UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE TO

Tender Offer Statement Pursuant to Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934

(Amendment No. 1)

ADVANCEPIERRE FOODS HOLDINGS, INC.
(Name of Subject Company)

DVB MERGER SUB, INC.
(Offeror)

TYSON FOODS, INC.
(Parent of Offeror)
(Names of Filing Persons)

Common Stock, Par Value $0.01 Per Share
(Title of Class of Securities)

00782L107
(CUSIP Number of Class of Securities)

David L. Van Bebber
Tyson Foods, Inc.
2200 West Don Tyson Parkway
Springdale, AR 72762-6999
(479) 290-4000
(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

With copies to :

George R. Bason, Jr., Esq.
Marc O. Williams, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
(212) 450-4000

CALCULATION OF FILING FEE

Transaction Valuation*	Amount of Filing Fee**
$3,208,605,808.90	$371,877.41

* Estimated solely for purposes of calculating the filing fee. The calculation of the transaction value is determined by adding the sum of (i) 78,726,785 shares of common stock, par value $0.01 per share, of AdvancePierre Foods Holdings, Inc. ("AdvancePierre") multiplied by the offer price of $40.25 per share, (ii) the net offer price for 644,823 shares issuable pursuant to outstanding options with an exercise price less than $40.25 per share (which is calculated by multiplying the number of shares underlying such outstanding options by an amount equal to $40.25 minus the weighted average exercise price per share of $25.70) and (iii) 757,032 shares subject to issuance upon settlement of outstanding restricted stock units multiplied by the offer price of $40.25 per share. The calculation of the filing fee is based on information provided by AdvancePierre as of May 5, 2017.

** The amount of the filing fee is calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, by multiplying the transaction valuation by 0.0001159.

☒ Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:	$371,877.41	Filing Party:	DVB Merger Sub, Inc. and Tyson Foods, Inc.
Form or Registration No.:	Schedule TO	Date Filed:	May 9, 2017

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- ☒ third-party tender offer subject to Rule 14d-1.
- ☐ issuer tender offer subject to Rule 13e-4.
- ☐ going-private transaction subject to Rule 13e-3.
- ☐ amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. ☐

This Amendment No. 1 (this " **Amendment** ") amends and supplements the Tender Offer Statement on Schedule TO filed by DVB Merger Sub, Inc., a Delaware corporation (" **Purchaser** ") and a wholly owned subsidiary of Tyson Foods, Inc., a Delaware corporation (" **Parent** "), with the U.S. Securities and Exchange Commission on May 9, 2017 (together with any subsequent amendments and supplements thereto, the " **Schedule TO** "). The Schedule TO relates to the offer by Purchaser to purchase all of the outstanding shares of common stock, par value $0.01 per share (" **Shares** "), of AdvancePierre Foods Holdings, Inc., a Delaware corporation (" **AdvancePierre** "), for $40.25 per Share, net to the seller in cash, without interest, but subject to any required withholding of taxes, upon the terms and subject to the conditions set forth in the offer to purchase dated May 9, 2017 (the " **Offer to Purchase** "), a copy of which is attached to the Schedule TO as Exhibit (a)(1)(A), and in the related letter of transmittal (the " **Letter of Transmittal** "), a copy of which is attached to the Schedule TO as Exhibit (a)(1)(B), which, as each may be amended or supplemented from time to time, collectively constitute the " **Offer** ."

All information contained in the Offer to Purchase and the related Letter of Transmittal, including all schedules thereto, is hereby incorporated herein by reference in response to Items 1 through 9 and Item 11 in the Schedule TO. Capitalized terms used and not otherwise defined in this Amendment have the meanings given to such terms in the Offer to Purchase.

Items 1 through 9; and Item 11 .

Items 6 and 7 of the Schedule TO are hereby amended and supplemented as follows:

The information set forth in Section 10—"Source and Amount of Funds" of the Offer to Purchase is hereby amended and supplemented to add the paragraphs set forth below.

The Bridge Facility is also expected to contain certain covenants substantially consistent with the covenants in the Existing Credit Agreement (as defined below), including limitations on indebtedness; liens; fundamental changes; asset sales; certain swap agreements; and transactions with affiliates. In addition, the Bridge Facility is expected to contain financial maintenance covenants requiring Parent to comply with (i) a maximum debt-to-capitalization ratio of 0.60 to 1.0 and (ii) a minimum EBITDA to interest expense ratio of 3.75 to 1.0.

The Bridge Facility will be governed by New York law, except that certain matters concerning the provisions of the Merger Agreement and the meaning of a material adverse change as it relates to AdvancePierre will be governed by Delaware law.

It is anticipated that the borrowings under the Bridge Facility described above will be refinanced or repaid, or the Bridge Commitments will be reduced, from funds generated internally by Parent (including, after consummation of the Merger, existing cash balances of and funds generated by AdvancePierre) or other sources, which may include the proceeds of the sale of securities or the proceeds of term loans. Decisions concerning the Bridge Facility, or the issuance of any securities as described in the first paragraph of this Section 10, will be made based on Parent's review from time to time of the advisability of selling particular securities as well as on interest rates and other economic conditions.

On May 12, 2017, the Bridge Commitments were reduced on a dollar-for-dollar basis by (i) the amount of the commitments under our $1.8 billion senior unsecured term loan facility described below, which became effective on May 12, 2017, and (ii) $200 million of the commitment increases pursuant to our amended and restated credit agreement described below, which also became effective on May 12, 2017. The aggregate amount of Bridge Commitments as of the date hereof is $2.5 billion.

The foregoing description of the Bridge Facility is summary in nature and is qualified in its entirety by reference to the Bridge Commitment Letter, a copy of which is attached hereto as Exhibit (b)(2), and incorporated herein by reference.

Term Loan Agreement. On May 12, 2017, Parent entered into a Term Loan Agreement (the " **Term Loan Agreement** ") with the lenders party thereto and Morgan Stanley, as administrative agent. The Term Loan Agreement provides for total term loan commitments in an aggregate principal amount of $1.8 billion.

The lenders party to the Term Loan Agreement will be obligated to make initial loans under the Term Loan Agreement upon the satisfaction of certain conditions, including but not limited to (i) the satisfaction or waiver of the Offer Conditions, (ii) the absence of a material adverse effect change with respect to AdvancePierre since December 31, 2016 through April 25, 2017, and since April 25, 2017 through closing, (iii) the truth and accuracy of the Merger Agreement Representations and the Specified Representations (each as defined in the Term Loan Agreement), (iv) the receipt of certain certificates and organizational documents and (v) the delivery by Parent of certain financial statements.

Borrowings under the Term Loan Agreement will be unsecured and will mature on the three-year anniversary of the date on which lenders are obligated to make initial loans under the Term Loan Agreement.

Borrowings under the Term Loan Agreement will bear interest at a rate per annum equal to, at the option of Parent, (i) the highest of (a) the prime rate of Morgan Stanley, (b) the federal funds effective rate plus 0.5% and (c) a rate based on certain rates offered for U.S. dollar deposits in the London interbank market (the " **Eurocurrency Rate** ") plus 1.0% per annum, or (ii) the Eurocurrency Rate, in each case plus an applicable spread that will depend on the credit ratings by each of S&P, and Moody's and Fitch of Parent, as set forth in the Term Loan Agreement.

Each lender under the Term Loan Agreement is entitled to a commitment fee, payable quarterly in arrears, at a rate equal to 0.15% per annum of the daily average undrawn commitment of that lender, accruing from and including May 12, 2017 to but excluding the date on which all commitments under the Term Loan Agreement are terminated.

The Term Loan Agreement contains certain covenants, including limitations on subsidiary indebtedness; liens; swap agreements (with exceptions for certain swap agreements entered into to hedge or mitigate risks to which Parent or a subsidiary has actual exposure); mergers, consolidations, liquidations and dissolutions; transactions with affiliates; asset sales; and changes in lines of business. In addition, the Term Loan Agreement (i) limits the ratio of Parent's debt to capitalization to a maximum of 0.60 to 1.0, and (ii) requires the ratio of Parent's consolidated EBITDA to interest to be at least 3.75 to 1.0.

The Term Loan Agreement contains customary events of default, such as non-payment of obligations under the Term Loan Agreement, violation of affirmative or negative covenants, material inaccuracy of representations, non-payment of other material debt, bankruptcy or insolvency, ERISA and certain judgment defaults, change of control and failure of any guarantee to remain in full force and effect.

The foregoing description of the Term Loan Agreement is summary in nature and is qualified in its entirety by reference to the Term Loan Agreement, a copy of which is attached hereto as Exhibit (b)(3), and incorporated herein by reference.

Amended and Restated Credit Agreement : On May 12, 2017, Parent entered into an Amended and Restated Credit Agreement with the subsidiary borrowers from time to time party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (the " **Amended and Restated Credit Agreement** "), which amended and restated the Parent's existing Credit Agreement, dated as of September 25, 2014 among Parent, the subsidiary borrowers from time to time party thereto, the lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent (the " **Existing Credit Agreement** ").

The Amended and Restated Credit Agreement, among other things, (i) increased the aggregate commitments under the Existing Credit Agreement from $1.25 billion to $1.5 billion and (ii) extended the maturity date thereunder to May 12, 2022.

The covenants under the Amended and Restated Credit Agreement are substantially consistent with those in the Existing Credit Agreement and include limitations on subsidiary indebtedness; liens; swap agreements (with exceptions for certain swap agreements entered into to hedge or mitigate risks to which the Parent or a subsidiary has actual exposure); mergers, consolidations, liquidations and dissolutions; transactions with affiliates; asset sales; and changes in lines of business. In addition, and consistent with the Existing Credit Agreement, the Amended and Restated Credit Agreement (i) limits the ratio of Parent's debt to capitalization to a maximum of 0.60 to 1.0, and (ii) requires the ratio of Parent's consolidated EBITDA to interest to be at least 3.75 to 1.0.

The Amended and Restated Credit Agreement contains events of default substantially consistent with those in the Existing Credit Agreement, such as non-payment of obligations under the Term Loan Agreement, violation of affirmative or negative covenants, material inaccuracy of representations, non-payment of other material debt, bankruptcy or insolvency, ERISA and certain judgment defaults, change of control and failure of any guarantee to remain in full force and effect.

The foregoing description of the Amended and Restated Credit Agreement is summary in nature and is qualified in its entirety by reference to the Amended and Restated Credit Agreement, a copy of which is attached hereto as Exhibit (b)(4), and incorporated herein by reference.

2. The information set forth in the final paragraph of Section 15 —" Conditions to the Offer" of the Offer to Purchase is hereby amended and restated by the paragraph set forth below.

Subject to the terms and conditions of the Merger Agreement, the Offer Conditions are for the sole benefit of Parent and Purchaser and, subject to the terms and conditions of the Merger Agreement and the applicable rules and regulations of the SEC, may be waived by Parent or Purchaser, in whole or in part, at any time, at the sole discretion of Parent or Purchaser. The failure or delay by Parent or Purchaser at any time to exercise any of the foregoing rights will not be deemed a waiver of any such right and each such right will be deemed an ongoing right which may be asserted at any time and from time to time, in each case subject to the terms and conditions of the Merger Agreement and the applicable rules and regulations of the SEC.

3. The information set forth in Section 16—"Certain Legal Matters; Regulatory Approvals" of the Offer to Purchase is hereby amended and supplemented to add the paragraph set forth below under " *Litigation Related to the Merger* ."

As of May 18, 2017, we are aware of two putative class action lawsuits challenging the disclosures concerning the transactions contemplated by the Merger Agreement, filed by purported AdvancePierre stockholders, pending in the United States District Court for the Southern District of Ohio against various combinations of AdvancePierre, the members of the AdvancePierre Board, Parent and Purchaser. The actions are captioned *Bushansky v. AdvancePierre Foods Holdings, Inc., et al.* , Case No. 17 Civ. 326, and *Parshall v. AdvancePierre Foods Holdings, Inc., et al.* , Case No. 17 Civ. 333. The complaints generally allege, among other things, that the defendants violated Sections 14 and 20 of the Exchange Act and Rule 14d-9 promulgated thereunder by failing to disclose purportedly material information in the Schedule 14D-9 filed with the SEC in connection with the Offer. The complaints seek, among other things, to enjoin the expiration of the Offer and/or consummation of the transactions contemplated by the Merger Agreement, or in the event that an injunction is not awarded, unspecified money damages, and an award of attorney's fees and costs. Parent and Purchaser believe that the actions are without merit and intend to defend vigorously against all claims asserted against them. The full complaints are attached hereto as Exhibits (a)(5)(M) and (a)(5)(N), respectively.

