

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

VISIONCHINA MEDIA INC. and VISION
BEST LIMITED,

Plaintiffs,

v.

SHAREHOLDER REPRESENTATIVE
SERVICES, LLC, GOBI PARTNERS, INC.,
GOBI FUND, INC., GOBI FUND II, L.P.,
OAK INVESTMENT PARTNERS XII, L.P.,
SIERRA VENTURES IX, LP, NIFSMBC-
V2006S1 INVESTMENT LIMITED
PARTNERSHIP, NIFSMBC-V2006S3
INVESTMENT LIMITED PARTNERSHIP,
THOMAS GAI TEI TSAO, and JOHN DOES
1-10,

Defendants.

Index No. 652390/2010

COMPLAINT

Plaintiffs VisionChina Media Inc. and Vision Best Limited (collectively, “Plaintiffs” or “VisionChina”), by their attorneys, Paul, Weiss, Rifkind, Wharton & Garrison LLP, upon knowledge as to their own acts and upon information and belief as to the acts of defendants, for their complaint against defendants Shareholder Representative Services, LLC (the “Shareholder Representative”), Gobi Partners, Inc. (“Gobi”), Gobi Fund, Inc. (“Gobi Fund”), Gobi Fund II, L.P. (“Gobi Fund II,” and, together with Gobi and Gobi Fund, the “Gobi Defendants”), Oak Investment Partners XII, L.P. (“Oak”), Sierra Ventures IX, L.P. (“Sierra”), NIFSMBC-V2006S1 Investment Limited Partnership (the “NIF-6S1 Partnership”), NIFSMBC-V2006S3 Investment Limited Partnership (“the NIF-6S3 Partnership,” and, together with the NIF-6S1 Partnership, the “NIF Funds”), Thomas Gai Tei Tsao (“Tsao”), and John Does 1-10 (the “Doe Defendants,” and,

together with the Shareholder Representative, the Gobi Defendants, Oak, Sierra, the NIF Funds, and Tsao, the “Defendants”), allege as follows:

NATURE OF THE ACTION

1. This action arises out of a scheme by the Gobi Defendants, Oak, Tsao, and the Doe Defendants (the “Gobi-Oak Defendants”), to fraudulently induce VisionChina to acquire by merger Digital Media Group Company Limited (“DMG”) from the Gobi Defendants, Oak, Sierra, and the NIF Funds (the “DMG Participating Shareholders”). The Gobi-Oak Defendants accomplished their agreed-upon objective through false, deceptive, and misleading statements made to VisionChina during the negotiation of the acquisition by merger (the “Merger”) and VisionChina’s due diligence. The DMG Participating Shareholders and the Shareholder Representative unjustly benefited from this fraudulent scheme by receiving payments and shares in VisionChina from the proceeds of the Merger and the right to receive additional payments and VisionChina shares in the future.

2. The Gobi-Oak Defendants approached VisionChina in 2008 concerning their desire to sell DMG. At that time, DMG had never earned a quarterly or annual profit, and, from the outset of VisionChina’s discussion with the Gobi-Oak Defendants concerning DMG, VisionChina made clear a strong concern about DMG’s prospects for future profitability. In response to those concerns, the Gobi-Oak Defendants repeatedly misled VisionChina about historical and current performance and trends in DMG’s business and financial performance, painting a false picture of a company that was achieving its business plan and would reach sustainable profitability in 2009. As a result of, and in reliance on, these misrepresentations, VisionChina was

induced to acquire DMG at a grossly inflated price, to the unjust benefit of the Gobi-Oak Defendants, the other DMG Participating Shareholders, and the Shareholder Representative.

3. In addition, the DMG Participating Shareholders are contractually bound to indemnify VisionChina for losses resulting from their breaches of representations and warranties in the written Amended and Restated Plan of Merger dated November 16, 2009 between VisionChina and Shareholder Representative Services, LLC (the “Merger Agreement”). VisionChina’s indemnity claims were set forth in a November 16, 2010 notice letter timely sent to Defendant Shareholder Representative (the “Claim Notice”).

4. Accordingly, VisionChina seeks compensatory and punitive damages from the Gobi-Oak Defendants, contractual indemnity from the DMG Participating Shareholder Defendants, restitution of 80% of the merger proceeds received by the DMG Participating Shareholder Defendants and the Shareholder Representative, and a declaration that VisionChina is not obligated to pay the DMG Participating Shareholder Defendants or the Shareholder Representative any further consideration in connection with VisionChina’s acquisition of DMG.

