

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

VESTTOO LTD., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-11160 (MFW)

(Jointly Administered)

VESTTOO CREDITORS LIQUIDATING TRUST,

Plaintiff,

v.

APPLEBY (BERMUDA) LTD.,

Defendant.

Adv. Proc. No. \_\_\_\_\_

**COMPLAINT TO AVOID AND RECOVER TRANSFERS PURSUANT TO 11 U.S.C.  
§§ 547, 548, AND 550 AND TO DISALLOW CLAIMS PURSUANT TO 11 U.S.C. § 502**

Plaintiff Vesttoo Creditors Liquidating Trust (the “Plaintiff” or the “Trust”), by and through undersigned counsel, files this complaint (the “Complaint”) to avoid and recover transfers against the above-captioned defendant (the “Defendant”) and to disallow any claims held by Defendant. In support of this Complaint, Plaintiff alleges as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff seeks to avoid and recover from Defendant, or from any other person or entity for whose benefit the transfers were made, all preferential transfers of property that occurred during the ninety (90) day period prior to the commencement of the Debtors’ bankruptcy proceedings pursuant to sections 547 and 550 of chapter 5 of title 11 of the United States Code

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<sup>1</sup> Due to the large number of debtor entities in the chapter 11 cases, a complete list of the Debtors is not provided herein. A full list of the Debtors (collectively the “Debtors”) in these proceedings is available at Annex A of the Chapter 11 Voluntary Petition of Vesttoo Ltd., filed at D.I. 1 in Case No. 23-11160.

(the “Bankruptcy Code”) and, subject to proof, (b) transfers that may have been fraudulent conveyances pursuant to sections 548 and 550 of the Bankruptcy Code.

2. In addition, Plaintiff seeks to disallow, pursuant to sections 502(d) and (j) of the Bankruptcy Code, any claim that Defendant has filed or asserted against the Debtors or that has been scheduled for Defendant. Plaintiff does not waive but hereby reserves all rights to object to any such claim for any reason, including, but not limited to, any reason set forth in sections 502(a) through (j) of the Bankruptcy Code.

### **JURISDICTION AND VENUE**

3. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334(b). The underlying chapter 11 bankruptcy case is captioned *In re Vesttoo Ltd., et al.*, Case No. 23-11160 (MFW).

4. This adversary proceeding is a core proceeding to be heard and determined by the Court pursuant to 28 U.S.C. § 157(b)(2).

5. Venue of the Debtors’ chapter 11 cases and this adversary proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

6. The statutory and legal predicates for the relief sought herein are sections 502, 547, 548, and 550 of the Bankruptcy Code and Rules 3007 and 7001 of the Federal Rules of Bankruptcy Procedure (collectively, the “Bankruptcy Rules”).

7. Pursuant to Federal Rule of Bankruptcy Procedure 7008 and Local Bankruptcy Rule 7008-1, Plaintiff consents to this Court’s entry of final orders with regard to any claim in this action.

### **PROCEDURAL BACKGROUND**

8. Beginning on August 14, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”). During the Chapter 11 Cases, the Debtors continued to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Chapter 11 Cases were procedurally consolidated and jointly administered pursuant to Bankruptcy Rule 1015(b).

9. On February 29, 2024, the Court entered its *Order Approving Disclosure Statement on Final Basis and Confirming Official Committee of Unsecured Creditors’ Second Modified Second Amended Chapter 11 Plan of Liquidation for Vesttoo Ltd. and Its Debtor Affiliates* [D.I. 763, the “Confirmation Order”] confirming the *Official Committee of Unsecured Creditors’ Second Modified Second Amended Chapter 11 Plan of Liquidation for Vesttoo Ltd. and Its Debtor Affiliates* [D.I. 763-1, the “Plan”].

10. On April 11, 2024, the effective date of the Plan occurred (the “Plan Effective Date”). On the Plan Effective Date, all causes of action of the Debtors, including this avoidance action, vested in the Trust. *See Plan*, p. 71.

