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*Business Services, Inc.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

FIDELITY & GUARANTY LIFE  
BUSINESS SERVICES, INC.,

*Plaintiff,*

v.

MAJESCO CORPORATION,

*Defendant.*

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C.A. No. \_\_\_\_\_

**COMPLAINT AND JURY DEMAND OF  
PLAINTIFF FIDELITY & GAURANTY BUSINESS SERVICES, INC.**

Plaintiff Fidelity & Guaranty Life Business Services, Inc. (“F&G”) files this Complaint against Majesco Corporation (“Majesco”) and states as follows:

## **I. PARTIES**

1. **Plaintiff.** F&G is a Delaware corporation with its principal place of business in Des Moines, Iowa.

2. **Defendant.** Majesco is a California corporation with its principal place of business in Morristown, New Jersey.

## **II. JURISDICTION AND VENUE**

3. **Jurisdiction.** The Court has subject matter jurisdiction of this case pursuant to 28 U.S.C. §1332. In that regard, F&G is a citizen of Delaware and Iowa, and Majesco is a citizen of California and New Jersey. There is complete diversity of citizenship between F&G and Majesco, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

4. **Venue.** Venue is proper in this district pursuant to 28 U.S.C. §1391 because a substantial part of the events or admissions giving rise to the claim occurred in this judicial district, Majesco resides in this district, and the parties have contractually agreed venue is proper in this district.

## **III. FACTUAL BACKGROUND**

### **A. Majesco is Retained to Replace F&G's Management Software**

5. F&G is in the business of selling various life insurance and annuity products to consumers primarily through licensed insurance agents. F&G sells its products throughout the United States.

6. Majesco markets and sells management software primarily to insurance companies, representing on its website that “we’re a software company with insurance DNA” and that “we

give customers the confidence to decide, the products to perform, and the follow-through to execute to make insurance faster, easier, and better for all.”

7. In early 2020, F&G sought to engage a software company to replace its distribution management software system, which processes, calculates, and manages agent sales, commissions, licensing, contracting, and other agent activities.

8. After reviewing several potential vendors with the aid of a third-party knowledgeable of software vendor capabilities, F&G selected Majesco based on its answers and representations in its response to a request for proposal. For example, Majesco represented it had the knowledge, past experience, and resources to accomplish the required tasks to replace F&G’s existing distribution management software with Majesco’s management software, including migrating F&G’s data to a cloud-based environment.

9. This was important to F&G because, among other reasons, in order to replace the current software utilized by F&G, a huge volume of data would need to be transferred from the existing system to the new cloud-based system where the Majesco software would reside. To accomplish this, all the data would need to be extracted, reconfigured, and loaded into the cloud-based system so that the new software could populate the data in appropriate fields and manipulate the data to properly run the proposed new Majesco management system as needed by F&G. Needless to say, this task, like many of the tasks that would need to be accomplished, was technically complex. Majesco continued throughout its relationship with F&G to represent it had the necessary experience and manpower to efficiently perform the required work.

10. F&G and Majesco entered into a Services Agreement dated September 1, 2020 (the “Services Agreement”) to create “a cloud-based application to provide Life & Annuity processing”

for F&G, specifically software to efficiently manage data for F&G's independent insurance agents as described above.

11. The Services Agreement envisioned that the specific timing of work and efforts of Majesco would be set forth in a Statement of Work (SOW) executed by the parties.

12. Each SOW incorporated the Services Agreement and would set forth, among other things, the tasks to be accomplished, the steps that would be taken to accomplish the task, the time in which the tasks would be completed, and the cost to complete the tasks. Each SOW would also set forth a maximum amount to be charged for performing the work, based on Majesco's hourly rates and necessary expenses.

13. In addition to payments for work performed pursuant to a SOW, the Services Agreement provided for the payment of "Subscription Fees" based on the number of agents who would use the Majesco system.

14. The Services Agreement required payment of Subscription Fees even before the Majesco software was implemented and functional. The base Subscription Fee was approximately \$800,000 per year.