THE PARTIES

5. Plaintiff VisionChina Media, Inc. is a publicly-traded company, incorporated under the laws of the Cayman Islands, with its principal place of business in the People’s Republic of China. American Depository Receipts (ADRs) of its stock are traded on the NASDAQ Global Market.

6. Plaintiff Vision Best Limited is an indirect, wholly owned subsidiary of VisionChina Media, Inc., organized and existing under the laws of the

British Virgin Islands and with its principal place of business in the People's Republic of China.

7. Defendant Gobi Partners, Inc. is a venture capital firm, incorporated under the laws of the Cayman Islands, with its principal place of business in the People's Republic of China. Prior to VisionChina's acquisition of DMG, Gobi Partners, Inc. and the other Gobi Defendants owned approximately 20 percent of the shares in DMG. On information and belief, Gobi Partners, Inc. manages Gobi Fund, Inc. and is the general partner of Gobi Fund II, L.P.

8. Defendant Gobi Fund, Inc. is a venture capital fund, incorporated under the laws of the Cayman Islands, with its principal place of business in the People's Republic of China. Prior to VisionChina's acquisition of DMG, Gobi Fund, Inc. and the other Gobi Defendants owned approximately 20 percent of the shares in DMG .

9. Defendant Gobi Fund II, L.P. is a venture capital fund, organized as a limited partnership under the laws of the Cayman Islands, with its principal place of business in the People's Republic of China. Prior to VisionChina's acquisition of DMG, Gobi Fund II, L.P. and the other Gobi Defendants owned approximately 20 percent of the shares in DMG. Gobi Partners, Inc. is the general partner of Gobi Fund II, L.P.

10. Defendant Oak Investment Partners XII, L.P. is a venture capital fund, organized as a limited partnership under the laws of Delaware, with its principal place of business in Westport, Connecticut. Prior to VisionChina's acquisition of DMG, Oak Investment Partners XII, L.P. owned approximately 54 percent of the shares in DMG. Oak Investment Partners XII, L.P. is managed by Oak Investment Partners L.P.

11. Defendant Sierra Ventures IX, L.P. is a venture capital fund, organized as a limited partnership under the laws of Delaware, with its principal place of business in Menlo Park, California. Prior to VisionChina's acquisition of DMG, Sierra Ventures IX, L.P. was a DMG shareholder.

12. Defendant NIFSMBC-V2006S1 Investment Limited Partnership is a venture capital fund, organized as a limited partnership under the laws of Japan, with its principal place of business in Japan. Prior to VisionChina's acquisition of DMG, NIFSMBC-V2006S1 Investment Limited Partnership was a DMG shareholder.

13. Defendant NIFSMBC-V2006S3 Investment Limited Partnership is a venture capital fund, organized as a limited partnership under the laws of Japan, with its principle place of business in Japan. Prior to VisionChina's acquisition of DMG, NIFSMBC-V2006S3 Investment Limited Partnership was a DMG shareholder.

14. Defendant Thomas Gai Tei Tsao is a United States citizen who resides in the People's Republic of China. Tsao co-founded Gobi Partners, Inc. in 2002 and continues to serve as a lead partner of Gobi Partners, Inc. Tsao also served as a Director of DMG from 2004 until its merger with VisionChina on November 16, 2009, and as DMG's Chief Executive Officer from December 2007 through the merger. Tsao was personally involved in the merger negotiations between DMG and VisionChina and was a signatory to the Merger Agreement and to other agreements relevant to this action. The Gobi Partners, Inc. webpage describes Tsao as having "engineered the sale of DMG to VisionChina."

15. Defendants John Does 1-10 are additional individuals and legal entities that, upon information and belief, participated in the fraudulent conduct described

herein and/or conspired with the Gobi-Oak Defendants in furtherance of the fraudulent scheme, including those individuals at Gobi and Oak who participated in the fraudulent conduct described herein. VisionChina has not yet been able to determine which individuals or entities these are, despite reasonable efforts to do so, and therefore refers to them as “John Does 1-10,” pursuant to CPLR § 1024.

JURISDICTION AND VENUE

16. Jurisdiction is proper in this Court pursuant to New York General Obligations Law § 5-1402 and § 5-1401, based on Defendants’ consent to this jurisdiction and forum in the Merger Agreement, which provides that the parties thereto “irrevocably submit[] to the non-exclusive jurisdiction of the state and federal courts sitting in the State of New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby.”

