

GENESIS GLOBAL HOLDCO, LLC,
GENESIS GLOBAL CAPITAL, LLC,
and GENESIS ASIA PACIFIC PTE.
LTD.,

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) C.A. No. 2025-_____ - _____

) CONFIDENTIAL FILING

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A public version of this document will be filed on or before May 19, 2025.

GENESIS GLOBAL HOLDCO, LLC,
GENESIS GLOBAL CAPITAL, LLC,
and GENESIS ASIA PACIFIC PTE.
LTD.,

Plaintiffs,

v.

DIGITAL CURRENCY GROUP, INC.,
BARRY SILBERT, MICHAEL
KRAINES, MARK MURPHY,
SOICHIRO “MICHAEL” MORO,
DUCERA PARTNERS, LLC, and
MICHAEL KRAMER,

Defendants.

Plaintiffs Genesis Global Holdco, LLC (“GGH”), Genesis Global Capital, LLC (“GGC”), and Genesis Asia Pacific Pte. Ltd. (“GAP,” together with GGH and GGC, the “Genesis Debtors” or “Plaintiffs,” and together with their wholly-owned subsidiaries and affiliates, “Genesis”), in their individual capacities and GGC in its capacity as assignee of claims assigned by Gemini Trust Company, LLC (“Gemini”), for their Verified Complaint against Genesis’s parent company, Digital Currency Group, Inc. (“DCG”); DCG’s founder, Chief Executive Officer, and controlling stockholder, Barry Silbert; DCG’s President and Chief

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Operating Officer, Mark Murphy; DCG's former Chief Financial Officer, Michael Kraines; GGC's former Chief Executive Officer, Soichiro "Michael" Moro; DCG's investment banker, Ducera Partners, LLC ("Ducera"); and Ducera's co-founder and Chief Executive Officer, Michael Kramer (together, "Defendants"), allege upon actual knowledge and information and belief as follows:

NATURE OF THE ACTION

1. Genesis was the cryptocurrency lending firm founded by Barry Silbert in 2015 and wholly owned by DCG, Silbert's venture capital holding company. Silbert and his cronies recklessly operated, exploited, and then bankrupted Genesis following a spectacular campaign of fraud and self-dealing. Silbert used Genesis to enrich himself and finance his broader cryptocurrency empire on off-market, unfair terms before overseeing its demise. Under Silbert's control, Genesis held itself out primarily as a crypto lending platform that would accept creditor deposits of cryptocurrencies (such as bitcoin¹ and ether²), promising to pay a fixed rate of interest in kind on such deposits, while then lending cryptocurrencies to borrowers, purportedly in accordance with conservative underwriting and collateralization standards. In reality, Genesis was a pool of "other people's money" that Silbert

¹ "Bitcoin" with a capital "B" refers to the Bitcoin network and its protocol, whereas "bitcoin" with a lowercase "b" or "BTC" refers to the digital asset of the Bitcoin network.

² Ether or "ETH" is the digital asset of the Ethereum network.

deployed at will to generate profits for his other businesses and ultimately for himself. But Genesis was severely undercapitalized, lacked reasonable risk management, and had no board of directors or independent management of its own. Silbert, Murphy, and Kraines called the shots for Genesis's lending business and operated as de facto managers for Genesis (each a "De Facto Manager" and together the "De Facto Managers") while Genesis was nominally led by Defendant Moro. At all relevant times, Silbert and DCG dominated and controlled Genesis for their own benefit. As a direct result of Defendants' wrongdoing, as detailed herein, Genesis was insolvent no later than December 31, 2021, and ultimately filed for bankruptcy on January 19, 2023.

2. With DCG at the helm, there were few (if any) loan underwriting controls at Genesis, together with inadequate collateralization standards and grossly inadequate loan loss reserves. The failure to develop reasonable risk functions at the company led Genesis to lend billions in unsecured or undersecured crypto and fiat currency to an undiversified handful of counterparties that did not meet basic standards of creditworthiness. As DCG itself admitted internally, Defendants adopted a lending program at Genesis that was "flying blind" in terms of risk management.

3. For example, Genesis's loans were highly concentrated with just two counterparties: the now-defunct cryptocurrency hedge fund Three Arrows Capital

Pte. Ltd. (“3AC”)³ and the now-bankrupt cryptocurrency trading firm Alameda Research LLC (“Alameda”), a sister company of FTX Trading Ltd. (“FTX”), co-founded by Sam Bankman-Fried.⁴ 3AC and Alameda were never creditworthy counterparties by any measure. But Genesis’s reckless lending activities served DCG’s broader goals: 3AC and Alameda, among others, purchased and posted DCG-affiliated investment products as collateral for their loans, and used the Genesis funds they borrowed to engage in risky trades that benefited Silbert’s crown jewel cryptocurrency asset management company, Grayscale Investments, LLC (“Grayscale”) and its flagship product, GBTC. These Grayscale trades allowed borrowers to use loans from Genesis to purchase and later sell GBTC in exchange for transferring BTC permanently to Grayscale. Grayscale minted money for Silbert, charging a perpetual 2% in fees annually on the BTC transferred to Grayscale.

4. DCG also caused Genesis to issue hundreds of millions in uncollateralized or undercollateralized loans to DCG and related entities—making

³ The founders of 3AC, Su Zhu and Kyle Davies, were imprisoned or went into hiding in connection with the collapse of their Singaporean hedge fund. In September 2023, the Monetary Authority of Singapore barred Davies and Zhu for nine years from participating in regulated financial activities in Singapore due to 3AC’s risk management failures and misrepresentations.

⁴ Alameda’s co-founder, Sam Bankman-Fried, and senior executives including its former CEO Caroline Ellison and other FTX co-founder Gary Wang, were convicted of or pleaded guilty to crimes arising from the fraudulent use of funds, lack of internal controls, and deceptive practices.

the DCG group itself the third-largest counterparty of Genesis—on preferential off-market terms and without arm’s-length negotiations. Indeed, DCG oversaw a wholly fabricated internal credit rating system for borrowers at Genesis and then arbitrarily assigned itself the highest “A” rating without anyone at Genesis performing due diligence on DCG or its borrower affiliates.

5. In 2021, at DCG’s direction, Genesis’s lending activities grew dramatically. It originated over \$130 billion in loans that year, marking 587% growth over the prior year, as a low-interest lending environment drove more traditional lenders and borrowers into the cryptocurrency space. But when the crypto market began to falter in early 2022, Silbert and the other Defendants made no attempts to reverse course and address risks they had embedded in Genesis’s heavily concentrated, highly correlated, woefully undercollateralized, and overvalued loan book. Instead, Defendants acted to conceal Genesis’s insolvency while Silbert rushed to insulate himself, his friends, and DCG from the inevitable fallout, in disregard of the fiduciary duties they owed to Genesis for the benefit of Genesis’s residual claimants, including individual and institutional creditors. DCG was not interested in prudent lending at Genesis for two simple reasons: first, Genesis’s lending business fueled profits at Grayscale by increasing GBTC trading, and second, the Genesis “bank” provided valuable liquidity on below-market terms to DCG and its

affiliates, which DCG unilaterally changed at will—even when Genesis was insolvent.

6. Dozens of internal DCG documents from 2021 and 2022 reveal blatant, unguarded admissions that Genesis was a mere instrumentality of DCG—its “de facto treasury”—and that Silbert and his loyalists operated DCG and Genesis as a single enterprise. DCG’s former CFO, Kraines, admitted that Genesis and DCG were “all one consolidated entity at the end of the day.” Silbert referred to DCG’s borrowing from Genesis as merely moving money “from one pocket to another.” Defendants knew the implications of their misconduct. Long before the inevitable Genesis bankruptcy, Kraines predicted for his DCG colleagues that a future plaintiff would argue successfully that:

- “Genesis is the puppet of DCG ... controlled by DCG and does what DCG tells it to do.”
- “Genesis is very clearly undercapitalized.”
- “There is not enough equity to support a multi-billion dollar loan book and global trading operation given all of the volatility and risk around this untamed crypto sector.”
- The “DCG/Genesis enterprise was in reality a single enterprise acting in close coordination to lure [customers] into transaction with them.”

Despite this prophetic self-awareness, DCG took no steps to ensure that Genesis had competent or independent management that would act in the best interest of Genesis and its residual claimants, including creditors.

7. As early as 2021, reputable third-party consultants warned DCG of key risk management deficiencies at Genesis that posed grave risk to the enterprise, including its “limited ability to ... analyze aggregate risk,” “[l]arge concentrations ... within the [Genesis] portfolio which would result in ‘break-the-business’ scenarios in case of default,” and “no ... management of capital for unexpected losses.”

8. Yet as the Genesis loan book grew from approximately \$4 billion to approximately \$12 billion in outstanding loans from the end of 2020 to the end of 2021,⁵ DCG chose not to implement its consultants’ recommended prudent risk controls or to increase loan loss reserves to reduce risks to Genesis. While such measures would have helped protect Genesis from catastrophic loss, they were unappealing to Silbert because they would also have slowed the flow of capital to Grayscale’s GBTC fund, which fueled profits for Grayscale and DCG. Accordingly, despite Genesis’s insolvency, Silbert and his cronies at DCG, including Murphy and Kraines, continued to operate and dominate Genesis to funnel profits to Silbert’s larger empire at the expense of the hundreds of thousands of customers whose deposits and life savings they put at risk. DCG’s compliant pawn, Genesis’s former “CEO” Moro, unsurprisingly stood by and allowed DCG to pilfer Genesis; the

⁵ Genesis had very high turnover in its loan book, with its \$130 billion in loan origination throughout 2021 resulting in \$12 billion of loans outstanding at the end of the year.

Genesis employees who disagreed with Silbert or refused to do DCG's bidding were terminated and faced Silbert's influential wrath in the industry.

9. As Defendants knew, but concealed from Genesis's creditors, Genesis was insolvent no later than December 31, 2021, as confirmed by each of the three primary measures for assessing the solvency of lending institutions. Yet DCG, Silbert, Murphy, Kraines, and Moro continued to loot Genesis for themselves despite their fiduciary duties to Genesis and its creditors as residual claimants.

10. Once the cryptocurrency market spiraled downward during the spring of 2022, Genesis could no longer survive DCG's ongoing misuse of the Genesis assets and lending platform. In May 2022, two popular cryptocurrencies, TerraUSD and LUNA, collapsed. The next month, in June 2022, 3AC imploded. Genesis was left with a \$1.1 billion hole on its balance sheet due to its lack of proper risk infrastructure. Shortly thereafter, Genesis's largest customers Gemini and Bitvavo Custody B.V. ("Bitvavo") both threatened to pull significant assets: approximately \$3 billion in crypto and fiat currency that Gemini had arranged to be lent to Genesis, and several hundreds of millions in cryptocurrency that Bitvavo had arranged to be lent to Genesis.

11. Following 3AC's demise, Silbert privately acknowledged DCG's gross mismanagement of Genesis, admitting "[p]roblems, mistakes, failures all around," including "[t]oo much concentrated risk with two borrowers."

Silbert confessed: “*We own it, I own it.*” But Silbert had no intention of accepting responsibility for DCG’s abuse of Genesis, nor saving Genesis or otherwise acting in the best interests of Genesis and its creditors as residual claimants.

12. Acutely aware of the risks embedded in the mismanaged Genesis loan book and of Genesis’s vulnerability to Gemini and Bitvavo, Silbert personally stepped in to conceal the crisis at Genesis from its lenders. DCG manufactured a series of false and misleading statements and directed their careful and calculated dissemination to Genesis lenders. To that end, DCG prepared talking points and dictated misrepresentations to the public, including Silbert’s party line that Genesis was operating “BAU” (or “business as usual”) and had robust liquidity, high capitalization, and a “strong balance sheet.” DCG required Genesis employees to recite the Silbert lines to customers when answering questions about Genesis’s financial state in the wake of 3AC’s collapse. These DCG-scripted falsehoods were designed to induce customers, counterparties, and lenders (including Bitvavo and those of Gemini) to keep their valuable crypto and fiat currencies on the Genesis platform and to continue depositing even more assets with Genesis.

13. At the same time, like a captain fleeing a sinking ship before his passengers, each of DCG and its co-Defendants continued to extract assets from the Genesis operations for the benefit of Silbert and his larger empire. Barry Silbert, Alan Silbert (Barry’s brother), DCG’s investment bank Ducera, Ducera’s CEO (and

Barry Silbert’s long-time friend) Kramer, and other DCG loyalists withdrew their own fiat currency and crypto assets from Genesis—all while Silbert and his henchmen were telling the market that DCG was stepping up to ensure Genesis was not at risk.

14. On June 30, 2022, DCG, Silbert, Murphy, and Kraines, together with Ducera and Kramer, orchestrated a further major fraud. When Genesis’s books were closing at the end of the quarter, DCG issued a promissory note to Genesis pursuant to which DCG promised to pay Genesis a purported \$1.1 billion—but not for ten years, and based on only 1% interest with no payment due until 2032 (the “Promissory Note”). The point was to convince creditors that Genesis had received an actual \$1.1 billion in funding, when the Promissory Note in fact provided no new liquidity and did not address Genesis’s fundamental insolvency.

15. Upon DCG’s insistence, Moro countersigned the Promissory Note on behalf of Genesis. As DCG and Ducera had planned, the Promissory Note was then egregiously overvalued on Genesis’s books at the face amount of \$1.1 billion, when its then-present value was a paltry fraction of that, in order to create the false appearance of shoring up Genesis’s balance sheet. Ducera and Kramer provided material assistance to DCG to create the structure and terms of the Promissory Note and then gave DCG key advice about how to message the financials to Genesis lenders. Using lines scripted by DCG and Ducera, Genesis’s lenders were informed

that Genesis had a “strong balance sheet” and the business was “great.” The Promissory Note was intended to provide the appearance of solvency at Genesis (and to give more time for DCG and its loyalists to loot what value remained) even though Defendants knew Genesis was insolvent. Many creditors were ensnared by this ruse, keeping capital at Genesis, lending more capital to Genesis, or even originating loans for the first time.

16. As the crypto markets continued to weaken in 2022, Gemini and Bitvavo were closely monitoring Genesis’s financial health and considering withdrawing cryptocurrency from the platform. Genesis employees begged DCG for help and alerted DCG to the fact that Genesis desperately needed liquidity and could not withstand additional market disruption. Leading up to the close of Genesis’s books in September 2022, DCG orchestrated another Genesis balance sheet trick designed to further mislead Genesis customers. DCG caused Genesis to repay, in advance of maturity, a cryptocurrency loan worth \$100 million from a DCG affiliate; that DCG affiliate paid the same \$100 million in cryptocurrency to DCG in the form of a dividend distribution; and DCG contributed the same \$100 million in cryptocurrency to Genesis as a purported equity infusion. This round-trip transaction did nothing to improve Genesis’s liquidity position, but it furthered the false representation to Gemini and Bitvavo that DCG was stepping up to provide much-needed additional liquidity to Genesis. As a result of and in reliance on Defendants’

repeated misrepresentations and deceptive transactional maneuvers, including the false valuation of the \$1.1 billion Promissory Note and the roundtripped \$100 million, neither Gemini nor Bitvavo pulled assets from Genesis at the time, giving DCG and its loyalists additional time to engage in self-dealing and misuse of Genesis assets even long past its effective insolvency.

17. In early November, when Alameda's sister company FTX collapsed, Genesis could not continue. In the market turmoil, Genesis lenders began to call their loans. With extreme exposure to Alameda, a nearly \$1.1 billion hole on its balance sheet from the 3AC collapse, and hundreds of millions in loans outstanding to DCG, there was no hope left for Genesis.

18. Even then, DCG's final acts were to squeeze yet more value out of Genesis to the direct detriment of Genesis and its creditors. With Genesis desperate for liquidity, DCG forced Genesis to further extend DCG's loan repayment terms for loans originally due in July 2022 and August 2022—in breach of existing loan documents and without consideration. DCG also elected unilaterally to change the repayment terms of a bitcoin loan from Genesis to allow payment instead in shares of GBTC, an illiquid DCG affiliate investment product that was significantly less valuable than bitcoin at the time. This “repayment” exacerbated Genesis's liquidity crunch because Genesis did not lend GBTC and could not sell GBTC in exchange for liquid capital because of the SEC-imposed holding period. Moreover, Silbert

personally prohibited Genesis from hedging GBTC. As one Genesis employee aptly put it, in 2022, DCG kept Genesis alive “so [it] could pillage the balance sheet ... prop [Genesis] up, give [the] impression of stability[,] then borrow while they c[ould] to get the cash out of it.”

19. Due to Defendants’ extraordinary pattern of self-dealing, fraud, and mismanagement of Genesis for Defendants’ own gain while Genesis was insolvent, Genesis and *hundreds of thousands* of its individual creditors and institutional clients were deprived of billions of dollars of value in crypto and fiat currencies. Silbert continues to lie to this day, claiming he and DCG knew little of Genesis’s finances.

20. On November 16, 2022, creditor withdrawals were paused at Genesis. On January 19, 2023, each of the Plaintiffs filed a petition for bankruptcy relief under chapter 11 of title 11 of the United States Code in the United States District Court for the Southern District of New York. The Genesis Debtors’ bankruptcy plan was confirmed on August 2, 2024.

21. As part of their bankruptcy plan, the Genesis Debtors retain claims and causes of action on behalf of the Genesis Debtors and their bankruptcy estates against Defendants. Further, Genesis’s largest creditor, Gemini, as agent for and on behalf of its customers, assigned its claims against Defendants to GGC. The Genesis Litigation Oversight Committee (the “LOC”) is a court-appointed representative body of creditors who lost funds and cryptocurrency when withdrawals were

suspended and bankruptcy was declared at Genesis. At the direction of the LOC, Plaintiffs file this Verified Complaint to hold Defendants accountable for breaching fiduciary duties owed to Genesis and ultimately its creditors as residual claimants, for unjust enrichment to the detriment of Genesis and its creditors, and for the fraud committed on Genesis's largest creditor, Gemini.

22. Post-confirmation, Genesis has repaid approximately \$3 billion worth of crypto assets and approximately \$1.3 billion in U.S. dollars to its creditors, which is only a portion of what creditors are owed. DCG and the other Defendants contributed nothing to that recovery. Genesis creditors are still short crypto assets valued at approximately \$2.2 billion in U.S. dollars as of February 9, 2025, as well as significant fees and interest. This deficiency includes 19,086 bitcoin, 69,197 ether, and 17,168,249 other coins as of February 9, 2025. Plaintiffs seek to recover those losses in kind. Genesis's creditors deposited cryptocurrencies with Genesis, and their contracts called for Genesis to repay them both principal and interest in cryptocurrency. For Gemini, returning crypto in kind preserves the original bargain struck with Genesis. In-kind recovery for Plaintiffs against their faithless fiduciaries aligns with Genesis's original promise of crypto-denominated returns to customers. Moreover, in-kind recovery insulates Genesis and its creditors from the risk of undercompensation due to the subsequent recovery of crypto prices. By contrast, monetary damages could result in a windfall to the wrongdoers, as Defendants would

unjustly reap the benefit of the appreciation of the cryptocurrency they looted from Genesis and its creditors while driving Genesis to its ultimate demise.

THE PARTIES

23. Plaintiff GGH is a passive holding company with no operations and is the direct parent of Plaintiffs GGC and GAP. GGH, which is wholly owned by DCG, is a limited liability company organized under the laws of Delaware. GGH did not have any formal internal governance processes, and did not have a board of directors until July 2022 (the “GGH Board”), less than a year before its bankruptcy. GGH’s chapter 11 bankruptcy plan was confirmed on August 2, 2024. GGH previously maintained a principal place of business at DCG’s headquarters located at 250 Park Avenue South, New York, New York. Its current principal place of business is 175 Greenwich Street, Floor 38, New York, New York.

24. Plaintiff GGC was a cryptocurrency lending company that borrowed and lent digital assets and government fiat. GGC, which is wholly owned by GGH and thus ultimately by DCG, is a limited liability company organized under the laws of Delaware. GGC did not have a board of directors or formal internal governance processes. GGC’s chapter 11 bankruptcy plan was confirmed on August 2, 2024. GGC previously maintained a principal place of business at DCG’s headquarters located at 250 Park Avenue South, New York, New York. Its current principal place of business is 175 Greenwich Street, Floor 38, New York, New York.

25. Plaintiff GAP was a cryptocurrency lending company that was established to lend assets provided by GGC to 3AC and other Asia-based cryptocurrency borrowers. GAP, which is wholly owned by GGH and thus ultimately by DCG, is incorporated in Singapore. GAP nominally had a board of directors since 2020, but there is little evidence of its activity. GAP's chapter 11 bankruptcy plan was confirmed on August 2, 2024. Many of GAP's employees previously worked from DCG's headquarters located at 250 Park Avenue South, New York, New York. GAP's current registered address is 135 Cecil Street, #10-01, Philippine Airlines Building, Singapore.

26. Non-party Gemini is a cryptocurrency platform on which users can buy, sell, and store cryptocurrency. Gemini is a limited liability trust company organized under the laws of New York and is a subsidiary of the larger Gemini group of companies that brothers Cameron and Tyler Winklevoss founded in 2014 and continue to operate today. Cameron Winklevoss served as President of Gemini, and until April 2022, Tyler Winklevoss served as CEO of Gemini. Through the Gemini "Earn Program," Gemini was custodian and agent for hundreds of thousands of individual lenders. Gemini and its customers were directly harmed by Defendants' wrongdoing. As the custodian and agent for all Earn Program lenders, Gemini was in effect the largest lender to Genesis. Approximately 232,000 Earn Program users were deprived of their cryptocurrencies for 18 months following Genesis's

bankruptcy. Gemini filed two sets of proofs of claim against the three Genesis Debtors in the bankruptcy: the first, as agent on behalf of Earn Program users seeking recovery of their digital assets, and the second in its individual capacity seeking indemnification from the Genesis Debtors, fees, and other amounts. Combined, the Gemini proofs of claim sought approximately \$1.136 billion. On March 19, 2024, Gemini entered into a settlement agreement with the Genesis Debtors on behalf of Earn Program users as their agent. Pursuant to that agreement, and other actions by Gemini, Earn Program users received a 100% coin-for-coin recovery of the digital assets that had been trapped at Genesis. DCG and the other Defendants contributed nothing to that recovery. Pursuant to the settlement agreement described above and the Gemini DCG Claims Assignment, Gemini also assigned to GGC its claims and causes of action asserted herein, as well as its related claims and causes of action.

27. Defendant DCG is a venture capital holding company in the digital assets market. DCG, which is the ultimate parent of the Genesis Debtors, is incorporated in Delaware. DCG and its affiliates—many of which are also Delaware entities—offer an array of cryptocurrency services, including trading, lending, mining, and custody. DCG previously maintained a principal place of business at 250 Park Avenue South, New York, New York. Its current principal place of business is 290 Harbor Drive, Stamford, Connecticut.

28. Defendant Silbert is the founder, CEO, and controlling stockholder of DCG. Silbert is the Chair of the DCG Board of Directors (the “DCG Board”), which made decisions pertaining to Genesis. Silbert is also the founder of Genesis. From at least December 14, 2015 through June 22, 2022, Silbert was the Chair of the Board of Directors of non-party Genesis Global Trading (“GGT” and the “GGT Board”), another wholly-owned DCG subsidiary organized under the laws of Delaware, which heard matters and made decisions pertaining to Genesis until at least June 2022. Silbert was a De Facto Manager of Genesis.

29. Defendant Kraines was the CFO of DCG from February 2021 until April 2023. From April 2021 until no later than April 2023, Kraines was a member of the GGT Board, which heard matters and made decisions pertaining to Genesis until at least June 2022. Kraines was also a member of the GGH Board that was created in July 2022. Kraines was a De Facto Manager of Genesis.

30. Defendant Murphy is the President and COO of DCG. From June 2022 through at least September 2023, Murphy was a member of the GGT Board, which heard matters and made decisions pertaining to Genesis until at least June 2022. Murphy regularly attended GGT Board meetings even before he was formally appointed to the GGT Board to replace Silbert in June 2022. Murphy was also Chair of the GGH Board of Directors, and a De Facto Manager of Genesis.

31. Defendant Moro was the CEO of GGC from February 2018 until August 17, 2022, when he resigned. Silbert installed Moro as CEO of GGC. As CEO, Moro was a Genesis officer and manager. In addition, Moro was the CEO of non-party GGT from 2016 until his resignation on August 17, 2022.⁶ Moro was also a member of the GGT Board, which heard matters and made decisions pertaining to Genesis until at least June 2022. Additionally, Moro served on the GAP Board of Directors from January 15, 2020 until August 17, 2022. Moro currently works as Chief Strategy Officer at INX Digital Company, Inc., a Delaware corporation where Silbert's brother, Alan Silbert, is the North America CEO.

32. Defendant Ducera is a financial advising firm that served as an advisor to DCG. Ducera is a limited liability company organized under the laws of Delaware. Ducera had approximately \$6.6 million in deposits at Genesis.

33. Defendant Kramer is the co-founder and CEO of Ducera. Kramer is Silbert's long-time friend and colleague, as well as an advisor to DCG and a DCG stockholder. Kramer deposited approximately \$12.8 million in personal funds at Genesis. Kramer also deposited bitcoin at Genesis through his personal investment vehicle, Kramer Capital Partners LLC.

⁶ Prior to February 2016, Moro worked for GGT in operations and was responsible for reconciling trades. At GGT, Moro proved his willingness to do the bidding of DCG and Silbert—unlike GGT's predecessor CEO, who was fired for challenging DCG.

JURISDICTION

34. This Court has subject matter jurisdiction over this action under 6 *Del. C.* § 18-111 and 10 *Del. C.* § 341 because Plaintiffs assert equitable claims and seek equitable relief relating to, among other things, the management of Delaware limited liability companies.

BACKGROUND

I. The Cryptocurrency Industry Has Expanded Dramatically Since 2009

35. The 2008 global financial crisis, which saw the collapse of hundreds of banks, the demise of other major financial institutions, and the loss of homes by some ten million American families, motivated the creation of a decentralized, peer-to-peer electronic payment system, known as bitcoin, free from the control of traditional financial institutions. Users sought to transact directly with one another without relying on banks as intermediaries.

36. Bitcoin was the first cryptocurrency, and it remains the most popular to this day. Bitcoin was launched in 2009 as an alternative to traditional fiat currencies such as the dollar or Euro. It is a digital network and asset that operates without need of government backing. Bitcoin is “mined” by computers solving computationally intensive cryptographic problems, and users can hold, trade, or spend their bitcoin wherever the digital asset is accepted. All bitcoin transactions are recorded in digital “blocks” linked together in a “chain” called the “blockchain,” Bitcoin’s underlying

technology, which is a decentralized public ledger. There is a limit to the number of bitcoin that can be mined, and every four years, a bitcoin “halving” reduces the rate of new bitcoin creation by 50 percent. By design, the last bitcoin will be mined in approximately the year 2140. Due to its popularity, broad acceptance, and scarcity, bitcoin’s value has skyrocketed since its creation. In July 2010, the first recorded BTC exchange price was \$0.06 per coin. In November 2022, BTC traded at over \$16,000 per coin. About two years later, in December 2024, BTC hit \$100,000 for the first time. As of the date of this filing, BTC is valued at \$104,526.17 per coin. Silbert himself believes that bitcoin is the most valuable crypto token—in his words, his “first love” and “first baby before [his] actual children”—and that “99.9% of crypto tokens” are worthless.

37. Today, however, there are thousands of different cryptocurrencies, many of which work in a similar way to bitcoin, and their values fluctuate based on supply and demand. There are different categories of cryptocurrencies, including stablecoins, utility tokens, security tokens, meme coins, and governance tokens, which are also referred to as “altcoins” (short for alternative coin). Ether, a token minted on the Ethereum blockchain, created in 2015, is the second most popular cryptocurrency. Solana (“SOL”), another popular cryptocurrency, was created in 2020. Other coins include Ethereum Classic (“ETC”), Bitcoin Cash (“BCH”), Litecoin (“LTC”), Monero (“XMR”), and Zcash (“ZEC”). Two of the largest

stablecoins are Tether (“USDT”) and USD Coin (“USDC”), both of which are pegged to the value of fiat currency. Aside from fiat-backed stablecoins, all cryptocurrencies have high volatility.

38. The cryptocurrency market experienced significant growth between 2019 and 2021, with total market capitalization soaring from around \$125 billion in early 2019 to over \$3 trillion at its peak in late 2021. In particular, when governments increased the money supply and interest rates were slashed to near-zero following the Covid-19 pandemic, market participants searched for platforms providing higher yields, including cryptocurrency platforms that provided better returns on deposits.

II. Technology Entrepreneur and Investment Banker Barry Silbert Founded DCG to be the Linchpin of His Cryptocurrency Empire

39. Silbert is a cryptocurrency entrepreneur who became a billionaire during the crypto boom. Silbert started his career as an investment banker at Houlihan Lokey, where he worked on “some of the most prominent bankruptcies” of the early 2000s, “including Enron and WorldCom.” Through representing creditors “on complex, problematic restructurings,” Silbert became familiar with major accounting frauds, the risks of insolvency, creditors’ rights upon insolvency, and the U.S. bankruptcy system. Silbert left investment banking in 2004 and founded his own company, called SecondMarket, which facilitated sales of restricted stock and bankruptcy claims.

40. Silbert began exploring the nascent cryptocurrency industry around 2010. First, he established a bitcoin trading desk at SecondMarket. Then, in 2015, Silbert founded DCG, an investment firm focused on cryptocurrency, to house Silbert's angel investments in the space. When establishing DCG as an authority in the crypto space, Silbert focused DCG's messaging on its deep connection to Wall Street and traditional finance, with an aim to bridge crypto and traditional markets. Thus, in an industry marred by fraud and criminal activity, Silbert portrayed himself and DCG as "blue chip"—supposedly more regulated and more professional than their peers. For example, Silbert testified in front of the New York State Department of Financial Services that SecondMarket's bitcoin trading division was "a registered broker dealer" where "investors gain[ed] the protection of regulatory oversight, compliance procedures, and a FINRA-registered team." Silbert has claimed that he is "highly, highly sensitive" to financial regulation, that he and his companies are "subject to anti-fraud provisions and insider trading and ... all those types of things," and that DCG and its subsidiaries and employees "take pride in our strict compliance policies and adherence to all applicable regulations, including company-wide rules and restrictions concerning the trading of digital assets."

41. Through affiliates and portfolio companies, many of which are also Delaware entities, Silbert positioned DCG to profit from every facet of the cryptocurrency industry. DCG's website touts that it has made "200+" equity

investments, has made “50+ fund investments,” has “30+” “[t]oken & digital asset holdings,” and spans “25+” countries. Several of DCG’s companies are influential industry players. DCG owns crypto mining company Foundry Digital LLC (“Foundry”), a Delaware entity that holds the world’s number one bitcoin mining pool.⁷ DCG also owns Luno Group Holdings Limited—a popular international cryptocurrency exchange that offers a user-friendly platform for buying, selling, storing, and learning about cryptocurrencies—and Luno US, Inc., a Delaware corporation and affiliate of Luno Group Holdings Limited. DCG owned CoinDesk, a leading crypto-focused media company incorporated in Delaware, which DCG sold in 2023 for a sale price rumored to be between \$70 to \$80 million. DCG’s wealth management firm for crypto entrepreneurs, HQ Digital LLC (“HQ”), controlled the investments of approximately \$3.5 billion in crypto assets in HQ Cash Management Fund LP before it was wound down in 2023. And Silbert and DCG spun off SecondMarket’s bitcoin trading division and launched non-party GGT, a new company that provided over-the-counter crypto trading services and was also a regulated broker-dealer, under the DCG umbrella. DCG also owns DCG International Investments, Ltd. (“DCGI”), a limited corporation under the laws of the

⁷ A mining pool is a group of cryptocurrency miners who combine their computational resources to increase their chances of successfully mining a block and earning fees, which are then shared proportionately to the computing resources contributed to the pool.

British Virgin Islands. DCGI's primary activities are purchasing and holding various cryptocurrencies.

