—which was not disclosed to investors until March 2022—that granted HongYun warrants to purchase up to two million shares of Hyzon stock at the current market price of $7.75 per share (the "Warrant Agreement").

128. Under the Warrant Agreement, the warrants would become exercisable as HongYun makes payment on the purchase price for Hyzon vehicles, thus creating an immediate incentive for HongYun to agree to a last-minute purchase of Hyzon vehicles at the end of 2021.

129. This kickback carried significant potential value for HongYun: for example, if HongYun exercised its warrants to sell two million shares at $10.40/share—the price when Hyzon initially announced the HongYun vehicle purchases—it would obtain a windfall of *more than $5 million*.

130. On November 12, 2021, immediately following the Warrant Agreement, Hyzon announced that it had received the "first two purchase orders from [HongYun] for a total of 62 trucks," purportedly on behalf of a "large industrial conglomerate," the name of which was not disclosed.

131. On December 8, 2021, Hyzon issued a press release announcing that it had purportedly delivered "29 fuel cell electric trucks" to HongYun to "be used by a major steel conglomerate in China," and that HongYun "has further orders for 33 more trucks confirmed with Hyzon."

H. The Company Reveals Its 2021 Financial Results, Which Were Nowhere Near The Pre-Merger Representations

132. On January 12, 2022, in advance of its FY 2021 financial results, Hyzon claimed to have made "87 vehicle deliveries" but warned that its financial results would "reflect both lower average selling price per vehicle due to product mix and

multi-year revenue recognition for the majority of sales, which will result in materially lower than forecast revenues and margins."

133. Investors would not realize the full reality of Hyzon's circumstances until March 23, 2022, when Hyzon disclosed its full-year 2021 results. The company revealed revenue of only $19.6 million for 2021, *of which $13.6 million would be collected over five years* and thus was not recognizable.

134. Thus, Hyzon recognized only *$6.0 million of revenue for all of 2021*, despite its representation only a few months earlier that it had "100% certain" revenue of $40 million (and potentially as much as $55 million).

135. Hyzon admitted that it "only really start[ed] to work on the vehicle assembly towards the end of the year," and that it had no committed sales or planned deliveries to the United States in 2021 or 2022. Hyzon's then-CEO admitted that it was "unattractive to have shipped vehicles that you haven't recognized all the revenue on, it doesn't make us feel good."

136. On March 30, 2022, following the earnings disclosure, Hyzon disclosed that most of the 2021 deliveries other than the 62 vehicles arranged with HongYun were likewise purchased by obscure Chinese companies that had entered into joint venture agreements with Hyzon.

137. Although the stated value of the contracts with these companies was $3.0 million, Hyzon was only permitted by its auditors to recognize approximately

$100,000 in total for all 20 vehicles, and thus again appeared to be pumping its delivery numbers with sham sales.

138. For calendar year 2021, Hyzon delivered no vehicles to the United States, only 5 vehicles to Europe, and purportedly *82 vehicles to China for revenue of only $46,000 per vehicle*—a small fraction of the per vehicle revenue that Defendants had stated was "100% certain" before the vote on the Merger.

139. Strikingly, not only were these customers not of the international "blue-chip" variety repeatedly advertised by Defendants, but they were not even the customers identified in [redacted] Thus, Defendants appear to have pulled a "bait and switch" on multiple levels.

140. In connection with the 2021 financial results, Defendants also disclosed, for the first time, the Warrant Agreement with HongYun, revealing to investors that the HongYun sales were even *more unprofitable* than currently reported in light of the effective "rebate" achieved through the warrants.

141. Aside from the engineered transactions with various Chinese counterparties, Hyzon today appears to have no prospects whatsoever for international production and delivery of vehicles on the scale advertised prior to the Merger, and the company's stock price reflects that reality.

142. In the first quarter of 2022, Hyzon reported revenue of $400,000, despite having claimed with "high probability" that it would realize $200 million for FY 2022 (*i.e.*, $50 million per quarter).

143. Internal data as of February 2022 show that [redacted]

144. In an earnings call with analysts, Hyzon's CEO claimed that "Q1 has seen a lot of deliveries coming to bear," but that optimism was not reflected in the company's actual revenue, [redacted]

145. Since then, Hyzon has failed to file any subsequent quarterly financials, and has received a compliance warning from Nasdaq.

146. Hyzon has also withdrawn its previously reported financials and stated that all prior "financial statements and guidance previously issued by the company can no longer be relied upon" in light of "revenue recognition timing issues in China." Its CEO and CFO have been removed, and it is under investigation by the SEC's enforcement division.

147. Hyzon's stock currently trades at $1.80 per share or less.

IV. THE MERGER WAS UNFAIR

A. The SPAC's Fiduciaries Were Conflicted

148. First, the SPAC Defendants were financially incentivized to identify and complete a business combination, notwithstanding the merits, because of their ownership of Founder Shares and their relationships to the Sponsor and Riverstone.

