

to receive 0.9150 shares of LHC common stock for each share of Almost Family stock they own (the “Merger Consideration”), representing approximately \$2.4 billion in implied transaction value.

3. On December 21, 2017, in order to convince Almost Family shareholders to vote in favor of the Proposed Merger, the Board authorized the filing of a materially incomplete and misleading Form S-4 Registration Statement (the “S-4”) with the Securities and Exchange Commission (“SEC”), in violation of Sections 14(a) and 20(a) of the Exchange Act. The materially incomplete and misleading S-4 independently violates both Regulation G (17 C.F.R. § 244.100) and SEC Rule 14a-9 (17 C.F.R. 240.14a-9), each of which constitutes a violation of Section 14(a) and 20(a) of the Exchange Act.

4. While touting the fairness of the Merger Consideration to the Company’s shareholders in the S-4, Defendants have failed to disclose certain material information that is necessary for shareholders to properly assess the fairness of the Proposed Merger, thereby violating SEC rules and regulations and rendering certain statements in the S-4 materially incomplete and misleading.

5. In particular, the S-4 contains materially incomplete and misleading information concerning the financial projections for the Company and LHC that were prepared by the Company in recommending that its shareholders vote in favor of the Proposed Merger. The financial projections were also utilized by Almost Family’s financial advisor, Guggenheim Securities, LLC (“Guggenheim”), in conducting the valuation analyses in support of its fairness opinion.

6. It is imperative that the material information that has been omitted from the S-4 is disclosed prior to the forthcoming vote to allow the Company's shareholders to make an informed decision regarding the Proposed Merger.

7. For these reasons, and as set forth in detail herein, Plaintiff asserts claims against Defendants for violations of Sections 14(a) and 20(a) of the Exchange Act, based on Defendants' violation of (i) Regulation G (17 C.F.R. § 244.100) and (ii) Rule 14a-9 (17 C.F.R. 240.14a-9). Plaintiff seeks to enjoin Defendants from holding the shareholders vote on the Proposed Merger and taking any steps to consummate the Proposed Merger unless, and until, the material information discussed below is disclosed to Almost Family shareholders sufficiently in advance of the vote on the Proposed Merger or, in the event the Proposed Merger is consummated, to recover damages resulting from the Defendants' violations of the Exchange Act.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Section 14(a) and 20(a) of the Exchange Act.

9. Personal jurisdiction exists over each Defendant either because the Defendant conducts business in or maintains operations in this District, or is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over Defendant by this Court permissible under traditional notions of fair play and substantial justice.

10. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because Almost Family is incorporated in this District.

PARTIES

11. Plaintiff is, and at all relevant times has been, a holder of Almost Family common stock.

12. Defendant Almost Family is incorporated in Delaware and maintains its principal executive offices at 9510 Ormsby Station Road, Suite 300, Louisville, Kentucky 40223. The Company's common stock trades on the NASDAQ under the ticker symbol "AFAM."

13. Individual Defendant William B. Yarmuth has served as Chairman of the Company's Board and Chief Executive Officer since 1992, and as a director of the company since 1991.

14. Individual Defendant Steven B. Bing has served as a director of the Company since 1992.

15. Individual Defendant Donald G. McClinton has served as a director of the Company since 1994.

16. Individual Defendant Tyree G. Wilburn has served as a director of the Company since 1996.

17. Individual Defendant Jonathan D. Goldberg has served as a director of the Company since 1997.

18. Individual Defendant W. Earl Reed, III has served as a director of the Company since 2000.

19. Individual Defendant Henry M. Altman, Jr. has served as a director of the Company since 2004.

20. Individual Defendant Clifford S. Holtz has served as a director of the Company since 2017.

21. The Individual Defendants referred to in paragraphs 13-19 are collectively referred to herein as the “Individual Defendants” and/or the “Board.”

CLASS ACTION ALLEGATIONS

22. Plaintiff brings this class action pursuant to Fed. R. Civ. P. 23 on behalf of himself and the other public shareholders of Almost Family (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.

