



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

SHAREHOLDER REPRESENTATIVE :
SERVICES LLC, solely in its capacity as :
the representative, agent and attorney-in-fact: :
of the Securityholders of Just Invest :
Systems, Inc., and JustInvest, LLC, :

Plaintiff, :

v. :

RAISONNABLE, INC., and VANGUARD :
PERSONALIZED INDEXING :
MANAGEMENT, LLC, :

Defendants. :

C.A No.: 2025-0768-EMD

Original Filed: July 3, 2025

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VERIFIED COMPLAINT FOR NEGLIGENT MISREPRESENTATION

Shareholder Representative Services LLC, solely in its capacity as representative, agent and attorney-in-fact of the Securityholders of Just Invest Systems, Inc. and JustInvest, LLC (“SRS”), and by and through its undersigned attorneys, alleges as follows:

PRELIMINARY STATEMENT

1. This is an action against Reasonable, Inc. and Vanguard Personalized Indexing Management, LLC¹ (together, “Vanguard” or “Defendants”) for negligent

¹ Post-Merger, JustInvest is operated by Vanguard as Vanguard Personalized Indexing Management.

misrepresentation² relating to the acquisition by Raisonnable, Inc.,³ Raisonnable A, LLC, and Raisonnable B, Inc. of Just Invest Systems, Inc. and JustInvest, LLC (collectively, “JustInvest” or the “Company”) pursuant to certain Agreements and Plans of Merger dated July 2, 2021⁴ (collectively, the “Agreement” documenting the “Merger”).

2. In brief, Vanguard knowingly and deliberately, and alternatively negligently,⁵ engaged in both pre- and post-Merger misconduct and made knowing and material misrepresentations and/or omissions in order to induce the Company and its securityholders to enter into the Agreement. Based on its breaches, omissions and misrepresentations, Vanguard then interfered with and drastically reduced post-closing earn-out payments (the “Performance Payments”) due to the Continuing

² Plaintiff originally filed its negligent misrepresentation claim, along with claims for breach of contract and fraudulent inducement, in the Superior Court. The other claims remain pending before President Judge Eric M. Davis, C.A. No.: N24C-06-146 EMD CCLD. Pursuant to this Court’s “Guidelines for Requesting Special Designation of Judicial Officers in Court of Chancery Actions,” November 19, 2024, *available at*: <https://courts.delaware.gov/forms/download.aspx?id=185928> (the “Guidelines”), Plaintiff has elected to refile its negligent misrepresentation claim before this Court, and seek special designation of President Judge Davis to hear that claim along with the Plaintiff’s other claims.

³ Raisonnable, Inc., is a wholly-owned subsidiary of The Vanguard Group, Inc.

⁴ Attached hereto as Exhibits A and B.

⁵ Although some of the allegations in this “PRELIMINARY STATEMENT” and the “FACTUAL BACKGROUND” section below specifically relate to Plaintiff’s breach of contract and/or fraudulent inducement claims pending before the Superior Court, to avoid confusion, and the appearance of conflicting allegations, Plaintiff has not attempted to revise those factual allegations in this pleading.

Company Securityholders of JustInvest (the “Securityholders”).

3. In reliance on Vanguard’s representations and omissions, the Securityholders agreed to a deal structure in which the Performance Payments constituted a large share of the consideration for the Merger.

4. Pursuant to the Agreement, SRS is the representative of the Securityholders of JustInvest. (Agreement § 7.6.)

5. JustInvest was a financial technology company providing tailored wealth management technology, including personalized indexing capabilities.

6. JustInvest was acquired by Vanguard in October 2021, upon the closing of the Merger, in Vanguard’s first-ever corporate acquisition. The majority of the consideration to the Securityholders for the transaction took the form of the Performance Payments calculated based on revenue targets for the newly-acquired JustInvest.

7. During the Merger negotiations, however, Vanguard made material misrepresentations regarding its plans to support JustInvest’s business plan, including the amount of assets (and thus revenue) that Vanguard could bring to the JustInvest business and the assets that JustInvest would be allowed to retain or pursue.

8. Unbeknownst to the Securityholders, Vanguard also was aware of material risks to, and limitations on, the assets JustInvest would be able to manage,

and the customers that JustInvest would be able serve, post-Merger. Rather than disclose its awareness of these risks and limitations (despite many communications about the importance of these assets and customers to JustInvest’s business and business plan), Vanguard intentionally shifted the costs of such risks and limitations to the Securityholders (and away from Vanguard) via the Performance Payment structure.

9. Among other things, Vanguard failed to disclose to the Securityholders and to JustInvest management, for instance, that it was aware prior to the Merger that [REDACTED] would likely deny access for any new accounts managed by JustInvest when the acquisition consummated—despite Vanguard’s awareness that access to [REDACTED] accounted for [REDACTED] of JustInvest’s business and a significant portion of the projected AUM and other measures assumed in JustInvest’s business plan.

10. Three months after the Merger, this major risk—of which Vanguard was aware but failed to disclose to JustInvest—materialized, and [REDACTED] did, in fact, restrict access and prevent JustInvest from onboarding new clients via the [REDACTED] platform, directly and substantially impacting JustInvest’s post-closing revenue.