17. Additionally, all Defendants who participated in the fraudulent scheme were aware of the forum-selection clause in the Merger Agreement and therefore knew that their conduct would subject them to the jurisdiction of this forum.

18. Venue is proper in this Court pursuant to CPLR § 503, as none of the parties to this action reside in the State of New York.

FACTUAL ALLEGATIONS

VisionChina and DMG.

19. VisionChina commenced operations in 2005 and is one of China’s largest out-of-home digital mobile television advertising networks, using mobile digital television broadcasts to deliver content and advertising to displays on public transportation systems across China. VisionChina’s network delivers real-time

broadcasting, including news, stock quotes, weather and traffic updates, sports highlights, and entertainment programs, mixed with advertisements. VisionChina's business model is based upon securing the access rights to public transportation systems in various Chinese cities and selling advertising time to interested entities, including many Fortune 500 companies. Prior to its acquisition of DMG, VisionChina's network appeared primarily on bus systems in many of China's largest cities.

20. DMG was founded in Shanghai in 2002. At the time of the Merger Agreement, DMG operated a digital media advertising network, selling advertisements featured on a network of television screens displayed on public transportation, mostly subways, in Shanghai, Beijing, and other cities across China and Hong Kong. Prior to the acquisition underlying this dispute, DMG was a standalone private company. While DMG had several investors, the interests of Oak and Gobi were by far the largest, with Oak owning approximately 54 percent, and Gobi approximately 20 percent, of DMG prior to VisionChina's acquisition of DMG. Thus, together, Oak and Gobi owned nearly three-quarters of DMG's shares at the time of the Merger Agreement.

Gobi and Oak Offer to Sell DMG to VisionChina in 2008.

21. In December 2007, having grown frustrated by DMG's weak financial performance, the Gobi-Oak Defendants agreed that one of them, Tsao, a founder and principal of Gobi, would take control of DMG as its Chief Executive Officer. Tsao's agreed-upon mission was to sell DMG at a profit for the Gobi Defendants and Oak.

22. When Tsao took over, DMG had never earned a profit and had recorded net losses every quarter since it was founded. Nonetheless, a few months later, by the summer of 2008, Tsao and the other Gobi-Oak Defendants were actively shopping DMG and had initiated an auction process.

23. On information and belief, shortly before June 14, 2008, Warren Riley (“Riley”), a General Partner of Oak, met with two representatives of VisionChina, its former Chief Financial Officer Dina Liu (“Liu”) and former Chief Strategy Officer Xiaowei Chen (“Chen”), in furtherance of an agreement by the Gobi-Oak Defendants to target VisionChina as a prospective buyer of DMG due to the similarities in the companies’ business models and to induce VisionChina to purchase DMG at an inflated price. On July 23, 2008, Riley and Liu met again to discuss DMG.

24. Also in or around July 2008, Tsao reached out to VisionChina and asked whether VisionChina would be interested in acquiring DMG. Subsequently, at Oak’s and Gobi’s invitation, VisionChina representatives Liu and Chen, attended an oral presentation by Tsao, Gobi, Oak, and certain DMG executives on August 7, 2008 (the “Management Presentation”) and received written materials (the “Presentation Book”).

25. At the Management Presentation, DMG and the Gobi-Oak Defendants told VisionChina that DMG had operated at a net loss since inception. They emphasized, however, that DMG’s business was trending upward, and they presented their forecast that DMG would break even during 2009 and would then, continuing its upward trend, turn profitable.

26. The Presentation Book, moreover, featured a chart forecasting that DMG’s revenue would increase from RMB 113.8 million in 2008 to RMB 297.8

million in 2009, and then to RMB 544.3 million in 2010.¹ These revenues, according to Tsao and DMG, would result in a net loss of RMB 45.3 million for 2008, but would lead to net income of RMB 0.1 million for 2009, increasing to RMB 57.9 million for 2010.

27. The Gobi-Oak Defendants supported these projections with a presentation of DMG’s “[k]ey operating metrics,” which showed historical and forecasted improvements in DMG’s business since 2006. They represented, for example, that the company’s “[u]tilization rate” – the percentage of advertising minutes sold out of total minutes available to sell – had improved from 21% in 2006 to 25% in 2007, and was expected to improve to 30% in 2008, to 38% in 2009, and to 44% in 2010.

28. The Presentation Book also included representations that:

(a) Management’s projections were based on “[s]trong visibility into 2008E forecast,” with “70% of 2008E revenue supported by current and near-term bookings which will all be recognized this year.”

