



Agreement”) with Marathon. Pursuant to the terms of the Merger Agreement, shareholders of Andeavor will have the option to choose 1.87 shares of Parent stock, or \$152.27 in cash subject to a proration mechanism that will result in 15 percent of Andeavor’s fully diluted shares receiving cash consideration.

3. On May 29, 2018, defendants filed a Form S-4 Registration Statement (the “Registration Statement”) with the United States Securities and Exchange Commission (“SEC”) in connection with the Proposed Transaction.

4. The Registration Statement omits material information with respect to the Proposed Transaction, which renders the Registration Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Registration Statement.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(a) 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(b) 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 Andeavor common stock.

9. Defendant Andeavor is a Delaware corporation and maintains its principal executive offices at 19100 Ridgewood Parkway, San Antonio, Texas 78259. Andeavor's common stock is traded on the New York Stock Exchange under the ticker symbol "ANDV."

10. Defendant Gregory J. Goff ("Goff") has served as President, Chief Executive Officer ("CEO"), and a director of Andeavor since 2010. Defendant Goff has also served as Andeavor's Chairman of the Board since 2014.

11. Defendant Rodney F. Chase ("Chase") has served as a director of Andeavor since 2006.

12. Defendant Paul L. Foster ("Foster") has served as a director of Andeavor since 2017.

13. Defendant Edward G. Galante ("Galante") has served as a director of Andeavor since 2016.

14. Defendant David Lilley ("Lilley") has served as a director of Andeavor since 2011.

15. Defendant Mary Pat McCarthy ("McCarthy") has served as a director of Andeavor since 2012.

16. Defendant J.W. Nokes ("Nokes") has served as a director of Andeavor since 2007.

17. Defendant William H. Schumann, III ("Schumann") has served as a director of Andeavor since 2016.

18. Defendant Jeff A. Stevens ("Stevens") has served as a director of Andeavor since 2017.

19. Defendant Susan Tomasky (“Tomasky”) has served as a director of Andeavor since 2011.

20. Defendant Michael E. Wiley (“Wiley”) has served as a director of Andeavor since 2005.

21. Defendant Patrick Y. Yang (“Yang”) has served as a director of Andeavor since 2010.

22. The defendants identified in paragraphs 10 through 21 are collectively referred to herein as the “Individual Defendants.”

23. Defendant Parent is a party to the Merger Agreement.

24. Defendant Merger Sub 1 is a wholly-owned subsidiary of Parent and a party to the Merger Agreement.

25. Defendant Merger Sub 2 is a wholly-owned subsidiary of Parent and a party to the Merger Agreement.

### **CLASS ACTION ALLEGATIONS**

26. Plaintiff brings this action as a class action on behalf of itself and the other public stockholders of Andeavor (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.

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

28. The Class is so numerous that joinder of all members is impracticable. As of the close of business on April 26, 2018, there were approximately 151,122,485 shares of Andeavor common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

29. 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.

30. 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.

31. 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.

32. 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**

33. Andeavor is a highly integrated marketing, logistics, and refining company operating primarily in the western and mid-continent United States.

34. The Company's business is organized into three operating segments: Marketing, Logistics, and Refining. These segments operate together to provide Andeavor value from the

procurement of crude oil at its source or from other third parties, transporting the crude oil to its refineries, and producing, marketing, and distribution of refined products.

35. Andeavor's retail marketing system includes more than 3,250 stations marketed under multiple well-known fuel brands, including ARCO<sup>®</sup>, Shell<sup>®</sup>, Mobil<sup>™</sup>, and SUPERAMERICA<sup>®</sup>.

36. The Company also has an approximate ownership of 59% in Andeavor Logistics and owns its general partner.

37. Its refining operations include ten refineries with a combined capacity of approximately 1.2 million barrels per day in the central and western United States.

38. On April 29, 2018, the Individual Defendants caused the Company to enter into the Merger Agreement with Marathon.

39. Pursuant to the terms of the Merger Agreement, shareholders of Andeavor will have the option to choose 1.87 shares of Parent stock, or \$152.27 in cash subject to a proration mechanism that will result in 15 percent of Andeavor's fully diluted shares receiving cash consideration.