11. Part of the inducement for the Securityholders to agree to the Merger with Vanguard was Vanguard’s specific representations about their ability to earn the Performance Payments. Indeed, before the Merger closed, Vanguard expressed

concerns that the Securityholders would earn the full Performance Payments under the Agreement *too quickly*. Vanguard stated that JustInvest would easily reach more than \$10 billion in assets under management in the first year post-closing alone.

12. Defendants also breached the Agreement, which requires that Vanguard “shall not take any actions in bad faith that have the primary intention of avoiding or reducing the payment of any portion of the Maximum Performance Payment,” and which further requires that Vanguard “shall cause [JustInvest] to be supported in a manner consistent with [its] business plan” (Agreement § 1.17(b).) Contrary to the business plan, Vanguard intentionally reduced JustInvest’s revenue goals post-closing and made concerted efforts to avoid or block deals with third parties and other opportunities to otherwise prevent JustInvest’s full realization of the Performance Payments and its business plan.

13. In one such example, after JustInvest had successfully reached the final round of an opportunity with the client [REDACTED] for the onboarding of \$900 million in assets onto the JustInvest asset management platform, Vanguard management blocked the deal by directing Vanguard salespersons to withdraw JustInvest’s offer of interest in managing the account, indicating only (without support or explanation) that it was not “strategic.”

14. Vanguard additionally induced the Securityholders to agree to tie the majority of the Merger consideration to the Performance Payments by making

representations regarding JustInvest managing pools of assets effectively under Vanguard's allocation directions, namely, Vanguard's institutional group, which managed money for large non-profits, universities and endowments, and its [REDACTED] group, which manages money for [REDACTED]. As of today, nearly three years after closing, JustInvest has been prevented from offering its services to such clients, interfering with JustInvest's post-Merger business plan and achievement of revenue targets.

15. In or about October 2023, Vanguard's Brent Beardsley—Head of Advisor Services at Vanguard, who directly manages JustInvest—stated that if Vanguard were to pay the originally anticipated Performance Payments to the Securityholders, then the “incentives” for the JustInvest team to stay at Vanguard would have been diminished, causing Vanguard difficulty in running the business. In this and other instances, Vanguard effectively conceded its intention to delay and otherwise undermine the business growth of JustInvest in order to drastically and materially reduce, and to otherwise avoid making, the Performance Payments to the Securityholders.

16. Later, on June 20, 2024, in retaliation for raising Vanguard's breaches and misconduct discussed herein, Defendants terminated without cause the employment of the three largest JustInvest Securityholders, Jonathan Hudacko, Vijay Rao, and Alan Cummings, who had led the business and its growth.

17. In early July 2024, Defendants further terminated JustInvest’s advisory services to a number of the JustInvest customers with whom Hudacko, Rao, and Cummings had relationships.

18. These and other actions were taken in bad faith, for the primary intention of further reducing the Performance Payments, and also were inconsistent with the Company’s business plan.

THE PARTIES

19. SRS is a Colorado limited liability company having its principal place of business in Colorado.

20. Raisonnable, Inc. is a Delaware corporation having its principal place of business in Delaware.

21. Vanguard Personalized Indexing Management, LLC is a Delaware limited liability company having its principal place of business in Delaware.

JURISDICTION AND VENUE

22. This Court has personal jurisdiction over the Defendants, which, as a Delaware corporation and LLC, have availed themselves of Delaware’s laws. Defendants further consented to submit to the jurisdiction of this Court. (*See* Agreement § 9.9.) This Court has jurisdiction over this matter pursuant to 10 *Del. C.* § 541.

23. Venue is proper in this Court because the parties agreed that disputes

arising under or in connection with the Agreement (Agreement § 9.9) would exclusively be heard in the state and federal courts sitting in Delaware.

FACTUAL BACKGROUND

24. JustInvest was a financial technology company providing tailored wealth management technology, including personalized indexing capabilities.

25. On or about October 1, 2021, JustInvest and Vanguard merged pursuant to the terms of the Agreement, pursuant to which JustInvest merged with and became a wholly-owned subsidiary of Vanguard.

26. Following the Merger, JustInvest is now known as Vanguard Personalized Indexing (“VPI”) or Vanguard Personalized Indexing Management (“VPIM”) as part of Vanguard.⁶

27. Per the Agreement, SRS is the post-Merger representative of the Securityholders and continues to represent the Securityholders under the terms of the Agreement. (Agreement § 7.6.)

A. The Agreement and Performance Payment Provisions

28. Under the Agreement, a substantial portion of the consideration to the Securityholders for selling JustInvest to Vanguard was in the form of the

⁶ Post-Merger, JustInvest has been renamed and is operated by Vanguard as VPIM. For simplicity, this Complaint at times refers to “JustInvest” or the “Company” during the post-Merger time period to distinguish from Vanguard’s post-Merger actions.

Performance Payments.

29. Specifically, the Agreement provides that each Securityholder shall be eligible to receive Performance Payments, up to a maximum of a combined [REDACTED], based on Vanguard's calculation of a metric of aggregate revenue ("ARR") generated by JustInvest. (See Agreement, Exs. A and B, §§ 1.17, 1.1 (defining "ARR," "Combined ARR," and "Maximum Performance Payment").)