42. One of DCG's most important affiliates is Grayscale—an SEC-approved digital asset management firm organized under the laws of Delaware. Silbert created Grayscale to make bitcoin accessible to institutional customers. DCG's Silbert and Murphy both served as directors of Grayscale until January 1, 2024. Grayscale manages the Grayscale Bitcoin Trust (the "Bitcoin Trust"), a Delaware statutory trust that holds BTC as assets for Grayscale's customers. The Bitcoin Trust grows as Grayscale customers deposit BTC into the trust. In return, Grayscale issues its customers a product known as "GBTC." GGT was the only authorized participant of GBTC before Genesis's bankruptcy, meaning that only GGT could create shares of GBTC. GBTC's price generally tracks the price of BTC, offering Grayscale customers exposure to BTC without needing to manage the complexities of owning cryptocurrency. Grayscale operated as a publicly traded over-the-counter product allowing Grayscale customers to buy GBTC shares directly at the net asset value ("NAV") based on the underlying BTC.⁸ After buying GBTC

⁸ A fund's NAV is calculated by subtracting the fund's total liabilities (say \$25 million) from its total assets (say \$100 million) and dividing the difference by the number of outstanding shares (say 1 million). In this example, the NAV would be \$75 $((\$100 \text{ million} - \$25 \text{ million}) / 1 \text{ million} = \$75)$. Usually, NAV closely tracks a fund's trading price. In this example, that means the price of a share of the fund would trade around \$75. If the

shares, Grayscale customers had to hold them for six months before they could sell them on the public market. Once out of the lockup, GBTC shares could be traded publicly, but existing shares could not be redeemed on demand—meaning Grayscale customers could not exchange their GBTC shares back for the underlying BTC they deposited with Grayscale. This arrangement often led to GBTC trading at a premium or a discount to NAV, sometimes at a substantial differential, depending on market demand.

43. In addition to the Bitcoin Trust, Grayscale manages several other trusts that hold cryptocurrency as assets, including but not limited to the Grayscale Ethereum Trust, the Grayscale Litecoin Trust, and the Grayscale Bitcoin Cash Trust (together with the Bitcoin Trust, the “Grayscale Trusts”). Each Grayscale Trust operates in the same manner as the Bitcoin Trust, but with a different underlying cryptocurrency. These trusts have always been a massive profit center for DCG and Silbert. Until January 2024, Grayscale charged a hefty 2% management fee on fund assets under management. It now charges a 1.5% management fee. This “management fee” is for simply holding the underlying crypto, as the Grayscale Trusts have virtually no overhead. This means the management fee is virtually all

NAV is lower than the trading price (say the trading price is \$100), the fund is trading at a “premium” because a buyer pays more for a share than the underlying net assets (after liabilities) are worth on a per-share basis. If the NAV is higher than the trading price (say the trading price is \$50), the fund is trading at a “discount” because a buyer pays less for a share than the underlying net assets (after liabilities) are worth on a per-share basis.

profit for Grayscale, and thus for Silbert and DCG. The Bitcoin Trust is the largest and most well-known of the Grayscale Trusts. In 2021, Grayscale generated approximately \$615.1 million in annual fees from the Bitcoin Trust, up from \$92.5 million in 2020 and \$34.7 million in 2019. As described below, DCG used Genesis's lending business to grow the Bitcoin Trust and the other Grayscale Trusts, and thus the revenue generated in management fees for the benefit of DCG and Silbert.

III. Silbert Founded Genesis to Serve as the Lending Arm and Treasury of DCG's Cryptocurrency Empire

44. Silbert created Genesis in 2017 to operate as DCG's banking arm, alongside Grayscale, "to go all in on Bitcoin." Genesis borrowed and lent cryptocurrencies and traditional government fiat. Genesis's lenders were institutional and high-net-worth individuals, as well as hundreds of thousands of individual retail lenders through the Earn Program, who would receive a fixed rate of interest on the digital assets or traditional currency loaned. Genesis's borrowers were primarily institutional and high-net-worth individuals seeking to borrow digital assets to engage in market making and arbitrage or other trades.

45. Gemini was effectively Genesis's largest lender and an essential source of liquidity for Genesis, providing more than \$2 billion to Genesis in a variety of cryptocurrencies that were deposited through the Earn Program by hundreds of thousands of users. On February 2, 2021, Gemini launched the Earn Program, a

lending program through which Gemini loaned customers' cryptocurrency assets to Genesis. Earn Program users received up to 7.4% annual percentage interest on the loaned assets. Genesis profited by lending assets from the Earn Program to counterparties at higher interest rates. Loans made through the Earn Program were open term and could be called at any time. Gemini could also end the Earn Program at any time with 30 days' notice.

46. Bitvavo—a Netherlands-based platform where more than two million European customers trade and store cryptocurrencies—was Genesis's second largest lender and another essential liquidity provider, with hundreds of millions worth of assets loaned to Genesis. By summer 2022, Bitvavo had hundreds of millions worth of open-term and short-term loans, set to expire between August 2022 and October 2022, outstanding to Genesis, primarily issued in various cryptocurrencies. Those loans are collectively worth over \$1 billion today given that the value of the underlying crypto assets have appreciated.

47. Alameda was Genesis's largest borrower. By the end of 2021, Genesis had over \$6 billion outstanding in loans issued to Alameda. Those loans were issued primarily in U.S. dollars and BTC. 3AC was Genesis's second-largest borrower. By the end of 2021, Genesis had almost \$900 million in loans issued to 3AC, and by summer 2022, that number grew to over \$2.3 billion. Those loans were issued primarily in U.S. dollars. DCG and its affiliates were Genesis's third-largest

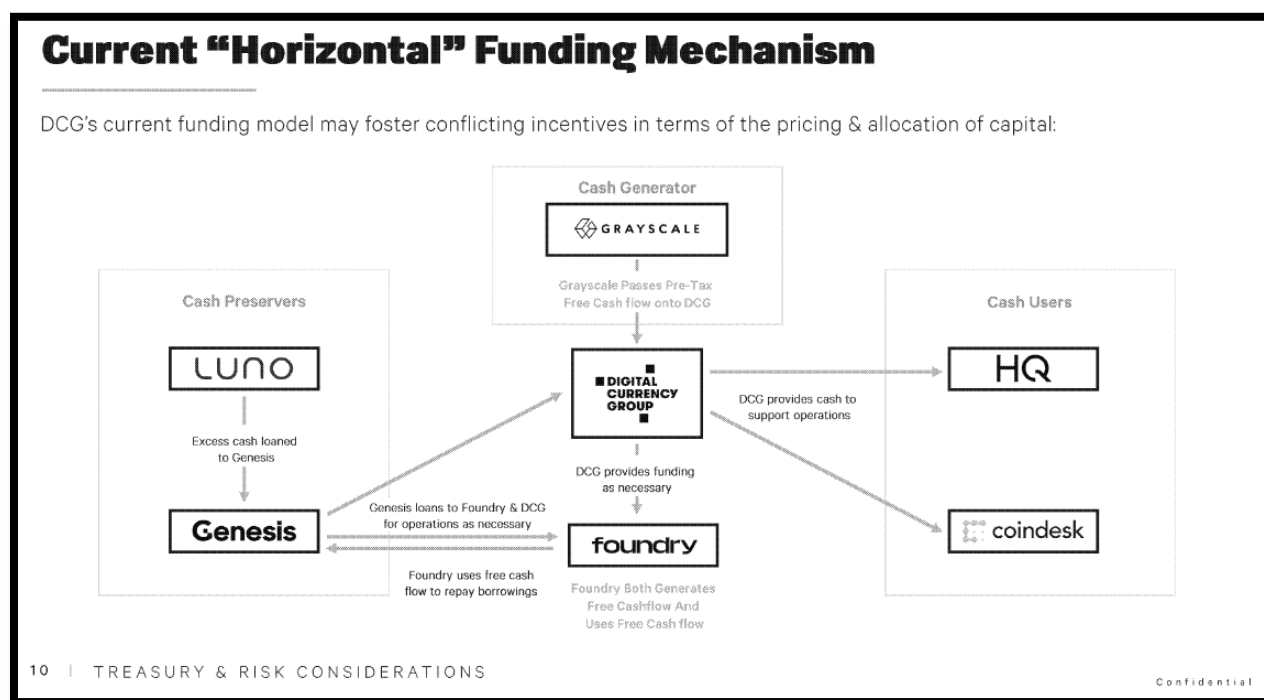
borrower. By the end of 2021, Genesis had over \$650 million in loans issued to DCG and its affiliates. Those loans were issued primarily in U.S. dollars and BTC.

48. Touting lending volumes in the tens of billions, DCG marketed Genesis as a secure way for retail and institutional customers to receive a fixed rate of interest or to access liquidity. DCG and Genesis claimed to provide lenders with transparency through quarterly financial updates. DCG and Genesis also claimed that rigorous risk controls and collateralization standards were employed at Genesis.

49. By Silbert's design, the various Genesis businesses were intertwined. Lenders would deposit traditional currency or cryptocurrencies with GGC. GGC would either loan those assets directly to third parties or transfer them to GAP to loan to counterparties based in Asia, including 3AC. GGC provided nearly all of GAP's lending capital. When GAP's borrowers repaid their loans, GAP transferred the assets back to GGC. Because their businesses were so closely connected, GGC and GAP shared a single loan book. GGC also interacted regularly with non-party GGT, as GGC borrowers were often referred to GGT for trading opportunities. GGC and GGT also shared operational infrastructure and the GGT Board, which included Silbert, Kraines, other senior DCG executives, and Moro, often made decisions about GGC.

50. In concept, Genesis's business model could be appropriately lucrative for DCG. As Genesis's parent company, DCG would receive a portion of Genesis's

profit as dividends. And the crypto boom from 2019 to 2021 increased Genesis's profit considerably. However, DCG was not simply a recipient of Genesis's profit vis-à-vis its position as ultimate parent. As described below, DCG made sure Genesis's profits flowed back to DCG through intercompany loans to DCG and its affiliates over which Genesis had no say, and by mandating risky lending practices at Genesis that were designed to grow Grayscale and the Grayscale Trusts. DCG's internal documents demonstrate the crucial role Genesis played in enriching DCG and Silbert's broader cryptocurrency conglomerate, and that DCG knew the "model may foster conflicting incentives" for DCG:



IV. Genesis Was DCG's Instrumentality and Alter Ego

51. Genesis did not have a separate, independent existence from DCG. This was no secret at DCG. Internal DCG communications exhaustively document DCG's understanding that Genesis was DCG's alter ego. For example, on March 25, 2021, Kraines asked GGC's Chief Operating Officer Derar Islim whether DCG and Genesis had "ever reviewed w[ith] outside counsel (or even received a legal opinion) stating the creditors wouldn't be able to 'pierce the corporate veil' up to the parent [DCG] in the event of a catastrophe." Kraines asked for "the best way ... to stress test or shock the current loan book to see what would happen to blow up Genesis." Kraines even admitted that a future plaintiff could argue that Genesis was DCG's alter ego. He wrote to Moro and others to pose a "war-gaming exercise" addressing the arguments the plaintiff would make if Genesis went bankrupt, which closely track the allegations in this Verified Complaint:

The question on my mind simply put is *“if Genesis were to somehow blow itself up could that somehow tank DCG to the profound detriment of its board and shareholders?”* My prefatory thinking here is as follows:

1. Let’s assume that something catastrophic happens and Genesis faces deep pocketed creditors who are very unhappy and more than willing to retain expensive litigators.
2. Our baseline assumption is that the plaintiffs’ counsel will sue DCG in this event under some version of a piercing the corporate veil theory. Our purpose is to war game this and mitigate the risk.
3. In our hypothetical, plaintiffs’ counsel makes the following arguments (this is just top of mind – not researched):
 - a. Yes there is a Genesis contract that says that DCG and related entities aren’t liable but that’s just boilerplate/adhesion contract stuff that pales in the face of the other facts.
 - b. Genesis is the puppet of DCG. It is 100% owned and controlled by DCG and does what DCG tells it to do. Discovery of emails will be produced to support this.
 - c. Genesis is very clearly undercapitalized as an entity. There is not enough equity to support a multi-billion dollar loan book and global trading operation given all of the volatility and risk around this untamed crypto sector. Genesis is managed by super evil traders who naturally know all of this.
 - d. Agents of Genesis (salespeople) have explicitly told customers and potential customers that Genesis is backed by DCG as a material inducement to getting them to do business with Genesis. Plaintiffs detrimentally relied upon the DCG name and backing when making their decision to place their sacred trust in Genesis as a counterparty. Witnesses will be produced to testify that that is the case.
 - e. Net net the entire DCG/Genesis enterprise was in reality a single enterprise acting in close coordination to lure the less suspecting keepers of capital for widows and children into transacting with them. Clearly as a result DCG and its other subsidiaries must be held responsible for any harm done by Genesis.

52. Over the course of 2021, as the size of Genesis’s loan book rapidly increased, DCG “devot[ed] substantial resources towards an analysis of a plaintiff’s ability to pierce the DCG corporate veil in the event of a hypothetical blow up at Genesis.” This effort was known as “Project Euclid.” DCG hired two reputable law firms—Goodwin Proctor LLP (“Goodwin”) and Sullivan & Cromwell LLP (“S&C”)—to assess the risk of a successful alter ego claim. As described below in Section IV.A, Project Euclid confirmed key vulnerabilities showing that DCG dominated and controlled Genesis.

53. DCG did nothing to address these issues and vulnerabilities. Instead, throughout 2022, Genesis remained the alter ego and instrumentality of DCG,

including in June 2022 when Kraines referred to DCG and Genesis as “all one consolidated entity at the end of the day.”

A. DCG Dominated and Controlled Genesis

54. Neither GGC nor GGH had boards of their own, or any other formal internal governance processes before July 2022.⁹ Instead, DCG’s Silbert, Kraines, and Murphy, i.e., the De Facto Managers, exercised control and power over decision-making at Genesis, including Genesis’s business strategy, hiring practices, and public relations. In fact, Silbert, Kraines, and Murphy had weekly or bi-weekly meetings with Moro, during which the DCG executives dictated major decisions at Genesis. In these meetings, Silbert, Kraines, and Murphy would direct and pressure Genesis to grow its lending business so that DCG had ready access to borrowed capital to fuel its own growth and profitability. Even outside of those meetings, Genesis executives were required to secure DCG’s and Silbert’s approval of all major decisions and key business operations.

55. The GGT Board and DCG Board also heard matters pertaining to, and made decisions for, Genesis, including about the organization of companies within the Genesis corporate family, Genesis’s risk committee and risk management, and

⁹ On or about July 19, 2022, Silbert executed a written consent in lieu of a meeting of the sole member of GGH in which the “sole member” DCG appointed three directors of GGH: DCG’s Kraines and Murphy and Genesis’s then-COO Derar Islim.

Genesis's financial audits. Silbert was Chair of the DCG Board and Chair of the GGT Board until June 22, 2022, at which point Murphy, who was already attending GGT Board meetings regularly, assumed Silbert's place. Kraines was also a member of the GGT Board beginning no later than April 2021.

56. Genesis's CEO, Moro, referred to the De Facto Managers as his "bosses" and rarely, if ever, voiced disagreement with DCG. He did nothing to address what other Genesis employees, including Islim, described as a "culture of submission" and acquiesced to all DCG's demands. Silbert, Murphy, and Kraines knew that no one at Genesis, including Moro, would push back against DCG's demands for fear of becoming a casualty of DCG's discretionary firing power. Because Genesis employees knew that any important strategy decisions or communications would need DCG approval, and because Genesis employees were aware of DCG's prerogative to run Genesis primarily to benefit DCG, DCG created a culture where Genesis employees were forced to prioritize DCG's interests.

57. DCG's Project Euclid consultants confirmed that DCG's managerial control over Genesis was problematic. Goodwin confirmed that "DCG management ha[d] regular meetings with GGC, during which important business matters [we]re discussed." It likewise confirmed that "DCG management ... maintain[ed] discretion over the hiring and firing of key [Genesis] personnel." S&C determined that Genesis "generally viewed" DCG "as having a veto [right] over many fundamental [Genesis]

business decisions.” S&C suggested that, going forward, DCG discontinue its “[d]irect involvement in [Genesis] lending decisions.” Similarly, Goodwin identified as an issue DCG’s “business referrals to GGC, including introductions to certain DCG business partners who may enter into lending relationships with GGC.”

58. Both Goodwin and S&C recommended that DCG create separate boards for GGC and GGH. Goodwin suggested this would be a “[p]otentially really easy [fix] to implement.” S&C specifically recommended that a Genesis board have “one or more independent directors,” and that it “should approve any distributions to DCG, after appropriately considering the ongoing needs of [Genesis].” Despite receiving this advice as early as July 2021, DCG never created a board for GGC and did not create a board for GGH until July 2022, by which time both Terra Luna and 3AC had already collapsed. And even then, the GGH Board was dominated by DCG’s executives.

B. DCG and Genesis Had Significant Overlap in Operations

59. Beyond shared governance and common executives in decision-making positions, Genesis’s operations overlapped with DCG’s operations in other significant ways. For example, Silbert mandated limits on the compensation of Genesis executives. When Genesis engaged consultants to provide a proposed compensation plan, that plan needed to be approved by DCG.

60. Genesis also used DCG's office space and IT infrastructure. DCG, GGC, GAP, and Grayscale shared an office at 250 Park Avenue South in New York City, and their executives and employees worked side by side. Murphy and Moro sat next to each other. This shared space allowed Silbert, Murphy, Kraines and other DCG executives and employees to see and talk to the Genesis team every day, facilitating their control over Genesis.

61. Moreover, DCG had full access to Genesis's books and records. Genesis used the general ledger software Sage Intacct for recording transactions and generating balance sheets. Genesis accessed Sage Intacct through DCG's license for the product, and Genesis's Sage Intacct records were stored within DCG's Sage Intacct module. DCG did not need Genesis's consent to pull information from those books and records. DCG and Genesis also shared an email server.

C. Genesis Was Undercapitalized by DCG

62. Project Euclid also confirmed by June 2021 that Genesis was massively undercapitalized. Goodwin found that GGC had a capitalization of 1.7%, and S&C found that GGC had a capitalization of 1.5%. Goodwin characterized that rate as "undercapitalized ... compared to publicly-available information about other crypto lenders," including Voyager (3.7%), Silvergate (9.3%), and Galaxy (90.8%), and "compared to other companies that engage in secured lending, including Mid and Small-Cap Banks (6%-8%)[,] Mortgage REITs (11%-25%)[,] and Business

Development Companies (45%-55%).” Similarly, S&C noted that “[m]ost banks with a loan portfolio of a similar size [to GGC] maintain 8-12% capital ratios,” while “[o]ther specialty lenders may maintain capital ratios in the range of 10-15% or more.” Despite its knowledge that Genesis was severely undercapitalized, DCG did nothing to address that problem.

D. DCG Used Genesis as Its “De Facto Treasury”

63. As a result of the control that it exercised over Genesis, DCG and its affiliates drew on assets in Genesis at will to serve DCG’s needs. DCG used Genesis as its “de facto treasury” and piggy bank. For example, by the end of the second quarter in 2020, “DCG burned through their LOC [line of credit] and want[ed] more cash” from Genesis. In this way, Genesis was “basically DCG’s balance sheet.”

64. DCG consistently took loans from Genesis on an unsecured basis and on favorable terms that would not have been available in arm’s-length circumstances. For example, on June 10, 2020, DCG Managing Director Matt Beck emailed Genesis Co-Head of Trading and Lending Matt Ballensweig requesting a cryptocurrency loan from GGC to DCG. Although Ballensweig promptly provided potential loan terms, he shared that GGC would “need[] to source new capital” for the loan because its “inventory was a bit thin.” Ballensweig later told Moro that few lenders would lend unsecured BTC, as DCG was requesting, and that the rate Genesis offered was even

“maybe too cheap” given market conditions. But Genesis provided the assets DCG demanded.

65. DCG also took distributions from Genesis even when Genesis did not have sufficient liquidity to justify them. As part of Project Euclid, Goodwin found that “between April 11, 2018, and April 15, 2021, GGC made distributions to DCG totaling \$31.09 million,” including “\$17.09 million [in] ‘distributions’ to DCG directly.” Goodwin recommended that, at a minimum, DCG “[d]evelop a distribution policy that allows for flexibility, such that regular distributions will not be made in circumstances where GGC is experiencing business challenges or when the distribution would otherwise be viewed as putting GGC’s operations in jeopardy.” DCG developed no such policy.

66. Silbert also personally required Genesis to issue unsecured loans to DCG affiliates. For example, DCG caused Genesis to issue a loan to Foundry, DCG’s crypto mining company, without any collateral, so that Foundry could further lend that money to BTC miners accepting computer equipment as collateral. From a business perspective, the loan terms made no sense for Genesis, but the understanding among Genesis employees was that they were required to support the DCG ecosystem as Silbert mandated.

67. DCG’s Project Euclid consultants identified Genesis’s “treasury function” as a serious problem evidencing a lack of corporate separateness. S&C

explicitly recommended that DCG “restructure” GGC’s treasury function. DCG did not implement those recommendations. To the contrary, as late as 2022, DCG acknowledged that DCG “d[id] not have an independent Treasury function” and that GGC still was the “de[]facto Treasury for all [DCG] sub[sidiaries] given its access to external funds and operational capability.”

E. DCG Used Genesis to Fuel Grayscale and the Bitcoin Trust

68. Between approximately 2019 and 2022, one of DCG’s primary strategies was to use Genesis’s lending as an instrument to grow the Bitcoin Trust—and, by extension, the Bitcoin Trust’s significant management fees, which were then distributed to DCG as dividends. Indeed, management fee revenues associated with GBTC increased from approximately \$35 million in 2019 to approximately \$615 million in 2021. To Silbert, Genesis was a tool to aggregate and use cryptocurrency to further the interests of DCG and its affiliates. In particular, it furthered Silbert’s belief in the value of holding bitcoin long term. The details of this strategy and its lucrative value for Silbert and DCG are described in detail below, but in sum, DCG’s prioritization of Grayscale caused the Genesis loan book to become exponentially riskier with little liquidity as its loan book grew.

69. First, DCG, Silbert, Kraines, and Murphy used their managerial control over Genesis to require Genesis to loan to counterparties that would engage in a speculative trade in the market that was referred to internally as the “GBTC Trade”

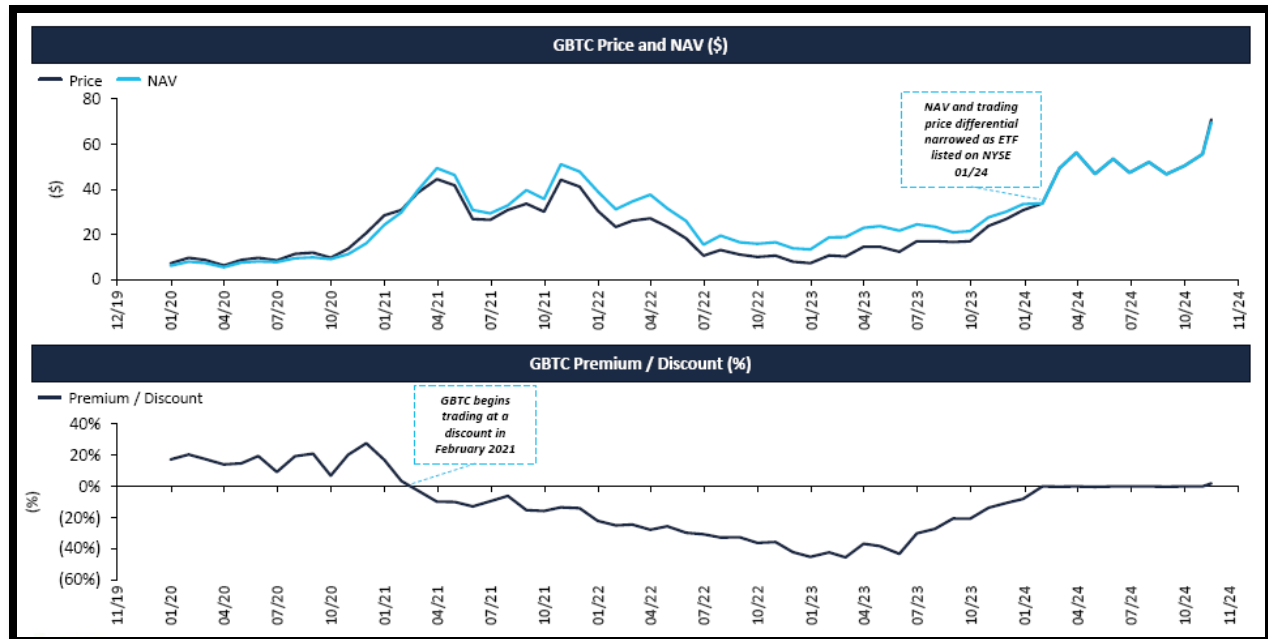
or “GBTC arbitrage trade.” This increased the pool of assets held by the Bitcoin Trust, as well as the management fees DCG earned via Grayscale, but it exposed Genesis to significant risk. Second, DCG, Silbert, Kraines, and Murphy used their managerial control over Genesis to cause Genesis to accept illiquid GBTC shares as collateral for loans to Genesis’s largest counterparties. GBTC was illiquid because it could not be sold for six months after its purchase due to a lockup period imposed by the SEC, and DCG prohibited Genesis from re-selling GBTC even after the lockup period ended. Allowing borrowers like 3AC to secure their loans with GBTC (often at below-market value) incentivized them to engage in the GBTC Trade, growing the Bitcoin Trust and its management-fee revenue.

1. DCG Required Genesis to Lend to Borrowers That Participated in the GBTC Trades

70. The GBTC Trade enriched DCG and Silbert via Grayscale and imperiled Genesis and its lenders. DCG’s prerogative was for Genesis to lend to counterparties engaged in the GBTC Trade, while Grayscale and DCG profited risk-free. In 2020, during Grayscale’s biggest increase in BTC inflows for a week to date, Silbert himself admitted that, while Genesis’s primary unsecured exposure was to borrowers engaging in the GBTC Trade, “th[o]se loans are all ring-fenced at Genesis Capital and no lenders have recourse against DCG. Doesn’t mean they wouldn’t come after us of course, but we are not legally on the hook.”

71. Because of the high demand for GBTC shares, from 2018 until 2021, GBTC purchased on the secondary market (i.e., not purchased directly from Grayscale or GGT) traded at a premium relative to the NAV of the BTC in the Bitcoin Trust. During that time, customers who bought GBTC directly from GGT—the only authorized participant of GBTC prior to Genesis’s bankruptcy—received an asset worth more than the corresponding BTC used to purchase the GBTC. By way of example, if a customer bought \$100 worth of GBTC on March 31, 2020, the customer would have hypothetically been able to sell that GBTC on September 30, 2020—six months later—for approximately \$176 on the secondary market after the six-month lockup period expired.

72. The graph below shows how GBTC traded at a premium to its NAV until early 2021 before switching to a discount to its NAV and finally settling at NAV in 2024.



73. While GBTC was trading at a premium to BTC, DCG and Grayscale required Genesis to encourage borrowers to engage in the GBTC Trade through the following steps:

Process:

1. Entity sends collateral to Genesis Capital. Genesis sends assets directly to Grayscale Trust.
2. Shares are created in Entity name in applicable Grayscale product.
3. Upon seasoning, shares are sent to brokerage account (Genesis not involved) and sold in open market
4. Entity purchases underlying asset at spot to re-pay the loan from Genesis.
5. Loan Closed. Collateral netted and funds sent to Genesis to pay for the spot purchase.

Closing the Trade upon Expiry

Once the shares unlock after a year in the brokerage account, the client can sell the shares on the OTC market. Using the proceeds, the client can either purchase the underlying borrowed asset directly from Genesis or away and return the borrow. The difference in the proceeds from the cost to purchase the underlying is the profit on the trade. If interest is chosen to be paid at maturity, interest will also be collected then.

74. DCG and Silbert were incentivized to use Genesis to facilitate as many of these GBTC Trades as possible. Loan origination was theoretically good for Genesis, and the BTC that Genesis loaned out would stay locked in the Bitcoin Trust, no matter what happened to GBTC's share price relative to NAV. If Genesis was unable to recoup its loans, Grayscale still would hold the underlying BTC—and DCG would continue reaping the profits from Grayscale's hefty management fee, which was charged on the underlying bitcoin and not impacted if GBTC traded at a discount to NAV (as was the case after February 2021).

75. The obvious risk inherent in the GBTC Trade was that GBTC shares would start to trade at a discount relative to the NAV during the six-month holding period. This risk came to pass in February 2021. While saddling Genesis with the losses associated with that risk, Silbert contrived another opportunity for his own profit—the “Reverse GBTC Trade”—a reverse trade whereby DCG would purchase discounted GBTC shares and hold them, counting on the GBTC price to return to NAV or even a premium at some point in the future. DCG was working on securing SEC approval to convert the Bitcoin Trust into an exchange-traded fund (“ETF”), which DCG and Silbert anticipated would cause the price of GBTC shares to soar. (The SEC did not approve the conversion of the Bitcoin Trust into a spot Bitcoin ETF until a few years later, in January 2024.) DCG didn't use its own assets to purchase these discounted GBTC shares—as Silbert would want to keep the value of holding

his bitcoin long-term. Instead, to participate in the Reverse GBTC Trade, DCG, Silbert, Murphy, and Kraines used their managerial control to require Genesis to issue intercompany loans to DCG worth approximately \$500 million in liquid cryptocurrencies. DCG used that liquidity to purchase GBTC shares on the secondary market at times when GBTC traded at a discount, so that DCG would later be able to sell the GBTC shares for a profit.

76. By January 2021, just before GBTC stopped trading at a premium relative to NAV and started trading at a discount to its NAV, 3AC was the largest holder of GBTC, having increased its holdings to 39 million shares, then worth approximately \$1.3 billion. Genesis would accept the GBTC as collateral, mismark it by valuing it at NAV regardless of its market price, and loan 3AC even more liquid cryptocurrency so 3AC could continue the GBTC Trade. In this way, DCG's directive to accept GBTC as collateral was a key contributor to Genesis's ultimate collapse. DCG, Silbert, Kraines, and Murphy similarly required Genesis to follow parallel risky practices for other cryptocurrencies and the other Grayscale Trusts, thus compounding the harm to Genesis and increasing its risk exposure, while further enriching Silbert, DCG, and Grayscale.

2. DCG Required Genesis to Accept GBTC as Collateral in Furtherance of DCG's Interests

77. DCG, Silbert, Murphy, and Kraines also used their managerial control to force Genesis to accept GBTC shares as collateral for loans issued to counterparties, including 3AC. This practice increased demand for GBTC shares because counterparties knew GBTC could be used as collateral with Genesis, which ultimately benefited Silbert and DCG. It harmed Genesis, however, because Genesis could foreclose only upon highly illiquid GBTC shares in the event of a counterparty default.

78. DCG and Silbert also mandated that Genesis could not sell GBTC that it received as collateral from third parties or as loan repayment from DCG—even after the six-month lockup period expired. When Genesis was insolvent, Silbert instructed Genesis not to sell the GBTC it held even when Genesis was experiencing a serious liquidity crisis, prioritizing DCG and Silbert's larger enterprise over Genesis and its creditors. In addition to Silbert betting on GBTC shares trading at or above NAV in the future, Grayscale continued to earn management fees on the GBTC shares held at Genesis. Genesis, of course, received nothing.

79. The harm to Genesis was compounded by the fact that GBTC was valued at NAV for Genesis's lending purposes, even though Silbert instructed Genesis never to sell the GBTC shares, and even after GBTC shares began trading at

a discount to the underlying BTC. This meant that when Genesis's counterparties that had posted GBTC shares as collateral defaulted, their loans were undercollateralized by hundreds of millions of dollars.¹⁰ This risk was most acute with respect to 3AC because of the volume of GBTC that 3AC held, and it meant that billions of dollars' worth of loans that were issued from Genesis to 3AC were severely undercollateralized. But accepting GBTC as collateral helped Silbert, DCG, and Grayscale. It incentivized 3AC and other Genesis borrowers to purchase even more GBTC, thereby driving up the price and filling the Bitcoin Trust with more BTC. Silbert, DCG, and Grayscale profited from the management fees earned on the BTC held in the Bitcoin Trust, including BTC that had been loaned by Genesis and secured by GBTC collateral.

V. DCG, Silbert, Kraines, Murphy, and Moro Failed to Exercise the Duties of Loyalty, Care, and Oversight They Owed to Genesis

80. Through the managerial control that DCG, Silbert, Kraines, and Murphy exercised at Genesis, DCG pressured Genesis to grow its loan book and increase its lending business. Because of Genesis's role in fueling Grayscale and the Bitcoin Trust, as well as providing liquidity to DCG, DCG and the De Facto

¹⁰ GBTC started trading at a discount to its NAV in February 2021, reaching all-time lows by December 2022. During this time it was still possible to profit by buying GBTC at the new discounted price and hoping that the price would return to NAV—which it eventually did in January 2024.

