

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

THE ESTATE OF EWELL E. LONG,	)	
BY ITS PERSONAL	)	
REPRESENTATIVE CAROL A.	)	
KEISER-LONG,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. N25C-03-078 PAW CCLD
	)	
WELLS FARGO BANK, N.A., JADE	)	
MOUNTAIN PARTNERS LLC, and	)	
PERLINO FL, LP,	)	
	)	
Defendants.	)	

Submitted: July 17, 2026
Decided: October 30, 2026

MEMORANDUM OPINION

Upon Defendants' Motion to Dismiss the Amended Complaint;
GRANTED.

Kaan Ekiner, Esq.; Joshua Seiler, Esq.; Kevin A. Rodriguez, Esq.; Gregory Star, Esq.; and Kara E. Cheever, Esq., of Cozen O'Connor, *Attorneys for Plaintiff The Estate of Ewell E. Long, by Its Personal Representative Carol A. Keiser-Long.*

Steven L. Caponi, Esq.; Robert K. Beste, Esq.; and Matthew B. Goeller, Esq., of K&L Gates LLP; Robert E. Griffin, Esq.; and Jonathan H. Koppell, Esq., of McDermott Will & Schulte LLP, *Attorneys for Defendants Wells Fargo Bank, N.A., Jade Mountain Partners LLC, and Perlino FL, L.P.*

WINSTON, J.

I. INTRODUCTION

This case concerns an alleged stranger-originated life insurance policy—commonly known as a “STOLI.” An estate seeks to recover the policy death benefit from a downstream purchaser of the policy and its securities intermediary. Plaintiff also asserts claims for secondary liability against those two defendants, as well as the downstream purchaser’s investment advisor. This decision grants defendants’ motion to dismiss.

The Court lacks personal jurisdiction over the downstream purchaser and securities intermediary. The only act those foreign defendants are alleged to have taken in Delaware is the execution of a change-in-beneficiary form. Execution of that form does not establish specific jurisdiction because it is not a “source” of the estate’s claim for recovery of the death benefit, and there is no dispute that these defendants are not “at home” in Delaware for purposes of general jurisdiction. Nor does the conspiracy theory of jurisdiction apply, because the complaint lacks specific factual evidence that defendants were members of the conspiracy plaintiff alleges.

That leaves the claims for secondary liability against the investment advisor. Those claims fail because they do not exist. When the General Assembly created the right for an estate to recover a STOLI death benefit, it defined the class of persons from whom the estate could recover and the remedy the estate could seek. It did not include claims for secondary liability against defendants who never received the

death benefit, like the investment advisor here. The Court will not presume the legislature intended to hold a broader class of persons liable than specified in the statute creating a new cause of action.

As our Supreme Court recently clarified in *Frank*,¹ an estate's claim to recover a STOLI death benefit is a creature of statute. That statute did not codify a cause of action that existed at common law, or one based on a right of the estate. Accordingly, when assessing the scope of the claim, the Court hews closely to the statute. Doing so here leads to the conclusion that the Court lacks personal jurisdiction over two foreign defendants and that the complaint fails to state a claim against the defendant that remains.

II. FACTUAL AND PROCEDURAL BACKGROUND²

A. THE PARTIES

Plaintiff Estate of Ewell E. Long, by its personal representative, Carol A. Keiser-Long ("Plaintiff" or the "Estate"), is a citizen of Florida, where Long resided

¹ *GWG DLP Master Tr. Dated 03/01/06 v. Est. of Frank ex rel. Frank (Frank)*, 361 A.3d 31 (Del. 2026).

² For purposes of Rule 12(b)(6), the Court accepts the well-pled facts in the First Amended Complaint (the "Complaint") as true and draws the facts from only the Complaint and documents incorporated by reference therein. In ruling on personal jurisdiction under Rule 12(b)(2), the Court accepts the Complaint's allegations as true unless "contradicted by affidavit" and may consider "the record as a whole." *See Recycling, LLC v. Clean Earth, Inc.*, 2021 WL 2211696, at *3 (Del. Super. June 1, 2021) (citing *Hartsel v. Vanguard Grp., Inc.*, 2011 WL 2421003, at *7 (Del. Ch. June 15, 2011), *aff'd*, 38 A.3d 1254 (Del. 2012)).

at the time of his death.³ The Estate’s representative, Keiser-Long, is Long’s widow and a citizen of California.⁴

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) is a national banking association with its main office in South Dakota, where it is a citizen.⁵

Defendant Perlino FL, L.P. (“Perlino”) is a Florida limited partnership with its principal place of business in Texas.⁶

Defendant Jade Mountain Partners LLC (“Jade Mountain,” and, with Wells Fargo and Perlino, “Defendants”) is a Delaware LLC with its principal place of business in New York.⁷

³ D.I. 13, First Am. Compl. (hereinafter “Compl.”) ¶ 7.

⁴ *Id.*

⁵ *Id.* ¶ 8.

⁶ *Id.* ¶ 10; D.I. 20, Aff. of Ora Sheinson in Support of Mot. to Dismiss of Defs. Wells Fargo Bank, N.A., Jade Mountain Partners LLC, and Perlino FL, L.P. (hereinafter “Sheinson Aff.”) ¶ 7.

⁷ Compl. ¶ 9; Sheinson Aff. ¶ 5.

B. NON-PARTY OCEAN GATE ALLEGEDLY INDUCES PROCUREMENT OF THE POLICY AND BECOMES ITS BENEFICIAL OWNER IN 2007.

In 2007, non-party Ocean Gate⁸ acquired the beneficial interest in an insurance policy on Long's life (the "Policy").⁹ According to the Complaint, the Policy was procured as part of an illegal "STOLI scheme" in which stranger investors wager on persons' lives through life insurance policies.¹⁰ In the scheme, Ocean Gate financially induced seniors to consent to policies on their lives being issued to trusts, whose beneficial interests were then transferred to investors.¹¹ Through the use of trusts, Ocean Gate made it appear to insurers that the policies were being paid for by the insureds and procured for legitimate estate-planning purposes.¹² In this way, Ocean Gate was able to "feign compliance with insurable interest laws and . . . conceal" that it was paying the premiums to effect the policies and would acquire them.¹³

⁸ Like the parties, the Court uses the term "Ocean Gate" to refer collectively to Ocean Gate Life Settlement Program, LP; OGLS GP, LP; and OGLS Management LP. *See* Compl. ¶ 37 & n.1; *see generally* D.I. 20, Op. Br. in Support of Defs.' Mot. to Dismiss the Am. Compl. (hereinafter "Op. Br.") (referring to "Ocean Gate" throughout).

⁹ More precisely, Ocean Gate acquired the beneficial interest in a trust that was the beneficial owner of the Policy. *See* Compl. ¶¶ 53, 56.

¹⁰ *See id.* ¶¶ 27-28, 37, 65.

¹¹ *See id.* ¶¶ 37-38.

¹² *See id.* ¶¶ 39-40.

¹³ *See id.* ¶¶ 38-39, 47.

With regard to this Policy, in March 2007, The Ewell E. Long Irrevocable Trust (the “Trust”) was established, with Long as grantor, Keiser-Long as beneficiary, and an attorney, Robert Wilcox, as trustee.¹⁴ Later that month, the Trust applied for the Policy.¹⁵ The Policy application bears Long’s and Wilcox’s signatures, as does a “Statement of Claim Intent.”¹⁶ The Statement of Claim Intent provides, among other things, that the source of the first year premium was “Cash and Equivalents” from Long, that the Policy was not being purchased with an intent to transfer it to a third-party or in connection with a program for that purpose, and that there was a bona fide need for the insurance for estate planning.¹⁷ The Policy states that the “Policy Date” and “Issue Date” are April 11, 2007.¹⁸

On April 23, 2007, Long, Keiser-Long, Wilcox, Ocean Gate, and attorney Brian Sullivan entered into a “Successor Trustee Agreement.”¹⁹ That agreement “contemplated that once premium was paid on the Policy, [] Wilcox would be replaced as trustee by [] Sullivan, but [] Wilcox would remain as ‘nominal trustee’

¹⁴ *See id.* ¶ 48.

¹⁵ *See* Compl. ¶ 53.

¹⁶ *See* Sheinson Aff. Ex. E at 6; D.I. 20, Aff. of Robert K. Beste (hereinafter “Beste Aff.”) Ex. B at 2.

¹⁷ *See* Compl. ¶ 66; Beste Aff. Ex. B at 1-2.

¹⁸ *See* Sheinson Aff. Ex. G at 1.

¹⁹ Compl. ¶ 55.

to interface with the insurance carrier.”²⁰ It also “provided that [] Keiser-Long ‘wishes to sell’ the beneficial interest in the Trust holding the Policy to Ocean Gate, and Ocean Gate was ‘ready, willing and able to purchase’ the beneficial interest for consideration in accordance with an ‘asset sale agreement’ called a ‘Successor Beneficiary Agreement.’”²¹ A “Successor Beneficiary Agreement” dated as of the same day, bearing the signatures of Keiser-Long and a representative of Ocean Gate, provides that Keiser-Long “hereby sells, transfers, conveys and disposes of [her] entire Trust Interest, together with all right, title, interest, powers and privileges allocable thereto, to [Ocean Gate], in return for [Ocean Gate’s] payment of . . . \$210,000.00.”²²

Sometime before or on the date of these agreements, Ocean Gate had “caused an indication of interest to be conveyed to [Long and Keiser-Long] to buy the beneficial interests in the Trust, and thus the Policy.”²³ And on May 3, 2007, the Policy’s first year premium was paid to the insurer, the funds of which came from Ocean Gate, either “directly or indirectly.”²⁴

²⁰ *Id.* (citing Compl. Ex. E at 1 & ¶ 9).

²¹ *Id.* ¶ 56 (citing Compl. Ex. E ¶ 6).

²² *See* Op. Br. Ex. 1 ¶ 3.

²³ *See* Compl. ¶ 54.

²⁴ *See id.* ¶ 60.

Through these acts, the Complaint alleges, “Ocean Gate and its co-conspirators . . . successfully conspired to create an illegal wagering contract on [] Long’s life.”²⁵

C. ANOTHER NON-PARTY ACQUIRES THE POLICY IN 2013.

Following changes to the Trust and its trustee, as well as to management of Ocean Gate, in April 2013, the beneficial interest in the Trust was transferred to EP Legacy Trust C, a Delaware statutory trust.²⁶ In its capacity as a securities intermediary, Wilmington Savings Fund Society, FSB (“WSFS”), a federal savings bank with its principal place of business in Delaware, became the record owner and beneficiary of the Policy on the insurer’s books and records.²⁷ Thereafter, WSFS maintained the Policy and all records in Delaware.²⁸

D. PERLINO ACQUIRES THE POLICY IN 2020.

In May 2020, Perlino was established as a Florida limited partnership, and in June 2020, it acquired the Policy.²⁹ The Complaint alleges, “[u]pon information and belief,” that “Perlino assumed all rights, liabilities, and obligations relating to the Policy” and “represented that it was a sophisticated investor and would bear any

²⁵ *See id.* ¶ 65.

²⁶ *See id.* ¶¶ 68-72.

²⁷ *Id.* ¶¶ 70, 73.

²⁸ *See id.* ¶ 70.