### **THE PARTIES**

11. Plaintiff is the Trust empowered under the Plan “to commence, prosecute, and resolve any Liquidating Trust claims.” *Plan*, pp. 69-70.

12. Upon information and belief, Defendant was, at all relevant times a vendor or creditor that provided goods and/or services to or for the Debtors. Upon further information and belief, Defendant is a limited liability company, organized under the laws of Bermuda, with a principal place of business in Hamilton, Bermuda.

13. Venue is proper in this District under 28 U.S.C. § 1409 and is consistent with the interests of justice, judicial economy, and fairness.

**FACTUAL BACKGROUND**

14. Prior to the Petition Date, the Debtors maintained business relationships with various business entities and individuals, through which the Debtors regularly purchased, sold, received, and/or delivered goods and services.

15. During the ninety (90) days before and including the Petition Date (the “Preference Period”), the Debtors continued to operate their business, including the transfer of money, either by checks, cashier checks, wire transfers, ACH transfers, direct deposits or otherwise to various entities.

16. Upon information and belief, during the course of their relationship, Defendant and one or more of the Debtors entered into agreements for the purchase of goods and/or services from the Defendant, which are evidenced by one or more contracts, purchase orders, invoices, communications, and other documents (collectively, the “Agreements”). The Agreements concerned and related to the goods and/or services provided by Defendant to one or more of the Debtors as described in the “Parties” section of this Complaint. The payments to the Defendant in respect of the Agreements during the Preference Period are set forth on the Statement of Account, which is attached hereto and incorporated by reference as Exhibit A. Such details include “Invoice Date,” “Invoice Number,” “Invoice Amount,” and the “Transfer Date.”

17. One or more of the Debtors made transfer(s) of an interest of the Debtors’ property to or for the benefit of Defendant during the Preference Period through payments aggregating not less than the amount set forth on Exhibit A hereto (the “Transfer” or “Transfers”). The details of each Transfer are set forth on Exhibit A and incorporated by reference. Such details include “Transfer

Date,” “Transfer Number,” “Transfer Amount.” Plaintiff is seeking to avoid all of the Transfers made by the applicable Debtor(s) to Defendant within the Preference Period.

18. Prior to filing this Complaint, Plaintiff performed reasonable due diligence in the circumstances of the case, including an evaluation of the reasonably knowable affirmative defenses available to Defendant. As part of that due diligence and where reasonably available, Plaintiff’s professionals: (a) reviewed the Debtor’s books and records; (b) sent a demand letter at Defendant’s location in the Debtors’ books and records seeking a return of the Transfers and requesting that Defendant respond and provide support for any defenses to avoidance of the Transfers; and (c) reviewed all material provided in response, if any, as well as any other reasonably available information.

19. Based upon the review summarized above, Plaintiff has determined that Plaintiff may avoid some or all of the Transfers even after taking into account Defendant’s alleged affirmative defenses. Pursuant to Bankruptcy Code section 547(g), Defendant bears the ultimate burden of proof on any affirmative defense to the Transfers. Plaintiff does not concede the validity of any defense, reserves all rights in connection therewith and leaves Defendant to such burden.

20. During the course of this proceeding, Plaintiff may learn (through discovery or otherwise) of additional transfers made to Defendant during the Preference Period or that may be avoidable under other provisions of the Bankruptcy Code. It is Plaintiff’s intention to avoid and recover all avoidable transfers of property made by the Debtors to or for the benefit of Defendant or any other transferee, in accordance with the Bankruptcy Code and for the benefit of all creditors of the Debtors’ estates. Plaintiff reserves the right to amend this original Complaint to include: (i) further information regarding the Transfer(s), (ii) additional transfers, (iii) modifications of and/or

revision to Defendant's name, (iv) additional defendants, and/or (v) additional causes of action, if applicable (collectively, the "Amendments"), that may become known to Plaintiff at any time during this adversary proceeding, through formal discovery or otherwise, and for the Amendments to relate back to this original Complaint.

