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Case No. 2026-1478-BWD

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

NATHANIEL BRADLEY, individually, in his capacity as a Director of DATAVAULT AI INC., and derivatively on behalf of DATAVAULT AI INC., Plaintiff, v. JEFFREY TIRMAN, KIMBERLY BRISKEY, DR. JEFFREY M. GILBERT, CHRISTOPHER HARDT, DAVID HOWITT, HELGE KRISTENSEN, SRIRAM PERUVEMBA, BRETT MOYER, and DATAVAULT AI INC., a Delaware corporation, Defendant and Nominal Defendant., Defendants.	C.A. No. 2026-1478-BWD

VERIFIED AMENDED AND SUPPLEMENTAL COMPLAINT UNDER 8 DEL. C. § 225 AND § 111, AND DERIVATIVE CLAIMS

Plaintiff Nathaniel Bradley ("Plaintiff" or "Bradley"), by and through his undersigned counsel, files this Verified Amended and Supplemental Complaint against Defendants Jeffrey Tirman, Kimberly Briskey, Dr. Jeffrey M. Gilbert, Christopher Hardt, David Howitt, Helge Kristensen, Sriram Peruvemba, Brett Moyer (collectively, the "Director Defendants"), and Datavault AI Inc. ("Datavault" or the "Company"), seeking summary determination of the validity of corporate action and emergency equitable relief pursuant to 8 Del. C. § 225(a) and 8 Del. C. § 111, asserts related claims individually and derivatively on behalf of Datavault, and respectfully alleges as follows:

NATURE OF THE ACTION

1. This is a summary proceeding brought pursuant to Section 225(a) of the Delaware General Corporation Law ("DGCL"), 8 Del. C. § 225(a), and 8 Del. C. § 111, to determine the validity of the purported removal of Bradley as Chief Executive Officer and President of Datavault, to establish Bradley's continuing and unimpaired status as an active Director of the Company, and to invalidate ultra vires actions taken in violation of the Company's Certificate of Incorporation, its Bylaws, and Delaware law.

2. On October 30, 2026, Defendant Brett Moyer ("Moyer"), acting in his capacity as Chairman of the Board and Chief Financial Officer of Datavault, transmitted a letter by WhatsApp and to an e-mail address to which Moyer soon thereafter cut off access expressing his "judgment" and the "judgment" of unnamed members of the Board as basis for purported unilateral action to suspend Bradley from all duties as Chief Executive Officer and employee, with pay, direct him to stay out of corporate premises, and notify him that he would have no access to Company systems or his email account. In practice, the suspension cut Bradley off from all of his executive functions, including as President. Moyer possessed no legal or corporate authority to take such action. Under Section 3.14 of Datavault's Bylaws, the Chairman of the Board is not an executive officer by virtue of his office, and Section 5.4 of the Bylaws reserves the power to remove an officer chosen by the Board of Directors (the "Board"). Moyer did so two days

after Bradley asked the Board to consider removing Moyer as Chief Financial Officer, and before the Board had met on that request.

3. Rather than address the void, ultra vires nature of Moyer's unilateral suspension, the Director Defendants convened an emergency special meeting of the Board on Sunday, November 1, 2026, over Bradley's prompt threshold objection under Bylaws Section 3.9 and 8 Del. C. § 229, and without circulating proposed resolutions in advance. At that meeting, the Board purportedly voted 8 to 1, with Bradley the only dissenting vote, to remove Bradley as CEO and President and to terminate his employment.

4. The November 1 special meeting and its purported resolutions were procured through inequitable manipulation of corporate machinery as set forth in *Schnell v. Chris-Craft Industries, Inc*., 285 A.2d 437 (Del. 1971). While Moyer orchestrated an abrupt weekend lockout and purged Bradley, the Company faced pressing capital needs, which the financing Bradley had delivered the day before was designed to address.

5. Moyer did not present to the Board the $90 million to $100 million financing proposal from an investor syndicate, a proposal that required Bradley's operational continuity and of which Bradley had made Moyer aware expressly. Director David Howitt told Bradley by text message on October 30, 2026 that he had not seen the financing proposal, and on October 31, 2026, which the third-party financier transmitted the terms directly to the Board.

6. Although the Company's draft minutes concede that Bradley remains a sitting, un-resigned Director under 8 Del. C. § 141(b) (see also Bylaws Section 3.3 and the press release furnished as Exhibit 99.1 to the Company's Form 8-K filed November 9, 2026, which states that "Mr. Bradley remains a member of the Board"), Defendants have engaged in an ongoing freeze-out: cutting off his executive and board IT access, including access to Bradley's EOS Technology Holdings, Inc. ("EOS") vault.email mailbox, withholding critical board communications, and convening follow-up meetings (including a contested November 3, 2026 meeting at which six directors voted to approve the November 1 minutes of the improperly convened meeting over three "No" votes, and a November 6, 2026 meeting from which Bradley was excluded) in an attempt by Moyer to entrench himself in the face of gross financial mismanagement and paper over fundamental corporate and notice defects.

7. The removal was steered and manipulated at every step. On October 30, 2026, Chairman Moyer unilaterally suspended Bradley without Board authorization, immediately cutting off Bradley's Company DVLT email and his separate EOS-owned vault.email accounts at about the same time Chairman Moyer sent or caused to be sent the notice of a November 1 special meeting. For roughly 50 hours before the meeting, Bradley had no access to Company records, financial information, his Company email or the executive team. When Bradley could not access the meeting link due to the lockout, Moyer sent the Zoom link to Bradley via WhatsApp on October 31. At the November 1 meeting, over

Bradley's prompt threshold objection under Bylaws Section 3.9 and 8 Del. C. § 229, the Board purported to vote 8–1 to remove him as CEO and President. At the conclusion of that call, the Board orally announced that it would reconvene on November 3, 2026, at 6:00 p.m. Eastern Time. Sullivan & Worcester circulated the incomplete and imprecise multi-page draft minutes of the November 1 meeting to the Board approximately one hour before the November 3, 6:00 p.m. meeting convened, leaving Bradley no meaningful opportunity to prepare written objections before six directors voted to approve them as the Company's official record over a fractured 6–3 vote. Considered together, and not merely one by one, these events demonstrate a process orchestrated and tainted by procedural defects at every turn and devoid of corporate governance formalities, despite the presumptive participation and advice of Sullivan & Worcester.

8. At no time has Bradley resigned from his position as a Director or as Chief Executive Officer of the Company.

9. Late on November 5, 2026, Moyer, having knowingly and recklessly rejected new capital commitments that Bradley brought forward, emailed the members of the Board including Bradley, indicating that the executive team will not get paid this pay period.

10. On November 6, 2026, the Board held a special meeting. When Bradley tried to join about 45 minutes after it began, he was denied access.

11. Immediate judicial intervention is required pursuant to DGCL § 225(a) to determine the validity of the contested removals, enforce Bradley's statutory directorship rights under 8 Del. C. § 141 and Bylaws Article III, and enter a Status Quo Order restraining Defendants from taking irreversible corporate actions, executing dilutive emergency debt or equity restructurings, manipulating director election slates pending final adjudication, and unabashedly breaching fiduciary duties of care, candor, loyalty and good faith.

PARTIES

12. Plaintiff Nathaniel Bradley is an individual residing in Pennsylvania. Bradley founded the business whose assets Datavault acquired in 2024. He is the Chief Executive Officer and President of Datavault (the Board's purported removal of him is the subject of this action) and a duly elected member of its Board of Directors. Bradley is the inventor of the Company's core patented data technologies, including its digital tokenization platform, and is a significant stockholder of the Company.

13. Bradley co-founded the private company Data Vault Holdings Inc. ("Data Vault"), since renamed EOS Technology Holdings Inc. ("EOS" in 2025 after closing), in 2021. Data Vault's first subsidiary, Data Donate Technologies, Inc., founded in 2018, focused on data-enabled charitable giving; a second subsidiary, Data Vault Inc., pursued broader data monetization and tokenization. In late 2021 and 2022, Data Vault acquired ADIO, LLC ("ADIO") and True Luck, Inc. ("True

Luck") as wholly owned subsidiaries. ADIO held a patent portfolio directed to inaudible-tone recognition technology.

14. In a transaction that closed on December 31, 2024, Data Vault sold assets including ADIO code and the trade names "ADIO" and "Data Vault" to WiSA Technologies, Inc. ("WiSA"), which through a name change became Nasdaq-listed Datavault AI Inc., of which Bradley became Chief Executive Officer.

15. As consideration for that asset sale, WiSA issued 40,000,000 shares of its common stock to Data Vault and its designees and a $10,000,000 convertible promissory note to Data Vault, assumed certain liabilities, and agreed to pay Data Vault an earnout of 3% of net revenue attributable to the transferred patent rights, as stated in the Company's Form 8-K filed January 7, 2025 (Item 1.01 and Exs. 2.1, 4.1 and 10.1).

16. In its Form 10-K filed March 31, 2025, Datavault disclosed a year-over-year revenue increase of 28%, an increase from a gross deficit of $3.5 million to a gross profit of $0.4 million, and an increase in total assets from $4.8 million to $100.6 million. In its Form 10-Q for the quarter ended March 31, 2025, filed May 14, 2025, Datavault disclosed a quarterly year-over-year increase in net revenue of 147% and an increase from a gross deficit of $83,000 to a gross profit of $69,000.