(b) DMG’s historical and financial projections were “presented on [a] consolidated basis assuming 100% of revenues and costs as incurred.”

(c) DMG had an “[e]normous runway for growth in core business,” through increased subway lines in cities in which the company already had a presence, expansion into additional cities, and “increas[ing] monetization by attracting new advertisers, increasing ad rates, and improving network utilization.”

¹ “RMB” stands for Renminbi, the official currency of the People’s Republic of China.

(d) In addition to the revenue forecasted in management's chart, the company had RMB 190 million to RMB 250 million in potential annual revenue upside, with RMB 130 million to RMB 175 million of that potential upside in the "[n]ear term," through the expansion to new subway lines and a dramatic improvement in the company's utilization rate.

(e) DMG had a "[s]trong management team and proven business model."

29. In addition to the representations made in connection with the Management Presentation, the Gobi-Oak Defendants and DMG channeled false information to VisionChina through the financial advisors representing each side of the transaction, including the same numbers presented by the Gobi-Oak Defendants and DMG at the Management Presentation.

30. Based on the representations made by the Gobi-Oak Defendants, VisionChina offered to acquire DMG for a total consideration of up to \$120 million in cash and VisionChina common shares, with \$60 million to be paid upon closing and up to \$60 million to be paid in three post closing installments, each subject to downward adjustments based on net income derived from the company's audited financial statements for the years 2008, 2009, and 2010. Gobi and Oak rejected the offer, saying that the price was too low.

Negotiations Resume in July 2009.

31. About a year later, in or around July 2009, the Gobi-Oak Defendants still had not found a buyer for DMG; so, they returned to VisionChina with a

new sales pitch. In furtherance of the Gobi-Oak Defendants' agreement, Tsao contacted VisionChina's Chief Financial Officer, Scott Chen, and suggested that negotiations resume for VisionChina to acquire DMG. Tsao represented that DMG's business and financial condition had significantly improved since the previous negotiations, due to a major improvement in DMG's utilization rate and DMG's acquisition of contracts to place advertising on additional subway lines in Shanghai, which placed DMG on an upward trend toward imminent profitability. Based on these improvements in DMG's business and financial condition, Tsao maintained, VisionChina should pay much more for DMG than the \$120 million that VisionChina had offered in 2008.

32. Tsao, however, in furtherance of the Gobi-Oak Defendants' scheme, demanded a letter of intent ("LOI") from VisionChina before providing any financial performance data. Moreover, Tsao demanded that the LOI provide for a \$5 million penalty to be paid by either party in the event that it chose not to consummate the transaction. In response to VisionChina's questioning before entering into the LOI, Tsao boasted that DMG's business results were improving and that DMG would surpass the financial projections contained in the 2008 Management Presentation.

Letter of Intent and VisionChina's Due Diligence.

33. In reliance on Tsao's representation concerning DMG's accelerating upward trend in financial performance, VisionChina entered into negotiations with the Gobi-Oak Defendants concerning the LOI and ultimately signed it.

34. The Gobi-Oak Defendants and VisionChina negotiated the terms of the LOI, including the purchase price and structure of the transaction, through late-September 2009. On September 11, 2009, Liman Li, Scott Chen, and Colin Wang of

VisionChina met with Warren Riley of Oak in San Francisco. On September 21, 2009, Liman Li and Scott Chen of VisionChina met with Tsao and Riley in Hong Kong. Throughout these negotiations, the Gobi-Oak Defendants maintained that DMG's financial condition and performance were on an upward trend toward profitability.

35. The LOI was fully executed on or about September 26, 2009. In addition to VisionChina, the signatories included Gobi and Oak. Tsao executed the LOI both in his role as the CEO of DMG and as General Partner of Gobi Fund and Gobi Fund II. Riley signed as General Partner of Oak.

36. The LOI set forth "the principal terms and conditions of the proposed Acquisition" by VisionChina, for aggregate consideration of \$160 million, "of all of the issued and outstanding shares and other equity securities of" DMG, "subject to customary due diligence, negotiation and execution of definitive transaction agreements . . . and receipt of customary approvals." The LOI provided for a "Due Diligence Period" of "21 days from the date of execution of this Letter by [DMG]," i.e, September 26, 2009.

37. As noted above, the LOI also included a provision – upon which Tsao insisted – requiring that either party pay a penalty of \$5 million if it "materially changes the terms on which an Acquisition would occur" as compared with the LOI, "chooses not to enter into a Definitive Agreement in accordance with the contents of" the LOI "prior to 25 days after" the date of the LOI, or "fails to use commercially reasonable efforts to enter into such Definitive Agreement" during that 25-day period. However, an exception to this \$5 million penalty was made for a material change or withdrawal from

the agreement coming “as a result of due diligence findings that would have a material adverse effect on the operation and financial condition” of the company.

