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10 *Attorneys for Plaintiff*

11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 MICHAEL FROMBERGER, Individually
14 and on Behalf of All Others Similarly
Situating,

15 Plaintiff,

16 v.
17

18 OMEGA PROTEIN CORPORATION, BRET
D. SCHOLTES, DAVID A. OWEN, DAVID
19 H. CLARKE, DAVID W. WEHLMANN,
GARY R. GOODWIN, MICHAEL N.
20 CHRISTODOLOU, STEPHEN C. BRYAN,
DR. CELESTE A. CLARK, ALPHA
21 MERGERSUB, INC., and COOKE INC.,

22 Defendants.
23

Civil Action No.

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF SECTIONS 14(a) AND
20(a) OF THE SECURITIES EXCHANGE
ACT OF 1934**

JURY TRIAL DEMAND

24 Plaintiff Michael Fromberger ("Plaintiff"), individually and on behalf of all others
25 similarly situated, alleges the following upon information and belief, including investigation of
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1 counsel and review of publicly-available information, except as to those allegations pertaining to
2 Plaintiff, which are alleged upon personal knowledge:

3 **NATURE OF THE ACTION**

4 1. Plaintiff brings this class action on behalf of the public stockholders of Omega
5 Protein Corporation (“Omega” or the “Company”) against Omega’s Board of Directors (the
6 “Board” or the “Individual Defendants”) for their violations of Section 14(a) and 20(a) of the
7 Securities Exchange Act of 1934, 15.U.S.C. §§ 78n(a), 78t(a), and SEC Rule 14a-9, 17 C.F.R.
8 240.14a-9, arising out of the Board’s attempt to sell the Company to Cooke Inc. through its
9 wholly owned subsidiary Alpha MergerSub, Inc. (“Merger Sub” and collectively with Cooke
10 Inc. “Cooke”).

12 2. Defendants have violated the above-referenced Sections of the Exchange Act by
13 causing a materially incomplete and misleading preliminary proxy statement (the “Proxy”) to be
14 filed with the Securities and Exchange Commission (“SEC”) on October 30, 2017. The Proxy
15 recommends that Omega shareholders vote in favor of a proposed transaction (the “Proposed
16 Transaction”) whereby Omega is acquired by Cooke. The Proposed Transaction was first
17 disclosed on October 6, 2017, when Omega and Cooke announced that they had entered into a
18 definitive merger agreement (the “Merger Agreement”) pursuant to which Cooke will acquire all
19 of the outstanding shares of common stock of Omega for \$22.00 per share (the “Merger
20 Consideration”). The deal is valued at approximately \$500 million and is expected to close
21 towards the end of 2017 or early in 2018.

23 3. Omega produces fishmeal and fish oil for animal consumption, as well as
24 products for human nutrition. While fishmeal and fish oil are expected to see increases in price
25 over the next 13 years, the Board accepted an offer from Cooke that was justified by last year’s
26 financial information. The Board agreed to the Proposed Transaction after two years of public
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1 pressure by an activist investor, a proxy fight that led to two new directors, and two years of
2 strategic reviews. Seemingly exhausted, the Board agreed to sell the Company to Cooke for an
3 inadequate price and through an unfair process.

4 4. Furthermore, the Proxy is materially incomplete and contains misleading
5 representations and information in violation of Sections 14(a) and 20(a) of the Exchange Act.
6 Specifically, the Proxy contains materially incomplete and misleading information concerning
7 the sales process, financial projections prepared by Omega management, as well as the financial
8 analyses conducted by J.P. Morgan Securities LLC (“J.P. Morgan”), Omega’s financial advisor.

9 5. For these reasons, and as set forth in detail herein, Plaintiff seeks to enjoin
10 Defendants from taking any steps to consummate the Proposed Transaction, including filing a
11 definitive proxy statement (“Definitive Proxy”) with the SEC or otherwise causing a Definitive
12 Proxy to be disseminated to Omega’s shareholders, unless and until the material information
13 discussed below is included in the Definitive Proxy or otherwise disseminated to Omega’s
14 shareholders. In the event the Proposed Transaction is consummated without the material
15 omissions referenced below being remedied, Plaintiff seeks to recover damages resulting from
16 the Defendants’ violations.
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19 **PARTIES**

20 6. Plaintiff is, and has been at all relevant times, the owner of shares of common
21 stock of Omega.

22 7. Defendant Omega is a corporation organized and existing under the laws of the
23 State of Nevada. The Company’s principal executive offices are located at 2105 City West
24 Boulevard, Suite 500, Houston, Texas 77042. Omega common stock trades on NYSE under the
25 ticker symbol “OME.” Omega produces animal and human nutrition products derived from fish,
26 as well as plants and dairy sources.
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1 8. Defendant Bret D. Scholtes has been President and CEO of the Company since
2 2012 and a director of the Company since 2013.

3 9. Defendant David A. Owen has been a director of the Company since 2010.

4 10. Defendant David H. Clarke has been a director of the Company since 2016.

5 11. Defendant David W. Wehlmann has been a director of the Company since 2012.

6 12. Defendant Gary R. Goodwin has been a director of the Company since 2006.

7 13. Defendant Michael N. Christodolou has been a director of the Company since
8 2016.

9 14. Defendant Stephen C. Bryan has been a director of the Company since 2014.

10 15. Defendant Dr. Celeste A. Clark has been a director of the Company since June
11 2017.

12 16. Defendants Scholtes, Owen, Clarke, Wehlmann, Goodwin, Christodolou, Bryan
13 and Clark are collectively referred to herein as the "Board."

14 17. Defendant Cooke Inc. is a corporation organized and existing under the laws of
15 the province of New Brunswick, Canada. Cooke Inc. maintains its principal offices in New
16 Brunswick, Canada. Cooke Inc. produces and distributes both farm-raised and wild caught
17 seafood products.

18 18. Defendant Merger Sub is a corporation organized and existing under the laws of
19 the State of Nevada and is a wholly owned subsidiary of Cooke Inc.