17. During the period following Bradley's January 2025 appointment as CEO and continuing through mid-2025, Datavault's disclosures of strategic commercial relationships and an acquisition, included a Form 8-K and press

reporting of an alliance for integrating Datavault's Information Data Exchange with a blockchain exchange technology (March 17, 2025 Form 8-K); a March 24, 2025 press release announcing inclusion in IBM's Partner Plus program; a February 12, 2025 press release announcing an interoperability license agreement with Dolby Laboratories; and a May 20, 2025 Form 8-K disclosing finalization of Datavault's strategic acquisition of assets of CompuSystems, Inc. Defendant Moyer handled all financial deal structure, including legal, and compliance aspects; Bradley only handled the intellectual property, systems integrations, and the technology platform fit. Under the arrangement disclosed in the March 17, 2025 Form 8-K (Item 1.01 and Ex. 10.2, § 4.3), NYIAX agreed Datavault was to receive a license fee in the form of a $2.5 million convertible promissory note, accruing interest at 4% per year and convertible at $2.00 per share, and Datavault agreed to pay a $450,000 advance, structured not as a loan but to be recouped exclusively from that company's revenue share.

18. Defendant Datavault AI Inc. is a Delaware corporation with its principal executive offices located in Philadelphia, Pennsylvania. Datavault is the nominal and corporate defendant pursuant to 8 Del. C. § 225, and the nominal defendant on the claims asserted derivatively in Counts IV through VIII.

19. The registered agent for the Company is The Company Corporation, located at 251 Little Falls Drive, Wilmington, DE 19808.

20. Defendant Brett Moyer is a member of the Board and, according to the Company's Form 8-K filed November 9, 2026, was appointed Chief Executive

Officer and President of Datavault on November 6, 2026 (an appointment Bradley disputes); until then he was Chairman of the Board and Chief Financial Officer.

21. Defendant Kimberly Briskey is a member of the Board of Directors, formerly Chair of the Audit Committee and, according to the Company's Form 8-K filed November 9, 2026, Chair of the Board since November 6, 2026.

22. Defendant Dr. Jeffrey M. Gilbert is a member of the Board of Directors and a member of the Nominating and Corporate Governance Committee (the "NCG Committee").

23. Defendant Christopher Hardt is a member of the Board of Directors and a member of the NCG Committee and, according to the Company's Form 8-K filed November 9, 2026, Chair of the Audit Committee since November 6, 2026.

24. Defendant David Howitt is a member of the Board of Directors.

25. Defendant Helge Kristensen is a member of the Board of Directors.

26. Defendant Sriram Peruvemba is a member of the Board of Directors.

27. Defendant Jeffrey Tirman is a member of the Board of Directors.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction over this controversy pursuant to 8 Del. C. § 225(a), 8 Del. C. § 111, and 10 Del. C. § 341. Under DGCL § 225(a), the Court of Chancery has express statutory jurisdiction to hear and determine the validity of the election, appointment, removal, or expulsion of any officer or director of a Delaware corporation.

29. This Court has personal jurisdiction over the Director Defendants pursuant to 10 Del. C. § 3114(a) and (b), as each individual Defendant is a sitting director of a Delaware corporation who accepted and exercises fiduciary duties governed by Delaware law.

FACTUAL ALLEGATIONS

A. Governing Bylaw Framework

30. Datavault is governed by its 2018 Bylaws (as amended, the "Bylaws"). The Bylaws are included herewith as Exhibit "A."

31. Section 3.7 of the Bylaws governs special meetings of the Board, requiring that notice of the time and place of special meetings be delivered electronically, personally, or by telephone at least forty-eight (48) hours prior to the meeting.

32. Section 3.9 of the Bylaws tracks 8 Del. C. § 229 and provides that attendance at a meeting constitutes waiver of notice, "except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened."

B. Moyer's Unauthorized October 30 Suspension Set Every Later Action in Motion

33. Only the Board can act on the Chief Executive Officer. The business and affairs of Datavault are managed "by or under the direction of" its Board. 8 Del. C. § 141(a). The Board acts by "[t]he vote of the majority of the directors present at a meeting at which a quorum is present." *Id.* § 141(b). The Board may act

without a meeting only if "all members of the board . . . consent thereto in writing, or by electronic transmission," and the consent is filed with the minutes. *Id.* § 141(f); Bylaws § 3.10. Officers have the duties "stated in the bylaws or in a resolution of the board of directors," and hold office for the terms "prescribed by the bylaws or determined by the board of directors." 8 Del. C. § 142(a)–(b).

34. The Bylaws give the Chief Executive Officer "general supervision, direction, and control of the business and the officers of the corporation." Bylaws § 5.6. That authority is limited in only two ways. It is "subject to the control of the Board of Directors," and it is subject to "such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board." *Id.*

35. On information and belief, the Board has never adopted a resolution giving the Chairman any supervisory power over the Chief Executive Officer.

36. The Chairman holds no executive power by virtue of that position. The Chairman "shall not be considered an officer of the corporation, unless such chairman has an additional officer position." Bylaws § 3.14. Moyer's only additional office is Chief Financial Officer. The Bylaws give the Chief Financial Officer responsibility for the books of account, deposits and disbursements, and require the Chief Financial Officer to render an account "to the president, the chief executive officer, or the directors, upon request." Bylaws § 5.10. Nothing in Section 5.10 gives the Chief Financial Officer any power over the Chief Executive Officer.

37. Section 5.4 of the Bylaws governs removal of officers. It provides in full:

> "Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board of Directors at any regular or special meeting of the board or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom the power of removal is conferred by the Board of Directors."

38. Bradley is an officer chosen by the Board. The Board appointed Bradley Chief Executive Officer effective December 31, 2024 (Form 8-K filed January 7, 2025, Item 5.02). Under Section 5.4, only the Board, by majority vote at a regular or special meeting, could remove him or strip him of his authority. No officer could do so, even with a delegation from the Board. Neither Section 5.4 nor Section 5.6 mentions suspension.

39. Bradley's Executive Employment Agreement, effective December 31, 2024, confirms that he answers to the Board alone. A true and correct copy is attached as Exhibit B. Section 2 requires Bradley to perform "such other duties as the Board of Directors of the Company (the 'Board') may require from time to time," and provides that he "shall also work independently with the Board of Directors as required by the Board." The Agreement contains no provision for suspension or administrative leave, and no provision allowing any person other than the Board to limit his duties. The Agreement "may only be modified in a writing signed by the Executive and an officer of WiSA expressly authorized by

WiSA to modify this Agreement." Agreement § 18(b). Moyer signed the Agreement for the Company as its Chief Executive Officer.

40. On October 26, 2026, the Company filed a Form 8-K under Item 4.02, signed by Moyer as Chief Financial Officer. The Form 8-K disclosed the Company's Audit Committee's non-reliance determination on financial statements previously authorized for publication and at all times under the control of Moyer. Specifically, the Form 8-K disclosure, signed by Moyer, revealed that "[o]n October 20, 2026, the Audit Committee ('the Audit Committee') of the Board of Directors of Datavault AI Inc. (the 'Company') together with management concluded that [financial statements previously filed upon the authority of Moyer] should no longer be relied upon."

41. The Form 8-K then disclosed that "[s]imilarly, any related previously issued earnings releases, press releases, investor presentations and other communications describing the Company's financial results or related information for the affected periods should no longer be relied upon to the extent they reflect or are based upon the Affected Financial Statements." Such financial information was at all times under the control of Moyer.

42. The Form 8-K further disclosed, under the caption "Restatement Process," that "[t]he Company intends to restate the Affected Financial Statements in appropriate filings with the Securities and Exchange Commission ('SEC')….Investors analysts and other persons should not rely on the Affected

Financial Statements or related financial information …" all of which at all times were under the control of Moyer.

43. The filing disclosed that Scilex had credited 1,309.04 Bitcoin to a Company wallet at Biconomy Pte. Ltd. in connection with a $150 million equity purchase; that the Company had been unable since June 2026 to complete a withdrawal of Bitcoin from that wallet; that the Bitcoin did not qualify for recognition as a Company digital asset; and that four periods of financial statements would be restated, reducing reported total assets by $8.1 million, $92.2 million, $57.1 million and $49.0 million as of September 30, 2025, December 31, 2025, March 31, 2026 and June 30, 2026. The filing also stated that management was reassessing its going-concern evaluation.

44. On or about October 28, 2026, two days after that filing, Bradley asked the Board to consider removing Moyer as Chief Financial Officer.

45. On October 29, 2026, Bradley, and Sonia Choi, the Company's Chief Marketing Officer and Chief Operating Officer, presented to Moyer, as Chairman and Chief Financial Officer, an alternative $9 million to $100 million financing facility from an investor syndicate arranged through a third-party financier, and delivered its written terms. As contemporaneous communications confirm—including written exchanges with Director David Howitt, Moyer's own October 31 written markup of the facility terms, and the financier's transmittal to the Board—Moyer was made expressly aware of the terms but did not negotiate the terms with Bradley, as had been the established relationship between Bradley and

Moyer prior to Moyer having initiated the suspension and lockout. The proposal, which remained subject to negotiation, was a good-faith effort to meet the Company's financing needs, to stabilize its liquidity, cure maturing obligations and avoid Nasdaq delisting.