### **CAUSES OF ACTION**

#### **First Claim for Relief**

#### **(Avoidance of Preference Period Transfers – 11 U.S.C. § 547)**

21. Plaintiff incorporates all preceding paragraphs as if fully re-alleged herein, to the extent they are not inconsistent with allegations contained in this First Claim for Relief.

22. As more particularly described on Exhibit A attached hereto and incorporated herein, during the Preference Period, the Debtor(s) identified on Exhibit A made each Transfer to or for the benefit of Defendant.

23. Each Transfer was made from the Debtor(s) identified on Exhibit A and constituted a transfer of an interest in property of the transferring Debtor(s) as identified on Exhibit A.

24. Defendant was a creditor at the time of each Transfer by virtue of supplying the Debtor(s) identified on Exhibit A the goods and/or services identified in this Complaint and in the Agreements, as more fully set forth on Exhibit A hereto, for which the Debtor(s) identified on Exhibit A were obligated to pay following delivery in accordance with the Agreements.

25. Each Transfer was to or for the benefit of a creditor within the meaning of section § 547(b)(1) of the Bankruptcy Code because each Transfer either reduced or fully satisfied a debt or debts then owed by the Debtor(s) identified on Exhibit A to Defendant.

26. Each Transfer was made for, or on account of, an antecedent debt or debts owed by the Debtor(s) identified on Exhibit A to Defendant before such Transfers were made, as asserted by Defendant and memorialized in the Agreements, each of which constituted a "debt" or "claim"

(as those terms are defined in the Bankruptcy Code) of Defendant prior to being paid by the transferring Debtor(s) as set forth on Exhibit A hereto.

27. Each Transfer was made while the Debtors were insolvent. Plaintiff is entitled to the presumption of insolvency for each Transfer made during the Preference Period pursuant to section 547(f) of the Bankruptcy Code.

28. Each Transfer was made during the Preference Period, as set forth on Exhibit A.

29. As a result of each Transfer, Defendant received more than Defendant would have received if: (a) the Debtors' chapter 11 cases were cases under chapter 7 of the Bankruptcy Code; (b) such Transfer had not been made; and (c) Defendant received distributions on account of its debts under the provisions of the Bankruptcy Code. As evidenced by the proofs of claim that have been received to date, and as described in the Plan, the Debtors' liabilities exceed their assets such that the Debtors' unsecured creditors will not receive payment of their claims in full from the Debtors' bankruptcy estates.

30. In accordance with the foregoing, each Transfer is avoidable pursuant to section 547(b) of the Bankruptcy Code.

**Second Claim for Relief**

**(Avoidance of Fraudulent Conveyances – 11 U.S.C. § 548(a)(1)(B))**

31. Plaintiff hereby incorporates all previous allegations as though fully set forth herein, to the extent they are not inconsistent with allegations contained in this Second Claim for Relief.

32. To the extent that one or more of the Transfers identified on Exhibit A was not made on account of an antecedent debt, was a prepayment for goods and/or services subsequently received, or was a transfer made by one Debtor without a corresponding transfer into the payment account by the Debtor incurring the debt, Plaintiff pleads in the alternative that the Debtor(s)

making such transfer(s) did not receive reasonably equivalent value in exchange for such transfer(s) (the “Potentially Fraudulent Transfers”); and

A. The Debtors were insolvent as of the date of the Transfer(s), or became insolvent as a result of the Transfer(s); or

B. The Debtors were engaged, or about to engage, in business or a transaction for which any property remaining with the Debtors was an unreasonably small capital; or

C. The Debtors intended to incur, or believed they would incur, debts beyond their ability to pay upon maturity.

33. Based upon the foregoing, the Potentially Fraudulent Transfers are avoidable pursuant to section 548(a)(1)(B) of the Bankruptcy Code.