Item 12. ***Exhibits***

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

(a)(5)(M)	Class Action Complaint filed as of May 12, 2017 (*Bushansky v. AdvancePierre Foods Holdings, Inc., et al.* , Case No. 17 Civ. 326).
(a)(5)(N)	Class Action Complaint filed as of May 15, 2017 (*Parshall v. AdvancePierre Foods Holdings, Inc., et al.* , Case No. 17 Civ. 333).
(b)(3)*	Term Loan Agreement, dated as of May 12, 2017, among Tyson Foods, Inc., the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent (incorporated by reference to Exhibit 10.1 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on May 17, 2017).
(b)(4)*	Amended and Restated Credit Agreement, dated as of May 12, 2017, among Tyson Foods, Inc., the subsidiary borrowers party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to Exhibit 10.2 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on May 17, 2017).

* Previously Filed

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certify that the information set forth in this statement is true, complete and correct.

Date: May 18, 2017

DVB MERGER SUB, INC.

By: /s/ R. Read Hudson
Name: R. Read Hudson
Title: Vice President and Secretary

TYSON FOODS, INC.

By: /s/ R. Read Hudson
Name: R. Read Hudson
Title: Vice President, Associate General Counsel and Secretary

EXHIBIT INDEX

Exhibit No.	Description
(a)(1)(A)*	Offer to Purchase, dated as of May 9, 2017.
(a)(1)(B)*	Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9).
(a)(1)(C)*	Notice of Guaranteed Delivery.
(a)(1)(D)*	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(E)*	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(F)*	Summary Advertisement as published in *The New York Times* on May 9, 2017.
(a)(5)(A)*	Joint Press Release of Tyson Foods, Inc. and AdvancePierre Foods Holdings, Inc. dated April 25, 2017 (incorporated by reference to Exhibit 99.1 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(B)*	Note sent by Thomas P. Hayes, CEO of Tyson Foods, Inc., to Tyson Foods, Inc. employees on April 25, 2017 (incorporated by reference to Exhibit 99.1 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(C) *	Note sent by Scott Rouse, Chief Customer Officer of Tyson Foods, Inc. to Tyson Foods, Inc.'s commercial sales team on April 25, 2017 (incorporated by reference to Exhibit 99.2 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(D)*	Presentation given by Thomas P. Hayes, CEO of Tyson Foods, Inc. to Tyson Foods, Inc. employees entitled "Team Talk" on April 25, 2017 (incorporated by reference to Exhibit 99.3 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(E)*	Transcript of Conference Call hosted by Tyson Foods, Inc. held on April 25, 2017 (incorporated by reference to Exhibit 99.4 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(F)*	Note sent by Thomas P. Hayes, CEO of Tyson Foods, Inc. to Tyson Foods, Inc.'s senior leadership team on April 25, 2017 (incorporated by reference to Exhibit 99.5 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(G)*	FAQ Memo issued by Tyson Foods, Inc. on April 25, 2017 (incorporated by reference to Exhibit 99.6 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(H)*	Letter sent by Thomas P. Hayes, CEO of Tyson Foods, Inc., to Tyson Foods, Inc.'s customers on April 25, 2017 (incorporated by reference to Exhibit 99.7 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on April 25, 2017).
(a)(5)(I)*	Excerpts from the Form 10-Q filed by Tyson Foods, Inc. on May 8, 2017 (incorporated by reference to Exhibit 99.1 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on May 8, 2017).
(a)(5)(J)*	Excerpts from press release, dated May 8, 2017, announcing financial results for the first six months of the fiscal year ending October 1, 2017 (incorporated by reference to Exhibit 99.2 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on May 8, 2017).
(a)(5)(K)*	Excerpts from earnings presentation given by Tyson Foods, Inc. dated May 8, 2017 (incorporated by reference to Exhibit 99.3 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on May 8, 2017).
(a)(5)(L)*	Excerpts from earnings call held by Tyson Foods, Inc. on May 8, 2017 (incorporated by reference to Exhibit 99.4 of the Tyson Foods, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on May 8, 2017).
(a)(5)(M)	Class Action Complaint filed as of May 12, 2017 (Bushansky v. AdvancePierre Foods Holdings, Inc., et al., Case No. 17 Civ. 326).

Exhibit No.	Description
(a)(5)(N)	Class Action Complaint filed as of May 15, 2017 (Parshall v. AdvancePierre Foods Holdings, Inc., et al., Case No. 17 Civ. 333).
(b)(1)*	Senior Unsecured Term Loan Facility and Senior Unsecured Revolving Credit Facility Commitment Letter dated as of April 25, 2017 among Tyson Foods, Inc. and Morgan Stanley Senior Funding, Inc.
(b)(2)*	Senior Unsecured Bridge Facility Commitment Letter dated as of April 25, 2017 among Tyson Foods, Inc. and Morgan Stanley Senior Funding, Inc.
(b)(3)*	Term Loan Agreement, dated as of May 12, 2017, among Tyson Foods, Inc., the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent (incorporated by reference to Exhibit 10.1 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on May 17, 2017).
(b)(4)*	Amended and Restated Credit Agreement, dated as of May 12, 2017, among Tyson Foods, Inc., the subsidiary borrowers party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to Exhibit 10.2 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on May 17, 2017).
(c)	Not applicable.
(d)(1)*	Agreement and Plan of Merger dated as of April 25, 2017 among Tyson Foods, Inc., AdvancePierre Foods Holdings, Inc. and DVB Merger Sub, Inc. (incorporated by reference to Exhibit 2.1 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on April 28, 2017).
(d)(2)*	Tender and Support Agreement dated as of April 25, 2017 among Tyson Foods, Inc., DVB Merger Sub, Inc., OCM Principal Opportunities Fund IV Delaware, L.P. and OCM APFH Holdings, LLC. (incorporated by reference to Exhibit 99.1 of the Tyson Foods, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on April 28, 2017).
(d)(3)*	Confidentiality Agreement dated as of April 23, 2017 among Tyson Foods, Inc. and AdvancePierre Foods Holdings, Inc.
(e)	Not applicable.
(f)	Not applicable.
(g)	Not applicable.
(h)	Not applicable.

* Previously Filed

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STEPHEN BUSHANSKY, On Behalf of Himself and All Others Similarly Situated,	)	Case No.
Plaintiff,	)	**CLASS ACTION COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS**
v.	)	
ADVANCEPIERRE FOODS HOLDINGS, INC., JOHN N. SIMONS, JR., CHRISTOPHER D. SLIVA, DEAN HOLLIS, CELESTE A. CLARK, PETER C. DILLINGHAM, STEPHEN A. KAPLAN, GARY L. PERLIN, and MATTHEW C. WILSON,	)	**Judge**
	)	**JURY DEMAND ENDORSED HEREON**
Defendants.	)	

Plaintiff Stephen Bushansky ("Plaintiff"), by and through his undersigned counsel, for his complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia* , the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This is a class action brought on behalf of the public stockholders of AdvancePierre Foods Holdings, Inc. ("AdvancePierre" or the "Company") against AdvancePierre and its Board of Directors (the "Board" or the "Individual Defendants") for their violations of Sections 14(d)(4), 14(e) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. §§ 78n(d)(4), 78n(e), 78t(a), and U.S. Securities and Exchange Commission ("SEC") Rule 14d-9, 17 C.F.R. §240.14d-9(d) ("Rule 14d-9") and to enjoin the expiration of a tender offer (the "Tender

Offer") on a proposed transaction, pursuant to which AdvancePierre will be acquired by Tyson Foods, Inc. ("Tyson") through its wholly-owned subsidiary DVB Merger Sub, Inc. ("Merger Sub") (the "Proposed Transaction").

2. On April 25, 2017, AdvancePierre and Tyson issued a joint press release announcing that they had entered into an Agreement and Plan of Merger (the "Merger Agreement") to sell AdvancePierre to Tyson. Under the terms of the Merger Agreement, Tyson will acquire all outstanding shares of AdvancePierre for $40.25 in cash per share of AdvancePierre's common stock (the "Merger Consideration"). Pursuant to the Merger Agreement, Tyson, through Merger Sub, commenced the Tender Offer on May 9, 2017. The Tender Offer is scheduled to expire at 12:00 midnight, New York City time at the end of the day on June 6, 2017. The Proposed Transaction is valued at approximately $4.2 billion.

3. The Company's largest stockholders, OCM Principal Opportunities Fund IV Delaware, L.P. ("Oaktree") and OCM APFH Holdings, LLC (together, the "Oaktree Holders"), which together hold approximately 42% of the Company's common stock, have entered into a tender and support agreement with Tyson, agreeing to tender their shares in favor of the Proposed Transaction. As further discussed below, the Oaktree Holders' three Board designees were actively involved in the background process and engineered the Proposed Transaction in order to ensure a financial windfall for Oaktree.

4. AdvancePierre completed its initial public offering ("IPO") less than a year ago on July 20, 2016 at a price of $21.00 per share. In connection with its IPO, the Company entered into an income tax receivable agreement ("TRA") with its pre-IPO stockholders, including the Oaktree Holders, pursuant to which AdvancePierre's pre-IPO stockholders would be entitled to 85% of the relevant tax benefits that the post-IPO Company received. Critically, the payments under the TRA

would be accelerated in the form of immediate lump-sum cash payments in the event of a change of control situation (the "TRA Settlement Amount"). According to the Recommendation Statement (defined below), in connection with the Proposed Transaction, Tyson assumed the TRA Settlement Amount values at approximately $200 million. Thus, the Oaktree Holders and the three directors affiliated with the Oaktree Holders will receive a unique benefit in connection with the Proposed Transaction in addition to the Merger Consideration - substantial lump sum payments from the acceleration of the TRA.

5. On May 9, 2017, AdvancePierre filed a Solicitation/Recommendation Statement on Schedule 14D-9 (the "Recommendation Statement") with the SEC. The Recommendation Statement, which recommends that AdvancePierre stockholders tender their shares in favor of the Proposed Transaction, omits or misrepresents material information concerning, among other things: (i) AdvancePierre's financial projections, relied upon by AdvancePierre's financial advisors, Credit Suisse Securities (USA) LLC ("Credit Suisse") and Moelis & Company LLC ("Moelis") in connection with rendering their fairness opinions; (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinions provided by Credit Suisse and Moelis; and (iii) the background process leading to the Proposed Transaction. The failure to adequately disclose such material information constitutes a violation of Sections 14(d), 14(e) and 20(a) of the Exchange Act as stockholders need such information in order to make a fully informed decision whether to tender their shares in support of the Proposed Transaction.

6. In short, the Proposed Transaction will unlawfully divest AdvancePierre's public stockholders of the Company's valuable assets without fully disclosing all material information concerning the Proposed Transaction to Company stockholders. To remedy defendants' Exchange

Act violations, Plaintiff seeks to enjoin the expiration of the Tender Offer unless and until such problems are remedied.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the claims asserted herein for violations of Sections 14(d)(4), 14(e) and 20(a) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1331 (federal question jurisdiction).

8. This Court has jurisdiction over the defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Plaintiff's claims arose in this District, where a substantial portion of the actionable conduct took place, where most of the documents are electronically stored, and where the evidence exists. AdvancePierre is incorporated in Delaware and is headquartered in this District. Moreover, each of the Individual Defendants, as Company officers or directors, either resides in this District or has extensive contacts within this District.

PARTIES

10. Plaintiff is, and has been at all times relevant hereto, a continuous stockholder of AdvancePierre.

11. Defendant AdvancePierre is a Delaware corporation with its principal executive offices located at 9987 Carver Road, Suite 500, Blue Ash, Ohio 45242. AdvancePierre's common stock is traded on the NASDAQ under the ticker symbol "APFH."

12. Defendant John N. Simons, Jr. (“Simons”) has been Chief Executive Officer (“CEO”) and a director of the Company since October 2013. Defendant Simons previously served as President of the Company from October 2013 to November 2016.

13. Defendant Christopher D. Sliva (“Sliva”) has been President and a director of the Company since November 2016.

14. Defendant Dean Hollis (“Hollis”) has been a director of the Company since 2008. Defendant Hollis is also a senior advisor for Oaktree.

15. Defendant Celeste A. Clark (“Clark”) has been a director of the Company since February 2016.

16. Defendant Peter C. Dillingham (“Dillingham”) has been a director of the Company since 2014.

17. Defendant Stephen A. Kaplan (“Kaplan”) has been a director of the Company since 2008. Defendant Kaplan is also an Advisory Partner of Oaktree, and the former head of Oaktree’s Global Principal Group.

18. Defendant Gary L. Perlin (“Perlin”) has been a director of the Company since March 2016.

19. Defendant Matthew C. Wilson (“Wilson”) has been a director of the Company since 2008. Defendant Wilson is a Managing Director and a Co-Portfolio Manager of Oaktree.

20. Defendants Simons, Sliva, Hollis, Clark, Dillingham, Kaplan, Perlin and Wilson are collectively referred to herein as the “Board” or the “Individual Defendants.”