149. Every member of the SPAC Board held Founder Shares that would create substantial wealth even at $10 per share. Moreover, four of the nine members of the SPAC Board were senior-level employees at Riverstone, which controlled the Sponsor and the SPAC.

Defendant	Founder Shares	Value at $10/Share	Riverstone Affiliation
Aaker	22,130	$221,300	
Anderson	630,947	$6,309,47	
Haskopoulos	0	n/a	Managing Director, CFO
Kearns	22,130	$221,300	
Lapeyre	4,591,708	$45,917,080	Co-Founder, Managing Director
Leuschen	4,591,708	$45,917,080	Co-Founder, Managing Director
McDermott	331,950	$3,319,500	
Tepper	22,130	$221,300	
Tichio	0	n/a	Managing Director
Warren	22,130	$221,300	

150. In total, the Founder Shares purchased for $25,000 total would be worth over $56 million at $10/share, including 1,051,417 to Anderson and the other non-

Riverstone directors (Aker, Kearns, Tepper and Warren), amounting to over $10.5 million.

151. Further, across all of the SPACs offered by Riverstone, the SPAC Defendants had millions of dollars of additional compensation through Founder Shares at stake. For example, at $10 per share, Defendants Aker, Kearns, Tepper and Warren stood to receive over $1.4 million across four SPACs and Defendant McDermott would receive nearly $9 million.

152. In addition, the Sponsor and other SPAC Defendants likewise purchased a total of 6,514,500 private placement warrants for approximately $6 million that would expire as worthless if a business combination was not consummated.

153. Even at prices below $10/share, the SPAC Defendants stood to profit significantly given that the acquisition price was less than a penny per share.

154. Second, the SPAC Defendants were beholden to Riverstone—and its owners and operators, Defendants Lapeyre, Leuschen, and Tichio—who controlled the SPAC and the other Riverstone-affiliated SPACs.

155. Riverstone controlled all of the Founder Shares through the Sponsor, placed each of the SPAC Defendants in their officer and director positions, and had the power to remove any of them at any time.

156. The SPAC's prospectus admitted that the Sponsor "may exert a substantial influence on actions requiring a stockholder vote, potentially in a manner that you do not support."

157. Further, the SPAC Defendants had deep ties to Riverstone, both professional and financial. As an initial matter, three of the nine directors were employees of Riverstone. The other directors served on the boards of multiple other SPACs operated by Riverstone, and as stated above had significant economic interest in maintaining each of those positions as well as future positions within new SPAC offerings.

158. Given these relationships, the SPAC Defendants could not act independently from Riverstone and entirely lacked the incentive or practical ability to "say no" to any deal proposed by Defendants Lapeyre, Leuschen, and Tichio.

B. The SPAC Defendants Intentionally Avoided A Fairness Opinion

159. The SPAC Defendants chose not to obtain a third-party fairness opinion so as not to potential contradict the already-formed consensus at Riverstone that the SPAC should acquire an equity interest in Hyzon.

160. While the Board retained diligence advisors, [redacted], those parties did not provide fairness opinions or other economic analysis with respect to the acquisition terms.

161. The Citi/CS Report also was not a fairness opinion, but rather provided [redacted]. Nor did Goldman Sachs or Morgan Stanley & Co. agre to "provide any advice to" regarding the "valuation of Hyzon or the terms of the business combination."

162. The Board relied only on its purported "experience in evaluating the operating and financial merits of companies from a wide range of industries and concluded that their experience and backgrounds, together with the experience and sector expertise of [the SPAC's] advisors, enabled them to make the necessary analyses and determinations regarding the business combination."

163. But the SPAC Board's advisors, as set forth above, provided no opinion with respect to the merits or fairness of the Merger, and the Board did little if any with the diligence available to it, especially with respect to the uncertainty around Hyzon's customer base, which would ultimately render its pre-Merger projections frivolous.

164. Defendants simply yielded to their own financial interests to close the Merger and collect the financial rewards as quickly as possible.

C. The Vote Was Uninformed

165. As part of their scheme to quickly close the Merger and move on, the Defendants concealed material information, known through their diligence reports, which was revealed publicly only after the Merger closed.

166. As set forth in detail above, Defendants vastly overstated Hyzon's customer base and potential revenue and sales, including with respect to "blue-chip" international customers, which did not exist.

167. Indeed, all of the statements about 2021 and 2022 deliveries to companies like Total, Amazon, IKEA, Coca-Cola and Heineken were false.

168. As a result, the financial projections underpinned by supposed sales to these customers—which were made with "100% certainty" and "high probability"—had no plausible basis in reality and the SPAC Board simply sold investors a lie.

169. Even as of today, Hyzon has not made any of the high-profile vehicle deliveries promised pre-Merger.

170. Even with respect to the various lesser deals that Hyzon claimed pre-Merger would contribute to 2021 and 2022 revenue, sales to those entities did not materialize and also may never have existed.