30. The Performance Payments are calculated based on the ARR generated during [REDACTED], starting from the date of closing. (*Id.*, §§ 1.17, 1.1 (defining "Measurement Period").)

31. The Performance Payments are to be calculated within [REDACTED] following the end of each Measurement Period (the "Calculation Date"), and are to be paid within [REDACTED] following the Calculation Date. (*Id.* § 1.17(a)(ii), (a)(viii).)

32. Thus, a Performance Payment was due in [REDACTED]
[REDACTED] thus far.

33. The [REDACTED] ended on [REDACTED].

34. JustInvest also established an Additional Performance Payment Plan. (*Id.*, § 1.14(a)(iii), Exhibit A (Additional Performance Payment Plan).)

35. Under the Additional Performance Payment plan, participants, including the Securityholders, were eligible to participate in an additional bonus pool again tied to the ARR achieved by JustInvest within certain periods of time, with a

maximum combined bonus pool of [REDACTED] if the Combined ARR (as defined under the Agreement) met or exceeded [REDACTED] by the end of the [REDACTED]. (Id. at Exhibit A (Additional Performance Payment Plan) § 5(a).)

36. For the [REDACTED], the Performance Payment calculated and paid to the Securityholders by Vanguard was approximately [REDACTED]

37. For the [REDACTED], the Performance Payment calculated and paid to the Securityholders by Vanguard was approximately [REDACTED]
[REDACTED] For the [REDACTED], the Performance Payment calculated and paid to the Securityholders by Vanguard was approximately [REDACTED]

38. Vanguard has not provided the Securityholders with statements regarding the total Performance Payments for the [REDACTED] and the terminated Securityholders now have no visibility regarding the [REDACTED] Performance Payment as a result of Vanguard's termination of their employment, but the Securityholders expect the Performance Payment for the [REDACTED] to again be substantially less than it otherwise would have been but for Defendants' misrepresentations, omissions, and contractual breaches.

B. Defendants' Breaches, Misrepresentations and Omissions

39. At the time of the Merger, the Securityholders were in receipt of

competitive offers from two additional firms vying to purchase JustInvest.

40. At least one of those offers, in fact, was economically superior to Vanguard's offer, and would have paid the Securityholders a higher up-front purchase price.

41. Vanguard was aware of these other offers.

42. JustInvest's principals and Securityholders decided to sell to Vanguard in reliance on Vanguard's express representations that it would support the Company consistent with the business plan and regarding the Securityholders' ability to earn the Performance Payments, including by managing assets already custodied at Vanguard and effectively under Vanguard's allocation directions, and continuing to manage assets custodied at [REDACTED]

43. During the negotiation of the Agreement, Vanguard had a duty to disclose material facts, including material facts that would prevent, impair, or interfere with the business plan.

44. Prior to execution of the Agreement, the Securityholders sought to base the Agreement's Performance Payments on tangible technology deliverables and/or Merger activities over which they would have reasonable control, as acknowledged in a letter of intent ("LOI") delivered by Vanguard.

45. Vanguard, however, insisted on Performance Payments tied solely to aggregate generated revenue ("ARR") [REDACTED]

[REDACTED]

46. Based on representations made by Vanguard (as well as key omissions) discussed herein, including representations that JustInvest, with the boost of Vanguard's platform, would have lines out the door and would easily reach the ARR thresholds, the Securityholders agreed to (1) sell to Vanguard and (2) tie the Performance Payments to the ARR targets demanded by Vanguard.

47. On or about October 1, 2021, Vanguard closed on the Merger with JustInvest pursuant to the Agreement.

48. In relevant part, the Agreement provides for Performance Payments to each Securityholder tied to ARR [REDACTED]

[REDACTED] (Agreement § 1.17; *see id.*, § 1.1.)

49. The Agreement further provides that the "Acquiror shall not take any actions in bad faith that have the primary intention of avoiding or reducing the payment of any portion of the Maximum Performance Payment; *provided, further*, that Acquiror shall cause the Company to be supported in a manner consistent with the Company's business plan" (*Id.* § 1.17(b).)

50. The parties' mutual understanding under the terms of the Agreement was that the Securityholders would have a fair opportunity to achieve the full Performance Payments, including via Vanguard's contributions to the integration and development of the JustInvest technology within Vanguard. Indeed, the primary

consideration for the Agreement (and the resulting Merger) was the Performance Payments required under the Agreement's terms.

51. In fact, the Additional Performance Payment Plan was negotiated precisely because it was the Securityholders' expectation based on Vanguard's representations and omissions that the majority of the Maximum Performance Payment would be achieved within the first year.

52. Vanguard's deal team (including Markus Fischer) even stated that the Additional Performance Payment Plan was necessary to incentivize plan participants from leaving after JustInvest's early achievement of the Maximum Performance Payment.

53. Vanguard has failed to uphold its end of this bargain, including by failing to support JustInvest in a manner consistent with its business plan.

54. Vanguard is also responsible for various material misrepresentations and omissions in connection with the Merger (on which the Securityholders relied in good faith) relating to issues that were intended to and/or would ultimately prevent JustInvest from achieving the ARR measures necessary to achieve more than a minimal portion of the Performance Payments.

