

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

WEST PALM BEACH FIREFIGHTERS’  
PENSION FUND, Individually and On Behalf of  
All Others Similarly Situated,

Plaintiff,

v.

CONAGRA BRANDS, INC., SEAN M.  
CONNOLLY, DAVID S. MARBERGER,  
ROBERT G. WISE, ANIL ARORA, THOMAS  
K. BROWN, STEPHEN G. BUTLER, JOIE A.  
GREGOR, RAJIVE JOHRI, RICHARD H.  
LENNY, RUTH ANN MARSHALL, CRAIG P.  
OMTVEDT, GOLDMAN SACHS & CO. LLC,  
J.P. MORGAN SECURITIES LLC, MERRILL  
LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED, MIZUHO SECURITIES  
USA LLC, MUFG SECURITIES AMERICAS  
INC., WELLS FARGO SECURITIES, LLC,  
BARCLAYS CAPITAL INC., BTIG, LLC,  
HSBC SECURITIES (USA) INC., SCOTIA  
CAPITAL (USA) INC., BNP PARIBAS  
SECURITIES CORP., RABO SECURITIES  
USA, INC., RBC Capital Markets, LLC , and  
SUNTRUST ROBINSON HUMPHREY, INC.,

Defendants.

Case No.: \_\_\_\_\_

CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS

JURY TRIAL DEMANDED

Plaintiff West Palm Beach Firefighters’ Pension Fund (“Plaintiff”) alleges upon personal knowledge as to allegations specifically pertaining to Plaintiff and, as to all other matters, upon the investigation of counsel, which included, without limitation: (a) review and analysis of public filings made by Conagra Brands, Inc. (“Conagra” or the “Company”) and other related parties and non-parties with the United States Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and other publications disseminated by certain of the Defendants and other related non-parties; (c) review of news articles, shareholder communications, conference calls and postings on Conagra’s website concerning the Company’s public statements; and (d)

review of other publicly available information concerning Conagra, the Individual Defendants, the Officer and Director Defendants and the Underwriter Defendants (as defined below).

**I. NATURE OF THE ACTION**

1. This is a federal securities class action against Conagra and certain of its officers and/or directors, and the underwriters for violations of the federal securities laws. Plaintiff brings this action on behalf of all persons or entities that purchased or otherwise acquired Conagra common stock from June 27, 2018 through December 19, 2018, inclusive (the “Class Period”), seeking to pursue remedies under the Securities Exchange Act of 1934 (the “Exchange Act”). The Exchange Act claims allege that certain defendants engaged in a fraudulent scheme to artificially inflate the Company’s stock price.

2. The action is also brought on behalf of all persons or entities who purchased shares of Conagra’s common stock pursuant and/or traceable to the Company’s false and/or misleading registration statement, prospectus and prospectus supplement (the “Offering Documents”) issued in connection with the Company’s secondary public offering commenced on or about October 9, 2018, for the sale of approximately 16.3 million shares of Conagra common stock (the “SPO”), at \$35.25 per share, seeking to pursue remedies under the Securities Act of 1933 (the “Securities Act”).

3. Under the Securities Act, defendants are strictly liable for the material misstatements in the Offering Documents for the SPO, and these claims specifically exclude any allegations of knowledge or scienter. The Securities Act claims also expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional or reckless misconduct.

4. This Complaint alleges that in Conagra's Offering Documents and throughout the Class Period, Defendants failed to disclose material adverse facts about the Company's financial well-being, including the troubled acquisition of Pinnacle Foods, Inc. ("Pinnacle"). As a result of Defendants' wrongful acts, false and misleading statements and omissions, and the precipitous decline in the market value of the Company's common stock, Plaintiff and other Class members have suffered significant losses and damages.

5. Conagra manufactures and markets packaged foods for retail consumers, restaurants and institutions. The Company has a portfolio of well-known food brands including Reddi-wip, Hunt's, Healthy Choice, Slim Jim and Orville Redenbacher's. Conagra is based in Chicago, Illinois.

6. In January 2013, Conagra acquired Ralcorp Holdings, Inc., a manufacturer of private branded food, for \$6.8 billion including debt. After trying and failing to address executional shortfalls and customer service issues, Conagra divested its Private Brands business in February 2016 to TreeHouse Foods for \$2.7 billion, recognizing a substantial loss.

7. Less than two years later, Conagra was again acquiring another large publicly traded food service company. On June 27, 2018, Conagra announced the acquisition of Pinnacle, in a cash and stock transaction valued at approximately \$10.9 billion (the "Transaction").

8. At the time of the Transaction and throughout the Class Period, Conagra represented the merger as a combination of two "growing portfolios" and "a no brainer of a deal" that would enhance Conagra's multi-year transformation plan and expand its presence and capabilities in its most strategic categories, including frozen foods and snacks. Conagra highlighted their due diligence of the deal, the similar cultures and work ethics of the two companies, and the tremendous synergies of the deal. Specifically, Defendants represented that

the Company was acquiring “a portfolio of complementary, leading brands” as “the Pinnacle team has done an absolutely phenomenal job driving innovation and growth here, and that meant a lot to us.” In addition, Defendants represented that the Company had a “proven track record of executing strategic transactions” and “will be able to implement a smooth integration process,” as “we’ve been very clear-eyed from the beginning” of the Transaction.

9. On or about October 9, 2018, in order to partially finance the pending acquisition of Pinnacle, Defendants effectuated a secondary public offering of 16,312,057 shares of common stock, priced at \$35.25 per share. In connection with the SPO, Defendants issued the materially false and/or misleading Offering Documents. The Company received net proceeds of approximately \$612 million after underwriters exercised their option of an additional 1,631,206 shares of Conagra common stock.

10. Unbeknownst to shareholders, however, Conagra and its management were aware or recklessly disregarded that the Transaction would not result in anywhere near the sort of benefits that Defendants had publicly represented. Just a few weeks after the closing of the merger, on December 20, 2018, Conagra stunned the market by releasing its third quarter 2018 results, as well as an update on the performance of the newly merged company, which revealed that Pinnacle’s performance had been much worse than Defendants had previously represented. In addition, Defendants revealed that Pinnacle’s three leading brands had “suffered sales and distribution losses” in 2018, and accounted “for the vast majority of Pinnacle’s current challenges” due to self-inflicted subpar innovation and executional missteps.

11. As a result of the disclosure, on December 20, 2018, Conagra’s stock price fell \$4.81 per share to \$24.28, or nearly 17%, wiping out over \$2.3 billion in Conagra’s market capitalization. On the next trading day, Conagra’s stock declined an additional \$2.13 per share or

8.8%. In fact, in three trading sessions, Conagra stock declined \$8.13 or 30%, to close at \$20.96 on December 24, 2018.

12. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's common stock, Plaintiff and the other Class members have suffered significant losses and damages.

## **II. JURISDICTION AND VENUE**

13. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5); and Sections 11, 12(a)(2) and 15 of the Securities Act (15 U.S.C. §§ 77k, 77l and 77o).

14. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, Section 27 of the Exchange Act (15 U.S.C. § 78aa) and § 22 of the Securities Act, 15 U.S.C. §77v.

15. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b), Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) and Section 22 of the Securities Act (15 U.S.C. § 77v). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District, as Conagra is headquartered in this district.