OTHER RELEVANT ENTITIES

21. Tyson is a Delaware corporation with its principal executive offices located at 2200 West Don Tyson Parkway, Springdale, Arkansas 72762. Tyson is one of the world’s largest food

companies with leading brands such as Tyson®, Jimmy Dean®, Hillshire Farm®, Sara Lee®, Ball Park®, Wright®, Aidells® and State Fair®.

22. Merger Sub is a Delaware corporation and wholly-owned subsidiary of Tyson.

23. The Oaktree Holders are funds affiliated with Oaktree Capital Management, L.P., a global investment manager specializing in alternative investments with $100.5 billion in assets under management as of December 31, 2016. The Oaktree Holders are AdvancePierre's largest stockholders, together holding approximately 42% of the Company's common stock. Tyson and the Oaktree Holders entered into a tender and support agreement pursuant to which the Oaktree Holders agreed to tender their shares in the Tender Offer.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons and entities that own AdvancePierre common stock (the "Class"). Excluded from the Class are defendants and their affiliates, immediate families, legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

25. Plaintiff's claims are properly maintainable as a class action under Rule 23 of the Federal Rules of Civil Procedure.

26. The Class is so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through discovery, Plaintiff believes that there are thousands of members in the Class. As of May 5, 2017, there were approximately 78,664,929 shares of Company common stock issued and outstanding. All members of the Class may be identified from records maintained by

AdvancePierre or its transfer agent and may be notified of the pendency of this action by mail, using forms of notice similar to those customarily used in securities class actions.

27. Questions of law and fact are common to the Class and predominate over questions affecting any individual Class member, including, *inter alia* :

(a) Whether defendants have violated Section 14(d)(4) of the Exchange Act and Rule 14d-9 promulgated thereunder;

(b) Whether the Individual Defendants have violated Section 14(e) of the Exchange Act;

(c) Whether the Individual Defendants have violated Section 20(a) of the Exchange Act; and

(d) Whether Plaintiff and the other members of the Class would suffer irreparable injury were the Proposed Transaction consummated.

28. Plaintiff will fairly and adequately protect the interests of the Class, and has no interests contrary to or in conflict with those of the Class that Plaintiff seeks to represent. Plaintiff has retained competent counsel experienced in litigation of this nature.

29. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

30. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

SUBSTANTIVE ALLEGATIONS

Company Background and Strong Financial Outlook

31. AdvancePierre is a leading national producer and distributor of value-added ready-to-eat sandwiches, sandwich components and other entrées and snacks. The Company markets and distributes approximately 2,900 stock keeping units across all day parts in multiple product

categories. In fiscal year 2016, 66.7% of the Company's net sales were attributable to the ready-to-eat sandwiches and sandwich component categories. AdvancePierre's products are shipped frozen to its customers and sold under its commercial, retail, private label and licensed brands. The Company's value-added processes include recipe formulation, pre-preparation, food preparation, assembly and packaging. AdvancePierre sells to over 3,000 customers in the foodservice, retail and convenience channels, which correspond to the Company's three core segments.

32. Prior to completing its IPO on July 20, 2016, AdvancePierre expanded its business and operations with a number of acquisitions. In May 2011, the Company acquired Barber Foods, a leading producer and marketer of stuffed chicken entrées primarily for the retail channel. In January 2015, AdvancePierre acquired the wholesale business and production operations of Landshire, Inc., an Illinois-based producer of premium frozen, ready-to-eat sandwiches. In April 2015, the Company acquired the business and production assets of Better Bakery, a producer of premium handcrafted stuffed sandwiches. Additionally, in October 2016, the Company acquired Allied Specialty Foods, Inc., a producer of fully cooked and raw beef and chicken Philly steak products.

33. On March 9, 2016, the Company issued a press release announcing its fourth quarter and full year 2016 financial results. Net sales for the fourth quarter were $409.4 million, compared to $386.1 million in the fourth quarter of 2015. Gross profit for the quarter increased to $116.5 million, compared to $95.7 million in the fourth quarter of 2015. For the quarter, GAAP net income was $33.1 million, compared to $11.7 million in the fourth quarter of 2015. Adjusted EBITDA also increased to $81.2 million, compared to $68.9 million in the fourth quarter of 2015.

For the full year 2016, net income was $136 million and adjusted EBITDA was $300 million.

Commenting on the impressive financial results, defendant Simons stated:

> Our fourth quarter results were highlighted by profitable growth in each of our three core segments, strong cash flow generation, and the completion of another strategic business acquisition. . . . In 2016 we delivered on our commitments to achieve solid organic growth, increase earnings, and deploy cash flow to reward our shareholders with an attractive dividend.

Defendant Sliva also commented on the financial results, adding:

> We plan to continue to invest in highly accretive acquisitions and reduce leverage. . . . Our growth trajectory sets us apart from the broader food industry and we are well positioned to continue our momentum driven by execution of our continuous improvement process, 'the APF Way', in 2017 and beyond.

34. On May 10, 2017, AdvancePierre announced its continued strong financial results for the first quarter of 2017. For the quarter, net sales were $402.7 million, compared to $394.5 million in the first quarter of 2016. Gross profit was $107.5 million, compared to $100.2 million in the first quarter of 2016. The Company's reported GAAP net income was $28.2 million, compared to $16.6 million in the first quarter of 2016. Additionally, adjusted EBITDA increased 10.2% to $75.8 million in the first quarter of 2017, from $68.8 million in the first quarter of 2016.

The Process Leading Up to the Proposed Transaction

35. The Proposed Transaction is the result of a truncated single-bidder process designed to benefit AdvancePierre's management and largest stockholder, the Oaktree Holders. Despite having garnered interest from over thirty parties in an outreach AdvancePierre conducted in 2015 prior to its IPO, the Board failed to conduct even a limited market check before agreeing to the Proposed Transaction.

36. In early 2015, AdvancePierre retained a financial advisor to assist with a review of potential strategic alternatives. Following the financial advisor's outreach to 67 potential counterparties, 34 counterparties entered into non-disclosure agreements with the Company, seven

submitted written initial indications of interest and five met with Company management. AdvancePierre also entered into discussions with an additional potential counterparty ("Party A") regarding a potential minority investment in the Company, but the Board determined not to pursue further discussions with Party A. The Recommendation Statement fails to disclose whether Party A entered into a non-disclosure agreement with AdvancePierre that operates to preclude Party A from submitting a competing bid for the Company.

37. As previously set forth, on July 20, 2016, AdvancePierre completed its IPO and in connection therewith entered into the TRA with its pre-IPO stockholders, pursuant to which the Company is required to make payments to such stockholders in respect of tax savings of the Company resulting from the use of net operating losses, tax basis and certain other tax attributes attributable to periods prior to the IPO. If the Company undergoes a change of control, the TRA terminates and the Company is required to make a lump sum payment to such pre-IPO stockholders in an amount determined in accordance with the TRA.

38. On April 4, 2017, Tyson contacted defendant Wilson, a principal of Oaktree, to indicate its interest in potentially acquiring the Company.

39. On April 7, 2017, Tyson contacted Oaktree to indicate Tyson's interest in a potential acquisition of AdvancePierre for between $36.00 and $38.00 per share in cash, and that Tyson assumed the TRA Settlement Amount was approximately $200 million. Defendant Wilson conveyed Tyson's interest to the Board, and although the Board deemed Tyson's indication of interest insufficient, it determined to continue discussions with Tyson instead of conducting a formal sale process or contacting any of the previously interested parties that submitted indications of interest in 2015.

40. On April 9, 2017, Tyson informed defendant Hollis, a senior advisor for Oaktree,

that Tyson had increased the top end of its proposal range to $39.00 per share in cash and mandated a site visit to the Company's manufacturing facilities before even considering a further increase.

41. The next day, the Board formed a transactions committee comprised of defendants Perlin, Clark and Hollis to work with AdvancePierre's legal and financial advisors to engage in discussions with Tyson regarding a potential transaction (the "Transactions Committee"). The Recommendation Statement alleges that the Transactions Committee is "comprised entirely of independent directors," despite defendant Hollis' role as a senior advisor at Oaktree.

42. With the Merger Consideration nearly final, on April 14, 2017, Company management presented its financial projections and forecasts for the Company to the Transactions Committee (the "Management Plan"). After the Transactions Committee incorporated its own comments, the nature of which the Recommendation Statement fails to disclose, Company management provided the Management Plan to Credit Suisse and Moelis for use in their financial analyses of AdvancePierre.

43. On April 20, 2017, Tyson verbally relayed a revised best and final of $40.25 per share in cash, which the Board ultimately accepted. Noting "that other third parties that were believed to have both the strategic and financial capacity to explore an acquisition of the Company ("Potential Acquirors") ***might not*** pursue a transaction with the Company at that time," the Board accepted Tyson's offer. Emphasis added. The Recommendation Statement fails to provide any specific reasons surrounding the Board and management's conclusions that Potential Acquirors might not pursue a transaction with the Company at that time.

44. Over the next few days, the parties and their advisors finalized the terms of the Merger Agreement. On April 24, 2017, Moelis and Credit Suisse delivered their fairness opinions and the Board approved the Merger Agreement. The next day, the parties executed the Merger

Agreement and the Oaktree Holders executed the tender and support agreement.

The Proposed Transaction

45. On April 25, 2017, AdvancePierre and Tyson issued a joint press release announcing the Proposed Transaction. The press release stated, in relevant part:

> SPRINGDALE, Ark. and CINCINNATI, April 25, 2017 -- Tyson Foods, Inc. (NYSE:TSN) ("Tyson") and AdvancePierre Foods Holdings, Inc. (NYSE:APFH) ("AdvancePierre") today announced that they have entered into a definitive merger agreement pursuant to which a subsidiary of Tyson will launch a tender offer to acquire all of AdvancePierre's outstanding common shares for $40.25 per share in cash. This strategically compelling transaction provides a unique opportunity to create value by joining highly complementary market-leading portfolios.
>
> The total enterprise value of the transaction, which has been approved by the Boards of Directors of both companies, is approximately $4.2 billion, including $3.2 billion in equity value and $1.1 billion in assumption of AdvancePierre debt. The offer price represents a 31.8 percent premium to AdvancePierre's closing price on April 5, 2017, the most recent unaffected trading day, and a 41.6 percent premium to the company's 60-day volume-weighted average trading price ending on April 5, 2017.
>
> Funds affiliated with Oaktree Capital Management, L.P. ("Oaktree"), which own approximately 42 percent of the outstanding shares of AdvancePierre common stock, have entered into a tender and support agreement pursuant to which those funds have agreed to tender their AdvancePierre shares pursuant to the tender offer.
>
> Tyson President and CEO Tom Hayes said, "We are very pleased to announce this combination with AdvancePierre. The AdvancePierre leadership team has created significant value through the implementation of a new business management model, focus on quality and service and attention to the growth opportunities in convenience foods. The addition of AdvancePierre aligns with our strategic intent to sustainably feed the world with the fastest growing portfolio of protein packed brands. . . . We are always prudently evaluating opportunities to leverage our strengths to drive future growth, whether by divesting non-core, non-protein focused assets – as announced yesterday – or by acquiring companies like AdvancePierre that enhance our capabilities in growing categories.

Insiders' Interests in the Proposed Transaction

46. Tyson, AdvancePierre insiders, and the Oaktree Holders are the primary beneficiaries of the Proposed Transaction, not the Company's public stockholders. The Board and

the Company's executive officers are conflicted because they will have secured unique benefits for themselves from the Proposed Transaction not available to Plaintiff and the public stockholders of AdvancePierre.

47. Company insiders stand to reap a substantial financial windfall for securing the deal with Tyson. Upon tendering his shares, defendant Simons alone will receive ***over $59.7 million*** in the Tender Offer. The following table sets forth the cash payments certain named executive officers and directors stand to receive from their outstanding shares of Company common stock:

Name	Number of Shares Owned(1)	Cash Consideration Payable in Respect of Shares
Named Executive Officers		
John N. Simons, Jr.(2)	1,483,757	$ 59,721,219
Christopher D. Sliva	12,671	$ 510,008
Michael B. Sims	440,118	$ 17,714,750
George F. Chappelle, Jr.	284,567	$ 11,453,822
James L. Clough	420,702	$ 16,933,256
Other Executive Officers		
Stephen D. Booker	19,813	$ 797,473
Linn S. Harson	—	$ —
Bernie Panchot	35,438	$ 1,426,380
Tony Schroder	165,177	$ 6,648,374
John W. Theis III	29,916	$ 1,204,119
David Tipton	14,640	$ 589,260
Non-Employee Directors		
Celeste A. Clark, Ph.D.	8,211	$ 330,493
Peter C. Dillingham	—	$ —
Dean Hollis	452,495	$ 18,212,924
Stephen A. Kaplan	—	$ —
Gary L. Perlin	4,932	$ 198,513
Matthew C. Wilson	—	$ —

(1) Does not include Company Stock Options (as defined below), Company RSUs (as defined below) or Company Restricted Shares (as defined below), each of which is separately disclosed following this table and no amount of which held by an individual above will vest pursuant to its terms between May 1, 2017, the date for purposes of the table above, and July 1, 2017, the date for purposes of the tables below.

