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Transaction ID 63061850
Case No. 2019-0205-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CITY OF RIVIERA BEACH POLICE PENSION FUND, Plaintiff, v. W. GEOFFREY BEATTIE, GREGORY BRENNEMAN, CLARENCE P. CAZALOT, JR., MARTIN S. CRAIGHEAD, LYNN L. ELSENHANS, JAMIE S. MILLER, JAMES J. MULVA, JOHN G. RICE, LORENZO SIMONELLI, and GENERAL ELECTRIC COMPANY, Defendants, -and- BAKER HUGHES, A GE COMPANY, Nominal Defendant	)	C.A. No. ________________

<u>VERIFIED DERIVATIVE COMPLAINT</u>

Plaintiff City of Riviera Beach Police Pension Fund ("Plaintiff") brings this Verified Derivative Complaint (the "Complaint") derivatively on behalf of nominal defendant Baker Hughes, a GE Company ("Baker Hughes" or the "Company") against (a) the Company's controlling stockholder, General Electric Company ("GE") and (b) the Company's board of directors (the "Baker Hughes Board" or

"Board"). The allegations of the Complaint are based on the knowledge of Plaintiff as to itself, and on information and belief, including the investigation of counsel, as to all other matters.

INTRODUCTION

1. This case arises from exploitation of a controlled company to address the controller's desperate need for liquidity.

2. GE controls Baker Hughes. GE holds a majority of the Company's voting power and five of the nine members of the Baker Hughes Board are current and/or former GE executives, GE directors or employees of GE-controlled companies.

3. GE is in the midst of a highly-publicized multi-year crisis. GE's stock price plunged approximately 60% in 2018, GE stock was removed from the Dow Jones Industrial Average and the conglomerate is scrambling to sell assets to address its liquidity problems. However, pursuant to a stockholders agreement (the "Stockholders Agreement") entered into in connection with the 2017 merger of GE and the Company's predecessor (the "Merger"), GE was contractually prohibited from selling any of its Baker Hughes stock until July 3, 2019 (the "Lockup Period").

4. On November 13, 2018, the Baker Hughes Board agreed to terminate the Lockup Period (the "Termination") and to, among other things, (a) repurchase $1.5 billion in Baker Hughes stock from GE (the "Repurchase") and (b) permit GE

to sell $2.5 billion in Baker Hughes stock through a secondary offering (the "Offering"). At the same time, Baker Hughes and GE also entered into a series of other agreements and amendments that will govern the relationship between the two companies going forward (collectively, the "Master Agreement Framework," and together with the Termination, Repurchase and Offering, the "Transactions").

5. Through the Transactions, GE was able to immediately terminate the Lockup Period, sell a large amount of Baker Hughes stock at undiscounted prices, obtain more than $4 billion in immediate and much-needed liquidity, and yet still maintain control over the Company. Baker Hughes, on the other hand, was forced to expend more than $1.5 billion in Company cash to help solve GE's problems, allow GE to flood the market with Baker Hughes stock, and restructure its arrangements with GE in ways that are even more unfavorable to the Company.

6. As BMO Capital Markets ("BMO") aptly explained in a November 13, 2018 report, it "expected GE to offer a 'sweetener' to escape its 7/19 lockup early, but the sweetener seems to be ***extended commercial arrangements at worse terms***." (Emphasis added). BMO also noted that the revision to the commercial arrangements between Baker Hughes and GE will cost the Company approximately $75 million per year.

7. The one-sided terms of the Transactions demonstrate that far from seeking to use GE's looming crisis as a negotiating tool for the Company's benefit,

Baker Hughes instead permitted GE to use its influence and control to handcraft a series of transactions designed to quickly funnel much-needed cash and other benefits to GE at the direct expense of the Company.

8. Plaintiff brings this action to remedy the harm incurred by Baker Hughes as a result of GE's and the Board's breaches of fiduciary duty in connection with the Transactions.

THE PARTIES

9. Plaintiff City of Riviera Beach Police Pension Fund is and has been, at all relevant times, a beneficial owner of shares of Baker Hughes Class A common stock.

10. Nominal defendant Baker Hughes is the world's only fullstream provider of integrated oilfield products, services and digital solutions. Baker Hughes is incorporated in Delaware and has its corporate headquarters at 17021 Aldine Westfield Road, Houston, Texas 77073. Baker Hughes's Class A common stock trades on the New York Stock Exchange (the "NYSE") under the ticker symbol "BHGE."