55. Vanguard, for instance, never disclosed that it had, pre-Merger and prior to the execution of the Agreement, knowledge regarding the likelihood of [REDACTED] restricting access to JustInvest following the Merger due to past frictions

between Vanguard and [REDACTED], despite Vanguard's awareness of [REDACTED] importance to JustInvest's business, the business plan, and forward-looking expectations.

56. As Vanguard knew from many communications with and documents provided by JustInvest, roughly 65% of JustInvest's business at the time of the Merger [REDACTED]

[REDACTED] From due diligence and communications with the Securityholders, Vanguard knew that this business played a significant role in the business plan.

57. [REDACTED] of independent registered investment advisor ("RIA") assets, the initial target market for JustInvest.

58. Soon after the closing of the Merger, JustInvest received notice from [REDACTED] that it would restrict new business on its platforms [REDACTED] [REDACTED] on January 1, 2022, just three months after the Merger.

59. The risk of this very outcome was specifically identified by Vanguard leadership as a top risk associated with the transaction prior to the Merger.

60. Indeed, the Securityholders later learned that the Vanguard deal team was acutely aware of the risk that [REDACTED] would leverage its [REDACTED] against Vanguard and JustInvest, and specifically structured the deal to mitigate that

risk, which was expressly communicated to and discussed among Vanguard leadership prior to the Merger.

61. That is, Vanguard withheld this conflict and intentionally shifted the risk of losing access to [REDACTED] away from Vanguard and to the Securityholders by structuring the deal to tie most of the consideration to the Performance Payments.

62. However, the risk was not disclosed to the Securityholders or JustInvest management at any point prior to the execution of the Agreement and the closing of the Merger despite many communications about the importance of the [REDACTED] business.

63. Prior to the Merger, the Securityholders were not aware (and had no ability to know) of the frictions between Vanguard and [REDACTED], which would compromise JustInvest's access to [REDACTED] and ultimately undermine the business plan.

64. Indeed, the conflict with [REDACTED] is specific to Vanguard and confidential, as it stems from Vanguard's private refusal to pay [REDACTED]

[REDACTED]

65. As such, access to [REDACTED] would not have become an issue had the Securityholders sold to either of the two other firms that submitted offers for JustInvest. In fact, after seeking to acquire JustInvest, one of those firms acquired a

direct JustInvest competitor, which has retained access to [REDACTED] following the acquisition.

66. Vanguard failed to disclose the [REDACTED] conflict despite Vanguard's knowledge, based on its own due diligence and discussions with the Securityholders, of the importance of [REDACTED] to JustInvest's business and post-Merger business plan.

67. In particular, Vanguard had full access during due diligence to JustInvest's financials, including lists of accounts, custodians for those accounts, and associated AUM, and thereby knew of JustInvest's heavy reliance on [REDACTED]
[REDACTED]

68. Vanguard also scrutinized JustInvest's agreements with Schwab—which dictated JustInvest's [REDACTED]—during due diligence.

69. Vanguard also told the JustInvest team during the negotiation of the Merger—including during a visit by JustInvest's principals to Vanguard headquarters in the summer of 2021—that JustInvest would be able to manage assets in [REDACTED]
[REDACTED]

70. Vanguard thereafter significantly delayed that project, preventing JustInvest from benefiting from access to such platform in furtherance of its post-Merger business plan and achievement of ARR targets.

71. On information and belief, Vanguard’s initial investment in JustInvest was motivated by an interest in investigating JustInvest’s direct indexing capabilities for the [REDACTED] business unit and clients.

72. As of early May 2024, JustInvest’s onboarding date for [REDACTED] group was tentatively anticipated at some point in [REDACTED]—the same year that the [REDACTED] earn-out payment to the Securityholders will be calculated under the Agreement. That deadline was originally 2022, which Vanguard had pushed back year after year for three years with no business explanation or justification.

73. On or about May 13, 2024, however, Vanguard announced that it was halting the deployment of JustInvest into the [REDACTED] platform altogether and indefinitely, contrary to its prior representations and the business plan.

74. Vanguard has framed this development as a “pause,” but the team in the [REDACTED] group that had been advancing the project has been disbanded.

75. Vanguard’s delay, and then outright abandonment, of the [REDACTED] project reflects Defendants’ deliberate intent to avoid the Performance Payments or to support JustInvest’s business plan.

76. Additional and similar representations were made to JustInvest by Vanguard and its representatives while negotiating the Merger.

77. During the summer of 2021, for instance, Robert Mennow, the then-head of West Coast RIA Sales for Vanguard, told JustInvest’s principals during a

meeting at Vanguard's headquarters that JustInvest's initial business plan projections were too conservative and that a more realistic projection was \$10 billion in assets under management ("AUM") in JustInvest's first year with Vanguard.

78. In particular, Mr. Mennow was asked what AUM target he would be comfortable with if his job depended on it. That is, he would be fired if the AUM target was not achieved.

79. Mr. Mennow provided the \$10 billion target and supported his confidence in the figure by outlining a plan for an expanding sales support pipeline for JustInvest's product offering over the first year with Vanguard, including with a whiteboard discussion.

80. Among other things, this figure would be impossible without continued

[REDACTED].