## **III. CLASS ACTION ALLEGATIONS**

16. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons and entities who purchased or otherwise acquired Conagra common stock from June 27, 2018 through December 19, 2018;

and/or purchased shares of Conagra common stock pursuant and/or traceable to the Company's SPO, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, members of the immediate family of each of the Individual Defendants, any subsidiary or affiliate of Conagra and the directors, officers and employees of the Company or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors and assigns of any excluded person.

17. The members of the Class are 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 appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Throughout the Class Period, Conagra's common stock was actively traded on the New York Stock Exchange ("NYSE") (an open and efficient market) under the symbol "CAG." Millions of Conagra shares were traded publicly during the Class Period on the NYSE. As of November 25, 2018, Conagra had 485.6 million shares of common stock outstanding. Record owners and the other members of the Class may be identified from records maintained by Conagra and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

18. Plaintiff's claims are typical of the claims of the other members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

19. Plaintiff will fairly and adequately protect the interests of the other members of the Class, and has retained counsel competent and experienced in class and securities litigation.

20. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a) whether the federal securities laws were violated by Defendants' acts and omissions as alleged herein;
- b) whether Defendants participated in and pursued the common course of conduct complained of herein;
- c) whether documents, press releases, and other statements disseminated to the investing public and the Company's shareholders during the Class Period misrepresented material facts about the business, finances, and prospects of Conagra;
- d) whether statements made by Defendants to the investing public during the Class Period misrepresented and/or omitted to disclose material facts about the business, finances, value, performance and prospects of Conagra;
- e) whether the market price of Conagra common stock during the Class Period was artificially inflated due to the material misrepresentations and failures to correct the material misrepresentations complained of herein; and
- f) the extent to which the members of the Class have sustained damages and the proper measure of damages.

21. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

#### **IV. CLAIMS UNDER THE EXCHANGE ACT**

##### **A. Parties**

22. Plaintiff West Palm Beach Firefighters' Pension Fund, as set forth in the accompanying certification, incorporated by reference herein, purchased Conagra common stock

during the Class Period, and suffered damages as a result of the federal securities law violations and the false and/or misleading statements and/or material omissions alleged herein.

23. Defendant Conagra is incorporated in Delaware, and the Company's principal executive offices are located in Chicago, Illinois. Conagra common stock trades on the New York Stock Exchange ("NYSE") under the symbol "CAG."

24. Defendant Sean Connolly ("Connolly") has served at all relevant times as the Company's Chief Executive Officer and President.

25. Defendant David Marberger ("Marberger") has served at all relevant times as the Company's Chief Financial Officer ("CFO") and Executive Vice President.

26. For purposes of Plaintiff's Exchange Act claims, Defendants Connolly and Marberger are referred to as the "Individual Defendants."

27. Conagra and the Individual Defendants are referred to as the "Exchange Act Defendants."

28. During the Class Period, the Individual Defendants, as senior executive officers and/or directors of Conagra, were privy to confidential, proprietary and material adverse non-public information concerning Conagra, its operations, finances, financial condition and present and future business prospects via access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and/or board of directors meetings and committees thereof, and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or recklessly disregarded that the adverse facts specified herein had not been disclosed to, and were being concealed from, the investing public.

29. The Individual Defendants are liable as direct participants in the wrongs complained of herein. In addition, the Individual Defendants, by reason of their status as senior executive officers and/or directors, were “controlling persons” within the meaning of §20(a) of the Exchange Act and had the power and influence to cause the Company to engage in the unlawful conduct complained of herein. Because of their positions of control, the Individual Defendants were able to and did, directly or indirectly, control the conduct of Conagra’s business.

30. The Individual Defendants, because of their positions with the Company, controlled and/or possessed the authority to control the contents of its reports, press releases and presentations to securities analysts and through them, to the investing public. The Individual Defendants were provided with copies of the Company’s reports and publicly disseminated documents alleged herein to be misleading, prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Thus, the Individual Defendants had the opportunity to commit the fraudulent acts alleged herein.

31. As senior executive officers and/or directors and as controlling persons of a publicly traded company whose securities were, and are, registered with the SEC pursuant to the Exchange Act, and were traded on the NYSE and governed by the federal securities laws, the Individual Defendants had a duty to disseminate promptly accurate and truthful information with respect to Conagra’s financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings, and present and future business prospects, to correct any previously issued statements that had become materially misleading or untrue, so the market price of Conagra’s common stock would be based on truthful and accurate information. The Individual Defendants’ misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

32. The Individual Defendants are liable as participants in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Conagra's publicly traded common stock by disseminating materially false and misleading statements and/or concealing material adverse facts.

**V. SUBSTANTIVE ALLEGATIONS**

**A. Background**

33. Conagra, which is incorporated in Delaware and headquartered in Chicago, Illinois, is a branded consumer packaged goods food company that operates in many sectors of the food industry, with a focus on the sale of branded, private branded, and value-added consumer food, as well as foodservice items and ingredients.

34. On May 4, 2018, prior to announcing the acquisition of Pinnacle on June 27, 2018, Conagra made an unsolicited non-binding proposal to acquire 100% of Pinnacle. Soon after the unsolicited non-binding proposal, on May 15, 2018, Conagra signed a confidentiality agreement with Pinnacle. As part of Conagra's due diligence process, on May 30, 2018, Pinnacle provided Conagra access to Pinnacle's electronic data room.

**B. Defendants' Materially False and Misleading Statements**

35. On June 27, 2018, before the market opened, Conagra issued a press release, announcing the acquisition of Pinnacle in a cash and stock transaction, valued at approximately \$10.9 billion. As part of the acquisition, Pinnacle shareholders were to receive \$43.11 per share in cash and 0.6494 shares of Conagra. The implied consideration price was \$68.00 per share.

36. In the press release, the Company represented that the combination of Pinnacle and Conagra would have the following "Compelling Strategic and Financial Benefits":

- **Complementary Portfolio of Iconic Brands:** The combined company will have a portfolio of leading, iconic brands within attractive domains such as frozen & refrigerated meals and snacks & sweet treats.
- **Enhanced Ability to Capitalize on Trends in Frozen Foods:** The combination will bring together complementary portfolios in the large, growing and on-trend frozen foods category, positioning the combined company to accelerate innovation and benefit from long-term tailwinds.
- **Compelling Growth Profile:** Conagra Brands and Pinnacle Foods are two of the fastest-growing companies in the consumer packaged foods industry by consumption, and Conagra Brands expects continued momentum based on the enhanced scale and new opportunities to partner with customers that the transaction will provide.
- **EPS Accretive:** On a percentage basis, Conagra Brands expects the transaction to be low single-digit accretive to adjusted EPS in the fiscal year ended May 2020 and high single-digit accretive to adjusted EPS in the fiscal year ended May 2022.
- **Significant Synergy Opportunities:** Conagra Brands expects to achieve approximately \$215 million in annual run-rate cost synergies by the end of fiscal year 2022, with one-time cash costs to achieve the synergies estimated at approximately \$355 million, inclusive of expected capital expenditures of approximately \$150 million.
- **Financing Maintains Solid Investment Grade Credit Rating and Dividend Rate:** The transaction is expected to be financed by Conagra Brands equity issued to Pinnacle Foods shareholders, new transaction debt and incremental cash proceeds from a public equity offering and/or divestitures.
- **Proven Integration Capabilities:** In recent years, Conagra Brands has established a proven track record of executing strategic transactions. The two organizations share complementary portfolios, supply chains, and results-oriented cultures, which are expected to facilitate integration.