46. The Company's existing financing includes an unsecured convertible promissory note in the original principal amount of $25.03 million, issued to Streeterville Capital, LLC on August 18, 2026 and amended on October 15, 2026 to establish a Nasdaq floor price of $0.0632 (Form 8-K filed August 19, 2026, Item 1.01; Form 8-K filed October 15, 2026, Item 1.01 and Ex. 4.1). The note provides for market-based conversion at 92% of the lowest daily volume-weighted average price during the seven trading days before conversion, gives the holder a right to purchase up to $25,000,000 of additional notes, and carries an initial reserve of 300,000,000 shares.

47. The Company is also at risk of Nasdaq delisting, debt acceleration and corporate insolvency; Nasdaq has given the Company until February 22, 2027 to regain compliance with its minimum bid price requirement (Form 8-K filed August 25, 2026, Item 3.01).

48. Moyer increasingly exerted power to stifle contracted business strategies, including by mishandling stock issuances for partners in professional sports and media. Moyer repeatedly failed to pay, and complained about the performance of, providers with whom Bradley had contracted. On November 3, 2026, DataMEDS AI, Inc. gave written notice terminating its non-binding Second

Amended and Restated Letter of Intent dated October 19, 2026 with Datavault and others, citing market conditions (DataMEDS Form 8-K filed November 5, 2026, Item 1.02 and Ex. 99.1). Under that letter of intent, Datavault was to receive 19.5% of the equity of DataMEDS AI, Inc. (Nasdaq: MEDS) for licensing Datavault's patented intellectual property in healthcare, along with later royalties. The termination of that non-binding letter of intent eliminated anticipated near-term revenue.

49. The Company is using its intellectual property to generate licensing agreements, and that activity has been disrupted by the actions of the Board, including Moyer. Shareholders, as well as Bradley, believe that Bradley's continued involvement with Datavault is important to the Company's ability to develop and commercialize its tokenization business, and the suspension of his executive roles has caused direct harm to Datavault that will be compounded unless he is immediately returned to his post as Chief Executive Officer and President.

50. On October 30, 2026, at approximately 4:00 p.m. Eastern Time, before the Board had met on Bradley's request, Moyer sent Bradley, by email and WhatsApp, a letter suspending him "effective immediately" from "any and all job duties and responsibilities in your capacity as Chief Executive Officer ('CEO') and employee of Datavault AI Inc.," "with pay," "due to your activities as CEO of Datavault pending the Special Meeting, as set forth in the Notice of Special Meeting of the Board of Directors . . . sent to you on October 30, 2026." The

letter notified Bradley that he "will not have access to the Datavault systems, physical offices or your current email account during the suspension" and directed him "to refrain from attempting to enter the physical offices of Datavault." A true and correct copy of the letter is attached as Exhibit C. The letter stated that the suspension reflected "the judgment of the Chairman and members of the Board." Moyer signed it alone, as "Chairman of the Board of Directors," an office that carries no power to suspend or remove an officer chosen by the Board (Bylaws §§ 3.14, 5.4). The letter identified no Board resolution, written consent or Board vote authorizing the suspension, and no director other than Moyer. In practice, the suspension cut Bradley off from all of his executive functions, including as President, before the Board's November 1 vote purported to remove him as CEO and President.

51. No Board action supported the letter. No meeting of the Board had been called or held to consider a suspension. The Board had not deliberated on one. No written consent under 8 Del. C. § 141(f) or Bylaws Section 3.10 had been circulated, signed by all directors, or filed with the minutes. On information and belief, not every director was consulted before the letter was sent. Bradley received no notice of a Board meeting or of a written consent before the suspension. Director Howitt told Bradley by text message on October 30, 2026 that he had not been included in any Board activities.

52. Whatever views individual directors may have shared with Moyer before October 30 were not action of the Board. Directors act for the corporation only

as a board, at a meeting with a quorum or by unanimous written consent. 8 Del. C. § 141(b), (f).

53. Moyer's own conduct demonstrates that he knew the Board had not acted. At about the same time he sent the suspension letter, a notice went out calling a special meeting of the Board for November 1, 2026, to "consider whether to remove" Bradley from his officer and employee positions. A meeting to consider removal would have served no purpose if the Board had already exercised its judgment.

54. Moyer signed the notice. He then presided over the November 1 meeting, presented the removal resolutions and voted for them. The same director sent the suspension letter, called the meeting to remove Bradley and ran that meeting, two days after Bradley had asked the Board to consider removing him.

55. The suspension did in practice what only a Board vote could do. Immediately after sending the letter, Moyer directed Chief Technology Officer Jeffrey Jones to deactivate Bradley's access to Company systems, shut off his Company email account and bar him from Company premises, including by deactivating his badge. Bradley's access to two personal email accounts that are not Company accounts, were cut off at the same time. From that moment Bradley could not exercise any of the authority Section 5.6 of the Bylaws gives the Chief Executive Officer.

56. The suspension shaped the November 1 meeting. For roughly 50 hours before the meeting, Bradley had no access to Company records, financial

information, his Company email or the executive team. He came to the meeting as an officer already suspended, without the records he needed to answer the directors. The incomplete and misleading draft minutes record that the directors questioned Bradley about the financing, including whether an investor had been identified, whether proof of funds was available and what terms had been proposed, and that "[n]o term sheet or proof of funds was presented during the Meeting." The term sheet Bradley had delivered to Moyer before the suspension was on the Company systems to which Moyer's letter had told Bradley he would have no access, and from which Moyer had locked him out.

57. The draft minutes of the November 1 meeting record that "[t]he directors and Mr. Bradley next discussed the suspension of his access to Company systems and related operational matters." The resolutions adopted at the meeting do not mention the October 30 suspension. They do not find that the Board authorized it, and they do not ratify it. The resolutions rely only on Bylaws Section 5.4 and 8 Del. C. § 142(b).

58. The draft minutes also state that the directors described the removal as reflecting "the collective judgment of the Board." That is the same claim Moyer made in his October 30 letter, two days before any meeting was held.

59. The Board has never ratified the October 30 suspension. On information and belief, no resolution adopted on November 1, November 3 or November 6, 2026 refers to it.

60. The suspension was the first act and the necessary one. It placed Bradley outside the Company before the Board met. It put the Board in front of a Chief Executive Officer who had already been removed in practice. It allowed Moyer, the officer whose own removal Bradley had asked the Board to consider, to strip Bradley of his authority before the Board took up that request. Every later action challenged in this Complaint followed from it: the November 1 vote, the November 3 approval of the minutes, the Nominating and Corporate Governance Committee's slate without Bradley, and Bradley's exclusion from the November 6 meeting.

61. On November 5, 2026, the Company filed a Form 8-K under Item 5.02, signed by Moyer as Chief Financial Officer, reporting that the Board had removed Bradley as Chief Executive Officer and President on November 1, 2026. Moyer thus signed both the October 26 restatement disclosure and the November 5 removal disclosure.

C. The Procedurally Defective November 1 Special Meeting

62. At about the same time as Moyer's unlawful action, an electronic notice was transmitted purporting to call a special Zoom meeting of the Board for Sunday, November 1, 2026, at 5:00 p.m. Eastern Time. The notice email was transmitted on October 30, 2026, at approximately 4:15 p.m. Eastern Time. Because Bradley remained locked out of Company systems, Moyer resent the Zoom link to Bradley via WhatsApp on October 31, 2026.

63. The notice cited Article IV, Section 4 of the Bylaws, a section that does not exist (Article IV, which governs committees, contains only Sections 4.1 through 4.3 and says nothing about removing officers), rather than Section 5.4 of Article V, which vests the removal of an officer chosen by the Board in the Board.

64. Bradley appeared at the November 1 Zoom meeting alongside his personal counsel, Jacob S. Frenkel, who attended as an observer.

65. At the beginning of the meeting, before any motion was made or vote taken Bradley asserted a formal threshold objection pursuant to Bylaws Section 3.9 and 8 Del. C. § 229 to the transaction of any business, stating that the meeting had not been lawfully called or convened, that the October 30 suspension was an ultra vires act by the Chairman, that notice was defective, and that directors had been deprived of required materials. Bradley expressly requested that his objection be entered in the minutes.

66. Disregarding the threshold objection, Moyer presided and pressed for immediate removal resolutions that had never been circulated in draft form prior to the call.

67. Over Bradley's recorded dissent, the Board purportedly voted 8–1 to remove Bradley as CEO and President, terminate his employment, and reserve rights regarding "Cause." Sullivan & Worcester's draft minutes record that Tirman attended the November 1 call, in which Tirman actively and repeatedly sought to suppress Bradley's right to address the Board.

68. Bradley never delivered a written resignation, and as conceded in Sullivan & Worcester's incomplete and imprecise draft minutes, Bradley continues to serve as an active member of the Board under 8 Del. C. § 141(b). Under Bylaws Section 3.3, he holds office until his successor is elected and qualified.