²⁹ Sheinson Aff. ¶¶ 7, 10; *see also* Compl. ¶ 75.

legal or economic risks associated with the Policy, and acknowledged that it had access to a data room that, upon information and belief, included, among other things, the Policy and application, the Trust Agreement, the Successor Trustee Agreement, and the Successor Beneficiary Agreement.”³⁰

In connection with Perlino’s acquisition of the Policy, Wells Fargo, as Perlino’s securities intermediary, became the Policy’s owner and beneficiary on the books and records of the insurer.³¹ To effectuate this change, Wells Fargo, through an Assistant Vice President, executed a “Change of Non-Individual Owner and Beneficiary Form” in Delaware.³² WSFS also signed the form in Delaware.³³

Jade Mountain is an investment advisor registered with the United States Securities and Exchange Commission (“SEC”).³⁴ It provides investment management services to Perlino as one of its clients, including maintaining files for the Policy.³⁵ The Complaint alleges, on information and belief, that Jade Mountain also “coordinated all communications with the insurer, tracked the Policy’s financial performance and projected returns, and ensured the continued payment of premiums

³⁰ Compl. ¶¶ 76-77.

³¹ *See id.* ¶ 84.

³² *See id.*; Compl. Ex. F at 3.

³³ *See* Compl. ¶ 84; Compl. Ex. F at 3.

³⁴ Sheinson Aff. ¶¶ 4, 6.

³⁵ *See id.* ¶¶ 4, 6, 23.

to preserve the Policy’s value.”³⁶ It further alleges that Jade Mountain “evaluated and made investment decisions regarding the Policy as part of a broader STOLI strategy designed to profit from the death of the insured.”³⁷ In addition, the Complaint alleges that “Jade Mountain exercised complete domination and control over Perlino such that, for all practical purposes, Perlino operated as Jade Mountain’s alter ego.”³⁸ However, Jade Mountain’s SEC filings indicate that it owns approximately “0%” of Perlino and does not have discretionary investment authority over Perlino.³⁹

E. PERLINO RECEIVES THE POLICY’S DEATH BENEFIT.

Long passed away in January 2022.⁴⁰ In March 2022, Wells Fargo received the Policy’s death benefit proceeds from the insurer.⁴¹ Wells Fargo then credited the proceeds to Perlino’s account.⁴² Wells Fargo took these actions in Minnesota.⁴³

³⁶ Compl. ¶ 85.

³⁷ *Id.*

³⁸ *Id.* ¶ 86.

³⁹ *See* Sheinson Aff. ¶¶ 16-21 (quoting and citing Jade Mountain’s SEC Form ADVs filed in March 2021, 2022, 2023, and 2024, at Sheinson Aff. Exs. A-D).

⁴⁰ Compl. ¶ 87.

⁴¹ *Id.* ¶ 89; D.I. 20, Aff. of Lynn Mizrahi-Shindel in Support of Mot. to Dismiss of Defs. Wells Fargo Bank, N.A., Jade Mountain Partners LLC, and Perlino FL, L.P. (hereinafter “Mizrahi-Shindel Aff.”) ¶ 6.

⁴² Compl. ¶ 90; Mizrahi-Shindel Aff. ¶ 8.

⁴³ *See* Mizrahi-Shindel Aff. ¶¶ 7, 9-11.

F. THIS ACTION

Plaintiff filed this action in March 2025.⁴⁴ The original complaint contained one count against all Defendants for recovery of the Policy proceeds.⁴⁵

After Defendants moved to dismiss, Plaintiff filed the now-operative amended complaint.⁴⁶ Plaintiff now asserts three counts: Count I against Perlino and Wells Fargo for “Recovery of Insurance Proceeds Due to Lack of Insurable Interest” and Counts II and III against all Defendants for “Civil Conspiracy to Wager on Human Life” and “Aiding and Abetting a Wager on Human Life.”⁴⁷

Defendants move to dismiss for lack of personal jurisdiction over Perlino and Wells Fargo and failure to state a claim for conspiracy or aiding and abetting against all Defendants.⁴⁸ Plaintiff filed an answering brief⁴⁹ and Defendants a reply.⁵⁰ The Court heard argument in July 2026.⁵¹

⁴⁴ See D.I. 1.

⁴⁵ See *id.* ¶¶ 41-44.

⁴⁶ See D.I. 8-10; D.I. 13.

⁴⁷ See Compl. ¶¶ 91-113, Prayer for Relief at 36.

⁴⁸ See *generally* Op. Br.

⁴⁹ See *generally* D.I. 41, The Estate’s Opp’n to Defs.’ Mot. to Dismiss the First Am. Compl. (hereinafter “Ans. Br.”).

⁵⁰ See *generally* D.I. 44, Reply Br. in Support of Defs.’ Mot. to Dismiss the Am. Compl. (hereinafter “Reply”).

⁵¹ See *generally* D.I. 52 (hereinafter “Arg. Tr.”).

III. STANDARDS OF REVIEW

A. **RULE 12(B)(2) – LACK OF PERSONAL JURISDICTION**

When a defendant invokes Rule 12(b)(2) to seek dismissal for lack of personal jurisdiction, “[t]he plaintiff has the burden to show a basis for the Court’s jurisdiction over the nonresident defendant.”⁵² In assessing this burden, the Court engages in a two-pronged inquiry: it must determine, first, “that service of process is authorized by statute” and, second, “that the exercise of jurisdiction over the nonresident defendant comports with traditional due process notions of fair play and substantial justice.”⁵³ Both prongs must be satisfied as to each defendant.⁵⁴ “If, as here, no evidentiary hearing has been held, [the] plaintiff[] need only make a *prima facie* showing of personal jurisdiction[,] and ‘the record is construed in the light most favorable to the plaintiff.’”⁵⁵

⁵² *Terramar Retail Ctrs., LLC v. Marion #2-Seaport Tr. U/A/D/ June 21, 2002*, 2017 WL 3575712, at *4 (Del. Ch. Aug. 18, 2017) (quoting *Sprint Nextel Corp. v. iPCS, Inc.*, 2008 WL 2737409, at *5 (Del. Ch. July 14, 2008)), *aff’d*, 184 A.3d 1290 (Del. 2018) (TABLE).

⁵³ *Ryan v. Gifford*, 935 A.2d 258, 265 (Del. Ch. 2007) (first citing *Amaysing Techs. Corp. v. CyberAir Commc’ns, Inc.*, 2005 WL 578972, at *3 (Del. Ch. Mar. 3, 2005); and then citing *Benerofe v. Cha*, 1996 WL 535405, at *3 (Del. Ch. Sept. 12, 1996)).

⁵⁴ *See CLP Toxicology, Inc. v. Casla Bio Hldgs. LLC*, 2020 WL 3564622, at *10 (Del. Ch. June 29, 2020) (citing *Hartsel*, 2011 WL 2421003, at *7).

⁵⁵ *Ryan*, 935 A.2d at 265 (first citing *Benerofe*, 1996 WL 535405, at *3; and then quoting *Cornerstone Techs., LLC v. Conrad*, 2003 WL 1787959, at *3 (Del. Ch. Mar. 31, 2003)).

B. RULE 12(B)(6) – FAILURE TO STATE A CLAIM

Upon a Rule 12(b)(6) motion, the Court: (i) accepts all well-pled factual allegations as true; (ii) credits vague allegations if they give the opposing party notice of the claim; (iii) draws all reasonable inferences in favor of the non-moving party; and (iv) denies dismissal if recovery on the claim is reasonably conceivable.⁵⁶ The Court does not, however, accept conclusory allegations unsupported by facts or draw unreasonable inferences in favor of the nonmovant.⁵⁷

IV. ANALYSIS

The Delaware Supreme Court has addressed this State’s law on STOLI policies on multiple occasions in recent years.⁵⁸ Below, the Court first provides a brief primer on that precedent. With that background in mind, the Court then turns to the parties’ specific arguments, first regarding personal jurisdiction, then regarding the viability of Plaintiff’s conspiracy and aiding and abetting claims.

⁵⁶ *Cent. Mortg. Co. v. Morgan Stanley Mortg. Cap. Hldg., LLC*, 27 A.3d 531, 535 (Del. 2011) (citing *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896-97 (Del. 2002)).

⁵⁷ *Windsor I, LLC v. CWC Capital Asset Mgmt. LLC*, 238 A.3d 863, 871 (Del. 2020) (citing *Deuley v. DynCorp Int’l, Inc.*, 8 A.3d 1156, 1160 (Del. 2010)).

⁵⁸ See generally, e.g., *Frank*, 361 A.3d 31; *Wells Fargo Bank, N.A. v. Est. of Malkin (Malkin)*, 278 A.3d 53 (Del. 2022); *Lavastone Cap. LLC v. Est. of Berland (Berland)*, 266 A.3d 964 (Del. 2021); *PHL Variable Ins. Co. v. Price Dawe 2006 Ins. Tr., ex. rel. Christiana Bank & Tr. Co. (Price Dawe)*, 28 A.3d 1059 (Del. 2011).

A. DELAWARE LAW ON STOLI POLICIES: A BRIEF PRIMER

A STOLI policy is a life insurance policy procured by a speculator on the life of a stranger.⁵⁹ At common law, courts in Delaware and elsewhere have long held that STOLI policies are illegal.⁶⁰ That is because they are, in essence, wagers on human life, which offend public policy and are prohibited by the Delaware Constitution.⁶¹ As our Supreme Court has made clear, STOLI policies are “void *ab initio*.”⁶² They “never come into legal existence,” “can never be enforced,” and “represent a ‘fraud on the court.’”⁶³

Courts have traditionally distinguished between permissible insurance and illegal wagering contracts through an “insurable interest” requirement.⁶⁴ Broadly speaking, a person has an insurable interest in the insured if the person has an interest, either personal or pecuniary, in the insured continuing to live.⁶⁵ At common law, an individual could procure insurance on the life of another only for the benefit

⁵⁹ See *Price Dawe*, 28 A.3d at 1069-70.

⁶⁰ See *id.* at 1069-71.

⁶¹ See *id.*

⁶² See *Malkin*, 278 A.3d at 56 (citing *Price Dawe*, 28 A.3d at 1069 n.25, 1073).

⁶³ See *id.* (quoting *Price Dawe*, 28 A.3d at 1069 n.25, 1073).

⁶⁴ See *Price Dawe*, 28 A.3d at 1069-72.

⁶⁵ See *id.* at 1071-72 (citing *Balt. Life Ins. Co. v. Floyd*, 91 A. 653, 655-56 (Del. Super. 1914), *aff'd*, 94 A. 515 (Del. 1915)); see also 18 Del. C. § 2704(c) (setting forth current law on classes of persons with an insurable interest).

of someone with an insurable interest in that life.⁶⁶ An individual could procure insurance on her own life for the benefit of anyone, provided that “the transaction is bona fide.”⁶⁷

The General Assembly codified the common law insurable interest requirement, and consequently the prohibition on STOLI policies, in the Delaware Insurance Code.⁶⁸ Specifically, 18 *Del. C.* § 2704(a) provides:

Any individual of competent legal capacity may procure or effect an insurance contract upon that individual’s own life or body for the benefit of any person, but no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or that individual’s personal representatives or to a person having, at the time when such contract was made, an insurable interest in the individual insured.⁶⁹

⁶⁶ *See Price Dawe*, 28 A.3d at 1072 (citing *Floyd*, 91 A. at 655-56).