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22 **JURISDICTION AND VENUE**

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24 19. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange
25 Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges
26 violations of Section 14(a) and 20(a) of the Exchange Act and SEC Rule 14a-9.
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- (i) Whether Defendants have violated Section 14(a) of the Exchange Act and Rule 14a-9 promulgated thereunder;
- (ii) Whether the Individual Defendants have violated Section 20(a) of the Exchange Act;
- (iii) Whether Plaintiff and other members of the Class would suffer irreparable injury were Defendants to file a Definitive Proxy with the SEC that does not contain the material information referenced above and the Proposed Transaction is consummated as presently anticipated;
- (iv) Whether the Individual Defendants breached their fiduciary duties of undivided loyalty, independence, or due care with respect to Plaintiff and the other members of the Class in connection with the Proposed Transaction;
- (v) Whether the Individual Defendants breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of Plaintiff and the other members of the Class in connection with the Proposed Transaction;
- (vi) Whether the Individual Defendants misrepresented and omitted material facts in violation of their fiduciary duties owed by them to Plaintiff and the other members of the Class;
- (vii) Whether the Individual Defendants breached any of their other fiduciary duties to Plaintiff and the other members of the Class in connection with the Proposed Transaction, including the duties of good faith, diligence, honesty and fair dealing;

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(viii) Whether the Individual Defendants, in bad faith and for improper motives, impeded or erected barriers to discourage other strategic alternatives, including offers from interested parties for the Company or its assets;

(ix) Whether Plaintiff and the other members of the Class would be irreparably harmed were the transaction complained of herein consummated; and

(x) whether the Class is entitled to injunctive relief or damages as a result of Individual Defendants' wrongful conduct.

(c) Plaintiff is committed to prosecuting this action, is an adequate representative of the Class, and has retained competent counsel experienced in litigation of this nature.

(d) Plaintiff's claims are typical of those of the other members of the Class.

(e) Plaintiff has no interests that are adverse to the Class.

(f) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications for individual members of the Class and of establishing incompatible standards of conduct for the party opposing the Class.

(g) Conflicting adjudications for individual members of the Class might as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

(h) Plaintiff anticipates that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

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FURTHER SUBSTANTIVE ALLEGATIONS

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A. Company Background

24. Omega operates in two separate industries: animal nutrition and human nutrition. The animal nutrition segment focuses on producing and distributing fishmeal and fish oil for use in animal feed. The human nutrition segment focuses on producing and procuring products like fish oils, plant oils, dairy proteins and nutraceuticals. The animal nutrition segment brought in \$262.5 million in revenues in 2016 compared to \$128.2 million from the human nutrition segment.

25. The main source for Omega’s fishmeal and fish oil is menhaden, a herring-like fish found off the coast of the United States of America in the Atlantic Ocean and Gulf of Mexico. For Omega, menhaden are the foundation of its business, with 104 million pounds of fishmeal and 15.4 million pounds of fish oil contracted for sale in 2017 as of December 31, 2016.

B. The Proposed Transaction is Unfair to Stockholders

26. On October 5, 2017, the Board entered into the Merger Agreement with Cooke. The Proposed Transaction offers Omega stockholders an unfair price for their investment, agreed to by the Board after an unfair process.

Unfair price

27. Omega’s menhaden-derived products are used in aquaculture, the raising and harvesting of fish. Over the past three decades, aquaculture production has grown from 7% of total global fisheries to more than 40%,¹ and from 5 million tons to 63 million tons.² According

¹“The growth of global aquaculture – Fishy business,” Deloitte, *available at* <https://www2.deloitte.com/au/en/pages/consumer-business/articles/the-growth-of-aqua-culture-fishy-business.html>.

1 to the World Bank, demand for fishmeal and fish oil is expected to grow as aquaculture grows.³
 2 The price for fishmeal is expected to increase by 90% between 2010 and 2030, while the price
 3 for fish oil is expected to increase by 70%.⁴ The Organization for Economic Co-operation and
 4 Development (“OECD”) and the UN Food and Agriculture Organization (“FAO”) predict that
 5 between 2017 and 2026, nominal prices for fishmeal and fish oil will increase with annual
 6 growth rates of 3.4% and 2.0%, respectively.⁵

7
 8 28. While 2016 saw a global decrease in fishmeal production, the OECD and FAO
 9 see production increasing.⁶ The OECD and FAO project that production of fishmeal and fish oil
 10 will fluctuate between 2017 and 2026, but prices for fishmeal will increase by 43.25% and prices
 11 for fish oil will increase more than 27.8%:

| | | Average 2014-16est | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 |
|-----------------------------|-------|-----------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| FISH OIL⁶ | | | | | | | | | | | | |
| World | | | | | | | | | | | | |
| Production | kt | 881.2 | 968.1 | 962.2 | 962.3 | 962.8 | 909.0 | 959.2 | 962.3 | 964.0 | 968.9 | 926.6 |
| from whole fish | kt | 566.8 | 645.0 | 634.0 | 628.5 | 623.8 | 565.0 | 609.9 | 607.7 | 603.9 | 601.1 | 554.0 |
| Consumption | kt | 905.1 | 894.4 | 963.9 | 964.0 | 964.4 | 961.6 | 912.7 | 961.8 | 963.5 | 966.4 | 976.1 |
| Variation in stocks | kt | -23.9 | 73.7 | -1.7 | -1.6 | -1.6 | -52.6 | 46.4 | 0.5 | 0.5 | 0.5 | -50.5 |
| Price ⁷ | USD/t | 1 808.3 | 1 607.9 | 1 622.9 | 1 641.3 | 1 667.2 | 1 907.2 | 1 720.2 | 1 747.0 | 1 774.4 | 1 794.8 | 2 055.8 |
| Developed countries | | | | | | | | | | | | |
| Production | kt | 394.2 | 354.3 | 354.2 | 356.0 | 357.1 | 360.0 | 359.3 | 360.6 | 362.0 | 363.7 | 367.8 |
| from whole fish | kt | 206.1 | 171.9 | 169.4 | 168.3 | 167.1 | 167.9 | 164.8 | 163.9 | 163.0 | 162.1 | 163.8 |
| Consumption | kt | 534.6 | 502.0 | 529.8 | 526.6 | 524.8 | 540.1 | 482.2 | 515.2 | 511.8 | 510.2 | 536.9 |
| Variation in stocks | kt | -4.7 | 28.7 | 0.3 | 0.4 | 0.4 | -25.6 | 21.4 | 0.5 | 0.5 | 0.5 | -25.5 |
| Developing countries | | | | | | | | | | | | |
| Production | kt | 487.0 | 613.9 | 608.0 | 606.3 | 605.7 | 549.0 | 599.9 | 601.7 | 602.0 | 603.2 | 557.8 |
| from whole fish | kt | 360.7 | 473.1 | 464.6 | 460.2 | 456.7 | 397.1 | 445.0 | 443.8 | 440.9 | 438.9 | 390.2 |
| Consumption | kt | 370.5 | 392.4 | 434.1 | 437.4 | 439.6 | 421.5 | 430.5 | 446.7 | 451.7 | 456.3 | 439.2 |
| Variation in stocks | kt | -19.2 | 45.0 | -2.0 | -2.0 | -2.0 | -27.0 | 25.0 | 0.0 | 0.0 | 0.0 | -25.0 |
| OECD | | | | | | | | | | | | |
| Production | kt | 513.6 | 469.2 | 468.4 | 469.1 | 470.5 | 466.8 | 470.8 | 474.4 | 477.3 | 480.7 | 474.7 |
| from whole fish | kt | 274.4 | 238.0 | 234.0 | 230.8 | 228.8 | 221.9 | 222.4 | 222.9 | 222.4 | 222.1 | 212.6 |
| Consumption | kt | 682.9 | 640.8 | 673.2 | 670.5 | 669.2 | 671.7 | 621.1 | 660.9 | 658.4 | 657.2 | 669.7 |
| Variation in stocks | kt | -8.0 | 43.7 | 0.3 | 0.4 | 0.4 | -35.6 | 31.4 | 0.5 | 0.5 | 0.5 | -35.5 |

