

**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

EARL M. WHEBY, JR., Individually and On )  
Behalf of All Others Similarly Situated, )  
  )  
   )  
Plaintiff,   ) Case No. \_\_\_\_\_  
   )  
   )  
v.   ) JURY TRIAL DEMANDED  
   )  
   )  
ELECTRONICS FOR IMAGING, INC.,             ) CLASS ACTION  
GILL COGAN, DAN MAYDAN, RICHARD         )  
KASHNOW, TOM GEORGENS, ERIC             )  
BROWN, JANICE DURBIN CHAFFIN,             )  
BILL MUIR, and GUY GECHT,                 )  
   )  
Defendants.   )

**COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934**

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

**NATURE OF THE ACTION**

1. This action stems from a proposed transaction announced on April 15, 2019 (the “Proposed Transaction”), pursuant to which Electronics For Imaging, Inc. (“EFI” or the “Company”) will be acquired by affiliates of Siris Capital Group, LLC (“Siris”).

2. On April 14, 2019, EFI’s Board of Directors (the “Board” or “Individual Defendants”) caused the Company to enter into an agreement and plan of merger (the “Merger Agreement”) with East Private Holdings II, LLC and East Merger Sub, Inc. Pursuant to the terms of the Merger Agreement, EFI’s stockholders will receive \$37.00 in cash for each share of EFI common stock they own.

3. On June 11, 2019, defendants filed a proxy statement (the “Proxy Statement”) with the United States Securities and Exchange Commission (the “SEC”) in connection with the Proposed Transaction, which scheduled a stockholder vote on the Proposed Transaction for July 15, 2019.

4. The Proxy Statement omits material information with respect to the Proposed Transaction, which renders the Proxy 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 Proxy 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 EFI common stock.

9. Defendant EFI is a Delaware corporation and maintains its principal executive offices at 6750 Dumbarton Circle, Fremont, California 94555. EFI’s common stock is traded on

the NASDAQ Global Select Market under the ticker symbol “EFII.” EFI is a party to the Merger Agreement.

10. Defendant Gill Cogan is the Chairman of the Board of the Company.
11. Defendant Dan Maydan is a director of the Company.
12. Defendant Richard Kashnow is a director of the Company.
13. Defendant Tom Georgens is a director of the Company.
14. Defendant Eric Brown is a director of the Company.
15. Defendant Janice Durbin Chaffin is a director of the Company.
16. Defendant Bill Muir is Chief Executive Officer and a director of the Company.
17. Defendant Guy Gecht is a director of the Company.
18. The defendants identified in paragraphs 10 through 17 are collectively referred to herein as the “Individual Defendants.”

#### **CLASS ACTION ALLEGATIONS**

19. Plaintiff brings this action as a class action on behalf of himself and the other public stockholders of EFI (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.

20. This action is properly maintainable as a class action.  
21. The Class is so numerous that joinder of all members is impracticable. As of April 10, 2019, there were approximately 45,533,238 shares of EFI common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

22. Questions of law and fact are common to the Class, including, among others, whether defendants violated the 1934 Act and whether defendants will irreparably harm plaintiff and the other members of the Class if defendants’ conduct complained of herein continues.

23. 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.

24. 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.

25. 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***

26. EFI is a global technology company that is leading the worldwide transformation from analog to digital imaging.

27. The Company provides products that increase competitiveness and boost productivity by developing breakthrough technologies for the manufacturing of signage, packaging, textiles, ceramic tiles, and personalized documents, with a wide range of printers, inks, digital front ends, and a comprehensive business and production workflow suite that transforms and streamlines the entire production process.

28. On April 14, 2019, EFI's Board caused the Company to enter into the Merger Agreement.

29. Pursuant to the terms of the Merger Agreement, EFI's stockholders will receive \$37.00 in cash for each share of EFI common stock they own.