D. November 3 Approval of the Minutes and Continued Exclusion

69. Following the November 1 meeting, the NCG Committee (consisting solely of Defendants Gilbert and Hardt) convened at 6:54 p.m., about an hour after the Board meeting adjourned, for an 11-minute session and recommended an 8-member board slate for the upcoming Annual Meeting that does not include Bradley, and recommended Moyer as CEO/President, Teri Gallo as COO and Hardt as Chair of the Audit Committee.

70. The NCG Committee only recommends: according to the Company's October 30, 2026 preliminary proxy statement, the Board determines the nominees after considering the Committee's recommendation and report. Under the Committee's charter and the Company's SEC disclosures, its role is to identify, evaluate and recommend qualified director nominees, including by evaluating the performance and contributions of incumbent directors eligible for re-election, and to ensure board independence under Nasdaq rules. The Committee made no inquiry into Bradley's performance, qualifications or contributions, and the draft minutes Bradley has seen reflect no evaluation of him as an incumbent director. Section 4.1 of the Bylaws gives a committee only the powers "provided in the resolution of the Board of Directors, or in these Bylaws,"

and Section 5.5 provides that vacancies in corporate offices "shall be filled by the Board of Directors." Section 4.2 requires each committee to "keep regular minutes of its meetings and report the same to the Board of Directors when required," and Section 4.3 makes committee meetings and actions subject to the notice and written-consent requirements of Sections 3.7 and 3.10. Bradley has received no resolution, minutes or notice showing that the full Board formally voted to adopt the Committee's slate at its November 3 or November 6, 2026 meetings.

71. Bradley learned of the Committee's action on November 3, 2026, when Sullivan & Worcester sent him the draft minutes of the Committee meeting together with the draft minutes of the November 1 Board meeting, about one hour before the Board met that evening. The Committee's charter requires that its minutes be distributed to each director. As of the date of this Complaint, the Company has not distributed to Bradley, a sitting director, final minutes, a resolution or a written consent reflecting the Committee's November 1 action, and Bradley is unaware of finalized versions of any of the meeting minutes. Bradley was denied access to the November 6 meeting.

72. On November 3, 2026, the Board held a follow-up meeting, which Bradley attended. The motion before the Board was to approve the draft minutes of the November 1 meeting. The Board did not vote on any motion to ratify, confirm or re-adopt the November 1 removal, and it did not vote on the October 30

suspension. Two directors, including Director Howitt, broke from Moyer and joined Bradley in voting “No,” and the minutes were approved 6–3.

73. The draft minutes of the November 1 meeting were circulated to the Board by Sullivan & Worcester at about 5:00 p.m. Eastern Time, about one hour before the November 3 meeting began at 6:00 p.m. Eastern Time. The draft runs several pages and recasts matters Bradley disputes, including his positions on them. At the November 3 meeting the Board voted 6–3 to approve those minutes as the Board’s official record of the November 1 meeting.

74. Bradley received the draft minutes about one hour before the meeting, leaving him almost no time to prepare a written objection to them. He voted “No” on their approval, and he has not accepted the minutes’ account of the November 1 meeting or recognized his removal.

75. Defendants continue to lock Bradley out of corporate information systems, refuse to provide board packets and financial reports to him as a sitting director, and threaten to execute emergency dilutive restructuring transactions.

E. Supplemental Allegations: The November 6, 2026 Board Meeting

76. On November 3, 2026, before the Board's November 6, 2026 meeting, Tirman emailed every member of the Board (Briskey, Hardt, Moyer, Peruvemba, Gilbert, Kristensen, Howitt and Bradley), with copies to four attorneys at Sullivan & Worcester LLP, including David E. Danovitch, stating that he would not attend. In the email, Tirman stated his support for Bradley's termination, which he described as "a ratification only of an affirmative decision already taken" at

the November 1 meeting, and said he was "not open to any alteration or change of course regarding this matter for any reason, including claims that financing hangs in the balance." He also stated that he favored Moyer as Chief Executive Officer and President, Teri Gallo as Chief Operating Officer, Stanley Mbugua as Chief Financial Officer, Briskey as Chair of the Board and Hardt as Chair of the Audit Committee. Those are the same appointments the Company reports the Board made at the November 6 meeting. In the same email, Tirman proposed financing, proxy and corporate-strategy items and purported to give his proxy to Defendant Hardt "for any other matters that might come before the board for consideration." A director must be personally present to act as a member of the board. *See DSM HoldCo, Inc. v. Demoulas*, 361 A.3d 70, 120 n.320 (Del. Ch. 2026) (noting that "a director cannot act qua director by proxy") (citing *In re Acadia Dairies, Inc*., 135 A. 846, 847 (Del. Ch. 1927), and *Lippman v. Kehoe Stenograph Co.,* 11 Del. Ch. 80, 89, 95 A. 895, 897 (Del. Ch. 1915)). Bradley does not know whether Hardt purported to vote Tirman's proxy, or whether Tirman was counted toward a quorum or any vote at the meeting.

77. Bradley does not know what the Board discussed or decided before he was denied access or after. He has not received an agenda, board materials, minutes or resolutions for the November 6 meeting.

78. Bradley’s personal counsel, Jacob S. Frenkel, immediately protested the lockout to Sullivan & Worcester LLP, which responded.

79. On November 9, 2026, the Company filed a Form 8-K (Items 5.02 and 7.01) reporting that on November 6, 2026 the Board appointed Moyer Chief Executive Officer and President, Stanley Mbugua Chief Financial Officer and Teri Gallo Chief Operating Officer, and appointed Kimberly Briskey Chair of the Board, Sriram Peruvemba Vice Chair and Hardt Chair of the Audit Committee. The press release furnished as Exhibit 99.1 states that "Mr. Moyer succeeds Nathaniel Bradley, who was removed as Chief Executive Officer and President on November 1, 2026," and that "Mr. Bradley remains a member of the Board."

80. On information and belief, the Board made those appointments at the November 6 meeting from which Bradley was excluded, and Bradley did not participate in or vote on them. The Company has not provided Bradley the minutes or resolutions of that meeting.

F. Moyer's Knowledge and Concealment of NYIAX's Liabilities, and the Abri Conflicts of Tirman and Hardt

81. On March 18, 2026, Datavault, DVLT Merger Sub, Inc. and NYIAX, Inc. ("NYIAX") entered into an Agreement and Plan of Merger (the "Merger Agreement"). The merger closed on August 18, 2026. According to the Company's Form 8-K filed August 19, 2026, the Company issued 74,800,629 shares of its common stock as merger consideration and paid approximately $494,859.29 in cash to NYIAX holders who were not accredited investors. Section 1.5 of the Merger Agreement gave NYIAX the right to designate two individuals for appointment to the Board.

82. Moyer was himself a NYIAX stockholder. His Form 4, which he signed on August 21, 2026, reports that on August 18, 2026 he received 26,024 shares of Company common stock "in exchange for 18,413 shares of NYIAX, Inc. . . . common stock" "as a stockholder of NYIAX." Apart from that Form 4, no Company filing, including the related-party section of the Company's October 30, 2026 preliminary proxy statement, discloses that Moyer held NYIAX stock while the Board considered and approved the Merger Agreement. On information and belief, Moyer acquired that stake through a $100,000 pre-merger investment that he did not disclose. Moyer never disclosed to Bradley, and on information and belief never disclosed to the Datavault Board, this self-dealing personal monetary investment or his shareholding before the Board voted to approve the Merger Agreement.

83. On July 17, 2026, while the merger was pending, the Company entered into a Guaranteed Bridge Loan Agreement (the "Bridge Loan Agreement") as guarantor of a bridge facility of up to $833,333 extended to NYIAX by Abri Capital Ltd. ("Abri Capital"), a Bermuda company. Each advance carried a 10% original issue discount and interest at 13% per year, rising to 18% on default. The loan was due on September 11, 2026, and was to be repaid in full within three days after the merger closed. The Company's guarantee is "a first-call, on-demand guarantee." The Bridge Loan Agreement recites that Abri Capital "has previously extended credit to the Borrower which remains outstanding and in default," and it refers to previously pledged shares (the "Pledged Shares"). Moyer

signed the Bridge Loan Agreement for the Company as guarantor. Tirman signed it for Abri Capital as its "President." From that day, at the latest, Moyer knew that Abri Capital was an existing creditor of NYIAX in default and that Tirman controlled Abri Capital. The Company filed the Bridge Loan Agreement as Exhibit 10.1 to its Form 8-K of July 22, 2026.

84. After the merger closed, NYIAX designated Hardt and Tirman for appointment to the Board. On October 2, 2026, upon the recommendation of the NCG Committee, the Board appointed Hardt as a director and as a member of the Audit Committee and the NCG Committee. On October 11, 2026, upon the recommendation of the NCG Committee, of which Hardt was then a member, the Board appointed Tirman as a director effective October 12, 2026. On information and belief, Hardt took part, as a member of the NCG Committee, in recommending Tirman's appointment, without disclosing the Abri affiliations described below that he and Tirman share.

85. Moyer, as Chief Financial Officer, signed the Company's Forms 8-K announcing each appointment, dated October 6 and October 15, 2026. Each states that the new director "has no direct or indirect material interest in any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K." Moyer signed the October 15 Form 8-K about three months after he signed the Company's guarantee of Abri Capital's loan, which Tirman had signed as Abri Capital's President.

