

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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KONRAD LUDWIG, LEIF KJOS, AND BRYAN	:	
CANCEL,	:	
	:	
Plaintiffs,	:	<b><u>COMPLAINT</u></b>
	:	
-against-	:	<b><u>JURY TRIAL DEMANDED</u></b>
	:	
WISDOMTREE, INC.; WISDOMTREE DIGITAL	:	
MOVEMENT, INC.; DAVID YATES, and TIM	:	
KIRKWOOD, in their individual	:	
and professional capacities,	:	
	:	
Defendants.	:	
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Plaintiffs Konrad Ludwig (“Ludwig”), Leif Kjos (“Kjos”), and Bryan Cancel (“Cancel”) (together, the “Plaintiffs”), by and through their attorneys, Wigdor LLP, as and for their complaint against Defendants WisdomTree, Inc., WisdomTree Digital Movement, Inc. (together, “WT,” “WisdomTree” or the “Company”), David Yates, and Tim Kirkwood (collectively, the “Defendants”) hereby allege as follows:

**PRELIMINARY STATEMENT**

1. Plaintiffs file this complaint and bring this action to recover damages arising from Defendants’ unlawful retaliation against each of them, including termination of their employment, for legally protected whistleblower activities in violation of Section 806 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A (the “Sarbanes-Oxley Act” or “SOX”).

**ADMINISTRATIVE PREREQUISITES**

2. On May 12, 2025, Plaintiffs filed Whistleblower Complaints against Defendants with the Occupational Safety and Health Administration (“OSHA”), part of the U.S. Department of Labor (USDOL) in which they alleged retaliation in violation of Section 806 of the Sarbanes-Oxley Act of 2002, 18 USC § 1514A (the “Sarbanes-Oxley Act” or “SOX”).

3. Any and all other prerequisites to the filing of this suit have been met.

**JURISDICTION AND VENUE**

4. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as this action is brought under federal statutory law; namely, SOX.

5. This Court further has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) because there is diversity of citizenship among the parties and this action involves an amount in controversy exceeding \$75,000, excluding interest and costs.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this action, including decisions regarding the unlawful employment practices alleged herein, occurred and/or had their impact in this district.

**PARTIES**

7. Plaintiff Konrad Ludwig worked at WT from July 2022 to November 15, 2024. His final job title at WT was Senior Backend Engineer, Digital Assets. At all relevant times, Ludwig was an “employee” of WT under the Sarbanes-Oxley Act and a resident of the state of Nevada. Ludwig spent approximately two weeks working in the Company’s New York offices each year.

8. Plaintiff Leif Kjos worked at WT from September 2023 to November 15, 2024. His final job title at WT was Full Stack Engineer. At all relevant times, Kjos was an “employee” of WT under the Sarbanes-Oxley Act and a resident of the state of Washington. Kjos spent approximately two weeks working in the Company’s New York offices each year.

9. Plaintiff Bryan Cancel worked at WT from January 2022 to November 15, 2024. His final job title at WT was Senior Flutter Software Engineer. At all relevant times, Cancel was

an “employee” of WT under the Sarbanes-Oxley Act and a resident of the state of North Carolina. Cancel spent approximately two weeks working in the Company’s New York offices each year.

10. Defendant WisdomTree, Inc. is based in New York, New York with its Headquarters located at 250 West 34th Street, Third Floor, New York, New York 10119.

11. WisdomTree is a publicly owned company with its common stock listed on the New York Stock Exchange (NYSE) under the ticker symbol “WT.” WT provides its customers with a personal finance services software application that offers savings, investing, transferring, and purchasing/spending functions involving (among other assets) securities, currency, and cryptocurrency. WT also offers its own exchange-traded financial products, many of which are enabled by blockchain technology.

12. Defendant WisdomTree Digital Movement, Inc. (“WTDM”) is a subsidiary of WisdomTree and its operations focus on the WisdomTree Prime mobile application and the Company’s WisdomTree Connect digital platform.

13. WTDM shares the same senior management as WT, and WT provides WTDM with and shares its administrative, office, and electronic resources, including human resources and legal functions with WTDM. WTDM shares the same location and address with WT on the third floor of 250 West 34th Street in Manhattan, New York. Much of the same information technology (IT) personnel, computer and network equipment and other IT resources and support, and financial support are shared between WTDM and its WT parent entities.

14. At all relevant times, the WT entities were “employers” of the Plaintiffs, to whom the Plaintiffs provided services and were paid as employees, under the Sarbanes-Oxley Act.

15. Employees move freely between WTDM and other WT entities, including the

Plaintiffs, who spent much of their time working on the Company’s WisdomTree Prime app (also referred to herein simply as “Prime”) and other WTDM projects. All three Plaintiffs and other employees moved freely between these entities regarding work assignments, supervision by managers, and other aspects of their employment.

16. Defendant David Yates (“Yates”) is a resident of New York state and holds the title of Chief Information Officer with WT. At all relevant times, Yates supervised the employment of the Plaintiffs and, accordingly, was an “employer” under the Sarbanes-Oxley Act.

17. Defendant Tim Kirkwood (“Kirkwood”) is a resident of Massachusetts state and holds the title of Head of Application Development with WT. At all relevant times, Kirkwood supervised the employment of the Plaintiffs and, accordingly, was an “employer” under the Sarbanes-Oxley Act.

## **FACTUAL ALLEGATIONS**

### **I. SUMMARY OF ALLEGATIONS**

18. Plaintiffs Ludwig, Kjos, and Cancel were terminated by Defendants in mid-November 2024 because over the course of the previous year they had vocally and repeatedly raised alarms to Company leadership (e.g., Defendants Kirkwood and Yates) regarding systemic misrepresentations and inaccuracies in accounting, customer balance, and financial data and calculations. Plaintiffs also flagged severe defects in Prime’s core functionality that presented substantial risks to WT’s compliance with federal and state regulations to prevent fraud, identity theft, and money laundering, and other inadequate software engineering practices (such as a lack of automated tests and quality control) that violated industry standards and were inconsistent with Company marketing and representations made to obtain System and Organization Controls 2

(“SOC 2”) certification. Plaintiffs pointed out to their managers that these widespread failings, errors and false data, which were caused by fundamental flaws in the WisdomTree Prime app (“Prime”) (launched in or around July 2023), implicated internal control violations and the accuracy of software calculations and data regarding customer balances and transactions and other data. This exposed customers to serious risk and raised compliance issues for WT that could result in scrutiny and adverse findings by the Securities Exchange Commission (“SEC”) and other authorities.

