



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ZALMON UVAYDOV,

Plaintiff,

v.

ROBERT FENWICK-SMITH, TIM
REESER, ANDREW COORS, CRAIG
HUTH, HEATH MORRISON, GLEN
PERLMAN, TRENT YANG, AVI KATZ,
RALUCA DINU, NEIL MIOTTO, JOHN
MIKULSKY, ANDREA BETTIBERUTTO,
PETER WANG, BRUCE COVENTRY,
THADDEUS SENKO and DIANA
TREMBLAY,

Defendants,

-and-

LIGHTNING EMOTORS, INC.,

Nominal Defendant.

C.A. No. 2023-0137-LWW

**PUBLIC VERSION
FILED FEBRUARY 9, 2023**

VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

Plaintiff Zalmon Uvaydov (“Plaintiff”), on behalf Lightning eMotors, Inc. (“Lightning” or the “Company”), previously known as GigCapital 3, Inc. (“Gig 3”), brings this Verified Shareholder Derivative Complaint asserting claims for fraud, breach of fiduciary duty, and aiding and abetting in connection with the business combination between Gig3 and Lightning’s predecessor, Lightning Systems, Inc.

(“Legacy Lightning”) against Robert Fenwick-Smith, Tim Reeser, Andrew Coors, Craig Huth, Heath Morrison, Glen Perlman, and Trent Yang, in their capacities as members of Legacy Lightning’s board of directors (the “Legacy Lightning Board” and the “Legacy Lightning Defendants”); Avi Katz, Raluca Dinu, Neil Miotto, John Mikulsky, Andrea Bettiberutto, and Peter Wang, in their capacities as members of Gig3’s board of directors (the “SPAC Board” and the “SPAC Defendants”); and Bruce Coventry, Thaddeus Senko and Diana Tremblay, in their capacities as members of the post-combination board of directors of Lightning (the “Lightning Board” and, with Defendants Fenwick-Smith, Reeser, Dinu, and Miotto, the “Lightning Defendants”).

Plaintiff alleges the following upon knowledge as to himself and his 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. NATURE OF THE ACTION

1. This case involves a SPAC (Gig3) that fell victim to the perverse incentives of its sponsors, who were financially motivated to close just about any business combination, no matter how unpromising the company, and a target (Legacy Lightning) that was desperate to raise capital to save its fledgling business. These forces combined to cause Gig3 to dramatically overpay for Legacy Lightning, using grossly inflated (and fabricated) financial projections and sales forecasts to secure stockholder approval of the transaction.

2. Making matters worse, the Board of the surviving company, now known as Lightning, continued the charade, touting sales prospects that it knew were unachievable before slowly walking back its financial guidance through a series of partial disclosures that resulted in a securities class action against the company.

3. As a result, following the business combination, Lightning has seen its market capitalization decline by 93%, with shares that traded for more than \$10.00 per share before the transaction now trading for 73 cents.

* * *

4. Gig 3 was a SPAC formed to make an acquisition of a private company. It was formed by serial SPAC-sponsor, Dr. Avi Katz, whose multiple other SPAC

offerings now trade at less than \$2 per share following overstated and unfavorable business combinations—*i.e.*, 80-90% lower than their IPO price of \$10 per share.

5. Gig 3 completed its IPO in May 2020, selling 20 million units to public investors at \$10 per unit for proceeds of \$200 million.

6. In August 2020, Gig3 was approached by Legacy Lightning, which after multiple rebrands had settled on becoming a fake-it-until-you-make-it electric commercial vehicle manufacturer. At the time, Legacy Lightning was struggling through significant design and production challenges and running out of cash. In the midst of discussions with Gig3, it renamed itself “Lightning eMotors” and began hyping its purported backlog of orders for electric vehicles.

7. The potential deal was a stretch from the outset. Despite having produced less than 100 vehicles, Gig3 slapped a \$1 billion valuation on Legacy Lightning and attempted to raise additional private investment in public equity (“PIPE”) funding to help close the transaction. After *unsuccessful meetings with 46 institutional investors*, Gig3 was forced to slash Legacy Lightning’s valuation in half.

8. But even that valuation was still far too high, and Gig3 found only one willing participant—Legacy Lightning’s largest preexisting investor at the time. Additional funds needed to close the de-SPAC were raised through issuance of

convertible notes, which saddled the post-combination company with hefty interest payment obligations required to entice otherwise unwilling investors.

9. With the PIPE and debt funding in place, Defendants still needed to sell the deal to SPAC investors. To support the enormously inflated valuation, Legacy Lightning fashioned outlandish sales forecasts—predicting tens of thousands of vehicle sales generating billions in revenue over the next five years—which not only vastly overstated any sales reasonably attributable to current customers but relied, in even larger part, on companies that were not even customers and could not have been reasonably expected to purchase any vehicles.

10. Plaintiff's inspection demand revealed that the projections were based on two Excel spreadsheets provide by Legacy Lightning with fabricated forecasts for thousands of sales and millions of dollars of revenue, with no corresponding purchase orders, to companies that were never disclosed to investors and would never become customers.

11. At best, Legacy Lightning had purchase orders for approximately 900 units from various undisclosed customers, but even those sales had no reasonable prospect of coming to fruition because of Legacy Lightning's limited production capacity and ongoing supply chain issues. Indeed, multiple former employees have stated that Legacy Lightning was plagued by a non-standardized assembly process,

significant supply constraints, perpetual redesigns, and half-baked demo vehicles that had not satisfied customers, some of which were dangerous to operate.

12. In advance of the stockholder vote on the transaction, Defendants hyped a series of new partnerships with Legacy Lightning, a forecast of \$2 billion of revenue by 2025, “\$1bn revenue based on current contract pipeline,” and “purchase orders to fulfill 100%” of 2021 and 2022 projected revenue.

13. Based on these misrepresentations, Defendants obtained stockholder approval for a transaction that contemplated an enterprise value of \$651 million, of which public stockholder obtained a 24% ownership.

14. Following the transaction, with no prospect whatsoever of achieving the pre-transaction projections, the Lightning Board began to walk back its guidance to some extent, but attempted to preserve Lightning’s inflated stock price through piecemeal disclosures.

15. Beginning only weeks after the closing, the current Lightning Board reduced guidance by approximately \$10 million, but that adjustment was not nearly enough to reflect reality.

16. Internal documents demonstrated that the actual anticipated production would be half the expectations at best, and many of the purported customers underlying the pre-transaction projections had dropped out of management’s “major

accounts” updates. Nonetheless, the Lightning Board slow dripped information to the market throughout the remaining quarters.

17. At the end of 2021, the Board was forced to disclose that sales had been a mere *14% of the pre-transaction projections*, citing various supply chain issues, but the Board struck an optimistic tone going forward.

18. The full scope of Lightning’s limited prospects would not be revealed until 2022, during which Lightning delivered only *5% of its pre-transaction projected units* and its stock price fell below \$1 per share. Lightning’s stock now trades at 73 cents per share, down 93% from Gig3’s IPO price.

19. Despite this enormous destruction of value, the scheme worked from the perspective of the Defendants. Defendant Katz and the other members of the SPAC Board, having obtained their shares for less than a penny per share, still have millions of dollars of paper profits. And the members of the Legacy Lightning Board, including Defendants Fenwick-Smith and Reeser, obtained hundreds of millions of capital from public stockholders, which they have used in an attempt to grow something from nothing.

20. This case is brought on behalf of the post-combination company, Lightning (formerly Gig3), for misconduct in connection with the de-SPAC transaction and thereafter.

21. As a result of this misconduct, Lightning has been damaged in multiple ways, including by entering into the transaction under false pretenses, significantly overpaying for its equity share of Legacy Lightning, being saddled with onerous and dilutive convertible notes, and incurring reputational and monetary harm caused by repeated misrepresentations to investors, which resulted in a securities class action in the U.S. District Court for the District of Colorado, *Shafer v. Lightning eMotors, Inc.*, No. 1:21-cv-02774-RMR (D. Colo.) (the “Securities Action”) and a class action filed on behalf of Gig3 investors in this Court, *Delman v. Gigacquisitions3, LLC*, No. 2021-0679-LWW.