(2) Mr. Simons resigned from his employment effective March 31, 2017 and is scheduled to retire from the Company Board effective as of its annual meeting of stockholders scheduled

for May 17, 2017, as further discussed in the section titled " *Employment Agreements* " below.

48. Moreover, pursuant to the Merger Agreement, each outstanding Company option, restricted stock unit, and restricted share will be converted into the right to receive cash payments. The following table summarizes the cash payments the executive officers and directors stand to receive in connection with their vested and unvested options:

Name	Estimated Cash Value of Company Stock Options	Estimated Cash Value of Company RSUs	Estimated Cash Value of Company Restricted Shares	Total Estimated Equity-Award Related Cash Payment
Named Executive Officers				
John N. Simons, Jr.	$ 2,701,856	$ —	—	$ 2,701,856
Christopher D. Sliva	$ —	$ 7,846,013	—	$ 7,846,013
Michael B. Sims	$ 540,365	$ 3,636,346	—	$ 4,176,711
George F. Chappelle, Jr.	$ 540,365	$ 3,636,346	992,404	$ 5,169,115
James L. Clough	$ 540,365	$ 3,636,346	—	$ 4,176,711
Other Executive Officers				
Stephen D. Booker	$ 378,254	$ 1,917,792	5,954,545	$ 8,250,591
Linn S. Harson	$ 135,088	$ 909,127	—	$ 1,044,215
Bernie Panchot(1)	$ —	$ —	164,743	$ 657,916
Tony Schroder	$ 378,254	$ 1,917,792	—	$ 2,296,046
John W. Theis III	$ 225,156	$ 992,122	—	$ 1,217,278
David Tipton	$ 252,179	$ 1,016,997	1,767,780	$ 3,036,956
Non-Employee Directors				
Celeste A. Clark, Ph.D.	$ —	$ 199,157	595,459	$ 794,616
Peter C. Dillingham	$ —	$ 199,157	—	$ 199,157
Dean Hollis	$ —	$ 199,157	—	$ 199,157
Stephen A. Kaplan	$ —	$ —		$ —
Gary L. Perlin	$ —	$ 199,157	595,459	$ 794,616
Matthew C. Wilson	$ —	$ —	—	$ —

49. Further, if they are terminated in connection with the Proposed Transaction, AdvancePierre's named executive officers are set to receive substantial cash payments in the form of golden parachute compensation, as set forth in the following table:

Name	Cash ($)(1)	Equity ($)(2)	Pension / NQDC ($)(3)	Perquisites / Benefits ($)(4)	Tax Reimbursements ($)(5)	Total ($)
John N. Simons, Jr.	$ —	$ —	$ —	$ —	$ —	$ —
Christopher D. Sliva	$ 5,198,904	$ 7,846,013	$ —	$ 31,001	$ [●]	$ [●]
Michael B. Sims	$ 1,619,486	$ 4,176,711	$ —	$ 23,134	$ [●]	$ [●]
George F. Chappelle, Jr.	$ 1,119,736	$ 5,169,115	$ —	$ 22,334	$ [●]	$ [●]

James L. Clough	$	1,077,924	$	4,176,711	$	—	$	22,315	$	[●]	$	[●]

The Recommendation Statement Contains Material Misstatements or Omissions

50. The defendants filed a materially incomplete and misleading Recommendation Statement with the SEC and disseminated it to AdvancePierre's stockholders. The Recommendation Statement misrepresents or omits material information that is necessary for the Company's stockholders to make an informed decision whether to tender their shares in connection with the Tender Offer.

51. Specifically, as set forth below, the Recommendation Statement fails to provide Company stockholders with material information or provides them with materially misleading information concerning: (i) AdvancePierre's financial projections, relied upon by AdvancePierre's financial advisors, Credit Suisse and Moelis; (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinions provided by Credit Suisse and Moelis; and (iii) the background process leading to the Proposed Transaction. Accordingly, AdvancePierre stockholders are being asked to make a decision whether to tender their shares in connection with the Tender Offer without all material information at their disposal.

Material Omissions Concerning AdvancePierre's Financial Projections

52. The Recommendation Statement fails to disclose material information relating to the Company's financial projections provided by AdvancePierre's management and relied upon by Credit Suisse and Moelis for their analyses.

53. For example, the Recommendation Statement sets forth:

> Unlevered, after-tax free cash flows utilized by the Company's financial advisors per the Company's management was calculated based on the Company Forecasts described above as Adjusted EBITDA less stock-based compensation expense, cash taxes (after taking into account tax attributes of the Company, including use of net operating loss carryovers), capital expenditures, acquisitions (in the case of

the Acquisition Case), increases in net working capital and payments to pre-IPO stockholders of the Company pursuant to the income tax receivable agreement.

The Recommendation Statement, however, fails to disclose the Company's unlevered, after-tax free cash flows for each of the Management Projections – Base Case and Management Projections – Acquisition Case and further fails to disclose the line items utilized to calculate the Company's unlevered, after-tax free cash flows, including (i) stock-based compensation expense, (ii) cash taxes (after taking into account tax attributes of the Company, including use of net operating loss carryovers), (iii) capital expenditures, (iv) acquisitions (in the case of the Acquisition Case), (v) increases in net working capital, and (vi) payments to pre-IPO stockholders of the Company pursuant to the TRA.

54. In addition, the Recommendation Statement discloses in both its Management Projections – Base Case and Management Projections – Acquisition Case, non-GAAP metrics including Adjusted EBITDA, Adjusted Net Income and Adjusted Diluted Net Income Per Share, but fails to provide line item projections for the metrics used to calculate these non-GAAP measures or otherwise reconcile the non-GAAP projections to GAAP. The omission of the aforementioned line item projections renders the non-GAAP projections included in the Recommendation Statement materially misleading and incomplete.

55. Additionally, the Recommendation Statement sets forth that:

For the purpose of the financial analyses summarized below, unless otherwise noted below, Moelis utilized financial data of the Company based on financial forecasts and other information and data provided by the Company's management team that included projected acquisitions to be undertaken by the Company. Moelis inquired as to which of the two sets of management forecasts Moelis should use for purposes of its financial analyses, and the Company Board directed Moelis to use the Acquisition Case for such purposes and that such Acquisition Case represented the best currently available estimates and judgments of the management of the Company as to the future performance of the Company.

The Recommendation Statement must clearly state in the section entitled "Certain Financial Projections" that the "Acquisition Case represented the best currently available estimates and judgments of the management of the Company as to the future performance of the Company."

56. The omission of this information renders the following statements in the Recommendation Statement false and/or materially misleading in contravention of the Exchange Act:

(a) from pages 31-34 of the Recommendation Statement:

Certain Financial Projections

The Company does not, as a matter of course, publicly disclose forecasts or projections as to future performance, earnings or other results, other than estimated ranges of select financial data (e.g. , Net Sales, Adjusted EBITDA and Adjusted Diluted Net Income) for its current fiscal year, given the inherent unpredictability of the underlying assumptions, estimates and projections. However, the Company's management from time to time prepares internal financial forecasts regarding its future operations for subsequent fiscal years.

In April 2017, the Company's management prepared financial projections for the fiscal years 2017 through 2021 for the Company Board based upon the Company's year-to-date performance through its fiscal quarter ended April 1, 2017, that included two forecast cases (the "Company Forecasts") that are subject to certain assumptions, risks and limitations summarized below. The Company Forecasts were provided to Parent after execution of the Merger Agreement.

The first forecast case (the " Base Case ") represented management's judgment as to the results that could be achieved taking into account management's assumptions as to its ability to grow the business, expand operating margins through cost productivity, invest capital to maintain and improve its operating facilities, fund obligations under certain long-term tax receivable agreements, continue to pay dividends to stockholders, and deploy excess cash to reduce net leverage. The Base Case did not assume that the Company would complete any future business acquisitions.

The second forecast of an acquisition case (the " **Acquisition Case** ") represented management's judgment as to the results that could be achieved taking into account management's assumptions as to its ability to supplement the results in the Base Case with execution of an ongoing business acquisition program reflecting (a) use of some excess cash that had been otherwise deployed toward reduction of leverage in the Base Case, (b) completion of a significant specific

identified transaction during fiscal 2017 and (c) other future acquisitions with transaction sizes and returns similar to the Company's historical performance.

The Company Forecasts were not prepared with a view toward public disclosure, nor were they prepared with a view toward compliance with published guidelines of the SEC or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of financial forecasts, and do not comply with U.S. generally accepted accounting principles (" **GAAP** "). In addition, the Company Forecasts were not prepared with the assistance of, or reviewed, compiled or examined by, independent accountants. The summary of the Company Forecasts is being included in this Schedule 14D-9 not to influence any stockholder's decision whether to tender his, her or its Shares in the Offer, but because these Company Forecasts were made available to the Company Board in connection with its evaluation of the transactions contemplated by the Merger Agreement. The Company Forecasts also were provided to Credit Suisse and Moelis for their use and reliance in connection with their separate financial analyses and opinions as more fully described under the sections entitled **"** *— Opinions of the Company's Financial Advisors—Opinion of Credit Suisse Securities (USA) LLC* **"** *and " —Opinions of the Company's Financial Advisors— Opinion of Moelis & Company LLC . "* The Company Forecasts may differ from publicized analyst estimates and forecasts and do not take into account any events or circumstances after the date they were prepared, including the announcement of the Offer and the Merger.

The Company Forecasts were based on numerous variables and assumptions that are inherently uncertain and may be beyond the control of the Company's management. Important factors that may affect actual results and result in such Company Forecasts not being achieved include, but are not limited to: failure to consummate the Merger; the effects of disruption caused by the transaction making it more difficult to maintain relationships with employees, collaborators, vendors and other business partners; the risk that stockholder litigation in connection with the Offer or the Merger may result in significant costs of defense, indemnification and liability; and risks and uncertainties pertaining to the Company's business, including the risks and uncertainties detailed in the Company's public periodic filings with the SEC, and the other factors listed under Item 8 under the heading *"Cautionary Note Regarding Forward-Looking Statements."* In addition, the Company Forecasts may be affected by the Company's ability to achieve strategic goals, objectives and targets over the applicable period. The assumptions upon which the Company Forecasts were based necessarily involve judgments with respect to, among other things, future economic, competitive and regulatory conditions and financial market conditions, all of which are difficult or impossible to predict and many of which are beyond the Company's control. In particular, the Company's acquisition case forecast assumes the availability of appropriate acquisition targets at prices and other terms acceptable to the Company, which cannot be assured. The Company

Forecasts also reflect assumptions as to certain business decisions that are subject to change.

Accordingly, there can be no assurance that the Company Forecasts will be realized, and actual results may vary materially from those shown. **The inclusion of the Company Forecasts in this Schedule 14D-9 should not be regarded as an indication that the Company or any of its affiliates of any of their respective, officers, directors, advisors or other representatives considered or now considers the Company Forecasts necessarily predictive of actual future events, and the Company Forecasts should not be relied upon as such.** None of the Company or its affiliates or any of their respective, officers, directors, advisors or other representatives can give any assurance that actual results will not differ from these Company Forecasts, and the Company undertakes no obligation to update or otherwise revise or reconcile the Company Forecasts to reflect circumstances existing after the date such Company Forecasts were generated or to reflect the occurrence of future events even in the event that any or all of the assumptions underlying the Company Forecasts are not realized. Neither the Company, nor, to the knowledge of the Company, Parent or Merger Sub intends to make publicly available any update or other revisions to these Company Forecasts. None of the Company or its affiliates or any of their respective, officers, directors, advisors or other representatives has made or makes any representation to any stockholder or other person regarding the ultimate performance of the Company compared to the information contained in the Company Forecasts or that forecasted results will be achieved. The Company has made no representation to Parent, in the Merger Agreement or otherwise, concerning these Company Forecasts.

The estimates of Adjusted EBITDA, Adjusted Net Income and Adjusted Diluted Net Income Per Share included in the Company Forecasts were calculated using GAAP and other measures which are derived from GAAP, but such estimates constitute non-GAAP financial measures within the meaning of applicable rules and regulations of the SEC. Non-GAAP financial measures should not be considered in isolation from, or as a substitute for, financial information presented in compliance with GAAP, and non-GAAP financial measures as used by the Company may not be comparable to similarly titled amounts used by other companies.