86. Tirman's Form 3 (filed October 16, 2026) reports that the 26,052,293 shares of Company common stock attributed to him (about 2.5%) are held by Abri Capital, of which Tirman is the "sole shareholder and Chief Executive Officer." The preliminary proxy statement states that Tirman "founded Abri Advisors ("Abri"), a private family-office investment firm, in February 2016." As to Hardt, the October 6, 2026 Form 8-K states that he served as Chief Financial Officer and a director of Abri SPAC 2, Inc. from August 2021 to May 2026 and as Chief Financial Officer of Abri Advisors Ltd; the preliminary proxy statement lists his "service as Chief Financial Officer of Abri Capital" and states that he "previously served on NYIAX's board of directors." The Board nonetheless determined that both Tirman and Hardt are independent directors.

87. No Company filing reports that the Abri Capital bridge loan, which matured on September 11, 2026, was repaid, or that the Company's guarantee was called or released. That includes the Company's October 30, 2026 preliminary proxy statement. On September 30, 2025, a UCC financing statement (New York Department of State Filing No. 202509308490048) was recorded naming NYIAX as debtor and Abri Advisors Ltd. (Hamilton, Bermuda) as secured party, listing Tirman as filer contact, and covering 1,750,000 shares of Datavault common stock and related voting and distribution rights. The financing statement states that it was filed in connection with a Secured Bridge Loan Agreement and a Stock Pledge and Security Agreement, each dated as of September 30, 2025, between NYIAX, as debtor, and Abri Advisors Ltd., as

secured party. It remained of record throughout the merger negotiations and closing and was terminated of record on October 21, 2026 (Filing No. 21261021087381-2), with the acknowledgment directed to Abri Capital Ltd. Abri Advisors Ltd. authorized the termination, but it lists Abri Capital Ltd., at an address in Newark, Delaware, as the filer contact and the party to receive the acknowledgment. Abri Capital Ltd., the record holder of Tirman's Company shares, is not registered as a Delaware entity: a November 9, 2026 search of the Delaware Division of Corporations' entity records for "Abri Capital" returned no records. A certified search of the Delaware Secretary of State's UCC records for debtor NYIAX Inc., dated November 9, 2026, reflects no presently effective or lapsed financing statements naming NYIAX Inc. as debtor as of October 21, 2026.

88. The October 30, 2026 preliminary proxy statement contains a section titled "Certain Relationships and Related Transactions," covering transactions since January 1, 2024 exceeding $120,000 in which a related person had a direct or indirect material interest. That section describes several related-person transactions. It does not mention NYIAX, the Bridge Loan Agreement, the Company's guarantee, Abri Capital or Moyer's NYIAX holding. The Abri Capital facility exceeded that $120,000 threshold. The proxy statement's Item 407(a) independence disclosures likewise omit these transactions while stating that Hardt and Tirman are independent. According to the same proxy statement, the Audit Committee "considers and approves or disapproves any related person

transaction"; the Company's policy reaches "any indebtedness or guarantee of indebtedness"; and "there is no $120,000 threshold for members of the Audit Committee." Hardt is a member of the Audit Committee. On November 6, 2026, the Board appointed Hardt Chair of the Audit Committee and appointed Moyer Chief Executive Officer and President (Form 8-K filed November 9, 2026, Item 5.02).

89. On information and belief, all such undisclosed related party transactions, security interests and lack of independence were known fully at all times to Moyer.

90. On information and belief, other NYIAX liabilities were also not presented to the Board.

a. Litigation. Before the merger closed on August 18, 2026, NYIAX was subject to undisclosed executive compensation claims in New Jersey Superior Court, Law Division, Morris County, brought by Carolina Abenante, NYIAX's founder, former director and Chief Strategy Officer, and Mark Grinbaum, NYIAX's co-founder and former Executive Vice President of Financial Platform Technology, New Markets, and Finance. Abenante filed suit on July 6, 2026 (*Abenante v. NYIAX, Inc., et al.,* Docket No. MRS-L-001611-26). Her First Amended Verified Complaint, filed September 10, 2026, asserts claims including unpaid wages under the New Jersey Wage Payment Law and Wage Theft Act, breach of employment contract,

accrued paid time off and expense reimbursements. Grinbaum served written demands on NYIAX before closing, including a May 13, 2026 demand for appraisal of his NYIAX shares and a June 10, 2026 preservation of that demand in light of the planned merger, and later filed an amended complaint on October 5, 2026 (*Grinbaum v. NYIAX, Inc., et al.,* Docket No. MRS-L-002402-26). His claims include unpaid wages, breach of his employment and advisor agreements, nonpayment of approximately $319,750 in loans and notes, and violations of the New Jersey RICO Act. Both actions name NYIAX, Teri Gallo and William Feldman as defendants, and Gallo was appointed Chief Operating Officer of Datavault on November 6, 2026 upon the recommendation of the NCG Committee. NYIAX was also subject to formal demand notices concerning executive actions involving Teri Gallo dating to February 2026. None of these matters was disclosed to the Board.

b. The Nasdaq license. NYIAX's platform runs on Nasdaq technology under an IT Services Agreement requiring an annual license fee of $350,000 plus a share of revenue. NYIAX's SEC reports disclosed that it had not made those payments on a timely basis and that it had negotiated an amended payment schedule with Nasdaq. On information and belief, NYIAX later defaulted on its $350,000 annual fee under that agreement, and its platform technology license

was cancelled or lapsed before the merger closed; that was not disclosed to the Board.

c. Moyer owed Datavault and its directors a fiduciary duty of candor and loyalty to ensure full disclosure at each critical stage of the NYIAX transaction: when the Board evaluated and approved the Merger Agreement on or about March 18, 2026; when Moyer committed Datavault to the first-call, on-demand guarantee of Abri Capital's bridge loan on July 17, 2026, which Moyer executed without formal Board deliberation or approval; and when the merger closed on August 18, 2026. Moyer breached that duty by remaining silent at each stage. Moyer never disclosed to Bradley or the Board: (a) his personal NYIAX shareholding; (b) Abri Capital's pre-existing, defaulted credit to NYIAX; (c) NYIAX's September 30, 2025 pledge of 1,750,000 Datavault shares to Abri Advisors Ltd., which remained encumbered until October 21, 2026; (d) Tirman's control of Abri Capital; or (e) the New Jersey liabilities. On information and belief, the lapse of NYIAX's Nasdaq technology license occurred in the third quarter of 2026, before the August 18, 2026 closing.

91. The Board relied on Moyer, then the Company's Chief Financial Officer and a director, for the financial diligence on NYIAX and for the terms of the guarantee. In reliance on Moyer's statements and his fiduciary duties of candor

and loyalty, and on the absence of any disclosure of the facts above, the Board approved the Merger Agreement, approved the guarantee of Abri Capital's loan and closed the merger, and later appointed Tirman and Hardt as independent directors.

92. As a result, the Company acquired NYIAX subject to Abri Capital's defaulted credit and, on information and belief, to the litigation and Nasdaq license matters described above; guaranteed up to $833,333 of Abri Capital's loan, plus interest and fees; and issued 74,800,629 shares of its common stock, diluting every existing stockholder, including Bradley.

93. Neither Tirman nor Hardt disclosed to the Board, when they joined it or before any later vote, Abri Capital's defaulted credit to NYIAX or the status of the Bridge Loan Agreement, or the Abri Advisors pledge and financing statement, on which Tirman was listed as filer contact. Neither recused himself. According to the Company's Form 8-K filed November 5, 2026, every director other than Bradley voted to remove him. That evening Hardt, as a member of the NCG Committee, participated in the NCG Committee's recommendation of a management slate without Bradley.

94. Tirman's interest is personal and adverse to the Company. Through Abri Capital, he was a creditor of NYIAX and the beneficiary of the Company's guarantee when he joined the Board on October 12, 2026. The Abri Advisors financing statement that lists him as filer contact remained of record until October 21, 2026. *See* ¶¶ 83, 86–87. On information and belief, Abri Capital's credit and

the guaranteed loan remain outstanding. Every Board decision about the Company's liquidity, financing or restructuring affects whether and how Abri Capital is paid.

95. Tirman acted on that interest without disclosing it or recusing himself. *See* ¶ 93. He voted on November 1 to remove Bradley. Two days later he told the Board he would not change course "for any reason, including claims that financing hangs in the balance," while proposing financing items of his own and purporting to give his proxy to Hardt. *See* ¶ 73.

G. Derivative Allegations and Demand Futility

96. Bradley brings Counts IV through VII, and Count VIII in the alternative, derivatively on behalf of Datavault to redress injury to the Company. Bradley has held Datavault common stock continuously since December 31, 2024, before the Merger Agreement, the guarantee and every other act challenged in those Counts, and he will continue to hold it while this action is pending. He will fairly and adequately represent the interests of the Company.

97. Bradley did not make a demand on the Board before asserting these claims. Demand is excused because at least half of the directors in office when this Complaint is filed could not impartially consider one. *See United Food & Com. Workers Union & Participating Food Indus. Emps. Tri-State Pension Fund v. Zuckerberg*, 262 A.3d 1034, 1048 (Del. 2021). The Board has nine members: Bradley, Moyer, Briskey, Gilbert, Hardt, Howitt, Kristensen, Peruvemba and Tirman.