11. Defendant GE is a digital industrial company that operates worldwide. GE has Power, Renewable Energy, Oil & Gas, Aviation, Healthcare, Transportation, Lighting, and Capital segments. GE is incorporated in New York and has its

corporate headquarters at 41 Farnsworth Street, Boston, Massachusetts 02210. GE's common stock trades on the NYSE under the ticker symbol "GE."

12. Defendant W. Geoffrey Beattie ("Beattie") has served as a member of the Baker Hughes Board since July 2017 and as the Lead Director of the Board since October 2017. Beattie serves on the Board as a GE director nominee pursuant to the terms of the Stockholders Agreement. Beattie also currently serves on the GE board of directors, which he joined in 2009.

13. Defendant Gregory Brenneman has served as a member of the Baker Hughes Board since July 2017.

14. Defendant Clarence P. Cazalot, Jr. ("Cazalot") has served as a member of the Baker Hughes Board since July 2017. Cazalot served on the board of directors of Baker Hughes Incorporated ("BHI"), the predecessor of the Company, from 2002 to July 2017.

15. Defendant Martin S. Craighead ("Craighead") has served as a member of the Baker Hughes Board since July 2017. He served as Chairman of the BHI board of directors from April 2013 to July 2017 and as a director of the BHI board from 2011 to April 2013. Craighead served as BHI's CEO from January 2012 to July 2017 and President from 2010 to 2017. Craighead does not intend to stand for re-election as a Baker Hughes director at the Company's 2019 annual meeting of stockholders.

16. Defendant Lynn L. Elsenhans ("Elsenhans") has served as a member of the Baker Hughes Board since July 2017. Elsenhans served on the BHI board of directors from 2012 to July 2017.

17. Defendant Jamie S. Miller ("Miller") has served as a member of the Baker Hughes Board since July 2017. Miller serves on the Board as a GE director nominee pursuant to the terms of the Stockholders Agreement. Miller currently serves as GE's Senior Vice President and Chief Financial Officer ("CFO"). She previously served as the President and CEO of GE Transportation from October 2015 to October 2017 and Senior Vice President, Chief Information Officer for GE from April 2013 to September 2015. Miller joined GE in April 2008 as Vice President, Controller and Chief Accounting Officer and held that position until April 2013. According to GE's preliminary proxy statement filed with the U.S. Securities and Exchange Commission (the "SEC") on March 8, 2019 (the "2019 GE Proxy Statement"), Miller received total compensation from GE in 2017 and 2018 of $5,057,861 and $7,401,678, respectively.

18. Defendant James J. Mulva ("Mulva") has served as a member of the Baker Hughes Board since July 2017. Mulva serves on the Board as a GE director nominee pursuant to the terms of the Stockholders Agreement. Mulva also currently serves on the GE board of directors, which he joined in 2008.

19. Defendant John G. Rice ("Rice") has served as a member of the Baker Hughes Board since July 2017. Rice serves on the Board as a GE director nominee pursuant to the terms of the Stockholders Agreement. Until his retirement on December 31, 2017, Rice served as GE's Vice Chairman. Rice was the CEO of GE Global Growth Organization from November 2010 until December 2017. He served in other leadership positions at GE, including as President and CEO of GE Technology Infrastructure from 2007 until November 2010, Vice Chairman of GE's industrial and infrastructure businesses from 2005 until 2007 and President and CEO of GE Energy from 2000 until 2005. In total, Rice worked at GE for 39 years. According to GE's definitive proxy statement filed with the SEC on March 12, 2018 (the "2018 GE Proxy Statement"), Rice's compensation for 2015 to 2017 is as follows:

Year	**Amount**
2015	$19,660,148
2016	$15,162,001
2017	$7,877,366
Total	$42,699,515

20. Defendant Lorenzo Simonelli ("Simonelli") has served as the Chairman of the Board since October 2017 and as a director and as CEO of Baker Hughes since July 2017. He previously served as a Senior Vice President at GE and President and CEO of GE Oil & Gas from October 2013 to July 2017. Prior to joining GE Oil & Gas, he was the President and CEO of GE Transportation from July 2008 to October

2013. Simonelli joined GE in 1994 and held various finance and leadership roles from 1994 to 2008. According to Baker Hughes's definitive proxy statement filed with the SEC on March 23, 2018 (the "2018 Baker Hughes Proxy Statement"), Simonelli received $12,648,966 in total compensation from the Company in 2017.