19. Plaintiffs also made it clear to Defendants that ignoring and failing to disclose these issues would mislead and defraud the users of WT’s app, WT’s investors/lenders, and third-party auditors evaluating WT’s compliance with SOC 2 requirements for purposes of deciding whether to grant WT a crucial SOC 2 certification.

20. Nevertheless, Kirkwood refused to allow Ludwig or others implement structural design fixes to known problems, and insisted that Ludwig and others engage in so-called “cowboy coding” that prioritized speed and getting Prime out to the public rather than address serious underlying issues. Ludwig steadfastly continued to regularly communicate regulatory compliance concerns to Kirkwood, who often would refuse Ludwig’s requests to allocate developer time to address concerns that implicated deficiencies in internal controls, calculations of basic customer financial, account, and transaction data, or AML requirements, among others. Kirkwood would often resort to verbal abuse of Ludwig whenever he raised such concerns and/or pointed out that WT’s development practices were non-standard and potentially negligent and even unlawful.

21. SOC 2 certification indicates that an audit has taken place and a report was issued (generally by a CPA firm) that found that a company’s information security practices meet certain standards and entail certain practices, technology, and protections regarding internal controls and

protection of customer data and other sensitive information. SOC 2 certification is crucial to a company's, such as WT, ability to attract investors and sophisticated clients, and is a widely acknowledged indicator of compliance with various federal compliance requirements for financial services companies, particularly where a software and/or cloud-based services delivery platform is in use (such as online and/or mobile-based apps).

22. In 2024, each of the Plaintiffs, Ludwig, Kjos, and Cancel, continued to lodge complaints with Company leadership, particularly Kirkwood and/or Yates, on multiple occasions that the Prime app's error-riddled internal controls, books and records, customer information, transaction errors, and calculation problems (e.g., reflecting different balances depending on where in the app a customer was looking at their accounts, or reflecting \$0 balance accounts as still having small amounts in them) would mislead (i.e., defraud) customers as to the status of their accounts and transactions, and was not in line with what the Company had been telling outside parties, such as customers, auditors, and investors. Indeed, in the weeks before they were terminated, Plaintiffs learned that the Company was anticipating an SEC audit that could cause problems for WT—and it was discussed that management might look for scapegoats.

23. By way of example only, Ludwig specifically told Defendant Yates that he would refuse to mislead SOC 2 auditors regarding the WT Prime app's compliance with various SOC 2 compliance framework requirements if told to do so by Kirkwood, Yates, or others in the future.

24. Cancel also repeatedly raised concerns and complaints with Yates about Kirkwood's conduct and the Prime app's security failings and lack of testing, yet nothing was done despite the compliance violations and risks to the Company and its investors that these issues clearly posed. In addition, further showing management's open disregard for Prime's serious issues, Yates directed Cancel to ignore failures regarding device fingerprinting, which Cancel

pointed out would allow users to get around WT's security systems and implicated major security risks to WT and its customers.

25. Beginning in or around September 2023, Kjos also spoke with Yates and raised with him concerns regarding Prime's accounting errors and other issues that put WT in a position of regulatory noncompliance, and Yates acknowledged the problems without taking any corrective action or escalating the complaints about Kirkwood's conduct. Throughout his employment, when Kjos would raise concerns regarding errors that affected Prime's accounting accuracy or ability to process transactions, he was met with hostility and accusations by Kirkwood, who would label such concerns and complaints as "causing an unnecessary personal conflict" or similar inappropriate chilling language.

26. Examples of serious, fundamental problems with the Prime app included, but were not limited to: internal controls issues and inaccuracies due to Prime's use of unreliable calculation and rounding methodologies, the exposure of Prime's securities, customer and transaction data to uncontrolled and un-auditable editing and manipulation (due in part to a complete lack of access control and auditable records as to who made changes to data within the application database), inability to properly track financial transactions (resulting in missing cents when users closed their accounts and failed transactions due to a mismatch of WT's record of a customer's balance and that of the blockchain), and inadequate anti-money laundering-related (AML) measures (including acknowledgement of widespread likely false, low-balance and high-transaction-rate user accounts used for laundering purposes).

27. In addition, the Prime infrastructure allowed uncontrolled and un-auditable access to and manipulation of both securities and consumer data by engineers and developers. This obviously was a massive books and records violation and security issue which did not comply with

WT's federal obligations as a federal securities dealer, and a source of exposure and an issue for Prime that would have barred SOC 2 certification (i.e., a complete lack of access controls and recordkeeping of changes to the records/data in the database).

28. Kirkwood and Keith Bassette ("Bassette") both actively and knowingly misled the SOC 2 auditors about these issues in order to obtain certification for the Company, which in the view of Ludwig was outright fraudulent conduct committed by management on behalf of WT. Ludwig voiced his objections to this misleading and fraudulent conduct to Yates and other members of WT's management.

29. Indeed, at least one member of leadership admitted that "most of our [i.e., Prime's] users are fake," referring to the apparent use of Prime to launder funds and serve as a haven for high-risk customers who would not or could not meet federal Know Your Client (KYC) requirements, as required by various SEC-enforced rules and laws.

30. Despite the serious legal violations and business risk (which were not disclosed to investors) posed by these core internal controls and financial transaction/transfer calculation issues and WT's failure to address them, WT leadership refused to address and chronically ignored the issues, perhaps for fear of having to own up to them to customers or investors as a whole and/or to the SOC 2 auditors.

31. In November 2024, Defendants terminated Plaintiffs Ludwig, Kjos, and Cancel. In doing so, Defendants eliminated the software engineers who had been most outspoken about and had some of the best insight into these serious controls and regulatory/legal violations, such as what the nature of the data inaccuracies were, what was causing them, how long they had been occurring, as well as what WT leadership's attitude had been and what they had been falsely telling

third parties about the Prime app in order to obtain SOC 2 certification on false pretenses and avoid business scrutiny or PR problems that would hurt investment and the Company's image.