**Third Claim for Relief**  
**(Recovery of Avoided Transfers – 11 U.S.C. § 550)**

34. Plaintiff incorporates all preceding paragraphs as if fully re-alleged herein, to the extent they are not inconsistent with the allegations contained in this Third Claim for Relief.

35. Plaintiff is entitled to avoid the Transfer(s) pursuant to section 547(b) of the Bankruptcy Code, and any Potentially Fraudulent Transfers pursuant to section 548 of the Bankruptcy Code (collectively, the “Avoidable Transfers”).

36. Defendant was the initial transferee of the Avoidable Transfer(s) or the immediate or mediate transferee of such initial transferee or the person for whose benefit the Avoidable Transfer(s) were made.

37. Accordingly, pursuant to section 550(a) of the Bankruptcy Code, Plaintiff is entitled to recover from Defendant the Avoidable Transfer(s), plus interest thereon to the date of payment and the costs of this action.



**Fourth Claim for Relief**  
**(Disallowance of all Claims – 11 U.S.C. § 502(d) and (j))**

38. Plaintiff incorporates all preceding paragraphs as if fully re-alleged herein, to the extent they are not inconsistent with allegations contained in this Fourth Claim for Relief.

39. Defendant is a transferee of transfers avoidable under sections 547 and/or 548 of the Bankruptcy Code, which property is recoverable under section 550 of the Bankruptcy Code.

40. Defendant has not paid the amount of the Avoidable Transfer(s), or turned over such property, for which Defendant is liable under section 550 of the Bankruptcy Code.

41. Pursuant to section 502(d) of the Bankruptcy Code, any and all Claims of Defendant and/or its assignee, against Plaintiff or the Debtors must be disallowed until such time as Defendant pays to Plaintiff an amount equal to the aggregate amount of the Avoidable Transfer(s), plus interest thereon and costs.

42. Pursuant to section 502(j) of the Bankruptcy Code, any and all Claims of Defendant, and/or its assignee, against the Debtors previously allowed by the Debtors or by Plaintiff, must be reconsidered and disallowed until such time as Defendant pays to Plaintiff an amount equal to the aggregate amount of the Avoidable Transfer(s).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court grant the following relief against Defendant:

A. On Plaintiff's First, Second, and Third Claims for Relief, judgment in favor of Plaintiff and against Defendant avoiding all of the Avoidable Transfers and directing Defendant to return to Plaintiff the amount of the Avoidable Transfers, pursuant to sections 547(b), 548, and 550(a) of the Bankruptcy Code, plus interest from the date of demand at the maximum legal rate

and to the fullest extent allowed by applicable law, together with the costs and expenses of this action including, without limitation, attorneys' fees;

B. On Plaintiff's Fourth Claim for Relief, judgment in favor of Plaintiff and against Defendant disallowing any claims held or filed by Defendant against the Debtors or Plaintiff until Defendant returns the Avoidable Transfers to Plaintiff pursuant to section 502(d) and (j) of the Bankruptcy Code; and

C. Such other and further relief as this Court may deem just and proper.

Dated: August 13, 2025

VESTTOO CREDITORS LIQUIDATING TRUST

/s/ Karen C. Bifferato

Karen C. Bifferato (No. 3279)

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**EXHIBIT A****STATEMENT OF ACCOUNT**