22. In January 2023, this Court held that the plaintiffs in the *Delman* action had adequately pled that the SPAC Defendants had misled investors in connection with the transaction, including with respect to Legacy Lightning’s baseless growth projections.

23. This derivative action seeks to recover damages caused to the combined entity by the misconduct described herein.

II. PARTIES

A. The Plaintiff

24. Plaintiff Zalmon Uvaydov has continuously held shares of Gig3/Lightning since at least December 2020.

B. The SPAC Defendants

25. Gig3 was a Delaware corporation formed in February 2020 as a special purpose acquisition company (*i.e.*, a SPAC). It was managed by its sponsor GigAcquisitions3, LLC (the “Sponsor”), which was an affiliate of GigCapital Global (“GigCapital”), a self-described private-to-public equity business that brings “private companies to the public market with an ‘IPO-in-a-box’ methodology.”

26. Defendant Dr. Avi Katz is the CEO, Executive Chairman, and a founding managing partner of GigCapital. He served as the CEO of Gig3 and a member of the SPAC Board, and was the managing member of the Sponsor.

27. Defendant Raluca Dinu was a member of the SPAC Board. Dinu is a founding managing partner of GigCapital and has served as a director for other GigCapital SPACs. She is married to Defendant Katz.

28. Defendant Neil Miotto was a member of the SPAC Board. Miotto is a GigCapital partner and has served as a director of other GigCapital SPACs.

29. Defendant John Mikulsky was a member of the SPAC Board. Mikulsky is a GigCapital strategic advisor and has served as a director for other GigCapital SPACs.

30. Defendant Andrea Betti-Berutto was a member of the SPAC Board. He is a senior technologist at GigCapital and has served as a director for other GigCapital SPACs.

31. Defendant Peter Wang was a member of the SPAC Board. He is Chief Technology Officer for GigCapital and has served as director for other GigCapital SPACs.

32. Defendants Katz, Dinu, Miotto, Mikulsky, Betti-Berutto, and Wang are referred to herein as the “SPAC Defendants.”

33. Defendants Katz, Dinu and Miotto initially served on the post-combination Lightning Board but left before the filing of this lawsuit.

C. The Legacy Lightning Defendants

34. Defendant Robert Fenwick-Smith was a member of the Legacy Lightning Board and has served as Lightning’s Executive Chairman since 2010. He is a member of the current Lightning Board.

35. Defendant Tim Reeser was a member of the Legacy Lightning Board and is a member of the Lightning Board. Mr. Reeser founded Lightning Systems in October 2008 and had been Chief Executive Officer since 2012.

36. Defendant Andrew Coors was a member of the Legacy Lightning Board.

37. Defendant Craig Huth was a member of the Legacy Lightning Board.

38. Defendant Heath Morrison was a member of the Legacy Lightning Board.

39. Defendant Glen Perlman was a member of the Legacy Lightning Board.

40. Defendant Trent Yang was a member of the Legacy Lightning Board.

41. Defendants Fenwick-Smith, Reeser, Coors, Huth, Morrison, Perlman, and Yang are referred to as the “Legacy Lightning Defendants.”

D. The Lightning Defendants

42. Defendant Bruce Coventry joined the current Lightning Board in connection with the Transaction. Since at least 2020, he has served as a senior advisor at GigCapital Global.

43. Defendant Thaddeus Senko joined the current Lightning Board in connection with the Transaction.

44. Defendant Diana Tremblay joined the current Lightning Board in connection with the Transaction.

45. Defendants Coventry, Senko and Tremblay, along with Defendants Fenwick-Smith and Reeser, and former directors Katz, Dinu and Miotto, are referred to as the “Lightning Defendants.”

E. Relevant Non-Parties

46. Wanda Jackson-Davis joined the current Lightning Board after the misconduct set forth below.

47. Kenneth Jack joined the current Lightning Board after the misconduct set forth below.

III. JURISDICTION

48. This Court has subject matter jurisdiction pursuant to 10 *Del. C.* § 341.

49. This Court has personal jurisdiction over Gig3/Lightning because it is a Delaware corporation.

50. This Court has personal jurisdiction over the SPAC Defendants and Lightning Defendants pursuant to 10 *Del. C.* § 3114 because this action arises from conduct in their capacities as officers and/or directors of Gig3/Lightning, a Delaware corporation.

51. This Court has personal jurisdiction over the Legacy Lightning Defendants because this action arises from conduct in their capacities as officers and/or directors of Legacy Lightning, a Delaware corporation.

IV. SUBSTANTIVE ALLEGATIONS

A. Gig3 Was Defendant Katz's Third Terrible SPAC

52. SPACs are companies formed for the purpose of identifying and completing a business combination with a private company. After the closing of the

transaction (the “de-SPAC”), the combined company trades on the public markets on a national stock exchange.

53. SPAC sponsors, like Dr. Katz, typically acquire founder shares from a SPAC before it completes its IPO, often at less than a penny per share. Thereafter, the SPAC will offer shares to the public, typically at \$10 per share, through an IPO. The SPAC will have a specified period of time (typically eighteen to twenty-four months) to complete a business combination or else it will be required to dissolve and return the IPO proceeds to investors.

54. If the SPAC identifies a business combination, then investors must approve the transaction, and investors may either hold on to their shares, which will convert into publicly traded shares of the post-closing company, or redeem them for the price per share paid in the IPO (plus interest).

55. Katz is a master at selling to public investors, through the SPAC structure, over-priced, terrible deals involving companies with limited or vastly overstated business prospects. All of his SPACs that have identified a business combination now trade as post-closing companies at pennies on the dollar.

56. Katz’s first SPAC issued shares at \$10 per share and merged with Kaleyra S.p.A.. It now trades at \$1.

57. Katz's second SPAC issued shares at \$10 per share and merged with UpHealth Inc. It now trades at \$2.77.

58. Katz's third SPAC, at issue in this case, issued shares at \$10 per share and merged with Legacy Lightning. It now trades at 61 cents.

59. Katz's fourth SPAC issued shares at \$10 per share and merged with BigBear.ai Holdings Inc. It now trades at \$1.87.

60. Katz's fifth and sixth SPACs have yet to close business combinations.

61. Katz's foray in the world of SPACs has *cost the public hundreds of millions of dollars but has made him millions*. Even though the post-closing stock prices of the companies that he has brought public are now extremely depressed, Katz and his sponsor entities acquired shares at even lower prices, generally less than a penny per share.

62. This unusual dynamic creates an ever-present conflict between GigCapital and the investors in its SPACs: as a SPAC sponsor, GigCapital has a tremendous incentive to close any deal it can muster because—no matter how unpromising the company or how much the stock price tanks post-closing—the shares will still be worth more than the nominal price the sponsor paid.

63. SPAC investors, on the other hand, only benefit if the target company's stock price appreciates after the transaction closes, and they require a true and

accurate understanding of the proposed target company so that they can decide on an informed basis whether to support the transaction or redeem their shares.

64. Stockholders who decide not to redeem, and to accept shares in the post-closing company, are exposed to the risk that GigCapital, as sponsor, and the target company have overstated the target's business prospects, which will eventually emerge and drive down the post-closing share price. This is precisely what happened to investors in Gig 3 with help from the Legacy Lightning Board.

**B. Gig 3 Completes Its IPO and Raises
\$200 Million from Public Stockholders**

65. GigCapital and the Sponsor formed Gig3 in 2020. Prior to Gig3's offering of shares to the public, the SPAC issued to the Sponsor 5 million shares (or 20% of Gig3's post-IPO equity) for a nominal cost of \$25,000 (*i.e.*, less than a penny per share).

66. On May 18, 2020, Gig3 completed its IPO, selling 20 million units to public investors for \$10 per unit, raising proceeds of \$200 million which could only be used to complete a business combination. Each unit consisted of one share of common stock and a warrant for the purchase of common stock at an exercise price of \$11.50 per share in the event of a business combination.

67. The IPO funds were placed in a trust account until Gig3 either successfully completed a business combination or was forced to dissolve and return its assets to stockholders.