15. The Services Agreement was intended to remain in place even after the Majesco software was installed and fully functional. For example, the Services Agreement provides in section 2.1 that "Majesco shall provide to client the services set forth on Exhibit C for the Majesco Suite for Client's use in its life and annuity insurance business (the 'Services')." The services set forth on Exhibit C can only be performed after the new software system has been installed and is functioning.

16. The Services Agreement also provides that "services described in a SOW shall be deemed to be 'Services' under this Agreement."

17. Further, the Services Agreement in Exhibit D provides that the Initial Term “commences on the Effective Date of the Agreement and shall continue for a period of five (5) years from the First Go Live Date.”

18. The “First Go Live Date” is defined in Exhibit A of the Services Agreement as “the first date the first module of the Majesco suite is used to process production data.” Given the structure of the Services Agreement and the Subscription Fees, it was clearly anticipated by the parties that implementation of the Majesco software would occur within a reasonable period of time.

19. Although the effective date of the Services Agreement is September 1, 2020, and F&G has paid Majesco Millions of dollars, including Subscription Fees, Majesco has been unable to and incapable of providing any functioning software to F&G.

20. As a result of Majesco’s failure to perform, there has never been a “First Go Live Date” as defined by the Services Agreement. Accordingly, the services set forth in Section 2.1 were never provided and no agent has been able to use or access any Majesco software, the basis for the subscription fees.

21. The Services Agreement provides that it “shall be governed and construed in accordance with New York law” and that “the prevailing party in any action shall be entitled to reasonable attorneys’ fees and expenses from the other party.”

**B. The First Attempt to Implement the Software**

22. In 2020, F&G entered into a SOW, and Majesco began work in late 2020.

23. However, in early 2022, based on missed deadlines and minimal progress by Majesco, it became apparent the project was not proceeding as planned. F&G therefore paused the

project to evaluate the current and other potential approaches to implementation of the Majesco software.

24. Although F&G had misgivings, after assurances from Majesco it could provide the software at a reasonable cost and within a reasonable time period, it agreed to move forward with Majesco based on a new two-phase approach to implement the software.

25. Based on Majesco's proposed phased plan, F&G and Majesco entered into a new SOW effective August 1, 2022 (the "2022 SOW"), which addressed completing Phase 1 of the project while simultaneously planning Phase 2.

26. As stated by Majesco in its Phase 1 Implementation Plan dated July 8, 2022, "[a]t the conclusion of Phase 1, consisting of Configuration work as well as Majesco investments via our Product Roadmap, F&G Producer Management module will be 95% OOTB."

27. The acronym OOTB is short for "out of the box," a term of art in the computer software business signifying features or functionality will be available without needing additional customization or development. The plan also noted "Integration and Data extraction/conversion work will be tracked separately."

### **C. The Second Attempt to Implement the Software**

28. The 2022 SOW was based on the phased approach outlined in Majesco's Implementation Plan which established an August 7, 2023, "go live" date, meaning Phase 1 would be completed by that date.

29. Majesco represented that it could implement Phase 1 by this date, and F&G reasonably relied on the representation in entering into the SOW.

30. The 2022 SOW in Section 15.1 similarly identified August 6, 2023, as the "Production Release" date.

31. The 2022 SOW provided in section 15.2 that “the total fees and expenses incurred and billed under this SOW will not exceed \$2,285,193 unless the parties enter into mutually agreed to change request(s).”

32. The SOW provided in Section 15.2 that “should it become evident that additional hours will be required for the delivery of this Program, that may exceed the estimated duration of this SOW, Majesco will advise client as soon as is practical, and will proceed with work using the Change Control process outlined in Section 16.0.”

33. Section 16.0 of the 2022 SOW provides a process for the parties to analyze any proposed changes which “can affect work stream/Program schedule, cost, and deliverables.” Given the impact on the Program, Section 16.0 makes clear the “scope change requests need to be clearly defined, including cost and schedule implications, for [F&G] and Majesco management to make accurate decisions about scope changes requested during the overall Program.”

34. Section 16.0 also makes clear that a change request may be denied by F&G. If a change request is denied, then, as discussed below, the only method to address the issue under the parties’ agreements is under Section 19 of the Services Agreement which addresses “Dispute Resolution.”