32. Plaintiffs Ludwig and Kjos had raised objections and concerns implicating these issues and legal violations as recently as the month or two prior to their termination, and Plaintiff Cancel had made such complaints a few months before that, and was identified closely with Ludwig and Kjos as being among those who were vocal on these issues and part of a group of software engineers who opposed management's see-no-evil approach. In fact, as the Prime app grew, the inaccuracies and issues became more frequent, widespread, and serious due to the growing number of users, accounts, transactions, and products covered and contained in the app.

33. Each of the Plaintiffs was met with consistent hostility and dismissiveness when raising these issues to WT management during the months leading up to the terminations. Such displays of retaliatory animus by management included being yelled at and accused of "overthinking" things, and engineers/developers who ran tests revealing issues or made changes to fix issues were responded to by management, particularly Kirkwood, with shockingly aggressive treatment, yelling, and singling out, including in group work settings.

34. The software issues and data and internal controls inaccuracies reported by Plaintiffs regarding Prime in the context of the Company's potential legal violations and misleading of customers and others included, but were not limited to the false representation of customer data, particularly regarding customer funds and transaction results, WT's use of data types that would result in data loss; and inaccurate calculation of customers' US dollar balances and transactions caused by rounding and calculation issues (such inaccuracies were so frequent that Quality Assurance personnel eventually stopped raising them altogether, or mentioned them only rarely). WT leadership misled SOC 2 auditors about the existence of such issues, led them

to believe (falsely) that all of Prime's app control functions for modifying customer data were handled in the same manner as code changes (rather than manually and without review, which is how customer data was primarily adjusted), and also overstated and misrepresented the precautionary and data security, protection and accuracy measures put in place by the Company.

35. For example, the auditors were told that WT used Sonar to scan Prime's code for security risks and vulnerabilities, but in reality a "nosonar" tag was used in approximately 155 places to disable and block the Sonar software from analyzing entire domains within Prime. This included approximately 86 critical areas that were shielded entirely from scrutiny by Sonar (including entire functions, classes, and files containing crucial business logic areas for handling securities transactions, ACH money transfers, debit card transaction handling, etc.). Later, even when some "nosonar" tags were removed after Ludwig raised the alarm, Kirkwood and Bassette labeled many critical vulnerabilities that were then flagged by Sonar as having been "resolved" when they had not in fact been addressed.

36. In the end, Plaintiffs were not presented with any coherent explanation for their terminations, and in fact, in the weeks leading up to the firings there was talk of bonuses and positive performance feedback. This makes any post-hoc explanations or justifications proffered by Defendants clearly pretextual and to be shifting reasons not entitled to deference or a presumption of truth. WT was still in need of engineering/developer personnel at the time of the terminations, and earlier in 2024 employees had been assured that no headcount-related or other reductions in force or restructuring were coming.

**II. PLAINTIFFS' PROTECTED COMPLAINTS OF LEGAL VIOLATIONS AND FRAUD DUE TO CHRONIC DEFICIENCIES, MISLEADING DATA AND INTENTIONAL MISREPRESENTATIONS BY DEFENDANTS**

37. In or around the middle months of 2023, Ludwig raised complaints to his managers about WT Prime's severe defects which presented substantial risks to WT's compliance with federal and state regulations and requirements to prevent ID theft, fraud, and money laundering. Cancel also raised such issues regarding data inaccuracies and calculation failures on various occasions, for example reporting to management that, "If we have a hard time making sense of the numbers, I'm pretty sure the users are going to have a hard time as well." They also reported to their managers negligent accounting practices and the deliberately confusing presentation in Company data of customer holdings of federally regulated securities, commodities, and cash equivalent "tokens." They pointed out that these errors and misleading practices by WT likely could mislead customers regarding the contents of their accounts and account balances.

38. It was Ludwig's understanding that WT had a regulatory obligation to actively prevent suspected money laundering and identity theft, and that keeping accurate records of customer balances and transactions was central to that task and obligation. Accurate and functioning internal controls were also vital to providing customers with information about their funds and transactions and not misleading or making fraudulent representations to customers about Prime's functionality or their own funds.

39. Ludwig, Kjos, and Cancel discussed these concerns and each of them understood that WT was violating regulatory requirements through these and other deficiencies in the Prime app.

40. The WT Prime app's serious and chronic accounting / internal controls and quality assurance / functionality deficiencies not only ran afoul of WT's federal and state regulatory obligations, but also gave the lie to WT's publicly issued marketing statements about Prime, which touted its "compliance-forward approach and close collaboration with regulators" as a means of knowingly and falsely soliciting the trust of customers, business partners, regulatory authorities, and investors.

41. Ludwig also reported to management in 2023 deficient engineering practices and quality control that directly contradicted and fell short of WT's SOC 2 certification requirements. Obtaining and maintaining SOC 2 certification was key to representations being made by WT officials to one of WT's main lenders, Stride Bank, and likely other investors/lenders regarding the business. Indeed, Stride Bank, a key business partner of WT, had issued a "non-negotiable" requirement to WT that Prime demonstrated adherence to industry standards for engineering and consumer data protection that maintained SOC 2 certification. SOC 2 certification is also commonly used by customers, the investing public, and firms to determine whether a financial services company maintains sound data protection, management practices, and technology.

42. In or around September 2023, Plaintiff Leif Kjos joined WT. During his first few months of employment in 2023, Kjos raised concerns with Defendants Kirkwood and then David Yates (including in writing) regarding serious engineering deficiencies which revealed, among other things, inadequate application security, improper financial accounting and controls, a lack of automated software tests (which would help address miscalculations and discrepancies regarding client account information and transactions), and improper software development processes. Kjos expressed his concerns that these serious and fundamental deficiencies could place WT in violation of and out of compliance with legal requirements.

43. By way of example only, federal regulations and laws regarding such aspects of a financial services company's operations that were implicated by Plaintiffs complaints would include but not be limited to 18 U.S.C. Sections 1005 and 1006, which concern books and records obligations and prohibition of false (i.e., fraudulent) entries by banks or other financial institutions in their books, records, and reports, SEC Rules 17a-3 and Rule 17a-4 and 12 CFR Part 151, concerning accurate customer information and books and records, as well as other laws and regulations requiring accuracy and auditing of financial data and prohibiting providing false or misleading information to customers and/or investors/shareholders.

44. WT's actions also implicated knowingly misleading customers and investors/shareholders, as well as third parties such as SOC 2 auditors and all those relying upon the Company's SOC 2 certification, implicating various types of fraud, including shareholder fraud, bank fraud, and wire and mail fraud. See 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud), 1344 (bank fraud), 1348 (securities fraud), and 1349 (attempt and conspiracy).