Management Projections—Base Case

($MM, except per share amounts)

	Fiscal Year					
	2016A	**2017E**	**2018E**	**2019E**	**2020E**	**2021E**
Net Sales	$ 1,568	$ 1,660	$ 1,708	$ 1,708	$ 1,791	$ 1,810
Adjusted EBITDA(1)	300	321	336	338	368	377
Operating Income	183	234	250	260	292	301
Adjusted Net Income(2)	124	108	115	120	139	145
Adjusted Diluted Net Income Per Share(3)	1.75	1.37	1.46	1.50	1.73	1.80

Net Debt	991	891	846	754	652	554

(1) Adjusted EBITDA represents net income before interest expense, income tax expense, depreciation and amortization, as well as certain non-cash and other adjustment items.
(2) Adjusted Net Income represents net income before, as applicable, the release of deferred tax asset valuation allowances, debt refinancing charges, impairment charges, restructuring expenses, sponsor fees and expenses, merger and acquisition expenses, public filing expenses and other adjustment items.
(3) Adjusted Diluted Net Income Per Share represents the diluted per share value of Adjusted Net Income.

Management Projections—Acquisition Case

($MM, except per share amounts)

	Fiscal Year					
	2016A	**2017E**	**2018E**	**2019E**	**2020E**	**2021E**
Net Sales	$ 1,568	$ 1,796	$ 2,006	$ 2,090	$ 2,256	$ 2,358
Adjusted EBITDA(1)	300	357	402	418	461	483
Operating Income	183	265	312	334	381	403
Adjusted Net Income(2)	124	126	150	162	191	204
Adjusted Diluted Net Income Per Share(3)	1.75	1.60	1.90	2.03	2.36	2.54
Net Debt	991	1,201	1,219	1,185	1,136	1,089

(1) Adjusted EBITDA represents net income before interest expense, income tax expense, depreciation and amortization, as well as certain non-cash and other adjustment items.
(2) Adjusted Net Income represents net income before, as applicable, the release of deferred tax asset valuation allowances, debt refinancing charges, impairment charges, restructuring expenses, sponsor fees and expenses, merger and acquisition expenses, public filing expenses and other adjustment items.
(3) Adjusted Diluted Net Income Per Share represents the diluted per share value of Adjusted Net Income.

Unlevered, after-tax free cash flows utilized by the Company's financial advisors per the Company's management was calculated based on the Company Forecasts described above as Adjusted EBITDA less stock-based compensation expense, cash taxes (after taking into account tax attributes of the Company, including use of net operating loss carryovers), capital expenditures, acquisitions (in the case of the Acquisition Case), increases in net working capital and payments to pre-IPO stockholders of the Company pursuant to the income tax receivable agreement

Material Omissions Concerning Credit Suisse's Financial Analyses

57. The Recommendation Statement describes Credit Suisse's fairness opinion and the various valuation analyses it performed in support of its opinion. However, the description of

Credit Suisse's fairness opinion and analyses fails to include key inputs and assumptions underlying these analyses. Without this information, as described below, Credit Suisse's public stockholders are unable to fully understand these analyses and, thus, are unable to determine what weight, if any, to place on Credit Suisse's fairness opinion in determining whether to tender their shares in favor of the Proposed Transaction. This omitted information, if disclosed, would significantly alter the total mix of information available to AdvancePierre's stockholders.

58. For example, with respect to Credit Suisse's *Selected Public Companies Analysis* , the Recommendation Statement fails to disclose: (a) the calendar year 2017 and calendar year 2018 estimated Adjusted EBITDA multiples observed for each of the selected public companies; and (b) whether Credit Suisse also derived an implied per share equity value reference range for the Company utilizing the Acquisition Case.

59. With respect to Credit Suisse's *Selected Precedent Transactions Analysis* , the Recommendation Statement fails to disclose: (a) the last twelve months Adjusted EBITDA multiples observed for each of the selected transactions; and (b) the last twelve months Adjusted EBITDA figure for AdvancePierre used in the analysis.

60. With respect to Credit Suisse's *Discounted Cash Flow Analysis* , the Recommendation Statement fails to disclose: (a) the inputs used to derive the range of discount rates of 6.0% to 7.0%; (b) the net present value of the Company's net tax attributes as reflected in information prepared by a third party consultant provided by the Company and taken into account by Credit Suisse in the analysis; and (c) the Company's 2021 estimated Adjusted EBITDA less stock-based compensation used by Credit Suisse to calculate the terminal values for the Company.

61. The omission of this information renders the following statements in the Recommendation Statement false and/or materially misleading in contravention of the Exchange

Act:

(a) From page 37 of the Recommendation Statement:

Selected Public Companies Analysis

Credit Suisse reviewed certain publicly available financial and stock market information relating to the Company and the following 11 selected companies that Credit Suisse considered generally relevant as publicly traded companies with operations in the branded and private label packaged food and/or protein industries (collectively, the "selected companies"):

- B&G Foods, Inc.
- Flowers Foods, Inc.
- Hormel Foods Corporation
- J&J Snack Foods Corp.
- Lamb Weston Holdings, Inc.
- Lancaster Colony Corporation
- Maple Leaf Foods, Inc.
- Pinnacle Foods Inc.
- Post Holdings, Inc.
- Treehouse Foods, Inc.
- Tyson Foods, Inc.

Credit Suisse reviewed, among other information, enterprise values, calculated as fully-diluted equity values based on closing stock prices on April 21, 2017, plus debt and minority interests (as applicable) and less cash and cash equivalents and equity investments (as applicable), as a multiple of calendar year 2017 and calendar year 2018 estimated Adjusted EBITDA less stock-based compensation expense to the extent such information was available to Credit Suisse. Financial data of the selected companies were based on publicly available research analysts' consensus estimates and public filings before taking into account, as applicable, publicly announced transactions pending as of the date of Credit Suisse's opinion. Financial data of the Company was based on the Base Case, publicly available research analysts' consensus estimates and public filings.

The overall low to high calendar year 2017 and calendar year 2018 estimated Adjusted EBITDA multiples observed for the selected companies were 8.1x to 14.9x (with a mean of 12.0x and a median of 12.3x) and 8.4x to 13.7x (with a mean of 11.3x and a median of 11.5x), respectively. Credit Suisse noted that the calendar year 2017 and calendar year 2018 estimated Adjusted EBITDA multiples observed for the Company based on its closing stock price on April 5, 2017 (the date on which the Company filed a registration statement in connection with a potential secondary equity offering) were 11.7x and 11.2x, respectively, based on publicly available research analysts' consensus estimates, and 11.3x and 10.8x, respectively, based on the Base Case. Credit Suisse then applied selected ranges of calendar year 2017 and calendar year 2018 estimated Adjusted EBITDA multiples of 10.25x to 12.25x and 10.0x to 11.75x, respectively, derived from the selected companies to corresponding data of the Company based on the Base Case. This analysis indicated the following approximate implied per Share equity value reference range for the Company, as compared to the per Share cash consideration:

Implied Per Share Equity Value Reference Range	Per Share Cash Consideration
$26.57 – $34.29	$40.25

(b) from pages 37-38 of the Recommendation Statement:

Selected Precedent Transactions Analysis

Credit Suisse reviewed publicly available financial information relating to the following 13 selected transactions that Credit Suisse considered generally relevant as transactions involving target companies or businesses with operations in the branded and private label packaged food and/or protein industries (collectively, the "selected transactions"):

Announcement Date	Acquiror	Target
April 2017	• Conyers Park Acquisition Corp.	• Atkins Nutritionals Holdings, Inc.
November 2016	• Charoen Pokphand Foods Public Company Limited	• Bellisio Foods, Inc.
July 2016	• Gores Holdings, Inc.	• Hostess Brands, LLC
November 2015	• Pinnacle Foods, Inc.	• Boulder Brands, Inc.
November 2015	• TreeHouse Foods, Inc.	• ConAgra Foods, Inc. (private label operations)
October 2015	• Snyder's-Lance, Inc.	• Diamond Foods, Inc.
February 2015	• J.M. Smucker Company	• Big Heart Pet Brands
June 2014	• Tyson Foods, Inc.	• The Hillshire Brands Company
April 2014	• Post Holdings, Inc.	• Michael Foods Group, Inc.
May 2013	• WH Group Limited	• Smithfield Foods, Inc.
February 2013	• Berkshire Hathaway/3G Capital	• H.J. Heinz Company
November 2012	• ConAgra Foods, Inc.	• Ralcorp Holdings, Inc.
November 2009	• Pinnacle Foods, Inc.	• Birds Eye Foods, Inc.

Credit Suisse reviewed, among other information, transaction values, based on the consideration paid in the selected transactions, plus debt and minority interests (as

applicable) and less cash and cash equivalents and equity investments (as applicable), as a multiple of the target companies' or business' latest 12 months Adjusted EBITDA as of the date of announcement of the transaction. Financial data of the selected transactions were based on public filings. Financial data of the Company was based on information relating to the Company provided by the management of the Company and public filings.

The overall low to high latest 12 months Adjusted EBITDA multiples observed for the selected transactions were 8.7x to 16.7x (with a mean of 12.5x and a median of 13.1x). Credit Suisse then applied a selected range of latest 12 months Adjusted EBITDA multiples of 11.0x to 14.0x derived from the selected transactions to the latest 12 months (as of March 31, 2017) Adjusted EBITDA of the Company based on information relating to the Company provided by the management of the Company. This analysis indicated the following approximate implied per Share equity value reference range for the Company, as compared to the per Share cash consideration:

Implied Per Share Equity Value Reference Range	**Per Share Cash Consideration**
$30.29 – $41.83	$40.25

(c) from pages 38-39 of the Recommendation Statement:

Discounted Cash Flow Analyses

Credit Suisse performed discounted cash flow analyses of the Company by calculating the estimated present value of the unlevered, after-tax free cash flows that the Company was forecasted to generate during the last three quarters of the fiscal year ending December 31, 2017 through the full fiscal year ending December 31, 2021 based both on the Base Case and the Acquisition Case. For purposes of this analysis, stock-based compensation was treated as a cash expense and the net present value of the Company's net tax attributes as reflected in information prepared by a third party consultant provided by the Company were taken into account. Credit Suisse calculated terminal values for the Company by applying to the Company's fiscal year 2021 estimated Adjusted EBITDA less stock-based compensation expense a selected range of latest 12 months Adjusted EBITDA multiples of 10.5x to 12.5x based on Credit Suisse's professional judgment and after taking into account, among other things, observed latest 12 months Adjusted EBITDA multiples of the selected companies. The present values (as of March 31, 2017) of the cash flows and terminal values were then calculated using a selected range of discount rates of 6.0% to 7.0% derived from a weighted average cost of capital calculation. This analysis indicated the following approximate implied per Share equity value reference ranges for the Company based on the Base Case and the Acquisition Case, respectively, as compared to the per Share cash consideration:

Implied Per Share Equity Value Reference Ranges Based On:

Base Case	Acquisition Case	Per Share Cash Consideration
$31.17 – $39.79	$35.93– $46.97	$40.25

62. Without such undisclosed information, AdvancePierre stockholders cannot evaluate for themselves whether the financial analyses performed by Credit Suisse were based on reliable inputs and assumptions or whether they were prepared with an eye toward ensuring that a positive fairness opinion could be rendered in connection with the Proposed Transaction. In other words, full disclosure of the omissions identified above is required in order to ensure that stockholders can fully evaluate the extent to which Credit Suisse's opinion and analyses should factor into their decision whether to tender their shares in support of the Proposed Transaction.

Material Omissions Concerning Moelis' Financial Analyses

63. The Recommendation Statement describes Moelis' fairness opinion and the various valuation analyses it performed in support of its opinion. However, the description of Moelis' fairness opinion and analyses fails to include key inputs and assumptions underlying these analyses. Without this information, as described below, Moelis' public stockholders are unable to fully understand these analyses and, thus, are unable to determine what weight, if any, to place on Moelis' fairness opinion in determining whether to tender their shares in favor of the Proposed Transaction. This omitted information, if disclosed, would significantly alter the total mix of information available to AdvancePierre's stockholders.

64. For example, with respect to Moelis' *Discounted Cash Flow Analysis* , the Recommendation Statement fails to disclose: (a) the inputs used to derive the range of discount rates of 6.5% to 8.5%; and (b) quantification of the cash flows related to tax attributes of the Company and related payments owed under the Company's income tax receivable agreement.