⁶⁷ *See id.* (quoting *Floyd*, 91 A. at 656). This rule is “based upon ‘the theory that it is not reasonable to suppose that a person will insure his own life for the purpose of speculation.’” *Id.* (quoting *Floyd*, 91 A. at 656).

⁶⁸ *See id.* at 1072-74.

⁶⁹ 18 *Del. C.* § 2704(a).

Because it is void *ab initio* and will not be enforced by a court, an insurer who shows that a policy lacks an insurable interest under Section 2704(a) may refuse to pay the policy's death benefit.⁷⁰

That leaves a question of what happens when an insurer *does* pay a death benefit on a void policy.⁷¹ The General Assembly addressed that scenario in Section 2704(b), which creates a right of action for the insured's estate to recover the death benefit.⁷² Specifically, Section 2704(b) provides:

If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or the individual's executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.⁷³

⁷⁰ See *Frank*, 361 A.3d at 42 (citing *Malkin*, 278 A.3d at 60); *Price Dawe*, 28 A.3d at 1067-68.

⁷¹ See *Frank*, 361 A.3d at 37-38 (distinguishing between cases concerning "insurers' obligations to pay" and those concerning the consequences where the "insurers did pay" (citations omitted)).

⁷² See *id.*

⁷³ 18 Del. C. § 2704(b).

“Put differently, [Section] 2704(b) directs that if a death benefit is paid under an insurance policy that lacks an insurable interest, the estate of the insured may recover the death benefit from the recipient.”⁷⁴

In *Malkin*, our Supreme Court wrote that “Section 2704(b) . . . codifies the longstanding common-law rule that, if the insurer pays the death benefit on a policy that lacks an insurable interest, the estate may sue to receive that benefit.”⁷⁵ More recently in *Frank*, however, the Court clarified that statement.⁷⁶ Upon further review of the historical context, the Court determined: “[A]lthough the insurable interest requirement existed at common law, there was no Delaware common law establishing that an estate had a right to sue to recover the death benefit paid on a policy that violated that requirement.”⁷⁷ Nor was such a right “firmly established in the common law of other jurisdictions,” with the law varying regarding who, if anyone, could recover the death benefit after it had been paid.⁷⁸ Rather, Section

⁷⁴ *Berland*, 266 A.3d at 969.

⁷⁵ *Malkin*, 278 A.3d at 61 (citations omitted).

⁷⁶ *See Frank*, 361 A.3d at 37-38.

⁷⁷ *See id.*

⁷⁸ *See id.* at 38-39 (explaining, for example, that “in 1881, the United States Supreme Court recognized that if the insured and the person to whom proceeds would be paid were ‘alike culpable’ in fraudulently evading the insurable-interest requirement, courts would ‘refuse to interfere with the results of their action’” and that “California courts have long held that ‘*the insurer* is the only party who can raise the question of insurable interest, and . . . if the insurer waives the question of interest and pays the money to the named beneficiary, or into court, neither the personal representative

2704(b) itself conferred standing upon estates to recover a “‘statutorily-created remedy’ for the procurement of a life-insurance policy in violation of the insurable interest requirement.”⁷⁹ In this sense, the statute “created a ‘new right.’”⁸⁰

That new right concerns standing to enforce the State’s insurable interest requirement.⁸¹ It is not based in a “violation of the rights of the claimant.”⁸² An investor’s collection of a STOLI policy death benefit does not violate an estate’s contract rights, for example, because such a policy does not grant the estate a right to the death benefit; if it did, the policy likely would not be a STOLI.⁸³ Nor does the investor’s collection of a STOLI death benefit inflict a private harm on the estate, like a tort; rather, it is a “violation of Article II, Section 17 of [the] Delaware

nor the creditors can claim the proceeds on that ground” (first quoting *Warnock v. Davis*, 104 U.S. 775, 781 (1881); and then quoting *2004 Stuart Moldow Tr. v. XE L.I.F.E., LLC*, 374 F. App’x 78, 81 (2d Cir. 2010)).

⁷⁹ See *id.* at 39 (citing and quoting *Malkin*, 278 A.3d at 60 n.18, 61).

⁸⁰ See *id.* at 39-40.

⁸¹ See *id.* at 39 (“Delaware is among the jurisdictions that—by statute—have given estates a right to enforce the insurable-interest requirement.”).

⁸² See *Malkin*, 278 A.3d at 65.

⁸³ See 18 *Del. C.* § 2704(a) (permitting procurement of policies payable to the individual insured “or that individual’s personal representatives”). Moreover, a policy lacking an insurable interest cannot grant an estate contract rights because it is void *ab initio*—it grants contract rights to no one. See *Price Dawe*, 28 A.3d at 1067-68 (explaining that where a policy lacks an insurable interest it is void *ab initio*, meaning “that at no time was there a contractual obligation between the parties” (quoting *Dougherty v. Mieczkowski*, 661 F. Supp. 267, 274 (D. Del.1987))).

Constitution and of the State’s public policy.”⁸⁴ The creation of a private right of action in Section 2704(b) reflects a policy choice that “as between the insured’s loved ones and the strangers who sought to profit from her death”—neither of whom would otherwise have a right to proceeds of a void insurance policy—it is better that the former receive the proceeds.⁸⁵

Moreover, although the public policy against STOLIs is strong, under existing law, the distinction between a STOLI policy and permissible life insurance can be subtle. No conclusion can be drawn solely from the fact that a policy is sold to investors, because “[t]he secondary market for life insurance is perfectly legal.”⁸⁶ Nor can a conclusion be drawn from the fact that a policy was sold quickly, because a policy may not be a STOLI even where the insured procures it “with the intent to

⁸⁴ See *Malkin*, 278 A.3d at 65.

⁸⁵ See *id.* at 63 (quoting *Est. of Malkin v. Wells Fargo Bank, N.A. (S.D. Fla. Malkin)*, 379 F. Supp. 3d 1263, 1279 (S.D. Fla. 2019), *aff’d in part, vacated in part, and remanded on other grounds*, 2022 WL 2285884 (11th Cir. June 23, 2022)). Section 2704(b)’s private right of action may also assist in deterring human-life wagering. *Cf. id.* (noting Florida District Court’s observation that “Section 2704(b) effects the Delaware public policy against wagering on human life by ensuring that ‘such bets never pay off’” (quoting *S.D. Fla. Malkin*, 379 F. Supp. 3d at 1279)); *Frank*, 361 A.3d at 41-42 (addressing potential deterrent effect of Section 2704(b), but holding that it is “not necessary” that an estate’s Section 2704(b) right be “time-unlimited” because estates “have access to multiple judicial tools and doctrines that can assist them in confronting STOLI actors” and “Section 2704(a) offers a preliminary level of protection from the success of STOLI schemes”).

⁸⁶ See *Price Dawe*, 28 A.3d at 1069.

immediately transfer the benefit to an individual or entity lacking an insurable interest.”⁸⁷ Instead, whether a policy is a STOLI turns on “who in fact procured or effected the policy” and whether it was obtained “in good faith and for a lawful insurance purpose, and not as a cover for a wagering contract.”⁸⁸ That determination requires examination of “the circumstances under which the policy was issued,” with a particular focus on “who pays the premiums.”⁸⁹ And even still, it is not dispositive that the insured “did not use any of her own assets” to fund the premiums but instead funded them from “a nonrecourse loan.”⁹⁰ That would be only one piece of evidence to be “viewed in the context of the entire transaction and in conjunction with consideration of” the insured’s intent.⁹¹

⁸⁷ See *id.* at 1068; see also *id.* at 1075 (noting “[a]n insured’s right to take out a policy with the intent to immediately transfer the policy,” but explaining that this right “is not unqualified” (citations omitted)).

⁸⁸ See *id.* at 1075-76; *Berland*, 266 A.3d at 971 (citing *Price Dawe*, 28 A.3d at 1075, 1078).

⁸⁹ See *Price Dawe*, 28 A.3d at 1075-76.

⁹⁰ See *Berland*, 266 A.3d at 972-73 (holding that 18 *Del. C.* § 2704(a) and (c)(5) do not “forbid an insured or his or her trust to procure or effect a policy on his or her own life using a non-recourse loan and, after the contestability period has passed, transfer the policy, or a beneficial interest in a trust that owns the policy, to a person without an insurable interest in the insured’s life, if the insured did not ever intend to provide insurance protection beyond the contestability period,” “so long as the use of nonrecourse funding did not allow the insured or his or her trust to obtain the policy ‘without actually paying the premiums’” (quoting *Price Dawe*, 28 A.3d at 1076)).

⁹¹ See *id.*

In sum, the public policy against STOLIs is clear, and the common law prohibition of them is codified in Delaware Insurance Code Section 2704(a). But the right of an estate to recover the proceeds of a STOLI policy is a creature of statute; the General Assembly created that right when it adopted Section 2704(b). And whether a policy is an illegal STOLI or legal life insurance turns not on whether it was immediately transferred to investors or procured with the intent to transfer it but, rather, on “who in fact procured or effected the policy,” to be determined based on all circumstances surrounding the transaction.

B. THE COURT LACKS PERSONAL JURISDICTION OVER WELLS FARGO AND PERLINO.

Turning to the parties’ specific arguments, Defendants first move to dismiss for lack of personal jurisdiction over Wells Fargo and Perlino. They point out that these parties are organized and headquartered outside of Delaware and contend that all jurisdictionally relevant actions took place outside this State as well.⁹² Plaintiff contends that this Court has jurisdiction under either Delaware’s Long-Arm Statute⁹³ or the “conspiracy theory” of personal jurisdiction.⁹⁴ As explained below, the Court lacks jurisdiction under each of Plaintiff’s theories.

⁹² See Op. Br. at 21, 23-30.

⁹³ 10 *Del. C.* § 3104.

⁹⁴ See Ans. Br. at 13-36. The Complaint also alleges that these Defendants are subject to personal jurisdiction because Jade Mountain is Perlino’s “alter ego.” See Compl. ¶¶ 15-18. In briefing, after Defendants pointed out that Jade Mountain has

1. THE LONG-ARM STATUTE

In its Complaint, Plaintiff emphasizes that the Policy was issued to a “Delaware trust” that was “sited, domiciled, and administered in Delaware by a Delaware trustee” and “governed by Delaware law.”⁹⁵ At least for purposes of its Long-Arm Statute arguments, however, Plaintiff does not invoke these allegations.

That is for good reason. In *Estate of Daher v. LSH CO.*, the District of Delaware persuasively rejected allegations that a downstream purchaser of an alleged STOLI policy, like Perlino here, could be subject to long-arm jurisdiction merely because the policy was subject to Delaware law.⁹⁶ It did so even where the policy was allegedly procured by “a family of interrelated Delaware entities” and

no ownership interest in Perlino and lacks discretion over Perlino’s assets, *see* Op. Br. at 22-23 (citing Sheinson Aff. ¶¶ 15-22), Plaintiff abandoned that theory. *See Ultragenyx Pharm., Inc. v. Catalent Md., Inc.*, 2025 WL 4667818, at *9 (Del. Super. Dec. 16, 2025) (“[Plaintiff] failed to respond to this argument in its Answering Brief and thus any opposition is waived.” (citation omitted)); *VTB Bank v. Navitron Projects Corp.*, 2014 WL 1691250, at *4 (Del. Ch. Apr. 28, 2014) (holding plaintiff waived argument regarding personal jurisdiction theory “[b]y not briefing or arguing the merits” of that theory).