Managers were incentivized to ignore rudimentary risk management practices at Genesis. At DCG's direction, Genesis borrowed and lent cryptocurrency to increase the assets DCG could access, regardless of loan terms, counterparty creditworthiness, or any other potential risks. And Moro sat by and let it all happen. This was in stark contravention of DCG's, Silbert's, Kraines's, Murphy's, and Moro's fiduciary duties.

A. DCG Knew of and Ignored Serious Failures in Risk Management at Genesis

81. DCG's Silbert, Kraines, and Murphy, i.e., the De Facto Managers, as well as DCG's yes-man Moro, bore responsibility for all aspects of risk management infrastructure and the financial condition of Genesis. As Kraines admitted, DCG and the De Facto Managers had a duty to "serve as [] honest fiduciar[ies]" that required them to be informed and knowledgeable about Genesis's lending practices.

82. Any reasonably prudent lender should have a strong risk management function, including policies and protocols to account for and manage risks unique to their industry. Those risks are especially high in the crypto industry because cryptocurrency is more volatile than traditional currencies or commodities. There also is high correlation between and among certain cryptocurrencies, such as BTC and ETH, meaning the values of those cryptocurrencies tend to rise and fall together. For example, there is an approximately 94% price correlation between bitcoin and ether, two of the most popular cryptocurrencies. These correlated price movements

exacerbate the impact of price volatility and concentrated exposures. To address those risks, Genesis should have had a well-staffed risk department exercising appropriate oversight to ensure that the loan book reflected adequate capital reserves, appropriate counterparty diversification, significant levels of overcollateralization (to be targeted, monitored, and maintained), and limits on leverage to absorb potential loan losses. There also should have been procedures in place to avoid overconcentration in correlated cryptocurrencies—or in parties that were themselves overconcentrated in correlated cryptocurrencies—and otherwise tightly manage counterparty risk. Under DCG’s leadership, which Moro facilitated, none of these ordinary-course risk management strategies were implemented at Genesis.

83. By 2020, if not earlier, DCG and the De Facto Managers knew of these risks and the consequences if they failed to address them. In Genesis’s 2020 financial audit, the auditor, Friedman LLP (“Friedman”), identified significant deficiencies and material weaknesses in the company’s financial controls, including but not limited to (1) the absence of internal review processes to ensure accuracy of records, (2) inattention to key man risk and lack of segregation of duties, (3) issues with the methodology for valuing collateral, and (4) inadequate personnel support for counterparty risk analysis. DCG, including Kraines, received copies of the Genesis 2020 audited financial statements and this clear auditor feedback.

84. Moreover, Project Euclid, which started in April 2021 and produced several reports by June 2021, identified major risks with respect to DCG’s operation of Genesis. As to risk management, Project Euclid found that Genesis was severely undercapitalized, maintained high leverage, had extreme counterparty exposure, lacked adequate loan loss reserves, relied on incorrectly valued altcoin collateral, and relied on insufficient due diligence for large counterparties—among other inadequacies.

85. Indeed, following Project Euclid in 2021, DCG established a “contagion” risk committee within Genesis, which was “designed to redress the series of current vulnerabilities to likely plaintiff attacks.” Kraines and DCG officers created this committee because of their express knowledge of Genesis’s undercapitalization, lack of risk controls, and operation as a de facto treasury. The committee’s purpose was focused on “governance,” the greater Genesis organization, and mitigating “a hypothetical catastrophic event at Genesis.” Kraines and Murphy sat on this committee, which reported to the GGT Board. However, it took DCG’s Head of Legal, Michael Katz, nine months to hold the first committee meeting after it was established. Kraines described the committee as “dormant” while it was waiting for DCG’s implementation and admitted that not having a risk committee meeting “over the last year or so [was] a really bad fact for us.” When the first risk committee meeting was scheduled nine months after it was established and approved

by the DCG Board, Kraines joked that his “future deposition just got a bit easier.” The DCG-ridden risk committee heard matters such as DCG Board strategies for lending, approaches to hedging, and the impact of market events on Genesis’s lending book. Kraines approved the risk committee’s design and agenda items.

86. Also shortly after Project Euclid highlighted these risks, DCG retained the reputable consulting firm Oliver Wyman in August 2021 to assess and provide recommendations as to (1) the “treasury function” within the DCG empire, including intercompany funding; and (2) the “[r]isk [m]anagement function” at Genesis. Oliver Wyman made a “Risk Management Review” presentation to the DCG Board, dated January 21, 2022, which noted that “Genesis is currently unable to observe all of the risks and vulnerabilities across the portfolio in a timely manner,” and that the Genesis “Risk Committee [on which Murphy and Kraines exerted enormous influence] lacks independence.” In its January 2022 presentation to the DCG Board, Oliver Wyman underscored and reiterated several of the same issues at Genesis that Friedman identified in its 2020 audit. Oliver Wyman identified a myriad of serious issues with Genesis’s risk management protocols, including a dearth of appropriate technology for managing the loan book, a limited ability to analyze or test its risk exposure, and large counterparty concentration that risked the entire business:

- However, three broad areas of concern have been identified
 1. Technology environment does not allow for effective capture and aggregation of traded positions
 2. Limited ability to analyze aggregate risk positions, to effectively stress test, or run targeted what-if scenarios across the whole portfolio
 3. Large concentrations exist within the portfolio which would result in “break-the-business” scenarios in case of default, and parameters defined for calculation of reserves are untested due to lack of historic data

Credit risk

- Large concentrations exist within the portfolio which would result in “break-the-business” scenarios in case of defaults
- Parameters defined for calculation of reserves are broadly untested due to lack of historic data on events but appear aggressive vs. benchmarks
- Loan loss reserve held for expected losses, but no equivalent management of capital for unexpected losses

87. Oliver Wyman’s January 2022 presentation to DCG reiterated that “policies, committees, and other mechanisms to provide formal oversight [had] not yet [been] established,” and that “large concentrations exist within the portfolio which would result in ‘break-the-business’ scenarios.” Oliver Wyman made detailed recommendations for DCG to improve Genesis’s risk management and even suggested a timeline for implementing them over the following months. The DCG Board acknowledged there were “ongoing concerns as to ‘flying blind’ in terms of monitoring certain risks (including those at Genesis).” Yet DCG, the De Facto Managers, and Moro did nothing in response.

B. DCG Knew Genesis Extended Undercollateralized Loans to a Highly Concentrated Set of Counterparties

88. Without adequate risk controls, Genesis's loans were highly concentrated in two counterparties: Alameda and 3AC. At the end of 2021, 3AC constituted 93% of GAP's loan exposure and Alameda constituted 55% of GGC's loan exposure. If either Alameda or 3AC collapsed—and both did months later—Genesis would face massive, enterprise-threatening exposure. Moreover, if any of Genesis's lenders lost confidence, there would be a run on the bank. Silbert, Murphy, Kraines, and others at DCG received regular metrics of Genesis's loan book, including collateral levels, from at least as far back as June 2020.

89. DCG also engaged Oliver Wyman to conduct a “stress-test” and risk analysis of Genesis's loan book. Oliver Wyman explained its findings of the stress testing scenarios to Genesis, which were presented to the DCG Board on April 5, 2022 in a slideshow titled “Genesis Global Risk Reporting.” Unsurprisingly, given the large concentration of loans with 3AC and Alameda, Oliver Wyman advised that a default of either counterparty would have a serious and material impact on Genesis. Oliver Wyman also confirmed that it was neither remote nor unthinkable that 3AC and Alameda would default.

90. Following the April 2022 presentation regarding the palpable risks of a 3AC and Alameda collapse, Silbert himself asked DCG employees to “think worst

cases” in a scenario where “Genesis imploded.” And DCG Director of Investments Jason Yacavone informed Silbert that “if the market lost confidence in Genesis,” then it would trigger “something akin to a run on the bank where counterparties pull their [open-term] borrow and things snowball quickly.” DCG, Silbert, Kraines, Murphy, and Moro knew that Genesis did not have adequate collateral, capital, or loss reserves to mitigate those known and obvious risks.

91. Further compounding that concentrated counterparty risk, DCG, the De Facto Managers, and Moro required Genesis to issue billions of dollars’ worth of undercollateralized loans to Alameda, 3AC, and other counterparties.¹¹

1. Under DCG’s Control, Genesis Issued Undersecured Loans to Alameda

92. Genesis’s loans were highly concentrated with Alameda. In the first quarter of 2022, loans, including refinancings, worth at least \$6.2 billion were issued from GGC to Alameda. Transactions with Alameda included loans of both U.S. dollars and cryptocurrency. Loans issued to Alameda in the first quarter of 2022 included, but were not limited to, a loan of \$200 million issued from GGC on or around January 13, 2022, and a loan of 36,107 BTC (then worth over \$1.5 billion) issued from GGC on or around February 16, 2022. By mid-2022, nearly 60% of

¹¹ Other risky counterparties that received loans from Genesis in 2022 include Moonalpha/Babel Finance, Flow Traders, and Jane Street.

GGC's loans to third parties were to Alameda. Silbert was fully aware of Genesis's massive exposure to Alameda.

93. Genesis's high concentration of loans with Alameda concerned Genesis clients, including Gemini and Bitvavo. In mid-2022, Gemini asked Ballensweig whether Genesis was "comfortable with the top counterparty concentration of 56%" and what "risk measure[s] [Genesis] ha[d] taken to mitigate the default risk." In line with DCG's direction, Ballensweig responded that Genesis was "incredibly comfortable with [its] top counterparty," which was purportedly "over 100% collateralized in liquid assets" and "one of the leading exchanges and firms in the market." Similarly, Bitvavo's Chief Executive Officer, Mark Nuvelstijn, noted in mid-2022 that a "[b]ig part of [Genesis's] counterparty risk is concentrated by [Alameda]." Ballensweig responded that Genesis "had a very long-standing relationship with both the exchange and trading firm for years," was "fully collateralized with other liquid assets [that Alameda and FTX] hold," and had "recourse up to the parent entity."

94. But there were also significant issues with Alameda's collateral. As an initial matter, Alameda's transactions were not collateralized on a loan-by-loan basis—instead, Alameda's loan term sheets generally left blank the space in which collateral should have been listed. In addition, most of Genesis's loans to Alameda were inadequately "collateralized" by FTT and SRM, two worthless altcoins issued

by Alameda's sister company, FTX. In 2021, Genesis's net exposure to these altcoins from Alameda's collateral was \$3.9 billion worth of FTT and \$2.1 billion worth of SRM. FTT's and SRM's values rose and fell with FTX, so collateralizing a loan to Alameda with FTT or SRM was like accepting equity in a startup as collateral for a loan to that company: the performance of the borrower and the collateral would be closely correlated. The FTT and SRM collateral thus provided no real protection against a loan loss because if Alameda went bankrupt—as it eventually did—the altcoins would be worthless (or heavily impaired) due to Alameda's relationship with FTX.

95. There was no diligence conducted at Genesis to determine the real value of the FTT and SRM collateral. Instead, this altcoin collateral was marked on the Genesis balance sheet at spot price, making the wildly implausible assumption that any default losses on the Alameda loans would be offset by the FTT and SRM. FTT's spot price did not accurately reflect its real value. At year-end 2021, Genesis's FTT holdings were approximately 15 times the average daily traded volume, which means FTT's spot price would not be realizable. An orderly liquidation of Genesis's FTT collateral would have taken many months, exposing Genesis to substantial marketability discounts to account for price volatility. Alternatively, if Genesis quickly liquidated its FTT collateral, it would have flooded the market with FTT, steeply depressing prices. The same principles applied to Genesis's SRM collateral.

Genesis's SRM holdings represented approximately 12 times the average daily traded volume. To liquidate the SRM collateral it held, Genesis would have to either flood the market with SRM or space out its liquidation over months. In either scenario, Genesis would not receive spot price for the SRM collateral. Genesis's loan loss reserve process accounted for none of these obvious risks.

96. Genesis's exposure to Alameda was compounded by the fact that it conducted virtually zero diligence into Alameda or FTX to determine if either was a creditworthy counterparty. Indeed, Alameda had no audited financial statements, and billions in loans were extended to Alameda anyway. Had Genesis conducted a proper analysis of Alameda's and FTX's credit risk, Genesis would have seen that the two companies were subject to the same idiosyncratic risks as Genesis—because Alameda's balance sheet was loaded with \$8.1 billion worth of FTT by the end of 2021. Indeed, together, Genesis and Alameda held the majority of the unlocked FTT supply by the end of 2021. Genesis and Alameda likewise held the majority of the unlocked SRM supply as of December 31, 2021.

97. Officers and employees at DCG, including Silbert, Murphy, Kraines, and Moro, knew that Genesis was too highly concentrated with Alameda. Nevertheless, throughout 2022, Genesis continued to loan Alameda the equivalent of billions of dollars. DCG encouraged these loans to Alameda because many of the Genesis-loaned assets ended up in the Bitcoin Trust. Officers at DCG, including

Silbert, Kraines, and Murphy, as well as DCG's pawn Moro, knew of the connection between FTX, Alameda, and FTT and SRM, but chose to accept FTT and SRM as collateral for Alameda's loans anyway. The Genesis Risk Committee, on which both DCG's Kraines and Murphy served, approved it. A company with proper risk management would not have accepted FTT or SRM as collateral at all, much less at the level of exposure that Genesis had to Alameda.

2. Under DCG's Control, Genesis Issued Undersecured Loans to 3AC

98. Like Alameda, Genesis's loans were highly concentrated with 3AC. During the first half of 2022, Genesis made loans worth over \$1.2 billion to 3AC. Transactions with 3AC included loans of both U.S. dollars and cryptocurrency. Loans to 3AC in the first quarter of 2022 included a loan of \$200 million issued from GAP on or around February 17, 2022; a loan of approximately 225,000,000 USDC (then worth \$225 million) issued from GAP on or around January 28, 2022; and a loan of 300,000 ETC (then worth about \$7.2 million) issued from GAP on or around January 24, 2022. Those three loans to 3AC—and many others—eventually defaulted.

99. Transactions with 3AC were completed quickly and informally even though they involved significant assets. For example, on January 9, 2022, in a Telegram group chat, a 3AC representative whose screenname is "S Z," and is likely

3AC co-founder Su Zhu, asked Genesis to “pls show a usd rate vs btc collat 100%, as well as vs eth?” The Genesis employee asked the size of the loan and S Z replied, “Say \$200m.” Another Genesis employee responded that Genesis could “do the full size of 200mio, if we can meet in the middle of 11%.” S Z agreed, writing, “ok. Pls buy \$200m of BTC v USD for 48hrs starting at 8pm SGT today (in 6hrs).” Genesis moved forward with the \$200 million loan through Genesis employees messaging back and forth in a group chat. Less than 24 hours later, 3AC was already borrowing “another 200M cash to start another 24 hour twap [time-weighted average price trade] at 7am NYT sharp.” In another example of an imprudent loan approval, a \$200 million loan was extended to 3AC from GAP on February 16, 2022 when 3AC asked to “borrow more USD/stable[coins] against existing collateral.” Less than 30 minutes later, a Genesis employee confirmed that Genesis could “extend another 200mio of USD at 10% [open term] against existing liquid collateral.” 3AC accepted those terms four minutes later. 3AC confirmed receipt of the \$200 million loan the next morning.

100. As with Alameda, Genesis’s risk exposure to 3AC was materially aggravated by the poor collateral 3AC posted for its loans. 3AC’s loans similarly were not collateralized on a loan-by-loan basis, and DCG required Genesis to accept illiquid GBTC from 3AC as collateral. 3AC was the single largest holder of GBTC in the market when GBTC began trading at a discount to its NAV in February 2021.

When that happened, 3AC's collateralization profile was never updated to reflect GBTC's true market value and no further collateral was called by Genesis, leaving Genesis severely undercollateralized with respect to the 3AC loans.

101. Like with Alameda, there was also little to no diligence into 3AC's creditworthiness as a counterparty. Genesis did not monitor 3AC's continued financial health. After July 2020, Genesis did not receive any audited financial statements from 3AC.

102. Silbert, Kraines, Murphy, and Moro knew Genesis was too highly concentrated with 3AC, and knew of the mismatch between the size of the loans made to 3AC and the value of 3AC's collateral. But under Moro's DCG-driven leadership, massive loans were issued to 3AC despite these risks. Approving these undersecured loans benefited DCG while imperiling Genesis with the risk of insufficient collateral in the event of 3AC's default or liquidation.

C. DCG Required Genesis to Issue DCG Unsecured Loans and Failed to Repay Those Loans When Due

103. In addition to extending vast amounts in undercollateralized loans to risky counterparties like Alameda and 3AC, DCG also routinely required Genesis to issue intercompany loans to DCG on below-market terms, which were not negotiated at arm's length. DCG and its affiliates were Genesis's third largest counterparty. In the first seven months of 2022, DCG insisted on borrowing hundreds of millions of

dollars from Genesis. Unlike other borrowers, loans issued to DCG were always unsecured. DCG and its affiliates were assigned—without any diligence—a special top-tier credit designation not provided to any other borrowers. Often, DCG unilaterally changed the repayment terms of the loans from Genesis, repaying them late, only in part, or with less valuable assets than agreed upon. Moro, as DCG’s pawn, did not object when DCG helped itself to loans or unilaterally granted itself better terms for existing loans.

104. For example, on January 24, 2022, as the price of BTC dropped, Silbert asked Moro and Ballensweig for “a few hundred million more of USD” from Genesis. Although Genesis did not have “a few hundred million” to lend at that time, Ballensweig responded to Silbert, “want me to go see where I can pull \$100mm down to start?” Less than three hours later, an unsecured \$100 million loan with a stated maturity date of July 2022 was issued from GGC to DCG. There was no risk assessment, approval process, or collateral needed: When DCG demanded liquidity, its piggy bank Genesis delivered. Other examples include, but are not limited to, a \$200 million loan issued to DCG from GGC on or around May 9, 2022, and a \$100 million loan issued to DCG from GGC on or around May 11, 2022.

105. DCG’s affiliates also used Genesis as a treasury throughout 2022. Loans to DCG affiliates in that time include, but are not limited to, 250 BTC (then worth approximately \$7.2 million) loaned to DCGI from GGC on May 18, 2022; and

a loan of 300 BTC (then worth approximately \$12.3 million) to Foundry from GGC on April 13, 2022. Genesis was insolvent when it issued each of these loans. DCG and DCGI did not repay those loans in full before Genesis filed for bankruptcy in 2023. The loans have been paid off since then, but only after DCG defaulted and tried to avoid the repayment obligation during Genesis's bankruptcy. In total, DCG caused Genesis to transfer approximately \$1.7 billion to DCG and its subsidiaries in the first six months of 2022, all while Genesis was insolvent.

106. Loans to DCG were completely uncollateralized, as was Genesis's usual practice when meeting DCG's demands. Loans to DCGI had minimal collateralization—3% collateralized as of May 31, 2022. Loans to Foundry were not collateralized in 2022. Clearly, these were not terms Genesis offered on the open market, and they were provided to DCG and its affiliates due to the control that DCG and the De Facto Managers exercised at Genesis, and to facilitate Genesis's treasury function for Silbert's larger cryptocurrency empire.

VI. Genesis Was Insolvent No Later Than December 31, 2021 and DCG, Silbert, Kraines, Murphy, and Moro Had to Act for the Benefit of Genesis Creditors

107. Genesis's transaction volume grew dramatically during the crypto boom in 2020 and 2021. In 2020, Genesis projected its revenue to grow by 1,000% within two years. Between the end of 2020 and the end of 2021, Genesis's loan exposure increased from approximately \$4 billion to approximately \$14 billion.

108. At the end of 2021, GGC's balance sheet purported to show just \$425 million in book equity—an extraordinarily small amount of capital for GGC's approximately \$14 billion dollar loan book. But even that number was inaccurate because it was calculated using the flawed risk methodology at Genesis. As demonstrated above, the risk infrastructure at Genesis was practically non-existent and did not scale with its loan book. Genesis's lending practices—which were directed and controlled by DCG with acquiescence from Moro—were risky in the extreme. There were no meaningful risk management policies, infrastructure, or oversight at Genesis, which meant Genesis regularly operated with limited liquidity reserves, high levels of exposure to market volatility, and a small number of highly correlated counterparties. Moreover, significant market movements were common in the crypto industry. In periods of increased volatility, Genesis's loan counterparties, the collateral provided by those counterparties, and Genesis's funding sources were likely to experience elevated risk at the same time.

109. When adjusted for the actual and known risks associated with the Genesis loan book, GGC's equity was negative and Genesis was insolvent by December 31, 2021, if not earlier. GAP was likewise insolvent. Its reported book equity of \$91 million was wildly inaccurate, as a true fair market valuation that properly adjusts for these market realities shows GAP was insolvent by December 31, 2021, if not earlier. Indeed, by December 31, 2021, if not earlier, Genesis was

insolvent by *any* measure—whether analyzed using the balance sheet test (a deficiency of assets below liabilities with no reasonable prospect that the business can continue as a going concern), a cash flow analysis (based on the companies’ abilities to pay their debts), or a capital adequacy analysis.

110. As described in detail above, DCG knew of Genesis’s insolvency—indeed, DCG, Silbert, Kraines, Murphy, and Moro drove Genesis to insolvency. In 2020, they received Friedman’s audited financials identifying serious risk control failures at Genesis. Over the course of 2021 and early 2022, DCG’s reputable third-party Project Euclid consultants and Oliver Wyman concluded and reported to DCG that Genesis was severely undercapitalized and unable to withstand reasonably foreseeable market volatility and credit risk. These independent third parties raised concerns with DCG that “risk governance was not well defined,” warned DCG of potential “break the business” scenarios, and told DCG that Genesis was “undercapitalized when compared to publicly available information about other crypto lenders.” DCG knew about significant, easily identifiable balance sheet and operating deficiencies, such as extreme counterparty concentration and high unsecured exposure, excessive leverage, and significant wrong-way and altcoin collateral risk. DCG operated Genesis with significant counterparty underwriting and risk management deficiencies and even violated their own flawed policies, including by having delayed and ad hoc process for margin calls, violating collateralization

limits, and breaching concentration limits. There were audit weaknesses, about which DCG would have known as Genesis's sole equity-holder. And widely available rating agency guidelines for non-bank financial institutions considered these same factors in preparing ratings assessments. These assessments also confirmed that Genesis inappropriately relied on a small number of lender counterparties, primarily Gemini Earn Program participants and Bitvavo, to source the liquidity it used to operate its own lending business. This concentration of funding sources exposed Genesis to significant liquidity risks: if one of those two critical counterparties lost confidence in Genesis, it could call a huge volume of open-term loans to Genesis, triggering a run on the bank, and devastating the Genesis loan book.

111. Because Genesis was insolvent by December 31, 2021, if not earlier, the fiduciary duties that DCG, Silbert, Murphy, and Moro owed to Genesis required them to act not only in the interest of Genesis but also in the interest of Genesis's creditors, who at that point were Genesis's residual claimants. DCG, Silbert, Kraines, Murphy, and Moro therefore had an obligation to maximize the value of Genesis for Genesis's creditors. Instead, DCG, Silbert, Kraines, Murphy, and Moro prioritized DCG and Silbert at the expense of Genesis and its creditors. DCG, Silbert, Kraines, Murphy, and Moro did so through their imprudent operation of Genesis's lending business, by treating Genesis as DCG's de facto treasury, described above, and by

their blatant self-dealing conduct designed to defraud Genesis creditors when 3AC and Alameda inevitably collapsed in 2022, described below.

VII. The Collapse of Terra Luna in Spring 2022 Destabilized the Entire Crypto Industry

112. In the six months preceding May 2022, BTC's price had dropped substantially, and the entire crypto industry experienced a steep decline in prices. This destabilized Genesis's counterparties, made default much more likely, and imperiled Genesis's ability to collect on its collateral. On April 12, 2022, Oliver Wyman warned DCG and its affiliates that a "market crash" was possible and presented "scenarios" relating to Genesis, including that a drop in the value of BTC could lead "to ripple effects across [the] broader crypto market."

113. That crash began with the collapse of two popular cryptocurrencies, TerraUSD and LUNA, in May 2022, continued with the implosion of 3AC—the largest holder of GBTC shares issued by the Bitcoin Trust—in June 2022, and intensified as crypto firms Celsius, Babel, Alameda, and FTX all failed. Genesis had enterprise-threatening exposure to 3AC, Alameda, and DCG, as its DCG-mandated risky and undercollateralized loans to 3AC and Alameda—collectively for billions of dollars—were a major vulnerability that would be exposed by a market downturn. Acknowledging this serious and foreseeable risk, Kraines admitted at the time that

“not having had a [Risk Committee] meeting over the last year or so is a really bad fact for us.”

114. In early 2022, the market value of TerraUSD and LUNA were at all-time highs. As macroeconomic factors drove down the price of cryptocurrency generally, the algorithmic stablecoin TerraUSD could not maintain its peg to the U.S. dollar via LUNA. The first signs of a bank run appeared on May 7, 2022. Within three days, LUNA’s price per coin dropped from \$80 to almost zero and both TerraUSD and LUNA became essentially worthless, wiping out roughly \$45 billion in market capitalization within a week. This “Terra Luna” crash had a domino effect on cryptocurrency prices, leading BTC to fall 60% from its previous November 2021 high and resulting in a loss of \$300 billion in total value across the crypto industry. Genesis faced significant exposure following the Terra Luna collapse. Genesis had accepted a large amount of TerraUSD as part of a BTC transaction. Because Genesis lacked proper risk management, that TerraUSD was not hedged, and Genesis had approximately \$350 million of exposure as of May 7, 2022. Genesis ultimately lost \$51 million as a result of the Terra Luna collapse.

115. DCG moved quickly to hide Genesis’s significant exposure. On May 11, 2022, Silbert instructed Genesis employees, including Moro, to “put[] out a statement that [Genesis had] zero [TerraUSD] or Luna exposure” and “immediately get the word out” that it was “in great shape.” Silbert instructed Genesis to seize the

opportunity to “shape the narrative” with its statements. Silbert said Genesis’s response was “about survival,” conveying the urgency of the situation. Moro quickly followed Silbert’s instructions: In an email that included Murphy and DCG’s Vice President of Communications, Amanda Cowie, Moro told Genesis’s Head of Communications and PR, Marc Yaklofsky, and Genesis’s Chief Marketing Officer, Jordan Goldman, to craft a message based on Silbert’s direction that Genesis “put out some statement to the public that Genesis ha[d] no direct exposure to either” TerraUSD or Luna. Cowie added that Silbert had “pinged [Murphy] and [Cowie] on this as well,” and Cowie instructed that a Tweet would be the “fastest way to get this out.”] Yaklofsky thus proposed the following Tweet: “Genesis is a liquidity provider to our trading partners—we hedge all our risk including that linked to [TerraUSD] and LUNA. We have no direct exposure to [TerraUSD] and LUNA, and continue to operate and serve our counterparties as usual.” He reposted the Tweet from the @GenesisTrading Twitter account several minutes later. Silbert immediately retweeted the statement on his personal account, adding in response to a Tweet asking “which funds/market makers blew up,” “not Genesis!” These statements were false. DCG intended for Genesis’s counterparties to see and rely on them. Gemini and its hundreds of thousands of Earn Program customers, Bitvavo, and other Genesis creditors did rely on those tweets.

116. Minutes after directing and making these statements, despite the massive instability caused by the Terra Luna collapse and the fact that Genesis had agreed to loan DCG \$100 million just the previous day, Silbert asked the Genesis team if “there [was] more USD available for [DCG] to borrow”—another \$100 or \$200 million. Silbert also directed Kraines and Murphy to investigate and account for Genesis’s losses, after which DCG began to plan Moro’s exit and informed Moro that he would leave Genesis by the end of 2022. Days later, on May 17 and 23, 2022, DCG called a combined \$154 million in USD loans to GGC. These transactions reduced DCG’s exposure to GGC to zero, following what had been an all-time high of nearly \$300 million two months prior.

117. The Terra Luna collapse created a general decrease in confidence across the crypto industry and prompted a broad market sell-off. The contagion strained other companies in the industry and caused a cascading effect as users pulled funds from other exchanges. As these ripple effects permeated the industry, Genesis’s largest lenders, including Bitvavo, began asking questions about the safety of their assets. For the first time, Gemini considered terminating the Earn Program. At the end of May 2022, Gemini’s Cameron Winklevoss requested a “1-pager on the risk profile of [the Earn Program] and Genesis,” including information about Genesis’s borrowers, the collateral it held, and Genesis’s underwriting strategy.

VIII. 3AC Collapsed in June 2022 and Left a \$1.1 Billion Hole in Genesis's Balance Sheet

118. DCG's exploitation of Genesis reached a tipping point when 3AC collapsed on June 13, 2022. Late on June 12, GAP notified Ballensweig that 3AC was having problems meeting margin calls. Ballensweig reached out to 3AC and received confirmation from 3AC's co-founders that if Genesis issued a margin call, 3AC could not meet it. This was the enterprise threat that DCG's third-party experts warned DCG about for years: At that point, GAP had \$2.36 billion in undersecured outstanding loans to 3AC.

119. Ballensweig immediately notified DCG and the De Facto Managers. At 11:47 p.m., Genesis issued a margin call notification to 3AC. Silbert was woken up around 2 a.m. and he immediately took charge of the situation. Genesis issued a second margin call notification to 3AC at 5:55 a.m. From that moment forward, Silbert's hand was on the tiller of Genesis's response to the 3AC collapse.

120. DCG knew the 3AC collapse would be catastrophic for Genesis and DCG—for years, reputable third-party consultants had warned DCG of exactly that. Silbert instructed Genesis to put him in contact “with the [3AC] team directly,” which Genesis did. DCG Director of Execution Gregory Ingrassia discussed the “very serious price action overnight” with DCG executives including Kraines, who was “concer[ned] it's going to be bad. Very bad.” Kraines told the DCG group “in strict

confidence and off the record” that 3AC “may be having trouble” and that Genesis faced significant exposure to 3AC. As Silbert, Murphy, Kraines, Moro and others at DCG and Genesis scrambled for options to minimize losses at Genesis, Silbert stated that “things are only going to get worse.”

121. Silbert was right. 3AC failed to meet Genesis’s margin calls, and on June 13, 2022, at 6:29 p.m., Genesis issued a notice of default to 3AC. Ultimately, GAP was able to recover just over half of \$2.36 billion it had loaned to 3AC by foreclosing on the collateral that purportedly had secured those loans. But due to DCG-driven risky lending practices at Genesis, the collateral was woefully insufficient to cover all 3AC’s outstanding loans. This resulted in a \$1.1 billion “structural hole” in Genesis’s balance sheet that put the business in immediate jeopardy. Genesis faced a virtually certain run on the bank. Further, due to Genesis’s counterparty concentration, if either Gemini or Bitvavo walked, that would cause the house of cards to fall.

122. By June 14, it was clear that Genesis would not recover the \$2.36 billion in fiat and cryptocurrencies it had lent to 3AC. Ballensweig suggested to DCG that Genesis hedge what collateral it could from 3AC and try to contain its losses. While he allowed Ballensweig to hedge the BTC collateral, Silbert prohibited Ballensweig from hedging the significant amount of GBTC collateral. Silbert reiterated this same instruction days later on June 17 that Genesis was “not to sell [the GBTC] shares

[pledged as collateral] or enter into any transaction without consulting [Silbert] first.” Determined to act in DCG’s best interest without regard to Genesis’s needs, Silbert refused to allow Genesis to liquidate or hedge GBTC collateral, as that would have jeopardized DCG’s Grayscale position. This mandate from Silbert was a clear conflict of interest and violated his duties of loyalty and care owed to Genesis. Silbert’s orders harmed Genesis—the collateral was pledged to protect Genesis and ensure payment in the event of a default, but Silbert eliminated that option when it was needed the most. Likewise, Moro’s failure to ensure Genesis liquidated or hedged the GBTC was a breach of his duties of loyalty and care. Meanwhile, the value of the GBTC collateral continued to decline, increasing the size of Genesis’s equity hole and worsening Genesis’s already dire financial condition.