65. The omission of this information renders the following statements in the

Recommendation Statement false and/or materially misleading in contravention of the Exchange Act:

(a) from page 45 of the Recommendation Statement:

Discounted Cash Flow Analysis. Moelis performed a discounted cash flow

("DCF") analysis of the Company using financial forecasts and other information and data provided by the Company's management (which includes the Company's projected acquisition during the forecast period) to calculate the present value of the estimated future unlevered free cash flows projected to be generated by the Company. In performing the DCF analysis of the Company, Moelis utilized a range of discount rates of 6.5% to 8.5%, based on an estimated weighted average cost of capital ("WACC") for the Company using the Capital Asset Pricing Model to review the estimated WACC for certain of the selected companies described above under "—Selected Publicly Traded Companies Analysis," and using a size premium applicable to the Company, to calculate estimated present values as of June 30, 2017 of (i) the Company's estimated after-tax unlevered free cash flows for July 1, 2017 through December 31, 2021, and (ii) estimated terminal values derived by applying a range of multiples of 10.0x to 12.5x to the Company's terminal year Adjusted EBITDA. Moelis noted that next twelve months trading multiples for Adjusted EBITDA for the selected publicly traded companies above ranged from approximately 6.0x to 12.0x over the prior ten years. Moelis also noted that there has been an increase in acquisition activity in recent years in the industry. Moelis used the current range of multiples as identified in the selected publicly traded companies analysis above of 10.0x to 12.5x estimated Adjusted EBITDA for calendar year 2017 because such multiple range reflected a premium for the acquisition growth strategies of the selected companies in an active acquisitions period, and, therefore, incorporates the value of the Company's projected acquisitions. Moelis also noted that the range of implied perpetuity growth rates based on the selected terminal multiples range was 2.8% to 5.5%. The unlevered free cash flow projections utilized in the DCF analysis took into account the cash flows related to tax attributes of the Company and related payments owed under the Company's income tax receivable agreement and treated stock-based compensation as a cash expense.

This analysis indicated the following implied per share reference range for the Company, as compared to the $40.25 per share consideration:

Implied Per Share Reference Range	Consideration
$34.50 – $49.85	$40.25

66. Without such undisclosed information, AdvancePierre stockholders cannot evaluate for themselves whether the financial analyses performed by Moelis were based on reliable

inputs and assumptions or whether they were prepared with an eye toward ensuring that a positive fairness opinion could be rendered in connection with the Proposed Transaction. In other words, full disclosure of the omissions identified above is required in order to ensure that stockholders can fully evaluate the extent to which Moelis' opinion and analyses should factor into their decision whether to tender their shares in support of the Proposed Transaction.

Material Omissions Concerning the Flawed Process

67. The Recommendation Statement also fails to disclose or misstates material information relating to the background process leading up to the Proposed Transaction, including:

(a) Whether the non-disclosure agreement executed between the Company and Party A contained a standstill provision that is still in effect;

(b) Whether defendant Wilson or Oaktree initiated any discussions with Tyson or its financial advisor, Morgan Stanley, regarding a sale of the Company, prior to Morgan Stanley's April 4, 2017 outreach to Wilson indicating Tyson's interest in potentially acquiring the Company;

(c) Information concerning any negotiations related to the TRA Settlement Amount following the April 7, 2017 indication that Tyson assumed the TRA Settlement amount was approximately $200.00 million as well as any final agreed-upon TRA Settlement Amount;

(d) The aggregate amount of the payment the Oaktree Holders stand to receive in connection with the TRA;

(e) Whether the Transactions Committee formed by the Board has a charter and, if so, the specific duties of the Transactions Committee set forth in the charter;

(f) Whether the Board discussed the propriety of placing directors affiliated with Oaktree on the Transactions Committee;

(g) The specific adjustments incorporated into the Management Plan based upon comments made by the Transactions Committee on April 14, 2017, after management presented to the Transactions Committee its long-term financial projections and forecasts for the Company;

(h) The Company's future prospects as a standalone entity discussed by the Board at its April 18, 2017 meeting;

(i) The specific reasons for the Board's view on April 20, 2017, after considering input from its management and financial advisors, that "Potential Acquirors" might not pursue a transaction with the Company at that time.

68. Defendants' failure to provide AdvancePierre stockholders with the foregoing material information renders the statements in the "Background and Reasons for the Company Board's Recommendation" section of the Recommendation Statement false and/or materially misleading and constitutes a violation of Sections 14(d)(4), 14(e) and 20(a) of the Exchange Act, and SEC Rule 14d-9 promulgated thereunder. The Individual Defendants were aware of their duty to disclose this information and acted negligently (if not deliberately) in failing to include this information in the Recommendation Statement. Absent disclosure of the foregoing material information prior to the expiration of the Offer, Plaintiff and the other members of the Class will be unable to make a fully-informed decision whether to tender their shares in favor of the Proposed Transaction and are thus threatened with irreparable harm warranting the injunctive relief sought herein.

CLAIMS FOR RELIEF

COUNT I

Class Claims Against All Defendants for Violations of Section 14(d) of the Exchange Act and SEC Rule 14d-9

69. Plaintiff repeats all previous allegations as if set forth in full.

70. Defendants have caused the Recommendation Statement to be issued with the intention of soliciting AdvancePierre stockholders to tender their shares in the Tender Offer.

71. Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder require full and complete disclosure in connection with tender offers.

72. The Recommendation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits material facts, including those set forth above, which omission renders the Recommendation Statement false and/or misleading.

73. Defendants knowingly or with deliberate recklessness omitted the material information identified above from the Recommendation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the Proposed Transaction, they allowed it to be omitted from the Recommendation Statement, rendering certain portions of the Recommendation Statement materially incomplete and therefore misleading.

74. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff and the Class, who will be deprived of their right to make an informed decision whether to tender their shares if such misrepresentations and omissions are not corrected prior to the expiration of the Offer. Plaintiff and the Class have no adequate remedy at law. Only through

the exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury that defendants' actions threaten to inflict.

COUNT II

Class Claims Against All Defendants for Violations of Section 14(e) of the Exchange Act

75. Plaintiff repeats all previous allegations as if set forth in full.

76. Defendants violated Section 14(e) of the Exchange Act by issuing the Recommendation Statement in which they made untrue statements of material facts or failed to state all material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engaged in deceptive or manipulative acts or practices, in connection with the Tender Offer.

77. Defendants knew that Plaintiff would rely upon their statements in the Recommendation Statement in determining whether to tender his shares pursuant to the Tender Offer.

78. As a direct and proximate result of these defendants' unlawful course of conduct in violation of Section 14(e) of the Exchange Act, absent injunctive relief from the Court, Plaintiff has sustained and will continue to sustain irreparable injury by being denied the opportunity to make an informed decision in deciding whether or not to tender his shares.

COUNT III

Class Claims Against the Individual Defendants for Violation of Section 20(a) of the Exchange Act

79. Plaintiff repeats all previous allegations as if set forth in full.

80. The Individual Defendants acted as controlling persons of AdvancePierre within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers or directors of AdvancePierre and participation in or awareness of the Company's

operations or intimate knowledge of the false statements contained in the Recommendation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading.

81. Each of the Individual Defendants was provided with or had unlimited access to copies of the Recommendation Statement and other statements alleged by Plaintiff to be misleading prior to or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

82. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The Recommendation Statement at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. They were, thus, directly involved in the making of this document.

83. In addition, as the Recommendation Statement sets forth at length, and as described herein, the Individual Defendants were each involved in negotiating, reviewing, and approving the Proposed Transaction. The Recommendation Statement purports to describe the various issues and information that they reviewed and considered — descriptions which had input from the Individual Defendants.

84. By virtue of the foregoing, the Individual Defendants have violated section 20(a) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in his favor on behalf of AdvancePierre, and against defendants, as follows:

A. Ordering that this action may be maintained as a class action and certifying Plaintiff as the Class representative and Plaintiff's counsel as Class counsel;

B. Preliminarily and permanently enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

C. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to Plaintiff and the Class;

D. Awarding Plaintiff the costs of this action, including reasonable allowance for Plaintiff's attorneys' and experts' fees; and

E. Granting such other and further relief as this Court may deem just and proper.

DATED: May 12, 2017

/s/ John C. Camillus
John C. Camillus (0077435)
Law Office of John C. Camillus, LLC
P.O. Box 141410
Columbus, Ohio 43214
(614) 558-7254
(614) 559-6731 (Facsimile)
jcamillus@camilluslaw.com

Counsel for Plaintiff

OF COUNSEL:

WEISSLAW LLP
Richard A. Acocelli (pro hac vice forthcoming)
Michael A. Rogovin (pro hac vice forthcoming)
Kelly C. Keenan (pro hac vice forthcoming)
1500 Broadway, 16th Floor
New York, New York 10036
Tel: (212) 682-3025
Fax: (212) 682-3010
racocelli@weisslawllp.com
mrogovin@weisslawllp.com
kkeenan@weisslawllp.com

Counsel for Plaintiff

JURY DEMAND

Plaintiff requests a trial by jury.

/s/ John C. Camillus
John C. Camillus

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PAUL PARSHALL, On Behalf of Himself and All Others Similarly Situated, Plaintiff, v. ADVANCEPIERRE FOODS HOLDINGS, INC., DEAN HOLLIS, CELESTE A. CLARK, PETER C. DILLINGHAM, STEPHEN A. KAPLAN, GARY L. PERLIN, MATTHEW C. WILSON, JOHN N. SIMONS, JR., CHRISTOPHER D. SLIVA, TYSON FOODS, INC., and DVB MERGER SUB, INC., Defendants,	)	Case No. _____ Judge _____ CLASS ACTION DEMAND FOR JURY TRIAL

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia* , the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from a proposed transaction announced on April 25, 2017 (the "Proposed Transaction"), pursuant to which AdvancePierre Foods Holdings, Inc. ("AdvancePierre" or the "Company") will be acquired by Tyson Foods, Inc. ("Parent") and its wholly-owned subsidiary, DVB Merger Sub, Inc. ("Merger Sub," and together with Parent, "Tyson").

2. On April 25, 2017, AdvancePierre's Board of Directors (the "Board" or "Individual Defendants") caused the Company to enter into an agreement and plan of merger (the "Merger Agreement") with Tyson. Pursuant to the terms of the Merger Agreement, Tyson commenced a

tender offer, set to expire on June 6, 2017, and stockholders of AdvancePierre will receive $40.25 per share in cash.

3. On May 9 2017, defendants filed a Solicitation/Recommendation Statement (the "Solicitation Statement") with the United States Securities and Exchange Commission ("SEC") in connection with the Proposed Transaction.

4. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(e), 14(d), and 20(a) of the Securities Exchange Act of 1934 (the "1934 Act") in connection with the Solicitation Statement, and that the close of the tender offer should be enjoined until defendants disclose the material information sought herein.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(e), 14(d), and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391 because a substantial portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the

owner of AdvancePierre common stock.

9. Defendant AdvancePierre is a Delaware corporation and maintains its principal executive offices at 9987 Carver Road, Blue Ash, Ohio 45242. AdvancePierre's common stock is traded on the NYSE under the ticker symbol "APFH."

10. Defendant Dean Hollis ("Hollis") has served as a director of AdvancePierre since 2008 and is Chairman of the Board. According to the Company's website, Hollis is a member of the Compensation Committee and the Nominating and Corporate Governance Committee.

11. Defendant Celeste A. Clark ("Clark") has served as a director of AdvancePierre since February 2016. According to the Company's website, Clark is Chair of the Nominating and Corporate Governance Committee and a member of the Audit Committee.

12. Defendant Peter C. Dillingham ("Dillingham") has served as a director of AdvancePierre since 2014. According to the Company's website, Dillingham is a member of the Compensation Committee and the Nominating and Corporate Governance Committee.

13. Defendant Stephen A. Kaplan ("Kaplan") has served as a director of AdvancePierre since 2008.

14. Defendant Gary L. Perlin ("Perlin") has served as a director of AdvancePierre since March 2016. According to the Company's website, Perlin is Chair of the Audit Committee and Chair of the Compensation Committee.

15. Defendant Matthew C. Wilson ("Wilson") has served as a director of AdvancePierre since 2008. According to the Company's website, Wilson is a member of the Audit Committee and the Compensation Committee.

16. Defendant John N. Simons, Jr. ("Simons") has served as a director and Chief Executive Officer ("CEO") of AdvancePierre since October 2013.

17. Defendant Christopher D. Sliva ("Sliva") has served as a director and President of AdvancePierre since November 2016.

18. The defendants identified in paragraphs 10 through 17 are collectively referred to herein as the "Individual Defendants."

19. Defendant Parent is a Delaware corporation and a party to the Merger Agreement.

20. Defendant Merger Sub is a Delaware corporation, a wholly-owned subsidiary of Parent, and a party to the Merger Agreement.

CLASS ACTION ALLEGATIONS

21. Plaintiff brings this action as a class action on behalf of himself and the other public stockholders of AdvancePierre (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

22. This action is properly maintainable as a class action.

23. The Class is so numerous that joinder of all members is impracticable. As of April 21, 2017, there were approximately 78,664,929 shares of Company common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

24. Questions of law and fact are common to the Class, including, among others: (i) whether defendants violated the 1934 Act; and (ii) whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

25. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

26. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for defendants, or adjudications that would, as a practical matter, be dispositive of the interests of individual members of the Class who are not parties to the adjudications or would substantially impair or impede those non-party Class members' ability to protect their interests.

27. Defendants have acted, or refused to act, on grounds generally applicable to the Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on behalf of the Class is appropriate.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

28. AdvancePierre is a leading national producer and distributor of value-added, convenient, ready-to-eat sandwiches, sandwich components, and other entrées and snacks to a wide variety of distribution outlets including foodservice, retail, and convenience store providers.