98. Moyer. Moyer is the principal defendant on each derivative Count and faces a substantial likelihood of liability on them. He also received material personal benefits from the conduct challenged: the exchange of his NYIAX shares for 26,024 shares of Company common stock at closing and, on November 6, 2026, his appointment as Chief Executive Officer and President.

99. Tirman. Tirman is the sole shareholder and Chief Executive Officer of Abri Capital, the NYIAX creditor whose loan the Company guaranteed. A decision to pursue these claims would require him to weigh the Company's interests against Abri Capital's. He also faces a substantial likelihood of liability on Counts VI through VIII.

100. Hardt. Hardt served as Chief Financial Officer of Abri Capital and of Abri Advisors Ltd., the secured party on NYIAX's pledge of 1,750,000 shares of Datavault common stock, and as a director of NYIAX. He faces a substantial likelihood of liability on Counts VI through VIII. On November 6, 2026, he became Chair of the Audit Committee, which reviews the kind of related-person transactions at issue here.

101. Briskey and Peruvemba. Defendants Kimberly Briskey and Sriram Peruvemba cannot disinterestedly evaluate a demand. On November 6, 2026, at the special Board meeting convened following Bradley's exclusion, Briskey was appointed Chair of the Board and Peruvemba was appointed Vice Chair, in the same coordinated series of corporate actions that installed Moyer as Chief Executive Officer and President and Hardt as Chair of the Audit Committee.

Because Briskey and Peruvemba derived their corporate offices and titles directly from the challenged governance restructuring, they have a disabling personal interest in sustaining the validity of those appointments and cannot impartially consider bringing suit to invalidate them.

102. Kristensen. Defendant Helge Kristensen lacks independence. The Board has determined that Kristensen is not an independent director under Nasdaq listing standards, and the Company's preliminary proxy statement filed October 30, 2026 expressly discloses ongoing material related-person transactions between the Company and Hansong Technology, an original device manufacturer of which Kristensen has served as Vice President for 18 years. For the year ended December 31, 2025, Hansong Technology engaged in commercial product purchases and sales with Datavault exceeding $1.1 million. Because of these ongoing material commercial ties, which require recurring executive approval by Moyer and the Audit Committee, Kristensen cannot exercise independent judgment adverse to management regarding a demand.

103. The Board’s conduct since October 28, 2026 confirms that it cannot impartially consider claims against Moyer. Two days after Bradley asked the Board to consider removing Moyer as Chief Financial Officer, the Board allowed Moyer to suspend Bradley. It then removed Bradley on November 1 without taking up his request, and on November 6 it appointed Moyer Chief Executive Officer and President and Hardt Chair of the Audit Committee.

COUNT I
(Determination of Corporate Authority and Invalidation of Ultra Vires Actions Under 8 Del. C. § 225(a) and § 111)
(Against All Defendants)

104. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

105. Under 8 Del. C. § 225(a), this Court is empowered to determine the validity of the removal of any officer of a Delaware corporation and to adjudicate the right of any person to hold corporate office.

106. Section 5.4 of the Bylaws vests the authority to remove an officer chosen by the Board in the Board acting collectively by a majority vote at a lawfully regular or special meeting of the Board; or the Board may otherwise act without a meeting only by unanimous written consent under 8 Del. C. § 141(f) and Bylaws Section 3.10.

107. Moyer's October 30, 2026 suspension of Bradley was issued without any action of the Board at a meeting or by unanimous written consent, in violation of 8 Del. C. § 141(b) and (f) and Bylaws Sections 3.10, 3.14, 5.4 and 5.6, and was void. The Board has never ratified it. The November 1 meeting and its resolutions were built on the suspension and cannot be separated from it.

108. The purported November 1, 2026 special meeting was convened two days after Moyer's October 30 suspension cut off Bradley's access to Company records, his Company email and the executive team, and it rests on that suspension. Bradley's timely threshold objection under 8 Del. C. § 229 and

Bylaws Section 3.9 preserved his objection to the calling and conduct of the meeting, and the actions taken at that meeting are voidable in equity, as set out in Count II.

109. The Board's actions at its November 6, 2026, meeting stand on a different footing. Bradley was refused entry. A sitting director has the right to attend and take part at Boards meetings. The Board shut him out and then made the Chair and officer appointments without him. *See DSM HoldCo, Inc.* 361 A.3d at 120 n.318 ("Although *Lippman* referred to the actions as 'void,' in modern parlance they are voidable."); *Moelis & Co. v. W. Palm Beach Firefighters' Pension Fund,* 360 A.3d 215, 227–28 (Del. 2026) (describing actions taken at a special meeting held on faulty notice as voidable, not void). Because Bradley, a sitting director, received no notice of the November 6 meeting under Bylaws Section 3.7, the appointments made at it (Moyer as Chief Executive Officer and President, Stanley Mbugua as Chief Financial Officer and Teri Gallo as Chief Operating Officer) and its other actions, including Briskey's appointment as Chair of the Board, are invalid and, at a minimum, voidable. Bradley is entitled to a determination under 8 Del. C. § 225(a) that those officer appointments are invalid. In the alternative, those actions are void. *See Schroder v. Scotten, Dillon Co.,* 299 A.2d 431, 435 (Del. Ch. 1972). If Bradley received notice and was then refused entry, the same actions are invalid in equity. *See id.* at 435–36; *GB-SP Holdings, LLC v. Walker*, 2024 Del. Ch. LEXIS 363, at *61–62 (Del. Ch. Nov. 15, 2024) (describing *Schroder*'s holding that board action is invalid where a director's

absence is procured by trickery). If any vote at the November 6 meeting counted Tirman's purported proxy, that vote is invalid for that reason as well, because directors may not vote by proxy.

110. The Board's November 3, 2026 vote did not ratify the November 1 removal. The only motion was to approve the draft minutes. A vote to approve minutes adopts them as the record of what happened at a meeting. It is not a new vote on the actions the minutes describe, and it does not cure defects in how those actions were taken. Even if the vote could be read as a ratification, it would fail. A board ratifies a defective act only when it acts with knowledge of the material facts, including the defect itself. *See HREF Senior Worthington LLC v. Conroe WM LLC*, 2026 Del. Ch. LEXIS 8, at *34 (Del. Ch. Jan. 12, 2026) (ratification "is always a 'voluntary and positive act,'" and "[k]nowledge, actual or imputed, of all material facts is an essential" element (quoting *Frank v. Wilson & Co.*, 32 A.2d 277, 305 (Del. 1943))), *aff'd*, No. 89, 2026 (Del. Oct. 8, 2026) (ORDER). The statutory ratification procedure rests on the same principle: the board must adopt resolutions stating the defective act, its date, and "the nature of the failure of authorization." 8 Del. C. § 204(b)(1). The directors who voted on November 3 had the draft minutes for about one hour before they voted, and no resolution adopted on November 3 stated the nature of the notice defects Bradley raised on November 1. Nor has the Board ratified the October 30 suspension. The November 1 resolutions do not mention it, and no later resolution refers to it.

111. Plaintiff is entitled to a declaration that the October 30 suspension was voidable or void and without legal force or effect, and that the November 1 removal actions are invalid.

COUNT II
(Inequitable Manipulation of Corporate Machinery)
(Against All Director Defendants)

112. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

113. Under the seminal rule of *Schnell v. Chris-Craft Industries, Inc*., 285 A.2d 437 (Del. 1971), corporate actions that may be technically or formally compliant with the Delaware General Corporation Law are nonetheless impermissible and voidable in equity when utilized for an inequitable purpose, including perpetuating fiduciaries in control, frustrating corporate democracy, or disenfranchising opposing directors.

114. The Director Defendants utilized corporate machinery inequitably by:

a. Allowing Moyer, whose removal as Chief Financial Officer Bradley had asked the Board to consider, to suspend Bradley without Board authority and lock him out of Company systems, records and email two days before the Board met to consider his removal;

b. Removing Bradley's access to his EOS-owned vault.email and Company email mailboxes;

c. Presenting the Board on November 1 with a Chief Executive Officer already removed in practice, and then adopting removal resolutions that did not address the suspension;

d. Not pursuing Bradley's $90M–$100M financing proposal;

e. Excluding directors, including Director Howitt, from notice and deliberations;

f. Recommending, and on information and belief adopting, a slate that omits Bradley after the Rule 14a-19 nomination deadline had passed and shortly before the definitive proxy statement is to be mailed; and

g. Circulating the draft minutes of that meeting to the Board about one hour before the vote that made them the Company's official record

115. A board that acts to interfere with a stockholder election of directors must justify that action to the Court. *Coster v. UIP Cos.*, 300 A.3d 656, 671 (Del. 2023). The Company's preliminary proxy statement, filed October 30, 2026, named Bradley as a nominee for election at the December 16, 2026 annual meeting and states that voting materials will first be mailed on or about November 18, 2026. Under Exchange Act Rule 14a-19(b)(1), 17 C.F.R. § 240.14a-19(b)(1), a stockholder who intends to solicit proxies for nominees other than the Company's must give notice at least 60 calendar days before the anniversary of the prior year's annual meeting, which was held on November 24, 2025; that date passed on September 25, 2026. On November 1, 2026, after that date and about seventeen days before the scheduled mailing, the NCG Committee recommended

a slate that omits Bradley. Bradley has received no resolution, minutes or notice showing that the full Board formally adopted that slate at its November 3 or November 6, 2026 meeting. Stockholders who wish to vote for Bradley now have no practical means of doing so through a competing slate.