37. The Company further represented in the press release, in relevant part, the following:

The transaction will enhance Conagra Brands' multi-year transformation plan and expand its presence and capabilities in its most strategic categories, including frozen foods and snacks. With annual net sales in excess of \$3 billion, Pinnacle Foods' portfolio of frozen, refrigerated and shelf-stable products includes such well-known brands as Birds Eye, Duncan Hines, Earth Balance, EVOL, Erin's, Gardein, Glutino, Hawaiian Kettle Style Potato Chips, Hungry-Man, Log Cabin, Tim's Cascade Snacks, Udi's, Vlasic and Wish-Bone, among others. Based on both

companies' latest fiscal year results, pro forma net sales would have been approximately \$11 billion.

38. In the press release, Defendant Connolly represented that the “addition of Pinnacle Foods’ leading brands in the attractive frozen foods and snacks categories will create a tremendous opportunity for us to further leverage our proven innovation approach, brand-building capabilities, and deep customer relationships. With greater scale across leading, iconic brands, an unwavering focus on driving profitable growth, and a strong balance sheet and cash flow, we are creating a tremendous platform to drive meaningful shareholder value.”

39. During the conference call discussing the Transaction on June 27, 2018, Defendant Connolly represented that the Company was acquiring “a portfolio of complementary, leading brands” as “the Pinnacle team has done an absolutely phenomenal job driving innovation and growth here, and that meant a lot to us.” He also represented that “the cultures of Conagra and Pinnacle are highly complementary and that our organizations are a natural fit. Much like Conagra, Pinnacle shares our focus on innovation and on maintaining a lean and efficient operating structure and close ties with customers.”

40. Defendant Connolly further represented that the Company had “a strong leadership team and proven capabilities driving brand building and innovation, we’re confident in our ability to successfully integrate this acquisition and to build continued momentum and deliver meaningful shareholder value,” and as the Company had a “proven track record of executing strategic transactions, we will be able to implement a smooth integration process.”

41. Discussing Duncan Hines, one of Pinnacle’s leading brands, Defendant Connolly represented, “if you look at the fantastic innovation that’s come out of the Pinnacle team on Duncan Hines in the last year or so, it’s really demonstrating that Duncan Hines operates well as

a sweet treat” and “we think there is real innovation opportunity still ahead there, and it fits squarely with what we do in sweet treats.”

42. On the M&A conference call, Ken Goldman, an analyst from JP Morgan asked, “Hoping to get some color on why the synergies aren’t a little bit higher than the typical 7%-ish rate in food. Just wondering why the supply chain synergies in frozen are not as high as maybe we expected. Is it that Pinnacle's SG&A is already very low and efficient, or maybe is there – I'm hoping, maybe there's just some conservatism in there?”

43. In response, Defendant Connolly’s represented, “So we've got 7% synergies here, which we are highly confident in, we've scrubbed every opportunity and we feel very good we can deliver this number.... The numbers we've got in here we feel very good about. And, obviously, it's kind of like how we approach margins in general. We always look to over-deliver, but this is the number that we believe is correct. And it's about on par with what we've seen elsewhere in the industry.”

44. On September 4, 2018, at the Barclays Global Consumer Staples Conference, Defendant Connolly represented that Pinnacle’s Birds Eye was “an absolutely terrific business. It’s been a juggernaut, and it’s incremental to what we do. And by the way, we think it opens up opportunities for us to apply some of our brands in that space....” Defendant Connolly further represented the deal as “a no brainer”:

With respect to Pinnacle, ***this is as much of a no brainer of a deal as I think you're going to see.*** I don't know that you'll see any large deal that looks this much like a bolt-on as Pinnacle does. This is a company that is very similar in their core to what we do in our core, the more types of businesses and very similarly culturally. Lots of things we like about the portfolio, we like the margin structure on some of the grocery businesses. We like the growth prospects in frozen. But obviously, the thing we like most about it comes back to our unshakeable belief that frozen is a space that has call it 10 years or more of runway. And when you look at Pinnacle's portfolio versus our portfolio, what you see are terrific assets

that are not redundant to what we do, they're additive and incremental to what we do.

45. Barclays Analyst Andrew Lazar (“Lazar”) also asked specifically about Pinnacle’s fundamentals and the Company’s due diligence in the acquisition: “I think there’s some that think that, because Pinnacle ‘settled’ for a \$68 price, which was below what I think many of the investment community might have expected, that there must be something wrong with Pinnacle’s fundamentals so that the outlook is somehow compromised. It did not seem that way as you just mentioned to us based on the second quarter results for Pinnacle, but again, love your thoughts on this more broadly, and then maybe pivoting into sort of *the due diligence done on the deal and what that told you and how you got comfortable with their internal projections.*” In response, Defendant Connolly assured investors that the Company had done a thorough due diligence on Pinnacle, and was completely “clear-eyed” when it came to the benefits of the Transaction.

Yeah. I think the way to think about this is we've been looking at this for a while. And we know food businesses. We've been spending our whole career in the food industry. So, we've been very clear-eyed from the beginning as to what the synergy prospects were with this company and what we believed were the true perpetual growth rates that were tangible for this company going forward. And we use those assumptions to arrive at a valuation that we thought was fair and reasonable.

46. In response to concerns about weakness of Pinnacle scanner data, Defendant Connolly represented, “I wouldn't worry too much around a lack of focus around deal dynamics because one of the things that you've seen with Pinnacle is this is a true performance-oriented team.”

47. On September 27, 2018, defendants reported financial results for the Company’s first quarter fiscal year 2019. Later in the day, the Company conducted a conference call to discuss the financial results for the first quarter fiscal year 2019. During the conference call, Defendant Connolly represented that, based on the Company’s “proven approach to innovation and brand

building” it was “well positioned to accelerate the next wave of change with the addition of Pinnacle Foods” and “to enhance [Pinnacle’s] portfolio of leading brands.”

48. The above statements in paragraphs 36-47 were materially false and/or misleading and failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose material information concerning Conagra’s acquisition of Pinnacle, including that: (i) the Company inadequately performed proper due diligence in connection with the acquisition of Pinnacle; (ii) the performance of Pinnacle’s three leading brands were deteriorating not due to intensified competition, but due to self-inflicted subpar innovation and executional missteps; (iii) Pinnacle’s business was performing so poorly that it had resorted to pushing promotional deals to retailers in an effort to boost sales; and (iv) as a result of the foregoing, Defendant’s public statements were materially false and/or misleading and/or lacked a reasonable basis when made.