29. The Company offers a broad line of products across all day parts including ready-to-eat sandwiches, such as breakfast sandwiches, peanut butter and jelly sandwiches, and hamburgers; sandwich components, such as fully cooked hamburger and chicken patties, and Philly steaks; and other entrées and snacks, such as country-fried steak, stuffed entrées, chicken tenders, and cinnamon dough bites.

30. On March 9, 2017, AdvancePierre issued a press release wherein it reported its financial results for the fourth quarter and full year ended December 31, 2016.

31. For the fourth quarter, GAAP net income was $33.1 million, or $0.42 per diluted share, and adjusted net income was $42.0 million, or $0.53 per diluted share. Net sales were $409.4 million, which included organic core volume growth of 5.7%, and adjusted EBITDA was

$81.2 million.

32. For the full year 2016, GAAP net income was $136.3 million, or $1.90 per diluted share, and adjusted net income was $124.4 million, or $1.73 per diluted share. Net sales were $1.568 billion, which included organic core volume growth of 2.5%, and adjusted EBITDA was $300.2 million.

33. With respect to the financial results, Individual Defendant Simons commented:

> Our fourth quarter results were highlighted by profitable growth in each of our three core segments, strong cash flow generation, and the completion of another strategic business acquisition[.] In 2016 we delivered on our commitments to achieve solid organic growth, increase earnings, and deploy cash flow to reward our shareholders with an attractive dividend.

34. Additionally, Individual Defendant Sliva commented: "We plan to continue to invest in highly accretive acquisitions and reduce leverage[.] Our growth trajectory sets us apart from the broader food industry and we are well positioned to continue our momentum driven by execution of our continuous improvement process, 'the APF Way', in 2017 and beyond."

35. Nevertheless, the Board caused the Company to enter into the Merger Agreement, pursuant to which AdvancePierre will be acquired for inadequate consideration.

36. The Individual Defendants have all but ensured that another entity will not emerge with a competing proposal by agreeing to a "no solicitation" provision in the Merger Agreement that prohibits the Individual Defendants from soliciting alternative proposals and severely constrains their ability to communicate and negotiate with potential buyers who wish to submit or have submitted unsolicited alternative proposals. Sections 7.03(a) and (g) of the Merger Agreement provide:

> (a) General Prohibitions. From and after the date hereof until the earlier to occur of the Acceptance Time or the date of termination of this Agreement in accordance with Article 11, neither the Company nor any of its Subsidiaries shall, nor shall the Company or any of its Subsidiaries authorize or permit any of its or their officers,

directors, employees, investment bankers, attorneys, accountants, consultants or other agents, advisors or other representatives ("Representatives") to, directly or indirectly, (i) solicit, initiate or knowingly take any action to facilitate or encourage the submission of any Acquisition Proposal, (ii) enter into, engage in or participate in any discussions or negotiations with, furnish any nonpublic information relating to the Company or any of its Subsidiaries or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to, otherwise knowingly cooperate in any way with, or knowingly assist, participate in, facilitate or encourage any effort by any Third Party that is seeking to make, or has made, an Acquisition Proposal, (iii) (A) qualify, withdraw or modify in a manner adverse to Parent or Merger Sub, or propose publicly to qualify, withdraw or modify the Company Board Recommendation, (B) adopt, endorse, approve or recommend, or propose publicly to adopt, endorse, approve or recommend, any Acquisition Proposal, or resolve to take any such action, (C) publicly make any recommendation in connection with a tender offer or exchange offer (other than the Offer) other than a recommendation against such offer or a temporary "stop, look and listen" communication by the Board of Directors of the type contemplated by Rule 14d-9(f) under the 1934 Act; (D) other than with respect to a tender or exchange offer described in clause (C), following the date any Acquisition Proposal or any material modification thereto is first made public, fail to issue a press release reaffirming the Company Board Recommendation within ten Business Days after a request by Parent to do so (provided the Company shall not be required to issue more than one such press release in response to any Acquisition Proposal or any material modification thereto) or (E) fail to include the Company Board Recommendation in the Schedule 14D-9 when disseminated to the Company's stockholders (any of the foregoing in this clause (iii), an " Adverse Recommendation Change"), or (iv) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, option agreement or other Contract relating to an Acquisition Proposal. It is agreed that any violation of the restrictions on the Company set forth in this Section by any Subsidiary of the Company or any Representative of the Company or any of its Subsidiaries shall be a breach of this Section by the Company.

(g) Obligation of the Company to Terminate Existing Discussions. The Company shall, and shall cause its Subsidiaries and its and their Representatives to, cease immediately and cause to be terminated any and all existing activities, discussions or negotiations, if any, with any Third Party and its Representatives and its financing sources and shall promptly request that each such Third Party, if any, shall promptly return or destroy all confidential information heretofore furnished to such Person by or on behalf of the Company or any of its Subsidiaries (and all analyses and other materials prepared by or on behalf of such Person that contains, reflects or analyzes that information). If received by the Company, the Company shall provide to Parent all certifications of such return or destruction from such other Persons as promptly as practicable after receipt thereof.

37. Further, the Company must promptly advise Tyson of any proposals or inquiries

received from other parties. Section 7.03(d) of the Merger Agreement states:

> (d) Required Notices. The Company shall notify Parent promptly (but in no event later than 24 hours) after receipt by the Company (or any of its Representatives) of any Acquisition Proposal or any request for nonpublic information relating to the Company or any of its Subsidiaries in connection with any such Acquisition Proposal (or for the purpose of facilitating the submission of an Acquisition Proposal) or request for access to the business, properties, assets, books or records of the Company or any of its Subsidiaries by any Third Party that has made an Acquisition Proposal or that has made such request for the purpose of facilitating the submission of an Acquisition Proposal. The Company shall provide such notice orally and in writing and shall identify the Third Party making, and the material terms and conditions of, any such Acquisition Proposal. The Company shall keep Parent reasonably informed, on a reasonably prompt basis, of the status of any such Acquisition Proposal and shall promptly (but in no event later than 24 hours after receipt) provide to Parent copies of all correspondence and written materials sent by or provided to the Company or any of its Subsidiaries or any of their respective Representatives that describes the material terms or conditions of any Acquisition Proposal (as well as written summaries of any oral communications addressing such matters). Any material amendment to any Acquisition Proposal will be deemed to be a new Acquisition Proposal for purposes of the Company's compliance with this Section 7.03(d).

38. Moreover, the Merger Agreement contains a highly restrictive "fiduciary out" provision permitting the Board to withdraw its approval of the Proposed Transaction under extremely limited circumstances, and grants Tyson a "matching right" with respect to any "Superior Proposal" made to the Company. Section 7.03(e) of the Merger Agreement states:

> (e) "Last Look". Further, the Board of Directors shall not make an Adverse Recommendation Change or terminate this Agreement pursuant to Section 11.01(d)(i), unless (i) the Company notifies Parent in writing, at least five Business Days before taking that action, of its intention to do so, specifying in reasonable detail the reasons for such Adverse Recommendation Change and/or such termination, attaching (A) in the case of an Adverse Recommendation Change to be made in connection with a Superior Proposal or a termination of this Agreement pursuant to Section 11.01(d)(i), the most current version of the proposed agreement under which a Superior Proposal is proposed to be consummated and the identity of the third party making the Acquisition Proposal, or (B) in the case of an Adverse Recommendation Change to be made pursuant to an Intervening Event, a reasonably detailed description of the reasons for making such Adverse Recommendation Change, (ii) the Company has negotiated, and has caused its Representatives to negotiate, in good faith with Parent during such notice period any revisions to the terms of this Agreement that Parent proposes and has not

withdrawn in response to such Superior Proposal and that would be binding on Parent if accepted by the Company and (iii) following the end of such notice period, the Board of Directors shall have determined, in consultation with outside legal counsel and its independent financial advisor, and giving due consideration to such revisions proposed by Parent, that (A) in the case of an Adverse Recommendation Change to be made in connection with a Superior Proposal or a termination of this Agreement pursuant to Section 11.01(d)(i), such Superior Proposal would nevertheless continue to constitute a Superior Proposal (assuming such revisions proposed by Parent were to be given effect) (it being understood and agreed that any amendment to the financial terms or other material terms of such Superior Proposal shall require a new written notification from the Company and a new three Business Day period under this Section 7.03(e)) and (B) in the case of an Adverse Recommendation Change to be made pursuant to an Intervening Event, obviates the need for such recommendation change, and in either case, the Board of Directors determines in good faith, after consultation with outside legal counsel, that failure to take such action would be inconsistent with its fiduciary duties under Delaware Law.

39. Further locking up control of the Company in favor of Tyson, the Merger Agreement provides for a "termination fee" of $100 million payable by the Company to Tyson if the Individual Defendants cause the Company to terminate the Merger Agreement.

40. By agreeing to all of the deal protection devices, the Individual Defendants have locked up the Proposed Transaction and have precluded other bidders from making successful competing offers for the Company.

41. Additionally, Parent and Merger Sub entered into a tender and support agreement (the "Support Agreement") with the principal stockholder of the Company, Oaktree Capital Management, L.P. and its affiliates ("Oaktree"), which beneficially own approximately 42% of the outstanding shares of Company common stock. Pursuant to the Support Agreement, Oaktree has agreed to tender its shares in the tender offer. Accordingly, such shares are already locked up in favor of the Proposed Transaction.

42. The merger consideration to be paid to plaintiff and the Class in the Proposed Transaction is inadequate.

43. Among other things, the intrinsic value of the Company is materially in excess of the amount offered in the Proposed Transaction.

44. The merger consideration also fails to adequately compensate the Company's stockholders for the significant synergies that will result from the merger.

45. The analyses performed by the Company's own financial advisors, Credit Suisse Securities (USA) LLC ("Credit Suisse") and Moelis & Company LLC ("Moelis"), confirm the inadequacy of the merger consideration. For example, Moelis's *Discounted Cash Flow Analysis* yielded implied per share values for the Company as high as $49.85. Additionally, Credit Suisse's *Discounted Cash Flow Analyses* yielded implied per share values for the Company as high as $46.97.

46. Accordingly, the Proposed Transaction will deny Class members their right to share proportionately and equitably in the true value of the Company's valuable and profitable business, and future growth in profits and earnings.

The Solicitation Statement Omits Material Information, Rendering It False and Misleading

47. Defendants filed the Solicitation Statement with the SEC in connection with the Proposed Transaction.

48. The Solicitation Statement omits material information regarding the Proposed Transaction, which renders the Solicitation Statement false and misleading.

49. First, the Solicitation Statement omits material information regarding the Company's financial projections and the financial analyses performed by the Company's financial advisors, Credit Suisse and Moelis.

50. With respect to the Company's financial projections, the Solicitation Statement fails to disclose: unlevered, after-tax free cash flows; stock-based compensation expense; cash

taxes; net operating losses; capital expenditures; acquisitions; increases in net working capital; payments to pre-IPO stockholders of the Company; interest expense; income tax expense; depreciation and amortization; non-cash and other adjustment items; deferred tax asset valuation allowances; debt refinancing charges; impairment charges; restructuring expenses; sponsor fees and expenses; merger and acquisition expenses; public filing expenses; the "comments [to the "Management Plan"] from the Transactions Committee" provided on April 14, 2017; and a reconciliation of all non-GAAP to GAAP metrics.

51. The Solicitation Statement further fails to disclose the Company's current estimated value of the "TRA Settlement Amount," the value ascribed to it by Parent in connection with the Proposed Transaction, and who will ultimately receive such payment.

52. With respect to Credit Suisse's *Discounted Cash Flow Analyses* , the Solicitation Statement fails to disclose: (i) the unlevered, after-tax free cash flows that the Company was forecasted to generate during the last three quarters of the fiscal year ending December 31, 2017 through the full fiscal year ending December 31, 2021, and the constituent line items; (ii) the net present value of the Company's net tax attributes; (iii) the terminal values for the Company; and (iv) the inputs underlying the discount rate range of 6.0% to 7.0%.

53. With respect to Credit Suisse's *Selected Public Companies Analysis* , the Solicitation Statement fails to disclose the individual multiples and financial metrics for the companies observed by Credit Suisse in the analysis.

54. With respect to Credit Suisse's *Selected Precedent Transactions Analysis* , the Solicitation Statement fails to disclose the individual multiples and financial metrics for the transactions observed by Credit Suisse in the analysis.

55. With respect to Moelis's *Discounted Cash Flow Analysis* , the Solicitation

Statement fails to disclose: (i) the Company's estimated after-tax unlevered free cash flows for July 1, 2017 through December 31, 2021, and the constituent line items; (ii) the estimated terminal values; (iii) the cash flows related to tax attributes of the Company and related payments owed under the Company's income tax receivable agreement; and (iv) the inputs underlying the discount rate range of 6.5% to 8.5%.

56. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion. Moreover, when a banker's endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed.