⁹⁵ *See, e.g.*, Compl. ¶¶ 13, 42-43, 61, 65.

⁹⁶ *See Est. of Daher ex rel. Daher v. LSH CO.*, 2021 WL 184394, at *5-7 (D. Del. Jan. 19, 2021), *report and recommendation adopted*, 2021 WL 7416294 (D. Del. Mar. 17, 2021); *see also Est. of Boggess v. Viva Cap. 3 L.P.*, C.A. No. N23-05-130 EMD CCLD, at 17:21-19:1 (Del. Super. June 21, 2024) (TRANSCRIPT) (following *Daher*).

held by “a Delaware statutory trust” with “a Delaware entity located in Wilmington, Delaware” named as trustee.⁹⁷

As the court explained, plaintiff offered no authority supporting the proposition that “the mere ownership of an insurance policy governed by Delaware law amounts to ‘transact[ing] business’ in Delaware” under the Long-Arm Statute.⁹⁸ To the contrary, numerous cases addressing comparable situations show that “the mere ownership of something that is ‘heavily regulated’ under Delaware law” does not suffice.⁹⁹ The court also held that due process was not satisfied because “[t]he [United States] Supreme Court long ago ‘rejected the argument that if a State’s law can properly be applied to a dispute, its courts necessarily have jurisdiction over the parties to that dispute.’”¹⁰⁰ Further, the court explained that because “contracting with a Delaware entity does not qualify as transacting business in Delaware for

⁹⁷ See *Daher*, 2021 WL 184394, at *3.

⁹⁸ See *id.* at *5-6 (alteration in original).

⁹⁹ See *id.* at *6 (first citing *AeroGlobal Cap. Mgmt., LLC v. Cirrus Indus., Inc.*, 871 A.2d 428, 439 (Del. 2005); then citing *CLP Toxicology*, 2020 WL 3564622, at *14; then citing *Mobile Diagnostic Grp. Hldgs., LLC v. Suer*, 972 A.2d 799, 805 (Del. Ch. 2009); then citing *Mobilificio San Giacomo S.P.A. v. Stoffi*, 1996 WL 924508, at *9 n.4 (D. Del. Oct. 29, 1996); and then citing *Abajian v. Kennedy*, 1992 WL 8794, at *9-10 (Del. Ch. Jan. 17, 1992)) (referencing cases regarding “[o]wnership of a corporation that is incorporated in Delaware,” “[b]eing a party to a contract with a Delaware choice of law provision,” and “entering into a contract with a Delaware entity”).

¹⁰⁰ See *id.* at *8 (first quoting *Shaffer v. Heitner*, 433 U.S. 186, 215 (1977); and then citing *Time Share Vacation Club v. Atl. Resorts, Ltd.*, 735 F.2d 61, 65 (3d Cir. 1984)).

purposes of [10 *Del. C.* § 3014(c)(1)],” it is unlikely that “the downstream assignee of a contract that was once assigned to an entity that transacted business in Delaware” would suffice to establish jurisdiction.¹⁰¹

Plaintiff attempts to avoid *Daher* by turning away from assertions about the law governing the Policy or the acts of its prior owners and focusing on acts Defendants’ allegedly committed in Delaware.¹⁰² But Plaintiff identifies just one act: Wells Fargo’s execution of a “Change of Non-Individual Owner and Beneficiary Form” through which it became beneficial owner of the Policy.¹⁰³ Although Section 3104 is a “single act” statute,¹⁰⁴ this act does not suffice for specific jurisdiction. Nor does Plaintiff establish general jurisdiction.

¹⁰¹ See *id.* at *6 n.5 (first citing *Abajian*, 1992 WL 8794, at *9-10; and then citing *Purdue Research Found. v. Sanofi-Synthelabo, S.A.*, 338 F.3d 773, 784 (7th Cir. 2003)).

¹⁰² See Ans. Br. at 21.

¹⁰³ See *id.* at 15-18. Plaintiff also notes that WSFS, the Policy’s prior beneficial owner, is based in Delaware. See *id.* at 16. It suggests that WSFS “presumably had physical custody of the Policy.” *Id.* But its Complaint does not allege this, nor does it allege that any Defendant took “physical custody” of the Policy in Delaware. See Compl. ¶ 70 (alleging WSFS “administered the Policy from Delaware, and maintained all records (including the Policy itself) in Delaware,” but not that it had “physical custody” of the Policy).

¹⁰⁴ See *Harris v. Harris*, 289 A.3d 277, 302 (Del. Ch. 2023) (quoting *Eudaily v. Harmon*, 420 A.2d 1175, 1180 (Del. 1980)).

a. SPECIFIC JURISDICTION: SECTION 3104(C)(1)-(3)

Plaintiff first looks to Long-Arm Statute sub-sections (c)(1), (2), and (3).¹⁰⁵

Those sub-sections provide:

As to a cause of action brought by any person arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident, or a personal representative, who in person or through an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply services or things in this State; [or]

(3) Causes tortious injury in the State by an act or omission in this State¹⁰⁶

To establish jurisdiction under these sub-sections, not any Delaware-directed act will suffice.¹⁰⁷ The statute’s “arising from” language requires that the act and the claim have a sufficient “nexus.”¹⁰⁸ An act has a sufficient nexus if it “set[s] in motion

¹⁰⁵ See Ans. Br. at 14-18.

¹⁰⁶ 10 Del. C. § 3104(c)(1)-(3).

¹⁰⁷ See *Harris*, 289 A.3d at 302.

¹⁰⁸ See *LVI Grp. Invs., LLC v. NCM Grp. Hldgs., LLC*, 2017 WL 3912632, at *5 (Del. Ch. Sept. 7, 2017) (first quoting *Microsoft Corp. v. Vadem, Ltd.*, 2012 WL 1564155, at *7 (Del. Ch. Apr. 27, 2012), *aff’d*, 62 A.3d 1224 (Del. 2013) (TABLE); then quoting *Sample v. Morgan*, 935 A.2d 1046, 1057 n.43 (Del. Ch. 2007); and then citing *Chandler v. Ciccorico*, 2003 WL 21040185, at *11 (Del. Ch. May 5, 2003)).

a series of events which form the basis for the cause of action before the court.”¹⁰⁹

In other words, the act must “form a *source of the claim*.”¹¹⁰

Because an estate’s claim for recovery of a death benefit is a creature of statute,¹¹¹ to determine whether an act is a source of the claim, the Court looks to the statute. An estate has a Section 2704(b) claim only where a contract was “made in violation of this section,” *i.e.*, in violation of Section 2704(a).¹¹² A person violates Section 2704(a) where she procures a life insurance policy that lacks an insurable interest.¹¹³ Accordingly, one “source” of a Section 2704(b) claim is the procuring of a life insurance policy lacking an insurable interest.¹¹⁴ In addition, Section 2704(b) permits an estate to recover a death benefit only if a person “receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the

¹⁰⁹ See *id.* (quoting *Microsoft*, 2012 WL 1564155, at *7).

¹¹⁰ See *id.* (first quoting *Microsoft*, 2012 WL 1564155, at *7; and then citing *Chandler*, 2003 WL 21040185, at *11).

¹¹¹ See *supra* text accompanying notes 71-85.

¹¹² See 18 Del. C. § 2704(b); *Berland*, 266 A.3d at 969 (interpreting Section 2704(b) to apply where a policy “lacks an insurable interest” under Section 2704(a)).

¹¹³ See 18 Del. C. § 2704(a).

¹¹⁴ Cf., e.g., *Est. of Jayson ex. rel. Jayson v. U.S. Bank Nat’l Ass’n*, 2025 WL 2955016, at *8 (Del. Super. Oct. 20, 2025) (holding formation of trust in Delaware had sufficient nexus to Section 2704(b) claim where it led to “the issuance of the policy” (quoting *Ameritas Life Ins. Corp. v. U.S. Bank, Nat’l Ass’n*, 2023 WL 9419169, at *4 (D. Del. Oct. 5, 2023))).

individual insured.”¹¹⁵ It is thus at least arguable that another “source” of a Section 2704(b) claim is the collection of the death benefit.

Here, Wells Fargo’s execution of a change-in-beneficiary form in Delaware is not a source of the claim. There is no allegation that Wells Fargo or Perlino took part in the procurement of the Policy, which occurred thirteen years earlier.¹¹⁶ And to the extent collection of the death benefit is also a source of the claim, the undisputed record indicates Wells Fargo collected and credited the death benefit to Perlino in Minnesota.¹¹⁷

Plaintiff contends there is a sufficient nexus between Wells Fargo’s Delaware action and the claim because “but for” Wells Fargo serving as the Policy’s owner and beneficiary, the death benefit would not have been paid to Wells Fargo and thereafter transferred to Perlino.¹¹⁸ But the standard under the Long-Arm Statute is not “but-for.” That is evident from *LVI*, on which Plaintiff relies.¹¹⁹ There, a party

¹¹⁵ 18 *Del. C.* § 2704(b).

¹¹⁶ *See* Compl. ¶¶ 44-66, 84.

¹¹⁷ *See* Mizrahi-Shindel Aff. ¶¶ 7, 9, 10-11; Sheinson Aff. ¶ 10.

¹¹⁸ *See* Ans. Br. at 17-18; *see also id.* at 15-16 (arguing that signing the beneficiary-change form has sufficient nexus to claims because it “made Wells Fargo . . . the Policy’s owner and beneficiary, which in turn resulted in Wells Fargo’s receipt of the Policy’s death benefit and its subsequent transfer of those proceeds to Perlino”).

¹¹⁹ *See* Ans. Br. at 14, 16-17 (citing *LVI*, 2017 WL 3912632, at *5, to argue that a claim can have multiple sources for purposes of the Long-Arm Statute).

executed a certificate of merger creating a company in Delaware.¹²⁰ That company then merged into another in a transaction that was the subject of claims before the court.¹²¹ The court held that execution of the certificate did not have a sufficient nexus to the claims.¹²² That was because even though the certificate “caused a predicate merger that was antecedent to . . . the [m]erger that is the subject of this litigation,” it “did not itself effect” that latter merger.¹²³ Of course, but for the creation of the company, it could not merge into another, but that “but-for” connection was not a “sufficient nexus” under the Long-Arm Statute.¹²⁴ Similarly, even if Wells Fargo could not have collected the death benefit but for executing the change-in-beneficiary form, executing that form did not itself effect collection of the death benefit and does not have a sufficient nexus to the Section 2704(b) claim.¹²⁵

Plaintiff’s theory under sub-section (c)(3) fails for an additional reason: Plaintiff alleges no “tortious injury in [Delaware].” Sub-section (c)(3) requires not

¹²⁰ See *LVI*, 2017 WL 3912632, at *4.

¹²¹ See *id.* at *4-5.

¹²² See *id.* at *5-6.