IX. DCG Directed Lies About Genesis’s Financial State Following 3AC’s Collapse and Looted Genesis for Its Own Benefit

123. In desperate need of a plan to protect DCG and Silbert’s larger crypto empire in light of Genesis’s monumental exposure to 3AC, DCG reached out to its financial advisor, Ducera, and Ducera’s CEO, Michael Kramer. Kramer was Silbert’s long-time friend and a DCG stockholder. Ducera and Kramer also had millions of dollars’ worth of assets at Genesis. DCG, through Kraines, asked for Ducera’s help to respond to the 3AC collapse and coordinate DCG and Genesis’s public statements. The “scope of [Ducera’s] engagement” included “reviewing

financial data and helping to prepare analysis and reports to provide to potential investors, regulators and counterparties,” “advising re negotiations with any creditors of Genesis,” “assisting with communications re all of the above,” and “related services.” Silbert instructed Ducera and Kramer to “keep the engagement quiet,” because Silbert’s position was that “the narrative of Genesis moving vigorously ahead in BAU [business as usual] mode is important.”

124. Immediately after learning of Genesis’s exposure to 3AC from DCG, Ducera’s Patrick Dowling contacted Genesis on June 13 asking if Genesis was suspending withdrawals and about “call[ing] all of [Ducera’s] loans” to Genesis, both fixed and open term. He also asked about “calling all of Mike Kramer’s personal loans,” which totaled approximately \$13 million plus interest. This was unusual for Ducera and Kramer; both made it their practice to keep their loans with Genesis open to continue drawing interest. A Genesis employee¹² responded that Genesis could return the open term loans “first thing in the AM,” but that “[p]er the terms of the [Master Borrow Agreement,] fixed term loans cannot be broken early.” Ducera’s and Kramer’s outstanding loans that were eligible to be called were formally called days later on June 16, and GGC transferred approximately \$1.5 million to Ducera and approximately \$5.3 million to Kramer plus interest.

¹² This GGC employee’s Telegram account has been deleted, making identification difficult.

125. Ducera and Kramer were not the only ones with inside knowledge about Genesis's exposure to 3AC who wanted their assets back. Others associated with DCG began to call their loans to Genesis on June 13, including DCG's Beck, who withdrew 3,963 ZEC (then worth approximately \$260,000); DCG's Head of Legal Katz, who withdrew \$36,000; and North Islands Venture Funds, an entity affiliated with DCG Director Glenn Hutchins, which withdrew \$2 million.

126. Over the coming days, the 3AC situation worsened, and Silbert continued to lead Genesis's response. On June 14, 2022, Silbert outlined three possible paths to other members of the DCG Board, only one of which was shared with Genesis:

They will then drop and we will cover the following three paths/strategies, as well as anything else that it would be helpful to cover.

1) Support Genesis

- while the Genesis team makes every effort to bolster its own balance sheet, DCG looks to secure our own additional liquidity to keep in reserve should we decide later to contribute capital to stabilize the Genesis balance sheet
- at the same time continue to work with counsel to ensure best defenses against veil piercing

2) Jettison the Genesis Capital business

- the contra of contributing more capital, this would be the worst case scenario

3) "Shock & Awe" plan

The Shock & Awe Plan

Narrative: in response to the dramatic change in the market landscape, we are reconfiguring Genesis to take maximum advantage of the new environment

- Barry becomes CEO of Genesis immediately; will of course remain CEO of DCG
- DCG contributes DCGI assets (crypto, venture, public equity and funds portfolios) and investing team to Genesis (~\$1.5 billion at current crypto prices, not reflecting discount on Grayscale products)
- Genesis improved with additional merchant banking capability unlocking new solutions for clients and opportunity sets
- Gives lenders, employees, investors, and the public confidence and comfort; gives us time to work through illiquid assets; should be easier/cheaper for Genesis to access debt capital for the loan book
- We immediately share plans internally (and externally?) about our plans to take Genesis public in 2023; more diversified set of assets make for a more successful IPO & post IPO company
- Big opportunity for Genesis to come out of this as THE leader in the space
- As 100% owner of Genesis, DCG shareholders are no worse off, other than DCGI's assets being put under Genesis creditors;
- Provides clear path to liquidity for DCG shareholders via Genesis IPO
- We can also consider raising pre-IPO capital into Genesis immediately to further strengthen the balance sheet, or down the road once things have stabilized; putting DCGI assets into Genesis will give investors the opportunity to participate in the upside of our portfolio alongside the Genesis business

IMPORTANT: we have not discussed either the Jettison or Shock & Awe plans with the Genesis team. As far as they know, we're on path #1 right now, so please do not bring up the alternative paths on the call today with the team.

127. As Silbert and the DCG Board determined the fate of Genesis and its creditors, they were busy taking steps to shore up DCG's economic interests at Genesis. First, DCG belatedly tried to impose some risk controls at Genesis. Silbert directed Genesis "to continue aggressively shrinking the loan book ... until such time as we have the right controls, risk monitoring, etc. in place." Silbert instructed Genesis to "limit the extension of any new loans." But Silbert cautioned Genesis that

it was still important “to continue to show the market that we’re lending,” as that would create the false perception that Genesis remained financially stable.

128. Second, DCG lied to the market about Genesis’s financial condition. DCG directed, drafted, edited, and approved statements falsely assuring the market that Genesis remained solvent and liquid, which were then issued by Genesis employees at DCG’s direction. For example, on June 14, 2022, Murphy approved a set of talking points “to equip [Genesis] folks to answer inbound queries” from lenders (the “June 14 Talking Points”). Murphy included statements that Genesis “continues to fund its activities as usual and has efficiently met the significant demands of [its] clients,” has a “[s]trong [b]alance [s]heet,” is “[h]ighly capitalized,” and “maintain[s] robust levels of liquidity.” Recognizing DCG’s failure to correct any of the alter ego issues identified by their consultants in 2021 and 2022, Murphy emphasized that Genesis should not “say[] that DCG will backstop anything—it’s important from a corporate veil perspective.”

129. Unsurprisingly, Genesis received a flood of inquiries from counterparties concerned about Genesis’s exposure to 3AC. For example, early on June 15, Bitvavo requested confirmation that Genesis was “not [an] unsecured lender[] to ... 3AC” and that Genesis “still fe[lt] very strongly that [it would] be able to manage the current market volatility.” Reciting the lines from Murphy’s talking points, Hamill Serrant, Genesis’s Vice President of Lending, replied to Bitvavo’s

Nuvelstijn about an hour and a half later, stating that Genesis had “a lot of asset recourse and liquid collateral on hand” and that it was “not concerned about [its] overall position with [3AC] as a counterparty.” As DCG intended, these statements created a false impression that Genesis was not meaningfully affected by 3AC’s collapse and that it remained in a solid financial position. In fact, Genesis was extremely “concerned” with its “position” with 3AC. Genesis did not have liquid collateral sufficient to cover the yawning \$1.1 billion hole on its balance sheet. And the hundreds of emails and chats from DCG and Genesis employees from at least June 13 to November 16 demonstrate the severe vulnerability posed by 3AC’s collapse.

130. On June 15, a public statement was posted on the “@GenesisTrading” Twitter account, incorrectly stating that the Genesis balance sheet was strong, Genesis’s business was operating normally, and Genesis could meet client demands (the “June 15 Statement”). Murphy reviewed a draft of this June 15 Statement from Moro, which Murphy approved only after instructing Moro that it needed to reference Genesis’s balance sheet. Silbert retweeted the June 15 Statement from his personal Twitter account:



131. Shortly after the June 15 Statement was issued, Serrant sent it to Bitvavo's Nuvelstijn as a follow-up demonstration of Genesis's supposedly strong financial position. Genesis's Managing Director of Trading, Michael Paleokrassas likewise reported to Silbert, Kraines, Murphy, and Moro that "multiple clients ... stated that [the June 15 Statement] helped them get comfortable and keep their loans [with Genesis]." Murphy responded, "Good to know."

132. The June 15 Statement was false. The Genesis balance sheet was not "strong"—it had a \$1.1 billion hole from the 3AC collapse. Genesis's business was not "operating normally"—DCG and Genesis were struggling to keep the company afloat and were "defen[d]ing the castle." But needing to maintain the illusion that all was well, to protect DCG and his crypto empire, Silbert focused on "continu[ing] to perpetuate" the idea "that [G]enesis [wa]s the 'blue chip' in this mess." Silbert knew that was a lie. But as he intended, Genesis's lenders relied on the June 15 Statement, which created a false impression that things at Genesis were business as usual.

133. Still, pressure from lenders continued to mount. On June 15, Gemini's Echo Guan asked Genesis whether it had "any exposure to 3AC" and whether Genesis was able to maintain its current liquidity condition.¹³ When Genesis Vice President of Credit Risk Adim Offurum responded to Guan the next day, he followed the DCG directive and told Guan, Leo Jiang, Darran Seho, Thomas Vaniotis, and Jorge Vasquez at Gemini that Genesis "remain[ed] highly capitalized," that it "ha[d] asset recourse with liquid collateral on hand from [3AC]," and that its "liquidity position remains solid." These were misrepresentations. DCG's Project Euclid consultants and Oliver Wyman confirmed months earlier that Genesis was grossly undercapitalized, and Offurum and DCG knew that Genesis had little liquidity following 3AC's collapse. Offurum also told Guan and the Gemini team that Genesis was "in a secured position" with respect to 3AC and had "liquid collateral on hand from them"—an intentionally misleading statement designed to conceal the \$1.1 billion of unsecured exposure.

134. The next day, on June 16, Ballensweig shared with DCG, Silbert, Kraines, and Murphy that he had "been pinged countless times tonight by clients wondering why [Genesis had not] made a more formal statement about [its] loss mitigation to [3AC]." He continued, "[w]e continue to see outflows and hear fear."

¹³ Guan also asked about the status of margin calls, whether there were any liquidations or defaults, and what percentage of the overall loan book the defaults were.

Ballensweig, Serrant, and Offurum also spoke on the phone with a “Gemini Lawyer” on June 17, who “asked hard [questions] about [3AC and the] market.” Ballensweig, Serrant, and Offurum conveyed that they had “fended ... off” the questions using DCG’s script.

135. Facing growing lender panic, DCG realized that a stronger statement would help address lender concerns and understood that the market relied on those statements. Accordingly, in the morning of June 17, 2022 Murphy emailed Moro, Cowie, and Genesis Head of Communications and PR Marc Yaklofsky to orchestrate the dissemination of further false statements to the market. Murphy attached a DCG-drafted “blog post,” which Murphy directed to “go out soon.” Moro replied minutes later with a draft tweet echoing Murphy’s proposed language for the requested statement. Murphy edited this draft and ordered Moro to post the statement from Moro’s personal Twitter account. Although Yaklofsky explained that it was Genesis’s policy to issue statements from “Genesis corporate” rather than “personal accounts,” Murphy insisted that the statement must “come from” Moro and that it would be “[m]uch more effective coming from Moro with Genesis [retweeting].” Moro followed Murphy’s instructions, posting the statement (the “June 17 Statement”) on his personal Twitter account. DCG then retweeted the June 17 Statement.





136. Like the June 15 Statement, the June 17 Statement was a lie. Genesis had not “shed the risk and moved on”—it was suffering a severe liquidity crisis that exacerbated its existing insolvency, which DCG, Silbert, Murphy, Kraines, and Moro knew.

137. The June 17 Statement was crucial to DCG’s public relations strategy to hoodwink Genesis lenders. Genesis lenders read and relied on it. For example, on June 17, billionaire investor and Genesis lender Mark Cuban emailed Gordon Grant and others at Genesis to “confirm that [Genesis was] not facing any liquidity issues.” Following DCG’s script, Ballensweig told Cuban that Genesis was “fully operational” and “facing no liquidity issues” and that “[a]ll client assets [were] safe.” He also pointed Cuban to the June 17 Statement.

138. While DCG was disseminating these lies to Genesis lenders to induce them to keep their assets at Genesis, DCG insiders were continuing to pull their own assets off the Genesis platform. On June 17, Silbert’s brother Alan withdrew approximately \$396,000 and Alan’s company INX Limited withdrew \$1 million plus interest. Alan withdrew another 15 BTC (then worth approximately \$318,000) from Genesis just a few days later. Again prioritizing its own interests, DCG itself withdrew liquidity from Genesis at this crucial juncture, instructing Genesis to refinance 53 outstanding BTC loans to an open-term loan of approximately 18,697

BTC (at the time valued at \$384 million) to DCGI on or about June 18. As discussed below in Section XVII, DCGI refused to pay back this loan even after it matured.

139. After extracting this valuable liquidity from Genesis, DCG continued its campaign of misrepresentations to Genesis’s key lenders, Bitvavo and Gemini. Over the course of a discussion that occurred between June 20 and 23, Bitvavo’s Nuvelstijn requested “additional info for [Bitvavo’s] risk team,” including “[i]ndication of the loss [Genesis] netted due to [3AC]” and whether DCG would “contribut[e] additional capital to Genesis.” Serrant responded that “more information” would be forthcoming, and that Genesis “plan[ned] to make sure that [its] equity ... continues to be sufficient to absorb losses and is right sized for [Genesis’s] loan portfolio.” Serrant also said that “being a primary DCG subsidiary allows [Genesis] to tap capital sources in the event it’s needed.”¹⁴ These statements were misleading, as DCG had no intention of providing capital or ensuring that Genesis had sufficient equity to absorb the massive 3AC losses. DCG directed and intended these statements to deter Bitvavo from seeking details on Genesis’s financial condition, or worse, calling its loans.

140. On June 23, 2022, Gemini’s Guan sent Genesis a “Risk Metrics Request” document that included a request for a “[p]ost mortem on [the] 3AC

¹⁴ Nuvelstijn also asked about Genesis’s 2021 and first quarter 2022 financials.

incident,” metrics on Genesis’s counterparty concentration, and loan book metrics. The Risk Metrics Request also noted that “the financial impact of the 3AC fallout is not currently highlighted in any of the existing [Genesis] risk metrics” and explained that Gemini wanted “a metric or measurement from Genesis” to indicate that impact.

141. Silbert was concerned about “allow[ing] people inside or outside [to] question Genesis’[s] solvency” for fear of a “bank run on Genesis.” So on the morning of June 24, 2022, Silbert convened the CEOs of all DCG subsidiaries. Silbert instructed his lackeys that the “[m]ost important thing right now is trust and confidence in Genesis,” that a “run on Genesis would be catastrophic for all of us,” and that “if there is any chatter or concern in your organization, please address head on and tell them that Genesis is fine.” That very same day, HQ—the investment fund for Silbert and his friends—withdrew \$99.5 million from Genesis.

X. DCG Refused Offers for External Capital for Genesis

142. At the same time Silbert, Murphy, and Kraines were instructing Genesis to lie to lenders about Genesis’s financial state, DCG led an effort to raise external funding for Genesis. This process was ultimately unsuccessful, however, because the diligence involved required DCG to reveal the insufficient risk management practices at Genesis and the true exposure it faced to market counterparties, including 3AC.

143. On June 21, Silbert met with venture capital fund Ribbit Capital (“Ribbit”) to discuss a possible injection of capital. In his memorialization of that

presentation shared with Kraines and Kramer, Silbert admitted that the “[c]ollapse of Luna was the spark that triggered the collapse, but if it wasn’t that it would have been something else.” Silbert said that while “DCG [had] managed to avoid all of the blow ups so far, Three Arrows changed all that,” and that “[n]ot only did we”—referring to DCG and Genesis as a single entity—“have unsecured debt to them that we shouldn’t have, but the collateral dropped in value so quickly that we had a major problem.” Silbert conceded Genesis had “[t]oo much concentrated risk with two borrowers.” Silbert ultimately admitted that there were “[p]roblems, mistakes, failures all around” and that “we own it, *I own it.*”

144. Within one day, on June 22, Ribbit provided a memo to DCG executives, including Kraines, that laid out Ribbit’s “honest assessment of the situation.” Ribbit’s assessment of Genesis’s dire financial state was stark, and Ribbit identified several of the issues that Friedman, S&C, Goodwin, and Oliver Wyman had already identified for DCG. Ribbit opined that “Genesis [was] currently facing a severe liquidity crisis, and secondly an equity capital problem.” Ribbit pointed out that Genesis would “need to be re-capitalized and likely restructured to operate as a viable going concern post August 2022.” Ribbit accurately saw that “the reality [was] that Genesis [was] undercapitalized to the tune of \$1B+” and that the “true equity capital hole could be upwards of \$1.5-\$2B” given the “value of alternative coin collateral (FTT & SRM) and that GBTC [was] marked at NAV vs. market value.”

Ribbit also “believe[d] there [were] material deficiencies in how DCG/Genesis [was] operating from a risk perspective.” Ribbit was “not sure if the current Genesis [was] well-suited to run a large, diversified risk-taking business ... based on the level of undercollateralized risk, the type of lending, and the risk management infrastructure that was described ... by both Genesis and DCG.” These were only some of a “host of other core procedural and infrastructure-related issues” that Ribbit identified.

145. Also on June 22, Silbert spoke with the investment management firm Fortress. Apparently taking a slightly different tack than he did with Ribbit, Silbert lied to Fortress and represented that “Genesis ha[d] a ton of liquidity and [was] operating as normal.” Silbert shared his misrepresentations to Fortress with Murphy, Kraines, and several Genesis executives, including Moro, Ballensweig, and Chief Legal Officer (“CLO”) Arianna Pretto-Sakmann. Murphy agreed the language was “good messaging for the Genesis team to use.” Moro dutifully responded, “100 percent.”

146. In the following days, DCG responded to various due diligence follow-up requests from Ribbit and Fortress. On June 27, DCG and Genesis executives met at Goodwin’s offices to discuss an offer that Ribbit and Fortress had made to support Genesis. Silbert did not agree with the low valuation Ribbit and Fortress had given Genesis, and turned down the financing offer.

XI. DCG Forced Genesis to Sign a \$1.1 Billion Promissory Note to Give the False Appearance of Liquidity as Second Quarter 2022 Closed

147. With the second quarter set to close on June 30, 2022, Genesis's balance sheet would show more than a billion dollars of exposure to 3AC, and minimal equity and liquidity. That would betray Genesis's insolvency, cause lenders to race to pull their assets off the platform, and lead to bankruptcy. Silbert admitted internally at DCG that "the hole in Genesis equity due to the Three Arrows exposure is something ... we will need to fill by 6/30." Silbert said to keep that information "super confidential" and not share it outside of "the circle."

148. DCG wanted to avoid a Genesis bankruptcy for two reasons. First, if Genesis filed for bankruptcy, DCG and its affiliates would have to pay back outstanding loans worth over \$800 million to Genesis. Second, DCG could no longer use Genesis's funds as its de facto treasury, depriving Silbert's crypto empire of its essential source of financing. Kraines admitted this in a June 26 email to DCG's Jordan Fitterman, Gregory Ingrassia, and Ronald DiPrete. Kraines was "hung up on" the fact that "the money that DCG owes Genesis doesn't go away in bankruptcy." And, as Kraines explained, a Genesis bankruptcy "would also require the rest of DCG and [its] subs[idiaries] to be able to operate based solely on Grayscale cash flow without any incremental funding available from DCG for the foreseeable future."

149. Since Gemini and Bitvavo could pull assets from Genesis at any time, including for Gemini through ending the Earn Program, DCG knew it needed to do something to protect its interests and avoid a Genesis bankruptcy. Kraines, Kramer, and others at DCG and Ducera agreed that “maintenance of Gemini funding [was] critical to Genesis’s liquidity.”

150. The answer was to create the impression of a strong balance sheet at Genesis. Moro explained to Murphy and Kraines, “if [Genesis was] able to show [its] balance sheet after all of that happened and it still looks strong, ... 1) people will care less about the losses and 2) we’ll be better able to operate from a place of strength going forward.” Kraines similarly hypothesized whether it was “possible everyone [with open term loans] would agree to not demand their money back” if shown “a Big 4 audit showing that we have M2M [mark-to-market] asset value equal to our liab[ility] value.” Thus, at the end of June 2022, DCG and Ducera embarked on what they called “Project River” to identify potential “roadmap[s]” to keep Genesis operating past the end of the quarter on June 30, 2022. DCG’s Silbert, Kraines, Murphy, Katz, and Fitterman; Ducera’s Kramer, Kishan Patel, and Adam Verost; and several Goodwin attorneys, were all part of Project River.

151. As part of Project River, Silbert, Murphy, and Kraines considered and rejected an option to “Close down Genesis Capital.” In addition to Kraines’s concerns about DCG needing to repay its loans to Genesis and losing its piggy bank

in the event of a Genesis bankruptcy, DCG worried that if it shut down Genesis, DCG's reputation would be marred by a "black mark in the industry." DCG was also concerned about losing control of the company, because "[i]n bankruptcy, Genesis creditors would take control of any DCG stock held by Genesis."

152. Silbert, Murphy, and Kraines also considered and rejected an option through which "DCG issues new equity and contributes to Genesis." Islim explained to Kraines and Murphy that a potential solution to Genesis's "liquidity and credit (equity) problems" would be an "inject[ion]" from DCG to Genesis "before month-end" to "allow GGC to show a healthy balance sheet to creditors in early July." Similarly, Ballensweig emphasized that if DCG provided an equity injection, then Genesis could "raise additional capital while maintaining [its] existing relationships with lenders. But DCG did not have sufficient capital to save the company and keep DCG protected at the same time. Regardless, DCG was interested in keeping its capital, not extending capital to Genesis.

153. Having rejected the option of issuing an actual equity infusion, on or about June 26, Silbert proposed creating the appearance of an equity infusion at Genesis by forcing Genesis to loan cash and assets to an affiliate, such as DCGI, and then requiring the affiliate to contribute the same cash and assets back to Genesis as equity. DCG's legal counsel, Goodwin, recommended against that proposal based on veil piercing and fraudulent conveyance concerns. Cognizant of DCG's concerns

about protecting its own assets, Goodwin also warned Silbert that this transaction would “throw[] good money after bad” and put more assets at risk in an eventual bankruptcy.

154. The only option left for DCG was to lie. On June 28, 2022, Kraines purported to share “good news” with Moro, Islim, Ballensweig, Pretto-Sakmann, Paleokrassas, and Genesis’s CFO Alice Chan. Kraines told Genesis that the DCG Board had “green-lit our moving down sufficient assets to bring your balance sheet into the black as of June 30th.” But behind the scenes, the conversations between DCG, Silbert, and Ducera told a different story. DCG did not want to strengthen the Genesis balance sheet through an equity injection that would expose DCG and Silbert to loss if Genesis did not recover. Instead, they schemed to make the Genesis balance sheet appear strong without actually providing Genesis with liquidity that it so desperately needed.

155. On June 28, the Project River team—including DCG’s Kraines, Fitterman, Ingrassia, and DiPrete; Ducera’s Kramer, Patel, and Verost; and several Goodwin attorneys—discussed a potential transaction “to close the negative equity value of the Genesis balance sheet(s).” The next day, on June 29, Ducera’s Patel circulated a draft of a proposed transaction, through which insolvent GAP would provide insolvent GGC with a \$1.1 billion promissory note at zero percent interest and with no maturity date. Goodwin pointed out that “GAP [was] not a credit-worthy

party” and a zero percent interest rate was “off-market.” Kraines agreed that “the optics would be better at some non-zero % number.” Kramer pushed back, saying “that if 0 interest works that’s what we should do.” But Kraines explained that the “problem with trying to benchmark this to a real world comp is that it’s something of a no-bid situation”—an admission that this was not an arm’s-length transaction on market terms. Kraines continued, “the reason we’re actually doing this is because—practically speaking—we’re rescuing ourselves insofar as we’re all one consolidated entity at the end of the day.” After admitting that Genesis was a mere alter ego of DCG and that DCG was attempting to conceal that fact, Kraines suggested a “modest” 1-2% interest rate.

156. The Project River team refined its strategy for addressing the Genesis balance sheet without jeopardizing DCG. Ultimately, DCG “offset” the \$1.1 billion loss with a non-cash, speculative IOU that was not payable for a decade. Instead of providing Genesis with equity, DCG would provide the Promissory Note to mask the balance sheet hole through which DCG promised to pay Genesis \$1.1 billion in 10 years (i.e., in 2032), at 1% interest in exchange for Genesis’s liabilities and recovery from 3AC. Additionally, the Promissory Note had “no mandatory amortization,” was “pre-payable at any time with no premium,” had “no put option by GGC,” and provided “an offset mechanism for any recoveries that are received through [3AC] proceedings.” None of these terms would have been agreed to on the open market.

Moreover, DCG provided no collateral to secure its obligation, and it made sure the repayment of the Promissory Note was subordinate to its repayment of an over \$350 million credit facility to unrelated third parties. The Project River materials confirm that one of the Promissory Note's benefits was that it did "not require direct contribution of assets or capital of DCG into Genesis/GAP":

Overview of Genesis Payable Transaction (Continued)	
<ul style="list-style-type: none"> The following table provides additional benefits and considerations regarding the proposed Genesis Payable Transaction 	
	Genesis Payable Transaction
Benefits	<ul style="list-style-type: none"> Resolves GAP's book equity shortfall by June 30, 2022, preventing potential "run on the bank" situations due to loss of customer confidence Stabilizes the Genesis business Extends runway for Genesis to continue to operate and manage recovery on the TAC claims Does not require direct contribution of assets or capital of DCG into Genesis/GAP Does not require reorganization of DCG entities or subsidiaries to resolve GAP book equity shortfall Does not require third-party financing Does not require regulatory approval Does not require consents from existing DCG or Genesis lenders, although DCG will be required to notify Eldridge in the context of the subordination agreement for the Eldridge secured loan
Considerations	<ul style="list-style-type: none"> Requires DCG to support and repay \$1.1bn gross payable according to the terms of the agreement In the event of a future Genesis bankruptcy, Genesis will be able to assert a claim for the then outstanding payable balance

157. The Promissory Note was not an arm's-length transaction. For starters, Genesis did not have any input into the terms of the Promissory Note or an opportunity to negotiate the terms. In fact, key Genesis personnel, including Chan and Pretto-Sakmann, only learned about the final terms of the Promissory Note the evening of June 29, just before Genesis's books closed for the quarter. At that point, Genesis was out of options and out of time. And as usual, it could not push back against DCG's commands.

158. On June 30, 2022, Silbert and his yes-man Moro executed the Promissory Note on behalf of DCG and GGC, respectively. The terms that DCG unilaterally dictated—devised with Ducera’s and Kramer’s help—were extremely favorable to DCG and did nothing to help Genesis. The Promissory Note was a mirage that gave DCG a longer runway to engage in self-dealing transactions and loot its de facto treasury.

XII. DCG Used Misleading Financial Documents to Falsely Reassure Lenders That Genesis Was Solvent at the End of the Second Quarter 2022

159. Armed with the commercially unreasonable Promissory Note, DCG was ready to begin the next phase of its campaign to deceive the market. It needed Genesis’s balance sheet for the end of the second quarter (the “June 30 Balance Sheet”) to appear “strong,” so Genesis lenders would keep their assets on the platform. Accordingly, the June 30 Balance Sheet listed the Promissory Note as an asset held by GGC under the category “Receivable from related parties,” at its face value of \$1.1 billion.

Genesis Global Capital LLC
Statement of Financial Condition (Unaudited)
June 30, 2022
(in thousands)

Assets	
Cash	\$ 372,499
Investments in digital currencies and trusts	2,221,778
Digital currency loans receivable, net of allowance for loan losses	2,852,535
USD loans receivable, net of allowance for loan losses	1,959,084
Digital currency collateral receivable	2,386,030
USD collateral receivable	25,000
Interest receivable, net of allowance	122,441
Receivable from related parties	1,137,807
Derivative assets	999
Other assets	192,755
Total assets	<u>\$ 11,270,929</u>

160. This created the false impression that the Promissory Note was worth \$1.1 billion on June 30, 2022—which was not the case. The Promissory Note was illiquid and should have been reflected at a discount substantially below its full principal amount. In addition, the June 30 Balance Sheet showed total equity of just \$92.5 million, but even that was grossly overstated. Including the Promissory Note at any estimate of its real discounted (present) value would have revealed that Genesis was insolvent by hundreds of millions, if not billions, of dollars. DCG knew this—as was clear from the outset, DCG’s goal was to trick the market into believing Genesis had a strong balance sheet.

161. Silbert immediately weaponized the phony June 30 Balance Sheet. On June 30—the day he signed the Promissory Note—Silbert lied to Genesis lender Sam

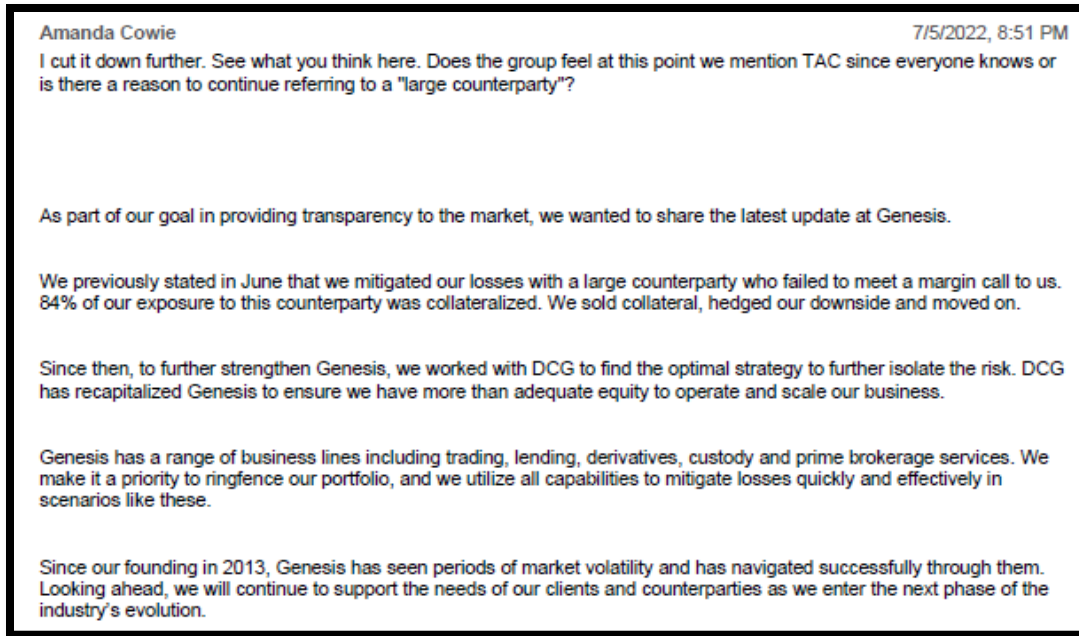
Lessin and said that Genesis had a “strong balance sheet” and “ton[s] of liquidity.” At the same time, the Promissory Note and June 30 Balance Sheet were utilized against Bitvavo and Gemini. For example, on June 30, Bitvavo’s Nuvelstijn emailed Ballensweig and Serrant requesting “an indication of the (potential) [3AC] loss,” as well as an “updated balance sheet ... indicating” Genesis’s “current equity” and loan book metrics. Following DCG’s lead, Serrant told Nuvelstijn that Genesis had “netted any losses [from 3AC] directly against [its] own ... balance sheet.” That was inaccurate. DCG had nominally assumed the losses, but it had provided little value in exchange. Serrant also told Nuvelstijn that “Genesis had liquid collateral on hand that it was able to sell/hedge reducing overall exposure to 3AC and Babel.” This was intentionally misleading. Serrant knew that even after foreclosing on the liquid collateral securing the loans to 3AC, Genesis faced a \$1.1 billion exposure to 3AC. Finally, Serrant told Nuvelstijn that Genesis’s “Collateral Ratio [was] 97% excluding Inter Company loans” and that it had “over ~\$3[billion] working capital on hand.” These were material misrepresentations that perpetuated the inaccurate conclusion that Genesis was financially strong. The collateralization figure did not account for the quality and volatility of the underlying collateral and asset-liability mismatches, let alone the fact that much of the collateral was illiquid GBTC shares that Genesis was forbidden to sell—information that would have dispelled the false impression that Genesis’s loans were risk-free. The \$3 billion “working capital” figure also was

a misrepresentation. The term “working capital” implies an indication of liquidity that could be deployed by Genesis at a moment’s notice. But Genesis faced severe liquidity problems, which were becoming worse. While loans to Genesis may have exceeded loans issued by Genesis by \$3 billion, Genesis’s borrowing consisted mostly of open-term loans that could be called at any time. Genesis never had the ability to deploy large amounts of liquid capital without the threat of borrowers calling that capital back. Describing Genesis as having \$3 billion in “working capital” was a farce. Genesis’s lenders, including Bitvavo, relied on these representations and chose not to pull their loans.