45. After raising these concerns and complaints, Kjos was targeted by WT management (particularly Kirkwood) for retaliation, including hostility, intimidation, bullying and marginalization, as well as being denied assignments.

46. On or around November 2, 2023, Ludwig was unexpectedly called into a meeting with SOC 2 auditors by Tim Kirkwood and Keith Bassette.

47. In this meeting, Kirkwood and Bassette misrepresented WisdomTree's engineering practices and misled the auditors into believing that the Company followed industry-standard engineering and consumer data protection practices which adhere to SOC 2 guidelines, as required by Stride Bank. WT's practices and the Prime app did not fulfill SOC 2 requirements, including but not limited to the ability of individuals to make unilateral,

unauditable changes to consumer, securities and transactions data, and the inability of Prime to provide accurate customer account balance and transaction data (and to reliably complete transactions for clients).

48. Ludwig, on the spot, was pressured to demonstrate infrastructure configuration and deployment process by Kirkwood and Bassette, with the implicit understanding that he would be terminated if he did not do so in the manner they directed (or if he contradicted what they were saying).

49. Immediately after the meeting, Kirkwood and Bassette called Ludwig to discuss their next steps for the SOC 2 audit. During that call: 1) Kirkwood and Bassette developed a plan to modify past records to create the false appearance of compliance with Stride Bank's expectations for Type 1 SOC 2 certification; 2) Kirkwood and Bassette recognized that retroactively falsifying records was technically infeasible, and so they decided to fabricate records going forward to deceive auditors during the months leading up to Type 2 SOC 2 certification; 3) Kirkwood concluded the call by disparaging the stakeholder for WisdomTree's "Transfer Authority" (TA), who has raised serious concerns that inaccurate records and transaction data were interfering with their regulatory obligation to execute timely market operations on behalf of customers.

50. On or around November 6, 2023, shortly after this meeting with Kirkwood and Bassette, Ludwig reported his grave compliance and fraud concerns to Chief Information Security Officer (CISO) Michael Meyers ("Meyers") (Chief Information Security Officer, Digital Assets) in two conversations. Ludwig reported and raised his alarm and concerns to Meyers about how WT had clearly knowingly misrepresented and was making specific misrepresentations regarding its business practices and operations (including account balance

and transaction data accuracy and calculations), customer data protections, and development flow to outside auditors (i.e., that the Company had dealt fraudulently with those auditors to obtain SOC 2 certification). Ludwig explained to Meyers that these serious deficiencies posed compliance risks for WT, and that substantial work needed to be done to fix Prime and make its data and customer information accurate and reliable, but that Company management (particularly Kirkwood) was not allowing the engineers/developers to do the things that management had told the auditors were already done and complete (in order to falsely represent that WT met SOC 2 standards and requirements). Ludwig also told Meyers that he was concerned that the same misrepresentations by management would be soon made to the Financial Industry Regulatory Authority (“FINRA”) as well.

51. Ludwig told Meyers, a senior Company official, that he wanted to “raise the flag” about it, conveying his concern that these violations and deficiencies posed serious risk to the Company’s legal compliance and exposed it to liability. Ludwig discussed various serious issues, including specific misrepresentations made by WT executives Kirkwood and Bassette to SOC 2 auditors in order to gain SOC 2 certification based on those knowingly false (i.e., fraudulent) statements, and Ludwig said he believed that FINRA would soon be provided with the same false information by WT officials. Meyers told Ludwig that he would talk with David Yates about his concerns.

52. These major problems with the Prime app indicated to Ludwig that WT was running afoul of federal regulatory requirements for financial services companies, including violations of requirements concerning data accuracy, books and records, internal controls, security risks and data security, as well as anti-money laundering measures. Indeed, it was an open secret that Prime was commonly used for apparent money laundering and by seemingly

unscrupulous users/customers, as evidenced by the prevalence of unknown users maintaining many zero or near-zero accounts and engaging in transfers that fit classic money laundering patterns (as repeatedly acknowledged by WT management).

53. One of the central aspects of Ludwig's complaint to Yates regarding Kirkwood and Bassette's misleading of and fraud upon the SOC 2 auditors was the fact that they had knowingly misled the auditors into believing that all of Prime's control functions were handled as code. This was false, because other than automated business logic and data migrations, the standard business practice at WT for Prime when modifying data was to do so manually, with Bassette or others logging in as the generic user "lordmuppet" and making manual data changes (e.g., by using SQL (structured query language) queries).

54. Yates promptly contacted Ludwig about his conversation with and complaints to Meyers. Ludwig explained to Yates the list of material misrepresentations that had been made to the SOC 2 auditors and how Kirkwood and Bassette were in reality simply proceeding without taking any of the needed steps to bring Prime and WT into compliance. Ludwig also told Yates that he was afraid that management would engage in the same deceptive, fraudulent activity and make the same false representations to federal SEC investigators/auditors if and when they arrived in connection with the expected audit of WT in the near future. Ludwig shared the same concerns with David Yates that he had Michael Meyers, including regarding his fear that WT would also be making false representations to FINRA if they took the same approach with them. Indeed, the Company has at times admitted that they did not follow SOC 2 requirements regarding production database access and logging of data or code changes, among other issues, particularly in emergency or "hotfix" situations.

55. Ludwig told Yates he would not participate in fraud and would speak up again (including in any SEC or other government or outside audit). Ludwig offered to make a public complaint, have his name associated with his complaint (at WT and externally), and said that he would stand by his complaint in public. Despite claiming that the Company's standard was "100% honesty," Yates insisted on keeping Ludwig's complaint a secret, and warned Ludwig of the certain threat of severe reprisals against him by Kirkwood if his complaints were to become known. Yates also said that the CEO/COO would surely fire anyone who he believed had misled the auditors on the spot if Ludwig's complaint became known, and therefore he intended to keep it a secret. It has since become clear that Yates knowingly concealed Ludwig's complaint from the Company to avoid personal consequences from the Company's leadership.

56. Yates told Ludwig that Kirkwood certainly would retaliate against Ludwig or others who raised concerns about Prime's compliance and SOC 2 issues if he learned of their complaints. Ludwig affirmed that he would stand by his complaint.