81. AUM of \$10 billion in the first year with Vanguard would have resulted in a Performance Payment for the [REDACTED] of approximately two-thirds of the Maximum Performance Payment, or approximately [REDACTED]

82. Markus Fischer, a Vanguard executive responsible for negotiating the Merger, told JustInvest's principals that, upon closing, there would be "lines out the door" for JustInvest's services as part of Vanguard.

83. Similarly, during early negotiations of a pilot and minor investment by Vanguard into JustInvest, as well as in the days preceding the execution of the

Agreement, Vanguard representatives intimated multiple channel opportunities that could yield significant new assets in “a single day.”

84. In a meeting with Amy Krebs, John Hill, and Gerwin Baek, JustInvest’s principals were also told that Vanguard could bring JustInvest \$1 billion dollars in assets to manage on *day one* based on access to clients already serviced by Vanguard.

85. The above representations were not mere puffery—they were express representations that led to reasonable expectations, including given Vanguard’s promises during the Merger negotiations that JustInvest would be able to manage significant pools of assets via [REDACTED], and assets effectively under the allocation direction of Vanguard’s institutional, or Outsourced Chief Investment Officer (“OCIO”), group, which manages money for large non-profits, universities, and endowments.

86. In reality, like [REDACTED], JustInvest would never be allowed the opportunity to work with OCIO clients.

87. Within a month after closing the Merger, JustInvest was informed by Tom Rampulla at Vanguard that it would not be permitted to pitch or manage endowment or foundation fund assets, despite an opportunity to manage approximately \$260 million in assets of the [REDACTED].

88. Vanguard failed to disclose this restriction prior to the Merger.

89. In fact, managing endowment and foundation assets serviced by the

OCIO business unit was *part of Vanguard's representations* for why JustInvest should join Vanguard, and was one aspect of the Company's business plan.

90. Despite such representations, Vanguard had been in the process of exiting a portion of its OCIO business for over a year at the time of the Merger, a fact that Vanguard omitted, and that the Securityholders would only come to learn after the Merger.

91. Vanguard completed the sale of its OCIO business as of March 2024, eliminating opportunities that Vanguard represented would be available to JustInvest during negotiation of the Merger, and that were considered part of the business plan.

92. Although Vanguard retained the portion of that business that provides investment advice to non-profit organizations, including clients with endowment and foundation assets, JustInvest (as described above) has not been permitted by Vanguard to work with those clients.

93. Similarly, in June 2022, JustInvest was in final business discussions with [REDACTED] to transition approximately \$900 million in assets from Vanguard funds to a JustInvest-managed direct index account.

94. The JustInvest team, however, was told by Mr. Rampulla at Vanguard that it could not manage "institutional money," and that the [REDACTED] opportunity was not "strategic."

95. JustInvest was directed to decline [REDACTED] business and Vanguard

salespersons withdrew JustInvest's offer of interest in managing the account, which again conflicted with Vanguard's prior representations and the business plan.

96. [REDACTED] ultimately invested with one of JustInvest's largest competitors.

97. Additionally, in or about October 2023, the JustInvest team was told by Brent Beardsley that it could not pitch [REDACTED] despite that fact that [REDACTED] is a well-known bank that serves over 60 million customers.

98. Again, no such restriction had been disclosed to JustInvest prior to the Merger, and this restriction undercut the business plan and Vanguard's prior representations.

99. The Securityholders also learned that JustInvest would not be permitted by Vanguard to pursue opportunities in the [REDACTED] space due to Vanguard's expressed belief that [REDACTED] [REDACTED] are not "philosophically aligned" with Vanguard.

100. None of these purported business conflicts were disclosed to JustInvest at the time of the Merger, and each undercuts the business plan and would have materially impacted the Securityholders' willingness to accept the Agreement, including the Performance Payments provisions of the Agreement that Vanguard had proposed in connection with these representations and omissions.

101. Each of the above representations and omissions induced the Securityholders to agree to tie the majority of the Merger consideration to the

Performance Payments, and materially impacted the Securityholders' ability to achieve the Agreement's ARR targets.

102. Vanguard's promises to JustInvest have not come to fruition for reasons that are now obvious considering Vanguard's pre-Merger misrepresentations and omissions and Vanguard's post-Merger failures to support the Company in a manner consistent with its business plan and other actions and omissions preventing achievement of the Performance Payments.

103. Indeed, it is now clear that Vanguard never expected JustInvest to achieve the ARR targets presented to JustInvest during negotiation of the Merger, let alone the ARR targets needed to pay the Maximum Performance Payments negotiated by the parties based on Vanguard's representations that lower targets would be too easy for JustInvest to achieve.

104. Vanguard purposefully concealed from the Securityholders the restrictions, alleged business conflicts, and other material facts that could have enabled them to discover the truth of Vanguard's misrepresentations and omissions.

105. It was practically impossible for the Securityholders to discover the truth behind Vanguard's misrepresentations and omissions prior to the Merger, including due to Vanguard's concealment.

106. Vanguard, moreover, was aware that the disclosure of these risks and limitations, including the risk of losing access to [REDACTED] would have made it

obvious to the Securityholders that Vanguard's representations regarding JustInvest's ability to achieve the Performance Payments were false.