21. The defendants identified *supra* in paragraphs 12 through 20 are referred to collectively herein as the "Individual Defendants."

22. The defendants identified *supra* in paragraphs 11 through 20 are referred to collectively herein as the "Defendants."

I. SUBSTANTIVE ALLEGATIONS

A. GE CONTROLS BAKER HUGHES

23. On July 3, 2017, GE completed a merger with BHI (previously defined as the "Merger") pursuant to which GE's oil and gas-related businesses ("GE O&G") were combined with BHI. As a result of the Merger, the Company became the holding company of the combined businesses of BHI and GE O&G. Also on July 3, 2017, substantially all of the business of GE O&G and of BHI was transferred to Baker Hughes, a GE Company, LLC ("BHGE LLC"), a subsidiary of the Company.

24. In connection with the Merger, GE received a 62.5% stake in the Company and BHI's stockholders received a 37.5% stake in the new venture, plus a one-time special cash dividend of $17.50 per share.

25. Also in connection with the Merger, GE and Baker Hughes entered into the Stockholders Agreement, which contractually prohibited GE from selling any of its Baker Hughes stock prior to July 3, 2019 (previously defined as the "Lockup Period"). Specifically, Section 4.2(a)(i) of the Stockholders Agreement states as follows:

> For a period of two (2) years beginning on the date hereof [*i.e.*, July 3, 2017], no member of the GE Group shall Transfer or agree to transfer any shares of Company Common Stock to any Person that is not an Affiliate of GE, unless approved by the Conflicts Committee.

26. Immediately following the consummation of the Merger, GE not only held a majority equity stake in the Company, but also, as permitted by the Stockholders Agreement, stocked the nine-member Baker Hughes Board with current and former GE executives and directors:

a. Simonelli served as a GE executive for 23 years immediately prior to becoming the Company's CEO;

b. Miller currently serves as GE's Senior Vice President and CFO;

c. Rice served as a senior GE executive for several decades before retiring as GE's Vice Chairman in 2018, months ***after*** his appointment to the Baker Hughes Board; and

d. Beattie and Mulva currently serve on GE's board of directors.

27. In its post-Merger public filings, Baker Hughes has repeatedly conceded that GE is the Company's controlling stockholder. For example, Baker Hughes's Form 10-K filed with the SEC on February 23, 2018 states as follows:

> ***We are a "controlled company"*** within the meaning of the NYSE rules and, as a result, qualify for, and are relying on, exemptions from certain corporate governance requirements. As a result, our stockholders do not have the same protections afforded to stockholders of companies that are subject to such requirements. ***The interests of GE as a controlling stockholder*** may differ from the interests of other stockholders of the Company.

(Emphasis added).

28. Similarly, the 2018 Baker Hughes Proxy Statement stated as follows:

> Through its ownership of a majority of the Company's voting stock and the provisions set forth in our Certificate of Incorporation, Bylaws and the Stockholders Agreement (as defined below), GE has the ability to designate and elect a majority of the Company's directors. ***As a result of GE's ownership of a majority of the voting power of Common Stock, the Company is a "controlled company"*** as defined in NYSE listing rules and, therefore, is not subject to NYSE requirements that would otherwise require the Company to have (i) a majority of independent directors, (ii) a nominating committee composed solely of independent directors, (iii) the compensation of its executive officers determined by a majority of the independent directors or a compensation committee composed solely of independent directors, and (iv) director nominees selected, or recommended for the Board's selection, either by a majority of the independent directors or a nominating committee composed solely of independent directors.

(Emphasis added).

B. GE Experiences A Well-Publicized Liquidity Crisis

29. Over the last century, GE grew to become one of the world's largest industrial conglomerates with a number of businesses in various sectors including, among others, energy generation, transportation, financial services and medical technology. More recently, however, GE has been in a state of turmoil. Since November 2016, GE has lost more than $100 billion in market capitalization. In a desperate effort to raise capital to address its deteriorating financial condition, GE has taken a range of actions including (i) firing its CEO, (ii) slashing its dividend to a penny, and (iii) selling century-old businesses.