20 ²“Fish to 2030: Prospects for Fisheries and Aquaculture,” World Bank Report Number 83177-
 21 GLB, Agriculture and Environmental Services Discussion Paper 03, December 2013, *available*
 at <http://www.fao.org/docrep/019/i3640e/i3640e.pdf>.

22 ³*Id.*

23 ⁴*Id.*

24 ⁵ OECD-FAO Agricultural Outlook 2017-2016, *available at* [http://www.oecd-](http://www.oecd-ilibrary.org/docserver/download/5117051e.pdf?expires=1509651926&id=id&accname=guest&checksum=93E271CCBF60F67ABFAFC7D4C4C4079D)
 25 [ilibrary.org/docserver/download/5117051e.pdf?expires=1509651926&id=id&accname=guest&checksum=93E271CCBF60F67ABFAFC7D4C4C4079D](http://www.oecd-ilibrary.org/docserver/download/5117051e.pdf?expires=1509651926&id=id&accname=guest&checksum=93E271CCBF60F67ABFAFC7D4C4C4079D).

26 ⁶“Fishmeal production low in 2016, 2017 forecast looks positive,” Food and Agriculture
 27 Organization of the United Nations, June 20, 2017, *available at* [http://www.fao.org/in-](http://www.fao.org/in-action/globefish/market-reports/resource-detail/en/c/897039/)
 28 [action/globefish/market-reports/resource-detail/en/c/897039/](http://www.fao.org/in-action/globefish/market-reports/resource-detail/en/c/897039/).

| FISHMEAL ⁵ | | | | | | | | | | | | |
|-----------------------|-------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| World | | | | | | | | | | | | |
| Production | kt | 4 385.2 | 4 942.2 | 4 921.4 | 4 932.4 | 4 944.6 | 4 635.5 | 4 933.1 | 4 948.1 | 4 957.0 | 4 973.2 | 4 721.4 |
| from whole fish | kt | 3 205.6 | 3 752.9 | 3 709.9 | 3 694.9 | 3 686.0 | 3 362.0 | 3 634.4 | 3 630.7 | 3 617.8 | 3 610.0 | 3 343.3 |
| Consumption | kt | 4 457.5 | 4 856.0 | 4 929.2 | 4 944.0 | 4 957.2 | 4 811.1 | 4 771.5 | 4 958.4 | 4 967.3 | 4 985.2 | 4 877.5 |
| Variation in stocks | kt | -72.4 | 85.8 | -8.2 | -12.1 | -13.0 | -178.0 | 181.2 | -10.7 | -10.7 | -12.4 | -158.5 |
| Price ⁶ | USD/t | 1 592.3 | 1 280.9 | 1 200.3 | 1 252.9 | 1 291.0 | 1 558.6 | 1 372.1 | 1 412.0 | 1 442.0 | 1 487.8 | 1 834.9 |
| Developed countries | | | | | | | | | | | | |
| Production | kt | 1 414.8 | 1 423.2 | 1 427.5 | 1 439.8 | 1 448.8 | 1 469.3 | 1 460.7 | 1 463.7 | 1 467.3 | 1 472.8 | 1 493.4 |
| from whole fish | kt | 1 025.1 | 1 024.3 | 1 018.6 | 1 018.4 | 1 019.0 | 1 032.0 | 1 013.6 | 1 008.7 | 1 003.3 | 998.6 | 1 010.1 |
| Consumption | kt | 1 618.9 | 1 677.8 | 1 675.6 | 1 619.2 | 1 681.4 | 1 444.4 | 1 437.4 | 1 463.5 | 1 429.7 | 1 402.6 | 1 299.1 |
| Variation in stocks | kt | 3.6 | 28.8 | 2.8 | -1.1 | -2.0 | -47.0 | 44.2 | 0.3 | 0.3 | -1.4 | -47.5 |
| Developing countries | | | | | | | | | | | | |
| Production | kt | 2 970.4 | 3 518.9 | 3 493.9 | 3 492.6 | 3 495.9 | 3 168.2 | 3 472.3 | 3 484.4 | 3 489.7 | 3 500.4 | 3 228.0 |
| from whole fish | kt | 2 180.5 | 2 728.6 | 2 691.4 | 2 676.5 | 2 667.0 | 2 330.0 | 2 620.7 | 2 622.1 | 2 614.5 | 2 611.4 | 2 333.2 |
| Consumption | kt | 2 838.7 | 3 178.3 | 3 253.6 | 3 324.8 | 3 375.8 | 3 386.7 | 3 334.1 | 3 495.0 | 3 537.5 | 3 582.6 | 3 578.4 |
| Variation in stocks | kt | -76.0 | 57.0 | -11.0 | -11.0 | -11.0 | -129.0 | 117.0 | -11.0 | -11.0 | -11.0 | -109.0 |
| OECD | | | | | | | | | | | | |
| Production | kt | 1 604.4 | 1 687.2 | 1 685.6 | 1 691.5 | 1 699.4 | 1 681.2 | 1 695.6 | 1 709.7 | 1 718.8 | 1 730.6 | 1 692.0 |
| from whole fish | kt | 1 210.6 | 1 282.0 | 1 270.4 | 1 263.6 | 1 263.0 | 1 237.1 | 1 241.5 | 1 247.4 | 1 247.5 | 1 248.9 | 1 201.0 |
| Consumption | kt | 1 810.5 | 1 864.0 | 1 862.9 | 1 815.1 | 1 780.2 | 1 635.0 | 1 633.7 | 1 669.6 | 1 638.7 | 1 615.6 | 1 501.5 |
| Variation in stocks | kt | -9.0 | 62.8 | 1.8 | -2.1 | -3.0 | -68.0 | 63.2 | -0.7 | -0.7 | -2.4 | -53.5 |

Source: OECD-FAO Agricultural Outlook 2017-2016.