116. Board action taken in breach of equitable principles is voidable in equity, subject to defenses such as laches and acquiescence, which require full knowledge of the material facts. *See Moelis,* 360 A.3d at 227–28; *Klaassen v. Allegro Dev. Corp.*, 106 A.3d 1035, 1046–48 (Del. 2014). Bradley objected at the beginning of the November 1 meeting, voted "No" on November 3, filed this action on November 6, five days after his removal, and has not acquiesced in his removal.

117. Plaintiff has suffered and continues to suffer irreparable harm by being unlawfully stripped of his corporate office and excluded from governance.

COUNT III
(Enforcement of Director Governance and Inspection Rights Under 8 Del. C. § 141 and Bylaws Article III)
(Against Datavault AI Inc. and Brett Moyer)

118. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

119. Pursuant to 8 Del. C. § 141(b), a director may resign upon notice given in writing or by electronic transmission to the corporation, and Bylaws Section 3.4 provides for resignation upon written notice to the attention of the Secretary.

120. Bradley has never delivered a written resignation. As confirmed by Sullivan & Worcester's November 1 draft minutes, Bradley remains an active, sitting Director of Datavault. Under Bylaws Section 3.3, he holds office "until his or her successor is elected and qualified or until his or her earlier resignation or removal," and the Company's Form 8-K filed November 9, 2026 (Ex. 99.1) states that "Mr. Bradley remains a member of the Board."

121. As a sitting Director, Bradley is endowed under Delaware law with fundamental, non-waivable rights to receive notice of all board meetings, receive complete board materials, attend and participate in all deliberations, and access company communication channels.

122. Defendants have breached their statutory and contractual obligations under the Bylaws by deactivating Bradley's access, withholding board materials, and attempting to manage corporate affairs without his participation.

123. Plaintiff has no adequate remedy at law.

COUNT IV
(Fraud and Fraudulent Concealment)
(Against Defendant Moyer;* Asserted Derivatively on Behalf of Datavault*)

124. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

125. Fraud consists of (1) a false representation, usually of fact, (2) the defendant's knowledge or belief that it was false, or reckless indifference to its truth, (3) an intent to induce the plaintiff to act or refrain from acting, (4) action or inaction in justifiable reliance on the representation, and (5) resulting damage.

Stephenson v. Capano Dev., Inc., 462 A.2d 1069, 1074 (Del. 1983). Fraud may also occur "through deliberate concealment of material facts, or by silence in the face of a duty to speak." *Id.*

126. As a director, Chairman and Chief Financial Officer, Moyer had a duty to disclose to the Board the material facts he knew about NYIAX. Having spoken to the Board about NYIAX, he was also bound not to tell half-truths.

127. Moyer had a fiduciary duty of candor and full disclosure to Datavault and its Board at each critical stage of the NYIAX transaction. That duty to speak arose: (a) when the Board evaluated and approved the Merger Agreement, which the Company entered into on or about March 18, 2026; (b) when Moyer, without Board deliberation or resolution, committed the Company to the first-call, on-demand guarantee of Abri Capital's bridge loan on or about July 17, 2026; and (c) when the merger closed on or about August 18, 2026. At each of those stages, Moyer remained silent and concealed: (i) his personal NYIAX shareholding; (ii) Abri Capital's pre-existing, defaulted credit to NYIAX; (iii) NYIAX's pledge of 1,750,000 Datavault shares to Abri Advisors Ltd.; (iv) Tirman's control of Abri Capital; (v) the New Jersey litigation against NYIAX; and (vi) the lapse of NYIAX's Nasdaq technology license. By remaining silent in the face of a duty to speak, Moyer induced the Board to approve the Merger Agreement and allow the merger to close, and caused the Company to incur the guarantee, without knowledge of these liabilities and conflicts.

128. Moyer knew the concealed facts. He knew of his own NYIAX holding, which he converted into Company stock at closing. No later than July 17, 2026, when he signed the Bridge Loan Agreement, he knew that Abri Capital's earlier credit to NYIAX was in default and that Tirman was Abri Capital's President. He concealed these facts to obtain the Board's approval of the Merger Agreement and the guarantee and to protect his personal stake in NYIAX.

129. The Board, including Bradley, justifiably relied on Moyer, the Company's senior financial officer, in approving the Merger Agreement and the guarantee. The Board had no reason to doubt him, and Moyer's personal NYIAX holding was known only to him.

130. As a direct result, Datavault was damaged as alleged above, in an amount to be proven at trial.

COUNT V
(Equitable Fraud and Negligent Misrepresentation)
(Against Defendant Moyer;* Asserted Derivatively on Behalf of Datavault*; Pleaded in the Alternative to Count IV)

131. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

132. Equitable fraud requires the elements of common-law fraud, except that the plaintiff need not show that the misstatement or omission was made knowingly or recklessly; equity "provides a remedy for negligent or innocent misrepresentations." *Zirn v. VLI Corp.,* 681 A.2d 1050, 1061 (Del. 1996).

133. Moyer stood in a special relationship of trust with the Company and its directors. He was a director, the Chairman and the Chief Financial Officer. He owed fiduciary duties to the Company. The directors relied on him for the financial diligence on NYIAX, and he controlled the information on which they acted.

134. In the alternative to Count IV, if Moyer did not know the omitted facts were material, he failed to exercise reasonable care in obtaining and disclosing to the Board the facts about Abri Capital's defaulted credit to NYIAX and Tirman's control of Abri Capital, as well as, on information and belief, the New Jersey litigation and the Nasdaq license lapse. Moyer remained silent about those facts, alleged in Section F, at each stage identified in Paragraph 127: when the Board approved the Merger Agreement on or about March 18, 2026, when Moyer committed the Company to the guarantee on or about July 17, 2026, and when the merger closed on or about August 18, 2026. His omissions left the Board without those facts when it approved the Merger Agreement and allowed the merger to close, and they caused the Company to incur the guarantee. The Board, including Bradley, justifiably relied on Moyer’s disclosures as complete, and Datavault was damaged as a result, as alleged above.

COUNT VI
(Constructive Fraud)
(Against Defendants Moyer, Tirman and Hardt;* Asserted Derivatively on Behalf of Datavault*)

135. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

136. Moyer, Tirman and Hardt each stood in a fiduciary and confidential relationship with Datavault and its directors. Constructive fraud arises from the breach of a duty owed by reason of such a relationship, where the breach tends to deceive or to gain an unfair advantage. It does not require an intent to deceive.

137. Moyer breached that duty by failing to disclose the matters concerning NYIAX and Abri Capital alleged in Section F, including his own NYIAX holding, while the Board acted on the merger and the guarantee, and by signing the October 6 and October 15, 2026 Forms 8-K stating that neither Hardt nor Tirman had any interest requiring disclosure under Item 404(a) of Regulation S-K.

138. Tirman and Hardt breached that duty by taking part in Board and committee decisions, including Bradley's removal on November 1, 2026 and the Committee's recommendation of a management slate without him, without disclosing Abri Capital's defaulted credit to NYIAX, the Company's guarantee of Abri Capital's loan or their own ties to Abri Capital, while the Board treated each of them as independent.

139. Their nondisclosure tended to deceive the Board and the Company's stockholders and gave each of them an advantage: Moyer protected his stake in NYIAX and, on November 6, 2026, was appointed Chief Executive Officer and President; Tirman protected Abri Capital's position as a guaranteed creditor; and Hardt became Chair of the Audit Committee, which passes on related-person transactions. Datavault was damaged as a result.

COUNT VII
(Breach of Fiduciary Duty of Loyalty, Including Good Faith and Candor)
(Against Defendants Moyer, Tirman and Hardt; Asserted Derivatively on Behalf of Datavault)

140. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

141. As directors of Datavault, and in Moyer's case also as an officer, Moyer, Tirman and Hardt owe the Company a duty of loyalty. That duty includes acting in good faith, disclosing to the Board the material information they hold about matters before it, and disclosing any personal interest they have in those matters.

142. Moyer breached his duty of loyalty by concealing from the Board the matters alleged in Section F, including his own financial interest in NYIAX, while the Board decided whether to approve the merger and the guarantee, and by signing the October 6 and October 15, 2026 Forms 8-K stating that Hardt and Tirman had no interest requiring disclosure under Item 404(a) of Regulation S-K, when he had signed the Abri Capital guarantee himself.

143. Tirman breached his duty of loyalty. As the sole shareholder, Chief Executive Officer and President of Abri Capital, he has a material personal interest in the Company's guarantee and in the repayment of Abri Capital's credit to NYIAX, and that interest is adverse to the Company. He did not disclose it to the Board, he did not recuse himself, and he took part in Board decisions on Bradley's removal while it remained undisclosed. A director who acts on a matter in which he holds an undisclosed, material personal interest adverse to the corporation breaches the duty of loyalty, whatever the merits of the decision.