49. On October 26, 2018, Conagra announced the completion of the Pinnacle acquisition.

**C. The Truth Is Revealed**

50. On December 20, 2018, less than two months after the Transaction was closed, Conagra issued a press release announcing financial results for the second quarter of fiscal year 2019 that ended on November 25, 2018. The financial results included the impact of 31 days of Pinnacle ownership. For the 31 days after the closing, net sales for the Pinnacle segment totaled \$259 million which “were below expectations due to weak performance across a range of significant brands.” In addition, on a conference call during the day, Defendant Connolly further disclosed that there had been a “deterioration in the legacy Pinnacle business over the course of the calendar year 2018” as “growth stalled” for Pinnacle’s three leading brands, Birds Eye, Duncan

Hines, and Wish-Bone, and consequently, they “suffered sales and distribution losses.” Defendant Connolly further admitted that these three leading brands accounted “for the vast majority of Pinnacle’s current challenges” as “innovation was insufficient to sustain growth, primarily because it was subpar in its execution.” Specifically, Defendant Connolly revealed that “Pinnacle overextended new items in the same demand pools, favored high margins over high-quality and highly competitive products and missed some major consumer trends,” causing “missed steps [that] ultimately undermined brand strength and pricing power.” Defendant Connolly concluded that “the challenges that the Pinnacle businesses face have been largely self-inflicted due to subpar innovation and executional missteps” and he did not “expect a material improvement in Pinnacle’s underlying trends until the second half of Conagra’s fiscal 2020.”

51. As a result, sales in the Pinnacle portfolio for calendar year 2018 would be “roughly \$3 billion, which is about \$160 million or 5% below Pinnacle’s target.” Significantly, Defendant Connolly admitted that the results for the Pinnacle segment were “highly disappointing” for the second half of 2018 because historically, “Pinnacle’s gross margin performance was lower in the front half of the calendar year than the back half.” For fiscal 2019, Conagra estimated, for the seven month period that Pinnacle would be combined with Conagra, the Pinnacle segment’s “net sales will be down mid-single digits for our fiscal year 2019 versus the same period a year ago. This equates to \$1.7 billion to \$1.75 billion in Pinnacles net sales for the 7-month period” because of “negative consumption trends in the Pinnacle business, along with an estimated \$30 million of negative net sales impact from our post-decision to exit some low [return on investment year-end] price promotions.”

52. While Defendant Connolly described these promotional deals as “highly inefficient” in which Pinnacle was “chasing volume over value,” an article in *The Wall Street*

*Journal* commented, “That appears to be a nice way of saying they pushed excess inventory to retailers prior to the deal that was ultimately difficult to sell.”

53. Immediately, analysts doubted defendants’ explanations for the shortfall in the Pinnacle segment, and questioned whether Conagra performed proper due diligence prior to closing the Transaction. Indeed, an analyst from JPMorgan asked on the conference call, “why Pinnacle’s performance worsened so suddenly” and whether “the due diligence could have been better” because “this feels like a really big surprise to most of us, something that maybe could have been a little bit avoided.” In response to these comments, Defendant Connolly admitted that Conagra failed to thoroughly review Pinnacle’s businesses and brands during the due diligence process, “[T]here’s only so much you can see in a public company diligence.... Pinnacle is not a brand. It’s a diverse company of brands. And so there were obviously businesses that were often businesses that were down, we were smack dab in the middle of diligence.”

54. Lazar from Barclays commented during the conference call that the situation “seems far more severe” since “it certainly sounded to [analysts] that you thought maybe initially that some of that Pinnacle margin opportunity could be delivered upon under Conagra’s ownership.” In response to Lazar’s comments, Defendant Connolly admitted that because Conagra had “coveted this portfolio for a while,” it had “concluded the acquisition would deliver high, single digit EPS accretion” when it was evaluating Pinnacle. However, due to the near year end weaknesses of the three leading Pinnacle brands, the EPS’s “starting point is lower,” but Conagra expects “to get right back to the same place at EPS by 2022.” In other words, Conagra’s “original EPS accretion guidance for this transaction” will not accrue until fiscal year 2022.

55. Immediately following the conference call, analysts continued to question whether Conagra performed proper due diligence in the Transaction. Indeed, in an article published by

*MarketWatch*, an analyst was quoted commenting that the call “suggested lax due diligence performed during the Pinnacle transaction, with improvement needed for Pinnacle’s Birds Eye, Duncan Hines and Wish-Bone brands.”

56. Similarly, on December 20, 2018, JPMorgan published an analyst report where it concluded “that CAG management should have performed better due diligence on” Pinnacle. JPMorgan noted that “the lack of visibility CAG recently had into [Pinnacle’s] pending distribution losses is what (we think rightfully) irks many observers today.” Indeed, according to JPMorgan, Conagra must have “had industry sources (customers, e.g.) that could have set off warning flares months ago.” Consequently, Conagra’s failure to do proper due diligence was leaving “some investors spooked and unwilling to look at CAG for a while,” and “the erosion of Pinnacle’s business was so big (and happened so fast)” that sophisticated market participants pointedly stated that they “cannot recall a CEO so deeply criticizing the decisions made within a business acquired only two months prior.”

57. On December 21, 2018, an analyst from RBC Capital Markets (“RBC”) wrote in an analyst report that Conagra just disclosed “a litany of previously-unknown execution issues in the acquired Pinnacle business.” Indeed, given that “many viewed Pinnacle as the vanguard of innovation and execution within US Food, we were surprised to hear that its franchise BirdsEye brand now faces high-single-digit distribution losses along with accelerating double-digit sales declines from the Duncan Hines and Wish-Bone brands.”

58. Similarly, an analyst from Barclays commented in a note that “we did give ourselves a black eye on this call” as “some of these observations could have been ascertained beforehand given CAG and PF’s overlapping categories.”

59. As a result of the disclosures and analyst reports, Conagra stock fell \$4.81 or 16.5% on December 20, 2018, and declined an additional \$2.13 or 8.8% on the next trading day. In fact, Conagra stock declined \$8.13 or 30% in three trading sessions, to close at \$20.96 on December 24, 2018.

## **VI. UNDISCLOSED ADVERSE FACTS**

60. The market for Conagra common stock was an open, well-developed and efficient market at all relevant times. As a result of these materially false and misleading statements and failures to disclose described herein, Conagra common stock traded at artificially inflated prices during the Class Period. Plaintiff and the other members of the Class purchased or otherwise acquired Conagra common stock relying upon the integrity of the market price of the Company's securities and market information relating to Conagra, and have been damaged thereby.

61. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of Conagra common stock, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse non-public information and misrepresented the truth about the Company, as well as its business, accounting, financial operations and prospects, as alleged herein.

62. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and the other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and misleading statements about Conagra's financial well-being and prospects.

63. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements made during the Class Period resulted in Plaintiff and the other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

## **VII. LOSS CAUSATION**

64. During the Class Period, as detailed herein, the Exchange Act Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the prices of Conagra common stock and operated as a fraud or deceit on Class Period purchasers of Conagra common stock by failing to disclose to investors that the Company's financial results were materially misleading and misrepresented material information. When the Exchange Act Defendants' misrepresentations and fraudulent conduct were disclosed and became apparent to the market, the prices of Conagra common stock fell precipitously as the prior inflation came out of the Company's stock price. As a result of their purchases of Conagra common stock during the Class Period, Plaintiff and the other Class members suffered economic loss.

65. By failing to disclose the true state of the Company's financial statements, investors were not aware of the true state of the Company's financial status. Therefore, the Exchange Act Defendants presented a misleading picture of Conagra's business practices and procedures. Thus, instead of truthfully disclosing during the Class Period the true state of the Company's business, the Exchange Act Defendants caused Conagra to conceal the truth.

66. The Exchange Act Defendants' false and misleading statements had the intended effect and caused Conagra's common stock to trade at artificially inflated levels throughout the

Class Period. The stock price drop discussed herein caused real economic loss to investors who purchased the Company's securities during the Class Period.