Invoice Date	Invoice Number	Invoice Amount	Transferring Debtor	Transfer Date	Transfer Number	Transfer Amount
2/28/2023	4196148	\$26,981.88	Vesttoo Ltd.	5/15/2023	122	(\$26,981.88)
2/28/2023	4196222	\$14,269.27	Vesttoo Ltd.	5/15/2023	122	(\$14,269.27)
2/28/2023	4196358	\$12,751.40	Vesttoo Ltd.	5/15/2023	122	(\$12,751.40)
3/31/2023	4199115	\$2,255.70	Vesttoo Ltd.	5/15/2023	122	(\$2,255.70)
2/13/2023	4194839	\$48,726.73	Vesttoo Ltd.	5/16/2023	136	(\$48,726.73)
3/31/2023	4199138	\$198,067.61	Vesttoo Ltd.	6/19/2023	166	(\$198,067.61)
3/31/2023	4199138A	\$5,939.63	Vesttoo Ltd.	6/19/2023	166	(\$5,939.63)
4/30/2023	4200458	\$2,428.74	Vesttoo Ltd.	6/29/2023	189	(\$2,428.74)
4/30/2023	4200459	\$356.90	Vesttoo Ltd.	6/29/2023	189	(\$356.90)
4/30/2023	4200886	\$6,706.33	Vesttoo Ltd.	6/29/2023	189	(\$6,706.33)
4/30/2023	4201175	\$25,649.58	Vesttoo Ltd.	7/28/2023	226	(\$25,649.58)
5/31/2023	4202475	\$2,242.65	Vesttoo Ltd.	7/28/2023	226	(\$2,242.65)
5/31/2023	4202540	\$67,827.37	Vesttoo Ltd.	7/28/2023	226	(\$67,827.37)
8/8/2023	4206704	\$75,000.00	Vesttoo Ltd.	8/2/2023	227	(\$75,000.00)

**TOTAL TRANSFERS:****\$489,203.79****Claim List****Schedule #160000300****Value \$59,435.12****Creditor APPLEBY (BERMUDA) LIMITED****Debtor 23-11160 Vesttoo Ltd.**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

VESTTOO LTD., *et al.*,

Debtors.<sup>1</sup>

VESTTOO CREDITORS LIQUIDATING TRUST,

Plaintiff,

v.

APPLEBY (BERMUDA) LTD.,

Defendant.

Chapter 11

Case No. 23-11160 (MFW)

Jointly Administered

Adversary Proceeding

No. \_\_\_\_\_

**NOTICE OF DISPUTE RESOLUTION ALTERNATIVES**

As party to litigation you have a right to adjudication of your matter by a judge of this Court. Settlement of your case, however, can often produce a resolution more quickly than appearing before a judge. Additionally, settlement can also reduce the expense, inconvenience, and uncertainty of litigation.

There are dispute resolution structures, other than litigation, that can lead to resolving your case. Alternative Dispute Resolution (ADR) is offered through a program established by this Court. The use of these services are often productive and effective in settling disputes. **The purpose of this Notice is to furnish general information about ADR.**

The ADR structures used most often are mediation, early-neutral evaluation, mediation/arbitration and arbitration. In each, the process is presided over by an impartial third party, called the “neutral”.

In mediation and early neutral evaluation, an experienced neutral has no power to impose a settlement on you. It fosters an environment where offers can be discussed and exchanged. In the process, together, you and your attorney will be involved in weighing settlement proposals and crafting a settlement. The Court in its Local Rules requires all ADR processes, except threat of a potential criminal action, to be confidential. You will not be prejudiced in the event a settlement is not achieved because the presiding judge will not be advised of the content of any of your settlement discussions.

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<sup>1</sup> Due to the large number of debtor entities in the chapter 11 cases (collectively, the “Bankruptcy Cases”), a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/vesttoo>.

Mediation/arbitration is a process where you submit to mediation and, if it is unsuccessful, agree that the mediator will act as an arbitrator. At that point, the process is the same as arbitration. You, through your counsel, will present evidence to a neutral, who issues a decision. If the matter in controversy arises in the main bankruptcy case or arises from a subsidiary issue in an adversary proceeding, the arbitration, though voluntary, may be binding. If a party requests *de novo* review of an arbitration award, the judge will rehear the case.

**Your attorney can provide you with additional information about ADR and advise you as to whether and when ADR might be helpful in your case.**

Dated: August 13, 2025

/s/ Stephen L. Grant

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*Clerk of Court*