¹²³ See *id.* at *5.

¹²⁴ See *id.* at *6; cf. *Charney v. Am. Apparel, Inc.*, 2015 WL 5313769, at *13-16 (Del. Ch. Sept. 11, 2015) (distinguishing between claims with a “causal nexus” and those “based on a mere ‘but for’ connection,” in advancement context).

¹²⁵ Because signing the beneficiary-change form lacks a sufficient nexus to the claims, the Court need not decide whether it is also insufficient as a “[m]inisterial or *de minimis* act[.]” See Reply at 7-8.

only an “act or omission in this State” but also a “tortious injury in the State.”¹²⁶ Plaintiff does not plead that Defendants caused “tortious injury,” in Delaware or otherwise. As Plaintiff observes, “tortious injury” in sub-section (c)(3) “is not limited to the strict definition of a ‘tort.’”¹²⁷ Even so, a “tortious injury” must at least be an “act which involves breaching a duty to another and makes the one committing the act liable for damages.”¹²⁸ Plaintiff does not allege that Defendants committed an act that involved “breaching a duty” to Plaintiff or any other person. As explained above, a Section 2704(b) claim is not based on a “violation of the rights of the claimant.”¹²⁹ It represents a policy choice that it is better for an estate to receive the death benefit on a STOLI than it is for a stranger investor to retain it. Moreover, to the extent Plaintiff alleges it suffered an injury, that injury likely would have been felt in Florida, where Long resided and where his estate is a citizen.¹³⁰

¹²⁶ See 10 Del. C. § 3104(c)(3); *Hartsel*, 2011 WL 2421003, at *13 (“[F]or jurisdiction to attach, a plaintiff must establish both elements of subsection (c)(3): an injury and an act or omission in Delaware.”).

¹²⁷ See Ans. Br. at 18 (quoting *Matthew v. Landamiel*, 2012 WL 605589, at *10 n.67 (Del. Ch. Feb. 21, 2012)).

¹²⁸ See *Matthew*, 2012 WL 605589, at *10 n.67 (citing *State ex rel. Brady v. Preferred Florist Network, Inc.*, 791 A.2d 8, 13 (Del. Ch. 2001)).

¹²⁹ See *supra* text accompanying notes 81-85 (quoting *Malkin*, 278 A.3d at 65).

¹³⁰ See Compl. ¶ 7; *cf.* *Hartsel*, 2011 WL 2421003, at *13 (explaining that “[a]lthough the concept is somewhat metaphysical,” when an artificial entity is injured, it is generally held to have been injured “in its ‘legal home’” (citations omitted)).

b. GENERAL JURISDICTION: SECTION 3104(C)(4)

Plaintiff next invokes sub-section (c)(4).¹³¹ That sub-section provides jurisdiction where a person

[c]auses tortious injury in the State or outside of the State by an act or omission outside the State if the person regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from services, or things used or consumed in the State.¹³²

“Unlike the other Section 3104(c) prongs, which concern specific jurisdiction, (c)(4) ‘confers general jurisdiction.’”¹³³ Where a person is subject to general jurisdiction, she may be haled into court “for any claim, however unrelated to its activities in the forum state.”¹³⁴

In *Daimler AG v. Bauman*, the United States Supreme Court made clear that a business entity that is neither headquartered in nor organized under the laws of a State is subject to general jurisdiction only where its “affiliations with the State are

¹³¹ See Ans. Br. at 18-21.

¹³² 10 Del. C. § 3104(c)(4).

¹³³ *Main Line Growth, LLC v. Am. Polymers Inc.*, --- A.3d ----, 2026 WL 2531434, at *12 (Del. Super. Aug. 27, 2026) (quoting *Lone Pine Res., LP v. Dickey*, 2021 WL 2311954, at *5 & n.25 (Del. Ch. June 7, 2021)).

¹³⁴ See *Genuine Parts Co. v. Cepec*, 137 A.3d 123, 133 (Del. 2016).

so ‘continuous and systematic’ as to render [it] essentially at home” there.¹³⁵ It is not enough to show that the entity “engages in a substantial, continuous, and systematic course of business” in the State, where it does so in other States as well.¹³⁶ As the Court noted, “[a] corporation that operates in many places can scarcely be deemed at home in all of them.”¹³⁷

Plaintiff does not argue that *Daimler*’s “essentially at home” test is satisfied. Instead, Plaintiff suggests that the standard for establishing jurisdiction under sub-section (c)(4) is not necessarily the same as the general jurisdiction standard under *Daimler*.¹³⁸ But sub-section (c)(4) “has been canonized as the general jurisdiction statute,”¹³⁹ and Plaintiff is, in substance, invoking that sub-section for purposes of asserting general jurisdiction.¹⁴⁰ Regardless of whether *Daimler* is treated as

¹³⁵ *Daimler AG v. Bauman*, 571 U.S. 117, 138-39 (2014) (alteration in original) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)).

¹³⁶ *See Genuine Parts*, 137 A.3d at 136 (quoting *Daimler*, 571 U.S. at 761).

¹³⁷ *See id.* (quoting *Daimler*, 571 U.S. at 762 n.20).

¹³⁸ *See* Ans. Br. at 18-21 & n.1.

¹³⁹ *See Altabef v. Neugarten*, 2021 WL 5919459, at *4 n.56 (Del. Super. Dec. 15, 2021) (citations omitted).

¹⁴⁰ *See* Ans. Br. at 18 (asserting jurisdiction that is “not transactionally based in the sense that the claim asserted need not arise out of the claimed activity” and that does not have a “‘nexus’ requirement” (quoting *LaNuova D & B, S.p.A. v. Bowe Co., Inc.*, 513 A.2d 764, 767-68 (Del. 1986))).

limiting the scope of sub-section (c)(4)¹⁴¹ or addressed under a separate due process analysis,¹⁴² the result is the same: the Court cannot exercise general jurisdiction over Wells Fargo and Perlino.¹⁴³

2. THE CONSPIRACY THEORY

Last, Plaintiff turns to the “conspiracy theory” of jurisdiction.¹⁴⁴ Under it that theory,

[A] conspirator who is absent from the forum state is subject to the jurisdiction of the court, assuming he is properly served under state law, if the plaintiff can make a factual showing that: (1) a conspiracy [to cause tortious injury] existed; (2) the defendant was a member of that conspiracy; (3) a substantial act or substantial effect in furtherance of the conspiracy occurred in the forum state; (4) the defendant knew or had reason to know of the act in the forum state or that acts outside the forum state would have an effect in the forum state; and (5) the act in, or

¹⁴¹ See, e.g., *ACCO Brands USA LLC v. Performance Designed Prods. LLC*, 2024 WL 181545, at *2 (D. Del. Jan. 17, 2024); *Altabef*, 2021 WL 5919459, at *4-8 & n.56; *Rosado v. State Farm Mut. Auto. Ins. Co.*, 2020 WL 3887880, at *2 (Del. Super. July 9, 2020).

¹⁴² See, e.g., *Hedger v. Medline Indus., Inc.*, 2017 WL 396770, at *4, *6-7 (Del. Super. Jan. 27, 2017).

¹⁴³ Neither of the cases cited by Plaintiff change matters, because both were decided before *Daimler*. See Ans. Br. at 18-21 & n.1 (first citing *LaNuova*, 513 A.2d at 767-68; and then citing *Round Rock Research LLC v. ASUSTeK Comput.*, 967 F. Supp. 2d 969, 974, 976 (D. Del. Aug. 20, 2013)).

¹⁴⁴ See Ans. Br. at 27-36.

effect on, the forum state was a direct and foreseeable result of the conduct in furtherance of the conspiracy.¹⁴⁵

The conspiracy theory “rests in part upon the legal premise that the acts of a conspirator are imputed to all the other co-conspirators.”¹⁴⁶ But to ensure it does not become a “facile way for [plaintiffs] to circumvent the minimum contacts requirement,”¹⁴⁷ our Supreme Court has made clear it is a “strict test.”¹⁴⁸ As to each element, a plaintiff “must assert specific factual evidence, not conclusory allegations.”¹⁴⁹

Plaintiff’s theory fails on the first two elements: the existence of a conspiracy and Defendants’ membership in it. Subsumed within the first element are the

¹⁴⁵ *Ciabattoni v. Teamsters Local 326*, 2017 WL 1175665, at *3 (Del. Super. Mar. 28, 2017) (alterations in original) (quoting *Istituto Bancario Italiano SpA v. Hunter Eng’g Co.*, 449 A.2d 210, 225 (Del. 1982)). The theory’s five elements “functionally encompass both” the statutory and due process prongs of the jurisdictional test. See *In re Swervepay Acquisition, LLC*, 2022 WL 3701723, at *14 (Del. Ch. Aug. 26, 2022) (quoting *Virtus Cap. L.P. v. Eastman Chem. Co.*, 2015 WL 580553, at *12 (Del. Ch. Feb. 11, 2015)); see also *Arxada Hldgs. NA Inc. v. Harvey*, 351 A.3d 519, 546 (Del. Ch. 2026) (explaining that the first two elements “address the statutory prong,” the fourth and fifth “address the constitutional prong,” and the third “has implications for both”).

¹⁴⁶ *Ciabattoni*, 2017 WL 1175665, at *3 (quoting *Istituto Bancario*, 449 A.2d at 225).

¹⁴⁷ See *Crescent/Mach I P’rs, L.P. v. Turner*, 846 A.2d 963, 977 (Del. Ch. 2000) (alteration in original) (quoting *Comput. People, Inc. v. Best Int’l Grp., Inc.*, 1999 WL 288119, at *6 (Del. Ch. Apr. 27, 1999)).

¹⁴⁸ See *Istituto Bancario*, 449 A.2d at 225.

¹⁴⁹ See *Ciabattoni*, 2017 WL 1175665, at *4 (quoting *Crescent/Mach*, 846 A.2d at 976).

elements of a civil conspiracy claim, which include “a meeting of the minds” amongst the alleged conspirators.¹⁵⁰ Plaintiff alleges that the object of the conspiracy “was to illegally wager on Mr. Long’s life in violation of insurable interest laws, including 18 *Del. C.* § 2704(b).”¹⁵¹ To have a meeting of the minds as to that object, or to be a member of that alleged conspiracy, Wells Fargo and Perlino must have known that the Policy was in fact an illegal wager, as opposed to a permissible life insurance policy sold on the secondary market.¹⁵²

¹⁵⁰ See *Hartsel*, 2011 WL 2421003, at *10 (explaining that, to meet the first prong of the conspiracy theory of jurisdiction, “a plaintiff must allege the following elements [of a claim for conspiracy]: (1) two or more persons; (2) some object to be accomplished; (3) a meeting of the minds between or among such persons relating to the object or a course of action; (4) one or more unlawful acts; and (5) resulting proximate damages” (citations omitted)).

¹⁵¹ See Compl. ¶ 22; see also *id.* ¶ 97 (“The purpose of this Delaware-based STOLI conspiracy was to procure an illegal wager on the life of Mr. Long, in violation of 18 *Del. C.* § 2704.”); Ans. Br. at 29 (contending that the Complaint “pleads the existence of a conspiracy to wager on human life through the acquisition, maintenance, and monetization of STOLI policies in violation of Delaware’s insurable interest statute, Constitution, and public policy.” (citing Compl. ¶¶ 20-21, 38-39, 96-97)).