162. In the days following execution of the Promissory Note, Ducera advised DCG that “simple is better” when it came to messaging around the Promissory Note. The key points Genesis employees would need to cover were that “DCG [was] covering liability” and the 3AC fallout was a “one-time thing.” And with respect to the June 30 Balance Sheet, Ducera recommended to DCG that Genesis employees should send the June 30 Balance Sheet just five minutes before a call with any lender and then quickly have the call. Ducera and Kramer—preeminent financial advisors in the restructuring space—clearly understood that the June 30 Balance Sheet was materially false and misleading. Ducera created a slide deck for DCG entitled “Lender Update Call Outline re: Genesis Market Activity,” which provided talking points for Genesis employees to recite about the 3AC collapse and Genesis’s financial

condition following the execution of the Promissory Note. The talking points stated that “[o]verall liquidity for the DCG and Genesis business continues to provide sufficient cushion and comfort to operate” and that “DCG entered into a transaction [the Promissory Note] to upstream the liabilities from GAP’s balance sheet and provide credit support.”

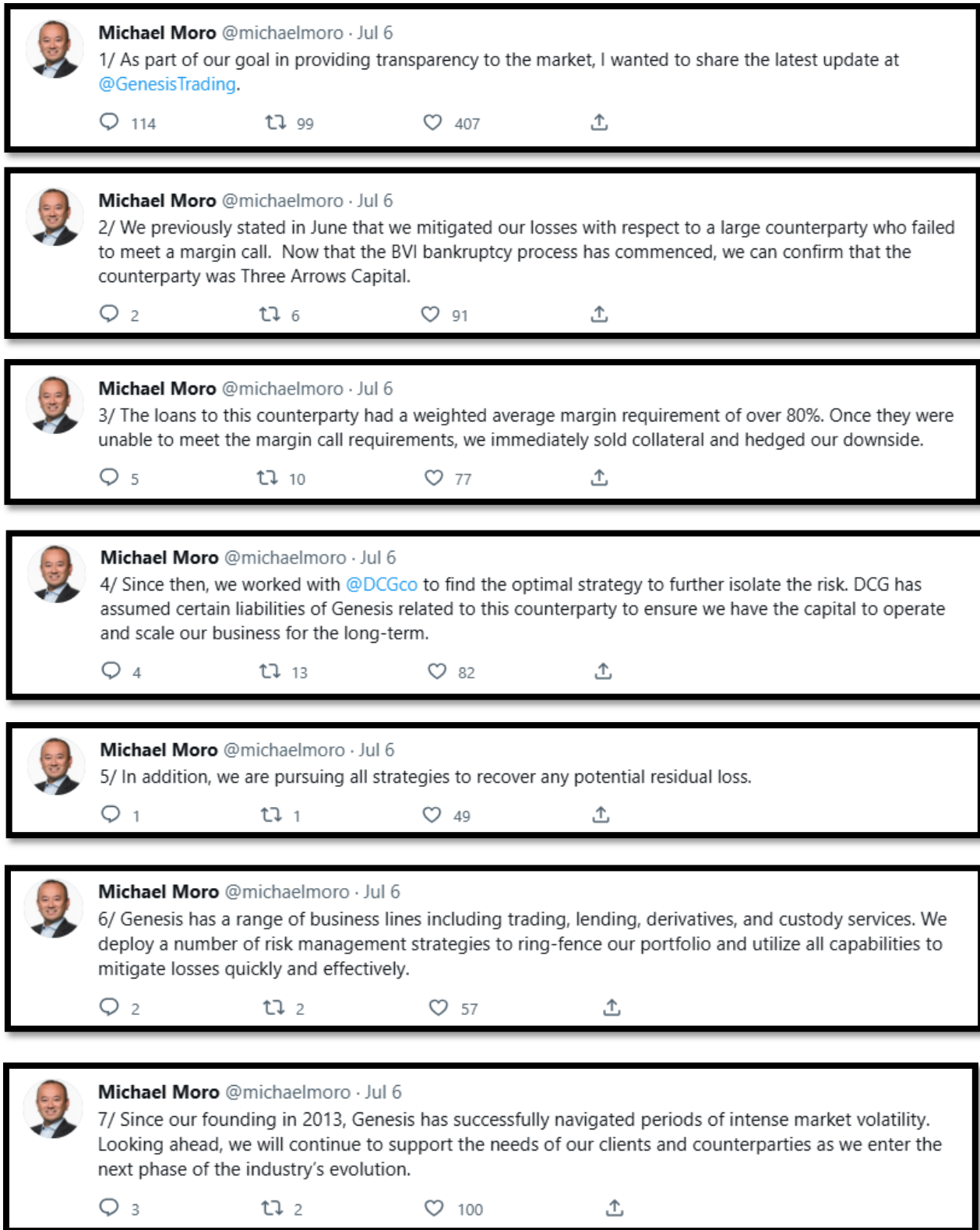
163. On July 5, 2022, Murphy and Cowie helped draft language to supplement Ducera’s recommended messaging, which stated that DCG had assumed “certain liabilities” of Genesis’s. In a chat that included Genesis’s Chan, Ballensweig, Islim, and Yaklofsky, Murphy and Cowie provided line edits to proposed language. For example, Murphy instructed that Genesis say, “it has been reported that our outstanding loans to [3AC] were unsecured, but that is absolutely incorrect: in fact, 85% of our exposure was collateralized.” And when Yaklofsky proposed a lengthy statement, Cowie “cut it down” into a shorter version, then revised it further. Cowie’s revised draft read:



164. DCG knew that each of these statements was materially false. Because GBTC was trading at a discount to BTC in July 2022, 3AC's collateral was worth substantially less than its NAV, which meant that much less of 3AC's loans were collateralized at this point. And in any event, most of 3AC's collateral was GBTC, which, at Silbert's instruction, was neither sold nor hedged. Murphy replied, "[I]et's just ensure we're framing the 84% figure the right way." Cowie continued to refine the language following that conversation.

165. On July 6, the DCG-crafted language was final, which included much of the language that Murphy and Cowie had approved in their communications with Moro and Yaklofsky. Following Murphy's earlier directive with respect to the June

17 Statement, Moro posted the statement (the “July 6 Statement”) from his personal Twitter account:



166. The July 6 Statement included several material misrepresentations designed to mislead Genesis lenders to keep their assets at Genesis. First, Genesis's loans to 3AC did not "ha[ve] a weighted average margin requirement of over 80%." Since GBTC was trading at a discount to its NAV, Genesis's loans fell far short of that requirement, which Pretto-Sakmann flagged for Cowie and Murphy. Second, the statement that "we immediately sold collateral and hedged our downside" was materially misleading in that it omitted the fact that Silbert had prohibited Genesis from hedging its losses with the GBTC collateral. Third, DCG had not "isolated the risk" of Genesis's 3AC liabilities. Due to its inadequate risk management, Genesis did not have sufficient liquidity to satisfy the withdrawal demands of its depositors. Fourth, the statement that "DCG has assumed certain liabilities of Genesis related to [3AC]," omitted key information that DCG had provided only a promise to pay Genesis in ten years rather than any equity or liquidity to Genesis and that the Promissory Note was worth at most a tiny fraction of its face value. DCG had assumed Genesis's losses only on paper. Fifth, the representation that Genesis "deploy[s] a number of risk management strategies to ring-fence our portfolio" was obviously false, as laid plain for DCG by third parties such as Friedman, S&C, Goodwin, and Oliver Wyman. Sixth, the statement that Genesis "utilize[s] all capabilities to mitigate losses quickly and effectively" was materially misleading in that Silbert instructed Genesis not to hedge the 3AC GBTC collateral, and in any

event, due to Genesis's poor risk management, Genesis could not actually mitigate its losses quickly or effectively.

167. Each of these misrepresentations and omissions were intentional. This DCG-drafted and approved statement was intended to deceive Genesis creditors into believing DCG had ensured Genesis had sufficient capital to operate and that Genesis was solvent and financially stable so that customers would not pull their deposits and would continue placing their funds with Genesis. DCG and its officers and employees caused Genesis to make these misstatements to the market to prolong their ability to continue misusing Genesis for their own benefit, while Genesis was insolvent.

168. Following the July 6 Statement, Silbert instructed Ballensweig to consult Kraines on "what to share" with large Genesis lenders. Silbert reinforced to Ballensweig that he was "100% supportive doing/showing [Bitvavo] whatever re DCG to get them comfortable." Ballensweig thus followed Silbert's instruction and relayed to Bitvavo that DCG was "fully supportive of giving you guys transparency to maintain [the] partnership." On July 6, Ballensweig sent Bitvavo's Nuvelstijn the June 30 Balance Sheet, a document called the "3AC Post-Mortem," and a document called "Risk Metric Request." Ballensweig sent the same three documents to Guan and her team at Gemini. Ballensweig also pointed Gemini to the June 17 Statement, which Ballensweig said "explain[ed] [Genesis's] immediate approach" to the 3AC

collapse, and the July 6 Statement, which Ballensweig said “clarified our position again.”

169. Each document Ballensweig sent to Bitvavo and Gemini was materially misleading, as well as his references to the June 17 Statement and the July 6 Statement. The June 30 Balance Sheet, June 17 Statement, and July 6 Statement were fraudulent for the reasons already stated.

170. The “3AC Post-Mortem” was a one-page document purporting to assess Genesis’s exposure to 3AC that was riddled with falsehoods. The first part of the 3AC Post-Mortem repeated verbatim the DCG-approved July 6 Statement, including the intentionally misleading statement that “the loans to [3AC] had a weighted average margin requirement of over 80%.” The second part of the Post-Mortem included the lie that Genesis’s 3AC “[l]osses [were] predominantly absorbed by and netted against DCG[’s] balance sheet, leaving Genesis with adequate capitalization to continue [business as usual].” The “netting” language came from Murphy’s “blog post” that he proposed on June 17, the “highly capitalized” and “robust liquidity” language was the Murphy-approved June 14 Talking Points, and the “BAU” or “business as usual” was Silbert’s slogan that Murphy ordered Genesis to use when speaking to creditors on June 29. The 3AC Post-Mortem also included lines from the DCG-directed June 17 Statement.

171. The Risk Metric Request went even further than the erroneous June 30 Balance Sheet. Not only did the Risk Metric Request list the \$1.1 billion face value of the Promissory Note as an asset, but also it counted the Promissory Note as a “Current Asset[]”:

	Current	Receivable		Liabilities	
	Assets	Loans	Collateral Rec.	Borrows	Collateral Pay.
Total	\$3,377,241,616	\$4,449,809,050	\$2,845,541,484	\$7,178,964,609	\$3,401,109,542
USD / Stables	\$697,626,546	\$2,302,015,337	\$182,699,279	\$3,913,570,170	\$901,183,977
BTC	\$376,993,113	\$1,383,698,893	\$668,600,703	\$2,130,962,286	\$277,037,598
ETH	\$205,767,255	\$558,439,389	\$581,873,409	\$769,744,681	\$582,174,981
Other Assets	\$2,096,854,702	\$205,655,432	\$1,268,146,027	\$364,687,472	\$1,640,712,985
Assets	\$10,672,592,150	Liabilities	\$10,580,074,150	Equity	\$92,518,000

172. The Promissory Note was not collectible for ten years—far beyond the one-year period that would have made it a current asset under the Generally Accepted Accounting Principles commonly referred to as GAAP. Listing the Promissory Note as a Current Asset concealed its true terms from Genesis’s key counterparties, including Gemini and Bitvavo. As a result, Gemini, Bitvavo, and other Genesis counterparties were given the false impression that Genesis had the capital necessary to return their digital assets if called.

173. The Risk Metric Request also incorrectly showed that Genesis had a weighted-average loan duration of 54.3 days:

	Weighed Avg	
	Loan Duration (Days)	Rating
Total	54.3	5.5
USD / Stables	76.3	5.1
<i>USDT</i>	58.9	4.4
BTC	23.7	5.5
ETH	47.2	6.6
Alt	33.6	6.9

174. That figure excluded the Promissory Note, even though the Promissory Note was included as an asset elsewhere on the document. This inconsistent accounting disguised the Promissory Note’s impact. Had the Promissory Note and its 10-year term been taken into account, Genesis’s weighted-average loan duration would have ballooned from 54.3 days to 730 days or two years. The Risk Metric Request concealed the reality of the illiquid Promissory Note and was intended to deceive Bitvavo and Gemini about Genesis’s true risk profile.

175. The Risk Metric Request also showed that nearly 60% of GGC’s remaining third-party loans were made to a single counterparty, Alameda. Ballensweig told Nuvelstijn that loans to “FTX/Alameda” were “fully collateralized” with “liquid assets,” and he told Gemini’s Leo Jiang that Genesis’s loans to Alameda were “over 100% collateralized in liquid assets.” Ballensweig omitted that the “collateral” securing Alameda’s loans was largely comprised of FTT, which gave no

real protection against a loan loss given its recursive reliance on FTX's and Alameda's creditworthiness and financial stability.

176. DCG's plan to prevent Gemini and Bitvavo from pulling assets at the end of the second quarter of 2022 succeeded. Defrauded by the June 30 Balance Sheet, the 3AC Post-Mortem, the Risk Metric Request, the June 15 Statement, the June 17 Statement, the July 6 Statement, and the many emails and calls in which Genesis was misrepresented as stable and solvent at DCG's instructions, Gemini and Bitvavo did not call their loans at that time.

XIII. Bitvavo and Gemini Threatened to Leave Genesis in Mid-2022

177. The crypto market was still in turmoil, however, and both Bitvavo and Gemini sought additional assurances that the assets lent to Genesis would continue to be safe. So they went right to the source: DCG. On July 11, Bitvavo requested a guarantee directly from DCG. Nuvelstijn explained to Ballensweig that he "really appreciated" that "DCG stepped in" to save Genesis after 3AC collapsed—confirming that Bitvavo relied on DCG's lie in the June 17 Statement that Genesis had "shed the risk and moved on" and the omission in the July 6 Statement that DCG had not provided any deployable liquidity to Genesis. But Nuvelstijn was assessing the lending relationship moving forward. He was concerned that "there is no guarantee ... that DCG would ... do this again," and wanted "a recourse up to the parent entity (which is DCG)." Ballensweig shared Bitvavo's request with Silbert,

Kraines, and Murphy, reminding DCG that Bitvavo had fixed term loans that were set to expire between August and December that DCG would want Bitvavo to renew.

178. Ballensweig suggested that Bitvavo speak directly to Murphy, who had instructed Ballensweig to “manage [G]emini and the other largest [Genesis] counterparties.” At this point, additional details of Genesis’s exposure to 3AC were seeping into the market. DCG filed a \$1.2 billion bankruptcy claim against 3AC on July 18, which revealed that Genesis had demanded that 3AC repay \$2.36 billion in undercollateralized loans. That claim had the effect of telling the market that DCG had stepped in and assumed Genesis’s losses to 3AC. In fact, DCG simply took Genesis’s right to payment from 3AC and gave Genesis a Promissory Note that did not require any payment for 10 years.

179. The next day, on July 19, Murphy spoke on the phone with Nuvelstijn. During that call, Murphy repeated misleading statements from the 3AC Post-Mortem, including that DCG assumed Genesis’s 3AC losses. Murphy falsely represented to Nuvelstijn that because DCG had assumed Genesis’s 3AC losses, Genesis was no longer impacted by the 3AC collapse. Murphy also falsely claimed that Genesis was well capitalized, that it was doing business as usual, and that DCG would continue to support Genesis. Murphy did not disclose the terms of the Promissory Note. Bitvavo relied on Murphy's representations about Genesis’s solvency and the Promissory Note’s value.

180. DCG executives, including Murphy and DiPrete, continued to lie to Bitvavo. On July 23, Murphy was added to an email chain between Genesis and Bitvavo, and DiPrete was added on July 26. Earlier emails included misrepresentations that Genesis was able “to tap capital sources” as “a primary DCG subsidiary”; that Genesis had “netted any losses directly against [its] own ... balance sheet”; that Genesis’s “Collateral Ratio [was] 97% excluding Inter Company loans”; and that Genesis had “over ~\$3[billion] working capital on hand.” Both Murphy and DiPrete knew these statements were false but neither of them corrected those misrepresentations or the false impressions they had created. On this same email chain, on July 26, Ballensweig provided misleading financial information to Bitvavo through answers prepared by the “Finance and Accounting teams at both DCG and Genesis.” Ballensweig conveyed that “all entities are financially healthy.” Further in response to a request from Bitvavo for a breakdown of GGC’s intercompany loans, a detailed overview was provided (specifying each counterparty, the loan size, the collateral amount and the general purpose of the loan) but the Promissory Note was omitted. In response to questions from Bitvavo about DCG’s consolidated balance sheets, Ballensweig said that DCG had “assumed [a] \$1.1[billion] loan on June 30, 2022,” but omitted the material terms of the Promissory Note, including that the Promissory Note was of little value and was not due for ten years. DCG’s Murphy and DiPrete did not correct any of those misstatements.

181. While DCG was making these false representations to Bitvavo, DCG refused to pay matured loans that it owed to Genesis and prevented Genesis from taking any actions to collect on those loans. On July 25, DCG Treasurer Diliaa Damianova informed Ballensweig that she had “received guidance from [Silbert] to re-paper” a \$100 million unsecured loan from GGC to DCG that had matured on July 24 “by 10 months (until May 2023),” and that the extension terms “need to include language that the loan could be repaid early without any penalty.” Ballensweig followed up with Kraines, asking “what is the logic on DCG not returning the \$100 [million] due back 7/24 and rolling forward 10 months?” Stating the obvious, Ballensweig explained that an extension would “worsen[] [Genesis’s] liquidity picture.” Kraines replied that “there’s literally not any extra money at DCG right now,” and that DCG needed “cash to pay [its] bills.” Ballensweig reminded Kraines of Genesis’s precarious position and that “if Gemini/Bitvavo leave we[’]re back in a bad spot.” Genesis’s Paleokrassas added, “we are playing with fire here. Won’t be fun ... if we can’t keep the lights on.” Ballensweig raised the same concerns to Damianova, noting “the continued pressure from major lenders such as Bitvavo and Gemini.” But Damianova disregarded this and told Ballensweig that DCG “need[ed] to preserve liquidity to meet [its] operating cash needs over the next few months.” Ballensweig tried for other options, suggesting “let[ting] the loan expire” and “reissu[ing] it as an open term loan giving flexibility to both Genesis and DCG.”

Damianova agreed to let the loan expire, but she was clear that “the guidance from [Silbert] [was] to enter into a term loan (not open term) with the option to repay early without penalty.” Ballensweig had no choice but to relent, aptly observing that, as DCG’s alter ego, “it sounds like we don’t have much room to push back, so we will do what DCG needs us to.”

182. At the same time, Gemini—like Bitvavo—also sought guarantees from DCG. On August 8, 2022, Ballensweig spoke on the phone with Gemini’s Cameron Winklevoss. As Ballensweig reported to Silbert, Kraines, Murphy, and Moro, he had been “going back and forth with [Gemini]” to “get them more confident.” Ballensweig told Silbert, Kraines, Murphy, Moro, and others that if Genesis lost Gemini, “we’ll NEED to ensure we retain Bitvavo.” And it appeared Genesis was about to lose Gemini: On August 9, 2022, Gemini pulled \$280 million from Genesis. With Gemini beginning to withdraw assets, DCG knew that it was essential to retain the liquidity provided by Bitvavo’s loans to Genesis. Although Bitvavo thought that Genesis had fully recovered from the 3AC collapse, it continued to request information to confirm Genesis’s financial state.

183. Thus, in mid-August 2022, DCG stopped using its intermediary Genesis and completely took over the Bitvavo relationship, including negotiating loan terms and communicating about Genesis’s financial state. On August 25, 2022, DCG’s Karl Osis sent DCG’s DiPrete, Daniel Levan, and Yacavone two versions of

a term sheet for a lending agreement with Bitvavo for review, which would ultimately go to Silbert. On August 26, DiPrete and Yacavone had a phone call with Bitvavo, during which the group discussed DCGI providing “an increased pledge of GBTC” to Bitvavo and Bitvavo’s other concerns. Ducera’s Patel advised on specific loan terms as DCG and DCGI revised a proposed loan term sheet. Genesis was not included in these negotiations or discussions.

184. But like Gemini, Bitvavo began to pull assets from Genesis. On September 5, 2022, Bitvavo called 2,250 BTC (then worth approximately \$45 million). Bitvavo also indicated it was likely going to be calling back more than one hundred million of ETH. As Genesis’s biggest lenders were beginning to run, in September 2022, Genesis continued its DCG-driven risky lending practices and issued eight more loans to Alameda. This included a refinanced loan of 3,400 BTC (then worth approximately \$65.7 million) issued on September 8, 2022; a refinanced loan of 116,000 LTC (then worth approximately \$6.7 million) issued on September 8, 2022; and a loan of \$100 million issued on September 8, 2022.

XIV. DCG Forced Genesis Into an Equity Round-Trip Transaction at the Close of Third Quarter 2022

185. Defendants knew Genesis was on the brink of collapse, which would be revealed in Genesis’s third-quarter financials due to close on September 30, 2022. Given the dire situation in which Defendants found themselves, they revisited

Silbert's June 26 proposal to orchestrate a transaction between Genesis, DCG, and DCGI that would create the appearance of an equity infusion on Genesis's books. Back in June, DCG's attorneys at Goodwin had recommended against such a transaction, over concerns of alter ego, fraudulent conveyance, and risking DCG's own liquidity. But now, Bitvavo and Gemini were pulling assets, and circumstances had gotten worse. DCG landed on providing an "equity round-trip transaction"—yet another balance sheet trick of illusory equity without real value.

186. On the morning of September 27, 2022, Ducera sent discussion materials containing DCG's proposal for the equity round trip. As Ducera's materials made plain, GGC would "repay [the] existing open term token loan" to DCGI, DCGI would then "contribute[] such repayment to DCG as a dividend," and DCG would "contribute[] such dividend as equity tokens to GGC." Ducera's deck highlighted that the transaction would involve "no cash, no cash movement." Ducera's deck explained that GGC would modify the terms of four existing unsecured loans to DCG totaling around \$500 million as purported "arms-length amendments." For all four loans, the maturity dates would be extended, the interest rates would be lowered, and the loans would remain unsecured. This would be the purported consideration for the DCG equity contribution although as usual, Genesis protested, had no say, and received nothing of value from DCG's equity round trip.

187. On September 29, 2022, DCG caused GGC to enter into the proposed transaction. GGC repaid an existing 75,300 ETH loan (worth \$100 million) extended to it by DCG subsidiary DCGI; DCGI contributed that same 75,300 ETH to DCG in the form of a dividend distribution; and DCG then would contribute that 75,300 ETH back to GGC as an equity contribution (the “September 29 Transaction”). The September 29 Transaction was purely cosmetic. As DCG was unwilling to provide a direct guarantee to Bitvavo and Gemini, the September 29 Transaction was designed to create the false impression that DCG was providing an equity infusion into Genesis that increased its liquidity and to deceive lenders into believing that DCG was supporting Genesis.

188. Ducera, of course, helped DCG effectuate the September 29 Transaction by preparing the necessary documentation. The transaction was memorialized by DCG’s Gregory Ingrassia:

First Transaction: GGC repayment of token loan to DCGI: Transfer Complete

- **Asset:** ETH
- **Amount:** \$100mm
- **Legal documents:**
 1. Genesis (Arianna, Andrew) to finalize and distribute token loan repayment/amendment documents and share with DCG/DCGI.
 2. DCGI (Jason, Matt, Daniel, Mike Katz) to review and sign-off on token loan repayment/amendment documents.
- **Timing of token movements:**
 1. Before 9am EST on Thu: Genesis (Hamill) to send repayment of ETH token loan to DCGI wallet
 2. Before 10am EST on Thu: DCGI (Natasha) to confirm receipt of ETH tokens in DCGI's wallet at Coinbase

Second transaction: DCGI dividend distribution to DCG: Transfer complete

- **Asset:** ETH
- **Amount:** \$100mm
- **Legal documents:** Legal team (Goodwin, Mike Katz) to finalize and distribute legal documents related to the dividend distribution from DCGI to DCG.
- **Timing of token movements:**
 1. Before 11am EST on Thu: DCGI (Natasha) to initiate ETH dividend distribution from DCGI wallet to DCG wallet
 2. Greg/Diliana/Bill to approve transaction in Coinbase
 3. Greg/Diliana to approve transaction via video callback with Coinbase

Third transaction: DCG equity injection to GGC: Transfer complete

- **Asset:** ETH
- **Amount:** \$100mm
- **Legal documents:** Legal team (Goodwin, Mike Katz) to finalize and distribute equity distribution documents.
- **Timing of token movements:**
 1. Before 3pm EST (latest 7pm EST) on Thu: DCG (Natasha) to initiate ETH equity injection to DDC wallet
 2. Greg/Diliana/Bill to approve transaction in Coinbase
 3. Greg/Diliana to approve transaction via video callback with Coinbase
 4. After 3pm EST (latest 7pm EST) on Thu: Genesis (Hamill) to confirm receipt of ETH tokens in GGC's wallet

XV. DCG Used Misleading Financial Information to Falsely Reassure Lenders That Genesis Was Solvent at the End of Third Quarter 2022

189. Just as it had done with the Promissory Note, DCG capitalized on the September 29 Transaction to deceive large lenders into believing DCG was supporting Genesis and that Genesis was solvent. At DCG's direction, newly promoted interim GGC CEO Islim told Bitvavo's Nuvelstijn that DCG "finalized the \$100mm new equity infusion in GGC to strengthen our balance sheet further." This was no "infusion" of "new equity," as internal DCG documents acknowledge GGC

paid \$100 million worth of ETH to DCGI and received back those same assets from DCG the same day. Shortly thereafter, Kramer called over \$2.6 million in personal loans to Genesis. Islim explained to Silbert, Kraines, and Murphy that Kramer called his loans “right after [Genesis] updated [Ducera] on the Gemini situation.” Even Kraines admitted that Kramer and Ducera pulling their loans was “not a great vote of confidence.”

190. Notwithstanding DCG’s September 29 Transaction, on October 13, 2022, Gemini sent a formal notice to Genesis calling for termination of all loan agreements on behalf of Earn Program users. DCG knew Genesis could not repay the \$1.4 billion it owed to Earn Program users, so Islim contacted Cameron Winklevoss to initiate discussions between DCG and Gemini about extending the Earn Program. Islim told Winklevoss that Silbert would “reach out to Cameron to discuss.” Silbert immediately set up an in-person meeting with Winklevoss.

191. Silbert, Kraines, and Islim prepared talking points for the Gemini meeting. The materials reflect DCG’s intention of proposing partnership and business development options with Gemini, including (1) selling parts of Genesis to Gemini, (2) Genesis acquiring the Earn Program, and (3) Genesis merging with Gemini.

192. On October 20, 2022, Silbert met Winklevoss for lunch. Silbert insisted that “at the very least, [Gemini] need[ed] to revisit” the decision to end the Earn

Program. Silbert claimed that Genesis *merely needed time to address a short-term timing mismatch* in its “complex” loan book. Silbert knew that Genesis’s financial troubles were far more serious than timing mismatches between its lending and borrowing portfolios. He intentionally omitted at least three material facts concerning Genesis’s true financial state: (1) that Genesis was massively insolvent and had been since at least December 31, 2021; (2) that DCG had not “absorbed” Genesis’s losses from 3AC’s default; and (3) that the Promissory Note was both not a current asset—it would not be repaid for ten years—and that its true market value was a *tiny fraction* of the principal balance reflected on the Genesis balance sheets that had been provided to Gemini. As contemplated by his prepared talking points, Silbert told Winklevoss that there were many ways in which Genesis and Gemini could “lean in together,” whether it be through commercial partnership or merger. Silbert suggested that a merger between Gemini and Genesis would “mak[e] Gemini the largest custody provider in the world” and that “Genesis would direct substantial order flow to the Gemini exchange.” Silbert even proposed that Genesis “could roll out Gemini’s stablecoin across DCG.” During this entire conversation, Winklevoss was under the false impression—engineered by DCG and Silbert—that Genesis was in fact solvent and healthy and that DCG had assumed Genesis’s losses from 3AC’s collapse. Winklevoss relied on Silbert’s misrepresentations and omissions and,

following the lunch meeting, Gemini extended the Earn Program termination date from November 12 to November 22.

193. Silbert had staved off the Gemini exit for now, but knew he still needed to convince Gemini not to terminate the Earn Program at all. DCG discussed internally whether they could bypass the Gemini founders and try to sell their fabricated “nothing to look at here” fantasy directly to the vulnerable individual Earn Program users. On October 21, after Silbert and Winklevoss’s lunch meeting, Gemini’s Joshua Golebieski reached out to Genesis with a request from senior management for a “full accounting of the loans that would expire [in the] next week” and a “breakdown” of any outstanding intercompany loans. Consistent with DCG’s efforts to convince Gemini to continue the Earn Program indefinitely, Serrant replied with a graphic detailing DCG’s and Genesis’s active loans and aggregate liquidity. The graphic misrepresented that Genesis had over \$1.4 billion in aggregate liquidity. Following this information, on October 23, 2022, Silbert called Winklevoss and the two spoke for an hour. Winklevoss asked why Genesis could not pay back the loans from the Earn Program despite the “\$1.4 billion of liquidity” that Silbert claimed Genesis had. Silbert responded that there was no “path forward where Genesis can return the money in the 40-60 days discussed without creating bank run risk.” Silbert’s statement was designed to mislead and create the false impression that *Genesis could pay back the Earn Program loans and that the only issue with doing*

so quickly was that it would cause other lenders to call their loans. According to Silbert, Genesis just needed more time. In actuality, Genesis's only other major lender was Bitvavo, and DCG needed them both to stay at Genesis for it to survive. Silbert deliberately concealed that Genesis did not actually have \$1.4 billion of liquidity and would be unable to pay back the Earn Program loans if Gemini called them, even if Genesis had more time.

194. After that call, at Silbert's direction, Genesis relentlessly tried to persuade Gemini to continue the Earn Program. Silbert himself made multiple offers to Winklevoss across the DCG portfolio, including to transfer both DCG and Genesis equity to Gemini, and to give Gemini custody of the Grayscale Trusts, if Winklevoss would keep the Earn program intact at Genesis. Silbert also approved several proposals that went to Winklevoss on October 25, 2022, for continuing the Genesis-Gemini relationship, including an extension of Gemini Earn through October 2024 and a potential merger. Silbert was adamant that the most important objective was "to make sure ... these proposals are presented in a way that gets [Gemini] to the answer we want (to keep the [Earn] [P]rogram going)." Murphy also approved the proposals.

195. Unfortunately for DCG, Gemini continued to request clarity around Genesis's and DCG's financials, including the full documentation of the Promissory Note. Seeing no other way out, DCG finally shared the true terms of the Promissory

Note with Gemini on October 29, 2022. Gemini asked why the Promissory Note did not appear on DCG's balance sheet as a liability, and Serrant responded by sharing a document titled "DCG Answers to Gemini questions" with DCG's Mike Katz copied, in which DCG wrote that the Promissory Note was "eliminated in the DCG consolidated balance sheet as it is an intercompany obligation." DCG continued to perpetuate the false idea that the losses from 3AC on a DCG-wide level had simply disappeared by sharing DCG consolidated balance sheets with Gemini and Bitvavo.

196. Desperate to keep Gemini at the table—and to keep its piggybank Genesis alive—on November 10, 2022, DCG promised to provide GBTC shares to Gemini as collateral for the Earn Program's loans through a tripartite agreement with GGC and Gemini. DCG hoped that this would convince Gemini that its customers' assets were safe and induce Gemini to continue the Earn Program. But like so many "assurances" from DCG, this was indeed only a show, as the GBTC shares were never transferred to Gemini.

XVI. Alameda and FTX Collapse in November 2022

197. Defendants perpetuated the illusion of Genesis's solvency for as long as they could. But as Genesis's newly hired Chief Risk Officer Michael Patchen put it, Genesis was "running out of time." With its lack of risk management protocols, massive exposure on undercollateralized and uncollateralized loans, highly

concentrated loan book, and pilfering parent DCG, it is absolutely no surprise that Genesis could not withstand further market downturns.