C. Lightning Is Running On Fumes After Rebranding From A Hybrid Car Company To An All-Electric Commercial Vehicle Company

68. Legacy Lightning was founded in 2008 as Lightning Hybrids to develop a vehicle to compete in the 2010 Automotive X Prize for a highly efficient sports sedan. Its initial approach was to equip an existing gasoline vehicle's drive train with a hydraulic hybrid regenerative braking system.

69. The company ultimately abandoned the passenger car concept because it was purportedly "too expensive to bring to market," and pivoted to commercial vehicles, in which the company purportedly saw a "larger market." It initially focused on developing a hydraulic hybrid system as a retrofit product for trucks and buses, but the company found that "market adoption was slow."

70. In 2017, Legacy Lightning pivoted again to vehicles with electric drive trains based on a "rapidly growing market for EVs world-wide" where "opportunities are much greater."

71. In December 2019, Legacy Lightning announced that it had raised \$41 million in equity, debt, and working capital line funding from existing and new

investors. The funding round was led by BP Ventures, with participation from other existing and new investors.

72. At the time, Legacy Lightning claimed to be “delivering powertrains for over \$25 million in orders from major fleets, propelling Lightning Systems to the position of the established premium provider of a full range of platforms for commercial vehicle fleets.”

73. However, confidential witnesses interviewed by counsel for plaintiffs in the Securities Action revealed that Legacy Lightning was struggling behind the scenes.

74. The complaint in the Securities Action quotes six different confidential witnesses, all employees of Legacy Lightning, who provided information suggesting extensive supply chain issues, difficulties sourcing parts, ongoing design revisions, rushed and faulty installations, and suspect and even dangerous end products that were not satisfying customers.

75. One confidential witness, identified as CW-2, was an engineer who worked at Legacy Lightning from summer 2019 through spring 2020, and served as a liaison between the engineering team, sales team, and customers.

76. CW-2 reported that, by May 2020, Legacy Lightning was laying off employees after orders from Amazon and other customers did not “pan out.”

77. While Legacy Lightning had provided 15 transit vans to Amazon as part of a “pilot” program, Amazon had been so dissatisfied with their performance and range that future orders were put on hold. The vehicles had been rushed through production because the company had been “coasting on fumes” and was in need of additional funding, according to CW-2.

78. Another confidential witness, CW-3, who was a technician responsible for repairing Legacy Lightning vehicles, corroborated CW-2’s account, reporting that a high-level employee at Amazon had become angry about the number of repairs that had to be performed on the delivery vans and threatened to “pull the contract,” and that Legacy Lightning had “screwed up” a \$60-\$70 million contract by sending underdeveloped vehicles to Amazon that had not been adequately tested.

79. CW-2 also explained that Legacy Lightning’s vehicles had particular problems with battery issues, which the witness attributed to the fact that the company had to work with smaller, “lower tier” battery supplies because it did not have enough business to place orders with larger suppliers.

80. CW-2’s account again is corroborated by another confidential witness, CW-4, who was a manufacturing supervisor at Legacy Lightning until 2021. CW-4 that there was a “constant shortage” of parts, and that supply of batteries was a particular difficulty because Legacy Lightning’s suppliers were small and could only

produce small numbers of batteries. As a result there often were weeks-long delays in battery orders being fulfilled, which in turn delayed vehicle production.

81. CW-4 further explained that Legacy Lightning suffered from “a lot of money issues” during the period, including the inability to pay suppliers.

82. CW-4 believed that Legacy Lightning used its funding from BP Ventures to purchase equipment that made it look like a company that was “worth more” and could do more things in-house than it could in reality.

D. Legacy Lightning Reaches Out To Gig3 For New Capital

83. By at least August 2020, Legacy Lightning had hired financial advisors to identify desperately needed additional sources of capital. Those advisors approached Gig3 to discuss a potential acquisition, and discussions ensued over the following months.

84. On September 24, 2020, the parties agreed to a letter of intent that proposed a post-combination enterprise value of approximately \$1 billion.

85. In October 2020, while discussions with Gig3 were still transpiring, Legacy Lightning renamed itself “Lightning eMotors” and began touting its “current product range” as “among the best performing, best engineered and most reliable in the market.”

86. Thereafter, Gig3 and Legacy Lightning met with *approximately 46 potential investors* to raise additional capital for the potential transaction through PIPE financing. Despite holding 58 meetings, Defendants failed to obtain any institutional support for the deal because the proposed valuation of the newly rebranded company was nonsensical.

87. Faced with no other option, in November 2020, Gig3 and Legacy Lightning agreed to cut the valuation of Legacy Lightning *nearly in half* to \$539 million to support PIPE financing of at least \$75 million.

88. But, even at that valuation, the SPAC was unable to attract meaningful support from institutional investors. Of the 46 potential investors that Defendants contacted, only one investor expressed interest. In other words, 98% of sophisticated institutional investors rejected the valuation as non-viable.

89. Gig3 concluded that at the current valuation, PIPE financing based on the “the sale and issuance of [c]ommon [s]tock”—*i.e.*, the same common stock issued to the SPAC’s current stockholders—was not a “viable method for obtaining additional financing to support the combination.”

90. Thus, Legacy Lightning and Gig3 orchestrated a deal with Legacy Lightning’s largest investor, BP Ventures, to single-handedly provide some limited financing through the purchase of 2.5 million Gig3 shares for \$25 million.

91. To shore up the deal, Gig3 also issued \$100 million in convertible notes (the “Notes”) to undisclosed investors, which were convertible into 8,695,652 shares of Gig3 common stock at a conversion price of \$11.50 per share. Investors in the Notes also received, at no additional cost, 8,695,652 warrants with an exercise price of \$11.50.

92. The Notes paid an annual interest rate of 7.5%, imposing a significant debt burden on a struggling company with little revenue. The Notes were subject to a three-year term, and although Lightning would have the right to force conversion after one year, further interest payments still would be required to be paid.

93. Legacy Lightning and Gig3’s agreement to these onerous terms underscores that the valuation of the combined company remained unreasonably high. Sophisticated investors were unwilling to purchase equity in the company unless they also received a guaranteed return of 7.5% for three years, as well as free warrants that would enable them to double their equity stake if the company performed well.

94. Nevertheless, Defendants still planned to find a way to justify the deal to Gig3’s public stockholders.

E. Defendants Formulate Baseless Growth Projections To Obtain Stockholders Approval Of The Transaction

95. On December 10, 2020, Legacy Lightning and Gig3 announced that they had entered into a merger agreement under which SPAC stockholders would receive shares in the combined company (the “Transaction”).

96. Gig3 chose not to obtain a fairness opinion from a financial advisor because of the likelihood that it would reveal deficiencies in the process and valuation.

97. Instead, to justify the enormously inflated valuation, Legacy Lightning—which had never turned a profit and had barely \$9 million in revenues to show in 2020—provided Gig3 and its investors with equally inflated and baseless multi-year financial projections.

98. The projections were based on a superficial spreadsheet created in June 2020 by Defendant Fenwick-Smith, which was, upon information and belief, provided to Gig3 following the signing of the letter of intent in September 2020.

99. It assumed [REDACTED]

[REDACTED]

[REDACTED]

100. This growth was based on the projected delivery of thousands of units annually in coming years, [REDACTED] [REDACTED] despite Legacy Lightning's tiny production capacity and ongoing supply chain and installation issues.

[REDACTED]

101. Indeed, as of the end of 2020, Lightning had delivered *only 97 vehicles since 2019* with an additional 12 demo vehicles. It had, at the time, the capacity to manufacture and assemble only 500 vehicles per year, and its production process was highly customized, not an assembly line process, and was still subject to significant growing pains.

102. The identities of the "11 customers" purportedly supporting Legacy Lightning's forecasts were not disclosed to investors, but the projections assumed [REDACTED]

103. Defendant Fenwick-Smith's spreadsheet demonstrates that the customers consisted of a mix of (a) actual buyers with extremely overstated sales potential and (b) companies with which Lightning had little if any actual business relationship, much less purchase orders.