67. The decline in the price of Conagra's common stock after the truth came to light was a direct result of the nature and extent of the Exchange Act Defendants' fraud finally being revealed to investors and the market. The timing and magnitude of Conagra's common stock price decline negates any inference that the loss suffered by Plaintiff and the other Class members was caused by changed market conditions, macroeconomic or industry factors, or Company-specific facts unrelated to the Exchange Act Defendants' fraudulent conduct. The economic loss suffered by Plaintiff and the other Class members was a direct result of the Exchange Act Defendants' fraudulent scheme to artificially inflate the prices of Conagra's common stock and the subsequent decline in the value of Conagra's common stock when the Exchange Act Defendants' prior misrepresentations and other fraudulent conduct were revealed.

#### **VIII. SCIENTER ALLEGATIONS**

68. As alleged herein, the Individual Defendants acted with scienter in that the Individual Defendants knew that the public documents and statements issued or disseminated in the name of the Company during the Class Period were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws.

69. As set forth herein, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding Conagra, their control over, receipt and/or modification of Conagra's allegedly materially misleading statements and omissions, and/or their

positions with the Company which made them privy to confidential information concerning Conagra, participated in the fraudulent scheme alleged herein.

**IX. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD-ON-THE-MARKET DOCTRINE**

70. At all relevant times, the market for Conagra's common stock was an efficient market for the following reasons, among others:

- a) Conagra's common stock met the requirements for listing, and were listed and actively traded on the NYSE, a highly efficient market;
- b) As a regulated issuer, Conagra filed periodic public reports with the SEC and the NYSE;
- c) Conagra's common stock was followed by securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace; and
- d) Conagra regularly issued press releases which were carried by national newswires. Each of these releases was publicly available and entered the public marketplace.

71. As a result of the foregoing, the market for Conagra's common stock promptly digested current information regarding Conagra from all publicly available sources and reflected such information in Conagra's stock price. Under these circumstances, all purchasers of Conagra's common stock during the Class Period suffered similar injury through their purchase of Conagra's common stock at artificially inflated prices and a presumption of reliance applies.

72. A Class-wide presumption of reliance is also appropriate in this action under the U.S. Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because Plaintiff's fraud claims are grounded in Defendants' omissions of material fact of which there is a duty to disclose. As this action involves Defendants' failure to disclose material adverse information regarding Conagra's business practices, financial results and condition, and the Company's internal controls—information that Defendants were obligated to disclose during

the Class Period but did not—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered such information important in the making of investment decisions.

**X. NO SAFE HARBOR**

73. The federal statutory safe harbor providing for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward-looking, they were not identified as “forward-looking statements” when made, and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

74. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of Conagra who knew that the statement was false when made.

**XI. EXCHANGE ACT CLAIMS AGAINST EXCHANGE ACT DEFENDANTS**

**COUNT I**

**Violation of Section 10(b) of the Exchange Act and  
Rule 10b-5 Promulgated Thereunder  
Against All the Exchange Act Defendants**

75. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is asserted against all Defendants.

76. During the Class Period, Conagra and the Individual Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and the other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Conagra common stock; and (iii) cause Plaintiff and the other members of the Class to purchase Conagra common stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

77. These Defendants: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Conagra common stock in violation of §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. The Exchange Act Defendants are sued as primary participants in the wrongful and illegal conduct charged herein. The Individual Defendants are also sued herein as controlling persons of Conagra, as alleged herein.

78. Conagra and the Individual Defendants, individually and in concert, directly and indirectly, by the use of means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, business practices, performance, operations and future prospects of Conagra as specified herein. These Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Conagra's value and performance and substantial growth, which included the making of, or the participation

in the making of, untrue statements of material facts, and omitting to state material facts necessary in order to make the statements made about Conagra and its business, operations and future prospects, in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Conagra's common stock during the Class Period.

79. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) each of the Individual Defendants was a high-level executive and/or director at the Company during the Class Period; (ii) each of the Individual Defendants, by virtue of his responsibilities and activities as a senior executive officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's operational and financial projections and/or reports; (iii) the Individual Defendants enjoyed significant personal contact and familiarity with each other, and were advised of and had access to other members of the Company's management team, internal reports, and other data and information about the Company's financial condition and performance at all relevant times; and (iv) the Individual Defendants were aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

80. These Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were readily available to them. Such Defendants' material misrepresentations and/or omissions were done knowingly or recklessly, and for the purpose and effect of concealing Conagra's operating condition, business practices and

future business prospects from the investing public and supporting the artificially inflated price of its common stock. As demonstrated by their misstatements of the Company's financial condition and performance throughout the Class Period, the Individual Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were severely reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

81. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Conagra common stock was artificially inflated during the Class Period. In ignorance of the fact that the market price of Conagra shares was artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by the Exchange Act Defendants but not disclosed in public statements by these Defendants during the Class Period, Plaintiff and the other members of the Class acquired Conagra common stock during the Class Period at artificially inflated high prices and were damaged thereby.

82. At the time of said misrepresentations and omissions, Plaintiff and the other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known of the true performance, business practices, future prospects and intrinsic value of Conagra, which were not disclosed by the Exchange Act Defendants, Plaintiff and the other members of the Class would not have purchased or otherwise acquired Conagra common stock during the Class Period, or, if they had acquired

such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

83. By virtue of the foregoing, Conagra and the Individual Defendants each violated §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

84. As a direct and proximate result of the Individual Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

## COUNT II

### **Violation of Section 20(a) of the Exchange Act Against The Individual Defendants**

85. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

86. The Individual Defendants were and acted as controlling persons of Conagra within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions with the Company, participation in and/or awareness of the Company's operations and/or intimate knowledge of the Company's actual performance, the Individual Defendants 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. Each of the Individual Defendants was provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements 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 the statements to be corrected.

87. In addition, each of the Individual Defendants had direct 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.

88. As set forth above, Conagra and the Individual Defendants each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their controlling positions, the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of these Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of the Company's common stock during the Class Period.

## **XII. THE SECURITIES ACT CLAIMS**

### **A. Parties**

#### **1. Plaintiff**

89. Plaintiff West Palm Beach Firefighters' Pension Fund, as set forth in the accompanying certification, incorporated by reference herein, purchased Conagra common stock pursuant to the SPO at artificially inflated prices, and suffered damages as a result of the federal securities law violations and the false and/or misleading statements in the Offering Documents.

#### **2. Securities Act Defendants**

90. Defendant Conagra is incorporated in Delaware, and the Company's principal executive offices are located in Chicago, Illinois. Conagra common stock trades on the New York Stock Exchange ("NYSE") under the symbol "CAG."

91. Defendant Sean Connolly ("Connolly") has served at all relevant times as the Company's Chief Executive Officer and President. Defendant Connolly has served as a Director

of Conagra since 2015. Connolly participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

92. Defendant David Marberger (“Marberger”) has served at all relevant times as the Company’s Chief Financial Officer (“CFO”) and Executive Vice President. Marberger participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

93. Defendant Robert G. Wise (“Wise”) has served at all relevant times as the Company’s Senior Vice President and Corporate Controller. Wise participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

94. Defendants Connolly, Wise and Marberger are collectively referred to hereinafter as the “Officer Defendants.”

95. Defendant Anil Arora (“Arora”) has served as a Director of Conagra since July 2018. Arora participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

96. Defendant Thomas K. Brown (“Brown”) has served as a Director of Conagra since 2013. Brown participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act

97. Defendant Stephen G. Butler (“Butler”) has served as a Director of Conagra since 2003. Butler participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

98. Defendant Joie A. Gregor (“Gregor”) has served as a Director of Conagra since 2009. Gregor participated in preparing the Offering Documents, which she signed pursuant to the requirements of the Securities Act.