198. In November 2022, following allegations of fraud, Alameda and FTX collapsed. FTT—posted as collateral for so many of Genesis’s risky loans to Alameda—quickly was revealed as worthless. When FTX and Alameda collapsed, internal DCG and Genesis discussions revealed that throughout 2022, loans to Alameda had continued to be issued using the same risky terms that had led to Genesis’s insolvency. Kraines admitted upon the FTX collapse, “I’ll confess that I was under the impression that we were no longer accepting FTT as collateral ... if I’m supposed to be serving as an honest fiduciary it feels problematic that I wouldn’t have known.”

199. Internally, Genesis employees questioned whether DCG would make good on its promise to support Genesis. As one example, in November 2022, Genesis’s Greg Guttas, Hanson Birringer, and Ravi Doshi discussed what they believed at the time was a \$160 million exposure to FTX. Guttas said, “That’s so much money. Barry needs to just swallow his pride and do the raise. Do you guys know if genesis creditors have claims on dcg assets[?] 100% of insolvent firm is not worth as much as 50% of market leader ... It’s life or death ... Huge for Barry.” The point being, Genesis’s fate had always been in Barry’s hands, and Genesis had no say in the matter.

200. Just as it did with the Terra Luna collapse, the 3AC collapse, the Promissory Note, and the September 29 Transaction, DCG immediately took charge of the public response to Genesis's massive exposure from the FTX and Alameda collapse and used Genesis as its mouthpiece for misdirection. On November 9, 2022, Murphy and others at DCG drafted and approved a statement regarding Genesis's exposure to FTT and Alameda. Later that day, DCG and Silbert, through Cowie, ordered Genesis to post the statement (the "November 9 Statement") from the "@GenesisTrading" Twitter account. The November 9 Statement indicated that Genesis had only \$7 million of exposure to Alameda. It falsely stated: "We reiterate that Genesis has no material exposure to FTT." It further continued: "Genesis has a trading relationship with FTX, amongst other exchanges. Our exposure to FTX has no impact on our ability to serve our clients." Silbert and DCG knew Genesis had significant exposure to FTT and that disclosure of the actual losses would erode any remaining confidence in Genesis.



201. Genesis lenders, including Bitvavo, were directed to the November 9 Statement. DCG's attempt to hide the true extent of Genesis's exposure to Alameda and FTX did not last long. On November 10, 2022, FTX's balance sheet—with the names and corresponding collateral amounts for FTX's top 200 depositors—became public. Genesis was near the top of the list with well over \$100 million of exposure.

Forced to come clean, DCG and Genesis scrambled to draft a second statement addressing the FTX collapse. Less than two hours after learning that FTX's balance sheet was public, DCG approved a follow up statement purporting to "provid[e] transparency" around the losses (the "November 10 Statement"). The November 10 Statement disclosed the \$175 million "in locked funds." Cowie shared various drafts of the November 10 Statement with a group that included Murphy before it was posted from the @GenesisTrading Twitter account:



202. The backlash to the November 10 Statement was swift and strong. Publicly, one Twitter user replied: “From 7M losses to 175M. You can’t make this up.” Privately, Genesis employees fielded loan calls and requests for proof of the purported immateriality of the FTX loss. Lenders levied accusations of “inconsistent statements” related to the 3AC collapse and “a culture of dishonesty and ... deliberately misleading dealings.”

203. DCG continued to steer the response at Genesis in the wake of the FTX collapse. Following the FTX collapse, DCG's Yacavone offered that its affiliate DCGI could guarantee Bitvavo's outstanding loans. Between November 10 and November 13, 2022, Yacavone and other DCG representatives had at least five phone calls with Bitvavo, during which they discussed guarantees DCG could provide and offered to migrate outstanding loans between Bitvavo and Genesis to DCGI, in which DCGI would act as guarantor. That offer never came to fruition. On November 12, 2022, DCG Chief Strategy Officer Simon Koster specifically ordered that "All comms/PR on any platform must be reviewed and approved by [DCG's] Amanda [Cowie] and Mark M[urphy]." Cowie even drafted an email to go out to all Genesis "client[s]" stating that Genesis's "lending and trading businesses have not been impacted by recent market events." As always, DCG's motivation was to maintain a façade of financial strength at Genesis so that lenders would not pull their assets from Genesis and DCG could continue to siphon liquidity from Genesis.

XVII.DCG Forced Genesis to Change the Terms of Multiple Intercompany Loans to Keep Genesis's Last Chance for Liquidity at DCG

204. In the wake of FTX's collapse, Genesis needed every asset it could obtain from its outstanding loans. A significant portion of GGC's loan book was intercompany loans to DCG and DCG affiliates, but DCG ensured Genesis would not recover those loans. Rather than repay intercompany loans due in early November

2022, between November 10 and November 11, 2022, DCG forced Genesis to enter into a series of transactions (the “November 10 and 11 Transactions”) that extended the maturity date for the outstanding loans and again denied Genesis the liquidity it desperately needed—instead keeping the liquidity for itself.

205. First, DCG required Genesis to extend the \$100 million unsecured loan from GGC to DCG that DCG had already required Genesis to extend once in July 2022 to preserve DCG’s liquidity without any arm’s-length negotiation. Now that the new maturity date had arrived, DCG forced GGC to extend the loan again—this time until May 2023. DCG also insisted on a new, lower interest rate for this loan. Genesis had no option to push back.

206. The next transaction concerned the \$100 million in unsecured US dollars that GGC had loaned to DCG on or around February 24, 2022—which was supposed to have matured on August 23, 2022. DCG refused to repay that loan in August and, in November 2022, insisted that GGC extend the maturity date until May 2023. Likewise, Genesis could not push back.

207. Finally, the 18,697 BTC that had been loaned to DCGI on June 18, 2022 (valued at approximately \$384 million at the time of the loan and worth approximately \$1.541 billion as of March 31, 2025), had also matured. Rather than repaying this loan in BTC as required—which, aside from being the denomination of the loan, also was liquid and would have provided support to Genesis—DCGI

provided 25,999,457 shares of GBTC as partial repayment. This was consistent with Silbert’s fundamental belief that BTC is the most valuable cryptocurrency and that holding BTC was the best way to maximize his profit. The GBTC partial repayment was both illiquid and worth much less than the BTC Genesis loaned DCG—another cosmetic transaction. This “repayment” did not help Genesis’s liquidity situation at all because Genesis did not lend GBTC, could not sell GBTC in exchange for liquid capital because of the SEC-imposed holding period, and in any event Silbert prohibited Genesis from hedging GBTC. As DCG expressly acknowledged, this GBTC “repayment” was also designed to keep counterparties like Gemini and Bitvavo in the fold. Compounding that harm, DCG then caused GGC to extend the maturity date for the remaining 4,550.45 BTC (worth about \$80 million as of November 10, 2022 and approximately \$375 million as of March 31, 2025) until May 2023. Then-CEO of Genesis, Islim, tried to fight DCG’s unilateral revision of these terms. On November 10, 2022, he wrote to Murphy and others: “DCG is changing the terms we agreed on” Murphy replied, “We were very clear earlier—we want to pay off the BTC loan with GBTC.” Islim insisted that “BTC is liquidity,” and repayment in GBTC would “impact [Genesis’s] liquidity by [\$300 million].” Islim explained further that if DCG repaid its BTC loan with illiquid GBTC then DCG would “take the company to default immediately.” Genesis’s pleas were unsuccessful—DCG kept the liquidity for itself.

208. Kraines admitted that the November 10 and 11 Transactions were to the benefit of DCG and the detriment of Genesis. As Kraines summarized in an internal email, DCG “sent down illiquid trust shares that [it] couldn’t monetize,” “got a \$300 [million] dollar for dollar reduction in [its] obligation,” and “won a 6 month extension ... during a time when a run on the bank was in progress.” Silbert, Kraines, and Murphy all knew Genesis’s failure was imminent. Still, they unilaterally chose not to honor DCG’s contractual obligations to Genesis in order to better position themselves for the inevitable Genesis bankruptcy.

209. On November 12, 2022, having looted the remaining value left in Genesis and seeing the writing on the wall, Silbert made a last-ditch attempt to sell Genesis to Susquehanna International Group (“SIG”). Reflecting Silbert’s control, he proposed either (1) selling Genesis to SIG or (2) SIG providing a credit facility backed by \$600 million of GBTC collateral on Genesis’s balance sheet, which Silbert had forced Genesis to hold despite its desperate need for liquidity. Determined to protect DCG and Grayscale, Silbert reiterated “we are confident that the discount will go away one way or another ... we could certainly figure out a way for you to participate in that GBTC upside even in a scenario where you don’t own Genesis outright.” At the same time, Kraines privately noted to others at DCG that Silbert “[did not] want to pledge Grayscale equity against the [line of credit] at Genesis – as the Genesis default is a real possibility.”

XVIII. Redemptions Were Suspended at Genesis in November 2022

210. Unsurprisingly, as a direct result of DCG's looting, control, and self-dealing, Genesis did not have liquidity to meet the withdrawal demands on its platform. On the morning of November 16, 2022, Genesis convened a call with creditors announcing that it would suspend withdrawals. The call was abruptly ended with no questions allowed. Later that day, Genesis posted on Twitter confirming that withdrawals were suspended. Genesis's creditors were left empty handed.

211. The suspension had an immediate and direct impact on Genesis's largest lenders, especially Gemini and the Earn Program users. On January 10, 2023, in an email to Gemini users, Gemini publicly announced the termination of the Earn Program, revealing that Earn Program users' master loan agreements with Genesis had been terminated as of January 8, 2023. Over a billion dollars' worth of Earn Program users' assets remained in Genesis's custody.

XIX. Genesis Filed for Bankruptcy and DCG Continued to Prioritize Itself Over Genesis Creditors

212. Each of the Genesis Debtors filed a chapter 11 bankruptcy petition on January 19, 2023.¹⁵ The Bankruptcy Court for the Southern District of New York confirmed the Genesis bankruptcy plan (the "Plan") on May 17, 2024, with an

¹⁵ Case No. 23-10063, *In re Genesis Glob. Holdco, LLC* (Bankr. S.D.N.Y. 2023); Case No. 23-10064, *In re Genesis Glob. Capital, LLC* (Bankr. S.D.N.Y. 2023); Case No. 23-10065, *In re Genesis Asia Pacific PTE. Ltd.* (Bankr. S.D.N.Y. 2023)

effective date of August 2, 2024.¹⁶ The Plan was the result of good-faith and arm's-length negotiations.¹⁷ The distribution principles under the Plan (the "Distribution Principles") allowed U.S. dollar creditors to "receive near-term distributions ... funded in part by the monetization of certain digital assets, while digital asset creditors [] receive[d] 'in-kind' distributions to the maximum extent possible."¹⁸ Moreover, those in-kind distributions would be valued as of the date of distribution in 2024, rather than the date the Genesis Debtors filed for bankruptcy in 2023, so that Genesis creditors would receive the benefit of the increase in value of their cryptocurrency that occurred in 2024.¹⁹

213. Consistent with its pattern and practice of trying to take every ounce of value at Genesis from Genesis's creditors for itself, DCG objected to the Plan's Distribution Principles providing for in-kind recovery valued as of the distribution date in 2024. DCG argued that Genesis's creditors' claims should be "dollarized," i.e., repaid only in U.S. dollars, and valued as of the bankruptcy petition date in

¹⁶ Notice of (I) Occurrence of Effective Date for the Debtors' Amended Joint Chapter 11 Plan and (II) Final Deadlines for Filing Certain Claims at 2, *In re Genesis Glob. Holdco, LLC*, 660 B.R. 439 (Bankr. S.D.N.Y. 2024) (No. 23-10063), ECF No. 1907.

¹⁷ *In re Genesis Glob. Holdco, LLC*, 660 B.R. 439, 533 (Bankr. S.D.N.Y. 2024).

¹⁸ *Id.* at 492.

¹⁹ *Id.* at 490.

January 2023.²⁰ As the Bankruptcy Court noted: “DCG contends that—as equity holder—it is entitled to receive the benefit from the increase in cryptocurrency prices that has occurred since the Petition Date while the creditors—who were entitled under their contracts to receive back the cryptocurrency they lent the Debtors—would not.”²¹ The Bankruptcy Court overruled DCG’s inequitable objection, and agreed with the Genesis Debtors that it was “eminently reasonable and proper” to “use the methodology that has been agreed upon by the customers for measuring the damages suffered.”²² The Court found that the law demands that “customers who lent their cryptocurrency to the Debtors are entitled to *return of the cryptocurrency* in full with interest before DCG could receive a single cent.”²³

214. Under the Plan, the Genesis Debtors also retained certain causes of action against individuals and entities involved in their demise. The Plan expressly provides that the Genesis Debtors “shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action belonging to the Debtors or their Estates ... whether arising before or after the Petition Date, including

²⁰ *Id.* at 492.

²¹ *Id.* at 474.

²² *Id.* at 489.

²³ *Id.* at 503 (emphasis added).

any Retained Causes of Action.”²⁴ In a supplement to the Plan filed on December 29, 2023 (the “Plan Supplement”), the Genesis Debtors made clear that the retained causes of action encompass “Claims Against Third-Parties.” They include—but are not limited to—causes of action “based upon any tort theory of liability or recovery, including ... fraud, negligence, gross negligence, willful misconduct, ... or misrepresentation”; and causes of action “based upon any other legal or equitable theory of liability or recovery arising under federal, state, or other statutory or common law or otherwise, including breach of fiduciary duty, breach of the duty of care, breach of the duty of good faith and fair dealing, breach of the duty of loyalty, breach of the duty of candor, breach of the duty of oversight, breach of any other duty, or aiding and abetting any such breaches of duty, or alter ego.”²⁵ The retained causes of action in the Plan Supplement also include claims against DCG and related parties.²⁶ They include—but are not limited to—claims against “any DCG Party (including DCG and Barry Silbert) or against Ducera LLC and/or its current or former employees, directors, officers, equity holders, and agents ... and related parties,

²⁴ Debtors’ Amended Joint Chapter 11 Plan at 68-69, *In re Genesis Glob. Holdco, LLC*, 660 B.R. 439 (Bankr. S.D.N.Y. 2024) (No. 23-10063), ECF No. 1392.

²⁵ Notice of Filing of Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan, Ex. D, *In re Genesis Glob. Holdco, LLC*, 660 B.R. 439 (Bankr. S.D.N.Y. 2024) (No. 23-10063), ECF No. 1117.

²⁶ *Id.*

including claims for alter ego, preference, fraudulent conveyance, breach of fiduciary duty, ... and claims sounding in fraud or aiding and abetting fraud.”²⁷

215. On May 13, 2025, Gemini entered into an Assignment Agreement assigning its claims against DCG and related parties to GGC.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Breach of Fiduciary Duty Against DCG, Barry Silbert, Michael Kraines, Mark Murphy, and Michael Moro)

216. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

217. This First Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors.

A. DCG, Silbert, Kraines, Murphy, and Moro Owed Fiduciary Duties to Genesis and Its Creditors

218. DCG, Silbert, Kraines, Murphy, and Moro owed fiduciary duties to Genesis. DCG owed fiduciary duties of loyalty, care, and oversight to GGC, GAP, and GGH as Genesis’s controller. Silbert owed fiduciary duties of loyalty, care, and oversight to GGH, GGC, and GAP, through exercising control over Genesis’s corporate actions as CEO, majority stockholder, and a director of DCG; as Chair of the GGT Board, which heard and decided matters pertaining to Genesis; and as a De

²⁷ *Id.*

Facto Manager, through which he acted as a de facto manager and controller of Genesis. Kraines owed fiduciary duties of loyalty, care, and oversight to GGH, GGC, and GAP through exercising control over Genesis's corporate actions as the former CFO of DCG; as a member of the GGT Board, which heard and decided matters pertaining to Genesis; as a De Facto Manager, through which he acted as a de facto manager and controller of Genesis; and as a member of the GGH Board and named manager of GGH as of July 2022. Murphy owed fiduciary duties of loyalty, care, and oversight to GGH, GGC, and GAP through exercising control over Genesis's corporate actions as the COO and President of DCG; as a member of the GGT Board, which heard and decided matters pertaining to Genesis; as a De Facto Manager, by which he acted as a de facto manager and controller of Genesis; and as a member of the GGH Board and named manager of GGH as of July 2022. Each of DCG, Silbert, Kraines, and Murphy further owed fiduciary duties of loyalty, care, and oversight because Genesis was the alter ego and instrumentality of DCG, as alleged throughout and below in Count Eight. As the former CEO and manager of Genesis, Moro owed fiduciary duties of loyalty, care, and oversight to GGH, GGC, and GAP. Neither GGH's nor GGC's LLC agreement disclaims or limits the traditional duties of loyalty, care, and oversight owed by managers of a Delaware LLC where a manager does not act in good faith to promote the best interests of Genesis.

219. When Genesis was insolvent—which, as described above in Section VI, was no later than December 31, 2021, if not earlier—the fiduciary duties that DCG, Silbert, Kraines, Murphy, and Moro owed to Genesis required them to act in the interest of Genesis’s creditors, who at that point were Genesis’s residual claimants. DCG, Silbert, Kraines, Murphy, and Moro therefore had an obligation to maximize and preserve the value of Genesis for Genesis’s creditors. DCG, Silbert, Kraines, Murphy, and Moro violated their fiduciary obligations to act in the interests of Genesis and its creditors throughout 2022. Instead, they operated Genesis as an alter ego and instrumentality of DCG, for DCG’s and Silbert’s benefit.

B. DCG Breached Its Fiduciary Duties to Genesis and Genesis Creditors

220. DCG was the controller of Genesis. DCG further operated Genesis as its alter ego and instrumentality for DCG’s and Silbert’s benefit. That breached DCG’s duties of loyalty, care, and oversight. DCG controlled Genesis’s operations and lending business. The DCG Board regularly heard and decided significant matters pertaining to Genesis and its operations—exemplified by the fact that the DCG Board considered and decided Genesis’s fate following the 3AC collapse and purposefully excluded Genesis from those discussions and decisions. Moreover, DCG officers, including Silbert, Kraines, and Murphy, sat on the GGT Board, which regularly heard and decided matters pertaining to Genesis and its operations. The

GGT Board and the DCG Board heard matters including the structure of companies within the Genesis corporate family, Genesis's risk committee and risk management, and Genesis's financial audits. For example, the GGT Board approved the creation of the Genesis risk committee, which was tasked with preparing for a "catastrophic event at Genesis." Kraines and Murphy heavily influenced the risk committee, which also reported directly to the GGT Board.

221. The De Facto Managers—DCG officers Silbert, Kraines, and Murphy—held weekly or bi-weekly meetings with Moro to instruct Moro's operation of Genesis. The De Facto Managers and other DCG employees and officers made decisions for Genesis and regarding the day-to-day operation of Genesis. While GAP nominally had a board, there is virtually no evidence or record of that body hearing substantive matters pertaining to Genesis's lending business or operations; and while a board was established for GGH in July 2022, it was too late for that body to have any effect on the disastrous situation that DCG created at Genesis. In any event, Kraines and Murphy sat on the GGH Board and continued to operate Genesis contrary to their fiduciary duties to Genesis.

222. DCG operated Genesis without proper risk management and failed to implement any risk controls, which effectuated DCG's self-dealing. That breached DCG's duties of care, loyalty, and oversight. Reputable third-party consultants, including S&C, Goodwin, and Oliver Wyman, informed DCG throughout 2021 and

early 2022 of serious financial vulnerabilities at Genesis, including its highly concentrated loan book, undercapitalization, insufficient loan loss reserves, and inability to monitor for risks such as counterparty creditworthiness and low-quality collateral. These consultants provided recommendations for improving risk management at Genesis. Yet DCG did nothing to address any of those enterprise-threatening weaknesses because those loans directly benefited DCG. As a result, Genesis was unequipped and unable to repay its lenders when the Terra Luna, 3AC, Alameda, and FTX collapses occurred during the crypto market turmoil in 2022.

223. Because DCG knowingly and recklessly operated Genesis without any proper risk management practices throughout 2021 and 2022, each of the loans issued from Genesis while it was insolvent was a breach of DCG's duties of care, loyalty, and oversight. These include, but are not limited to, the following loans:

- a. January 13, 2022 loan of \$200 million from GGC to Alameda;
- b. January 24, 2022 loan of \$100 million from GGC to DCG;
- c. January 24, 2022 loan of 300,000 ETC from GAP to 3AC;
- d. January 28, 2022 loan of 225,000,000 USDC from GAP to 3AC;
- e. February 16, 2022 loan of 36,107 BTC from GGC to Alameda;
- f. February 17, 2022 loan of \$200 million from GAP to 3AC;
- g. April 13, 2022 loan of 300 BTC from GGC to Foundry;
- h. May 9, 2022 loan of \$200 million from GGC to DCG;
- i. May 10, 2022 loan of \$100 million from GGC to DCG;

- j. May 18, 2022 loan of 250 BTC from GGC to DCGI;
- k. September 8, 2022 loan of 3,400 BTC from GGC to Alameda;
- l. September 8, 2022 loan of 116,000 LTC from GGC to Alameda;
and
- m. September 16, 2022 loan of \$100 million from GGC to Alameda.

224. Reflecting DCG's self-dealing, DCG caused Genesis to issue undercollateralized loans to risky counterparties to grow the Grayscale Trusts, including the Bitcoin Trust, for Silbert's and DCG's benefit. Each of the loans issued from Genesis to 3AC and Alameda while Genesis was insolvent, including but not limited to the loans referenced or identified in the previous paragraph, was a breach of DCG's duties of care, loyalty, and oversight. DCG required Genesis to issue those loans to risky counterparties like 3AC and Alameda who engaged in the GBTC Trade and Reverse GBTC Trade. DCG also required Genesis to accept illiquid GBTC as collateral, primarily from 3AC. That GBTC collateral was insufficient to cover Genesis's exposure to 3AC, but it increased the amount of liquid BTC in the Bitcoin Trust, increased the demand for GBTC in the market, and increased the management fees DCG and Silbert received through Grayscale. As a result, when 3AC and Alameda defaulted, Genesis was exposed to massive losses and was unable to repay its own lenders.

225. DCG required Genesis to issue unsecured loans to DCG and DCG affiliates on terms that were not available on the open market and without arm's-

length negotiations. Each of the loans issued from Genesis to DCG and its affiliates while Genesis was insolvent was a breach of DCG's duty of loyalty. DCG and its affiliates were the only Genesis counterparties not required to provide collateral for their loans. DCG also unilaterally changed the terms of its loans from Genesis to benefit itself and prioritize its own liquidity over Genesis and its creditors, even over Genesis's protests. Each time DCG changed the terms of its loans while Genesis was insolvent, it was a breach of DCG's duty of loyalty. These include, but are not limited to the following loans:

- a. On November 10-11, 2022, extending the maturity date on a \$100 million unsecured loan from GGC to DCG, which had already been previously extended from an original July 24, 2022 maturity date;
- b. On November 10-11, 2022, extending the maturity date for a \$100 million unsecured loan from GGC to DCG, which had already been previously extended from an original August 23, 2022 maturity date; and
- c. On November 10-11, 2022, partially repaying a 18,697 BTC loan from GGC to DCGI with GBTC, and extending the maturity date for the remaining 4,550.45 BTC.

226. DCG issued a \$1.1 billion Promissory Note to Genesis, which was due in ten years with an interest rate of one percent, at the close of the second quarter of 2022 on June 30, 2022. The Promissory Note was a breach of DCG's duties of loyalty and care. Genesis had no opportunity to negotiate the terms of the Promissory Note, which were commercially unreasonable and not arm's-length. In fact, DCG did not

even share the terms with Genesis until the day before DCG issued the Promissory Note. DCG and Ducera designed the Promissory Note as a cosmetic balance sheet trick to create the illusion that DCG was providing support to Genesis without giving any liquidity or equity to Genesis. That gave DCG additional runway to continue siphoning funds from Genesis and deterred Genesis's lenders from withdrawing their assets. The Promissory Note also ensured that DCG would receive payments in 3AC's bankruptcy, which Genesis would have otherwise received from its claims against 3AC.

227. DCG required Genesis to enter into the September 29 Transaction, one day before the close of the third quarter of 2022. The September 29 Transaction was a breach of DCG's duties of loyalty and care. It was an equity roundtrip transaction that, like the Promissory Note, was a sham transaction and cosmetic balance sheet trick designed to create the illusion that DCG had contributed \$100 million worth of ETH as equity to GGC. In fact, GGC paid that same ETH to DCG subsidiary DCGI first, and then DCGI distributed that same ETH to DCG as a dividend which was then contributed back into Genesis. That extended DCG's runway to continue siphoning funds from Genesis and deterred Genesis's lenders from withdrawing their assets.

228. Throughout 2022, DCG repeatedly lied to the public about Genesis's financial health. Moreover, DCG either directly lied to individual creditors or directed Genesis employees to lie to creditors about Genesis's financial health while

DCG knew Genesis was insolvent. DCG's campaign of falsehoods was a breach of DCG's duties of loyalty, care, and oversight. DCG understood that Genesis's lenders trusted that there was a close relationship among DCG, Silbert, and Genesis and falsely lured lenders into believing that DCG was supporting and backing Genesis. DCG exploited that trust by lying to lenders for its own gain.

229. DCG's fiduciary breaches described herein were not a result of a valid exercise of business judgment. They were intended and designed to benefit DCG and Silbert over the interests of Genesis and its creditors.

C. Silbert Breached His Fiduciary Duties to Genesis and Its Creditors

230. Silbert controlled Genesis and operated Genesis as the alter ego and instrumentality of DCG for DCG's and Silbert's benefit. That breached Silbert's duties of loyalty, care, and oversight. Through his position as an officer of DCG, a De Facto Manager, Chair of the DCG Board, and member of the GGT Board, Silbert controlled Genesis's operations and lending business. Silbert installed Moro as CEO of GGC and GGH. Silbert regularly heard and decided significant matters pertaining to Genesis and its operations, including at meetings of the DCG Board, meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations of Genesis.

231. Silbert intentionally operated Genesis without proper risk management protocols and did not implement risk controls because it benefited DCG. Silbert was

personally involved in dictating lending decisions and strategies at Genesis, and he had full access to Genesis's loan book and other books and records. In addition, Silbert was personally involved in the processes by which DCG's reputable third-party consultants, including S&C, Goodwin, and Oliver Wyman, informed Silbert and DCG throughout 2021 and early 2022 of serious financial vulnerabilities at Genesis, including its highly concentrated loan book, undercapitalization, insufficient loan loss reserves, and inability to monitor for risks such as counterparty creditworthiness and low-quality collateral. These consultants provided recommendations for improving risk management—which was cited as having material weaknesses—at Genesis. Silbert received copies of these consultants' reports and recommendations. Yet Silbert did nothing to address any of those enterprise-threatening weaknesses because it benefited DCG. As a result, Genesis was unequipped and unable to repay its lenders when the Terra Luna, 3AC, Alameda, and FTX collapses occurred during the market turmoil in 2022.

232. Silbert's control over and careless operation of Genesis's lending business was self-dealing and caused Genesis to be undercapitalized and issue risky loans, including undercollateralized loans to risky counterparties to facilitate the growth of the Bitcoin Trust and to benefit Silbert and DCG. Silbert further caused Genesis to issue unsecured loans to DCG and DCG affiliates on terms that were not available on the open market and without arm's-length negotiations. As a result, each

of the loans and transfers identified above in Paragraphs 223 and 225 breached Silbert's duties of care, loyalty, and oversight. In particular, the documentary record confirms Silbert was personally involved in mandating loans that Genesis would not have otherwise made. Those include, but are not limited to, the following loans:

- a. January 25, 2022, loan of \$100 million from GGC to DCG;
- b. April 13, 2022, loan of 300 BTC from GGC to DCG affiliate Foundry, where Genesis was forced to accept a lien on computer equipment as collateral; and
- c. September 29 Transaction where GGC repaid an existing 75,300 ETH loan to DCGI.

233. Silbert was directly involved in and controlled the strategy for addressing the \$1.1 billion hole in Genesis's balance sheet after the 3AC collapse, including through his participation in Project River. Silbert contributed to and facilitated DCG's decision to issue, and DCG's and Genesis's execution of, the Promissory Note rather than to pursue a path in the interest of Genesis and its creditors.

234. When 3AC collapsed, Silbert directed Genesis not to sell the GBTC collateral that purportedly secured Genesis's loans to 3AC because holding the GBTC benefited DCG. As the value of GBTC plummeted in the wake of the collapse, Silbert's directive prevented Genesis from hedging its collateral and exacerbated Genesis's \$1.1 billion exposure to 3AC. Silbert issued this edict because flooding the market with GBTC would decrease the share price of GBTC, which already was

trading at a discount to its NAV. DCG, which held GBTC and which itself planned to profit from the Reverse GBTC Trade when and if GBTC returned to its NAV, wanted to avoid further drops in the price of GBTC. Silbert's instruction prioritized DCG and Silbert over Genesis's creditors, as it prevented Genesis from mitigating its 3AC losses in an acute period of time where Genesis desperately needed liquidity for its creditors.

235. Silbert was directly involved in DCG's decision to require Genesis to participate in the September 29 Transaction. In fact, Silbert came up with the idea in June 2022, following 3AC's collapse, and was advised against proceeding with the transaction by DCG's attorneys at that time. Silbert knew the September 29 Transaction was designed to create the illusion that DCG had injected equity into Genesis when it had not. Silbert knew DCG intended to deceive Genesis's lenders into keeping their assets at Genesis so that DCG could continue to pillage Genesis for liquidity and use Genesis to prop up GBTC.

236. Silbert orchestrated and was responsible for Genesis's public response to the 3AC collapse and the lies to creditors about Genesis's financial state, despite knowing that Genesis was insolvent. Silbert exploited the false trust that Genesis's lenders had that he and DCG would support Genesis by lying to lenders for DCG's gain. In particular, the documentary record confirms Silbert was directly involved in fraudulent statements or omissions, including those statements or omissions listed in

Paragraph 298 below. On June 30, 2022, Silbert also lied directly to Genesis lender Sam Lessin, stating that Genesis had a “strong balance sheet” and “ton[s] of liquidity.” Silbert’s campaign of falsehoods was a breach of his duties of loyalty, care, and oversight. Silbert understood that Genesis’s lenders trusted that there was a close relationship among DCG, Silbert, and Genesis and falsely lured lenders into believing that DCG was supporting and backing Genesis. Silbert exploited that trust by lying to lenders for his own gain.

237. Silbert’s fiduciary breaches described herein were not a result of a valid exercise of business judgment. They were intended and designed to benefit DCG and Silbert over the interests of Genesis and its creditors.

D. Kraines Breached His Fiduciary Duties to Genesis and Its Creditors

238. Kraines controlled Genesis and operated Genesis as the alter ego and instrumentality of DCG for DCG’s and Silbert’s benefit. That breached Kraines’s duties of loyalty, care, and oversight. Through his position as an officer of DCG, a De Facto Manager, a member of the GGT Board, and a member of the GGH Board and manager of GGH no later than July 2022, Kraines exerted control over Genesis’s operations and over the lending. Kraines regularly heard and decided significant matters pertaining to Genesis and its operations, including at meetings of the DCG

Board, meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations of Genesis.

239. Kraines intentionally operated Genesis without any proper risk management protocols, did not implement risk controls, and took no meaningful steps from 2020 until the bankruptcy to remediate material and existential risks to the business. Kraines was personally involved in overseeing lending decisions and strategies at Genesis, and had full access to Genesis's loan book and other books and records. In addition, Kraines was personally involved in the processes by which reputable third-party consultants, including S&C, Goodwin, and Oliver Wyman, informed DCG throughout 2021 and early 2022 of serious financial vulnerabilities at Genesis, including its highly concentrated loan book, undercapitalization, insufficient loan loss reserves, and inability to monitor for risks such as counterparty creditworthiness and low-quality collateral. These consultants provided recommendations for improving risk management at Genesis. Kraines received copies of these consultants' reports and recommendations. Yet Kraines did nothing to address any of those enterprise-threatening weaknesses because it benefited DCG. As a result, Genesis was unequipped and unable to repay its lenders when the Terra Luna, 3AC, Alameda, and FTX collapses occurred during the market turmoil in 2022.