38. On October 4, 2009, VisionChina began its due diligence. On October 5, 2009, the VisionChina team met with Tsao and DMG Chief Financial Officer Terrence Tong (“Tong”) at the offices of the Gobi Defendants in Shanghai. During those meetings, Tsao and Tong discussed DMG’s management accounts with the VisionChina attendees. After the completion of this meeting, on the night of October 5, 2009, Tsao and Tong emailed Scott Chen, then VisionChina’s Chief Financial Officer, attaching a spreadsheet (the “Management Accounts”), purportedly supporting the numbers that Tsao and Tong had represented at the due diligence meeting earlier that day. According to the Management Accounts, over the period of January 1, 2009 through August 31, 2009, DMG had earned RMB 104.7 million in net revenue and accrued RMB 50.1 million in net losses, consistent with Tsao’s and Tong’s representations at the due diligence meeting earlier that day.

39. While DMG’s September 2009 numbers were not included in the Management Accounts, Tsao and Tong told the VisionChina representatives during the October 5 due diligence meeting that DMG’s results for the third full quarter of 2009 would show a total revenue of between RMB 54 million and RMB 60 million. Because the Management Accounts showed a combined revenue of approximately RMB 29 million for July and August 2009, this indicated that DMG had earned revenue totaling RMB 25 million to RMB 31 million for the month of September 2009.

40. At the October 5 due diligence meeting, Tsao and Tong emphasized to VisionChina that, because DMG had recorded a net loss of only RMB 5

million in August 2009 with a revenue of RMB 15 million for that month, DMG's much higher September revenue of at least RMB 25 million would definitely lead the company's revenue to meet or exceed its costs and expenses for the month. Tsao and Tong further represented that this upward trend in revenue and earnings was going to continue into the fourth quarter, typically the peak season for advertising revenue.

41. On October 7, 2009, VisionChina conducted a follow-up due diligence interview with Tsao and Nora Li, who was then DMG's Chief Operations Officer. At that interview, Ms. Li told VisionChina that DMG's advertising revenue for September 2009 totaled approximately RMB 26 million – confirming Tsao's and Tong's October 5 representations.

42. VisionChina was thus led to believe that DMG would be transitioning from an operating loss of RMB 50.1 million for the first eight months of 2009 to profitability in September 2009 and that this upward trend would continue into the fourth quarter of 2009. These were material considerations in VisionChina's decision to acquire DMG at the price stated in the LOI. VisionChina would not have concluded the deal had it expected DMG to continue to operate at a net loss.

The Merger Agreement.

43. From October 13 to October 15, 2009, representatives of VisionChina met with Tsao at Gobi's offices in Shanghai in order to complete VisionChina's due diligence and to finalize the terms of a definitive agreement. Warren Riley of Oak was present at Gobi's offices during these meetings and conferred with Tsao and Gobi with respect to their final negotiations with VisionChina.

44. In reliance upon the foregoing representations, VisionChina entered into an Agreement and Plan of Merger, dated October 15, 2009, and an Amended and Restated Agreement and Plan of Merger on November 16, 2009 (the “Merger Agreement”), the date on which the transaction closed (the “Closing Date”). Those two documents were substantially identical in all respects material to this action.

45. The Merger Agreement provided for the appointment of Shareholder Representative Services LLC to act as the Shareholder Representative for the Participating DMG Shareholders (the “Participating Shareholders”), providing that “[a] decision, act, consent or instruction of the Shareholder Representative shall constitute a decision of all Participating DMG Shareholders and shall be final, binding and conclusive upon each such Participating DMG Shareholder, and . . . VisionChina . . . may rely upon any decision, act, consent or instruction of the Shareholder Representative as being the decision, act, consent or instruction of each and every such Participating DMG Shareholder.”

46. In its final form, the Merger Agreement, in contrast to the LOI, called for VisionChina’s acquisition of DMG to be structured as a merger. The Merger Agreement provided that, in exchange for Merger Consideration of \$160 million – to be paid partly in cash and partly in common shares of NASDAQ-traded VisionChina stock – DMG would merge with Digital Value Holdings Limited, a wholly-owned subsidiary of VisionChina that would then cease to exist. Upon closing, VisionChina would pay the Shareholder Representative \$100 million of the Merger Consideration. VisionChina would pay the remaining Merger Consideration of \$60 million in equal installments on the first and second anniversaries of the closing.