99. Defendant Rajive Johri (“Johri”) has served as a Director of Conagra since 2009. Johri participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

100. Defendant Richard H. Lenny (“Lenny”) has served as a Director of Conagra since 2009, and non-executive chairman since May 2018. Lenny participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

101. Defendant Ruth Ann Marshall (“Marshall”) has served as a Director of Conagra since 2007. Marshall participated in preparing the Offering Documents, which she signed pursuant to the requirements of the Securities Act.

102. Defendant Craig P. Omtvedt (“Omtvedt”) has served as a Director of Conagra since 2016. Omtvedt participated in preparing the Offering Documents, which he signed pursuant to the requirements of the Securities Act.

103. Defendants Arora, Brown, Butler, Gregor, Johri, Lenny, Marshall and Omtvedt are collectively referred to herein as the “Director Defendants.”

104. The Officers and Director Defendants served as Conagra’s officers and/or directors at the time of the SPO, and are strictly liable under the Securities Act for endorsing the Company’s false statements in the Offering Documents.

105. Defendant Goldman Sachs & Co. LLC (“Goldman”) was an underwriter of Conagra’s SPO. Goldman assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

106. Defendant J.P. Morgan Securities LLC (“JPM”) was an underwriter of Conagra’s SPO. JPM assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

107. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“BofA Merrill Lynch”) was an underwriter of Conagra’s SPO. BofA Merrill Lynch assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

108. Defendant Mizuho Securities USA LLC (“Mizuho”) was an underwriter of Conagra’s SPO writers. Mizuho assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

109. Defendant MUFG Securities Americas Inc. (“MUFG”) was an underwriter of Conagra’s SPO. MUFG assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

110. Defendant Wells Fargo Securities, LLC (“Wells Fargo”) was an underwriter of Conagra’s SPO. Wells Fargo assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

111. Defendant Barclays Capital Inc. (“Barclays”) was an underwriter of Conagra’s SPO. Barclays assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

112. Defendant BTIG, LLC (“BTIG”) was an underwriter of Conagra’s SPO. BTIG assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

113. Defendant HSBC Securities (USA) Inc. (“HSBC”) was an underwriter of Conagra’s SPO. HSBC assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

114. Defendant Scotia Capital (USA) Inc. (“Scotia”) was an underwriter of Conagra’s SPO. Scotia assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

115. Defendant BNP Paribas Securities Corp. (“BNP”) was an underwriter of Conagra’s SPO. BNP assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

116. Defendant Rabo Securities USA, Inc. (“Rabo”) was one of the representatives of the SPO underwriters. Rabo assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

117. Defendant RBC Capital Markets, LLC (“RBC”) was an underwriter of Conagra’s SPO. RBC assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

118. Defendant SunTrust Robinson Humphrey, Inc. (“SunTrust”) was an underwriter of Conagra’s SPO. SunTrust assisted in the preparation and dissemination of the materially untrue and misleading Offering Documents.

119. The Defendants named in paragraphs 105-118 are collectively referred to as the “Underwriter Defendants.” The Company, the Officers and Director Defendants, and the Underwriter Defendants are collectively referred to as the “Securities Act Defendants.”

120. Pursuant to the Securities Act, the Underwriter Defendants are liable for the materially untrue and misleading statements in the Offering Documents. The Underwriter Defendants assisted Conagra and the Individual Defendants in planning the SPO and were required to conduct an adequate and reasonable investigation into the business and operations of Conagra — a process known as a “due diligence” investigation. The Underwriter Defendants were required

to conduct a due diligence investigation in order to participate in the SPO. During the course of their due diligence investigation, the Underwriter Defendants had continual access to confidential corporate information concerning Conagra's operations and financial prospects.

121. In addition to availing themselves of virtually unlimited access to internal corporate documents, agents of the Underwriter Defendants met with Conagra's lawyers, management and top executives and made joint decisions regarding: (i) the terms of the SPO, including the price at which Conagra shares would be sold to the public; (ii) the strategy to best accomplish the SPO; (iii) the information to be included in the Offering Documents; and (iv) what responses would be made to the SEC in connection with its review of the Offering Documents. As a result of those constant contacts and communications between the Underwriter Defendants' representatives and Conagra's management and top executives, the Underwriter Defendants knew of, or in the exercise of reasonable care should have known of, Conagra's existing problems as detailed herein.

122. Defendants negligently allowed the Offering Documents to contain materially untrue and misleading statements and/or omissions to the extent that they knew or should have known that the Offering Documents were materially misleading, but failed to act in a reasonable manner to prevent the Offering Documents from containing materially misleading statements and/or preventing the materially misleading Offering Documents from being disseminated.

**B. Claims Against the Securities Act Defendants**

123. On October 9, 2018, Conagra issued a press release announcing its SPO of 16,312,057 shares of Conagra common stock, at \$35.25 per share, for net proceeds of approximately \$556 million, or \$612 million if the underwriters exercise, in full, their option of an additional 1,631,206 shares of Conagra common stock. The purpose of the net proceeds was to finance, in part, the pending acquisition of Pinnacle.

124. On October 9, 2018, the Company filed with the SEC a Form S-3 registration statement and a prospectus, in connection with the SPO. On October 11, 2018, the Company filed with the SEC a prospectus supplement to the prospectus dated October 9, 2018, in connection with the SPO.

125. The Offering Documents contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading and were not prepared in accordance with the rules and regulations governing its preparation. Additionally, by explicitly incorporating by reference several of the Company's filings with the SEC which contained false and misleading financial results and statements, the Offering Documents contained untrue statements of material facts and/or omitted to state facts necessary to make the statements contained in the Offering Documents not misleading.

126. The Offering Documents explicitly incorporated by reference certain of Conagra's SEC filings including the Current Report on Form 8-K filed with the SEC on June 27, 2018 ("Form 8-K").

127. The Form 8-K's Item 8.01 referenced a press release issued by Conagra on June 27, 2018. In this press release, the Company represented that the combination of Pinnacle and Conagra would have the following "Compelling Strategic and Financial Benefits":

- **Complementary Portfolio of Iconic Brands:** The combined company will have a portfolio of leading, iconic brands within attractive domains such as frozen & refrigerated meals and snacks & sweet treats.
- **Enhanced Ability to Capitalize on Trends in Frozen Foods:** The combination will bring together complementary portfolios in the large, growing and on-trend frozen foods category, positioning the combined company to accelerate innovation and benefit from long-term tailwinds.
- **Compelling Growth Profile:** Conagra Brands and Pinnacle Foods are two of the fastest-growing companies in the consumer packaged foods industry by consumption, and Conagra Brands expects continued momentum based on the

enhanced scale and new opportunities to partner with customers that the transaction will provide.