[REDACTED]

104. For example, [REDACTED]

[REDACTED] Legacy Lightning had previously announced orders from Fluid Trucks for 600 trucks in 2020 with “availability starting in Q4 2020.” But as of March 2021, only “[t]en electric delivery box trucks [had] been put into service within the Fluid Truck network system” with a potential “additional 30 vehicles” allegedly set to “be deployed over the next few months.”

105. Nonetheless, the forecast assumed [REDACTED]
[REDACTED], which were neither possible nor covered by current orders. The [REDACTED] were pure speculation.

[REDACTED]

106. Similarly, DHL, which accounted for [REDACTED] units), was a disclosed customer of Lightning and had participated in an “initial pilot program using nine Lightning Electric Ford Transit 350HD electric vans” in 2020. But, as of March 2021, DHL planned to deploy only “another 89 electric vehicles this year [2021].” Internal documents demonstrated that [REDACTED]

107. Nonetheless, Lightning’s projected sales to DHL exponentially exceeded anything that could be reasonably expected from the current relationship, suggesting [REDACTED] years. The projections even included historically false information regarding deliveries in 2020, indicating [REDACTED], when in fact, [REDACTED]

108. Amazon, which was an indirect customer through Lightning’s partnership with Plug Power, accounted for [REDACTED] despite the turmoil in that contract described by confidential witnesses in the Securities Class Action.

109. At best, Legacy Lightning expected only [REDACTED]

[REDACTED] and thereafter Plug Power was purportedly [REDACTED]

[REDACTED] Nonetheless, Legacy Lightning projected [REDACTED]

[REDACTED] which were already guaranteed not to occur, and

[REDACTED] which were effectively fabricated.

[REDACTED]

110. Winnebago had, in fact, [REDACTED], but the partnership between the company and Lightning would not be finalized until January 2022, and even by then Winnebago was still “field testing with customers” with no expected date for commercialization. Nonetheless, the projections included [REDACTED]

[REDACTED] in the years to come.

[REDACTED]

111. [REDACTED]

[REDACTED] Even by the end of 2022, a year later, Lightning would only have “around 50 of its vehicles on the road” in all of Canada combined. Nonetheless, it projected [REDACTED].

[REDACTED]

112. The examples above are the most charitable. The vast majority of projected growth was attributed to companies that *do not appear to have been current customers* when the projections were made (or even now).

113. Indeed, [REDACTED]
[REDACTED]
[REDACTED] That list
suggested, [REDACTED]
[REDACTED]

[REDACTED]

114. The remaining customers were largely fictionalized. For example,

[REDACTED]

[REDACTED] Yet, Lightning had [REDACTED]

[REDACTED]

[REDACTED]

115. The spreadsheet [REDACTED]

Indeed, even months later in August 2021, Lightning would still be purportedly

[REDACTED] but no evidence would suggest a basis to project any sales, much less tens of millions of dollars in near-term revenue.

116. [REDACTED]

[REDACTED]

[REDACTED]


117. But it also appears to [REDACTED] and [REDACTED] suggesting that it was not even a potential customer.


118. Others, including [REDACTED] [REDACTED] or even clearly disclosed relationships.





119. [REDACTED] [REDACTED] and [REDACTED] [REDACTED] At best, it appears that [REDACTED] [REDACTED] and the rest was pure speculation.

120. Nonetheless, thousands of projected sales were attributed to these customers beginning immediately and extending for years.


[REDACTED]

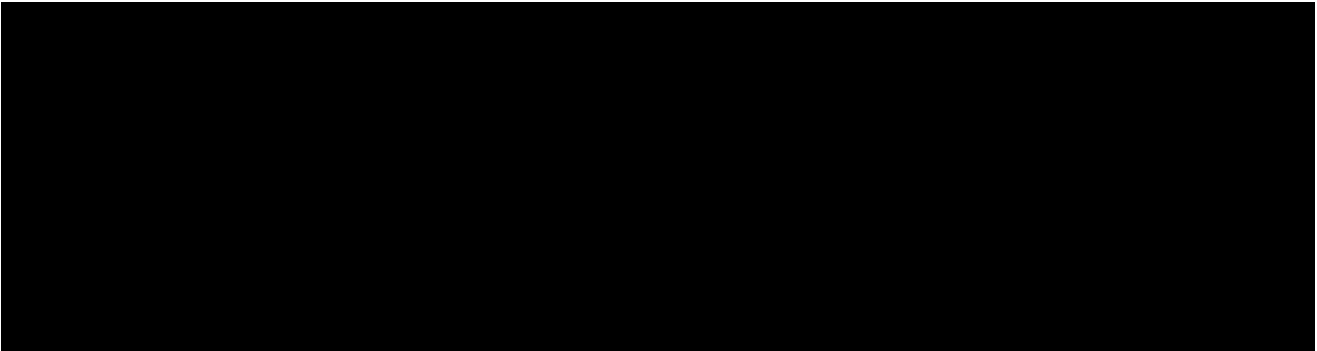


121. In late November 2020, following the massive reduction in Legacy Lightning's initial proposed valuation, 



122. However, the adjustments were minimal and did not address the glaring problems set forth above.

123. In a revised worksheet with no customer-level detail, Legacy Lightning marginally reduced revenue, which still purportedly 
years.

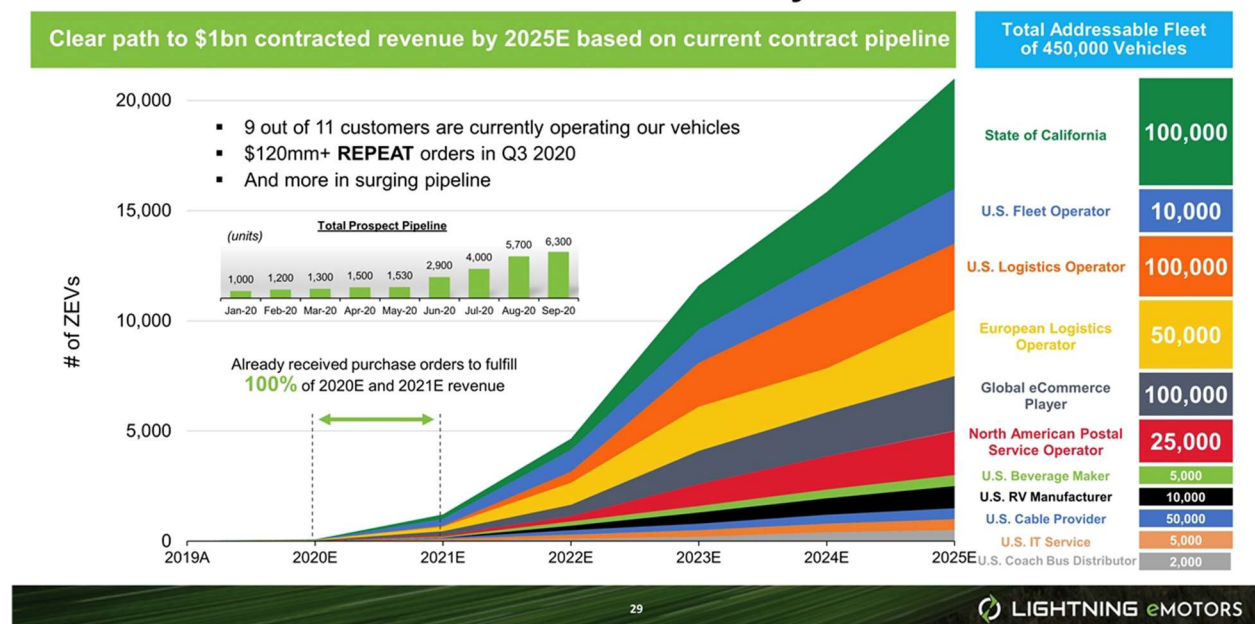


124. The Legacy Lightning Defendants, by reason of their director and senior officer positions at Legacy Lightning, knew or should have known that the growth projections and underlying sales and customer assumptions were fabricated.

125. Nevertheless, largely based on these baseless projections, the Legacy Lightning Defendants and SPAC Defendants began to hype the Transaction for stockholder approval.

126. In a December 2020 presentation to investors (the “Investor Presentation”), Legacy Lightning touted a “[c]lear path to \$1bn contracted revenue by 2025E based on current contract pipeline.”