29. The expected increases in price for fishmeal and fish oil translate to potential profits for Omega. While the Company currently is experiencing a decline in production, according to a September 18, 2017 analysis on SeekingAlpha.com entitled “Omega Protein Is A Good Catch Trading At Book Value And 11.4x TTM P/E,” the Company’s conservative debt load positions it to withstand such declines. In fact, according to the SeekingAlpha.com analysis, Omega’s return on invested capital has averaged 8.4% over the past decade, which includes recent weak quarters. According to the Proxy, Cooke stated that it would not increase the Merger Consideration because of “Omega’s declining 2017 operating results and market prices for fish meal and fish oil as compared to results and market prices in the prior year.” Given Omega’s potential future profits and the ability to weather production declines, the Merger Consideration is inadequate.

30. The Merger Consideration appears even more inadequate when considering that Omega’s main products make it particularly attractive to companies operating in aquaculture like Cooke. In a document entitled “Key Messages Delivered by Omega Protein corporation to its Employees,” filed with the SEC on October 6, 2017, Omega stated: “This acquisition will create greater long-term opportunities as the Omega Protein business becomes a valuable component of Cooke’s vertically integrated aquaculture value chain.” Cooke had already been a customer of

1 Omega, purchasing fish food as “they have for many years” according to the same document. By
2 acquiring Omega, Cooke has a steady supply of food for their farmed fish. Omega stockholders,
3 on the other hand, lose their investment in Omega’s bright future.

4 31. Given the prospective gain to Cooke, and the Company’s growth prospects, the
5 Merger Consideration fails to adequately compensate Omega stockholders. The inadequate
6 Merger Consideration is underscored by the fact that the price offered by Cooke, \$22.00 per
7 share, falls below the stock price targets calculated by other analysts. For example, the Wall
8 Street Journal listed an average price target of \$23.33, with the high price target being \$26.00.
9

10 32. Even the analyses of the Company’s own financial advisors illustrate that the
11 Merger Consideration may not be high enough. For example, J.P. Morgan’s *Public Trading*
12 *Multiples* analysis implied a per share equity value as high as \$24.90. J.P. Morgan’s *Selected*
13 *Transactions Analysis* implied a per share equity value as high as \$23.55, while the *Discounted*
14 *Cash Flow Analysis* implied a per share equity value as high as \$23.50.
15

16 Unfair process

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18 33. The Proposed Transaction not only provides the stockholders with an unfair price,
19 it is also the product of an unfair sales process. Facing pressure from an activist investor to sell
20 the Company, the Board swiftly agreed to the Proposed Transaction despite concerns with the
21 price.

22 34. Wynnefield Capital, Inc. and its affiliates (collectively “Wynnefield”) took issue
23 with Omega branching out into human nutrition, and sent the Board a letter on August 11, 2015,
24 demanding that the Board sell the Company in order to “unlock” value:
25

26 In the twenty three years of managing our small cap value fund, Wynnefield
27 Capital Management, LLC and its affiliates (“Wynnefield”) have never observed
28 a more glaring case of “Diworsification” than the risky and unsuccessful effort of
Omega Protein Corporation (“Omega Protein”) to enter the human nutrition field.

1 While the actions of the Board of Directors of Omega Protein may be afforded
2 protection under the "Business Judgement" safe harbor ,the ugly truth is that the
3 Omega Protein Board and its management have flushed away \$150 million of
4 shareholder value trying to enter a business that the Board and management
5 lacked the skill sets to integrate, manage or execute on a successful strategic plan.
6 Wynnefield could lay out line by line the details of this tragic and risky
7 misallocation of shareholder equity but we would only be piling on. Omega
8 Protein's public disclosures filed with the Securities and Exchange Commission
9 tell all.

10 To cut to the chase, Wynnefield believes that, as a result of the Board's poorly
11 analyzed, poorly executed and unsuccessful actions, it has forfeited the right to
12 maintain Omega Protein as a public company. Let's not engage in a costly proxy
13 battle that will ultimately end in Omega Protein's shareholders ousting the current
14 Board over a two year period. Such removal would otherwise be completed in a
15 single year was it not for the fact the Board has "classified" itself as entrenched.

16 Many boards, including ones on which Wynnefield nominees have served, have
17 made well-meaning but high profile acquisition mistakes that have severely hurt
18 shareholder value. We are not out to embarrass you. Fortunately for the Board and
19 the shareholders that it purports to serve, the ground has recently shifted under the
20 foundation of Omega Protein in a most positive manner. What has been revealed
21 is a clear and simple path to redemption for all involved parties.

22 Your road forward must entail the immediate hiring of a reputable investment
23 banking firm to explore all strategic alternatives to maximize and release
24 shareholder value, including the sale of Omega Protein or its assets. The Board
25 has before itself a second chance to correct its past mistakes and perform its duty
26 of serving the shareholders that it represents. We would characterize this
27 opportunity as being a "no brainer."

28 Simple chanting of the mantra - "Daybrook/Oceana" by the Board once in the
morning and again at night will keep you on the proper path until you have
retained an investment banker to guide you in the exploration of strategic
alternatives.

Wynnefield, in fairness to all, has given considerable deliberation to come up with
a counter argument to the course of action we insist you straightaway pursue and
has come up empty. It's time for the Board to immediately hire an investment
banker and run the process to unlock the value in Omega that's staring the entire
Board in the face. You will see that this is the right way to proceed rather than
engaging in a shootout with Wynnefield that the Board will most surely lose at
considerable expense to shareholders. As the record shows, Wynnefield is
tenacious, and has repeatedly been successful, when we are confident, as in this
instance, we are right.

Any Gary Cooper fan would tell you that it's "High Noon" for Omega Protein's
Board. Both you and your shareholders have been handed a second chance. We
can all emerge as huge winners.

Don't screw it up- reputations and monetary rewards are at stake for all parties.