47. Fundamental to the Merger Agreement, and to VisionChina's decision to enter into that agreement, were the DMG Participating Shareholders' representations and warranties relating to DMG's revenues, losses, and compliance with U.S. Generally Accepted Accounting Practices ("US GAAP").

The Ernst & Young Report.

48. On December 24, 2009, just over a month after the Closing Date, VisionChina received Unaudited Interim Condensed Consolidated Financial Statements for the eight months from January 1, 2009 through August 31, 2009, which had been prepared by Ernst & Young (the "E&Y Report"). The E&Y Report revealed for the first time that DMG's total revenue for the first eight months of 2009 – the period covered by the Management Accounts – was not RMB 104.7 millions, as represented by Tsao and Tong during due diligence, but just RMB 66.8 million. In addition, the E&Y Report disclosed that DMG's net loss for the first eight months of 2009 was not merely RMB 50.1 million, as represented by Tsao and Tong on October 5, but more than three times that amount, at RMB 180.1 million.

49. Given the magnitude of the discrepancy between the representations made during due diligence and the disclosures in the E&Y Report, Tsao and Tong—who were in a position to know the true financial condition and performance of DMG and were acting on behalf of the Gobi-Oak Defendants at all relevant times with respect to the transaction with VisionChina—must have known that they were giving VisionChina false financial information during due diligence in order to induce VisionChina to enter into the Merger Agreement. Tsao and Tong also knew, based on

discussions with VisionChina during negotiations and due diligence, that VisionChina would not have entered into the Merger Agreement had VisionChina known the truth.

50. The E&Y Report completely undermined Tsao's and Tong's representations that DMG would begin turning a profit for the last four months of 2009 and in 2010. Indeed, the numbers in the E&Y Report make clear that DMG's profitability was on a *downward* trend—rather than an upward trend, as the Gobi-Oak Defendants had represented—and that, instead of being on the verge of profitability, DMG's prospects for profitability were remote.

51. On information and belief, for the full year of 2009, DMG in fact operated at a *net loss of more than RMB 300 million*.

Indemnification Obligations of the DMG Participating Shareholders.

52. In Article VII of the Merger Agreement, the DMG Participating Shareholders agreed to indemnify VisionChina and its affiliates “from and against any and all amounts, payments, losses, damages, . . . liabilities, costs and expenses, including interest, penalties and reasonable legal fees” arising out of or relating to “any inaccuracy in or breach of any of the representations and warranties of the Company” contained in the Merger Agreement.

53. The “representations and warranties of the Company,” contained in Article II of the Merger Agreement, did in fact contain several “inaccurac[ies]” and “breach[es].” Specifically, the DMG Participating Shareholders represented that “the Management Accounts in all material respects [] have been properly extracted from the accounting records . . . and [] were prepared in accordance with GAAP.” They further represented that “the books of account and financial records of each Group Company are

true and correct in all material respects and have been prepared and are maintained in accordance with sound accounting practice.”

54. Each of these representations was false.

55. With respect to the Management Accounts, accounts receivables were materially overstated by an amount equal to approximately \$441,540 and, conversely, allowance for doubtful amounts was materially understated by the same amount. Advertising revenues recorded in the Management Accounts were materially overstated by approximately \$4,042,482, and DMG disclosed only \$1,698,389 of that amount in the Disclosure Schedule. The remaining overstatement of approximately \$2,344,093 in revenue and accounts receivables were reversed and written off in the 2009 E&Y audit.

56. Additionally, as described above, and contrary to multiple representations by Defendants, the Management Accounts and other financial statements were not in fact prepared and maintained in accordance with US GAAP.

57. The parties to the Merger Agreement provided that the representations identified above, contained in Section 2.6 of the Merger agreement, would survive beyond the first anniversary of the closing date, so long as notice of a claim of indemnification with respect to those representations was provided by VisionChina prior to that date. Accordingly, on November 16, 2010, VisionChina sent a Claim Notice to Shareholder Representative Services, pursuant to Article VII of the Merger Agreement, providing notice that VisionChina reserved in good faith a claim for indemnification with respect to VisionChina’s losses resulting from the inaccuracies in breach of the representations and warranties in Article II of the Merger Agreement.