¹⁵² See *supra* text accompanying notes 86-91 (explaining that the distinction between a STOLI and a permissible life insurance policy is not obvious, because “[t]he secondary market for life insurance is perfectly legal” and a policy may have an insurable interest even where purchased “with the intent to immediately transfer the benefit to an individual or entity lacking an insurable interest” (quoting *Price Dawe*, 28 A.3d at 1068-69)).

Plaintiff does not offer “specific factual evidence” in this regard.¹⁵³ Plaintiff concedes that Defendants were not involved with the Policy’s inception,¹⁵⁴ the definitive time to determine whether the Policy has an insurable interest.¹⁵⁵ Wells Fargo did not become the Policy’s beneficiary, and Perlino did not exist or purchase the Policy, until about thirteen years later.¹⁵⁶ The Complaint’s allegations that Wells Fargo and Perlino knew the Policy was an illegal wager, even at that later date, are conclusory rather than based on specific factual evidence.¹⁵⁷ And its allegations

¹⁵³ See *Ciabattoni*, 2017 WL 1175665, at *4 (quoting *Crescent/Mach*, 846 A.2d at 976).

¹⁵⁴ See Ans. Br. at 30 (arguing that it does not matter that Defendants “were not involved at the Policy’s inception,” without disputing that fact).

¹⁵⁵ See *Price Dawe*, 28 A.3d at 1074 (“The statute defines the moment in time the insurable interest requirement applies—‘the time when such contract was made,’ i.e., the moment the life insurance contract becomes effective. Thus, the insurable interest requirement does not place any restrictions on the subsequent sale or transfer of a bona fide life insurance policy.” (quoting 10 *Del. C.* § 2704(a))).

¹⁵⁶ See Compl. ¶¶ 48-66, 84 (alleging Policy was procured in 2007 and Wells Fargo became beneficiary in 2020); Sheinson Aff. ¶ 10 (averring that Perlino was formed and acquired Policy in 2020).

¹⁵⁷ See Compl. ¶¶ 3-4, 21, 26, 78, 82, 98, 101, 108 (alleging, for example, that Defendants “knew (or should have known) that the Policy was originated through a Delaware-centric STOLI conspiracy,” that Defendants “were knowing and active participants in this conspiracy,” and that Defendants “had actual knowledge of the unlawful nature of the STOLI scheme and the illegal purpose underlying the Policy”). Although knowledge can ordinarily be averred generally, where the relevant standard requires pleading “specific facts” to support knowledge of wrongdoing, Delaware courts will not accept a bare allegation that a defendant “knew” of that wrongdoing. See, e.g., *Atl. NWI, LLC v. Carlyle Grp. Inc.*, 2022 WL 15800272, at *6 (Del. Ch. Oct. 28, 2022) (holding plaintiff adequately pled knowledge under the “liberal knowledge pleading standard under 9(b)” but failed to

regarding their access to materials that allegedly “would have made the Policy’s STOLI status . . . obvious and unmistakable to a sophisticated investor” are asserted “[u]pon information and belief.”¹⁵⁸ They thus need not be accepted, particularly where Plaintiff is required assert specific factual evidence.¹⁵⁹ Because it does not plead specific facts supporting its assertion that Defendants knew they were participating in an illegal wager, Plaintiff’s conspiracy theory fails.

do so for a standard requiring “specific facts from which [the] court could reasonably infer” knowledge of “participation in the specified breach” (alteration in original)); *Jacobs v. Meghji*, 2020 WL 5951410, at *8, *12 (Del. Ch. Oct. 8, 2020) (“Plaintiff conclusorily alleges that Ares ‘knew’ the transaction was unfairly structured for Oaktree’s benefit. Plaintiff does not allege specific facts from which the Court may infer this knowledge.”); *McGowan v. Ferro*, 2002 WL 77712, at *4 (Del. Ch. Jan. 11, 2002) (“Conclusory allegations that Horseshoe ‘knew of the fiduciary breach[] . . . alone would not establish [its] complicity with the [defendants’] alleged breach[].” (alterations in original) (citations omitted)).

¹⁵⁸ See Compl. ¶ 77 (“Upon information and belief, as part of the Sale Agreement, Perlino . . . acknowledged that it had access to a data room that, upon information and belief, included, among other things, the Policy and application, the Trust Agreement, the Successor Trustee Agreement, and the Successor Beneficiary Agreement. These documents would have made the Policy’s STOLI status . . . obvious and unmistakable to a sophisticated investor like Perlino.”). The Complaint does not allege Wells Fargo had access to these materials, even “upon information and belief.”

¹⁵⁹ See *Edwards v. GigAcquisitions2, LLC*, 2025 WL 2092832, at *9 (Del. Ch. July 25, 2025) (rejecting allegation that “rests solely on ‘information and belief’” in holding that plaintiffs failed to allege first element of conspiracy theory of jurisdiction), *aff’d*, 361 A.3d 31 (Del. 2026) (TABLE); *Lee v. Soo*, 2016 WL 6806247, at *4 (Del. Super. Nov. 17, 2016) (ORDER) (rejecting allegations based “upon information and belief” where plaintiff was required to plead “specific supporting facts” (citations omitted)).

This result finds support from District Court’s *Daher* opinion. There, the court similarly rejected an attempt to assert conspiracy jurisdiction over an out-of-state downstream purchaser of an alleged STOLI policy.¹⁶⁰ As the court explained, plaintiff pled “no non-conclusory allegations, much less evidence, that [the downstream purchaser] had a ‘meeting of the minds’ regarding an unlawful objective with any entity that transacted business in Delaware.”¹⁶¹ That was at least in part because there were “no allegations that [the downstream purchaser] was involved in the procurement of the allegedly illegal Policy or that it had an agreement with anyone who [was].”¹⁶² Similarly, here, there are no allegations that Perlino and Wells Fargo, a downstream purchaser and its securities intermediary, were involved in procurement of the Policy. And as explained above, there are no non-conclusory allegations that these Defendants had knowledge that the Policy was an illegal wager when they purchased it either.

Considering that the conspiracy theory is grounded in principles of agency,¹⁶³ these rulings make sense. In an agency relationship, one party acts on another’s

¹⁶⁰ See *Daher*, 2021 WL 184394, at *6 n.5.

¹⁶¹ See *id.*

¹⁶² See *id.*; see also *Est. of Mastroianni ex. rel. Mastroianni v. U.S. Bank Nat’l Ass’n*, 2026 WL 296194, at *7-8 (D. Del. Feb. 4, 2026) (rejecting conspiracy jurisdiction on similar grounds).

¹⁶³ See *Arxada*, 351 A.3d at 546 (explaining that meeting the first two *Instituto Bancario* elements “provides grounds for imputing the jurisdiction-conferring act to

behalf, at its direction, and for its benefit.¹⁶⁴ To describe the relationship between Defendants and the Policy's prior owners as one of "agency" is a stretch at best.

The Policy's prior owners and Defendants did not have a relationship approximating "agency" when Ocean Gate procured the Policy in 2007. As previously noted, Plaintiffs do not allege Defendants were involved in those acts, and Perlino did not exist at the time. Nor did such a relationship arise when Perlino purchased the Policy in 2020. There are no allegations suggesting the purchase was not an arm's-length commercial transaction.¹⁶⁵ There are likewise no allegations

the defendant under agency principles" (first citing *Hercules Inc. v. Leu Tr. & Banking (Bah.) Ltd.*, 611 A.2d 476, 481 (Del. 1992); and then citing *Carlton Invs. v. TLC Beatrice Int'l Hldgs., Inc.*, 1995 WL 694397, at *12 (Del. Ch. Nov. 21, 1995)); *In re Tilray, Inc. Reorganization Litig.*, 2021 WL 2199123, at *18 (Del. Ch. June 1, 2021) ("The Delaware Supreme Court has adopted the conspiracy theory of jurisdiction, under which a person's co-conspirators are their agents, such that forum-directed activities by the co-conspirator can give rise to personal jurisdiction over all conspiracy members." (citing *Istituto Bancario*, 449 A.2d at 222)).

¹⁶⁴ See Restatement (Third) of Agency § 1.01 (Am. L. Inst. 2006) ("Agency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents to so act."); *id.* § 8.01 ("An agent has a fiduciary duty to act loyally for the principal's benefit in all matters connected with the agency relationship."); see also *Fisher v. Townsends, Inc.*, 695 A.2d 53, 57-58 (Del. 1997) ("An agency relationship is created when one party consents to have another act on its behalf, with the principal controlling and directing the acts of the agent." (citations omitted)).

¹⁶⁵ See *77 Charters, Inc. v. Gould*, 2020 WL 2520272, at *21-22 (Del. Ch. May 18, 2020) (rejecting conspiracy claim where complaint did not suggest that defendant was "anything other than an arm's-length, third-party purchaser"); *McMahon v. New Castle Assocs.*, 532 A.2d 601, 605 (Del. Ch. 1987) (distinguishing between "a

that, after they sold the Policy, the prior owners had any stake in whether Defendants “perpetuated” it or ultimately collected the death benefit.¹⁶⁶ There is no basis to suggest Defendants’ actions were on the prior owners’ behalf, at their direction, or for their benefit.

True, for jurisdictional purposes, “agency” is construed “broadly to include not only a non-resident defendant’s formal agents but also a defendant’s co-conspirators.”¹⁶⁷ But the Court will not apply the conspiracy theory in a manner that

straightforward commercial relationship arising from contract” that “is in all of its aspects an arms-length relationship,” on one hand, and a “joint undertaking” of “principals and agents or . . . co-venturers,” on the other).

¹⁶⁶ See Ans. Br. at 23-24, 29, 31 (arguing for jurisdiction on grounds that Defendants “perpetuated” the Policy by paying premiums).

¹⁶⁷ See *Hercules*, 611 A.2d at 482 (first citing *Chrysler Cap. Corp. v. Century Power Corp.*, 778 F. Supp. 1260, 1266 (S.D.N.Y. 1991); and then citing *Lehigh Valley Indus., Inc. v. Birenbaum*, 389 F. Supp. 798, 806-07 (S.D.N.Y. 1975), *aff’d*, 527 F.2d 87 (2d Cir. 1975)).

stretches its root concept of agency beyond recognition.¹⁶⁸ Like in *Daher*, the conspiracy theory of jurisdiction fails here.¹⁶⁹

Defendants' motion to dismiss under Rule 12(b)(2) is granted without prejudice to Plaintiff's ability to assert claims against Wells Fargo and Perlino in an appropriate forum.¹⁷⁰

C. THE CAUSES OF ACTION PLAINTIFF ATTEMPTS TO ASSERT AGAINST JADE MOUNTAIN DO NOT EXIST.

Without jurisdiction over Wells Fargo and Perlino, the Court is left to assess the claims against the only remaining defendant, Jade Mountain. Plaintiff does not assert a direct claim for recovery of the death benefit against Jade Mountain.¹⁷¹

¹⁶⁸ Cf. *Scott v. Nat'l Ass'n for Stock Car Racing, Inc.*, 2008 WL 217049, at *8 (S.D.N.Y. Jan. 17, 2008) (explaining that where courts assess conspiracy jurisdiction, "they have continued to impose requirements related to agency concepts" (citing *Dixon v. Mack*, 507 F. Supp. 345, 350 (S.D.N.Y. 1980))); *Chrysler Cap.*, 778 F. Supp. at 1269 (explaining that although "[a] plaintiff need not show a formal agency relationship between the defendant and his co-conspirators," "courts have required plaintiffs to show that," *inter alia*, the interstate activity "was to the benefit of the out-of-state conspirators" and the interstate co-conspirators "acted 'at the direction or under the control,' or 'at the request of or on behalf of' the out-of-state defendant" (first citing *Lehigh Valley*, 527 F.2d at 90 n.3; and then citing *Dixon*, 507 F. Supp. at 350)).