30. Due to years of poorly-timed acquisitions and mismanagement, GE has accumulated a mountain of debt, which has negatively impacted GE's credit rating. For example, in 2017, S&P Global Ratings ("S&P") downgraded GE's credit rating citing concerns about its "higher leverage" and "poor" cash flow. More recently, S&P downgraded GE's credit rating again to "BBB+", just three levels above "junk" status.[1]

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[1] Tomi Kilgore, *GE Credit Sits Just 3 Notches Above Junk After 2-Notch Downgrade At S&P Global*, MarketWatch (Oct. 2, 2018), https://www.marketwatch.com/story/ge-credit-sits-just-3-notches-above-junk-after-2-notch-downgrade-at-sp-global-2018-10-02.

31. GE currently has approximately $115 billion in short- and long-term debt and is not generating positive cash flow. In the nine months ending on September 2018, GE reported negative free cash flow of ***$718 million***.

32. GE has close to $8 billion of bonds due in 2019 and another $25 billion due in 2020 and 2021.[2] With nearly $33 billion of debt maturing by 2021, GE is in dire need of cash.

33. GE's stock price has severely declined since November 2016. As reflected in the chart below, GE's stock price has fallen ***over 73%*** from $30.76 per share (as of November 1, 2016) to $8.02 per share (as of November 12, 2018):

[2] Natalya Doris, *Why Investors Are Spooked By GE's Giant Debt Load*, Bloomberg (Nov. 14, 2018), https://www.bloomberg.com/news/articles/2018-11-14/why-investors-are-spooked-by-ge-s-giant-debt-load-quicktake.

34. In 2017, GE started taking steps to address its debt and liquidity problems. For example, GE's then-CEO, John L. Flannery ("Flannery") announced a restructuring plan to raise $20 billion through asset sales. During GE's 2017 third quarter earnings call, Flannery stated that "[t]o date, ***we have identified $20 billion plus of assets that we will exit in the next one to two years***."[3]

35. Then, on April 2, 2018, GE announced the sale of its Enterprise Financial Management, Ambulatory Care Management, and Workforce Management assets for $1.05 billion in cash.

36. On May 21, 2018, GE announced the sale of half of its transportation business to Wabtec Corporation in exchange for $2.9 billion in cash. The *Wall Street Journal* described the GE-Wabtec deal as "letting GE raise some cash to fund its turnaround and shed one of its oldest operations."[4]

37. Despite these asset sales, GE's financial condition continued to decline. On June 19, 2018, GE, the last original member of the Dow Jones industrial average,

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[3] Thompson Reuters StreetEvents, *GE-General Electric Co. Company Update*, Edited Transcript, at 3, Oct. 20, 2017, https://www.ge.com/investor-relations/sites/default/files/GE%20Earnings_3Q%2717_Transcript_0.pdf (emphasis added).

[4] Thomas Gryta, *GE To Merge Rail Division With Wabtec In $11 Billion Deal*, Wall Street Journal (May 21, 2018), https://www.wsj.com/articles/ge-to-merge-rail-division-with-wabtec-in-11-billion-deal-1526904626?mod=article_inline.

was dropped from the blue-chip index and replaced by the Walgreens Boots Alliance drugstore chain.

38. During its June 26, 2018 earnings call, Flannery further discussed GE's desperate need to reduce its debt load. Specifically, Flannery stated that "[s]trengthening the balance sheet of the company is a ***top priority*** for us . . . . We will reduce our net debt by about $25 billion and this will bring our net debt-to-EBITDA below 2.5x by 2020."[5]

39. Between June 2018 and November 2018, GE sold multiple businesses in an effort to raise capital:

a. On June 25, 2018, GE sold its "Distributed Power" business to private equity firm Advent International Corporation in exchange for $3.25 billion in cash;

b. On September 13, 2018, GE sold aircraft part maker MRA Systems LLC to Singapore Technologies Engineering Ltd. for $630 million in cash; and

c. On November 6, 2018, GE sold its commercial LED lighting business, Current, to private equity firm American Industrial Partners for an undisclosed sum.

40. Despite these assets sales, GE remained in a state of turmoil and its financial condition continued to worsen. On October 1, 2018, GE announced that it

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[5] Thompson Reuters StreetEvents, *GE-General Electric Co. Company Update*, Edited Transcript, at 3, Jun. 26, 2018, https://www.ge.com/investor-relations/sites/default/files/ge_webcast_transcript_06262018_1.pdf (emphasis added).

fired Flannery and appointed H. Lawrence Culp ("Culp") to be GE's new CEO. In connection with Flannery's firing, GE disclosed, among other things, that it expected to miss its guidance for earnings per share and free cash flows for 2018 and was expected to take a $23 billion "goodwill impairment charge." On October 30, 2018, GE announced it was cutting its dividend to a penny per share, marking only the second time since the Great Depression that GE has needed to cut its dividend.