35. The 2022 SOW also recognized in section 5.0 that data conversion “will be addressed in a mutually agreed upon Change Control to this SOW or a subsequent SOW.”

36. The parties did enter into a Change Request dated September 26, 2022 (the “September Change Request”) “to update the SOW section 5.0 Data Conversion with the amount for the cost associated with Phase 1 data extraction and conversion work during discovery and execution phase.”

37. The September Change Request, consistent with the 2022 SOW and Majesco's Phase 1 Implementation Plan, provided for "Functional Acceptance Testing, User Acceptance Testing" to be completed in July 2023. The Change Request also provided that "the total fees and expenses ...will not exceed \$1,852,600 unless the parties enter into a mutually agreed to change request."

38. Work started on the Phase 1 implementation in the late Summer of 2022. During the implementation process, a program steering committee consisting of representatives of both parties was established to track the progress of the program and to identify and resolve issues that might arise during implementation. The steering committee regularly met and issued reports tracking progress and identifying issues that needed to be addressed.

39. The parties entered into another change request dated October 27, 2022 (the "October Change Request"), as a concession by F&G to Majesco in an attempt to have some of the functions of the Majesco software implemented given that *no* functions had yet been implemented in the two years since the Services Agreement was entered into.

40. The October Change Request planned "to include the efforts of integrating Majesco Distribution Management ("DM") with client internal systems through an API platform. This effort will be aligned with SOW in terms of timelines and overall delivery of Majesco DM platform to client."

41. The October Change Request specifically identified August 6, 2023 as the completion date for "User Acceptance Testing."

42. In January of 2023, the steering committee noted that the integration work, addressed in the September Change Request, was not proceeding as expected but there were no statements or indication from Majesco that the timely completion of Phase One was at risk.



43. On January 30, 2023, Majesco submitted a change request “to include the efforts of blueprinting of compensation features of Majesco’s DM.” F&G had questions regarding the cost of the change request as well as the progression of Phase 1 implementation and movement to Phase 2 work.

44. Majesco responded by email to F&G’s concerns by (1) reducing the cost associated with the change order and (2) committing that Majesco would have enough “grooming done” to have work started for Phase 2 after July so that the team can have continuity.” The statements confirmed Majesco’s representation that Phase 1 work would be timely completed.

45. The change request was ultimately signed by F&G on March 20, 2023 (the “March Change Request”) based on Majesco’s continuing representation that Phase 1 would be timely completed. Further, at no time prior to execution of the March Change Request had Majesco suggested completion of Phase 1 would not occur consistent with the SOW.

46. Although Integration issues remained, at no time prior to early May 2023 did Majesco suggest the timeline of the project needed to be extended or that significant additional costs would again need to be incurred to complete the project.

**D. Majesco Concedes it Could Not Implement the Software System as Planned**

47. Majesco was still reporting in early April of 2023 that it could complete Phase 1 as planned. However, after questions were raised by F&G about the additional work Majesco had added, Majesco stated in May of 2023 that the timelines set out in the SOW would have to be extended.

48. Because an extension would entail both delays in implementing the software and additional costs, consistent with Section 16.0 of the SOW, F&G requested that Majesco provide a

detailed plan setting out the time and costs involved in getting the Majesco Management System fully functional for F&G's use.

49. On May 1, 2023, Majesco sent F&G a plan extending the timeline to February of 2024, along with three pricing options based on certain assumptions. However, the proposal noticeably lacked any content addressing how existing technical issues would be resolved or how the costs of the options were derived. F&G met with Majesco throughout May and June in an attempt to address issues that needed to be resolved in order to construct a viable timeline for completion of the implementation of the Majesco software.

50. In late June of 2023, F&G requested that Majesco provide a Go-Live plan for Data Conversion, one of the primary issues driving the extended timeline. Although promising to do so, Majesco failed to provide a plan within the time period promised, and ultimately provided a "plan" that did not provide the requested level of detail necessary for F&G to make an informed decision.