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

Electronics For Imaging, Inc. (Nasdaq: EFII), a world leader in customer focused digital printing innovation, today announced that it has entered into a definitive agreement (the "Agreement") to be acquired by an affiliate of Siris Capital Group, LLC ("Siris") in an all-cash transaction valued at approximately \$1.7 billion. Siris is a leading private equity firm focused on investing and driving value creation in technology companies that provide mission-critical solutions and are facing technology transitions.

Under the terms of the Agreement, which has been unanimously approved by EFI's Board of Directors, an affiliate of Siris will acquire all the outstanding common stock of EFI for \$37.00 per share in cash. The purchase price represents an approximately 45% premium over EFI's 90-day volume-weighted average price ended on April 12, 2019. . . .

EFI's Board of Directors has unanimously recommended that its shareholders adopt the Agreement with Siris. Subject to the go-shop, a special meeting of EFI's shareholders will be held as soon as practicable following the filing of the definitive proxy statement with the U.S. Securities and Exchange Commission ("SEC") and subsequent mailing to shareholders.

Subject to the go-shop, the proposed transaction is expected to close by the third quarter of 2019 and is subject to approval by EFI's shareholders, along with the satisfaction of customary closing conditions including antitrust regulatory approvals. The transaction is not subject to any financing conditions. Upon completion of the acquisition, EFI will become wholly owned by an affiliate of Siris.

EFI will file its quarterly report on Form 10-Q reporting its first quarter financial results but does not intend to host a quarterly earnings call. EFI currently expects Q1 2019 revenue to be between \$220 million and \$225 million.

#### Financing & Advisors

Equity financing will be provided by investment funds affiliated with Siris. Siris secured committed debt financing for the transaction from RBC Capital Markets, KKR Capital Markets LLC, Deutsche Bank Securities Inc., Barclays, Credit Suisse,

and Macquarie Capital.

Sidley Austin LLP is serving as corporate counsel, Kirkland & Ellis LLP is serving as financing counsel, and RBC Capital Markets is serving as M&A advisor to Siris in connection with the transaction. Morgan Stanley & Co. and Greenhill & Co., LLC are serving as financial advisors to EFI, and O’Melveny & Myers is serving as its legal counsel.

***The Proxy Statement Omits Material Information, Rendering It False and Misleading***

31. Defendants filed the Proxy Statement with the SEC in connection with the Proposed Transaction, which scheduled a stockholder vote on the Proposed Transaction for July 15, 2019.

32. As set forth below, the Proxy Statement omits material information with respect to the Proposed Transaction, which renders the Proxy Statement false and misleading.

33. First, the Proxy Statement omits material information regarding the Company’s financial projections.

34. The Proxy Statement fails to disclose, for each set of projections: (i) all line items used to calculate (a) non-GAAP operating income, (b) non-GAAP net income, (c) non-GAAP earnings per share, and (d) non-GAAP EBITDA; and (ii) a reconciliation of all non-GAAP to GAAP metrics.

35. 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.

36. Second, the Proxy Statement omits material information regarding the analyses performed by the Company’s financial advisors in connection with the Proposed Transaction, Morgan Stanley & Co. LLC (“Morgan Stanley”) and Greenhill & Co., LLC (“Greenhill”).

37. With respect to Morgan Stanley's Discounted Equity Value Analysis, the Proxy Statement fails to disclose: (i) the individual inputs and assumptions underlying the discount rate of 11.0%; and (ii) Morgan Stanley's basis for applying the ranges of price to earnings multiples that it used in the analysis.

38. With respect to Morgan Stanley's Discounted Cash Flow Analysis, the Proxy Statement fails to disclose: (i) the terminal values for the Company; (ii) the individual inputs and assumptions underlying the discount rates ranging from 8.8% to 10.2% and the perpetual growth rates of 1% to 3%; (iii) the net debt of the Company as used by Morgan Stanley in the analysis; and (iv) the outstanding shares of Company common stock on a fully-diluted basis.