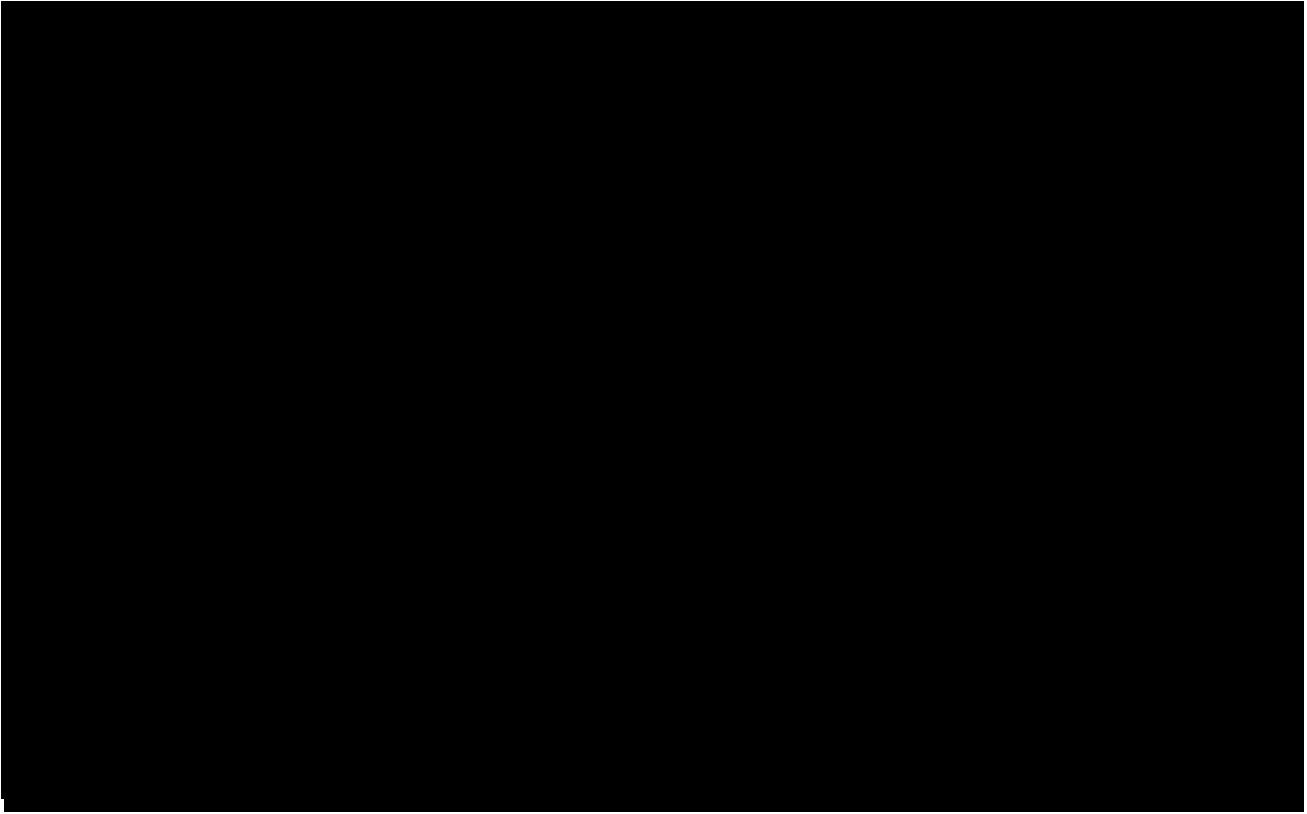
Robust Contracts Provide Financial Visibility and External Validation



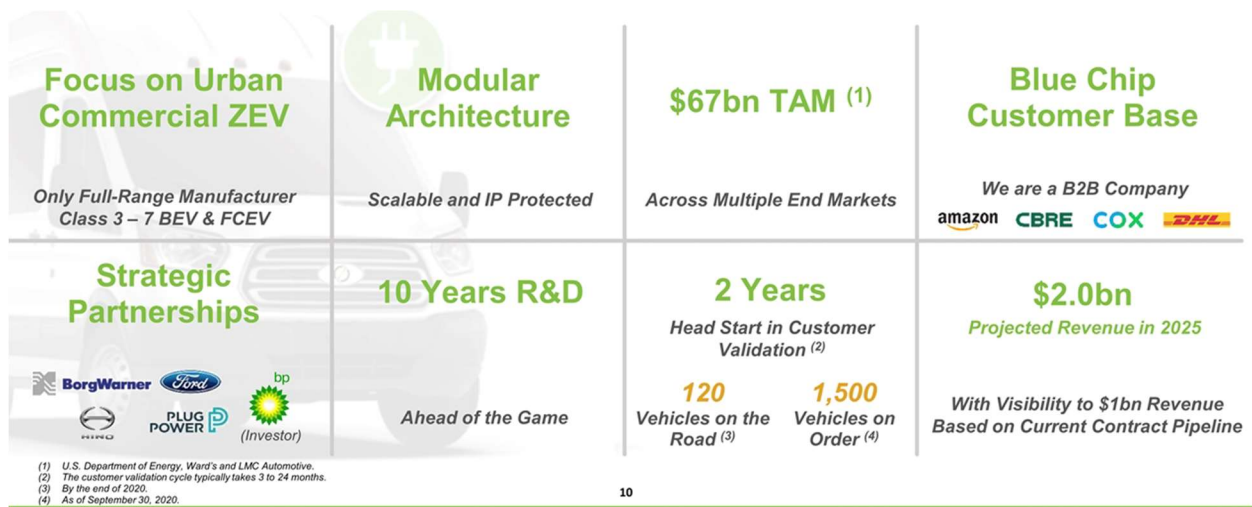
127. That “path” was paved with severe overstatement and pure fiction, and relied on the same exaggerated sales to the “11 customers” addressed in detail above.

128. Legacy Lightning anonymized many of the purported customer names to make it harder for investors to fact check, but comparison to Defendant Fenwick-Smith’s spreadsheet (shown below) makes clear that [REDACTED]

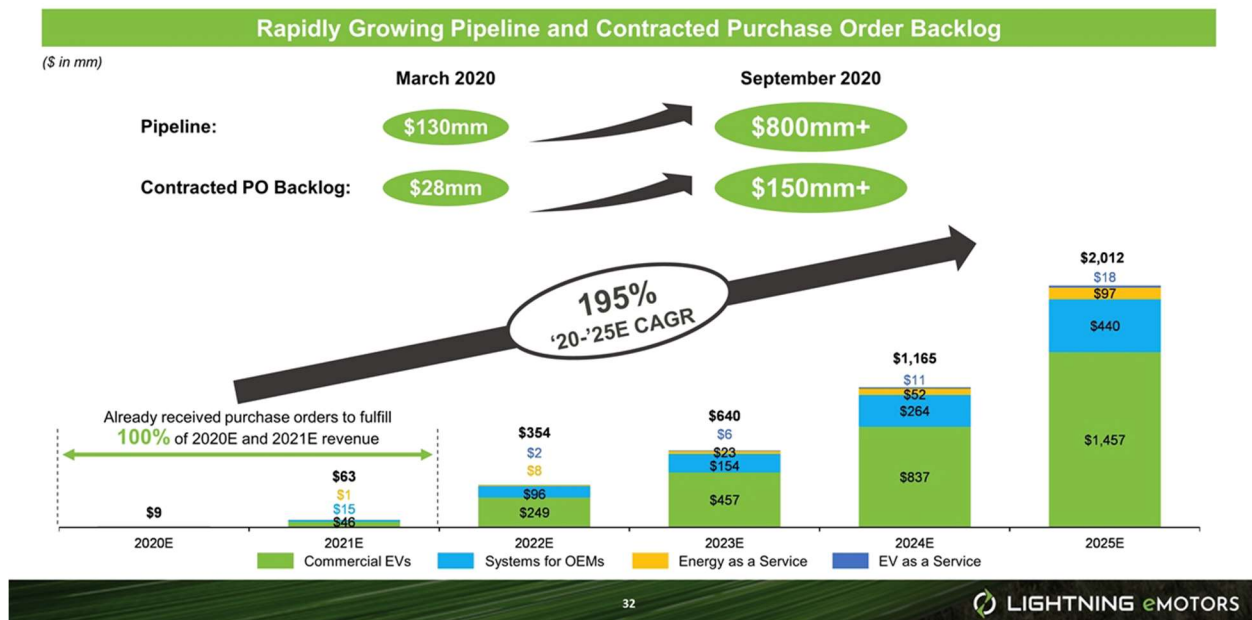
[REDACTED]



129. The Investor Presentation also falsely stated that Lightning’s revenue was “100%” covered through 2021 with “visibility to \$1b revenue based on current contract pipeline.”