C. Defendants' Further Failures to Support JustInvest in Breach of the Agreement

107. Following the Merger (and including via the actions described above), Defendants have wholly failed to support JustInvest in a manner consistent with its business plan as required by the Agreement.

108. JustInvest's business plan is not attached to the Agreement because it is not reflected in only one document.

109. JustInvest's business plan included a three-year plan document submitted by the JustInvest team to Vanguard prior to the Merger (the "Three-Year Plan"), the sales plan discussed with Robert Mennow, and expansion plans for JustInvest that were discussed by the parties during deal negotiations.

110. The latter plans were documented internally in Vanguard board presentations and memoranda to Vanguard business unit leadership and remain in Vanguard's possession.

111. Among other things, the business plan included Vanguard's representations and agreement that JustInvest would continue to have access to

[REDACTED]

112. The business plan included Vanguard's plan to expand JustInvest to

[REDACTED] and to clients in the OCIO business unit.

113. Indeed, Vanguard's representations and the plan to onboard JustInvest to Vanguard's [REDACTED] platform was one of the Securityholders' primary incentives to merge with Vanguard.

114. The business plan also included Vanguard's plan to continue developing and officially launch JustInvest's [REDACTED] product during the [REDACTED]

[REDACTED]

115. [REDACTED] software solution which expands JustInvest's direct-indexing capabilities [REDACTED]

[REDACTED]

[REDACTED]

and increasing the total revenues to JustInvest.

116. Vanguard and JustInvest planned to launch [REDACTED], at the latest, in mid-2024.

117. Into the Spring and summer of 2024, launching [REDACTED] was identified as a key 2024 objective for JustInvest by Vanguard's managers of JustInvest, including Brent Beardsley.

118. By early summer 2024, [REDACTED] was scheduled to launch in July 2024, with customers already signed up for the service.

119. [REDACTED] was not launched during the summer of 2024.

120. In or about the first week of September 2024, Vanguard indefinitely delayed the launch of [REDACTED]

121. Defendants' latest unexplained delay followed the termination of Securityholders Hudacko, Rao, and Cummings, which will significantly delay any renewed effort to launch [REDACTED] and revenue that it was intended to generate.

122. Even if revived during the Measurement Periods, the delay of [REDACTED] launch has further reduced ARR generated toward the Performance Payments.

123. In addition, JustInvest's business plan hinged on continued access to [REDACTED]

124. The Three-Year Plan submitted to Vanguard during Merger negotiations included a revenue model forecasting AUM, accounts, and clients for the first three years with Vanguard.

125. The ARR targets in the Agreement's Performance Payment provisions were specifically based on the forecasted figures in the Three-Year Plan.

126. The forecasted figures in the Three-Year Plan's revenue model also assumed continued access to [REDACTED]

127. However, despite being a key part of JustInvest's business plan, Vanguard not only failed to disclose the material risk that JustInvest would lose access to [REDACTED] if acquired by Vanguard, Vanguard wholly failed to take actions

to preserve that access or to recover it after access was [REDACTED]

128. Specifically, the Securityholders are now aware that Vanguard had contemplated and at least initially negotiated [REDACTED]

[REDACTED]

129. Vanguard, in fact, has [REDACTED].

130. When [REDACTED] notified JustInvest shortly after the Merger that it would not permit JustInvest to [REDACTED], Vanguard leadership refused to engage in serious negotiations despite opportunities to do so.

131. Vanguard's failure to negotiate with [REDACTED] [REDACTED] was inconsistent with prior representations and the JustInvest business plan and directly prevented JustInvest's ability to achieve the Performance Payments.

132. To make matters worse, and again in contradiction to the business plan, Vanguard impeded any ability to mitigate the [REDACTED] issue, including by delaying and ultimately abandoning plans to bring JustInvest to [REDACTED] and OCIO clients and to launch [REDACTED], by blocking the specific opportunities with [REDACTED] and the [REDACTED], and by refusing to allow JustInvest to pursue opportunities with [REDACTED] and in the [REDACTED] space.

133. Vanguard additionally breached its obligations relating to employees

and hiring. In addition to Vanguard's firing of the three principals (discussed above and below), Vanguard failed to provide sales support consistent with the business plan.

134. Throughout the pilot and Merger negotiations, Vanguard representatives with significant sales experience and responsibility, including Vanguard's Robert Mennow, were involved and made regular representations about the pipeline opportunities presented by JustInvest's joining Vanguard.

135. The Three-Year Plan specifically provided that Robert Mennow and his team would support JustInvest post-Merger.

136. Post-Merger, however, those representatives had little further involvement in supporting JustInvest. Indeed, the Securityholders came to learn that the individual selected by Vanguard as Head of FAS Direct Indexing, with responsibility for client servicing, marketing, "back office" operations, and distribution, had no prior experience in sales and was appointed for reasons other than ability to grow or support the JustInvest business.

137. Defendants, moreover, failed to support JustInvest with adequate sales support dedicated to driving new (and existing Vanguard) clients to JustInvest, despite recognizing pre-Merger that onboarding sales personnel and marketing JustInvest's direct indexing services were key go-to-market activities.

138. The Three-Year Plan expressly prioritized increasing sales headcount,

including onboarding dedicated business-development and client-success specialists.