41. On November 12, 2018, CEO Culp announced that GE would continue to sell assets with "urgency" to reduce debt and try to address the company's liquidity needs.[6]

42. In the months leading up to the Transactions, GE's massive debt load and its dire need for liquidity were widely reported:

a. *Everything Is Shrinking At GE Except Its Massive Debt*– "The huge debt load forced GE to scramble for cash by selling even more businesses, a strategy that will eat away at future profits." – CNN, March 16, 2018;[7]

b. *What The Hell Happened At GE?* – Fortune, May 24, 2018;[8]

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[6] Alwyn Scott and Kate Duguid, *General Electric Seeks Urgent Asset Sales As Bond Fears Rise*, Reuters (Nov. 12, 2018), https://www.reuters.com/article/us-ge-debt/general-electric-seeks-urgent-asset-sales-as-bond-fears-rise-idUSKCN1NH1SO.

[7] Matt Egan, *Everything Is Shrinking at GE Except Its Massive Debt*, CNN (Mar. 16, 2018), https://money.cnn.com/2018/03/16/investing/ge-stock-debt/index.html.

[8] Geoff Colvin, *What The Hell Happened At GE?*, Fortune (May 24, 2018), http://fortune.com/longform/ge-decline-what-the-hell-happened/.

c. *Inside The Dismantling Of GE* – "[T]he iconic company founded by Thomas Edison is making itself smaller and smaller. And that shrinking has gained urgency in recent months as GE races to raise cash . . . ." – CNN, June 13, 2018;[9]

d. *General Electric Needs To Pump Out Cash As Interest Rates Rise* – Barron's, October 4, 2018;[10]

e. *GE Slashes 119-Year Old Dividend To A Penny* – "GE tried to hush calls for the company to strengthen its balance sheet by selling stock. Some analysts have said GE Capital needs a cash infusion totaling billions of dollars." – CNN, October 30, 2018;[11]

f. *GE's Problems Highlight Liquidity Worries For Investors* – CNBC, November 12, 2018;[12]

g. *General Electric Seeks Urgent Asset Sales As Bond Fears Rise* – Reuters, November 12, 2018;[13] and

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[9] Matt Egan, *Inside The Dismantling Of GE*, CNN (Jun. 13, 2018), https://money.cnn.com/interactive/news/GE-dismantling-interactive/index.html.

[10] Alexandra Scaggs, *Genera Electric Needs To Pump Out Cash As Interest Rates Rise*, Barron's (Oct. 4, 2018), https://www.barrons.com/articles/general-electric-needs-to-pump-out-cash-as-interest-rates-rise-1538664900.

[11] Matt Egan, *GE Slashes 119-Year Old Dividend To A Penny*, CNN (Oct. 30, 2018), https://www.cnn.com/2018/10/30/investing/ge-dividend-cut-earnings-culp/index.html.

[12] CNBC.com, *GE's Problems Highlight Liquidity Worries For Investors* (Nov. 12, 2018), https://www.cnbc.com/video/2018/11/12/general-electric-markets-investing-stocks.html.

[13] *See supra* note 6.

h. *General Electric's Liquidity Problem* – Benzinga, November 13, 2018.[14]

C. Baker Hughes And GE Agree To The Unfair Transactions

43. In June 2018, just one year after the Merger, GE announced that it would liquidate its entire stake in Baker Hughes over the course of the next two to three years.

44. However, pursuant to the Stockholders Agreement, GE was prohibited from selling any of its approximately $15 billion stake in Baker Hughes until July 2019 (previously defined as the "Lockup Period"). The Lockup Period contractually prevented GE from accessing that much-needed source of liquidity and gave the Baker Hughes Board substantial negotiating leverage to the extent GE wanted to sell all or part its Company stock prior to July 2019.

45. Instead of using the Lockup Period or GE's looming crisis as negotiating tools for the Company's benefit—as faithful fiduciaries would do—the Baker Hughes Board instead acted to further GE's interests, permitting GE to use its influence and control to handcraft a series of transactions designed to quickly funnel much-needed cash and other benefits to GE.

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[14] Wayne Duggan, *General Electric's Liquidity Problem*, Benzinga (Nov. 13, 2018), https://www.benzinga.com/analyst-ratings/analyst-color/18/11/12688107/general-electrics-liquidity-problem.