- **EPS Accretive:** On a percentage basis, Conagra Brands expects the transaction to be low single-digit accretive to adjusted EPS in the fiscal year ended May 2020 and high single-digit accretive to adjusted EPS in the fiscal year ended May 2022.
- **Significant Synergy Opportunities:** Conagra Brands expects to achieve approximately \$215 million in annual run-rate cost synergies by the end of fiscal year 2022, with one-time cash costs to achieve the synergies estimated at approximately \$355 million, inclusive of expected capital expenditures of approximately \$150 million.
- **Financing Maintains Solid Investment Grade Credit Rating and Dividend Rate:** The transaction is expected to be financed by Conagra Brands equity issued to Pinnacle Foods shareholders, new transaction debt and incremental cash proceeds from a public equity offering and/or divestitures.
- **Proven Integration Capabilities:** In recent years, Conagra Brands has established a proven track record of executing strategic transactions. The two organizations share complementary portfolios, supply chains, and results-oriented cultures, which are expected to facilitate integration.

128. Moreover, the Company represented in the press release, in relevant part, the following:

The transaction will enhance Conagra Brands' multi-year transformation plan and expand its presence and capabilities in its most strategic categories, including frozen foods and snacks. With annual net sales in excess of \$3 billion, Pinnacle Foods' portfolio of frozen, refrigerated and shelf-stable products includes such well-known brands as Birds Eye, Duncan Hines, Earth Balance, EVOL, Erin's, Gardein, Glutino, Hawaiian Kettle Style Potato Chips, Hungry-Man, Log Cabin, Tim's Cascade Snacks, Udi's, Vlasic and Wish-Bone, among others. Based on both companies' latest fiscal year results, pro forma net sales would have been approximately \$11 billion.

129. In the press release, Defendant Connolly represented that the "addition of Pinnacle Foods' leading brands in the attractive frozen foods and snacks categories will create a tremendous opportunity for us to further leverage our proven innovation approach, brand-building capabilities, and deep customer relationships. With greater scale across leading, iconic brands, an unwavering

focus on driving profitable growth, and a strong balance sheet and cash flow, we are creating a tremendous platform to drive meaningful shareholder value.”

130. In respect to Pinnacle’s preliminary unaudited selected financial results for its third quarter ended September 30, 2018, the Offering Documents represented, in relevant part, the following:

Pinnacle expects net sales to be in the range of \$740 million to \$745 million, compared with net sales of \$749.8 million in the third quarter of 2017. The approximately 1% decline in sales is primarily due to intensified competition, specifically in Pinnacle’s Grocery segment, partially offset by ongoing growth in Pinnacle’s Frozen segment, led by the Birds Eye franchise, which continued to drive Pinnacle’s robust innovation program.

131. The statements in the Offering Documents were materially false and misleading and failed to disclose material information concerning Conagra’s acquisition of Pinnacle, including that: (i) the Company inadequately performed proper due diligence in connection with the acquisition of Pinnacle; (ii) the performance of Pinnacle’s three leading brands were deteriorating not due to intensified competition, but due to self-inflicted subpar innovation and executional missteps; (iii) Pinnacle’s business was performing so poorly that it had resorted to pushing promotional deals to retailers in an effort to boost sales; and (iv) as a result of the foregoing, Defendant’s public statements were materially false and/or misleading and/or lacked a reasonable basis when made.

**C. The Truth Is Revealed**

132. On December 20, 2018, less than two months after the Transaction was closed, Conagra issued a press release announcing financial results for the second quarter of fiscal year 2019 that ended on November 25, 2018. The financial results included the impact of 31 days of Pinnacle ownership. For the 31 days after the closing, net sales for the Pinnacle segment totaled \$259 million which “were below expectations due to weak performance across a range of

significant brands.” In addition, on a conference call during the day, Defendant Connolly further disclosed that there had been a “deterioration in the legacy Pinnacle business over the course of the calendar year 2018” as “growth stalled” for Pinnacle’s three leading brands, Birds Eye, Duncan Hines, and Wish-Bones, and consequently, they “suffered sales and distribution losses.” Defendant Connolly further admitted that these three leading brands accounted “for the vast majority of Pinnacle’s current challenges” as “innovation was insufficient to sustain growth, primarily because it was subpar in its execution.” Specifically, Defendant Connolly revealed that “Pinnacle overextended new items in the same demand pools, favored high margins over high-quality and highly competitive products and missed some major consumer trends,” causing “missed steps [that] ultimately undermined brand strength and pricing power.” Defendant Connolly concluded that “the challenges that the Pinnacle businesses face have been largely self-inflicted due to subpar innovation and executional missteps” and he did not “expect a material improvement in Pinnacle’s underlying trends until the second half of Conagra’s fiscal 2020.”

133. As a result of the disclosure, on December 20, 2018, Conagra’s stock price fell \$4.81 per share to \$24.28, or nearly 17%, wiping out over \$2.3 billion in Conagra’s market capitalization. On the next trading day, Conagra’s stock declined an additional \$2.13 per share or 8.8%. In fact, in three trading sessions, Conagra stock declined \$8.13 or 30%, to close at \$20.96 on December 24, 2018.

134. As a result of the Securities Act Defendants’ wrongful acts and omissions, and the precipitous decline in the market value of the Company’s common stock, Plaintiff and other Class members have suffered significant losses and damages.

**XIII. COUNTS AGAINST SECURITIES ACT DEFENDANTS RELATED TO THE SPO**

**COUNT III**

**Violation of Section 11 of the Securities Act  
Against the Securities Act Defendants**

135. Plaintiff incorporates the allegations contained above pertaining to the false fully set forth herein. For purposes of Counts III and IV, Plaintiff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as these counts are based solely on claims of strict liability and/or negligence under the Securities Act.

136. This Count is brought against the Securities Act Defendants on behalf of all persons or entities who purchased Conagra common stock issued pursuant or traceable to the SPO. The Offering Documents in connection with the SPO were inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and concealed and failed adequately to disclose material facts, as described above.

137. The Securities Act Defendants are strictly liable for the misstatements and omissions and for the damages that Plaintiff and other members of the Class have sustained thereby. The Securities Act Defendants are responsible for the contents and dissemination of the Offering Documents, and did not conduct a reasonable investigation or possess reasonable grounds for the belief that the statements contained in the Offering Documents were true and without omissions of any material facts and were not misleading.

138. The Securities Act Defendants issued, caused to be issued and participated in the issuance of materially false and misleading written statements to the investing public that were contained in the Offering Documents, which misrepresented or failed to disclose, among other things, the facts set forth above. By reasons of the conduct herein alleged, each Section 11 Defendant violated, and/or controlled a person who violated, Section 11 of the Securities Act.

**COUNT IV**

**Violation of Section 12(a)(2) of the Securities Act  
Against Defendant Conagra and the Underwriter Defendants**

139. Plaintiff incorporates the allegations contained above pertaining to the false Offering Documents, as if fully set forth herein. For purposes of Counts III and IV, Plaintiff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as these counts are based solely on claims of strict liability and/or negligence under the Securities Act.

140. This Count is brought against the Underwriter Defendants and Conagra on behalf of all persons or entities who purchased Conagra common stock issued pursuant or traceable to the SPO. The Company and the Underwriter Defendants were sellers, offerors, and/or solicitors of purchasers of the shares offered pursuant to the Offering Documents.

141. The Offering Documents contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and concealed and failed to disclose material facts. The Company and the Underwriter Defendants' actions of solicitation included participating in the preparation and dissemination of the false the misleading Offering Documents.