¹⁶⁹ Because Plaintiff fails to establish a meeting of the minds and Wells Fargo's and Perlino's membership in a conspiracy, the Court need not address their additional arguments against conspiracy jurisdiction. See Op. Br. at 33-34, 39-45.

¹⁷⁰ Because Plaintiff fails to establish a statutory basis for jurisdiction, general jurisdiction, or conspiracy jurisdiction, the Court need not reach Defendants' additional due process arguments. See Op. Br. at 45-48.

¹⁷¹ See Compl. ¶¶ 91-94 (asserting Count I against only Wells Fargo and Perlino).

Rather, Plaintiff's claims are based on secondary theories of liability: "Civil Conspiracy to Wager on Human Life" and "Aiding and Abetting a Wager on Human Life."¹⁷² These counts fail because the General Assembly has not created claims for secondary liability under Section 2704(b).

As explained above, an estate's right to recover a death benefit is a creature of statute. It did not exist at common law, nor is it based on a violation of the estate's pre-existing rights. It was created by the General Assembly in Section 2704(b).¹⁷³ That statute identifies who may bring a claim: "the individual insured or the individual's executor or administrator [i.e., an estate]."¹⁷⁴ It identifies the parties against whom the claim may be asserted: "the beneficiary, assignee or other payee" of a STOLI policy who is "the person so receiving" the policy's benefit from the insurer.¹⁷⁵ And it specifies the remedy an estate may seek: to recover "such benefits" that the beneficiary, assignee or other payee received. In other words, "[Section] 2704(b) directs that if a death benefit is paid under an insurance policy that lacks an insurable interest, the estate of the insured may recover the death benefit from the

¹⁷² See *id.* ¶¶ 95-113 (asserting Counts II and III against all Defendants).

¹⁷³ See *supra* text accompanying notes 75-85 (first citing *Frank*, 361 A.3d at 37-40; and then citing *Malkin*, 278 A.3d at 65).

¹⁷⁴ See 18 Del. C. § 2704(b).

¹⁷⁵ See *id.*

recipient.”¹⁷⁶ The statute creates a right of action¹⁷⁷ and defines its scope.¹⁷⁸ In doing so, it does not mention secondary liability.

Nonetheless, Plaintiff asks the Court to permit it to pursue secondary liability counts here.¹⁷⁹ In asserting those counts, Plaintiff claims not just recovery of the death benefit, but also damages for “dignitary and emotional harm” and for having “intruded upon Mr. Long’s privacy.”¹⁸⁰

Absent “legislative intent to create a private remedy” for a statutory claim, Delaware courts generally will not recognize one.¹⁸¹ And “[c]ourts are hesitant to find an implied private right of action unless there is strong evidence that the legislature intended to create it.”¹⁸² It is a “fundamental canon of statutory

¹⁷⁶ *Berland*, 266 A.3d at 969.

¹⁷⁷ *See Frank*, 361 A.3d at 39-40.

¹⁷⁸ *Cf. Malkin*, 278 A.3d at 61 (“The provision describes the scope of the claim that the estate may assert as one for the recovery of ‘such benefits’—that is, ‘any benefits’ received by ‘the beneficiary, assignee or other payee’—from the person who received them.”).

¹⁷⁹ *See Ans. Br.* at 43-47.

¹⁸⁰ *See Compl.* ¶¶ 104, 112; *Ans. Br.* at 59 (“[T]he damages alleged here extend beyond the mere loss of the death benefit proceeds.”).

¹⁸¹ *See Reylek v. Albence*, 2023 WL 8850074, at *5 (Del. Super. Dec. 21, 2023) (citing *Alexander v. Sandoval*, 532 U.S. 275, 286-87 (2001)).

¹⁸² *Rays Plumbing & Heating Serv., Inc. v. Stover Homes, L.L.C.*, 2011 WL 3329384, at *4 (Del. Super. July 26, 2011) (citing *Alexander*, 532 U.S. at 286-87); *see also State v. Da Zhong Wang*, 2020 WL 1873377, at *5 (Del. Super. Apr. 15, 2020) (“It is not this Court’s function to create by judicial fiat statutory remedies the General

construction . . . that ‘where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.’”¹⁸³ Here, because Section 2704(b) expressly provides a particular remedy against particular defendants, the Court will not interpret it to imply claims for secondary liability seeking additional remedies against additional defendants.¹⁸⁴

Assembly has not seen fit to establish.” (citing *Giuricich v. Emtrol Corp.*, 449 A.2d 232, 238 (Del. 1982))).

¹⁸³ See *SpecialtyCare, Inc. v. MedCost, LLC*, 2026 WL 432302, at *9 (Del. Ch. Feb. 16, 2026) (first citing *Transamerica Mortg. Advisors, Inc. (TAMA) v. Lewis*, 444 U.S. 11, 19 (1979); and then citing *Middlesex Cty. Sewerage Auth. v. Nat’l Sea Clammers Ass’n*, 453 U.S. 1, 19-20 (1981)); see also *Mellow v. Bd. of Adjustment of New Castle Cty.*, 565 A.2d 947, 951 (Del. Super. 1988) (“[W]hen a statute provides particular remedies, the courts should not expand the coverage to include other remedies.” (citations omitted)). By contrast, courts are more likely to find a private cause of action is implied where a statute prohibits specific conduct “but does not provide an express method of redress.” See, e.g., *Chance v. Kraft Heinz Food Co.*, 2018 WL 6655670, at *6-7 (Del. Super. Dec. 17, 2018); *Thompson v. Lewis*, 324 A.3d 255, 259 (Del. Super. 2024) (finding implied right of action where statute’s purpose was to “ensure injured persons are provided with liability coverage information *prior* to filing a lawsuit” and “without an implied private right of action, injured persons would have no other recourse except to file a lawsuit to obtain the information—the exact conduct the statute was designed to counter”); see also *Calm v. Taylor*, --- A.3d ----, 2026 WL 2082677, at *27 (Del. Ch. July 17, 2026) (addressing private right to enforce constitutional provisions: “When a right exists but the legislature has not established a remedial scheme, courts have the most freedom to act because there is the least risk of implicating separation of powers concerns. In that setting, the right calls for a remedy.”).

¹⁸⁴ See *Boim v. Holy Land Found. for Relief & Development*, 549 F.3d 685, 689 (7th Cir. 2008) (“[S]tatutory silence on the subject of secondary liability means there is none”); *Swartwout v. Edgewater Grill LLC*, 2013 WL 3655162, at *1 (W.D. Mich. July 12, 2023) (observing that “the federal courts have been loathe to extend liability beyond the clear text of a statute on theories of civil conspiracy or aiding

The Court of Chancery’s decision in *Edgewater Growth Capital Partners, L.P. v. H.I.G. Cap., Inc.*¹⁸⁵ provides further support. There, the court dismissed claims for aiding and abetting, or conspiring to commit, a fraudulent transfer under the Delaware Uniform Fraudulent Transfer Act (the “DUFTA”).¹⁸⁶ As the court explained, the statute, “[b]y its own terms, . . . only provides for a cause of action by a creditor against debtor-transferors or transferees,” including for specific remedies against those parties.¹⁸⁷ The court noted that “[t]he General Assembly obviously could have explicitly provided for liability for aiding and abetting a fraudulent transfer, but it did not.”¹⁸⁸ Accordingly, because the statute’s “text . . . does not provide for an aiding and abetting claim,” the Court “perceive[d] no legitimate basis for [it] to create such an implied *statutory* cause of action by judicial innovation when the General Assembly is free to do so itself.”¹⁸⁹

and abetting,” and collecting cases). Although the United States Supreme Court has noted that “common-law courts” may have more leeway in “[r]aising up causes of action where a statute has not created them,” *see Alexander*, 532 U.S. at 287 (citations omitted), this State’s law regarding the extent to which a statute creates a private right of action “has traditionally tracked [f]ederal law.” *See Rays Plumbing*, 2011 WL 3329384, at *2 (citing *O’Neill v. Town of Middletown*, 2006 WL 205071, at *19 (Del. Ch. Jan. 18, 2006)).

¹⁸⁵ 2010 WL 720150 (Del. Ch. Mar. 3, 2010).

¹⁸⁶ *See id.* at *2-3.

¹⁸⁷ *See id.* at *2 (citing 6 *Del. C.* §§ 1307(b), 1308(b)).

¹⁸⁸ *See id.*

¹⁸⁹ *See id.* at *3.

The same is true here. Section 2704(b), by its own terms, creates a cause of action against specific parties for a specific remedy. Had the General Assembly intended to hold a broader class of persons liable under conspiracy or aiding and abetting theories, it could have done so explicitly.¹⁹⁰

Arguing otherwise, Plaintiff first cites *NACCO Industries, Inc. v. Applica Inc.*¹⁹¹ The court there explained that “[a]lthough the elements of a claim for civil conspiracy are flexible, it is essential that there be an underlying wrongful act, such as a tort or a statutory violation.”¹⁹² In commenting that the underlying wrongful act could be “a tort or a statutory violation,” the court was not holding that any statute

¹⁹⁰ Plaintiff seeks to distinguish *Edgewater* on grounds that the court there also observed that DUFTA was based on the Uniform Fraudulent Transfer Act, which other courts had held did not provide for secondary liability. *See* Ans. Br. at 45-46 (citing *Edgewater*, 2010 WL 720150, at *2-3 & n.18). True, that provided further support for the *Edgewater* court’s holding. But that additional support was not necessary. The reasoning underlying the other courts’ holdings, with which *Edgewater* agreed, stands on its own and applies equally to Section 2704(b) claims. *See, e.g., Mack v. Newton*, 737 F.2d 1343, 1357-58 (5th Cir. 1984) (rejecting secondary liability, including because fraudulent transfers are considered “null and void” and “[t]he legislative theory is cancellation, not the creation of liability for the consequences of a wrongful act” (citation omitted)); *In re Parmalat Sec. Litig.*, 377 F. Supp. 2d 390, 417 (S.D.N.Y. 2005) (explaining that courts have “resisted claims of aiding and abetting where they are not created by the UFTA or another statute” because “[f]raudulent transfer is a creature of statute”).

¹⁹¹ *See* Ans. Br. at 43 (citing *NACCO Indus., Inc. v. Applica Inc.*, 997 A.2d 1, 35 (Del. Ch. 2009)).