46. Specifically, on November 13, 2018, the Board agreed to terminate the Lockup Period effective immediately (previously defined as the "Termination"). In connection with the Termination, the Board also agreed to repurchase ***$1.5 billion*** in Baker Hughes stock from GE (previously defined as the "Repurchase") and agreed to allow GE to sell ***$2.5 billion*** in Baker Hughes stock through a secondary offering (previously defined as the "Offering").

47. In addition to the Termination, the Board approved a series of long-term agreements between Baker Hughes and GE on technology, fulfillment, and other key areas (collectively, the "Master Agreement Framework") that would govern the relationship between the two companies going forward and would substantially benefit GE at Baker Hughes's expense. Some of the agreements contemplated by the Master Agreement Framework include the following:

a. Baker Hughes agreed to form a joint venture with GE relating to the parties' respective aero-derivative gas turbine products and services (the "Joint Venture");

b. Baker Hughes entered into a long-term supply agreement and related distribution arrangement with GE for heavy-duty gas turbine technology at current pricing levels;

c. Baker Hughes agreed with GE Digital, LLC ("GE Digital") to maintain Baker Hughes's current status as the exclusive reseller of GE Digital offerings in the oil and gas space, and for Baker Hughes to continue to source exclusively from GE Digital certain GE Digital offerings for oil and gas applications;

d. GE and Baker Hughes agreed to maintain current operations and pricing levels regarding certain control upgrade services that Baker Hughes offers through its Digital Solutions division;

e. GE agreed to transfer certain U.K. pension liabilities related to Baker Hughes;

f. Baker Hughes and GE agreed to maintain the tax matters agreement that was negotiated at the time of the Merger; and

g. The annual intercompany services fee payable by Baker Hughes to GE would be reduced from $55 million to $27.5 million beginning in January 2019.

48. Despite the Baker Hughes Board's tremendous negotiating leverage over GE due to GE's dire financial situation and the existence of the Lockup Period, the Board failed to use that leverage and instead agreed to Transactions bestowing substantial benefits on GE while simultaneously providing more unfavorable terms to Baker Hughes.

49. The Master Agreement Framework, in particular, provided for a number of changes to the commercial arrangements between Baker Hughes and GE that unfairly benefitted GE while providing no real benefit to Baker Hughes and, in several instances, leaving Baker Hughes in a worse position than it had been in prior to the Transactions.

50. The Repurchase and Offering, for example, which closed on November 16, 2018, immediately unlocked approximately $4 billion in liquidity that GE

desperately needed, while continuing to provide GE with 50.4% of the Company's outstanding voting power.[15] Thus, terminating the Lockup Period allowed GE to address its liquidity crisis by selling Baker Hughes stock for cash without losing its control over the Company. Releasing GE from the terms of the Lockup Period provided no significant tangible benefit to Baker Hughes.

51. The Joint Venture, which becomes effective on the later of (a) July 3, 2019 or (b) the date on which GE and its affiliates cease to own more than 50% of the voting power of Baker Hughes's outstanding common stock, involved a number of related transactions that will unfairly benefit GE to Baker Hughes's detriment. For example, the Joint Venture will have a long-term supply and technology development agreement with GE Aviation, which will revise and extend pricing arrangements to require Baker Hughes to pay ***higher*** prices for GE's aeroderivative turbines than it currently pays. Given GE's financial condition, Baker Hughes's Board should have been able to negotiate for better pricing, not worse.[16]

52. As part of the Master Agreement Framework, Baker Hughes also agreed to enter into a supply agreement with GE for heavy-duty gas turbine

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[15] Indeed, $4 billion in liquidity would cover approximately ***half*** of GE's upcoming $8 billion bond payment due in 2019.

[16] Any purported benefit to Baker Hughes attributable to entering into a long-term arrangement like this is illusory, as there is no evidence that GE would not provide the turbines but for the existence of this agreement.

technology. While this agreement provided for the same pricing that Baker Hughes currently pays for the technology, it is a long-term arrangement that will limit Baker Hughes's ability to obtain and/or negotiate for better pricing on this technology for five years on new units, and the later of 20 years or the operating service life for parts and components.