Please feel free to email me directly at nobus@wynnecap.com to set up a time to
discuss this further.

1 Tick Tock. Tick Tock.

2 35. Wynnefield sent another letter in October 2015 to the Board demanding that the
3 Board consider selling the Company, the human nutrition business segment or face a proxy fight.
4 On February 23, 2016, Wynnefield informed the Board that it intended to nominate three people
5 to the Board, including Defendants Christodolou and Clarke. More letters were published on
6 March 10, 2016, April 28, 2016, May 2, 2016, and May 12, 2016, demanding, among other
7 things, action by the Board on the human nutrition business segment or the strategic alternative
8 review process.

9
10 36. On May 20, 2016, Wynnefield filed a preliminary proxy with two nominees:
11 Defendants Clarke and Christodolou. They were elected to the Board on June 28, 2016 and in
12 August 2016 the Company created a "Human Nutrition Task Force" to consider strategic
13 alternatives for the human nutrition business segment.

14 37. As the Board considered what to do with the human nutrition segment, Cooke
15 indicated interest in a transaction between Omega and Cooke. With interest from Cooke and
16 Potential Buyer B, the Board decided against contacting any of the parties contacted in a 2015
17 review of strategic alternatives. Two months after Cooke lowered its proposed purchase price for
18 Omega from \$24.00 per share to \$22.00 per share, with no apparent willingness to increase the
19 price, the Board decided to move forward with the Proposed Transaction because the Proposed
20 Transaction "could be viewed as attractive at \$22 per share."

21
22 38. After significant pressure from Wynnefield, and the election of Wynnefield's
23 nominees to the Board, the Board approved the Proposed Transaction without conducting an
24 auction for the Company or waiting until after a sale of the human nutrition segment.
25

26 **C. Omega's Officers Stand to Receive Benefits Unavailable to the Class**

27 39. The Proxy acknowledges that the Company's executive officers have interests in
28

1 the merger that may differ from those of the stockholders and may create conflicts of interest.

2 40. Stock options, restricted stock and performance units that have been awarded to
 3 and are held by Omega's executive officers and directors will vest and be converted into the right
 4 to receive either the Merger Consideration or another amount. The treatment of these equity
 5 awards, in addition to benefits provided to executive officers through Omega's cash incentive
 6 performance unit plans and severance agreements, will create a windfall for Omega's executive
 7 officers that is unavailable to the common stockholders. As demonstrated in the following chart,
 8 Defendant Scholtes will receive more than \$7.5 million, and the named executive officers of
 9 Omega in total stand to receive up to \$18.5 million, if they are let go without "cause" (except for
 10 John Held, whose employment agreement only requires closing of the Proposed Transaction):
 11

| Name | Cash | Equity | Tax Reimbursement | Total |
|----------------------|-------------|---------------|------------------------------|--------------|
| Bret D. Scholtes | \$2,270,782 | \$5,244,554 | — | \$7,515,336 |
| Andrew C. Johannesen | \$1,105,245 | \$300,784 | — | \$1,406,029 |
| John D. Held | \$5,134,106 | \$291,368 | \$1,770,769 | \$7,196,243 |
| Dr. Mark E. Griffin | \$1,064,131 | \$291,368 | — | \$1,355,769 |
| Montgomery C. Deihl | \$891,146 | \$198,506 | — | \$1,089,652 |

16
 17 41. The members of the Board and the executive officers stand to gain handsomely
 18 even if they stay on after the Proposed Transaction closes. In total, as demonstrated in the
 19 following chart, the executive officers and Board members will obtain \$10.8 million:

| | Name | Total Option Consideration | Total Restricted Stock Consideration | Total Performance Unit Consideration |
|------------------------------------|-------------------------|---|---|---|
| Non-Employee Directors: | David A. Owen | \$240,600 | \$74,228 | — |
| | David H. Clarke | — | \$74,228 | — |
| | David W. Wehlmann | \$357,192 | \$74,228 | — |
| | Gary R. Goodwin | \$240,600 | \$74,228 | — |
| | Michael N. Christodolou | — | \$74,228 | — |
| | Stephen C. Bryan | — | \$74,228 | — |
| | Dr. Celeste A. Clark | — | \$74,228 | — |
| Executive Officers: | Bret D. Scholtes | \$4,547,000 | \$697,554 | \$989,450 |
| | Dr. Mark E. Griffin | — | \$291,368 | \$414,267 |
| | John D. Held | — | \$291,368 | \$414,267 |
| | Joseph R. Vidal | — | \$172,546 | \$280,786 |

| | | | | |
|---|----------------------|---|-----------|-----------|
| 1 | Andrew C. Johannesen | — | \$300,784 | \$425,827 |
| 2 | Mark. A. Livingston | — | \$88,704 | \$77,067 |
| 3 | Montgomery C. Deihl | — | \$198,506 | \$271,500 |

4 **D. The Preclusive Deal Protection Devices**

5 42. As part of the Merger Agreement, Defendants agreed to certain preclusive deal
6 protection devices that ensure that no competing offers for the Company will emerge.

7 43. By way of example, section 4.03(a) of the Merger Agreement includes a “no
8 solicitation” provision barring the Company from soliciting or encouraging inquiries or
9 proposals that could lead to an acquisition proposal. This provision fails to provide a “go-shop”
10 period that would allow the Board to rightfully seek out a better offer for the company.

11 44. Despite already locking up the Proposed Transaction by agreeing not to solicit
12 alternative bids, the Board consented to additional provisions in the Merger Agreement that
13 further guarantee the Company’s only suitor will be Cooke. For example, pursuant to section
14 4.03(c) of the Merger Agreement, the Company must notify Cooke of any offer made by an
15 unsolicited bidder. Thereafter, should the Board determine that the unsolicited offer is superior,
16 section 4.03(d) requires that the Board grant Cooke five (5) business days to negotiate the terms
17 of the Merger Agreement to render the superior proposal no longer superior. Cooke is able to
18 match the unsolicited offer because, pursuant to section 4.03(d)(i) of the Merger Agreement, the
19 Company must provide Cooke with the identity of the party making the proposal and copies of
20 any agreements related to the superior proposal, eliminating any leverage that the Company has
21 in receiving the unsolicited offer.
22
23

24 45. In other words, the Merger Agreement gives Cooke access to any rival bidder’s
25 information and allows Cooke a free right to top any superior offer. Accordingly, no rival bidder
26 is likely to emerge and act as a stalking horse for Omega, because the Merger Agreement
27
28

1 unfairly assures that any “auction” will favor Cooke and allow Cooke to piggy-back upon the
2 due diligence of the foreclosed second bidder.