51. In early August of 2023, the original time period when Phase 1 was to have been completed, Majesco finally provided F&G with a Phase 1 Replan which proposed an additional cost of \$2.3 million dollars and a "go-live" date between June and October of 2024. However, the proposal again lacked specificity regarding the activities, steps, and resources that would be needed to get the Majesco program fully functional.

52. Since the process set forth in section 16 of the 2022 SOW did not result in an agreement on how to proceed on the project, F&G requested, consistent with the dispute resolution process set forth in section 19 of the Services Agreement, that the issues be raised with Majesco's senior executives including its CEO.

53. By letter to Majesco's CEO dated August 4, 2023, F&G raised concerns whether Majesco could meet the extended deadlines and stated it needed more information on what steps Majesco would take to meet the extended deadlines and how it would staff the project.

54. F&G continued to seek clarification and information on how implementation could be fully completed in a reasonable time and cost-effective manner. For example, F&G met with Majesco's CEO and other senior Majesco employees numerous times in August and September of 2023.

55. F&G made clear to Majesco that it lacked confidence in Majesco's ability to deliver functioning software within the extended time period proposed and was perplexed at the additional cost involved in having Majesco complete the work that was already outlined in the 2022 SOW.

56. In late October of 2023, instead of completing the work necessary to confirm how final implementation could be achieved, Majesco brazenly notified F&G that it was pulling its employees off the project while keeping all the monies paid by F&G.

57. Of course, at this point, F&G had no functioning software from Majesco or a detailed plan from Majesco on how it could get to full implementation. For example, F&G had paid Majesco over \$2.5 million in "Subscription Fees" even though no functioning software had ever been provided by Majesco. In addition, F&G paid over \$5.8 million for Majesco's time and expenses, again with no part of the Majesco software installed or functioning.

58. F&G nevertheless continued to talk with Majesco senior employees and in late December of 2023 Majesco sent another proposal regarding completing implementation of the software.

59. The Majesco proposal was nothing more than a financial proposal. It had projected dates for completing phase 1 by June 30, 2024, and phase 2 sixteen months later in the fall of 2025,

but it provided no roadmap on how the implementation would or could be completed in the time frames proposed. Further, it still required F&G to pay significant additional expenses.

60. Based on the failure of Majesco to provide a detailed and workable plan to provide F&G with the software promised, or refund the monies paid by F&G given that Majesco had shown itself incapable of completing implementation of the software, F&G notified Majesco that it had breached the parties' contractual agreements.

61. All told, F&G paid Majesco over \$8.3 million and has received nothing in exchange for it.

**IV. FIRST CAUSE OF ACTION: BREACH OF SERVICES AGREEMENT,  
SOW AND CHANGE REQUESTS**

62. The foregoing paragraphs are incorporated herein by reference as if set out in full.

63. The SOW, September Change Request, October Change Request, and March Change Request all recognized and provided that Phase 1 work would be completed by early August of 2023. Further, Majesco had a contractual obligation under the SOW to inform F&G "as soon as practical" if the deadline for completion of Phase 1 could not be met.

64. Nevertheless, Majesco breached its obligation to timely complete Phase 1 and timely notify F&G that Phase 1 would not be timely completed. Instead, after F&G had paid millions of dollars to Majesco and the promised Phase 1 completion date was only two months away, Majesco informed F&G that the completion date would need to be extended well into 2024 and F&G would be required to pay significantly more to have Phase 1 completed.

65. Although F&G worked with Majesco to develop a detail plan for completion of the project, Majesco never provided F&G the detail required by Section 16 of the Services Agreement that would have allowed F&G to determine the reasonableness of the costs and feasibility of completing the project in the time periods suggested by Majesco.

66. In any case, prior to completion of the process set out in Section 16 of the Services Agreement, Majesco pulled its employees off the project in early November of 2023, thus abandoning the project.

67. Majesco therefore breached the parties' contracts by (1) failing to provide the "Services" contemplated in sections 2.1 and 2.2 of the Services Agreement; (2) failing to complete Phase 1 in the timeframe set out in the contract documents, (3) failing to timely notify F&G that the project could not be timely completed and at the cost originally agreed to, (4) failing to provide sufficient information to F&G for it to make a reasonable determination of the additional time and costs needed to complete the project, and (5) pulling its employees off the project in October of 2023.