57. In or around December 2023, very soon after Ludwig lodged these complaints regarding fraudulent conduct by WT leadership, Kirkwood berated and threatened Ludwig and Kjos regarding their complaints and objections after Yates informed Kirkwood of what Ludwig and Kjos had reported, with Kirkwood quoting from Yates' written account of what they had said to him.

58. After Ludwig's November 2023 meeting with Yates, Kirkwood confronted Ludwig about his complaints to Yates and told Ludwig that he did not want to hear about these deficiencies regarding Prime anymore from Ludwig (or anyone else). This showed that not only did WT management communicate with each other regarding complaints of violations like those raised by Plaintiffs, but that WT leadership such as Kirkwood harbored retaliatory animus

against employees who raised such concerns and saw complaints as a threat to themselves and seemingly WT as well. It therefore appeared that management was communicating about Plaintiffs' complaints and concerns among themselves as a matter of practice.

59. In or around January 2024, Ludwig was recognized for his performance and support of key stakeholders by being invited to an in-person off-site leadership and planning meeting in New York. Ludwig raised concerns regarding the serious defects of WT Prime in a meeting with David Yates. In that meeting, Ludwig pointed out the need for proper error handling, automated testing, and improved accuracy of financial accounting – including but not limited to regarding Kirkwood's repeated refusal and failure to implement and allow the implementation of proper financial arithmetic methods/datatypes. Ludwig expressed that he found it “terrifying” that Prime could not display and provide financial information that was precise and accurate, to a penny, which should be expected of even basic accounting software.

60. In a meeting with Kirkwood, Ludwig said that he believed the team should focus on combating the serious defects in Prime by, among other things, writing automated tests and implementing a new, “decimal” datatype for financial calculations. Kirkwood rejected Ludwig's concerns, responding in a hostile manner that, “I don't want to fucking hear about decimals anymore.” After these discussions in which Ludwig again reiterated his serious compliance concerns, he was no longer invited to participate in another in-person leadership and planning off-site meeting at WT.

61. In early 2024, Cancel also became more vocal about fighting to build the Prime app to meet applicable requirements that his job was exposed to, including those needed to be approved by Apple and Google, which track with many legal and regulatory obligations concerning data accuracy and security.

62. Cancel and other engineers/developers were told that even though WT Prime did not meet all the requirements for those companies, the Company should still submit things to them because Kirkwood's job was on the line (and, so the threatening implication went, so could the rest of their jobs be). WT submitted materials to Apple and Google that was approved, which surprised Cancel. However, although it appears that this approval may have been due to heavy editing by WT of its submitted video footage (which Cancel viewed as fraud on those third-party companies), that should have been and was represented as being evidence of WT's proper implementation.

63. For his part, Kjos also continued to raise concerns about Prime's poor internal controls and calculations methodology, which used inconsistent methodologies for different parts of the app, resulting in "mix and matched floats [a.k.a floating-point numbers] everywhere" due to differing rounding methods and other deficient processes. When Kjos fixed problems in the software, Kirkwood would become furious, and even when he allowed a fix to be fully implemented, he would delay its approval and therefore its implementation for several weeks.

64. In or around May 2024, Tim Kirkwood publicly berated Ludwig at length for over an hour in a team meeting regarding core issues that Ludwig had raised regarding Prime's calculation of client balances and transactions, which were causing internal controls problems and inaccurate client account and transaction data. Mismatches between what was in the database and blockchain accounting led to frequent transaction failures, which was most often addressed using inadequate and non-compliant "band-aid" manual data fixes to the database regarding the amount of customer funds.

65. Errors and discrepancies of just a few cents up to approximately \$10.00 led to common failed transactions. Such situations gave rise to customer complaints (many of which

can readily be found on the iTunes/Apple app store and on Google Play), with customers saying that transactions repeatedly stalled out or failed, accounts being frozen because of incorrectly calculated balances, inability to buy/sell their entire position in any security because of rounding errors (i.e., internal control errors), and that the app did not provide clear answers as to accounts, with funds ending up in limbo. WT faced a constant need to rebalance and reconcile accounts as a result of these fundamental issues in the Prime app.

66. Not only did Plaintiffs repeatedly raise the urgency of addressing calculation problems in Prime that was caused by inconsistent coding (which management dismissed), but they also noted that failed transactions were not tracked correctly by the Company. In addition, database changes (including who made the changes) also were not properly tracked, with a single “user” account dubbed “lordmuppet” being used and shared by various people to change customer data and code.

67. Kirkwood would not stop to listen to Ludwig’s substantive explanation of the issues and what needed to be done, and even personally insulted Ludwig. Kirkwood insisted that Ludwig give him a “simple” one-sentence answer or he would not listen to it. Later, Kirkwood threatened to force Ludwig to make all systemic changes that he had said were needed to bring Prime into compliance all alone, on his own (an impossible task not simply in terms of time but logistically as well due to the sheer number of aspects of the Prime app that would need to be accessed and changed by different parts of the team). Kirkwood also threatened that “if anything goes wrong” or “if anything doesn’t add up at all,” that he would personally make sure that Ludwig was held solely responsible and got all the blame with WT’s executive leadership.

68. Kirkwood’s retaliatory animus and rage against Ludwig was palpable, and was directly caused by Ludwig once again publicly raising the Prime app’s fundamental and serious

deficiencies and the violations and the risks that these known errors and false data posed to customers and WT itself.

69. Cancel and Kjos attempted to intervene multiple times to either end Kirkwood's aggression and tirade and/or to explain Ludwig's compliance and internal controls concerns, but they too were shouted down or simply dismissed by Kirkwood.

70. Kirkwood then accused all three of the Plaintiffs (showing that he identified them with each other and as a unit) of wasting time on "stupid bullshit" that "doesn't matter," referring to the internal controls and related fraud and compliance concerns they had raised.

71. Further demonstrating Defendants' retaliatory animus, Kirkwood snapped at Kjos and interrupted and dismissed Cancel when they supported Ludwig and seconded his compliance, controls, and accounting/calculation concerns, and Kirkwood threatened the Plaintiffs with impossible tasks and standards of performance and also attempted to blame them for any subsequent issues.

72. Later in May 2024, Kirkwood met with Kjos and told him that he was "not proud of anything I [Kirkwood] have done at WisdomTree" because he was "just doing the best I can with a shit hand."