58. In order to facilitate the indemnification obligations set forth in Article VII, the parties agreed in the Merger Agreement that, on the closing date, VisionChina would deposit or cause to be deposited in an Indemnity Escrow Fund \$4,000,000 in cash and 847,601 shares of VisionChina stock, a portion of the merger consideration totaling \$10 million in value. That amount was to be held in escrow until the first anniversary of the closing date, after which amounts not subject to the indemnity obligations of Article VII, or subject to disputes concerning those indemnity obligations, were to be released to the Participating Shareholders.

FIRST CAUSE OF ACTION
Against the Gobi-Oak Defendants
(Fraud and Conspiracy to Defraud)

59. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 through 58 above, as though fully set forth here.

60. The Gobi-Oak Defendants agreed among themselves to induce VisionChina to acquire DMG based on false statements concerning trends in DMG's historical and current business and financial performance and bad faith projections concerning DMG's future profitability. The Gobi-Oak Defendants acted with the intent to injure VisionChina by causing VisionChina to purchase DMG at an inflated price. The Gobi-Oak Defendants, in making their misrepresentations to VisionChina, took numerous affirmative steps in furtherance of their conspiracy. As a direct result, VisionChina was deceived and acquired the company at a grossly inflated price. In furtherance of their scheme to cause VisionChina to acquire DMG by merger for grossly excessive consideration, the Gobi-Oak Defendants misrepresented, or conspired among themselves and with the Doe Defendants to misrepresent, to VisionChina, among other things, that:

(a) DMG was a company just reaching profitability, earning a monthly profit in September 2009, and on target to reach sustainable profitability by the fourth quarter of 2009;

(b) DMG's business had improved since the projections contained in the 2008 Management Presentation and, because of these improvements, the company's performance in 2009 and succeeding periods than previously projected;

(c) DMG's net losses for the first eight months of 2009 totaled only RMB 50.1 million; and

(d) DMG had earned revenue of RMB 29 million in July and August 2009 combined and expected to earn revenue for the third quarter of 2009 totaling between RMB 54 million and RMB 60 million.

61. Unbeknownst to VisionChina, all of these representations were false, and the Gobi-Oak Defendants knew them to be false at the time they were made or recklessly misrepresented facts without any reasonable, good faith basis to believe in their truthfulness.

62. The Gobi-Oak Defendants intended to, and did, defraud plaintiffs by their misrepresentations set forth above.

63. As the Gobi-Oak Defendants intended, plaintiffs reasonably relied upon the truthfulness of their representations and actions in deciding to enter into the Merger Agreement and to pay a grossly excessive price for DMG.

64. Plaintiffs have suffered damages as a result of their reliance.

65. Plaintiffs are entitled to recover from each of the Gobi-Oak Defendants, as joint and several tortfeasors, all damages plaintiffs have suffered as a result of the fraudulent conduct of the Gobi-Oak Defendants , in an amount to be proven at trial, but not less than \$80 million.

66. Given the wanton, deliberate and willful nature of the wrongful conduct of the Gobi-Oak Defendants , plaintiffs are also entitled to an award of punitive damages from each of the Gobi-Oak Defendants, as joint and several tortfeasors, in an amount to be proven at trial.

SECOND CAUSE OF ACTION
Against the DMG Participating Shareholders
and the Shareholder Representative
(Breaches of Contract/Indemnity)

67. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 through 66 above, as though fully set forth here.

68. Section 7.2(a) of the Merger Agreement provided that “the Participating DMG Shareholders agree to indemnify and hold harmless, on a several and not joint basis in accordance with their respective pro rata interests in the Merger Consideration, VisionChina . . . from and against any and all amounts, payments, losses, . . . liabilities, costs and expenses, including interest, penalties and reasonable legal fees, arising out of, resulting from or relating to . . . any inaccuracy in or breach of the representations and warranties of the Company contained in this Agreement” or “any breach of, or failure to perform, any of the covenants, agreements or other obligations of the Company contained in this Agreement.”

69. The Merger Agreement contained several inaccuracies constituting breaches of the representations and warranties of DMG contained in Section

2.6 of the Merger Agreement, resulting in losses in an amount to be proven at trial, but not less than \$2,785,633.

70. Each of the DMG Participating Shareholders owes VisionChina its pro rata share of VisionChina's losses as a result of the breaches of the Merger Agreement.