139. Specifically, in the business-development role, the Three-Year Plan called for a headcount of 4–5 within the first year, and up to 9–10 in year three. Similarly, in the client-success role, the Three-Year Plan called for headcount of 5–6 within the first year, with headcount increasing to 11 in year three.

140. Defendants, however, did not hire any dedicated sales professional focused on driving new clients to JustInvest until early 2023 when it hired *one* dedicated salesperson in the business-development role.

141. To present, Vanguard has only one salesperson in the business-development role, and only two in the client-success role defined in the Three-Year Plan.

142. Since the Merger, JustInvest has largely been required to rely on the shared resources of Vanguard’s existing FAS Sales organization.

143. The individuals in that organization, however, are not incentivized or focused on supporting the JustInvest business.

144. Those individuals have activity and net cash flow targets tied to existing Vanguard fund placements, and their targets for JustInvest sales only factor into [REDACTED] of their end of year reviews.

145. They have, moreover, been specifically directed by Vanguard to focus

their efforts on fixed income products rather than equities benefiting JustInvest.

146. To date, JustInvest has only one sales professional (plus an assistant) solely dedicated to selling the JustInvest product.

147. Further, Vanguard agreed in April 2022 to hire four new relationship managers dedicated to driving additional business from existing JustInvest clients.

148. To date, more than two years later, Defendants had hired only two such individuals (and then failed to retain one of these two individuals).

149. Additionally, not only did Vanguard's post-Merger actions and omissions conflict with their pre-Merger representations and introduce significant obstacles to JustInvest's acquisition of new clients and assets, such actions and omissions also induced significant hesitation among Vanguard's existing sales staff to promote the JustInvest business.

150. In another example of Vanguard's failure to support JustInvest's business, Vanguard unilaterally decided in mid-2023 to reduce the fees paid by direct clients of JustInvest/Vanguard without informing anyone on the JustInvest team. The rate that was applied and collected from these direct clients was thus less than the contractual rate already set for these clients.

151. As a result, the 2023 earn-out payments to the Securityholders were calculated from the fees that were collected from these direct clients, not from the fees at the clients' contracted rate, further reducing the Performance Payments made

to the Securityholders.

152. In further violation of the Agreement, Vanguard's conduct, including its efforts to block opportunities with [REDACTED], its refusal to allow JustInvest to service OCIO clients, its delay and abandonment of the [REDACTED] and [REDACTED] projects, as well as its failure to provide the agreed-upon sales support to JustInvest and termination of other employees without cause, constitutes bad faith, with the primary intention of avoiding or reducing the Performance Payments.

153. Vanguard management expressly admitted this intention on at least one occasion.

154. After the Merger, Graham Harris, a Vanguard manager involved in integrating JustInvest into Vanguard (and Head of Operations of JustInvest/VPIM as of September 2022), stated to a JustInvest employee that Vanguard leadership viewed the growth of JustInvest as a liability for Vanguard, and that the Vanguard Personalized Indexing Leadership Team's (the team in charge of integrating JustInvest into Vanguard) intention was to minimize the value of the earn-outs.

155. Similarly, on multiple occasions following the Merger, Brent Beardsley made statements to various strategy and product teams at Vanguard that the JustInvest acquisition was a "strategic" acquisition, meant to protect Vanguard's legacy business lines against the potential threat of direct indexing competitors such

as JustInvest. In other words, the acquisition was intended to be an insurance policy rather than a good faith effort to generate new revenue.

156. Additionally, after the Securityholders raised Vanguard's multiple breaches and misconduct that is the subject of this lawsuit, Vanguard terminated in bad faith the employment of JustInvest Securityholders Jonathan Hudacko, Vijay Rao, and Alan Cummings on June 20, 2024 in retaliation and without cause.

157. Shortly thereafter, in early July 2024, Defendants further terminated JustInvest customers with whom Hudacko, Rao, and Cummings had relationships, informing those customers that VPIM would be terminating its relationship with them and would no longer render advisory services (and thus cutting off the revenue from these sources also).

158. Vanguard's actions and omissions have significantly reduced the ARR JustInvest otherwise would have earned during [REDACTED], and further have made it impossible for the Securityholders to earn the Maximum Performance Payment [REDACTED], let alone any payment under the Additional Performance Payment Plan.

159. The Securityholders are also now aware that Vanguard is incentivized by certain regulatory concerns to de-emphasize its equities business altogether, and is taking affirmative steps to do so.

160. Vanguard is one of the largest equity holders in the United States and

abroad. On information and belief, because of the growth of Vanguard's equity business, Vanguard's holdings of many United States equities (particularly in regulated industries such as banks, airlines, defense contractors, etc.) are approaching regulatory limits.

161. The FDIC requires that shareholders who own more than a 10% equity stake in any bank must register as a bank holding company.

162. Vanguard has asked for and received regulatory relief, whereby the FDIC has allowed Vanguard to hold up to a 20% stake in some United States banks, on the condition that Vanguard will not be eligible for future relief.

163. As a result, Vanguard has been attempting to mitigate these regulatory issues in a number of ways. As is relevant to the instant action, the Vanguard FAS group, which includes JustInvest post-Merger, has been instructed over the past several years to focus on pushing fixed income products.