3 46. In addition, pursuant to section 9.04(b) of the Merger Agreement, Omega must
4 pay Cooke a termination fee of \$20 million if the Company decides to pursue another offer,
5 thereby essentially requiring that the alternate bidder agree to pay a naked premium for the right
6 to provide the shareholders with a superior offer.

7 47. Ultimately, these preclusive deal protection provisions restrain the Company’s
8 ability to solicit or engage in negotiations with any third party regarding a proposal to acquire all
9 or a significant interest in the Company. The circumstances under which the Board may respond
10 to an unsolicited written bona fide proposal for an alternative acquisition that constitutes or
11 would reasonably be expected to constitute a superior proposal are too narrowly circumscribed to
12 provide an effective “fiduciary out” under the circumstances. Likewise, these provisions also
13 foreclose any likely alternate bidder from providing the needed market check of Cooke’s
14 inadequate offer price.
15
16

17 **E. The Materially Incomplete and Misleading Proxy**

18 48. The Individual Defendants owe the stockholders a duty of candor. They must
19 disclose all material information regarding the Proposed Transaction to Omega stockholders so
20 that they can make a fully informed decision whether to vote in favor of the Proposed
21 Transaction.

22 49. On October 30, 2017, Defendants filed the Proxy with the SEC. The purpose of
23 the Proxy is, inter alia, to provide the Company’s stockholders with all material information
24 necessary for them to make an informed decision on whether or not to vote their shares in favor
25 of the Acquisition. However, significant and material facts were not provided to Plaintiff and the
26 Class. Without such information, Omega shareholders cannot make a fully informed decision
27
28

1 concerning whether or not to vote in favor of the Proposed Transaction.

2 ***Materially Misleading Statements/Omissions Regarding the Management-***
3 ***Prepared Financial Forecasts***

4 50. The Proxy discloses management-prepared financial projections for the Company
5 which are materially misleading. The Proxy indicates that in connection with the rendering of
6 J.P. Morgan's fairness opinion, J.P. Morgan reviewed "certain internal financial analyses and
7 forecasts prepared by the management of Omega relating to its business." Accordingly, the
8 Proxy should have, but failed to, provide certain information in the projections that Omega's
9 management provided to the Board and J.P. Morgan.

10 51. Notably, Defendants failed to disclose projections for fiscal years 2017 to 2026,
11 as well as the terminal period used in J.P. Morgan's *Discounted Cash Flow Analysis*, for revenue
12 (specifically years 2021 to 2026), operating income (specifically years 2021 to 2026), adjusted
13 EBITDA (specifically years 2021 to 2026), depreciation and amortization (specifically years
14 2021 to 2026), stock-based compensation expense, cash taxes, capital expenditures, increases in
15 net working capital and unlevered free cash flow. This omitted information is necessary for
16 Omega stockholders to make an informed decision on whether to vote in favor of the Proposed
17 Transaction.
18

19 ***Materially Incomplete and Misleading Disclosures Concerning J.P. Morgan's***
20 ***Financial Analyses***

21 52. First, with respect to the *Public Trading Multiples Analysis*, the Proxy fails to
22 disclose the objective selection criteria for each company, as well as the multiples for 2017E
23 FV/EBITDA and 2018E FV/EBITDA for each company. The Proxy also fails to disclose
24 whether J.P. Morgan performed any type of benchmarking analysis for Omega in relation to the
25 selected public companies.
26

27 53. Second, with respect to the *Selected Transaction Analysis*, the Proxy fails to
28

1 disclose the objective selection criteria for each company, as well as the multiples for TV/LTM
2 EBITDA for each company. The Proxy also fails to disclose whether J.P. Morgan performed
3 any type of benchmarking analysis for Omega in relation to the selected target companies.

4 54. With respect to the *Discounted Cash Flow Analysis*, the Proxy fails to disclose the
5 individual inputs and assumptions utilized by J.P. Morgan to derive the discount rate range of
6 7.5% to 8.5%. The Proxy also fails to disclose the range of implied terminal EBITDA multiples
7 resulting from the analysis. In addition, the Proxy fails to disclose how J.P. Morgan treated
8 stock-based compensation expense for the purposes of this analysis.
9

10 ***Materially Incomplete and Misleading Disclosures Concerning the Flawed***
11 ***Process***

12 55. The Proxy also fails to disclose material information concerning the sales process.
13 Despite Wynnefield's sustained and public campaign to pressure the Board into selling the
14 Company or the human nutrition segment, there is no mention of the campaign or proxy fight in
15 the Proxy. The Proxy fails to disclose any communications between Wynnefield and the Board
16 and/or any of its Committees, or communications between individual members of the Board and
17 Wynnefield. Finally, the Proxy fails to disclose whether the Board discussed communications
18 with Wynnefield at its meetings and, if so, the nature of those discussions.
19

20 56. There is only one mention in the Proxy of Cooke as a customer of Omega. Yet
21 other documents filed with the SEC suggest that Cooke has been a customer of Omega's for
22 years. The Proxy fails to disclose the nature of the relationship between Cooke and Omega, the
23 length of the relationship and the impact of the relationship on Omega's finances.

24 57. The Proxy mentions that a "Human Nutrition Task Force" was formed in August
25 2016 and it included members of the Board and members of Omega's management. Yet the
26 Proxy fails to disclose which members of the Board were also members of the "Human Nutrition
27 Task Force."
28

1 58. The Proxy also fails to disclose when the Board learned that BMO Harris, the
2 investment bank advising the Board on a potential sale of WSP, would be serving as a source of
3 financing for Cooke for the Proposed Transaction, and what, if any, action was taken in light of
4 learning that information.

5 59. According to the Proxy, on August 10, 2017, the Board instructed Omega's
6 management to push for a higher price from Cooke. Yet the Proxy fails to disclose whether
7 discussions to raise the Merger Consideration occurred between August 10, 2017 and September
8 24-25, 2017, when the Board asked Defendant Goodwin to submit a counterproposal to Cooke
9 with a price of \$23.25 per share.

10 60. This information is necessary to provide Company stockholders a complete and
11 accurate picture of the sales process and its fairness. Without this information, stockholders
12 were not fully informed as to the defendants' actions, including those that may have been taken
13 in bad faith, and cannot fairly assess the process. And without all material information, Omega
14 stockholders are unable to make a fully informed decision in connection with the Proposed
15 Acquisition and face irreparable harm, warranting the injunctive relief sought herein.