71. Additionally, as a result of the foregoing, plaintiffs are entitled to a declaration that plaintiffs have no obligation to pay, and the DMG Participating Shareholders and the Shareholder Representative have no right to receive, any unpaid escrowed cash (including interest) or shares in the Indemnity Escrow Fund established pursuant to Sections 1.9, 7.3 and 7.4 of the Merger Agreement and, accordingly, an order directing that any unpaid escrowed cash (including interest) or shares in the Indemnity Escrow Fund be returned to VisionChina, as well as a declaration that the DMG Participating Shareholders are obligated to indemnify plaintiffs for the breaches of representations and warranties stated in the Claim Notice in an amount to be determined at trial.

THIRD CAUSE OF ACTION
Against the DMG Participating Shareholders
and the Shareholder Representative
(Unjust Enrichment)

72. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 71 above, as though fully set forth here.

73. As a result of the fraudulent and deceptive acts of the Gobi-Oak Defendants, the DMG Participating Shareholders and the Shareholder Representative have been or will be unjustly enriched.

74. It is against the principles of equity and good conscience to permit the DMG Participating Shareholders and the Shareholder Representative to keep the funds and/or stock they received or to receive additional funds and/or stock in connection with VisionChina's acquisition of DMG to the extent those funds and/or stock represent the ill-gotten gains of the fraudulent and deceptive conduct of the Gobi-Oak Defendants. Such funds and/or stock rightfully belong to VisionChina.

75. If the DMG Participating Shareholders and the Shareholder Representative are allowed to retain the funds and/or stock that they received or are scheduled to receive as a result of the Gobi-Oak Defendants' fraudulent scheme, they would be unjustly enriched.

76. Based upon the allegations above, plaintiffs are entitled, as a remedy for unjust enrichment, to restitution and a money judgment against the DMG Participating Shareholders and the Shareholder Representative, jointly and severally, in an amount to be determined at trial, but not less than \$80,000,000.

FOURTH CAUSE OF ACTION
Against the DMG Participating Shareholders
and the Shareholder Representative
(Declaratory Judgment)

77. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 through 76 above, as though fully set forth here.

78. VisionChina seeks a declaratory judgment that the DMG Participating Shareholders and the Shareholder Representative are not entitled to any further payments relating to or in connection with the Merger. Any right that the DMG Participating Shareholders might have had to any such payment was the result of the Gobi-Oak fraud and would result in the DMG Participating Shareholders and the

Shareholder Representative receiving the unlawful fruits of the Gobi-Oak Defendants' fraudulent scheme.

79. A demand for payment allegedly due on November 16, 2010 has been made. Accordingly, there is a present, live dispute between VisionChina and the DMG Participating Shareholders concerning future payments to the DMG Participating Shareholders and the Shareholder Representative under the Merger Agreement that is amendable to a definitive and complete resolution.

80. VisionChina has no alternative, adequate remedy available to it with regard to these future payments.

WHEREFORE, plaintiffs respectfully ask the Court to grant judgment to plaintiffs:

(a) declaring that VisionChina has no obligation to make any payments to the DMG Participating Shareholders or the Shareholder Representative in connection with the Merger, including any portion of the \$30 million First Deferred Consideration or the \$30 million Second Deferred Consideration contemplated in Section 1.8 of the Merger Agreement;

(b) declaring that VisionChina has no obligation to pay, and the DMG Participating Shareholders and the Shareholder Representative have no right to receive, any unpaid escrowed cash (including interest) or shares in the Indemnity Escrow Fund established pursuant to Sections 1.9, 7.3 and 7.4 of the Merger Agreement, and, accordingly, directing that any

unpaid escrowed cash (including interest) or shares in the Indemnity Escrow Fund be returned to VisionChina;

(c) declaring that the DMG Participating Shareholders are obligated to indemnify VisionChina for the breaches of representations and warranties stated in the Claim Notice;

(d) awarding VisionChina restitution of all funds or stock wrongfully received by each defendant as a result of the fraudulent scheme described herein;

(e) awarding VisionChina compensatory damages as against the Gobi-Oak Defendants, jointly and severally, in an amount to be determined at trial but no less than \$80 million;

(f) awarding VisionChina punitive damages as against the Gobi-Oak Defendants, jointly and severally, in an amount to be determined at trial;

(g) awarding VisionChina its costs, including reasonable attorneys' fees and expenses; and

(h) awarding such other and further relief as this Court may deem just and proper.

Dated: February 2, 2011
New York, New York

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP

By: /s/ Carey R. Ramos

Carey R. Ramos
Marc Falcone

1285 Avenue of the Americas
New York, NY 10019-6064
(212) 373-3000

*Attorneys for Plaintiffs VisionChina Media
Inc. and Vision Best Limited*