240. Kraines's control over and careless operation of Genesis's lending business was self-dealing and caused Genesis to issue risky loans, including

undercollateralized loans to risky counterparties to facilitate the growth of the Bitcoin Trust and to benefit Silbert and DCG. Kraines further caused Genesis to issue unsecured loans to DCG and DCG affiliates on terms that were not available on the open market and without arm's-length negotiations. As a result, each of the loans and transfers identified above in Paragraphs 223 and 225 breached Kraines's duties of care, loyalty, and oversight. These include, but are not limited to, the following loans:

- a. Through his role on the Risk Committee, Kraines approved FTT as "collateral" for loans to Alameda; and
- b. The November 10 and 11 Transactions, which included three separate, unilateral loan extensions for no additional consideration.

241. Kraines was directly involved in DCG's strategy for addressing the \$1.1 billion hole in Genesis's balance sheet after the 3AC collapse, including through his participation in Project River. Countless contemporaneous records reveal that Kraines was keenly focused on avoiding any negative impact on DCG, at the expense of Genesis's creditors. Kraines also admitted in contemporaneous records that the Promissory Note was not an arm's-length transaction and that DCG's decision to issue the Promissory Note was a direct result of its knowledge and understanding that Genesis was DCG's alter ego and instrumentality. The Promissory Note was a breach of Kraines's duties of loyalty and care. Kraines contributed to and facilitated DCG's

decision to issue, and DCG's and Genesis's execution of, the Promissory Note rather than to pursue a path in the interest of Genesis's creditors.

242. Kraines was directly involved in DCG's decision to require Genesis to participate in the September 29 Transaction. Kraines knew the September 29 Transaction was designed to create the illusion that DCG had injected equity into Genesis when it had not. Kraines knew DCG intended to deceive Genesis's lenders into keeping their assets at Genesis so that DCG could continue to pillage Genesis for liquidity and to use Genesis to prop up GBTC. The September 29 Transaction was a breach of Kraines's duties of loyalty and care.

243. Kraines was deeply involved in DCG's orchestration of Genesis's public response to the 3AC collapse and the lies to creditors about Genesis's financial state, despite knowing that Genesis was insolvent. DCG's campaign of falsehoods was a breach of Kraines's duties of loyalty, care, and oversight. In particular, the documentary record confirms Kraines was directly involved in fraudulent statements or omissions, including those statements or omissions listed in Paragraph 304 below. Kraines understood that Genesis's lenders trusted that there was a close relationship among DCG, Silbert, and Genesis and falsely lured lenders into believing that DCG was supporting and backing Genesis. Kraines exploited that trust by lying to lenders to benefit himself and DCG.

244. Kraines's fiduciary breaches described herein were not a result of a valid exercise of business judgment. They were intended and designed to benefit DCG and Silbert over the interests of Genesis and its creditors.

E. Murphy Breached His Fiduciary Duties to Genesis and Its Creditors

245. Murphy controlled Genesis and operated Genesis as the alter ego and instrumentality of DCG for DCG's and Silbert's benefit. Through his position as an officer of DCG, a De Facto Manager, a member of the GGT Board, and a member of the GGH Board and manager of GGH no later than July 2022, Murphy controlled Genesis's operations and lending business. Murphy regularly heard and decided significant matters pertaining to Genesis and dictated orders for Genesis's operations, including at meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations.

246. Murphy intentionally operated Genesis without any proper risk management protocols and did not implement risk controls. Murphy was personally involved in overseeing lending decisions and strategies at Genesis, and had full access to Genesis's loan book and other books and records. In addition, Murphy was personally involved in the processes by which DCG's reputable third-party consultants, including S&C, Goodwin, and Oliver Wyman, informed DCG throughout 2021 and early 2022 of serious financial vulnerabilities at Genesis,

including its highly concentrated loan book, undercapitalization, insufficient loan loss reserves, and inability to monitor for risks such as counterparty creditworthiness and low-quality collateral. These consultants provided recommendations for improving risk management at Genesis. Murphy received copies of these consultants' reports and recommendations. Yet Murphy did nothing to address any of those enterprise-threatening weaknesses. As a result, Genesis was unequipped and unable to repay its lenders when the Terra Luna, 3AC, Alameda, and FTX collapses occurred during the market turmoil in 2022. That breached Murphy's duties of care, loyalty, and oversight.

247. Murphy's control over and careless operation of Genesis's lending business was self-dealing and caused Genesis to issue risky loans, including undercollateralized loans to risky counterparties to facilitate the growth of the Bitcoin Trust and to benefit Silbert and DCG. Murphy further caused Genesis to issue unsecured loans to DCG and DCG affiliates on terms that were not available on the open market and without arm's-length negotiations. As a result, each of the loans and transfers identified above in Paragraphs 223 and 225 breached Murphy's duties of care, loyalty, and oversight. These include, but are not limited to, the following loans:

- a. The November 10-11 Transactions, specifically by refusing Genesis's request that the partial repayment of a BTC loan be repaid in its original denomination.

248. Murphy was directly involved in DCG's strategy for addressing the \$1.1 billion hole in Genesis's balance sheet after the 3AC collapse, including through his participation in Project River. Murphy contributed to and facilitated DCG's decision to issue, and DCG's and Genesis's execution of, the Promissory Note rather than to pursue a path in the interest of Genesis's creditors. The Promissory Note was a breach of Murphy's duties of loyalty and care.

249. Murphy was directly involved in DCG's decision to require Genesis to participate in the September 29 Transaction. Murphy knew the September 29 Transaction was designed to create the illusion that DCG had injected equity into Genesis when it had not. Murphy knew DCG intended to deceive Genesis's lenders into keeping their assets at Genesis so that DCG could continue to pillage Genesis for liquidity and to use Genesis to prop up GBTC. The September 29 Transaction was a breach of Murphy's duties of loyalty and care.

250. Murphy was deeply involved in DCG's orchestration of Genesis's public response to the 3AC collapse and the lies to creditors about Genesis's financial state, despite knowing that Genesis was insolvent. DCG's campaign of falsehoods was a breach of Murphy's duties of loyalty, care, and oversight. In particular, the documentary record confirms Murphy was directly involved in fraudulent statements or omissions, including those statements or omissions listed in Paragraph 309 below. Murphy was also included in misrepresentations made to Fortress and agreed that it

was “good messaging for the Genesis team to use.” Murphy understood that Genesis’s lenders trusted that there was a close relationship among DCG, Silbert, and Genesis and falsely lured lenders into believing that DCG was supporting and backing Genesis. Murphy exploited that trust by lying to lenders to benefit himself and DCG.

251. Murphy’s fiduciary breaches described herein were not a result of a valid exercise of business judgment. They were intended and designed to benefit DCG and Silbert over the interests of Genesis and its creditors.

F. Moro Breached His Fiduciary Duties to Genesis and Its Creditors

252. Moro allowed DCG and the De Facto Managers to operate Genesis as an alter ego and instrumentality for DCG’s and Silbert’s benefit. Moro was a pawn, puppet, and patsy for DCG and the De Facto Managers. He was installed by Silbert. Moro stood by aimlessly and permitted DCG and the De Facto Managers to pillage Genesis, knowing that their unlawful conduct and wrongdoing was not in the interest of Genesis or its creditors. Moro did this at least in part because he understood that DCG and the De Facto Managers had managerial control over personnel decisions at Genesis and Moro could be fired at any time. Moro also understood Silbert’s deep power and influence in the broader cryptocurrency industry, and that if he disagreed or interfered with DCG or the De Facto Managers, then he would risk his future and his reputation in the industry. Indeed, following his years of capitulation to DCG and

the De Facto Managers as Genesis's spineless CEO, Moro was rewarded with a job as Chief Strategy Officer of INX Digital Company, where Silbert's brother Alan is North America CEO. Moreover, at least until August 2020, Moro's compensation was determined as a percentage of Genesis earnings net of expenses. Therefore, like DCG, Moro was incentivized to have Genesis's loan book rapidly increase without accompanying risk management protocols, as that unrestricted volume would increase his compensation. Nor was Moro incentivized to hire necessary risk management professionals at Genesis, since those expenses would come directly from Moro's compensation. That was a breach of Moro's duty of care, loyalty, and oversight.

253. As DCG's pawn, Moro failed to ensure that Genesis had proper risk management or risk management professionals. There was a highly concentrated loan book at Genesis, DCG had severely undercapitalized Genesis, there were insufficient loan loss reserves, and there was no ability to monitor for risks at Genesis, such as counterparty creditworthiness and low-quality collateral. Moro knew of these serious financial vulnerabilities at Genesis, through his position as CEO of Genesis and direct involvement in the wrongdoing described herein. In addition, throughout 2021 and 2022, DCG's reputable third-party consultants emphasized these serious financial vulnerabilities at Genesis and provided recommendations for improving risk management at Genesis. Yet Moro did nothing to address any of those enterprise-

threatening weaknesses. As a result, Genesis was unequipped and unable to repay its lenders when the Terra Luna, 3AC, Alameda, and FTX collapses occurred during the market turmoil in 2022. That breached Moro's duties of care, loyalty, and oversight.

254. Moro's failure to ensure proper risk protocols at Genesis enabled DCG and the De Facto Managers to breach their fiduciary duties and pillage Genesis for DCG's and Silbert's benefit. In particular, Moro's failure to ensure proper risk protocols and failing to monitor the reckless lending practices DCG implemented at Genesis led to DCG causing Genesis to issue risky loans, including (1) undercollateralized loans to risky counterparties to facilitate the growth of the Bitcoin Trust and to benefit Silbert and DCG, and (2) unsecured loans to DCG and DCG affiliates on terms that were not available on the open market and without arm's-length negotiations. As a result, each of the loans and transfers identified above in Paragraph 223 breached Moro's duties of care, loyalty, and oversight, to the extent they occurred on or before Moro's resignation from Genesis on August 17, 2022.

255. When 3AC collapsed and missed margin calls, Moro took no action to mitigate losses at Genesis. Instead, Moro followed Silbert's directive not to sell the GBTC collateral that purportedly secured Genesis's loans to 3AC. As the value of GBTC plummeted in the wake of the collapse, Silbert's directive prevented Genesis from hedging its collateral and exacerbated Genesis's \$1.1 billion exposure to 3AC. Moro understood that Silbert issued this edict because flooding the market with

GBTC would decrease the share price of GBTC, which already was trading at a discount to its NAV. DCG, which held GBTC and which itself planned to profit from the Reverse GBTC Trade when and if GBTC returned to its NAV, wanted to avoid further drops in the price of GBTC. Moro completely abandoned his duty to ensure Genesis mitigated its 3AC losses in an acute period of time where Genesis desperately needed liquidity for its creditors. That breached Moro's duties of care, loyalty, and oversight.

256. Moro signed the \$1.1 billion Promissory Note on behalf of Genesis. The Promissory Note's terms were commercially unreasonable for Genesis and were not negotiated at arm's length. Moro signed the Promissory Note despite learning of its terms just one day before signing and without negotiating those terms or demanding a different path that would have served Genesis's creditors. The Promissory Note was illiquid and exacerbated the \$1.1 billion hole on Genesis's books—it did nothing to improve Genesis's dire financial state. In fact, the Promissory Note was a fraud, intended to deceive Genesis lenders into thinking Genesis was solvent when it was not, and it benefited DCG by providing DCG and the De Facto Managers with more time to continue siphoning funds from Genesis at the expense of Genesis creditors. The Promissory Note also ensured that DCG would receive payments in 3AC's bankruptcy, which Genesis would have otherwise received from its claims against 3AC, and that DCG would have no obligation to

make any payments to Genesis before 2032. That breached Moro's duties of care and loyalty.

257. Throughout 2022, Moro knew and permitted DCG to orchestrate and make repeated lies to the public and Genesis creditors about Genesis's financial health, despite knowing that Genesis was insolvent. Moro knew that DCG was exploiting the false trust that Genesis's lenders had that DCG and Silbert supported Genesis by lying to lenders for its own gain. Permitting DCG's campaign of falsehoods was a breach of Moro's duties of loyalty, care, and oversight, to the extent it occurred on or before Moro's resignation from Genesis on August 17, 2022.

258. Moro's fiduciary breaches described herein were not a result of a valid exercise of business judgment. They were intended and designed to benefit DCG and Silbert over the interests of Genesis and its creditors.

SECOND CAUSE OF ACTION
(Aiding & Abetting Breach of Fiduciary Duty Against DCG, Barry Silbert,
Michael Kraines, and Mark Murphy)

259. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

260. This Second Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors, in the alternative to the First Cause of Action.

A. Moro Owed and Breached his Fiduciary Duties

261. As demonstrated above in Count One, Moro owed fiduciary duties of care, loyalty, and oversight to Genesis, including to act in the interests of Genesis's creditors since Genesis was insolvent. As further demonstrated above in Count One, Moro breached those duties.

B. DCG, Silbert, Kraines, and Murphy Had Actual Knowledge of Moro's Fiduciary Breaches

262. DCG, Silbert, Kraines, and Murphy each had knowledge of Moro's breaches of fiduciary duties. Specifically, DCG had knowledge of Moro's fiduciary breaches through the knowledge of its directors and officers, including Silbert, Kraines, and Murphy as listed below.

263. Silbert had knowledge of Moro's fiduciary breaches because he was intimately aware of Genesis's financial state and involved in the company's day-to-day operations. In particular, Silbert regularly heard and decided matters pertaining to Genesis and dictated orders for Genesis's operations, including at meetings of the DCG Board, at meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations of Genesis. Silbert's knowledge of Moro's fiduciary breaches included but was not limited to:

- a. Silbert and Moro signed the misleading Promissory Note for DCG and Genesis;

- b. Moro followed Silbert's directive and did not liquidate or hedge the GBTC collateral posted by 3AC and held by Genesis following 3AC's default;
- c. Silbert, partially as a result of his position on the GGT Board, was informed about Genesis's inadequate risk management practices;
- d. Drafting the false June 17 Statement posted from Moro's Twitter account, and retweeted by the @GenesisTrading and DCG Twitter accounts;
- e. Drafting the false July 6 Statement posted from Moro's Twitter account;
- f. Moro had to secure Silbert's approval for all major strategic decisions at Genesis; and
- g. Moro ignored feedback from third-party consultants and failed to address serious failures in risk management at Genesis.

264. Kraines had knowledge of Moro's fiduciary breaches because he was intimately aware of Genesis's financial state and involved in the company's day-to-day operations. In particular, Kraines regularly heard and decided matters pertaining to Genesis and dictated orders for Genesis's operations, including at meetings of the DCG Board, at meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations of Genesis. Kraines's knowledge of Moro's fiduciary breaches included but was not limited to:

- a. Approving Moro's use of FTT as "collateral" for loans to Alameda; and
- b. Moro ignored feedback from third-party consultants and failed to address serious failures in risk management at Genesis.

265. Murphy had knowledge of Moro's fiduciary breaches because he was intimately aware of Genesis's financial state and involved in the company's day-to-day operations. In particular, Murphy regularly heard and decided matters pertaining to Genesis and dictated orders for Genesis's operations, including at meetings of the DCG Board, at meetings of the GGT Board, during weekly or bi-weekly meetings with Moro and the De Facto Managers, and in day-to-day operations of Genesis. Murphy's knowledge of Moro's fiduciary breaches included but was not limited to:

- a. Drafting the false June 17 Statement posted from Moro's Twitter account, and retweeted by the @GenesisTrading and DCG Twitter accounts;
- b. Drafting the false July 6 Statement posted from Moro's Twitter account; and
- c. Moro ignored feedback from third-party consultants and failed to address serious failures in risk management at Genesis.

C. DCG, Silbert, Kraines, and Murphy Knowingly Participated in and Substantially Assisted Moro's Fiduciary Breaches

266. As detailed herein, DCG, Silbert, Kraines, and Murphy each knowingly participated in and provided substantial assistance to Moro's breaches of fiduciary duties, including but not limited to, by allowing Genesis to operate without proper risk management and by causing Genesis to enter into the Promissory Note.

267. As detailed herein, DCG, Silbert, Kraines, and Murphy knowingly participated in and provided substantial assistance to Moro's breaches of fiduciary

duties by facilitating transactions that constituted breaches, including but not limited to the sham Promissory Note and various other loans from Genesis to DCG.

D. Genesis and Its Creditors Were Harmed

268. DCG's, Silbert's, Kraines's, and Murphy's aiding and abetting Moro's breaches of fiduciary duties damaged Genesis and its residual claimants, which, given Genesis's insolvency, included its creditors. As discussed in Paragraphs 252 to 258 above, Moro's breaches left Genesis unequipped and unable to repay its lenders; caused Genesis to issue risky loans, including undercollateralized loans to risky counterparties; allowed DCG to continue siphoning funds from Genesis at the expense of Genesis and its creditors; and permitted DCG to orchestrate and make repeated lies to the public and Genesis creditors about Genesis's financial health.

THIRD CAUSE OF ACTION
(Civil Conspiracy Against Barry Silbert, Michael Kraines, and Mark
Murphy)

269. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

270. This Third Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors.

A. A Conspiracy Existed Between Silbert, Kraines, and Murphy as De Facto Managers

271. The De Facto Managers operated a conspiracy between Silbert, Kraines, and Murphy. Through their roles as De Facto Managers, they knowingly

exercised managerial control of Genesis's lending business with the objective of enriching and benefiting DCG and Silbert. Silbert, Kraines, and Murphy collaborated and agreed on a plan to operate Genesis as DCG's alter ego and instrumentality, with the objective of enriching and benefiting Silbert and DCG through the value of the crypto and fiat currencies that Genesis creditors deposited at Genesis.

272. The conspiracy's existence and goals are confirmed by the fact that throughout 2021 and 2022, multiple reputable third-party consultants informed Silbert, Kraines, and Murphy that DCG faced material weaknesses regarding its governance of Genesis and Genesis's risk procedures, and provided Silbert, Kraines, and Murphy with recommendations and timelines for implementing changes to address those issues at Genesis. Yet, as Genesis's loan book was increasing in size and the crypto market was plunging into turmoil, Silbert, Kraines, and Murphy chose not to implement any of those prudent changes at Genesis because it benefited DCG and Silbert.

B. Silbert, Kraines, and Murphy Committed Several Unlawful Acts in Furtherance of Their Conspiracy

273. Silbert, Kraines, and Murphy committed several unlawful acts throughout 2022 in furtherance of their conspiracy.

274. As an initial matter, Silbert, Kraines, and Murphy operated and controlled Genesis's operations and lending business through their positions as De

Facto Managers. Silbert, Kraines, and Murphy each knew that GGC and GGH—Delaware LLCs—did not have independent management because they themselves were the individuals pulling the puppet strings at those entities and operating as de facto managers for GGC, GAP, and GGH.

275. As demonstrated above in Count One, Silbert, Kraines, and Murphy each violated their fiduciary duties to Genesis, including to act in the interest of Genesis's creditors. And as demonstrated above in Count Two, Silbert, Kraines, and Murphy each aided and abetted Moro's breaches of fiduciary duty to Genesis, including to act in the interest of Genesis and its creditors. Instead of acting in those interests, Moro knowingly failed to implement proper risk protocols, signed the commercially unreasonable Promissory Note, and knowingly permitted and participated in DCG's campaign of lies directed at the public and Genesis creditors. Silbert, Kraines, and Murphy committed and aided and abetted these fiduciary breaches in furtherance of their conspiracy.

276. As demonstrated below in Count Five, Silbert, Kraines, and Murphy defrauded the public and Genesis creditors, including Gemini and hundreds of thousands of Earn Program users, to lure those creditors into depositing their crypto and fiat currencies with Genesis, and to defraud them into keeping their assets on the platform as Genesis collapsed throughout 2022. Silbert, Kraines, and Murphy committed this egregious fraud in furtherance of their conspiracy.

277. In particular, Silbert, Kraines, and Murphy orchestrated sham transactions at the end of the second and third quarters of 2022, when Genesis's books closed, to deceive Genesis lenders into believing that DCG was providing liquidity and equity to Genesis. As Silbert, Kraines, and Murphy each knew, DCG did not actually provide any liquidity or equity to Genesis. On June 30, 2022, Silbert, Kraines, and Murphy caused DCG to issue the Promissory Note to Genesis, which was designed and accounted for to conceal Genesis's \$1.1 billion unsecured exposure to 3AC. At the same time, Silbert, Kraines, and Murphy caused Genesis to extend the maturity dates for loans to DCG, siphoning liquidity Genesis desperately needed. And on September 29, 2022, Silbert, Kraines, and Murphy required Genesis to enter into the September 29 Transaction, which was designed to give the illusion that DCG injected millions in equity to Genesis, when it had not. Silbert, Kraines, and Murphy each knew that if Genesis's books closed at the end of the second and third quarters without these sham transactions, then Genesis creditors—including Gemini—would immediately pull assets off the platform. And Silbert, Kraines, and Murphy each knew that Genesis did not have enough liquidity to survive, so they lied by designing and imposing these sham transactions that would cook the books.

C. Genesis and Its Creditors Were Harmed

278. Silbert, Kraines, and Murphy's plan to operate Genesis as an alter ego and instrumentality of DCG, and their subsequent unlawful acts in furtherance of that

scheme, damaged Genesis and its residual claimants, which, given its insolvency, included its creditors. As discussed in Paragraphs 272 to 277 above, these acts in furtherance of Silbert, Kraines, and Murphy's conspiracy misused the corporate form of Genesis; left Genesis unequipped and unable to repay its lenders; caused Genesis to issue risky loans, including undercollateralized loans to risky counterparties; allowed DCG to continue siphoning funds from Genesis at the expense of Genesis and its creditors; and permitted DCG to orchestrate and make repeated lies to the public and Genesis creditors about Genesis's financial health.

FOURTH CAUSE OF ACTION
(Unjust Enrichment Against DCG and Silbert)

279. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

280. This Fourth Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors and by GGC in its capacity as assignee of Gemini's claims.

A. DCG and Silbert Enriched Themselves

281. Through the total control that DCG exercised over Genesis via its 100% ownership of Genesis's equity interests, the DCG Board, the De Facto Managers, and Silbert's, Kraines's, and Murphy's various positions as officers of DCG and members of the DCG, GGT, and GGH Boards, DCG was able to use Genesis's lending business to enrich itself and Silbert.

282. DCG used Genesis to benefit Grayscale by growing the BTC in the Bitcoin Trust and profited by receiving increased management fees on GBTC, which was lucrative for DCG and Silbert. This same is true for the other Grayscale Trusts. At the end of 2024, Grayscale had \$30 billion in assets. As demonstrated above in Section V.B, DCG required Genesis to issue risky loans to uncreditworthy counterparties who participated in the GBTC Trade and Reverse GBTC Trade. By using Genesis to grow the Bitcoin Trust, DCG increased the amount of BTC held by the Bitcoin Trust and, in turn, increased the management fees paid to Grayscale for its management of the Bitcoin Trust, which went directly into DCG's pocket. In addition, when DCG sought to participate in the Reverse GBTC Trade itself, DCG caused Genesis to loan \$500 million to DCG so that DCG could purchase GBTC and hold those shares. DCG and Silbert unjustly profited from funds unlawfully siphoned from Genesis, including when, on or around January 11, 2024, GBTC returned to NAV, at approximately the time when the SEC approved the Bitcoin Trust as an ETF.

283. DCG also used Genesis to take the value and liquidity of the crypto and fiat currencies that customers deposited with Genesis's lending business and transfer it to DCG. As demonstrated above in Section V.C, DCG and its affiliates required Genesis to extend billions of dollars' worth in intercompany loans in 2022. In addition, DCG required Genesis to extend maturity dates of loans and repaid valuable BTC loans in "worthless" altcoins (to borrow Silbert's characterization). At this time

in 2022, during the market downturn when Genesis had significant exposure to non-creditworthy counterparties, Genesis needed liquidity to survive. But DCG kept that liquidity for itself.

B. Genesis and Its Creditors Were Impoverished

284. Genesis was impoverished because, at a minimum, DCG's liquidity pilfering and prioritization of Grayscale exacerbated the hole in Genesis's books following the 3AC collapse. Had Genesis been able to access the liquidity DCG took in 2022, Genesis might have mitigated or avoided its massive losses. Following DCG's exploitation of Genesis—including by requiring loans to risky counterparties and self-dealing—Genesis suspended withdrawals and ultimately filed for bankruptcy.

285. Due to Genesis's DCG-mandated risky lending practices—practices that supported the Bitcoin Trust—Genesis was unable to repay its creditors their cryptocurrency before it suspended withdrawals. Genesis and its creditors were further impoverished because they were deprived of their crypto and fiat currencies in full, in part, or for months after withdrawals were suspended at Genesis. Additionally, DCG's conduct decreased the amount of crypto and fiat currency Genesis had available to repay its creditors. Genesis and its creditors therefore were impoverished because they were not able to recoup and realize the appreciation in the value of the cryptocurrencies they had deposited with Genesis.

C. DCG and Silbert Purposefully Enriched Themselves at the Expense of Genesis and Its Creditors

286. As alleged above, DCG intended to and did use Genesis for its own benefit and Silbert's benefit. The Bitcoin Trust was a key moneymaker for DCG, and DCG explicitly referred to Genesis as its "de facto treasury" that it used to fund its own business and its affiliates. As evidenced by the paltry Genesis risk protocols that DCG oversaw and DCG's requirement that Genesis issue to DCG and its affiliates hundreds of millions of dollars in uncollateralized loans, DCG did not care whether Genesis's creditors received their cryptocurrencies back, or whether Genesis itself had sufficient assets to operate its business. In fact, internal DCG emails confirm that DCG structured Genesis's lending in this way for the express purpose of ensuring Genesis's creditors would not have a direct avenue of recourse against DCG, and that any related claims by creditors would need to be made against Genesis instead of DCG. DCG and Silbert purposefully sacrificed the well-being of Genesis and Genesis creditors to enrich themselves.

D. DCG's and Silbert's Conduct was not Justified

287. DCG's and Silbert's conduct in enriching themselves was not justified. DCG and Silbert used their domination and control of Genesis to enrich themselves by taking Genesis's and Genesis's creditors' cryptocurrencies and fiat currencies, while Genesis was insolvent. DCG and Silbert intentionally acted to loot value for themselves, no matter the cost to Genesis or its creditors. DCG and Silbert knew that

Genesis's lending practices put Genesis's creditors' assets at risk—but still they encouraged and even mandated those practices. Similarly, DCG and Silbert knew that by DCG taking loans from Genesis, it deprived Genesis of the liquidity needed to survive and to ultimately repay Genesis creditors their cryptocurrencies. DCG's and Silbert's conduct was designed to receive and benefit from the fruits of ill-gotten gains.

288. As demonstrated above in Count One, DCG and Silbert accomplished this heist through a series of fiduciary breaches. And as demonstrated below in Count Five, DCG and Silbert were able to enrich themselves by committing egregious fraud. DCG's and Silbert's unlawful conduct was not justified.

E. Plaintiffs Seek Equitable Recovery

289. Internal DCG documents confirm that DCG and Silbert operated Genesis's lending business in a way that permitted DCG to extract the value of Genesis's customer deposits for itself, while ensuring that creditors had no direct claims for relief against DCG. It would be inequitable to permit DCG and Silbert to enjoy the value of their ill-gotten gains from Genesis, deposited by Genesis creditors, while prohibiting Genesis or the creditors from recovering those assets. Moreover, Plaintiffs seek equitable recovery through the return of their cryptocurrencies in-kind—the only remedy that will result in Plaintiffs' obtaining the value of the appreciation of their assets, of which they were wrongly deprived.

FIFTH CAUSE OF ACTION
(Fraud Against DCG, Barry Silbert, Michael Kraines, Mark Murphy, and
Michael Moro)

290. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

291. This Fifth Cause of Action is brought by GGC in its capacity as the assignee of Gemini's claims.

A. DCG Defrauded Gemini

1. DCG Made False Representations of Fact to Gemini

292. In the wake of the 3AC collapse, through its officers and employees, DCG drafted, edited, approved, and disseminated numerous misrepresentations and omissions about Genesis's financial state. Those misrepresentations falsely indicated that, among other things: (1) Genesis was solvent when it was not; (2) Genesis was adequately capitalized when it actually was severely undercapitalized; (3) Genesis's balance sheet was "strong" when an accurate Genesis balance sheet would have reflected a \$1.1 billion loss to 3AC; (4) the Promissory Note was a current asset worth \$1.1 billion when actually the Promissory Note was illiquid and its real value was worth a tiny fraction of that amount; and (5) the Genesis weighted average loan duration was 54.3 days when, accounting for the Promissory Note, the accurate weighted average loan duration was more than 730 days or two years. These false representations include the statements made, directed, and approved by its officers

and directors listed in Paragraphs 298, 304, and 309. The misrepresentations created a false impression as to Genesis's true financial state, which DCG failed to correct. DCG also knowingly omitted the disclosure of material facts that it knew would have caused Gemini to terminate the Earn Program, as described in Paragraphs 298, 304, and 309.

2. DCG Knew those Representations Were False or Made with Reckless Indifference to the Truth

293. DCG was fully aware that the statements at issue were false. DCG was intimately familiar with Genesis's troubled financial state, as demonstrated by dozens of communications discussing Genesis's losses and exposure after the 3AC collapse. Nevertheless, DCG directed the statements to perpetuate the lie that Genesis's financial condition was stable and to prevent a run on the Genesis bank.

3. DCG Intended to Induce Gemini to Continue the Earn Program and Leave Earn Program Assets with Genesis

294. Contemporaneous documents show that retaining assets from the Gemini Earn Program at Genesis was a top priority for DCG in 2022. Over the course of 2021 and 2022, DCG's third-party consultants concluded that Genesis inappropriately relied on Gemini and Bitvavo to source the liquidity it used to operate its business. Kraines admitted that "if Gemini/Bitvavo leave we[']re back in a bad spot." Silbert, Kraines, Murphy, Kramer, and others at DCG and Ducera agreed that "maintenance of Gemini funding [was] critical to Genesis's liquidity." On August 8,

2022, Ballensweig told Silbert, Kraines, Murphy, Moro, and others that if Genesis lost the Earn Program, “we’ll NEED to ensure we retain Bitvavo.” And at the October 20 lunch meeting between Silbert and Winklevoss, Silbert falsely claimed that Genesis simply needed more time to unwind the Earn Program and pay Gemini customers.

295. These communications leave no doubt as to the motive behind DCG’s misrepresentations. DCG indisputably intended those misrepresentations—and its omission of material facts—to give Gemini the false impression that Genesis was a safe and reliable depository for Earn Program assets, thereby inducing Gemini to continue the Earn Program and leave its customers’ cryptocurrency with Genesis.

4. Gemini Justifiably Relied on DCG’s False Representations and Suffered Damage as a Result

296. During the 2022 market downturn, Gemini diligently requested information about Genesis’s financial state to assess whether to terminate the Earn Program and consequently call outstanding loans made to Genesis. DCG met those requests with lies falsely representing Genesis’s financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had continued exposure to unchecked risk. Despite Gemini’s best efforts to act prudently to protect its position, Gemini relied on material misrepresentations about Genesis’s finances

that it believed were accurate and did not terminate the Earn Program before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

297. As a result, Gemini and the Earn Program users were damaged by DCG's false representations and are entitled to damages in an amount to be determined at trial.

B. Silbert Defrauded Gemini

1. Silbert Made False Representations of Fact to Gemini

298. In the wake of the 3AC collapse, Silbert was in complete control of the response at Genesis and was responsible for or drafted, edited, approved, and disseminated numerous misrepresentations and omissions about Genesis's financial state. Those misrepresentations and omissions falsely indicated that, among other things, (1) Genesis was solvent when it was not; (2) Genesis was adequately capitalized when it actually was severely undercapitalized; (3) Genesis's balance sheet was "strong" when an accurate Genesis balance sheet would have reflected a \$1.1 billion hole; (4) the Promissory Note was a current asset worth \$1.1 billion when actually the Promissory Note was illiquid and its real value was less than \$216 million; and (5) the Genesis weighted average loan duration was 54.3 days when, accounting for the Promissory Note, the accurate weighted average loan duration was

more than 730 days or two years. These false representations and omissions include but are not limited to:

- a. The May 11, 2022 tweet posted from the @GenesisTrading Twitter account misrepresenting that Genesis had “no direct exposure” to Terra Luna;
- b. The false June 15 Statement posted from the @GenesisTrading Twitter account, and retweeted by Silbert;
- c. The false June 17 Statement posted from Moro’s Twitter account, and retweeted by the @GenesisTrading and DCG Twitter accounts;
- d. The misleading Promissory Note;
- e. The June 30 Balance Sheet listing the Promissory Note at its face value;
- f. The “3AC Post-Mortem” document shared with Gemini;
- g. The misleading “Risk Metric Request” document shared with Gemini;
- h. The false July 6 Statement posted from Moro’s Twitter account;
- i. The October 20, 2022 lunch meeting between Silbert and Cameron Winklevoss, including the omissions regarding Genesis’s solvency and the true nature of the Promissory Note, and the false statements that Genesis faced only a short-term timing mismatch in its “complex” loan book;
- j. The October 23, 2022 phone call between Silbert and Cameron Winklevoss, repeating misleading information;
- k. The misleading November 9 Statement posted from the @GenesisTrading Twitter account; and
- l. The misleading November 10 Statement posted from the @GenesisTrading Twitter account.