142. Defendant Conagra and the Underwriter Defendants owed to the purchasers of Conagra's common stock, including Plaintiff and other members of the Class, the duty to make a reasonable and diligent investigation of the statements contained in the Offering Documents to ensure that such statements were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading. Conagra and the Underwriter Defendants knew of, or in the exercise of reasonable care should have known of, the misstatements and omissions contained in the Offering Documents, as set forth above.

143. Plaintiff and other members of the Class purchased or otherwise acquired Conagra's common stock pursuant to and/or traceable to the defective Offering Documents. Plaintiff did not know, or in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Offering Documents.

144. Plaintiff, individually and representatively, hereby offers to tender to the Conagra and the Underwriter Defendants that stock which Plaintiff and other Class members continue to own, on behalf of all members of the Class who continue to own such stock, in return for the consideration paid for that stock together with interest thereon. Class members who have sold their Conagra common stock are entitled to rescissory damages.

145. By reason of the conduct alleged herein, these defendants violated and/or controlled a person who violated §12(a)(2) of the Securities Act. Accordingly, Plaintiff and members of the Class who hold Conagra common stock purchased in the SPO have the right to rescind and recover the consideration paid for their Conagra securities, and hereby elect to rescind and tender their Conagra securities to the Conagra and the Underwriter Defendants sued herein. Plaintiff and Class members who have sold their Conagra securities are entitled to rescissory damages.

146. This action is brought within three years from the time that the securities upon which this Count is brought were sold to the public, and within one year from the time when Plaintiff discovered or reasonably could have discovered the facts upon which this Count is based.

#### **COUNT V**

#### **Violation of Section 15 of the Securities Act Against the Officer and Director Defendants**

147. Plaintiff incorporates the allegations contained above pertaining to the false Offering Documents, as if fully set forth herein. This Count is brought against the Officer and Director Defendants, each of whom was a controlling person of Conagra by virtue of their position

as directors and/or senior officers of Conagra and/or by virtue of their status as a major shareholder of the Company.

148. This Claim is brought against the Officer and Director Defendants pursuant to Section 15 of the Securities Act, 15 U.S.C. §77o, on behalf of all persons or entities who purchased Conagra common stock issued pursuant or traceable to the SPO.

149. The Company is liable under Section 11 of the Securities Act as set forth in Count I herein with respect to the SPO.

150. Each of the Officer and Director Defendants was a control person of the Company with respect to the SPO by virtue of that individual's position as a senior executive officer and/or director of the Company. These Defendants each had a series of direct and/or indirect business and/or personal relationships with other directors and/or officers and/or major shareholders of Conagra. By reason of their positions within the Company and/or their stock ownership and/or because of their positions on Conagra's Board of Directors, the Officer and Director Defendants had the requisite power to directly or indirectly control or influence the specific corporate policies that resulted in the unlawful acts and conduct alleged in Count III.

151. Each of the Officer and Director Defendants was a culpable participant in the violations of Section 11 of the Securities Act alleged in Count III above, based on their having signed the Offering Documents and having otherwise participated in the process that allowed the SPO to be successfully completed. These Defendants, by virtue of their managerial and/or board positions with the Company, controlled the Company as well as the contents of the Offering Documents at the time of the SPO. Each of the Officer and Director Defendants was provided with or had unlimited access to copies of the Offering Documents and had the ability to either prevent their issuance or cause them to be corrected.

152. As a result, the Officer and Director Defendants are liable under Section 15 of the Securities Act for the Company's primary violation of Section 11 of the Securities Act.

153. By virtue of the foregoing, Plaintiff and other members of the Class who purchased or otherwise acquired the Company's common stock pursuant and/or traceable to the SPO are entitled to damages against the Individual Defendants.

**XIV. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for judgment as follows:

- a) Declaring this action to be a class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Class defined herein;
- b) Awarding Plaintiff and the other members of the Class damages in an amount which may be proven at trial, together with interest thereon;
- c) Awarding Plaintiff and the other members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' and experts' witness fees and other costs; and
- d) Awarding such other relief as this Court deems appropriate.

**XV. JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: February 22, 2019

Respectfully submitted,

/s/ Carol V. Gilden  
Carol V. Gilden  
Cohen Milstein Sellers & Toll PLLC  
190 South LaSalle Street / Suite 1705  
Chicago, IL 60603  
IL ARDC: 6185530  
Telephone: (312) 357-0370

Facsimile: (312) 357-0369  
cgilden@cohenmilstein.com

**SAXENA WHITE P.A.**  
Steven B. Singer  
10 Bank Street, 8th Floor  
White Plains, New York 10606  
Telephone: (914) 437-8551  
ssinger@saxenawhite.com

**SAXENA WHITE P.A.**  
Joseph E. White, III  
Lester R. Hooker  
Telephone: (561) 394-3399  
Facsimile: (561) 394-3382  
jwhite@saxenawhite.com  
lhooker@saxenawhite.com

*Counsel for Plaintiff*

**CERTIFICATION AND AUTHORIZATION**

I, David Merrell, on behalf of the West Palm Beach Firefighters' Pension Fund ("WPB Fire"), hereby certify, as to the claims asserted under the federal securities laws, that:

1. I am authorized in my capacity as Chairman of the Board of Trustees of WPB Fire to initiate litigation and to execute this Certification on behalf of WPB Fire.
2. I have reviewed the accompanying complaint against Conagra Brands, Inc. ("Conagra"), certain of its officers and/or directors, and certain underwriters, and have authorized the filing of a complaint on WPB Fire's behalf.
3. WPB Fire did not purchase the securities that are the subject of this action at the direction of counsel, or in order to participate in any action arising under the federal securities laws.
4. WPB Fire is willing to serve as a representative party on behalf of the Class, including providing testimony at deposition and trial, if necessary.
5. WPB Fire's transactions in Conagra's common stock during the class period as specified in the complaint are set forth in the Schedule A attached hereto.
6. WPB Fire has sought to serve and was appointed as lead plaintiff and/or representative party on behalf of a class in the following actions under the federal securities laws filed during the three-year period preceding the date of this Certification:

*None*
7. WPB Fire has sought to serve as a lead plaintiff and representative party on behalf of a class in the following actions under the federal securities laws filed during the three-year period preceding the date of this Certification, but either withdrew its motion for lead plaintiff, was not appointed lead plaintiff or the lead plaintiff decision is still pending:

*West Palm Beach Firefighters' Pension Fund v. SCANA Corp.*, 3:17-cv-03141-MBS (D. S.C.)
8. WPB Fire will not accept any payment for serving as a representative party on behalf of the Class beyond WPB Fire'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 21 day of February, 2019.

West Palm Beach Firefighters' Pension Fund

A handwritten signature in black ink, appearing to read "David Merrell", written over a horizontal line.

David Merrell  
Chairman

**SCHEDULE A****West Palm Beach Firefighters' Pension Fund  
Transactions in Conagra Brands, Inc.**

<b>Common Stock Purchases</b>		
<b>Date</b>	<b>Shares</b>	<b>Price</b>
06/27/18	837	\$35.64
07/20/18	528	\$36.09
10/10/18	1,162	\$35.25
10/11/18	471	\$35.18
11/14/18	470	\$33.10

<b>Common Stock Sales</b>		
<b>Date</b>	<b>Shares</b>	<b>Price</b>
09/13/18	192	\$37.85
11/07/18	477	\$34.73
11/12/18	374	\$35.20