16 61. In addition, the Individual Defendants knew or recklessly disregarded that the
17 Proxy omits the material information concerning the Proposed Transaction and contains the
18 materially incomplete and misleading information discussed above.

19 62. Specifically, the Individual Defendants undoubtedly reviewed the contents of the
20 Proxy before it was filed with the SEC. Indeed, as directors of the Company, they were required
21 to do so. The Individual Defendants thus knew or recklessly disregarded that the Proxy omits
22 the material information referenced above and contains the incomplete and misleading
23 information referenced above.

24 63. Further, the Proxy indicates that on September 17 and 18, 2017, J.P. Morgan
25
26
27
28

1 reviewed with the Board its financial analysis of the Merger Consideration and on September 18,
2 2017 delivered to the Board an oral opinion, which was confirmed by delivery of a written
3 opinion dated September 18, 2017, to the effect that the Merger Consideration was fair, from a
4 financial point of view, to Omega shareholders. Accordingly, the Individual Defendants
5 undoubtedly reviewed or were presented with the material information concerning J.P. Morgan's
6 financial analyses which has been omitted from the Proxy, and thus knew or should have known
7 that such information has been omitted.
8

9 64. Plaintiff and the other members of the Class are immediately threatened by the
10 wrongs complained of herein, and lack an adequate remedy at law. Accordingly, Plaintiff seeks
11 injunctive and other equitable relief to prevent the irreparable injury that the Company's
12 shareholders will continue to suffer absent judicial intervention.

13 **CLAIMS FOR RELIEF**

14 **COUNT I**

15 **On Behalf of Plaintiff and the Class Against All Defendants for Violations of**
16 **Section 14(a) of the Exchange Act and Rule 14a-9**

17 65. Plaintiff incorporates each and every allegation set forth above as if fully set forth
18 herein.

19 66. Defendants have filed the Proxy with the SEC with the intention of soliciting
20 Omega shareholder support for the Proposed Transaction. Each of the Individual Defendants
21 reviewed and authorized the dissemination of the Proxy, which fails to provide the material
22 information referenced above.
23

24 67. In so doing, Defendants made materially incomplete and misleading statements
25 and/or omitted material information necessary to make the statements made not misleading.
26 Each of the Individual Defendants, by virtue of their roles as officers and/or directors of Omega,
27 were aware of the omitted information but failed to disclose such information, in violation of
28

1 Section 14(a).

2 68. Rule 14a-9, promulgated by the SEC pursuant to Section 14(a) of the Exchange
3 Act, provides that such communications with shareholders shall not contain “any statement
4 which, at the time and in the light of the circumstances under which it is made, is false or
5 misleading with respect to any material fact, or which omits to state any material fact necessary
6 in order to make the statements therein not false or misleading.” 17 C.F.R. § 240.14a-9.

7 69. Specifically, and as detailed above, the Proxy violates Section 14(a) and Rule
8 14a-9 because it omits material facts concerning: (i) management’s financial projections; (ii) the
9 value of Omega shares and the financial analyses performed by J.P. Morgan in support of its
10 fairness opinion; (iii) the Company’s communications and interactions with Wynnefield during
11 the first strategic review in 2015 to 2016; and (iv) the sales process.

12 70. Moreover, in the exercise of reasonable care, the Individual Defendants knew or
13 should have known that the Proxy is materially misleading and omits material information that is
14 necessary to render it not misleading. The Individual Defendants undoubtedly reviewed and
15 relied upon the omitted information identified above in connection with their decision to approve
16 and recommend the Proposed Transaction; indeed, the Proxy states that J.P. Morgan reviewed
17 and discussed its financial analyses with the Board during various meetings including on
18 September 17 and 18, 2017, and further states that the Board relied upon J.P. Morgan’s financial
19 analyses and fairness opinion in connection with approving the Proposed Transaction. The
20 Individual Defendants knew or should have known that the material information identified above
21 has been omitted from the Proxy, rendering the sections of the Proxy identified above to be
22 materially incomplete and misleading.

23 71. The misrepresentations and omissions in the Proxy are material to Plaintiff and
24 the Class, who will be deprived of their right to cast an informed vote if such misrepresentations
25

1 and omissions are not corrected prior to the vote on the Proposed Transaction. Plaintiff and the
2 Class have no adequate remedy at law. Only through the exercise of this Court's equitable
3 powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury
4 that Defendants' actions threaten to inflict.

5 **COUNT II**

6 **On Behalf of Plaintiff and the Class against the Individual Defendants for Violations of**
7 **Section 20(a) of the Exchange Act**

8 72. Plaintiff incorporates each and every allegation set forth above as if fully set forth
9 herein.

10 73. The Individual Defendants acted as controlling persons of Omega within the
11 meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as
12 officers and/or directors of Omega and participation in and/or awareness of the Company's
13 operations and/or intimate knowledge of the incomplete and misleading statements contained in
14 the Proxy filed with the SEC, they had the power to influence and control and did influence and
15 control, directly or indirectly, the decision making of the Company, including the content and
16 dissemination of the various statements that Plaintiff contends are materially incomplete and
17 misleading.
18

19 74. Each of the Individual Defendants was provided with or had unlimited access to
20 copies of the Proxy and other statements alleged by Plaintiff to be misleading prior to the time
21 the Proxy was filed with the SEC and had the ability to prevent the issuance of the statements or
22 cause the statements to be corrected.
23

24 75. In particular, each of the Individual Defendants had direct and supervisory
25 involvement in the day-to-day operations of the Company, and, therefore, is presumed to have
26 had the power to control or influence the particular transactions giving rise to the Exchange Act
27 violations alleged herein, and exercised the same. The omitted information identified above was
28

1 reviewed by the Board prior to voting on the Proposed Transaction. The Proxy at issue contains
2 the unanimous recommendation of each of the Individual Defendants to approve the Proposed
3 Transaction. They were, thus, directly involved in the making of the Proxy.

4 76. In addition, as the Proxy sets forth at length, and as described herein, the
5 Individual Defendants were involved in negotiating, reviewing, and approving the Merger
6 Agreement. The Proxy purports to describe the various issues and information that the Individual
7 Defendants reviewed and considered. The Individual Defendants participated in drafting and/or
8 gave their input on the content of those descriptions.

9
10 77. By virtue of the foregoing, the Individual Defendants have violated Section 20(a)
11 of the Exchange Act.