2. Silbert Knew Those Representations Were False or Made with Reckless Indifference to the Truth

299. Silbert was fully aware that the above statements were false or misleading. He was intimately familiar with Genesis's troubled financial state; nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable and to prevent a run on the Genesis bank.

3. Silbert Intended to Induce Gemini to Continue the Earn Program and Leave Earn Program Assets with Genesis

300. Contemporaneous documents show that retaining assets from the Earn Program at Genesis was a top priority for Silbert and DCG. Over the course of 2021 and 2022, DCG's third-party consultants concluded that Genesis inappropriately relied on Gemini and Bitvavo to source the liquidity it used to operate its business. Kraines admitted that "if Gemini/Bitvavo leave we[']re back in a bad spot." Silbert, Kraines, Murphy, Kramer, and others at DCG and Ducera agreed that "maintenance of Gemini funding [was] critical to Genesis's liquidity." On August 8, 2022, Ballensweig told Silbert that if Genesis lost the Earn Program, "we'll NEED to ensure we retain Bitvavo." And at the October 20 lunch meeting between Silbert and Winklevoss, Silbert falsely claimed that Genesis simply needed more time to unwind the Earn Program and pay Gemini customers.

301. These communications leave no doubt as to the motive behind Silbert's misrepresentations. Silbert intended those misrepresentations—and his omission of

material facts—to give Gemini the false impression that Genesis was a safe and reliable depository for Earn Program assets, thereby inducing Gemini to continue the Earn Program and leave its customers’ cryptocurrency with Genesis.

4. Gemini Justifiably Relied on Silbert’s False Representations and Suffered Damage as a Result

302. During the 2022 market downturn, Gemini diligently requested information about Genesis’s financial state to assess whether to terminate the Earn Program and consequently call outstanding loans made to Genesis. Silbert met those requests with lies falsely representing Genesis’s financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had continued exposure to unchecked risk. Despite Gemini’s best efforts to act prudently to protect its position, Gemini relied on material misrepresentations about Genesis’s finances that it believed were accurate and did not terminate the Earn Program before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

303. As a result, Gemini and Earn Program users were damaged by Silbert’s false representations and GGC, as assignee of Gemini’s claims, is entitled to damages in an amount to be determined at trial.

C. Kraines Defrauded Gemini

1. Kraines Made False Representations of Fact to Gemini

304. In the wake of the 3AC collapse, Kraines drafted, edited, approved, and disseminated numerous misrepresentations and omissions about Genesis's financial state. Those misrepresentations and omissions falsely indicated that, among other things, (1) Genesis was solvent when it was not; (2) Genesis was adequately capitalized when it actually was severely undercapitalized; (3) Genesis's balance sheet was "strong" when an accurate Genesis balance sheet would have reflected a \$1.1 billion hole; (4) the Promissory Note was a current asset worth \$1.1 billion when actually the Promissory Note was illiquid and its real value was less than \$216 million; and (5) the Genesis weighted average loan duration was 54.3 days when, accounting for the Promissory Note, the accurate weighted average loan duration was more than 730 days or two years. These false representations and omissions include:

- a. The misleading Promissory Note;
- b. The June 30 Balance Sheet listing the Promissory Note at its face value;
- c. The "3AC Post-Mortem" document shared with Gemini;
- d. The misleading "Risk Metric Request" document shared with Gemini;
- e. The "back and forth" between Ballensweig and Gemini in early August where Gemini was provided misleading information regarding Genesis's financial health; and

- f. The October 20, 2022 lunch meeting between Silbert and Cameron Winklevoss, including the omissions regarding Genesis’s solvency and the true nature of the Promissory Note, and the false statements that Genesis faced only a short-term timing mismatch in its “complex” loan book.

2. Kraines Knew Those Representations Were False or Made with Reckless Indifference to the Truth

305. Kraines was fully aware that the above statements were false. He was intimately familiar with Genesis’s troubled financial state; nevertheless, he directed the statements to perpetuate the lie that Genesis’s financial condition was stable and to prevent a run on the Genesis bank.

3. Kraines Intended to Induce Gemini to Continue the Earn Program and Leave Earn Program Assets with Genesis

306. Contemporaneous documents show that retaining assets from the Earn Program at Genesis was a top priority for DCG. Kraines, as an officer at DCG, coordinated DCG’s misrepresentations—and its omission of material facts—to give Gemini the false impression that Genesis was a safe and reliable depository for Earn Program assets, thereby inducing Gemini to continue the Earn Program and leave its customers’ cryptocurrency with Genesis.

4. Gemini Justifiably Relied on Kraines’s False Representations and Suffered Damage as a Result

307. During the 2022 market downturn, Gemini diligently requested information about Genesis’s financial state to assess whether to terminate the Earn Program and consequently call outstanding loans made to Genesis. Kraines met those

requests with lies falsely representing Genesis's financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had continued exposure to unchecked risk. Despite Gemini's best efforts to act prudently to protect its position, Gemini relied on material misrepresentations about Genesis's finances that it believed were accurate and did not terminate the Earn Program before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

308. As a result, Gemini and Earn Program users were damaged by DCG's false representations and GGC, as assignee of Gemini's claims, is entitled to damages in an amount to be determined at trial.

D. Murphy Defrauded Gemini

1. Murphy Made False Representations of Fact to Gemini

309. In the wake of the 3AC collapse, Murphy drafted, edited, approved, and disseminated numerous misrepresentations and omissions about Genesis's financial state. Those misrepresentations and omissions falsely indicated that, among other things, (1) Genesis was solvent when it was not; (2) Genesis was adequately capitalized when it actually was severely undercapitalized; (3) Genesis's balance sheet was "strong" when an accurate Genesis balance sheet would have reflected a \$1.1 billion hole; (4) the Promissory Note was a current asset worth \$1.1 billion when

actually the Promissory Note was illiquid and its real value was less than \$216 million; and (5) the Genesis weighted average loan duration was 54.3 days when, accounting for the Promissory Note, the accurate weighted average loan duration was more than 730 days or two years. These false representations and omissions include:

- a. The May 11, 2022 tweet posted from the @GenesisTrading Twitter account misrepresenting that Genesis had “no direct exposure” to Terra Luna;
- b. The June 14 Talking Points that Genesis employees were required to follow when speaking with creditors after 3AC collapsed, which included misleading or false statements about Genesis’s balance sheet, capitalization, and liquidity;
- c. The false June 15 Statement posted from the @GenesisTrading Twitter account;
- d. The false June 17 Statement posted from the @GenesisTrading Twitter account;
- e. The misleading Promissory Note;
- f. The June 30 Balance Sheet listing the Promissory Note at its face value;
- g. The “3AC Post-Mortem” document shared with Gemini;
- h. The misleading “Risk Metric Request” document shared with Gemini;
- i. The false July 6 Statement posted from Moro’s Twitter account;
- j. The misleading November 9 Statement posted from the @GenesisTrading Twitter account; and
- k. The misleading November 10 Statement posted from the @GenesisTrading Twitter account.

2. Murphy Knew Those Representations Were False or Made with Reckless Indifference to the Truth

310. Murphy was fully aware that the above statements were false or misleading. He was intimately familiar with Genesis's troubled financial state; nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable and to prevent a run on the Genesis bank.

3. Murphy Intended to Induce Gemini to Continue the Earn Program and Leave Earn Program Assets with Genesis

311. Contemporaneous documents show that retaining assets from the Earn Program at Genesis was a top priority for DCG. Murphy, as an officer at DCG, coordinated DCG's misrepresentations—and its omission of material facts—to give Gemini the false impression that Genesis was a safe and reliable depository for Earn Program assets, thereby inducing Gemini to continue the Earn Program and leave its customers' cryptocurrency with Genesis.

4. Gemini Justifiably Relied on Murphy's False Representations and Suffered Damage as a Result

312. During the 2022 market downturn, Gemini diligently requested information about Genesis's financial state to assess whether to terminate the Earn Program and consequently call outstanding loans made to Genesis. Murphy met those requests with lies falsely representing Genesis's financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had

continued exposure to unchecked risk. Despite Gemini's best efforts to act prudently to protect its position, Gemini relied on material misrepresentations about Genesis's finances that it believed were accurate and did not terminate the Earn Program before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

313. As a result, Gemini and Earn Program users were damaged by DCG's false representations and GGC, as assignee of Gemini's claims, is entitled to damages in an amount to be determined at trial.

E. Moro Defrauded Gemini

1. Moro Made False Representations of Fact to Gemini

314. At DCG's direction, Genesis's Moro communicated the DCG-controlled misrepresentations to the public, including to Gemini. These statements included, but were not limited to, posting the June 15 Statement and the July 6 Statement on his personal Twitter account.

2. Moro Knew Those Representations Were False or Made with Reckless Indifference to the Truth

315. As Genesis's CEO, Moro was intimately familiar with Genesis's finances and knew the above statements were false. Nevertheless, he posted the statements to perpetuate the lie that Genesis's financial condition was stable.

3. Moro Intended to Induce Gemini to Continue the Earn Program and Leave Earn Program Assets with Genesis

316. Contemporaneous documents show that retaining assets from the Earn Program at Genesis was a top priority for DCG. Moro, as CEO and DCG's yes man, repeated DCG's misrepresentations—and its omission of material facts—to give Gemini the false impression that Genesis was a safe and reliable depository for Earn Program assets, thereby inducing Gemini to continue the Earn Program and leave its customers' cryptocurrency with Genesis.

4. Gemini Justifiably Relied on Moro's False Representations and Suffered Damage as a Result

317. During the 2022 market downturn, Gemini diligently requested information about Genesis's financial state to assess whether to terminate the Earn Program and consequently call outstanding loans made to Genesis. Moro met those requests with lies falsely representing Genesis's financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had continued exposure to unchecked risk. Despite Gemini's best efforts to act prudently to protect its position, Gemini relied on material misrepresentations about Genesis's finances that it believed were accurate and did not terminate the Earn Program before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

318. As a result, Gemini and Earn Program users were damaged by DCG's false representations and GGC, as assignee of Gemini's claims, is entitled to damages in an amount to be determined at trial.

SIXTH CAUSE OF ACTION
(Negligent Misrepresentation Against DCG, Barry Silbert, Michael Kraines, Mark Murphy, and Michael Moro)

319. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

320. This Sixth Cause of Action is brought by GGC in its capacity as the assignee of Gemini's claims, in the alternative to Count Five for fraud committed against Gemini.

A. DCG, Silbert, Kraines, Murphy, and Moro Had Pecuniary Duties to Gemini

321. As Genesis's ultimate parent company, DCG had a pecuniary interest in the relationship between Gemini and Genesis. As an officer and director of DCG, Silbert also had a pecuniary interest in the relationship between Gemini and Genesis. As officers of DCG, Kraines and Murphy similarly had a pecuniary interest in the relationship between Gemini and Genesis. As the former CEO of GGC, Moro had a pecuniary interest in the relationship between Gemini and Genesis.

322. DCG, Silbert, Kraines, Murphy, and Moro had a pecuniary duty to provide accurate information with reasonable care to Gemini as they made

representations in the course of business or transactions in which they had a pecuniary interest.

B. DCG Supplied False Information to Gemini and Failed to Exercise Reasonable Care Regarding that Information

323. In the wake of the 3AC collapse, DCG, through its officers and employees, bore ultimate responsibility for or drafted, edited, approved, and disseminated numerous misrepresentations about Genesis's financial state. DCG directed Genesis to make these misrepresentations to the public generally and to Genesis's counterparties, including Gemini and its customers.

324. DCG was intimately familiar with Genesis's finances and knew the statements were false. Nevertheless, it directed the statements to perpetuate the lie that Genesis's financial condition was stable. Its goal was to prevent a run on the Genesis bank by encouraging counterparties, including Gemini, to leave funds with Genesis, continue the Earn Program, and deposit further assets with Genesis.

325. DCG was at best negligent in not knowing that its statements and omissions were false and misleading.

C. Silbert Supplied False Information to Gemini and Failed to Exercise Reasonable Care Regarding that Information

326. In the wake of the 3AC collapse, Silbert drafted, edited, approved, and disseminated numerous misrepresentations about Genesis's financial state, including the statements and omissions listed in Paragraph 298 above. Silbert directed Genesis

to make these misrepresentations to the public generally and to Genesis's counterparties, including Gemini and its customers.

327. Silbert was intimately familiar with Genesis's finances and knew the statements were false. Nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable. His goal was to prevent a run on the Genesis bank by encouraging counterparties, including Gemini, to leave funds with Genesis, continue the Earn Program, and deposit further assets with Genesis.

328. Silbert was at best negligent in not knowing that his statements and omissions were false and misleading.

D. Kraines Supplied False Information to Gemini and Failed to Exercise Reasonable Care Regarding that Information

329. In the wake of the 3AC collapse, Kraines drafted, edited, approved, and disseminated numerous misrepresentations about Genesis's financial state, including the statements and omissions listed in Paragraph 304 above. Kraines directed Genesis to make these misrepresentations to the public generally and to Genesis's counterparties, including Gemini and its customers.

330. Kraines was intimately familiar with Genesis's finances and knew the statements were false. Nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable. His goal was to prevent a run on the

Genesis bank by encouraging counterparties, including Gemini, to leave funds with Genesis, continue the Earn Program, and deposit further assets with Genesis.

331. Kraines was at best negligent in not knowing that his statements and omissions were false and misleading.

E. Murphy Supplied False Information to Gemini and Failed to Exercise Reasonable Care Regarding that Information

332. In the wake of the 3AC collapse, Murphy drafted, edited, approved, and disseminated numerous misrepresentations about Genesis's financial state, including the statements and omissions listed in Paragraph 309 above. Murphy directed Genesis to make these misrepresentations to the public generally and to Genesis's counterparties, including Gemini and its customers.

333. Murphy was intimately familiar with Genesis's finances and knew the statements were false. Nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable. His goal was to prevent a run on the Genesis bank by encouraging counterparties, including Gemini, to leave funds with Genesis, continue the Earn Program, and deposit further assets with Genesis.

334. Murphy was at best negligent in not knowing that his statements and omissions were false and misleading.

F. Moro Supplied False Information to Gemini and Failed to Exercise Reasonable Care Regarding that Information

335. At DCG's direction, Moro communicated the DCG-controlled misrepresentations to the public, including to Gemini and its customers. As Genesis's CEO, he was intimately familiar with Genesis's finances and knew the statements were false. Nevertheless, he directed the statements to perpetuate the lie that Genesis's financial condition was stable.

336. Moro was at best negligent in not knowing that his statements and omissions were false and misleading

G. Gemini Was Harmed by DCG, Silbert, Kraines, Murphy, and Moro's Negligent Misrepresentations

337. During the 2022 market downturn, Gemini diligently requested information about Genesis's financial state to assess whether to terminate the Gemini Earn Program and consequently call outstanding loans made to Genesis. Those requests were met with lies falsely representing Genesis's financial condition. Had Gemini been provided accurate information, Gemini would have known that Genesis was severely undercapitalized and insolvent, and that Earn Program users had continued exposure to unchecked risk. Despite Gemini's best efforts to act prudently to protect its position, Gemini relied on material misrepresentations that it believed were accurate about Genesis's finances and did not terminate the Earn Program

before Genesis suspended withdrawals on November 16, 2022. Had Gemini possessed accurate information, Gemini would have terminated the Earn Program.

338. As a result, Gemini and Earn Program users were damaged by Defendants' false representations and GGC, as assignee of Gemini's claims, is entitled to damages in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
(Aiding & Abetting Breach of Fiduciary Duty Against Ducera and Michael Kramer)

339. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

340. This Seventh Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors.

A. DCG, Silbert, Kraines, Murphy, and Moro Owed and Breached Their Fiduciary Duties

341. As demonstrated above in Count One, DCG, Silbert, Kraines, Murphy, and Moro owed fiduciary duties of care, loyalty, and oversight to Genesis, including to act in the interests of Genesis's creditors since Genesis was insolvent. As further demonstrated above in Count One, DCG, Silbert, Kraines, Murphy, and Moro breached those duties. During Ducera's engagement, DCG, Silbert, Kraines, Murphy, and Moro breached their fiduciary duties by making risky loans that include but are not limited to:

- a. September 8, 2022 loan of 3,400 BTC from GGC to Alameda;

- b. September 8, 2022 loan of 116,000 LTC from GGC to Alameda; and
- c. September 16, 2022 loan of \$100 million from GGC to Alameda.

342. During Ducera's engagement DCG, Silbert, Kraines, Murphy, and Moro, breached their fiduciary duties by unilaterally changing the terms of Genesis's loans to benefit DCG or its affiliates, examples of which include but are not limited to:

- a. On November 10-11, 2022, extending the maturity date on a \$100 million unsecured loan from GGC to DCG, which had already been previously extended from an original July 24, 2022 maturity date;
- b. On November 10-11, 2022, extending the maturity date for a \$100 million unsecured loan from GGC to DCG, which had already been previously extended from an original August 23, 2022 maturity date; and
- c. On November 10-11, 2022, partially repaying a 18,697 BTC loan from GGC to DCGI, and extending the maturity date for the remaining 4,550.45 BTC.

343. During Ducera's engagement DCG, Silbert, Kraines, Murphy, and Moro, breached their fiduciary duties by making a series of false or materially misleading statements to the public and to Genesis's counterparties directly. These statements include but are not limited to:

- a. The false June 15 Statement posted from the @GenesisTrading Twitter account, and retweeted by Silbert;
- b. The false June 17 Statement posted from Moro's Twitter account, and retweeted by the @GenesisTrading and DCG Twitter accounts;

- c. The misleading Promissory Note;
- d. The June 30 Balance Sheet listing the Promissory Note at its face value shared with Gemini and Bitvavo;
- e. The “3AC Post-Mortem” document shared with Gemini and Bitvavo;
- f. The misleading “Risk Metric Request” document shared with Gemini and Bitvavo;
- g. The false July 6 Statement posted from Moro’s Twitter account;
- h. The October 20, 2022 lunch meeting between Silbert and Cameron Winklevoss, including the omissions regarding Genesis’s solvency and the true nature of the Promissory Note, and the false statements that Genesis faced only a short-term timing mismatch in its “complex” loan book;
- i. The October 23, 2022 phone call between Silbert and Cameron Winklevoss, repeating misleading information;
- j. The misleading November 9 Statement posted from the @GenesisTrading Twitter account; and
- k. The misleading November 10 Statement posted from the @GenesisTrading Twitter account.

B. Ducera and Kramer Had Actual Knowledge of the Other Defendants’ Fiduciary Breaches

344. Ducera, through its employees, including Kramer, Adam Verost, and Kishan Patel, had actual knowledge of the breaches of fiduciary duty by DCG, Silbert, Kraines, Murphy, and Moro. Immediately after the 3AC collapse on June 13, 2022, DCG reached out to its financial advisor, Ducera, to enlist Ducera’s assistance in responding to the crisis. The “scope of [Ducera’s] engagement” included “reviewing financial data and helping to prepare analysis and reports to provide to

potential investors, regulators and counterparties,” “advising re negotiations with any creditors of Genesis,” “assisting with communications re all of the above,” and “related services.” Through Ducera’s role as an advisor to DCG, and its participation in Project River, Ducera gained inside information about Genesis’s financial state—including that following the 3AC collapse, Genesis had a \$1.1 billion hole in its balance sheet (a hole that wiped out Genesis’s reported—but as described in Section XI, inaccurately inflated—equity) and was in desperate need of equity and liquidity to run its business and repay its lenders. As a reputable financial advisor in the restructuring space, Ducera had full understanding that DCG, as the controller of an insolvent company, had a duty to consider the interests of Genesis creditors. Because of the same expertise, Ducera had full understanding that Silbert, Kraines, Murphy, and Moro shared that duty by virtue of their positions at DCG and Genesis. Moreover, as Ducera structured and prepared the paperwork for the Promissory Note and the September 29 Transaction, and advised DCG regarding how Genesis should communicate with creditors about its financial health, Ducera had actual knowledge of those fiduciary breaches.

345. Ducera’s knowledge of Genesis’s insolvency is confirmed by the fact that on June 13, the same day it learned of Genesis’s exposure to 3AC, a Ducera employee contacted Genesis to call all Ducera’s fixed and open-term loans off the

platform—approximately \$6.6 million—and recalled over \$1.5 million in open-term loans on June 16.

346. Kramer likewise had knowledge of the breaches of fiduciary duty by DCG, Silbert, Kraines, Murphy, and Moro. As the CEO of Ducera and DCG's financial advisor, Kramer was intimately involved in DCG's response to 3AC. In fact, when DCG reached out to Ducera to enlist its help on June 13, Kramer was its point of contact. Following that outreach, Kramer was the actual recipient of the information DCG shared about Genesis's financial state after the 3AC collapse, described in Sections IX and X. As the CEO of a reputable financial advisor in the restructuring space, Kramer had full understanding that DCG, as the controller of an insolvent company, had a duty to consider the interests of Genesis creditors. Because of the same expertise, Kramer had full understanding that Silbert, Kraines, Murphy, and Moro shared that duty by virtue of their positions at DCG and Genesis. Moreover, as Kramer and his Ducera team structured and prepared the paperwork for the Promissory Note and the September 29 Transaction, and advised DCG regarding how Genesis should communicate with creditors about its financial health, Kramer had actual knowledge of those fiduciary breaches.

347. Kramer's knowledge of Genesis's insolvency is confirmed by the fact that on June 13, the same day Kramer learned of Genesis's exposure to 3AC, a Ducera employee contacted Genesis to call all of Kramer's fixed and open-term loans off the

platform—approximately \$12.8 million—and recalled over \$5.3 million in open-term loans on June 16. Moreover, in October 2022, when Ducera learned that Gemini intended to terminate the Earn Program, a Ducera employee immediately called Kramer’s loans to Genesis that had matured since June—approximately \$2.7 million.

C. Ducera and Kramer Substantially Assisted the Other Defendants’ Fiduciary Breaches

348. Ducera, through its employees, including Kramer, Adam Verost, and Kishan Patel, both provided substantial assistance to the fiduciary breaches by DCG, Silbert, Kraines, Murphy and Moro. Ducera and Kramer were also privy to key information regarding Genesis’s financial health, including the Oliver Wyman assessment which identified serious issues with Genesis’s risk management protocols, including a dearth of appropriate technology for managing the loan book, a limited ability to analyze or test risk exposure, and large counterparty concentration that risked the entire business. Ducera employees including Patel and Verost attended at least one GGH Board meeting on November 11, 2022.

349. As alleged above, the Promissory Note was a breach of fiduciary duty—it was a sham transaction that provided no financial support to Genesis. Ducera substantially assisted the other Defendants’ fiduciary breach. While Genesis employees begged DCG for an infusion of capital and liquidity, Ducera twisted that request into a structure that intentionally avoided DCG having to contribute capital

or liquidity. In fact, a stated benefit of the structure Ducera proposed was that it did “not require direct contribution of assets or capital of DCG into Genesis/GAP.” Moreover, Kramer himself was party to many communications between Ducera and DCG that excluded Genesis from discussions about its own financial future—a clear fiduciary breach by DCG, Silbert, Kraines, and Murphy. Through those communications, Kramer played a key role in DCG’s unilaterally dictating the non-commercial Promissory Note terms to Genesis. Kramer even pushed for terms *more* favorable to DCG than the final terms, suggesting zero interest rather than the 1% interest on which the group eventually settled.

350. As alleged above, Defendants’ misleading communications with Genesis lenders in the wake of 3AC’s collapse, including the circulation of the June 30 balance sheet, the 3AC Post-Mortem, and the Risk Metric Request, were breaches of fiduciary duty—they were shared expressly for the purpose of deceiving of lenders into believing Genesis was solvent and keeping their assets at Genesis or even depositing additional crypto or fiat currency. Ducera substantially assisted the other Defendants’ fiduciary breach. As part of Ducera’s secret engagement, Ducera was responsible for “reviewing financial data and helping to prepare analysis and reports to provide to potential investors, regulators and counterparties,” “advising re negotiations with any creditors of Genesis,” “assisting with communications re all of the above,” and “related services.” Internal correspondence shows that pursuant to

that engagement, Ducera advised a “simple is better” approach aimed at hiding the terms of the Promissory Note from Genesis lenders. Ducera also advised that Genesis employees should share the June 30 balance sheet mere minutes before calls with lenders to prevent lenders from scrutinizing Genesis’s misleading financial information, and it repeatedly instructed the other Defendants on how best to conceal Genesis’s true financial state when communicating with Genesis counterparties.

351. As alleged above, the September 29 Transaction was a breach of fiduciary duty—like the Promissory Note. The September 29 Transaction, like the Promissory Note, was a sham designed to create the illusion that DCG injected equity into Genesis when, in fact, DCG gave Genesis nothing. Ducera substantially assisted the other Defendants’ fiduciary breach. Ducera advised DCG on structuring this transaction and prepared the necessary documentation.

352. Kramer substantially assisted the Promissory Note fiduciary breach. Specifically, Kramer was involved in conceiving and structuring the Promissory Note, and even advocated for the zero percent interest version of the Promissory Note, which Goodwin pointed out was legally indefensible.

353. Kramer substantially assisted the other Defendants’ lies about Genesis’s financial health and documents, which breached their fiduciary duties. Kramer approved of Ducera’s guidance to share the June 30 balance sheet only

minutes before calls with counterparties to prevent them from scrutinizing Genesis's misleading financial information.

D. Genesis and Its Creditors Were Harmed

354. Without actual financial support from DCG, Genesis lacked the resources to continue as a going concern. When the FTX and Alameda collapse shattered the illusion of a solvent Genesis, Genesis and its creditors were left holding nothing but the sham Promissory Note that Ducera had helped create.

EIGHTH CAUSE OF ACTION

(Alter Ego Against DCG, Barry Silbert, Michael Kraines, and Mark Murphy)

355. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

356. This Eighth Cause of Action is brought by GGH, GGC, and GAP in their capacity as the Genesis Debtors and by GGC in its capacity as assignee of Gemini's claims.

A. DCG Dominated and Controlled Genesis

357. For years leading up to the Genesis bankruptcy, DCG used Genesis as its alter ego, instrumentality, and vehicle for fraud, in complete and utter disrespect and disregard for Delaware's legitimacy as a chartering jurisdiction. Accordingly, further to and in the alternative to their controller status, DCG, Silbert, Kraines, and Murphy owed fiduciary duties to Genesis and its residual claimants. DCG manipulated the corporate form and failed to observe corporate formalities between

DCG and Genesis by, among other things, making key decisions for GGC in lieu of an independent governance process and placing DCG personnel in leadership roles within the GGC organization. In fact, the De Facto Managers operated as the de facto managers of Genesis, meeting weekly or bi-weekly with Moro and instructing Moro regarding the operation of Genesis and its lending business. All key business decisions at Genesis required the approval of Silbert and DCG, which used its power over Genesis to force Genesis to enter into lending agreements that allowed DCG to further its own goals at the detriment of Genesis, including while Genesis was insolvent.

B. DCG and Genesis Had Significant Overlap in Operations

358. Genesis and DCG shared office space. In fact, GGH, GGC, and GAP employees worked from DCG's headquarters, even sitting next to DCG officers and employees in the same space. Genesis and DCG also shared IT infrastructure, including a financial recordkeeping system that granted DCG unfettered and unrestricted access to Genesis's books and records. DCG also controlled the hiring and firing of key Genesis personnel.

C. Genesis Was Undercapitalized by DCG

359. As discussed above, Genesis was critically undercapitalized by DCG. By June 2021, GGC had a capitalization of between 1.5-1.7%, a massive

undercapitalization that left it unable to withstand reasonably foreseeable market volatility and credit risk.

360. DCG knew of Genesis's severe undercapitalization because it was repeatedly warned of this fact by reliable advisors. Specifically, throughout 2021 and in early 2022, these advisors, including the Project Euclid consultants and Oliver Wyman, told DCG that Genesis was massively undercapitalized compared to other crypto lenders and similarly situated mid and small-cap banks, mortgage REITs, and business development companies. Later, in a June 2022 meeting with Silbert, venture capital fund Ribbit Capital recognized "the reality is that Genesis is undercapitalized to the tune of \$1B+."

361. DCG did nothing to address this problem even though Genesis was insolvent.

D. DCG Used Genesis as Its "De Facto Treasury"

362. DCG admitted in contemporaneous documents that it used Genesis as a "de facto treasury" and piggy bank. DCG caused Genesis to extend a nearly unlimited line of credit to DCG on an unsecured basis and favorable terms that DCG would not have been able to secure on the open market. Compounding that harm, DCG repeatedly required Genesis to extend maturity dates for loans given to DCG for little or no consideration in return, and sometimes unilaterally dictated new interest rates or changed the denomination with which loans were paid back (i.e., a

loan in BTC would be paid back with illiquid GBTC), including while Genesis was insolvent. Genesis had no say in these matters.

363. Contemporaneous documents—including reports created for Project Euclid and communications from Kraines—show DCG’s knowledge that Genesis was its alter ego as far back as March 2021. DCG did nothing to address these issues and vulnerabilities. Instead, throughout 2021 and 2022, DCG continued to run Genesis as its alter ego and instrumentality, including in June 2022 when Kraines referred to DCG and Genesis as “all one consolidated entity at the end of the day.” Indeed, after 3AC’s collapse, DCG officers including Silbert, Murphy, and Kraines, became *more* involved in day-to-day operations of Genesis, not less. Because Genesis was DCG’s alter ego, DCG is liable for misrepresentations made by Genesis employees after the collapse of 3AC.

E. DCG’s Misuse of Genesis Resulted in Fraud and Injustice

364. DCG used Genesis as an alter ego and instrumentality of DCG, unlawfully siphoned funds from an insolvent entity, and damaged Genesis and its residual claimants, including its creditors. As discussed in Section V above, DCG, Silbert, Kraines, and Murphy misused the corporate form of Genesis; left Genesis unequipped and unable to repay its lenders; caused Genesis to issue risky loans, including undercollateralized loans to risky counterparties; prevented Genesis from disposing of collateral it held to mitigate losses; allowed DCG to continue siphoning

funds from Genesis at the expense of Genesis creditors; and permitted DCG to orchestrate and make repeated lies to the public and Genesis creditors about Genesis's financial health.

365. DCG designed and issued the \$1.1 billion Promissory Note as a cosmetic balance sheet trick to create the illusion that it was providing support to Genesis without giving any liquidity or equity to Genesis. That gave DCG additional runway to continue siphoning funds from Genesis and deterred Genesis's counterparties from withdrawing assets. The Promissory Note also ensured that DCG would receive payments in 3AC's bankruptcy, which Genesis would have otherwise received from its claims against 3AC. The Promissory Note was deliberately created to prevent a run on the bank, to allow DCG to siphon funds from its "de facto treasury" that would otherwise be subject to creditor claims, and to enable DCG to avoid obligations to repay loans at the time they matured. DCG did the same thing with the September Roundtrip transaction—requiring Genesis to participate in a transaction through which it received nothing for the sole purpose of defrauding customers into believing DCG injected equity into and was supporting Genesis. Because Genesis was DCG's alter ego, DCG is liable for the total liabilities of Genesis, including to its creditors as residual claimants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

366. An award of damages, returned in-kind, in an amount to be determined based on the claims for relief outlined herein;

367. An equitable trust over any Genesis assets, including specifically cryptocurrency, that Defendants improperly took or converted during their tenure as managers, officers, directors, and controllers of DCG, Ducera, GGC, GGT, GGH, and GAP;

368. Disgorgement of all wrongfully retained compensation and benefits;

369. A declaration that Genesis was the alter ego of DCG and that DCG therefore is liable for all of Genesis's debts;

370. Reasonable attorneys' fees;

371. The costs of this proceeding;

372. All pre-judgment and post-judgment interest to which Genesis is entitled; and

373. Any other relief that is deemed just and proper.

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