Projected Revenue by Product Mix



130. The materials prepared by Legacy Lightning, and provided to the SPAC Board, far from suggested “100%” coverage for future revenue; it was not even clear that the majority of customers cited would ever produce any revenue. But Gig3 happily played along.

**F. Defendants Hype The Company In Advance
Of The Stockholder Vote And Exaggerate Its Prospects**

131. In advance of the stockholder vote to approve the Transaction, Defendants attempted to create the appearance of momentum by making a string of announcements about new partnerships and continuing to tout the baseless growth projections.

132. For example, on January 5, 2021, Legacy Lightning announced that “ABC Companies, a premier provider to the transportation industry, place[d] \$45M order for 200 additional electric vehicles.” Thereafter, on March 20, 2021, Legacy Lightning announced that “Fluid Truck Orders 40 Additional Zero Emission Trucks.” On March 24, 2021, Legacy Lightning announced that “DHL Express Deploys Nearly 100 New Lightning Electric Delivery Vans in U.S.”

133. On March 26, 2021, Gig3 distributed a definitive proxy statement to investors in advance of approval of the Transaction (the “Proxy Statement”).

134. The Proxy Statement included the same baseless growth projections as the Investor Presentation without disclosing the underlying assumptions, which were both exaggerated and fictional.

Lightning Systems Key Financials

(\$ in million, unless otherwise noted)

	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
Revenue	\$ 9	\$ 63	\$354	\$640	\$1,165	\$2,012
Gross Growth	NM	NM	462%	81%	82%	73%
Gross Profit	\$ 0	\$ 9	\$ 68	\$140	\$ 296	\$ 528
Gross Margin	3%	14%	19%	22%	25%	26%
Adjusted EBITDA	(\$ 11)	(\$ 17)	\$ 15	\$ 50	\$ 155	\$ 315
Adjusted EBITDA Margin	(122%)	(27%)	4%	8%	13%	16%

Source: Lightning Systems' Management Projections

135. Investors were told only that Gig3 “worked with [Legacy Lightning to] revise the forecasts for presentation to the [SPAC] Board as part of the [SPAC] Board’s review and subsequent approval of the Business Combination.”

136. The Proxy Statement also repeated Legacy Lightning’s false guarantee that it had “already received purchase orders to completely cover its estimated 2021 and over 25% of 2022 revenue.”

137. In a press release, Defendants further touted that Legacy Lightning had “[h]igh revenue visibility with *100% of projected 2021 revenue of \$63 million* and 25% of 2022 projected revenue of \$354 million under firm purchase orders as of today, and strong line of sight to \$2 billion in projected 2025 revenue, including \$1 billion from existing fleet customers.” (Emphasis added.)

138. On the production side, Defendants likewise touted Legacy Lightning’s “extensive ecosystem” of supply-chain partners that was “optimized” for “quality, reliability, and cost,” painting a starkly different picture than the reality on the ground as described the confidentiality witnesses in the Securities Action.

139. Based on these false assurances and projections, Defendants obtained stockholder approval for the Transaction at an April 21, 2021 special meeting, raising \$268.3 million in capital for the post-combination company.

140. The Transaction implied a pro forma enterprise value of approximately \$651 million with SPAC stockholders obtaining ownership of 24% of the combined company.

G. The Lightning Board Continues The Charade

141. Less than two weeks after the Transaction closed, and less than two months after disseminating the Proxy Statement, the Lightning Board began slowly walking back its baseless projections.

142. On May 17, 2021, it issued a press release announcing Q1 2021 revenues of \$4.6 million and stated: “Based on current business conditions, business trends and other factors, for the full year 2021 ending Dec. 31, 2021, the Company expects . . . *Revenues to be in the range of \$50 million to \$60 million.*” (Emphasis added.)

143. This was a significant revision from the projection of \$63 million included in the Proxy Statement, but did not come close to accounting for the actual extent to which the original projections overstated any plausible near-term growth potential.

144. The Lightning Board's decision to continue to obfuscate Lightning's true prospects temporarily propped up the price of the company's shares. The small downward adjustment on May 17, 2021 actually contributed to an increase in Lightning's share price from \$6.47 at last close to \$7.25 as of close on May 17 and over \$8 per share by the following week.

145. Behind the scenes, however, the Lightning Board had information clearly showing that the revised forecast continued to be significantly overstated.

146. During a June 2, 2021 meeting, management informed the Board that it needed to [REDACTED] [REDACTED] despite having told investors only a few months earlier that the revenue was fully covered.

147. The support for the revised projections shown to the Board (but not disclosed to investors) suggested that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

148. More concerning facts would emerge at the following meeting. On June 15, 2021, the Board's Audit Committee met in advance of Lightning's first post-

transaction Analyst Day, including Defendants Senko and Tremblay, and discussed

[REDACTED]

149. The Analyst Day presentation included [REDACTED]

[REDACTED] and continued to rely on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

150. Defendant Reeser advised the Audit Committee that [REDACTED]

[REDACTED] apparently suggesting that they [REDACTED]

[REDACTED] and the Audit Committee considered

whether [REDACTED] “The [REDACTED]

[REDACTED]

[REDACTED]

151. The next day, June 16, 2021, the full Lightning Board considered [REDACTED]

[REDACTED]

152. Given that the projections *were already false and misleading by the time of the Transaction*, the Lightning Board’s adherence to them midway through 2021 defies credulity. By that point, it was clear that Lightning would be lucky to make even half of its projected 1,026 vehicles.

153. On June 17, 2021, Lightning held its Analyst Day and continued to tout its revenue and projection guidance, which helped continue to prop the stock price up to \$8.72 per share.

154. During the conference, Defendant Reeser stated that “we do feel confident in [Lightning’s financial projections].” By the end of the following week, Lightning stock closed at \$9.05 per share.

155. On August 10, 2021, the Lightning Board announced that it had reached an agreement with Forest River, a shuttle bus manufacturer, “to deliver up to 7,500 zero-emission Class 4 and Class 5 buses across the U.S. and Canada between 2021 and 2025.” Defendant Reeser stated that the deal “has the potential to be the largest contract ever in the electric shuttle bus market.”

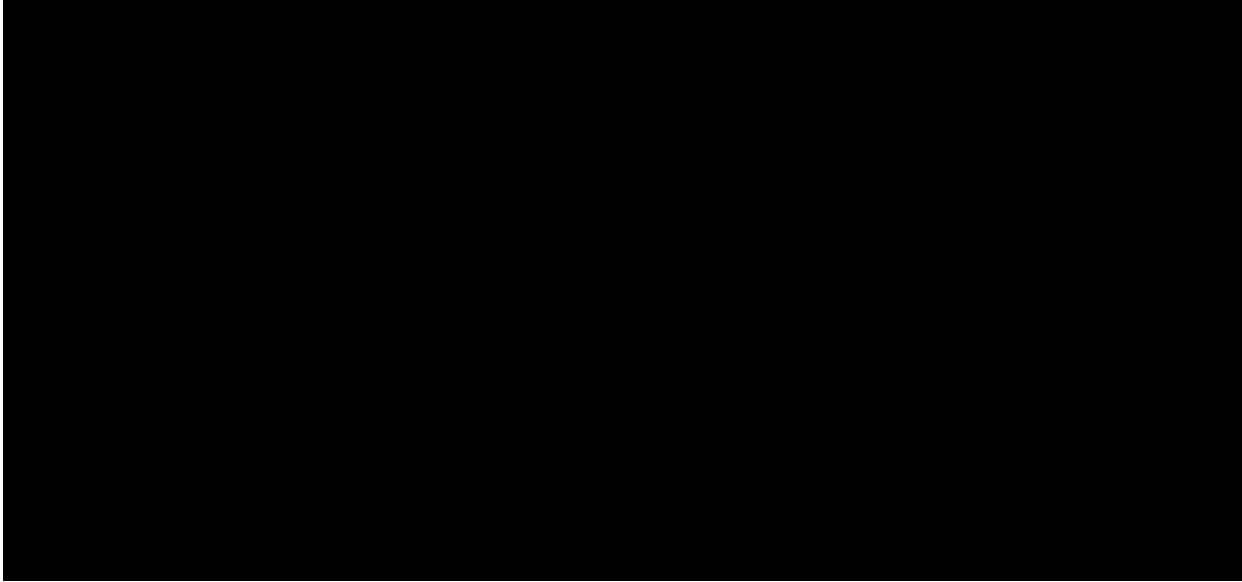
156. Lightning's stock price soared to over \$11 per share on the news, but only because investors remained unaware of the fact that the vast majority of the customers and sales projected in connection with the Transaction had disappeared.