40. According to the press release announcing the Proposed Transaction:

Marathon Petroleum Corp. (NYSE: MPC) and Andeavor (NYSE: ANDV) today announced that they have entered into a definitive merger agreement under which MPC will acquire all of ANDV's outstanding shares, representing a total equity value of \$23.3 billion and total enterprise value of \$35.6 billion, based on MPC's April 27, 2018, closing price of \$81.43. ANDV shareholders will have the option to choose 1.87 shares of MPC stock, or \$152.27 in cash subject to a proration mechanism that will result in 15 percent of ANDV's fully diluted shares receiving cash consideration. This represents a premium of 24.4 percent to ANDV's closing price on April 27, 2018. MPC and ANDV shareholders will own approximately 66 percent and 34 percent of the combined company, respectively. The transaction was unanimously approved by the board of directors of both companies and is expected to close in the second half of 2018, subject to regulatory and other customary closing conditions, including approvals from both MPC and ANDV shareholders. The headquarters will be located in Findlay,

Ohio, and the combined business will maintain an office in San Antonio, Texas.  
...

At closing, Greg Goff, ANDV chairman and chief executive officer, will join MPC as executive vice chairman. As executive vice chairman and an executive of MPC following closing, Goff will provide leadership and be integrally involved in the strategy for the combined company. Goff, along with three other Andeavor directors, will also join the board of directors of Marathon Petroleum. . . .

#### Transaction Terms

Under the terms of the agreement, ANDV shareholders will have the option to elect 1.87 shares of MPC stock or \$152.27 in cash per share subject to a proration mechanism that will result in 15 percent of ANDV's fully diluted shares receiving cash consideration. The stock portion of the consideration received by Andeavor's shareholders is expected to be tax-free.

#### Approvals and Timing

The transaction has been unanimously approved by the boards of directors of both companies. The transaction is expected to close in the second half of 2018 and is subject to customary closing conditions, including approval by ANDV shareholders of the merger, and approval by MPC shareholders of the new MPC shares issued in the transaction. It is also subject to approval pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR), and the receipt of other required regulatory approvals.

### **The Registration Statement Omits Material Information**

41. On May 29, 2018, defendants filed the Registration Statement with the SEC in connection with the Proposed Transaction.

42. The Registration Statement omits material information with respect to the Proposed Transaction, which renders the Registration Statement false and misleading.

43. The Registration Statement omits material information regarding Andeavor's financial projections, Marathon's financial projections, and the analyses performed by the Company's financial advisor, Goldman, Sachs & Co. LLC ("Goldman").

44. 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.

45. With respect to the Company's financial projections, the Registration Statement fails to disclose: (i) all line items used to calculate EBITDA; (ii) all line items used to calculate unlevered free cash flow; and (iii) a reconciliation of all non-GAAP to GAAP metrics.

46. With respect to Marathon's financial projections, the Registration Statement fails to disclose: (i) all line items used to calculate EBITDA; (ii) all line items used to calculate unlevered free cash flow; and (iii) a reconciliation of all non-GAAP to GAAP metrics.

47. With respect to Goldman's Illustrative Discounted Cash Flow Analysis – Andeavor Standalone, the Registration Statement fails to disclose: (i) the range of illustrative terminal values for Andeavor; (ii) the amount of Andeavor's net debt; (iii) the number of fully diluted outstanding shares of Andeavor; and (iv) the specific inputs and assumptions underlying the discount rates ranging from 8.5% to 9.5% and the perpetuity growth rates ranging from 0% to 1%.

48. With respect to Goldman's Illustrative Discounted Cash Flow Analysis – Implied Valuation Uplift, the Registration Statement fails to disclose: (i) the ranges of illustrative terminal values; (ii) the free cash flow resulting from the estimated synergies for the years 2018 through 2022; (iii) pro forma net debt; (iv) the number of fully diluted outstanding shares of Marathon pro forma for the merger; and (v) the specific inputs and assumptions underlying the discount rates ranging from 8.5% to 9.5% and the perpetuity growth rates ranging from 0% to 1%.