39. With respect to Morgan Stanley's Public Trading Comparables Analysis, the Proxy Statement fails to disclose: (i) the estimated outstanding shares of Company common stock on a fully-diluted basis; and (ii) the net debt of the Company as used by Morgan Stanley in the analysis.

40. With respect to Morgan Stanley's Precedent Transactions Analysis, the Proxy Statement fails to disclose: (i) the net debt of the Company as used by Morgan Stanley in the analysis; and (ii) the individual premiums for the transactions observed by Morgan Stanley in the analysis.

41. With respect to Morgan Stanley's Equity Research Analysts' Future Price Targets analysis, the Proxy Statement fails to disclose: (i) the individual price targets for the Company; (ii) the sources thereof; and (iii) the individual inputs and assumptions underlying the discount rate of 11.0%.

42. With respect to Greenhill's Selected Comparable Company Analysis, the Proxy Statement fails to disclose the individual multiples and metrics for the companies observed by Greenhill in the analysis.

43. With respect to Greenhill's Discounted Cash Flow Analysis, the Proxy Statement fails to disclose: (i) the individual inputs and assumptions underlying the discount rate range of 9.00% to 11.00% and the range of perpetuity growth rates of 2.50% to 3.50%; (ii) the fully diluted Company shares; and (iii) the terminal values for the Company.

44. With respect to Greenhill's Selected Precedent Transactions Analysis, the Proxy Statement fails to disclose the individual multiples and metrics for the transactions observed by Greenhill in the analysis.

45. With respect to Greenhill's present value of future share price analysis, the Proxy Statement fails to disclose: (i) the individual inputs and assumptions underlying the discount rate of 11.0%; and (ii) Greenhill's basis for applying a range of one-year forward price to earnings multiples from 11.0x to 16.0x.

46. With respect to Greenhill's analysis of premiums paid, the Proxy Statement fails to disclose: (i) the transactions observed by Greenhill in the analysis; and (ii) the premiums paid in the transactions.

47. With respect to Greenhill's analysis of price targets, the Proxy Statement fails to disclose: (i) the individual price targets for the Company; and (ii) the sources thereof.

48. 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.

49. Third, the Proxy Statement omits material information regarding potential conflicts of interest of Morgan Stanley and Greenhill.

50. The Proxy Statement fails to disclose the timing and nature of the past services Morgan Stanley provided to the Company, Siris, and their affiliates.

51. The Proxy Statement fails to disclose the estimated amount of compensation Morgan Stanley will receive for providing “one of the Siris Capital equity entities a commitment to fund a revolving credit facility.”

52. The Proxy Statement fails to disclose the “additional fee” that Greenhill will be paid in the event the Board requests Greenhill to deliver an additional opinion, as well as the “contingent fee” in the event the Board requests Greenhill to assist the Company in connection with a go-shop period.

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

54. The omission of the above-referenced material information renders the Proxy Statement false and misleading, including, *inter alia*, the following sections of the Proxy Statement: (i) Background of the Merger; (ii) Reasons for the Merger; Recommendation of the Board; (iii) Certain Company Forecasts; and (iv) Opinion of Financial Advisors.

55. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company’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 EFI**

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

57. The Individual Defendants disseminated the false and misleading Proxy 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. EFI is liable as the issuer of these

statements.

58. The Proxy 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 Proxy Statement.

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

60. The omissions and false and misleading statements in the Proxy 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 Proxy Statement and in other information reasonably available to stockholders.

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

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

63. Because of the false and misleading statements in the Proxy 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**

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

65. The Individual Defendants acted as controlling persons of EFI 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 EFI and participation in and/or awareness of the Company's operations and/or intimate

knowledge of the false statements contained in the Proxy 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.

66. Each of the Individual Defendants was provided with or had unlimited access to copies of the Proxy 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.

67. 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 Proxy Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly involved in the making of the Proxy Statement.

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

69. As set forth above, the Individual Defendants 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 Proxy 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 hereby requests a trial by jury on all issues so triable.

Dated: June 13, 2019

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

By: /s/ Gina M. Serra

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