57. The omission of this material information renders the Solicitation Statement false and misleading, including, *inter alia* , the following section of the Solicitation Statement: "Item 4. The Solicitation or Recommendation."

58. Second, the Solicitation Statement omits material information regarding potential conflicts of interest of the Company's officers and directors.

59. Specifically, the Solicitation Statement fails to disclose the timing and nature of all communications regarding future employment and/or directorship of AdvancePierre's officers and directors, including who participated in all such communications.

60. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for stockholders to understand potential conflicts of interest of management and the Board, as that

information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company's stockholders.

61. The omission of this material information renders the Solicitation Statement false and misleading, including, *inter alia* , the following sections of the Solicitation Statement: (i) "Item 3. Past Contacts, Transactions, Negotiations and Agreements"; and (ii) "Item 4. The Solicitation or Recommendation."

62. Third, the Solicitation Statement omits material information regarding the background of the Proposed Transaction. The Company's stockholders are entitled to an accurate description of the process the directors used in coming to their decision to support the Proposed Transaction.

63. The Solicitation Statement fails to disclose the terms and values of the seven indications of interest received by the Company in 2015, as well as the terms and value of "Party A's" proposal.

64. The Solicitation Statement also fails to disclose the "third party consultant" that prepared information for AdvancePierre regarding obligations under the tax receivable agreement, the nature of the services provided by the consultant in connection with the Proposed Transaction, the amount of compensation received or to be received by the consultant for such services, whether the consultant has performed past services for the Company, Tyson, Oaktree, or their affiliates, and the amount of compensation received for any such services.

65. The omission of this material information renders the Solicitation Statement false and misleading, including, *inter alia* , the following section of the Solicitation Statement: "Item 4. The Solicitation or Recommendation."

66. Fourth, the Solicitation Statement omits material information regarding potential

conflicts of interest of Moelis and Credit Suisse.

67. For example, the Solicitation Statement fails to disclose whether Moelis has provided services to the Company or its affiliates in the past, as well as the amount of compensation received by Moelis for such services.

68. The Solicitation Statement fails to disclose the amount of compensation received by Credit Suisse for providing lender services under certain credit facilities of Oaktree and related entities.

69. Additionally, the Solicitation Statement fails to disclose Moelis's and Credit Suisse's holdings in Tyson and its affiliates' stock.

70. Full disclosure of investment banker compensation and all potential conflicts is required due to the central role played by investment banks in the evaluation, exploration, selection, and implementation of strategic alternatives.

71. The omission of this material information renders the Solicitation Statement false and misleading, including, *inter alia* , the following section of the Solicitation Statement: "Item 4. The Solicitation or Recommendation."

72. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to AdvancePierre's stockholders.

COUNT I

(Claim for Violation of Section 14(e) of the 1934 Act Against Defendants)

73. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

74. Section 14(e) of the 1934 Act states, in relevant part, that:

> It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

75. Defendants disseminated the misleading Solicitation Statement, which contained statements that, in violation of Section 14(e) of the 1934 Act, in light of the circumstances under which they were made, omitted to state material facts necessary to make the statements therein not misleading.

76. The Solicitation Statement was prepared, reviewed, and/or disseminated by defendants.

77. The Solicitation Statement misrepresented and/or omitted material facts in connection with the Proposed Transaction as set forth above.

78. By virtue of their positions within the Company and/or roles in the process and the preparation of the Solicitation Statement, defendants were aware of this information and their duty to disclose this information in the Solicitation Statement.

79. The omissions in the Solicitation Statement are material in that a reasonable shareholder will consider them important in deciding whether to tender their shares in connection with the Proposed Transaction. In addition, a reasonable investor will view a full and accurate disclosure as significantly altering the total mix of information made available.

80. Defendants knowingly or with deliberate recklessness omitted the material information identified above in the Solicitation Statement, causing statements therein to be materially incomplete and misleading.

81. By reason of the foregoing, defendants violated Section 14(e) of the 1934 Act.

82. Because of the false and misleading statements in the Solicitation Statement, plaintiff and the Class are threatened with irreparable harm.

83. Plaintiff and the Class have no adequate remedy at law.

COUNT II

(Claim for Violation of 14(d) of the 1934 Act Against Defendants)

84. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

85. Section 14(d)(4) of the 1934 Act states:

> Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

86. Rule 14d-9(d) states, in relevant part:

> Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

Item 8 requires that directors must "furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading."

87. The Solicitation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits the material facts set forth above, which renders the Solicitation Statement false and/or misleading.

88. Defendants knowingly or with deliberate recklessness omitted the material information set forth above, causing statements therein to be materially incomplete and misleading.

89. The omissions in the Solicitation Statement are material to plaintiff and the Class, and they will be deprived of their entitlement to make a fully informed decision with respect to the Proposed Transaction if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer.

90. Plaintiff and the Class have no adequate remedy at law.

COUNT III

(Claim for Violation of Section 20(a) of the 1934 Act Against the Individual Defendants and Tyson)

91. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

92. The Individual Defendants and Tyson acted as controlling persons of AdvancePierre within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as officers and/or directors of AdvancePierre and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that plaintiff contends are false and misleading.

93. Each of the Individual Defendants and Tyson was provided with or had unlimited access to copies of the Solicitation Statement alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause them to be corrected.

94. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Solicitation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly connected with and involved in the making of the Solicitation Statement.

95. Tyson also had direct supervisory control over the composition of the Solicitation

Statement and the information disclosed therein, as well as the information that was omitted and/or misrepresented in the Solicitation Statement.

96. By virtue of the foregoing, the Individual Defendants and Tyson violated Section 20(a) of the 1934 Act.

97. As set forth above, the Individual Defendants and Tyson had the ability to exercise control over and did control a person or persons who have each violated Section 14(e) of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act.

98. As a direct and proximate result of defendants' conduct, plaintiff and the Class are threatened with irreparable harm.

99. Plaintiff and the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

A. Enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;

C. Directing the Individual Defendants to file a Solicitation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

D. Declaring that defendants violated Sections 14(e), 14(d), and 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

E. Awarding plaintiff the costs of this action, including reasonable allowance for

plaintiff's attorneys' and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: May 15, 2017

LAW OFFICE OF JOHN C. CAMILLUS, LLC

By: /s/ John C. Camillus

John C. Camillus (0077435)
P.O. Box 141410
Columbus, Ohio 43214
(614) 558-7254
(614) 559-6731 (Facsimile)
jcamillus@camilluslaw.com

Attorneys for Plaintiff

OF COUNSEL:

RIGRODSKY & LONG, P.A.
Brian D. Long
Gina M. Serra
2 Righter Parkway, Suite 120
Wilmington, DE 19803
(302) 295-5310

Pro hac vice motions forthcoming

RM LAW, P.C.
Richard A. Maniskas
1055 Westlakes Drive, Suite 3112
Berwyn, PA 19312
(484) 324-6800

Pro hac vice motion forthcoming

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Paul Parshall

(b) County of Residence of First Listed Plaintiff N/A
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Law Offices of John C. Camillus, LLC PO Box 141410
Columbus, OH 43214 614-558-7254 jcamillus@camilluslaw.com

DEFENDANTS

AdvancePierre Food Holdings, Inc., et al.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ■ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ■ 2 U.S. Government Defendant
- ■ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	■ 1	■ 1	Incorporated or Principal Place of Business In This State	■ 4	■ 4
Citizen of Another State	■ 2	■ 2	Incorporated *and* Principal Place of Business In Another State	■ 5	■ 5
Citizen or Subject of a Foreign Country	■ 3	■ 3	Foreign Nation	■ 6	■ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ■ 110 Insurance
- ■ 120 Marine
- ■ 130 Miller Act
- ■ 140 Negotiable Instrument
- ■ 150 Recovery of Overpayment & Enforcement of Judgment
- ■ 151 Medicare Act
- ■ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ■ 153 Recovery of Overpayment of Veteran's Benefits
- ☒ 160 Stockholders' Suits
- ■ 190 Other Contract
- ■ 195 Contract Product Liability
- ■ 196 Franchise

REAL PROPERTY
- ■ 210 Land Condemnation
- ■ 220 Foreclosure
- ■ 230 Rent Lease & Ejectment
- ■ 240 Torts to Land
- ■ 245 Tort Product Liability
- ■ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ■ 310 Airplane
- ■ 315 Airplane Product Liability
- ■ 320 Assault, Libel & Slander
- ■ 330 Federal Employers' Liability
- ■ 340 Marine
- ■ 345 Marine Product Liability
- ■ 350 Motor Vehicle
- ■ 355 Motor Vehicle Product Liability
- ■ 360 Other Personal Injury
- ■ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ■ 365 Personal Injury - Product Liability
- ■ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ■ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ■ 370 Other Fraud
- ■ 371 Truth in Lending
- ■ 380 Other Personal Property Damage
- ■ 385 Property Damage Product Liability

CIVIL RIGHTS
- ■ 440 Other Civil Rights
- ■ 441 Voting
- ■ 442 Employment
- ■ 443 Housing/ Accommodations
- ■ 445 Amer. w/Disabilities - Employment
- ■ 446 Amer. w/Disabilities - Other
- ■ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ■ 463 Alien Detainee
- ■ 510 Motions to Vacate Sentence
- ■ 530 General
- ■ 535 Death Penalty

Other:
- ■ 540 Mandamus & Other
- ■ 550 Civil Rights
- ■ 555 Prison Condition
- ■ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ■ 625 Drug Related Seizure of Property 21 USC 881
- ■ 690 Other

LABOR
- ■ 710 Fair Labor Standards Act
- ■ 720 Labor/Management Relations
- ■ 740 Railway Labor Act
- ■ 751 Family and Medical Leave Act
- ■ 790 Other Labor Litigation
- ■ 791 Employee Retirement Income Security Act

IMMIGRATION
- ■ 462 Naturalization Application
- ■ 465 Other Immigration Actions

BANKRUPTCY
- ■ 422 Appeal 28 USC 158
- ■ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ■ 820 Copyrights
- ■ 830 Patent
- ■ 840 Trademark

SOCIAL SECURITY
- ■ 861 HIA (1395ff)
- ■ 862 Black Lung (923)
- ■ 863 DIWC/DIWW (405(g))
- ■ 864 SSID Title XVI
- ■ 865 RSI (405(g))

FEDERAL TAX SUITS
- ■ 870 Taxes (U.S. Plaintiff or Defendant)
- ■ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ■ 375 False Claims Act
- ■ 376 Qui Tam (31 USC 3729(a))
- ■ 400 State Reapportionment
- ■ 410 Antitrust
- ■ 430 Banks and Banking
- ■ 450 Commerce
- ■ 460 Deportation
- ■ 470 Racketeer Influenced and Corrupt Organizations
- ■ 480 Consumer Credit
- ■ 490 Cable/Sat TV
- ■ 850 Securities/Commodities Exchange
- ■ 890 Other Statutory Actions
- ■ 891 Agricultural Acts
- ■ 893 Environmental Matters
- ■ 895 Freedom of Information Act
- ■ 896 Arbitration
- ■ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ■ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ■ 2 Removed from State Court ■ 3 Remanded from Appellate Court ■ 4 Reinstated or Reopened ■ 5 Transferred from Another District *(specify)* ■ 6 Multidistrict Litigation - Transfer ■ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
15 U.S.C. s 78a et seq.

Brief description of cause:
Shareholder dispute

VII. REQUESTED IN COMPLAINT:

■ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ■ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Black DOCKET NUMBER 1:17-cv-00326-TSB

DATE
05/15/2017

SIGNATURE OF ATTORNEY OF RECORD
/s/ John C. Camillus

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF PLAINTIFF

I. Paul Parshall ("Plaintiff"), hereby declare as to the claims asserted under the federal securities laws that:

1. Plaintiff has reviewed the complaint and authorizes its filing.

2. Plaintiff did not purchase the security that is the subject of this action at the direction of Plaintiff's counsel or in order to participate in any private action.

3. Plaintiff is willing to serve as a representative party on behalf of the class, either individually or as part of a group, and I will testify at deposition or trial, if necessary. I understand that this is not a claim form and that I do not need to execute this Certification to share in any recovery as a member of the class.

4. Plaintiff's purchase and sale transactions in the AdvancePierre Foods Holdings, Inc. (NYSE: APFH) security that is the subject of this action during the class period is/are as follows:

PURCHASES **SALES**

Buy Date	Shares	Price per Share	Sell Date	Shares	Price per Share
8/3/16	30	$24.02			

Please list additional transactions on separate sheet of paper, if necessary.

5. Plaintiff has complete authority to bring a suit to recover for investment losses on behalf of purchasers of the subject securities described herein (including Plaintiff, any co-owners, any corporations or other entities, and/or any beneficial owners).

6. During the three years prior to the date of this Certification, Plaintiff has not moved to serve as a representative party for a class in an action filed under the federal securities laws.

7. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of May, 2017.

/s/ Paul Parshall
PAUL PARSHALL