53. Similarly, on February 25, 2019, pursuant to the Master Agreement Framework, Baker Hughes entered into an IST sale agreement (the "IST Sale Agreement") governing the terms and conditions on which Baker Hughes would transfer certain assets, liabilities, and employees related to the Industrial Steam Turbine Business to an affiliate of GE (the "IST Business Transfer"). According to the IST Sale Agreement, not only is Baker Hughes transferring assets to an affiliate of GE, but it also agreed to pay that GE affiliate ***$13 million in cash*** upon closing of the transactions contemplated by the IST Sale Agreement, which amount is subject to an ***upward adjustment*** if the working capital of the Industrial Steam Turbine Business on the date of the IST closing is negative.

54. And the February 28, 2019 transaction agreement setting forth the terms and conditions of the Joint Venture states that Baker Hughes will pay GE ***$60 million***, which Baker Hughes describes as a payment designed to equalize the parties' interest in the Joint Venture at 50%. In reality, however, this was simply a

means to unlock additional much-needed cash for GE in a transaction that was unnecessary and unfair to Baker Hughes and its stockholders.

55. Baker Hughes has acknowledged that the Master Agreement Framework would have a negative impact on the Company. On November 13, 2018, Baker Hughes issued a Form 8-K with the SEC stating the following:

> In aggregate, we anticipate that the net financial impact of the agreements contemplated by the Master Agreement Framework will have a slightly negative impact on our operating margin rates of approximately 20 to 40 basis points. In addition, we expect to incur one-time charges related to separation from GE of approximately $0.2 to $0.3 billion over the next 3 years.

56. Analysts have commented on the unfavorable terms of the Transactions. For example, on November 13, 2018, BMO issued a note discussing the "disappointing economics" of the new commercial arrangement between Baker Hughes and GE. Specifically, the BMO analyst stated that the revision to the commercial arrangements between Baker Hughes and GE will cost the Company approximately $75 million per year at the midpoint based on fiscal year 2019 revenue. In addition, BMO "expected GE to offer a 'sweetener' to escape its 7/19 lockup early, but the sweetener seems to be ***extended commercial arrangements at worse terms***." (Emphasis added).

57. Wells Fargo Securities commented in its November 13, 2018 note that "the negotiated agreements will drive modestly higher costs for [Baker Hughes] near-term and slightly less favorable economics overall for [Baker Hughes] (post

GE exit) driven by more favorable terms for GE in the newly created aeroderivative JV."

58. Defendants failed to exercise any of the leverage that Baker Hughes had over GE by virtue of the existence of the Lockup period and the fact that GE was on the brink of collapse. Instead, the terms and nature of the Transactions were nothing more than a contrived, self-motivated maneuver by GE, which used its control and influence over the Board to infuse GE with much-needed cash and other long-term benefits at the direct expense of Baker Hughes and its stockholders.

II. DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

59. Plaintiff brings this action derivatively to redress injuries suffered by the Company as a result of breaches of fiduciary duties by GE and the Individual Defendants.

60. Plaintiff is currently the beneficial owner of Baker Hughes Class A common stock and has owned Baker Hughes Class A common stock continuously during the relevant time period.

61. Plaintiff will adequately and fairly represent the interests of Baker Hughes and its stockholders by enforcing and prosecuting their rights and has retained counsel competent and experienced in stockholder derivative litigation.

62. Plaintiff has not made a demand on the Baker Hughes Board[17] to investigate or initiate the claims asserted herein because demand is excused as futile.

63. Such demand would be futile, and is thereby excused, because the allegations herein, at a minimum, permit the inference that a majority of the members of the Baker Hughes Board are either interested in the Transactions or lack the requisite independence from GE to determine fairly whether to pursue claims relating to the Transactions that would be materially adverse to GE's economic interests. Additionally, the Board's decision to agree to the Transactions was not the product of a valid exercise of business judgment.

64. The Baker Hughes Board comprises nine directors. Five of the nine directors are interested in the Transactions and/or not independent of GE, which was interested in the Transactions.

65. Defendant Simonelli is Baker Hughes's current CEO. According to the 2018 Baker Hughes Proxy Statement, Simonelli received more than $12 million in compensation from the Company in 2017. As detailed above, GE is Baker Hughes's controlling stockholder. Simonelli cannot act independently and disinterestedly from GE for fear of retribution and the loss of his principal source of income. Further

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[17] The composition of the Baker Hughes Board has not changed during the period between the Board's approval of the Transactions and the date of this Complaint.

compromising his independence, Simonelli was employed by GE in a variety of senior positions for the 23 years immediately prior to joining Baker Hughes.