144. Hardt breached his duty of loyalty. Hardt served as Chief Financial Officer of Abri Capital and as a director of NYIAX, Inc., and was designated by NYIAX for appointment to the Datavault Board. On information and belief, by virtue of his senior executive role overseeing the financial affairs of the lender, Abri Capital, and his fiduciary role overseeing the governance, debts and material contracts of the borrower, NYIAX, Hardt knew of Abri Capital's pre-existing, defaulted credit to NYIAX, the $833,333 guaranteed bridge loan facility, the New Jersey litigation against NYIAX and the lapse of NYIAX's Nasdaq technology license. Hardt never disclosed these liabilities or his Abri-related conflicts to the Datavault Board. While concealing these relationships, Hardt sat on the NCG Committee when it recommended the appointment of Abri founder Jeffrey Tirman as an "independent" director. As a member of the Audit Committee, which reviews related-person transactions with no dollar threshold for its own members, Hardt also took no step to cause the October 30, 2026 preliminary

proxy statement or other Company filings to disclose the Bridge Loan Agreement or Datavault's guarantee.

145. Datavault has been damaged by these breaches, as alleged above. Bradley, a stockholder of Datavault (he held 4,235,970 shares directly according to the Company's definitive proxy statement filed October 27, 2025, and 10,906,188 shares directly according to its preliminary proxy statement filed October 30, 2026), who has continuously held common shares of Datavault since December 31, 2024, well before the March 18, 2026 Merger Agreement and at all times relevant to the conduct complained of, brings this Count derivatively on its behalf.

COUNT VIII
(Civil Conspiracy and Aiding and Abetting Breach of Fiduciary Duty)
(Against Defendants Moyer, Tirman and Hardt; Asserted Individually and, in the Alternative, Derivatively on Behalf of Datavault)

146. Plaintiff repeats and realleges each allegation set forth above as if fully set forth herein.

147. Civil conspiracy requires "(1) [a] confederation or combination of two or more persons; (2) [a]n unlawful act done in furtherance of the conspiracy; and (3) [a]ctual damage." *Nicolet, Inc. v. Nutt*, 525 A.2d 146, 149–50 (Del. 1987). Each conspirator is jointly and severally liable for the acts of the others in furtherance of the conspiracy. *Id.* at 150.

148. Aiding and abetting requires "(1) the existence of a fiduciary relationship, (2) a breach of the fiduciary's duty, . . . (3) knowing participation in

that breach by the defendants," and (4) damages proximately caused by the breach. *Malpiede v. Townson*, 780 A.2d 1075, 1096 (Del. 2001). Knowing participation requires that the defendant act with knowledge that the conduct advocated or assisted constitutes a breach. *Id.* at 1097.

149. Moyer, Tirman and Hardt combined to keep the NYIAX liabilities and the Abri Capital conflicts from the Board and the Company's stockholders and to remove the one director who had asked the Board to consider removing Moyer. Acts in furtherance included: the concealment alleged in Section F; the October 6 and October 15, 2026 Forms 8-K stating that Hardt and Tirman had no Item 404(a) interest; the omission of the Bridge Loan Agreement and the guarantee from the October 30, 2026 preliminary proxy statement; the October 30 suspension and the November 1 removal vote; the Nominating and Corporate Governance Committee's action that evening; and the November 6, 2026 appointments of Moyer as Chief Executive Officer and President and of Hardt as Chair of the Audit Committee.

150. Moyer, Tirman and Hardt did not act solely as agents of Datavault. The intracorporate conspiracy doctrine does not shield fiduciaries who conspire to breach their fiduciary duties to the corporation, and it does not apply where the participants act for personal motives outside their corporate roles. *Allied Capital Corp. v. GC-Sun Holdings, L.P.,* 910 A.2d 1020, 1036–39 (Del. Ch. 2006). Each defendant acted for his own interests and those of entities other than Datavault: Moyer to protect his personal stake in NYIAX, which he converted into Company

stock at closing, and to obtain the offices of Chief Executive Officer and President; Tirman to protect Abri Capital, of which he is the sole shareholder, Chief Executive Officer and President, as a guaranteed creditor of the Company and a creditor of NYIAX; and Hardt to protect the interests of Abri Capital, where he served as Chief Financial Officer, and of NYIAX, on whose board he served and which designated him to the Datavault Board.

151. Each of them knew that the conduct of the others breached fiduciary duties owed to Datavault and gave it substantial assistance.

152. Datavault suffered actual damage as a result, as alleged above. Bradley suffered individual injury: his removal as Chief Executive Officer and President and his exclusion from the Board's deliberations, which were among the acts in furtherance of the conspiracy.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Nathaniel Bradley respectfully requests that this Court enter judgment in his favor and grant the following relief:

A. Summary Determination: Enter an order pursuant to 8 Del. C. § 225(a) determining and declaring that:

1) Nathaniel Bradley is the Chief Executive Officer and President of Datavault AI, Inc.;
2) The October 30, 2026 suspension of Bradley was not an act of the Board, was void ab initio and has never been ratified;

3) The November 1, 2026 special meeting and the purported removal resolutions adopted thereat were procedurally defective, inequitable, and invalid;

4) The Board's November 3, 2026 vote to approve the minutes of the November 1, 2026 meeting did not ratify the purported removal;

5) The Board's November 6, 2026 appointments of Brett Moyer as Chief Executive Officer and President, Stanley Mbugua as Chief Financial Officer and Teri Gallo as Chief Operating Officer, and its other actions at the November 6 meeting, are invalid and without legal effect;

B. Director Status Declaration: Declare that Nathaniel Bradley remains an active, un-resigned Director of Datavault AI Inc., holding office under Bylaws Section 3.3 until his successor is elected and qualified, with full directorial authority, notice rights, and inspection privileges under Delaware law and the Bylaws;

C. Status Quo Order: Enter an immediate Status Quo Order pending final hearing:

1) Restraining Defendants from entering into any extraordinary, out-of-the-ordinary-course debt restructuring, material financing agreements, or convertible note waivers without prior notice and either Court approval or the written agreement of the parties; provided, however, that nothing in such order restricts the Company's payment or performance of the convertible note held by EOS Technology Holdings, Inc. in accordance with its terms as in effect on the date the Court enters the Status Quo Order;

2) Restraining Defendants from modifying, deleting, or spoliating electronic communications, server logs, or email records;

3) Ordering Defendants to restore Bradley's electronic board access and furnish all board notices and materials;

4) Directing that the Company's definitive proxy statement for the December 16, 2026 annual meeting disclose this action and the dispute over the November 1 and November 6, 2026 Board meetings;

5) Requiring Defendants to give Bradley's counsel at least five (5) business days' written notice before the Company files its definitive proxy statement, changes the date of the annual meeting or the record date, changes the size of the Board, or amends the Bylaws;

6) Requiring Defendants to give Bradley notice of every meeting of the Board and of any committee, at the addresses he designates, together with access to the meeting and its materials;

7) Barring any change in the size or composition of the Board while this action is pending, other than through the election at the December 16, 2026 annual meeting; and

8) Restraining Defendants from removing Bradley from the slate of nominees named in the Company's preliminary proxy statement filed October 30, 2026, and from filing, mailing or using any definitive proxy statement or other solicitation material for the December 16, 2026 annual meeting that names a slate excluding Bradley;

D. Expedited Proceedings: Order that Counts I through III be set for an expedited trial on the merits within thirty (30) days consistent with the summary nature of

proceedings under 8 Del. C. § 225, and that Counts IV through VIII proceed on a schedule the Court sets;

E. Damages: Award compensatory damages against Moyer, Tirman and Hardt, jointly and severally, on Counts IV through VIII, in favor of Datavault on the claims asserted derivatively and in favor of Bradley on Count VIII to the extent of his individual injury, together with pre- and post-judgment interest;

F. Equitable Relief: On Counts V through VIII, order an accounting and disgorgement of any benefit that Moyer, Tirman or Hardt obtained through the conduct alleged, and declare that Tirman and Hardt were not disinterested in any Board action affecting Abri Capital or NYIAX;

G. Attorneys' Fees and Costs: Award Plaintiff his reasonable attorneys' fees, expenses, and costs incurred in this action to the extent permitted by Delaware law, reserving all rights to seek advancement or indemnification under Bylaws Article VI; and

H. General Relief: Grant Plaintiff such other and further equitable relief as the Court deems just and proper.

/s/ Sean J. Bellew
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Attorney for Plaintiff

DATED: November 13, 2026

INDEX OF EXHIBITS

Exhibit A – Bylaws of Datavault AI Inc.

Exhibit B – Executive Employment Agreement, effective December 31, 2024 (filed as Exhibit 10.4 to the Company's Form 8-K of January 7, 2025)

Exhibit C – Letter from Brett Moyer, Chairman of the Board of Directors, to Nathaniel Bradley dated October 30, 2026 (sent by email and WhatsApp)

Exhibit D – Form 4 of Brett Moyer, filed August 21, 2026

Exhibit E – Form 3 of Jeffrey Tirman, filed October 16, 2026

Exhibit F – Guaranteed Bridge Loan Agreement dated July 17, 2026 (Exhibit 10.1 to Form 8-K filed July 22, 2026)

Exhibit G – Forms 8-K filed October 6, October 15, November 5 and November 9, 2026

Exhibit H – New York UCC Filing Nos. 202509308490048 and 21261021087381-2

Exhibit I – Redlined Supplemental Amended Complaint