¹⁹² *NACCO*, 997 A.2d at 35 (citing *Empire Fin. Servs. v. Bank of N.Y.*, 900 A.2d 92, 97 (Del. 2006)).

giving rise to a cause of action will support a conspiracy claim. Such a holding would conflict with *Edgewater*. Nor was that issue before it, as the purported underlying wrongful act was not a statutory violation. Rather, the court dismissed a conspiracy claim to the extent it was based on breach of contract or tortious interference and sustained it to the extent the underlying wrong was fraud.¹⁹³

Plaintiff next cites *Edwards v. Concord EFS*.¹⁹⁴ There, the District of Delaware sustained a civil conspiracy claim where the underlying wrongful act was an employer's unlawful firing of plaintiff due to her complaints about racial discrimination, allegedly in violation of Title VII and 42 U.S.C. § 1981.¹⁹⁵ Although arising under statutes, the underlying claims sought to remedy injury to plaintiff based on her private rights.¹⁹⁶ *Edwards* does not concern a statute that, like Section 2704(b), is not based on any "violation of the rights of the claimant" or injury to the

¹⁹³ See *id.* at 35-36. *Empire Financial Services* (cited at Ans. Br. at 43) similarly did not concern a statutory violation. 900 A.2d at 98. The Court there addressed a conspiracy claim based on "[t]he underlying tort" of "wrongful interference with a prospective contractual relationship." See *id.*

¹⁹⁴ See Ans. Br. at 43-44 (citing *Edwards v. Concord EFS*, 2004 WL 1636970, at *8 (D. Del. July 20, 2004)).

¹⁹⁵ See *Edwards*, 2004 WL 1636970, at *1, *8.

¹⁹⁶ Cf. *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 346 (2013) (explaining that "federal statutory claims of workplace discrimination" require "proof that the defendant's conduct did in fact cause the plaintiff's injury" (citations omitted)).

plaintiff.¹⁹⁷ Where a statute creates a cause of action that is not based upon a traditional violation of a plaintiff's rights, it is less reasonable to presume the legislature meant to imply claims for traditional secondary theories of liability without saying so.

Next, Plaintiff invokes *American General Life Insurance v. Goldstein* and *Ohio National Life Assurance Corp. v. Davis*.¹⁹⁸ According to Plaintiff, these cases show that "Delaware courts have already recognized that conspiring to violate insurance statutes and making misrepresentations in connection with life insurance transactions constitute sufficient unlawful acts to support civil conspiracy claims"

¹⁹⁷ See *supra* text accompanying notes 81-85 (quoting *Malkin*, 278 A.3d at 65). Plaintiff contends that its conspiracy claim is broader than a "conspiracy to violate Section 2704(b)." See Ans. Br. at 44. But Plaintiff does not plead facts to support another underlying claim. Although it alleges damages from "emotional harm" and "intru[sion] upon Mr. Long's privacy," for example, see Compl. ¶ 104, Plaintiff does not allege facts to support an underlying claim for infliction of emotional distress or invasion of privacy. See Restatement (Second) Torts §§ 312, 313, 652A (Am. L. Inst. 1977) (discussing torts based on infliction of emotional distress and invasion of privacy). And to the extent Plaintiff contends the underlying claim is for violation of Section 2704(a), Plaintiff has not argued that there is a private right of action to enforce that sub-section on its own, let alone a private right of action to enforce claims for secondary liability based on that sub-section. At its core, Plaintiff's argument that it has standing is based on the premise that an estate's right of action under Section 2704(b) "merely codified" "long standing common law," see Ans. Br. at 61-62, which the Supreme Court rejected in *Frank*. See *Frank*, 361 A.3d at 37-38.

¹⁹⁸ See Ans. Br. at 46-47 (first citing *Am. Gen. Life Ins. v. Goldstein*, 741 F. Supp. 2d 604, 615 (D. Del. 2010); and then citing *Ohio Nat'l Life Assurance Corp. v. Davis*, 13 F. Supp. 3d 876, 887 (N.D. Ill. 2014), *aff'd*, 803 F.3d 904 (7th Cir.)).

and that other courts have held that “conspiring to procure and own life insurance on strangers is an unlawful predicate act for civil conspiracy.”¹⁹⁹ Although these cases involve STOLI policies, they do not sway the result here. *Goldstein* was brought by an insurer, not an estate seeking a death benefit, and the conspiracy claim was based on the underlying tort of intentional misrepresentation, not Section 2704(b).²⁰⁰ *Davis* was likewise brought by an insurer.²⁰¹ Moreover, it concerned the law of Illinois,²⁰² which differs from Delaware in its statutory framework regarding STOLI policies. In particular, whereas Delaware has a statute defining the scope of an estate’s right to recover a death benefit, Section 2704(b), Illinois does not.²⁰³

¹⁹⁹ *See id.*

²⁰⁰ *See Goldstein*, 741 F. Supp. 2d at 607, 615 (“The court has already found that plaintiffs have stated a claim for intentional misrepresentation and, under Delaware law, intentional misrepresentation is a sufficient underlying tort to support a claim for civil conspiracy.” (citations omitted)).

²⁰¹ *See Davis*, 13 F. Supp. 3d at 877-78.

²⁰² *See id.* at 877-78, 883.

²⁰³ *See* 215 Ill. Comp. Stat. 159/50, 159/70 (West 2026) (prohibiting STOLIs, and setting forth civil remedies for violation of statute, without establishing cause of action for an estate to recover a death benefit), *Davis*, 13 F. Supp. 3d at 883 (explaining that Illinois law prohibits procuring insurance on the life of another without an insurable interest, but not addressing estate’s private right of action to recover death benefit). The Illinois Viatical Settlements Act of 2009 provides that “[a]ny person damaged by the acts of a person in violation of this Act may bring a civil action against the person committing the violation in a court of competent jurisdiction.” 215 Ill. Comp. Stat. 159/70(b). Yet the Court has located no case in which an estate sought to recover a STOLI death benefit under Illinois law. That is

Last, Plaintiff points to *Estate of Oristano v. Westgate Delaware LLC*,²⁰⁴ in which the Court denied a motion to dismiss a claim for conspiracy to procure and profit from unlawful STOLI proceeds.²⁰⁵ Although by permitting the claim to proceed past the pleading stage it implicitly accepted that conspiracy claims based on Section 2704(b) exist, the *Oristano* bench ruling did not squarely address that question. *Oristano* also did not address *Frank*, which, although mentioned at oral argument, was not included in briefing or submitted as supplemental authority. *Frank* clarifies that an estate’s right to recover a death benefit did not exist at common law but rather, was created by the General Assembly when it enacted Section 2704(b).²⁰⁶ That clarification makes a difference. As noted above, it is less reasonable to presume that the General Assembly intends to imply secondary liability without saying so when it is creating and defining the scope of a new right, rather than merely codifying a right that had already existed at common law.²⁰⁷

likely because recovery of a death benefit is not based on an estate or the decedent having been “damaged.”

²⁰⁴ See D.I. 48 (attaching *Est. of Oristano v. Westgate Del. LLC*, C.A. No. N23C-04-258 EMD CCLD (Del. Super. June 18, 2026) (TRANSCRIPT)).

²⁰⁵ See *Oristano*, C.A. No. N23C-04-258 EMD CCLD, at 24:14-25:7.

²⁰⁶ See *Frank*, 361 A.3d at 37-38.

²⁰⁷ To illustrate the significance of *Frank*’s clarification, compare the standard for a statute superseding a pre-existing common law cause of action with the standard for implying a private cause of action that had not previously existed. Whereas courts presume that a statute has not repealed a common law claim “unless the legislative intent to do so is plainly or clearly manifested,” see *Malkin*, 278 A.3d at 61 (quoting

Plaintiff contends that failure to recognize conspiracy or aiding and abetting claims would “gut Delaware’s insurable interest regime by allowing STOLI investors to avoid liability simply by routing policies and proceeds through shell entities and then disclaiming direct receipt.”²⁰⁸ It would not. As Plaintiff elsewhere points out, “the Delaware legislature broadly worded Section 2704(b) to provide that the estate of a STOLI insured may recover ‘any benefits’ under the policy from any ‘beneficiary’ or ‘other payee’ that ‘receiv[ed]’ those benefits.”²⁰⁹ And estates have brought Section 2704(b) claims against both the party that initially received the death benefit and entities to which that benefit was transferred.²¹⁰ Moreover, as the Court

A.W. Fin. Servs., S.A. v. Empire Res., Inc., 981 A.2d 1114, 1122 (Del. 2009)), they make no such presumption in determining whether a statute creates a new private claim. *See Calm*, 2026 WL 2082677, at *26 (outlining test and noting that although “a few” Delaware decisions have recognized private rights of action to enforce statutes, “[m]ost . . . have declined” to do so (collecting cases)); *supra* notes 181-82 and accompanying text. And where a statute creating a new cause of action provides a remedy, courts presume that the legislature intended no other remedies. *See supra* note 183 and accompanying text.

²⁰⁸ *See* Ans. Br. at 45; *see also id.* at 47 (suggesting that failure to recognize secondary liability would be “an absurd result”).

²⁰⁹ *See id.* at 36-37 (alteration in original) (quoting 18 *Del. C.* § 2704(b)).

²¹⁰ *See id.* at 37-39 (citing cases in which estate sued both party that directly received death benefit and party to which benefit was transferred, and asserting that “Delaware courts routinely hold liable the initial recipients of STOLI proceeds who subsequently transfer those proceeds to downstream beneficiaries”); *cf. Frank*, 361 A.3d at 41-42 (explaining that “an estate’s time-unlimited right to bring a claim under Section 2704(b) is not necessary to prevent human life wagering,” including because “many estates [have] brought timely claims in STOLI cases” and “have

explained in *Frank*, “Section 2704(a) offers a preliminary level of protection from the success of STOLI schemes through the insurers, who are not obligated to pay the death benefits on policies that lack an insurable interest.”²¹¹ At bottom, if the General Assembly determines that secondary liability is necessary to promote this State’s public policy against STOLI schemes, it may amend the statute.

Section 2704(b) defines the scope of an estate’s claim for the return of STOLI proceeds. That claim does not include secondary liability against defendants who did not receive the death benefit proceeds, like Jade Mountain here. Accordingly, the conspiracy and aiding and abetting claims against Jade Mountain are dismissed.²¹²

access to multiple judicial tools and doctrines that can assist them in confronting STOLI actors”).

²¹¹ *Frank*, 361 A.3d at 42 (citing *Malkin*, 278 A.3d at 60).

²¹² The Court thus does not reach Defendants’ additional arguments for dismissal of Counts II and III. *See* Op. Br. at 56-74. Nor does the Court address Florida law. Plaintiff confirmed that its Florida law arguments are made solely in the event the Court determines that Delaware law does not apply. *See* Arg. Tr. at 50:22-51:11; *see also* Ans. Br. at 80 (contending “[t]he Policy is governed by Delaware law” but presenting Florida law arguments “if the Court were to conclude that Florida law applies”). Because no party argues against applying it on this motion, the Court has applied Delaware law.

V. CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss is granted. Under Rule 12(b)(2), the claims against Wells Fargo and Perlino are dismissed without prejudice to Plaintiff's right to assert them in a court of competent jurisdiction. Under Rule 12(b)(6), the claims against Jade Mountain are dismissed with prejudice.

IT IS SO ORDERED.

/s/ Patricia A. Winston

Patricia A. Winston, Judge