157. For example, the next day, on August 11, 2021, the Board received a


[REDACTED] which demonstrated [REDACTED]

[REDACTED]

[REDACTED]



158. Major contributors to projected sales pre-Transaction (and Lightning’s revised guidance in May 2021) were nowhere to be found, including, 



 Others, like  were nowhere near commercial production or even signed purchase orders.

159. The investor excitement was short-lived. On August 16, 2021, Lightning released its second quarter results. The Lightning Board continued to slow roll information suggesting that Lightning’s prospects were extremely limited.

160. Lightning disclosed that it had delivered only 37 vehicles and was “withdrawing its prior guidance for the 2021 year,” purportedly “because of unexpected chassis production disruptions and COVID related delays.”

161. But those purported supply chain issues had long been known to the Board, even before the Transaction, as alleged in the Securities Action, and could not explain, in any event, the enormous deviation between the pre-Transaction projections and the actual results. Nor did supply chain issues explain the enormous turnover in Lightning's customer basis or why many previously cited large customers disappeared.

162. While the Lightning Board advised investors that it "no longer expects to meet full year guidance," that was an understatement. It declined to provide a revised full year guidance and disclosed only expected third quarter "sales of 28 units to 40 units."

163. On August 16, 2021, Lightning disclosed that Defendants Katz, Dinu, and Miotto would not be running for re-election when their terms expired in two months. Those Defendants fled the Board in October 2021.

164. By early October 2021, the stock price had declined back below \$8 per share, but continued to be significantly inflated.

165. On October 15, 2021, the Securities Action was filed, which alleges that Gig3, Lightning and certain officers and directors violated federal securities laws by misleading investors with respect to Lightning's ongoing supply chain problems and actual production capacity. *See Shafer v. Lightning eMotors, Inc.*, No.

1:21-cv-02774-RMR (D. Colo.) The *Shafer* action alleges that Legacy Lightning, Gig3, and the combined post-Transaction company repeatedly misled investors regarding Lightning's supply chain constraints, production quality, design flaws, and other factors that would drastically limit the company's ability to fulfill orders on the scale that it had projected.

166. On November 15, 2021, Lightning disclosed third-quarter sales of 43 vehicles. It projected final quarter sales of "40 units to 60 units" and stated that it had "pushed out over 60 expected vehicle sales from the fourth quarter into 2022 due to supply chain disruptions with our chassis and other component suppliers."

167. Despite having reaffirmed the projections as recently as June 2021, Lightning would come nowhere near the "100%" covered sales of 1,026 units in 2021.

168. At the close of 2021, Lightning reported full-year "sales of 146 zero-emission vehicles"—*i.e.*, only 14% of supposedly "100%" covered sales projected in connection with the Transaction. It reported revenue of \$21 million, or only 34% of the \$63 million projected in connection with the transaction (and less than half of even the reduced guidance immediately after closing).

169. The Board offered little explanation. Rather, it touted a continued pipeline of \$1.3 billion and stated that “customers remain supportive, and we have not seen any order cancellations.”

170. But customers that never existed cannot submit “order cancellations,” and the Board continued to conceal the extent to which Lightning’s sales projections did not match the reality of its customer base.

171. Lightning’s stock price declined to approximately \$6 per share by year-end 2021, but remained significantly inflated given that its actual prospects in 2022 had not yet become clear.

172. The Lightning Board continued to decline to provide year-long guidance, but during the course of 2022, it finally became apparent to the market that Lightning’s potential was severely limited and the company did not resemble in any way the company described by the pre-Transaction projections.

173. By June 2022, Lightning’s stock price had fallen below \$3 per share and by year-end it was well under \$1. On December 30, 2022, it closed at 37 cents.

174. Lightning produced only 374 units in 2022, or 5% of the sales projected in connection with the Transaction. Its revenue was \$24 million, or only 7% of projected revenue of \$354 million.

175. The enormous extent to which Lightning’s projections overstated any plausible likely results is itself evidence of how baseless the projections were when they were made and throughout 2021 and 2022 as the Lightning Board refused to significantly back away from them.

176. Lightning’s stock currently trades at 73 cents, or a 93% decline from the \$10 per share Gig3 IPO price. The business combination has destroyed over \$200 million in stockholder value.

H. This Court Held That The SPAC Board Lied To Investors

177. On August 4, 2021, the SPAC Defendants were sued in the Delaware Chancery Court on class action claims that they breached their fiduciary duties to Gig3 investors by entering into an unfair Transaction that advanced their own personal interests and misleading investors in an effort to obtain stockholder approval of the Transaction. *See Delman v. Gigacquisitions3, LLC*, No. 2021-0679-LWW.

178. On January 4, 2023, in the *Delman* case, this Court denied the SPAC Defendants’ motion to dismiss, holding that “it is reasonably conceivable that the defendants breached [their fiduciary] duties by disloyally depriving public stockholders of information material to the redemption decision.”

179. The decision held, among other things, that the SPAC Defendants “deprived Gig3’s public stockholders of an accurate portrayal of Lightning’s financial health” and that the plaintiff had sufficiently alleged that the Transaction was subject to entire fairness review because it suffered from conflicts of interest, including that the interests of the SPAC Defendants “diverged from public stockholders in the choice between a bad deal and a liquidation.”

180. As to the conflicts of interests, the Court noted that “despite the plunge in [Lightning’s] stock price since the merger, the [SPAC Defendants’ shares] were worth nearly \$32.7 million when this litigation was filed.” Moreover, the SPAC Defendants also had “an interest in minimizing redemptions after the merger agreement was signed,” which motivated them to mislead investors, so as to satisfy closing conditions in the transaction agreement.

181. The Court further held that the price of the Transaction was sufficiently alleged to be unfair because “public stockholders were left with shares of [Lightning] worth far less than the \$10 per share redemption price.”

V. DEMAND FUTILITY ALLEGATIONS

182. Plaintiff brings this action derivatively in the right and for the benefit of Lightning to redress the fraud, breaches of fiduciary duty, and other violations of law by the Defendants, as alleged herein.

183. Plaintiff has owned shares of Lightning, and previously Gig3, continuously at all relevant times set forth herein.

184. Plaintiff will adequately and fairly represent the interests of Lightning in enforcing and prosecuting its rights, and Plaintiff has retained counsel experienced in prosecuting this type of derivative action.

185. Plaintiff has not made, and is excused from making, a pre-suit demand on the Lightning Board under the demand futility analysis set forth in *United Food and Commercial Workers Union v. Zuckerberg*, No. 404 2020, 2021 WL 4344361 (Del. Sept. 23, 2021).

186. Demand is futile where a majority of the members of the board “would face a substantial likelihood of liability on any of the claims that are the subject of the litigation demand” or lack “independence from someone who received a material personal benefit from the alleged misconduct.” See *United Food*, 2021 WL 4344361 at *16.

187. Five of the seven members of the Lightning Board face a substantial likelihood of unexculpated liability in this action.

188. Defendants Fenwick-Smith and Reeser were members of the Legacy Lightning Board and were personally involved in misleading Gig3 investors into

approving the Transaction. Both prepared the false projections used to support the Transaction, which were repeatedly touted to the investing public.