73. In or around June 2024, Kirkwood assured the team that WT had funding, and that the team's jobs were secure for at least two to three more years, especially given their very positive performance reviews.

74. Also in or around June 2024 on his last company trip to New York, Cancel raised concerns to Yates about low morale among the engineers in part due to the recent hostility from Kirkwood. Yates specifically assured Cancel that WT was adequately funded, with no plans for

any layoffs or restructuring that would affect their employment. Yates told Cancel that he was very satisfied with the performance of the team, and that no one's employment was at risk.

75. During 2024, Cancel had been raising errors in the balances and transaction numbers displayed to customers repeatedly to Kirkwood and Keith Bassette, expressing concerns regarding misleading or providing false information to customers. Cancel also raised regulatory compliance concerns regarding the turning off or disabling of Know Your Customer (KYC) components in the Prime app because of bugs and customer complaints, and was met with hostility by his managers, who seemed more concerned with avoiding inconvenience and customer issues than regulatory requirements.

76. Cancel explained to his managers that if WT's own personnel and engineers did not fully understand what the numbers for particular accounts were supposed to be, WT's customers certainly were not going to know what is going on or what they have in their own accounts. The obvious implication of Cancel's complaint and concern, as he intended, was that this was a serious problem from a business and legal/compliance perspective, and Cancel was once again dismissed and forced to either ignore and leave the issue unaddressed or try to repair it in the background without their knowledge or support (which Cancel did or tried to do with very limited control and support).

77. Cancel frequently and repeatedly raised such concerns and issues, including regarding the confusing and inaccurate presentation of financial balance and transaction statuses and data to Prime's users and other software quality and process issues that raised compliance problems for Prime. Cancel raised these complaints with managers, including Kirkwood (who would in response verbally abuse Cancel), despite fearing the wrath of Kirkwood and others. Cancel did this because he believed customers were being misled by the data they were receiving

through WT's Prime app, and that such frequent errors and control problems posed a frightening degree of risk to WT legally and commercially, with potentially disastrous consequences for customers and WT itself.

78. By way of example only, Cancel raised serious concerns in the team meeting on or around May 17, 2024 in which Kirkwood publicly berated Ludwig that WT Prime was presenting several different dollar values regarding what users had available to spend or withdraw from their account because of Prime's faulty and inconsistent calculations, which provided therefore false information to customers.

79. Yet, Cancel eventually felt compelled to curtail his complaints due to fear of retaliation from Kirkwood. Cancel's fears were based on management's (including Yates) dismissive attitude and their ignoring of his complaints and those of Ludwig and Kjos, but particularly because of the hostility displayed and threats made by Kirkwood in response to such complaints and concerns in the past.

80. Cancel's fears about Kirkwood's retaliatory intentions would soon be borne out. In or around July 2024, Kirkwood singled out Kjos for retaliation after Kjos brought up creating and running automated software testing in order to address severe deficiencies in WT Prime. Kirkwood retaliatorily assigned Kjos to write all automated tests for WT Prime without providing any specifications or permitting him to modify any application code in the Prime app, much of which was non-functional at the time due to an in-progress rewrite of all accounting logic in the application. Over the ensuing weeks and months, Kirkwood continued to load Kjos down with testing assignments, only to ultimately dispose of the tests Kjos had written as soon as they were completed, even when the tests had identified deficiencies in Kirkwood/Bassette's work. This conduct by Kirkwood revealed his actions towards Kjos to be completely retaliatory

in nature and that he was trying to make an example of Kjos by giving him unpleasant and an overwhelming amount of busy work, while also showing his contempt for the deficiencies and systemic controls and accounting/calculation problems in the Prime app.

81. In or around September 2024, Kirkwood undid most of the work that Kjos had done and the tests Kjos had written in an attempt to address and pinpoint Prime's deficiencies. However, Kirkwood also told Kjos separately that he had no negative feedback for him and that Kjos' performance was "tracking well." This underlined for Kjos that Kirkwood's retaliation against and zeroing in on him was not related to any issues with his job skills or performance (which Kjos also felt had been good and that he had been working very hard), but rather were punishment for and a signal to back off from airing his complaints and concerns regarding Prime.

82. Kjos took four weeks of paternity leave around when his daughter was born on September 2, 2024. Upon his return from paternity leave, Kjos's manager was extremely cold to him and largely refused to assign him any work. Indeed, Kirkwood met with Kjos in late September 2024. Kirkwood had been hostile towards Kjos and made various statements disdaining tests and other runtime checks and exception handling.

83. Kirkwood's negative attitude towards Kjos's concerns about the Prime app's functionality and compliance problems had continued since the year before, when as early as September 2023 he told Kjos that "I'm [i.e., Kirkwood] not a best practices guy," and that Kjos would "not fit in" because he seemed "like a best practices guy," and telling various team members, with Kjos present, that they should do the bare minimum and be intentionally vague in providing required information to FINRA.

84. In or around October 2024, David Yates and Kirkwood expressed strong interest to Ludwig regarding retaining him and keeping him in their area after Ludwig asked about transferring within WT.

85. Also in or around October 2024, discussions arose at the Company regarding a possible SEC audit of WT Prime, with a focus on fraud and money laundering prevention measures.

86. According to Ellen Shepley (“Ms. Shepley”) (Deputy AML Officer, Digital Assets), WisdomTree received a notice sometime before October 28, 2024, saying that the SEC intended to conduct an audit of the Company’s retail-focused business operations related to Prime. This audit apparently was due to happen because the SEC, FINRA, and other regulatory agencies had given WisdomTree a presumptive allowance to conduct retail operations. In addition, WT would have relied upon the Company’s SOC 2 certification and cited it in order to avoid and/or defer further regulatory scrutiny and in order to obtain a permanent and/or full allowance from regulators.

87. Since Prime had been operating for more than six months as of October 2024, it made sense that regulators would want to perform a more substantive review of WisdomTree’s business practices. However, key leaders at the Company clearly believed that WisdomTree’s business practices were unlikely to withstand scrutiny, which likely would result in severe violations findings and even financial penalties from both federal and state authorities.

88. Despite the fact that major work continued on Prime up to October 2024, the app continued to experience the same massive inaccurate data and transaction and account issues that Plaintiffs had lodged complaints about during the months and year leading up to their

terminations in November 2024. In fact, the Prime app was further destabilized in some respects by a major project on it that was completed in or around October 2024.