12 78. As set forth above, the Individual Defendants had the ability to exercise control
13 over and did control a person or persons who have each violated Section 14(a) and Rule 14a-9,
14 by their acts and omissions as alleged herein. By virtue of their positions as controlling persons,
15 these defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and
16 proximate result of Individual Defendants' conduct, Plaintiff and the Class will be irreparably
17 harmed.
18

19 **Breach of Fiduciary Duties**

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

21 80. The Individual Defendants have knowingly and recklessly and in bad faith
22 violated fiduciary duties of care, loyalty, good faith, and independence owed to the former public
23 stockholders of Omega and have acted to put their personal interests ahead of the interests of
24 Omega's stockholders.
25

26 81. By the acts, transactions and courses of conduct alleged herein, the Individual
27 Defendants have knowingly or recklessly and in bad faith unfairly deprived Plaintiff and the
28

1 other members of the Class of the true value of their investment in the Company.

2 82. The Individual Defendants' recommendation of the Proposed Acquisition will
3 result in change of control of the Company, which imposes heightened fiduciary responsibilities
4 to maximize Omega's value for the benefit of the stockholders and requires enhanced scrutiny by
5 the Court.

6 83. The Individual Defendants have breached their fiduciary duties of care, loyalty,
7 good faith, candor and independence owed to the stockholders of Omega because, among other
8 reasons:
9

- 10 (a) they pursued their self-interests at the cost of stockholder value;
11 (b) they failed to take steps to maximize the value of Omega to its public
12 stockholders;
13 (c) they failed to properly value Omega; and
14 (d) they failed to disclose all material information that would permit the
15 Company's stockholders to make a fully informed decision on the Proposed Acquisition.

16 84. As a result of the Individual Defendants' breaches of their fiduciary duties,
17 Plaintiff and the Class will suffer irreparable injury in that they have not and will not receive
18 their fair portion of the value of Omega's assets and will be prevented from benefiting from a
19 value-maximizing transaction.
20

21 85. Plaintiff and the Class have no adequate remedy at law. Only through the
22 exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the
23 immediate and irreparable injury that Defendants' actions threaten to inflict.
24

25 **RELIEF REQUESTED**

26 WHEREFORE, Plaintiff demands injunctive relief in his favor and in favor of the Class
27 and against the Defendants jointly and severally, as follows:
28

1 A. Declaring that this action is properly maintainable as a Class Action and
2 certifying Plaintiff as Class Representatives and his counsel as Class Counsel;

3 B. Preliminarily and permanently enjoining Defendants and their counsel, agents,
4 employees and all persons acting under, in concert with, or for them, from filing a Definitive
5 Proxy with the SEC or otherwise disseminating a Definitive Proxy to Omega shareholders unless
6 and until Defendants agree to include the material information identified above in the Definitive
7 Proxy;

8 C. Preliminarily and permanently enjoining Defendants and their counsel, agents,
9 employees and all persons acting under, in concert with, or for them, from proceeding with,
10 consummating, or closing the Proposed Transaction, unless and until Defendants disclose the
11 material information identified above which has been omitted from the Proxy;
12

13 D. In the event that the transaction is consummated prior to the entry of this Court's
14 final judgment, rescinding it or awarding Plaintiff and the Class rescissory damages;

15 E. Directing the Defendants to account to Plaintiff and the Class for all damages
16 suffered as a result of their wrongdoing;

17 F. Awarding Plaintiff the costs and disbursements of this action, including
18 reasonable attorneys' and expert fees and expenses; and

19 G. Granting such other and further equitable relief as this Court may deem just and
20 proper.
21

22 ///
23 ///
24 ///
25 ///
26 ///
27 ///

28

JURY DEMAND

1
2 Plaintiff demands a trial by jury.

3 DATED: November 7, 2017

ALDRICH LAW FIRM, LTD.

4
5 
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13 DANIELLE ROWLAND LINDAHL (*to be*
14 *admitted pro hac vice*)
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18 Fax: (914) 301-3514
19 srowley@rowleylawpllc.com
20 drl@rowleylawpllc.com

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Attorneys for Plaintiff


CERTIFICATION OF PLAINTIFF

I, Michael Fromberger ("Plaintiff"), declare, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed a draft complaint against Omega Protein Corporation ("Omega Corp.") and its board of directors and has authorized the filing of a complaint substantially similar to the one I reviewed.
2. Plaintiff did not purchase the security that is the subject of the complaint at the direction of Plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. Plaintiff's transactions in Omega Corp. securities that are the subject of the complaint during the class period specified in the complaint are set forth in the chart attached hereto.
5. In the past three years, Plaintiff has not sought to serve nor has served as a representative party on behalf of a class in an action filed under the federal securities laws.
6. Plaintiff will not accept any payment for serving as a representative party on behalf of a 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 information is correct to the best of my knowledge.

Signed this 7th day of November, 2017.


Michael Fromberger

| Transaction (Purchase or Sale) | Trade Date | Price Per Unit | Quantity |
|-----------------------------------|------------|----------------|----------|
| Purchase | | \$ | |
| OME | 12/5/07 | 7.81 | 100 |
| OME | 12/5/07 | 7.82 | 200 |

Michael Fromberger
Dane County, Wisconsin

CIVIL COVER SHEET

JS 44 (Rev. 06/17)

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

Michael Fromberger, Individually and on Behalf of All Others Similary Situated

(b) County of Residence of First Listed Plaintiff Dane County, Wisconsin
(EXCEPT IN U.S. PLAINTIFF CASES)

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

John Aldrich, Esq., Aldrich Law Firm, Ltd., 1601 S. Rainbow Blvd. #160, Las Vegas, NV 89146 (702) 853-5490

DEFENDANTS

Omega Protein Corporation, Bret D. Scholtes, David A. Owen, David H. Clarke, David W. Wehlmann, Gary R. Goodwin, et al.

County of Residence of First Listed Defendant Clark County, NV
(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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: Nature of Suit Code Descriptions.

| CONTRACT | TORTS | | FOREFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input checked="" type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | | | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

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. Section 78aa and 28 U.S.C. Section 1331

Brief description of cause:

Class action lawsuit for violations of Section 14(a) and 20(a) of the Securities Exchange Act of 1934

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

DOCKET NUMBER

DATE

11/07/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ John P. Aldrich

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Stockholder Claims Omega Protein Corporation's Proposed Merger Seems 'Fishy'](#)