164. On information and belief, Vanguard is, at a firm-wide level, de-emphasizing the equity business and their institutional business (two prime target markets for JustInvest) in favor of their fixed income and advice business. The Securityholders understand that this effort was already ongoing at the time of Merger negotiations.

165. These issues were never disclosed to or discussed with JustInvest prior to the Merger, yet, they have directly affected and continue to directly affect

JustInvest's business plan and ability to achieve the Performance Payments. This is because, from a regulatory perspective, JustInvest can only buy cash equities for individual client accounts. Thus, by de-emphasizing the equities business, Vanguard necessarily obstructs the Securityholders from fully achieving the agreed upon earn-out payments under the Agreement.

166. The conduct discussed above—including Vanguard's various material misrepresentations and omissions, and failures to support JustInvest in a manner consistent with its business plan, and actions otherwise designed to prevent JustInvest's achievement of the Performance Payments—has caused significant damage to the Securityholders.

167. The Securityholders' injuries resulting from Vanguard's misrepresentations, omissions, and failures were inherently unknowable to the Securityholders at the time of the Merger, including due to Vanguard's concealment of material facts.

COUNT I
(Negligent Misrepresentation)

168. SRS incorporates by reference and realleges each and every allegation set forth in paragraphs 1–167 above as if fully set forth herein.

169. Vanguard had a pecuniary duty to disclose and provide accurate information to the Securityholders during the negotiation of the Agreement in

connection with the Merger.

170. Vanguard failed to exercise reasonable care in supplying false information and in omitting information to the Securityholders during the negotiation of the Agreement in connection with the Merger, including:

- a. failing to disclose its significant concerns regarding the likelihood of [REDACTED] restricting access to JustInvest following the Merger, despite Vanguard's awareness of [REDACTED] importance to JustInvest's business, the business plan, and forward-looking expectations;

- b. failing to disclose that JustInvest would not be permitted to pitch or manage endowment or foundation fund assets, despite the fact that managing such assets was, in fact, part of Vanguard's pitch for why JustInvest should join Vanguard;

- c. failing to disclose that JustInvest could not pitch or manage "institutional money";

- d. failing to disclose that, at a firm-wide level, Vanguard had been de-emphasizing their equity business and their institutional business in favor of their fixed income and advice business, even though Vanguard knew these were two prime target markets for JustInvest; and by:

- e. representing that JustInvest's initial business plan projections were too conservative and that a more realistic projection was \$10 billion in

assets under management in JustInvest's first year with Vanguard;

f. representing that Vanguard could bring JustInvest \$1 billion dollars in assets to manage on day one;

g. representing that, upon closing, there would be "lines out the door" for JustInvest's services as part of Vanguard;

h. representing that multiple channel opportunities and pipelines would be available to JustInvest that could yield significant new assets in "a single day";

i. representing that JustInvest would have the opportunity to service clients serviced by Vanguard's [REDACTED] business unit; and

j. representing that JustInvest would have the opportunity to service clients serviced by Vanguard's OCIO business unit.

171. The Securityholders suffered a pecuniary loss caused by their justifiable reliance upon the foregoing false information and omissions supplied by Vanguard.

172. All of the false information and omissions supplied by Vanguard materially impacted the Securityholders' willingness to accept the Agreement, including the Performance Payments provisions thereof, and to proceed with the Merger.

173. But for Vanguard's negligent misrepresentations the Securityholders

would not have accepted Vanguard's offer, which intentionally shifted to the Securityholders the risk that [REDACTED] [REDACTED] as well as other undisclosed risks and limitations known to Vanguard, and would have accepted a competing (and ultimately more lucrative) offer from another firm vying to purchase JustInvest.

174. Under these circumstances, rescission of the Agreement would be warranted but is not feasible.

175. The Securityholders were damaged by Vanguard's negligent misrepresentations and are entitled to rescissory damages or, in the alternative, compensatory damages including the additional amounts the Securityholders could have earned if they had accepted an offer from one of the other firms vying to purchase JustInvest, in an amount to be determined at trial but in no event less than the jurisdictional minimum of this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Shareholder Representative Services LLC, on behalf of and as representative of the Securityholders of Just Invest Systems, Inc. and JustInvest, LLC, respectfully requests the following relief:

a) rescissory damages or, in the alternative, compensatory damages caused by Vanguard's negligent misrepresentations in an amount to be determined at trial;

- b) an award of reasonable attorneys' fees and costs;
- c) an award of prejudgment interest; and
- d) any such other and further relief in Plaintiff's favor as this Honorable

Court deems just and proper.

HEYMAN ENERIO
GATTUSO & HIRZEL LLP

/s/ Samuel T. Hirzel, II

Samuel T. Hirzel, II (#4415)
Emily A. Letcher (# 6560)
222 Delaware Ave., Suite 900
Wilmington, DE 19801
302-472-7300
shirzel@hegh.law
eletcher@hegh.law
Attorneys for Plaintiff

OF COUNSEL:

NIXON PEABODY LLP
John T. Ruskusky
David M. Pattee
70 W. Madison Street, Suite 5200
Chicago, IL 60602-4378
(312) 977-4400

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