89. Ms. Shepley said that she and another official had specifically warned Ryan Louvar (Chief Legal Officer and Head of Business and Legal Affairs, Digital Assets) that WisdomTree would likely fail the audit because, among other reasons, Prime had continually failed to keep adequate records for investigations into identity theft and money laundering. These concerns were raised internally by Louvar with both Will Peck (Head of Digital Assets) and David Yates. Such issues would only compound a \$4 million civil penalty already incurred by WisdomTree earlier in 2024.<sup>1</sup>

90. In fact, WT used a third-party vendor or system called “Comply Advantage” in connection with its AML (anti-money laundering) measures and investigations, but Prime’s integration with Comply Advantage (“CA”) was chronically broken in that Prime/WT rarely provided CA with accurate or complete transaction data. This obviously severely hampered and prevented CA and WT from conducting effective, bona fide AML investigations or keeping accurate or complaint records about them. Ludwig raised concerns on this issue with Kirkwood on several occasions.

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<sup>1</sup> WisdomTree recently was publicly reported to have been hit with a \$4 million civil penalty as a result of a WT Environmental, Social, and Governance (ESG) investment fund that failed to exclude coal mining, natural gas, and tobacco companies (despite WT’s ESG marketing claims to the contrary). This violation finding was due at least in part to WT seemingly having relied solely on inadequately screened third-party data without internal checks (or at least robust internal checks or oversight), as required by regulators. [See “SEC Charges WisdomTree with Failing to Adhere to Its Own Criteria For ESG-Marketed Funds,”](https://arootah.com/blog/hedge-fund-and-family-office/sec-charges-wisdomtree/) <https://arootah.com/blog/hedge-fund-and-family-office/sec-charges-wisdomtree/>, November 27, 2024 (last visited May 6, 2025). This violation is echoed by the violations of the Company’s Prime app that were cited by Complainants, which also were caused by internal disregard for data accuracy and misrepresentations to customers and regulators.

91. Should the SEC discover, through inspection of communications or employee interviews, the concerns raised by Ludwig, Kjos, and/or Cancel regarding WT Prime's controls/accounting problems and inaccuracies, as well as Prime's incomplete and inaccurate fraud mitigation and AML investigation records, he said that it would lead to a much broader investigation and findings of violations for WT.

92. In addition, Ludwig had affirmed to Yates in late 2023 that he would steadfastly tell auditors the truth in any investigatory interview or audit, and all three of the Plaintiffs had repeatedly reiterated their compliance and internal controls concerns during 2024 as well. Yates and Company management would not want any of the Plaintiffs to be available to auditors or have the ability to approach auditors themselves as current employees of the Company, particularly based on how management handled their past complaints by either ignoring them or reacting in a hostile, aggressive manner.

93. Amid these anxious discussions among the team at WT in October 2024 and around the time that WT received this audit notice from the SEC, Peter Ziemba (Chief Administrative Officer) accidentally included Ludwig on an email addressed to WisdomTree's HR and legal departments. Ziemba's email indicated a "potential change to [Digital Assets]" and requested both "the year end 2023 and mid-year 2024 reviews for" five employees: Konrad Ludwig, Leif Kjos, Bryan Cancel, Jon Davidson, and Dan Kraut. These are notably the very same people who had raised concerns about WisdomTree's quality control issues in the past and who would be likely to participate with federal and state regulators if a criminal or enforcement investigation took place.

94. Ludwig indeed noticed right away that all five of the employees named in the email had been vocal about and raised concerns regarding serious deficiencies in WT Prime.

95. Ludwig immediately disclosed that he was mistakenly included on the email, but did ask why the files of those five people were being pulled. The Chief Administrative Officer told Ludwig that there was nothing to worry about, and that the Company was merely weighing the level of employee bonuses for 2025.

96. In or around late October 2024, it became clear to the engineering team after an internal review of the Prime app that the serious deficiencies and violations previously raised by Ludwig, Kjos, and Cancel were still a real and serious problem. Thousands of previously inactive and highly suspect customer accounts had flooded WT's and Prime's system with fraudulent financial transactions. This showed signs of an effort to probe the Company's systems and WT Primes's vulnerabilities regarding ACH and card processing (and its suitability for money laundering and/or other fraudulent activities).

97. Despite these alarming developments, Kirkwood once again dismissed the issues, publicly mocked the compliance and AML teams, and expressed indifference to the legal and compliance implications of these risks, saying things such as, "Basically, none of our users are real people" and "It's all fraud," regarding the type of users of trading and financial platforms like Prime. Again, Kirkwood demonstrated his and WT management's hostility towards and contempt for concerns regarding legal violations and compliance (as opposed to always doing what was expedient to shield WT and Prime from scrutiny or anything that could dent its image or expansion), much less providing customers with accurate data to begin with. The problems with Prime were so serious by late October 2024 that Kirkwood, under pressure from business imperatives and recent complaints to him by Ludwig, allowed Ludwig to restore Prime's fraud and anti-money-laundering investigation systems.

**III. DEFENDANTS ABRUPTLY TERMINATE PLAINTIFFS IN RETALIATION FOR THEIR PROTECTED COMPLAINTS**

98. Less than two weeks later, on or around November 13, 2024, Yates, Kirkwood, Kathy Tignor (Head of Human Resources), and Amara Ambruso (Director, WT Human Resources/Asset Management) notified Plaintiffs Ludwig, Kjos, and Cancel that they were terminated from WT, effective November 15, 2024.

99. In fact, Bryan Cancel was working to protect WT's interests and improve the Prime app to the very last moment of his employment. Because he, Ludwig and Kjos (along with Quality Assurance (QA)) could see that the numbers in Prime for customer accounts and transactions still did not consistently make sense or match up, Cancel was talking with QA about how Prime was showing even greater problems than before after a big sequence of changes had been made to the app. Cancel was in the middle of a conversation with QA, attempting to enlist the support of QA to push for implementation of changes that would solve Prime's problems once and for all (even over the protests of Kirkwood), when Cancel got a text from his boss asking Cancel to meet with him in the next 15 minutes. This message turned out to be for his termination meeting.

100. Defendants' termination reasons to Plaintiffs for their simultaneous firings were vague and/or contradicted by the facts of Plaintiffs' employment. Kirkwood gave Kjos a vague termination reason of "poor performance" despite recent positive feedback.