66. Four other Baker Hughes Board members—Defendants Miller, Beattie, Mulva and Rice—serve as GE director nominees pursuant to the terms of the Stockholders Agreement.

67. Defendants Miller, Beattie and Mulva are currently officers and/or directors of GE and thus owe fiduciary duties to GE. As dual-fiduciaries of Baker Hughes and GE, which had competing interests with respect to the Transactions, Miller, Beattie and Mulva were conflicted. In addition, as officers and/or directors of GE, Miller, Beattie and Mulva could not objectively consider a demand to investigate or prosecute claims that could ultimately be adverse to GE's interests, such as the claims asserted herein.

68. Defendant Rice worked at GE for 39 years, rising to the position of Vice Chairman and CEO of GE Global Growth Organization, and did not retire from GE until months after he joined the Baker Hughes Board. During his last three years at GE alone, Rice received over $42 million in compensation. In light of his nearly four-decade tenure at GE and receipt of tens—if not hundreds—of millions of dollars in compensation, Rice cannot objectively and disinterestedly consider a demand to investigate or prosecute claims that could ultimately be adverse to GE's interests, such as the claims asserted herein. Indeed, the 2018 Baker Hughes Proxy Statement

acknowledges that Rice does not "meet the independence standard under NYSE Rules."

69. Additionally, for the reasons detailed herein, there is at least a reasonable doubt that the Baker Hughes Board's conduct in connection with the Transactions constituted a valid exercise of business judgment.

70. In light of the foregoing, demand on the Baker Hughes Board to investigate, initiate or prosecute the claims alleged herein is excused as futile.

COUNT I

DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY AGAINST GE IN ITS CAPACITY AS THE COMPANY'S CONTROLLING STOCKHOLDER

71. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

72. As explained herein, GE is Baker Hughes's controlling stockholder. As a controlling stockholder, GE owed and owes the Company the utmost fiduciary duties of due care, good faith, and loyalty.

73. In breach of its fiduciary duties, GE devised, orchestrated, and imposed the unfair Transactions on Baker Hughes using an unfair process and at an unfair price in an attempt to help address GE's liquidity crisis.

74. As a direct and proximate result of GE's breaches of fiduciary duty, the Company has sustained substantial damage.

COUNT II

DERIVATIVE CLAIM FOR BREACH OF FIDUCIARY DUTY AGAINST THE INDIVIDUAL DEFENDANTS

75. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

76. The Individual Defendants, as Baker Hughes directors and officers, owe the Company the utmost fiduciary duties of due care, good faith, loyalty and disclosure. The Individual Defendants were required to: (a) use their ability to control and manage Baker Hughes in a fair, just, and equitable manner, and (b) act in furtherance of the best interests of Baker Hughes.

77. The Individual Defendants breached their fiduciary duties by agreeing to the Transactions through an unfair process and at an unfair price, which will bestow unique and valuable benefits on GE to the detriment of Baker Hughes.

78. As a direct and proximate result of the Individual Defendants' breaches of fiduciary duty, the Company has sustained substantial damages.

COUNT III

DERIVATIVE CLAIM FOR UNJUST ENRICHMENT AGAINST GE

79. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

80. As detailed herein, the Transactions provide valuable benefits to GE, are unfair to the Company and are the product of breaches of fiduciary duty by GE and the Individual Defendants.

81. GE was—and continues to be—the direct recipient of the improper and valuable benefits flowing from the Transactions. Those benefits were derived by unlawful means.

82. Under these circumstances, it would be unconscionable to permit GE to retain the improper benefits received pursuant to the Transactions.

RELIEF REQUESTED

WHEREFORE, Plaintiff demands judgment as follows:

a) Declaring that making a demand upon the Baker Hughes Board to investigate and prosecute the claims alleged herein would be futile for the reasons alleged herein;

b) Declaring that the Defendants breached their fiduciary duties owed to the Company;

c) Declaring that GE was unjustly enriched as a result of the Transactions;

d) Ordering the immediate disgorgement of all profits, benefits and other compensation obtained by Defendants as a result of the misconduct in connection with the breaches of fiduciary duties;

e) Awarding damages, together with pre- and post-judgment interest;

f) Awarding Plaintiff the costs and disbursements of this action, including attorneys', accountants', and experts' fees; and

g) Awarding such other and further relief as is just and equitable.

Dated: March 14, 2019.

GRANT & EISENHOFER P.A.

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