189. Thereafter, both were members of the Lightning Board that continued to overstate the company's true prospects throughout 2021 and 2022 in an effort to minimize and obscure the extent to which the Transaction overvalued Lightning. As a result, both are personally liable pursuant to Counts I and IV below.

190. Defendant Coventry is a senior adviser at GigCapital, an affiliate of the Sponsor, which were founded and controlled by Defendant Katz, who derived a substantial financial benefit as a result of the misconduct alleged herein through the acquisition of founder shares of Gig3. Defendant Coventry is disabled from considering a demand because of his personal and financial relationships to Defendant Katz and GigCapital.

191. Further, Defendant Coventry is also disabled from considering a demand because he faces substantial liability in this action in his capacity as a member of the Lightning Board pursuant to Count IV. Following the Transaction and throughout 2021 and 2022, as a member of the Lightning Board, Defendant Coventry continuously misrepresented and concealed material facts about Lightning's prospects despite internal documents plainly demonstrating that the company had no possibility of achieving its financial guidance and projected growth.

192. Defendant Coventry has repeatedly minimized and obscured the extent to which Lightning's projections were false at the time of the deal and thereafter, and did nothing to prevent or correct Lightning's misrepresentations to the market or hold the Legacy Lightning Board or the SPAC Board accountable for their misconduct in connection with the Transaction. As a result, Lightning is now subject to class action securities litigation.

193. Defendants Senko and Tremblay also are disabled from considering a demand because they face substantial liability in this action pursuant to Count IV. Following the Transaction and throughout 2021 and 2022, they continuously overstated Lightning's true prospects, provided inaccurate and unfounded financial guidance to the market, and failed to correct the company's misstatements or hold the Legacy Lightning Board or the SPAC Board accountable for their misconduct in connection with the Transaction. As a result, Lightning is now subject to class action securities litigation.

194. The remaining directors on the current Lightning Board are non-parties Jackson-Davis and Jack, who constitute a minority of the seven person Board.

195. As a result of the personal and financial conflicts of interests set forth above and the likelihood of substantial liability in this action, a majority of the

members of the Lightning Board are disabled from considering a pre-suit demand and thus demand is excused.

CAUSES OF ACTION

COUNT I

(Fraud Against The Legacy Lightning Defendants)

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

197. The Legacy Lightning Defendants provided false and misleading information about Legacy Lightning's business prospects to Gig3, including production and revenue projections based on purported sales and customers that they knew, or had a reasonable basis to have known, would never materialize.

198. They were motivated to do so by Legacy Lightning's need for immediate additional funding, which it could not raise from other sources, including institutional investors, as demonstrated by Gig3's failed efforts to raise PIPE funding.

199. As a result of this misconduct, Lightning (formerly Gig3) was harmed by entering into the Transaction under false pretenses, overpaying for its equity share of Legacy Lightning, taking on unfavorable debt in connection with the Transaction,

and having to pay costs, expenses and liabilities in the post-Transaction litigations now pending.

200. The Legacy Lightning Defendants are liable to Lightning for damages in an amount to be determined at trial.

COUNT II

(Breaches of Fiduciary Duty Against the SPAC Defendants)

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

202. As directors of Gig3, the SPAC Defendants owed Gig3 the utmost fiduciary duties of care and loyalty, which include an obligation to act in good faith and to make accurate material disclosures.

203. These duties required them to place the interests of Gig3 stockholders above their own personal financial interests.

204. Through the events and actions described herein, the SPAC Defendants breached their fiduciary duties by prioritizing their own personal, financial, and/or reputational interests and approving the Merger, which was unfair to Gig3's public stockholders.

205. The Director Defendants also breached their duty of candor by issuing the false and misleading statements in investor presentations, press releases, and the Proxy Statement.

206. As a result, Lightning (formerly Gig3) was harmed by entering into the Transaction under false pretenses, overpaying for the equity share of Legacy Lightning it acquired, taking on unfavorable debt in connection with the Transaction, and having to pay costs, expenses and liabilities in the post-Transaction litigations now pending.

207. The SPAC Defendants are liable to Lightning for damages in an amount to be determined at trial.

COUNT III

(Aiding And Abetting Against The Legacy Lightning Defendants)

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

209. The Legacy Lightning Defendants are liable for aiding and abetting with respect to Count II against the SPAC Defendants and, separately, with respect to Legacy Lightning's breach of the Business Combination Agreement with Gig3.

210. The Legacy Lightning Defendants provided the SPAC Defendants with false and misleading information regarding Legacy Lightning's prospects that the

SPAC Defendants used to support the deal to public stockholders and obtain stockholder approval of the Transaction.

211. The Legacy Lightning Defendants knew that their projections were false and did not reflect the reality of the company's near term capabilities, but they provided them in any event to obtain additional capital need by Legacy Lightning.

212. The Legacy Lightning Defendants also caused Legacy Lightning to breach the Business Combination Agreement and provide false and misleading information about Legacy Lightning's business prospects in connection with the Transaction.

213. On December 20, 2020, the Legacy Lightning Defendants caused Legacy Lightning to enter into a Business Combination Agreement with Gig3 under which Legacy Lightning represented and warranted, pursuant to Section 4.20, that it has "at all times maintained accounting and financial controls adequate to ensure that: (i) all payments and activities have been accurately recorded in the books, records and accounts of the Company, the Company's predecessors and all Company Subsidiaries [and] (ii) there have been no false, inaccurate, misleading, or incomplete entries made in the Company's books, records and accounts," and its "books, records, and accounts of the Company, the Company's predecessors and all

Company Subsidiaries accurately reflect in reasonable detail the character and amount of all transactions.”

214. These representations and warranties were false because the production and revenue projections provided to Gig3 by the Legacy Lightning Defendants were fabricated “books, records and accounts” created and distributed using baseless or falsified financial information, and Legacy Lightning had no effective financial controls to ensure that its projections were reasonably supported and not false.

215. As a result of this misconduct, Lightning (formerly Gig3) was harmed by entering into the Transaction under false pretenses, overpaying for its equity share of Legacy Lightning, taking on unfavorable debt in connection with the Transaction, and having to pay costs, expenses and liabilities in the post-Transaction litigations now pending.

216. The Legacy Lightning Defendants are liable to Lightning for damages in an amount to be determined at trial.

COUNT IV

(Breaches of Fiduciary Duty Against the Lightning Defendants)

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

218. As directors of Lightning, the Lightning Defendants owed Lightning the utmost fiduciary duties of care and loyalty, which include an obligation to act in good faith and to make accurate material disclosures.

219. Through the events and actions described herein, the Lightning Defendants breached their fiduciary duties by making false and misleading statements and/or causing Lightning to make false and misleading statements, in an effort to minimize and obscure the extent to which the Transaction overvalued Legacy Lightning and caused harm to the post-combination company.

220. The Lightning Defendants breached their duty of candor by repeatedly issuing false and misleading statements in investor presentations, SEC filings and press releases that intentionally overstated Lightning's sales and production capacities and concealed the misrepresentations made in connection with the Transaction.

221. As a result, Lightning has incurred monetary and reputational damage, including the costs and expenses relating to defending itself in multiple litigations, reputational damage among customers and commercial partners, and inability to raise additional public capital because of the harm caused by Lightning's repeated misrepresentations to the market.

222. The Lightning Defendants are liable to Lightning for damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and relief against Defendants as follows:

- A. Declaring that a pre-suit demand would be futile;
- B. Finding that the Legacy Lightning Defendants are liable for fraud;
- C. Finding that the SPAC Defendants are liable for breach of fiduciary duties;
- D. Finding that the Legacy Lightning Defendants are liable for aiding and abetting;
- E. Finding that the Lightning Defendants are liable for breach of fiduciary duties;
- F. Awarding Lightning damages in an amount to be proven at trial;
- G. Awarding pre-judgment and post-judgment interest, as well as Plaintiff's reasonable attorneys' and experts' witness fees and other costs; and
- H. Awarding all such other relief as this Court deems just and equitable.

Dated: February 6, 2023

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