101. Cancel was told by Kirkwood in his termination meeting that he has "super talent" and had "done some cool stuff" with Kirkwood, but that they were "realigning the dev team" and his skillset "won't thrive in where we need to go and the changes we need to make." A promised written explanation to help with Cancel's development never came.

102. Indeed, in Ludwig's termination meeting Yates and the HR person present offered shifting reasons for his termination. At first, Yates told Ludwig that he was being terminated due

to “poor performance,” but when Ludwig asked for specifics and gave examples of his positive reviews, recognition and an award, and feedback (including from Yates himself), Yates changed his reason to be that, “We feel you do not have the necessary skills for WisdomTree Prime and WisdomTree Connect moving forward.” When Ludwig asked which skills he was missing or failed to demonstrate, Yates simply said, “I am not prepared to answer that question at this time.”

103. Ludwig and the Plaintiffs all realized that they were being targeted due to whistleblower retaliation. In his termination meeting, Ludwig asked the HR person, Amara Ambruso, whether she knew that he was an internal whistleblower, and she said that she did not know this. Ludwig informed her of his prior complaints, specifically regarding the SOC 2 audit meeting in which Yates and Kirkwood misled the auditors. Ludwig also informed Ambruso of the longstanding pattern by Kirkwood of verbal abuse and retaliation against employees in their jobs for raising complaints. Ambruso denied knowledge of this and said that she would follow up with him on his complaint so it could be formally documented and investigated. Ambruso never contacted Ludwig or set up a meeting with him about his retaliation and compliance/fraud complaints.

104. Because of Defendants’ blatant retaliation against all three of the Plaintiffs despite their loyal attempts to redress and raise the alarm regarding serious deficiencies in the Company’s Prime app, they felt no choice but to file this administrative complaint under SOX. The unlawful and noncompliant practices flagged by Plaintiffs exposed WT to liability for fraud on customers, investors, and auditors, as well as serious violations of federal rules and regulations related to books and records, internal controls, anti-money laundering requirements and data security, all violations covered by SOX.

105. Plaintiffs' termination from WT followed repeatedly renewed complaints made to WT regarding such SOX-covered violations. Defendants' termination of Plaintiffs also targeted them due to the imminent risk that any and each of the Plaintiffs would soon disclose the full extent of WT's and the Prime app's violations to SEC auditors based on their previous complaints and objections. The retaliatory nature of their terminations is supported by a clear pattern of retaliatory animus and hostility, as well as intimidation by management, that illustrates the connection between their protected complaints and sudden terminations, which the Company did not explain with any compelling justifications.

**FIRST CAUSE OF ACTION**  
**As to all Plaintiffs against all Defendants**  
**(Retaliation in Violation of the Sarbanes-Oxley Act)**

106. Plaintiff hereby repeats and re-alleges each and every allegation in all of the preceding paragraphs, as though fully set forth herein.

107. As set forth above, Plaintiffs engaged in legally protected activities and made multiple protected complaints to and known to Defendants concerning, *inter alia*, suspected, ongoing, and imminent fraud on investors and third party authorities and business partners, as well as legal violations of SEC-promulgated and -enforced rules and federal laws, including, but not limited to, regarding accuracy of financial information and reporting (including but not limited to internal controls and accounting, including with regard to account and transaction information provided to customers/clients), anti-money laundering measures and controls, and other aspects of the Company's loans and operations. These violations also implicate potential fraud, fraudulent activity and/or misrepresentations (including bank, wire, mail, and shareholder fraud), and activities and risk, and potential harm, to WT which threaten the interests of and violate obligations to WT's shareholders, and, again, violations of laws, regulations, and rules enforced by the SEC.

108. Defendants violated the Sarbanes-Oxley Act by taking adverse employment actions against Plaintiffs, including, but not limited to, retaliatorily terminating their employment.

109. As a direct and proximate cause of Defendants' retaliatory conduct, Plaintiffs have suffered, and will continue to suffer, financial harm, mental and emotional distress, hardship and injury, including loss of compensation, damage to their reputation, reduced possibilities for advancement and increased future compensation, and other additional damages, including interest, attorneys' fees, costs, and disbursements.

**PRAYER FOR RELIEF**

Plaintiffs are seeking the following relief:

A. All available economic damages, including, as applicable, back pay, front pay, raises, and bonuses (including but not limited to any lost retirement, pension, and other benefits, equity and/or cash value of any equity, securities or the like that would have been granted or were lost as part of Plaintiffs' compensation due to Defendants' conduct), various performance-based or deferred compensation, retirement and/or pension payments, other benefits, reinstatement (including of seniority and tenure), and all other orders and remedies necessary to make Plaintiffs whole;

B. An order relieving Plaintiffs from any obligations under employment agreements or Company policies due to Defendants' conduct in violation of Plaintiffs' rights, while maintaining full rights to all retirement and/or pension benefits and legal protections, as well as requiring Defendants to abate and refrain from any further violations of the whistleblower provisions of the Sarbanes-Oxley Act;

C. An order prohibiting Defendants from disclosing any disparaging information about Plaintiffs to third parties, including but not limited to prospective employers or professional organizations, or otherwise interfering with any employment Plaintiffs may have or seek in the future;

D. An order requiring the Defendants to disclose the contents of this Complaint and/or their Global Watchlist or other risk information deemed relevant by OSHA and/or the Court to the DOJ, SEC and PCAOB, along with an order requiring Defendants to remediate the impact of their practices regarding the quality of the audits and retention of high-risk client relationships, and to correct the numerous control and compliance matters discussed herein;

E. Compensatory monetary damages in an amount determined to be fair and equitable compensation for Plaintiffs' physical and emotional distress and loss of reputation;

F. Reasonable attorneys' fees for Plaintiffs' attorneys and the costs of this litigation, including but not limited to reimbursement of all costs, including but not limited to deposition fees, witness fees, travel expenses, and other expenses to present, collect and produce evidence in this matter; and,

G. Such other further relief deemed just and proper by OSHA/DOL and/or a court of appropriate jurisdiction, pursuant to their discretion, including but not limited to any punitive and/or exemplary damages that may be awarded under applicable law.

Dated: February 10, 2026  
New York, New York

Respectfully Submitted,

**WIGDOR LLP**

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