68. These breaches caused F&G millions of dollars in damages for which is now sues.

69. The Services Agreement allows for the recovery of attorney fees to the prevailing party for which F&G also sues.

## **V. SECOND CAUSE OF ACTION: BREACH OF DUTY OF GOOD FAITH**

70. The foregoing paragraphs are incorporated herein by reference as if set forth in full.

71. The Services Agreement provides that it terminates five (5) years from the First Go Live Date. During the term of the Services Agreement F&G was to pay Majesco Subscription Fees which are based on the total number of potential users of the Majesco software.

72. Although the Services Agreement went into effect on September 1, 2020, there has never been a First Go Live Date, meaning there has never been functioning software available for any F&G designated users even though F&G paid Subscription Fees.

73. Majesco had a duty in good faith to provide usable software in a reasonable period of time to justify the payment of Subscription Fees since the structure of the Services Agreement,

particularly the setting of the termination date, envisions the Services Agreement remaining in force for at least five years after usable software has been provided. Majesco breached this duty.

74. Further, the SOW provided that if Majesco sought a change request that would expand the SOW's scope of work, extend the time for completion of the work, or require additional funds from F&G to complete the work, then Majesco would provide details to support the request.

75. When Majesco informed F&G that the work contemplated by the SOW could not be timely completed and would require significant additional funds to complete, Majesco had a duty of good faith to provide F&G the information it needed to make a reasonable determination of whether to agree to the change request.

76. In breach of the duty, Majesco never provided F&G sufficient information for it to make a reasonable assessment of (a) how Majesco would complete implementation of the software within the additional time suggested or (b) whether the additional payments Majesco wanted to complete implementation were reasonable, or even how the costs were additional costs were derived. In this regard, Majesco made several different proposals to F&G, which had widely varying costs attached, to complete implementation.

77. Finally, rather than continue to work with F&G, Majesco pulled its employees off the project ensuring that F&G could never obtain any benefit from the millions of dollars it paid Majesco to implement software since no part of which was ever implemented.

78. As a result, Majesco breached the duty of good faith for which F&G sues.

## **VI. THIRD CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION**

79. The foregoing paragraphs are incorporated herein by reference as if set forth in full.

80. Majesco represented both before and after the parties entered into the Service Agreement that it has unique expertise in developing and installing software for use in the

insurance industry. Indeed, Majesco represented throughout its relationship with F&G that it had extensive experience in installing software systems similar to or the same as the software functionality required by F&G.

81. From January through April of 2023, Majesco's employee who was overseeing the project assured F&G that the project was still on schedule and could be completed consistent with the SOW. In fact, two weeks before conceding Phase 1 could not be timely completed, Majesco's project manager stated it would be timely completed.

82. F&G justifiably relied on these representations, given Majesco's expertise and experience, and continued to fund the project by paying Majesco subscription fees, hourly fees, and expenses.

83. Majesco knew that the project was not on schedule as evidenced by the significant extension of the schedule Majesco proposed in May of 2023, shortly after it had reaffirmed it would be timely completed.

84. Majesco also represented throughout the relationship that the parties were working as a "team" and a "partnership" to complete the project giving rise to F&G's belief that Majesco viewed its relationship as more than just a contractual relationship.

85. Based on the representations of Majesco, F&G paid significant sums to Majesco for which it now sues since, had Majesco been truthful, F&G would have stopped the project to seek answers on when the project could be completed and at what additional cost.

**RELIEF REQUESTED**

WHEREFORE, F&G respectfully requests the following relief:

- (a) That F&G be awarded the compensatory and consequential damages caused by Majesco's breach of contract, breach of the duty of good faith, and negligent misrepresentations,

along with its reasonable attorneys' fees and court costs incurred in filing and prosecuting this lawsuit;

- (b) That this Court grant all such other and further relief, both general and special, at law and in equity, to which F&G may show itself justly entitled.

**JURY DEMAND**

F&G herein demands a jury on all issues so triable.

Dated: May 30, 2024

Respectfully submitted,

By: /s/ Louis P. DiGiaino

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