49. With respect to Goldman's Illustrative Present Value of Future Share Price Analysis – Andeavor Standalone, the Registration Statement fails to disclose: (i) the amount of Andeavor's net debt as of December 31, 2018 and December 31, 2019; (ii) the amount of net debt and preferred equity for Andeavor Logistics as of December 31, 2018 and December 31, 2019; (iii) the percentage of public ownership in Andeavor Logistics; (iv) the number of fully diluted outstanding shares of Andeavor; and (v) the specific inputs and assumptions underlying the illustrative discount rate of 10.0%.

50. With respect to Goldman's Illustrative Present Value of Future Share Price Analysis – Implied Valuation Uplift, the Registration Statement fails to disclose: (i) the amount of Marathon's net debt pro forma for the merger as of December 31, 2018 and December 31, 2019; (ii) the amount of net debt and preferred equity for Andeavor Logistics and MPLX LP as of December 31, 2018 and December 31, 2019; (iii) the percentage of public ownership in Andeavor Logistics and MPLX LP; (iv) the number of fully diluted outstanding shares of Marathon pro forma for the merger; and (v) the specific inputs and assumptions underlying the illustrative discount rate of 9.7%.

51. With respect to Goldman's Selected Companies Analysis, the Registration Statement fails to disclose Goldman's basis for only using two comparable companies in its analysis.

52. With respect to Goldman's Premia Analysis, the Registration Statement fails to disclose the transactions observed by Goldman in the analysis as well as the premiums paid in such transactions.

53. The omission of the above-referenced material information renders the Registration Statement false and misleading, including, *inter alia*, the following sections of the

Registration Statement: (i) Background of the Merger; (ii) Recommendation of the Andeavor Board and Reasons for the Merger; (iii) Opinion of Goldman Sachs, Andeavor's Financial Advisor; and (iv) Unaudited Forecasted Financial Information.

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

### **COUNT I**

#### **Claim for Violation of Section 14(a) of the 1934 Act and Rule 14a-9 Promulgated Thereunder Against the Individual Defendants and Andeavor**

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

56. The Individual Defendants disseminated the false and misleading Registration Statement, which contained statements that, in violation of Section 14(a) of the 1934 Act and Rule 14a-9, in light of the circumstances under which they were made, omitted to state material facts necessary to make the statements therein not materially false or misleading. Andeavor is liable as the issuer of these statements.

57. The Registration Statement was prepared, reviewed, and/or disseminated by the Individual Defendants. By virtue of their positions within the Company, the Individual Defendants were aware of this information and their duty to disclose this information in the Registration Statement.

58. The Individual Defendants were at least negligent in filing the Registration Statement with these materially false and misleading statements.

59. The omissions and false and misleading statements in the Registration Statement are material in that a reasonable stockholder will consider them important in deciding how to vote on 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 in the

Registration Statement and in other information reasonably available to stockholders.

60. The Registration Statement is an essential link in causing plaintiff and the Company's stockholders to approve the Proposed Transaction.

61. By reason of the foregoing, defendants violated Section 14(a) of the 1934 Act and Rule 14a-9 promulgated thereunder.

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

## **COUNT II**

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

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

64. The Individual Defendants and Marathon acted as controlling persons of Andeavor 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 Andeavor and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Registration Statement, 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.

65. Each of the Individual Defendants and Marathon was provided with or had unlimited access to copies of the Registration 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.

66. 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 Registration Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly in the making of the Registration Statement.

67. Marathon also had direct supervisory control over the composition of the Registration Statement and the information disclosed therein, as well as the information that was omitted and/or misrepresented in the Registration Statement.

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

69. As set forth above, the Individual Defendants and Marathon had the ability to exercise control over and did control a person or persons who have each violated Section 14(a) 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. As a direct and proximate result of defendants' conduct, plaintiff and the Class are threatened with irreparable harm.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff prays for judgment and relief as follows:

A. Preliminarily and permanently 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 disseminate a Registration 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(a) and/or 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 respectfully requests a trial by jury on all issues so triable.

Dated: June 22, 2018

**RIGRODSKY & LONG, P.A.**

By: /s/ Brian D. Long

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