171. For example, Defendants concealed that the supposed agreement for Hiringa to "acquire" 1,500 trucks by 2026 was not an agreement with an end-user at all, but rather a would-be distributor that had neither the capability nor the then-

current intent to purchase vehicles. That entity did not take delivery of vehicles in 2021 or 2022.

172. Nor did Defendants disclose the already high percentage of sales to Chinese companies that the SPAC Board knew about pre-Merger. While even those did not come to fruition, it was a clear sign that Hyzon had little if any potential of developing a sales network outside of China, and around the world, as the SPAC Board touted to investors. But the SPAC Board proceeded with the Merger anyway.

173. While Defendants touted their "extensive due diligence," even the limited diligence they performed revealed red flags, and the SPAC Board did virtually nothing thereafter examine the basis for Hyzon's customer and sales projections, which would ultimately prove to be frivolous.

174. In light of the above, the SPAC Board's statements with respect to both Hyzon's vehicle deliveries, its expected revenue, and the SPAC Board's due diligence were materially false, misleading, and lacked a reasonable factual basis. Thus, the vote on the Merger was uninformed.

CLASS ACTION ALLEGATIONS

175. Plaintiff brings this action as a class action pursuant to Court of Chancery Rule 23 on behalf of herself and all holders of the common stock of the SPAC who held such stock prior to the July 13, 2021 redemption deadline and were entitled to elect, but did not elect, to redeem their shares (the "Class"). The Class

does not include the Defendants herein, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

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

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

178. The Class is so numerous that joinder of all members is impracticable.

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

180. There are questions of law and fact that are common to all Class members and that predominate over any questions affecting only individuals, including, without limitation: (i) whether Defendants breached their fiduciary duties to Plaintiff and the Class; (ii) whether the Sponsor Defendants controlled the SPAC; (iii) whether "entire fairness" is the applicable standard of review; (iv) the existence and extent of injury to the Class caused by the misconduct set forth herein; and (v) the proper measure of the Class's damages.

181. Plaintiff's claims and defenses are typical of the claims and defenses of other Class members, and Plaintiff has no interests antagonistic or adverse to the

interests of other Class members. Plaintiff will fairly and adequately protect the interests of the Class.

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

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

184. 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

CAUSES OF ACTION

COUNT I

Breach Of Fiduciary Duty
Against The SPAC Defendants

185. Plaintiff repeats and realleges all of the allegations set forth in the paragraphs above as if fully set forth herein.

186. As officers and directors of the SPAC, the SPAC Defendants owed Plaintiff and the Class fiduciary duties of care and loyalty, which include the obligations to act in good faith and with honesty and candor.

187. The SPAC Defendants breached their fiduciary duties to Plaintiff and the Class by approving the unfair Merger with Hyzon, without sufficient due diligence and without a fairness opinion, so as to advance their own personal and financial interests in the Founder Shares and the Sponsor.

188. The SPAC Defendants also breached their duty of candor by disseminating to investors the false and misleading Merger Proxy so as to solicit shareholder approval of the Merger.

189. Plaintiff and the Class were harmed when they voted on the Merger based on false and misleading disclosures, did not exercise their rights to redemption and approved the Merger with Hyzon.

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

COUNT II

Breach Of Fiduciary Duty Against The Sponsor Defendants

191. Plaintiffs repeat and reallege all of the allegations set forth in the paragraphs above as if fully set forth herein.

192. The Sponsor Defendants were controllers of the SPAC.

193. The Sponsor Defendants controlled the Class B Founder Shares, could remove members of the Board, had deep personal and financial ties to the members of the Board, which were selected by the Sponsor Defendants, and held officer roles at the SPAC.

194. The Sponsor Defendants owed Plaintiff and the Class fiduciary duties of care and loyalty, which include an obligation to act in good faith and candor.

195. At all relevant times, the Sponsor Defendants controlled, influenced and caused the SPAC to enter into the Merger.

196. The Merger was unfair with respect to price and process.

197. The Sponsor Defendants breached their fiduciary duties to Plaintiff and the Class by orchestrating the unfair Merger for their own self-interests.

198. Plaintiff and the Class were harmed when they voted on the Merger based on false and misleading disclosures, did not exercise their rights to redemption and approved the Merger with Hyzon.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment as follows:

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

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

C. Certifying the proposed Class;

D. Awarding Plaintiff and the Class damages in an amount to be proven at trial;

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

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

/s/ *Thomas A. Uebler*
Thomas A. Uebler (#5074)
Kathleen A, Murphy (#5215)
MCCOLLOM D'EMILIO SMITH UEBLER LLC
2751 Centerville Road, Suite 401
Wilmington, DE 19808
(302) 468-5960

Counsel for Plaintiff

OF COUNSEL:

Aaron T. Morris
Leonid Kandinov
Andrew W. Robertson
MORRIS KANDINOV LLP
1740 Broadway, 15th Floor
New York, NY 10019
(877) 216-1552

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