23. This action is properly maintainable as a class action because:

a. The Class is so numerous that joinder of all members is impracticable. As of November 2, 2017, there were approximately 13,965,031 million shares of Almost Family common stock outstanding, held by hundreds of individuals and entities scattered throughout the country. The actual number of public shareholders of Almost Family will be ascertained through discovery;

b. There are questions of law and fact that are common to the Class that predominate over any questions affecting only individual members, including the following:

i) whether Defendants disclosed material information that includes non-GAAP financial measures without providing a reconciliation of the same non-GAAP financial measures to their most directly comparable GAAP equivalent in violation of Section 14(a) of the Exchange Act;

- ii) whether Defendants have misrepresented or omitted material information concerning the Proposed Merger in the S-4 in violation of Section 14(a) of the Exchange Act;
- iii) whether the Individual Defendants have violated Section 20(a) of the Exchange Act; and
- iv) whether Plaintiff and other members of the Class will suffer irreparable harm if compelled to vote their shares regarding the Proposed Merger based on the materially incomplete and misleading S-4.

c. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature, and will fairly and adequately protect the interests of the Class;

d. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class;

e. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for the party opposing the Class;

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

g. A class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

SUBSTANTIVE ALLEGATIONS

I. The Proposed Merger

24. Almost Family is a provider of home health nursing, rehabilitation and personal care services, with over 340 locations in 26 states. Almost Family and its subsidiaries operate three segments: Visiting Nurse, which provides skilled nursing and physical, occupational and speech therapy services primarily to Medicare beneficiaries; Personal Care, which provides custodial and personal care services; and the Healthcare Innovation division which provides health and long-term care assessments and Accountable Care Organizations management services. Almost Family's services are generally covered by federal and state government programs, commercial insurance and private pay.

25. On November 16, 2017, Almost Family and LHC issued a joint press release announcing the Proposed Merger, which states in pertinent part:

LAFAYETTE, La. and LOUISVILLE, Ky. (November 16, 2017) – LHC Group, Inc. (NASDAQ: LHCG) and Almost Family, Inc. (NASDAQ: AFAM) announced today that they have agreed to combine in an all-stock merger of equals transaction pursuant to a definitive merger agreement unanimously approved by the Boards of Directors of each company.

The merger will create a nationwide provider of in-home healthcare services with a long track record of successfully partnering with hospitals and health systems led by the most experienced management team steeped in home health. The combined company will have 781 locations in 36 states with more than 31,000 employees and revenue of \$1.8 billion and Adjusted EBITDA of approximately \$145 million for the trailing 12-month period ended September 30, 2017.

[. . .]

Under terms of the transaction, Almost Family shareholders will receive 0.9150 shares of LHC Group for each existing Almost Family share. Upon closing of the transaction, LHC Group shareholders will own 58.5% and Almost Family shareholders will own 41.5% of the combined company. The stock issuance in the merger is expected to be tax-free to shareholders of both companies. The transaction, which is expected to be completed in the first half of 2018, is subject to the receipt of regulatory approvals and other customary closing conditions as

well as the approval of shareholders of both LHC Group and Almost Family.

The combined company will continue to trade on NASDAQ under the ticker symbol, "LHCG." William Yarmuth, current chairman and chief executive officer of Almost Family, will remain as a special advisor to the combined company, while Steve Guenther, current president and principal financial officer of Almost Family, will be named chief strategy officer. Keith Myers, current chairman and chief executive officer of LHC Group, will be named chairman and chief executive officer of the combined company, while Donald Stelly will be named president and chief operating officer and Joshua Proffitt will be named chief financial officer. The Board of Directors will be comprised of ten members, six of which (including Mr. Myers and Lead Independent Director Billy Tauzin) will be current LHC Group directors and four of which will be Almost Family directors. The combined companies' Home Office will remain in Lafayette, La., and Personal Care Services, Healthcare Innovations and other support services will continue to operate out of Louisville, Ky.

Commenting on the announcement, Keith G. Myers, LHC Group's chairman and CEO, said, "William Yarmuth and I have worked closely together on many of the important issues our industry has faced over the years, including the most recent home health advocacy with CMS, Office of Management and Budget and Congress. Almost Family shares our vision for making a difference in the communities we serve by delivering quality, outcomes-focused, patient-centered care to the most vulnerable in society. This merger is truly a transformative event for both our companies and our patients nationwide and a unique opportunity to bring more than 30,000 dedicated and talented employees together to lead the in-home healthcare industry's transition to value-based reimbursement and highly coordinated care."

William B. Yarmuth, Almost Family's chairman and CEO, added, "In my opinion, we are combining two of America's most successful home healthcare companies to create what will be the best-run, best-positioned in-home healthcare company in America. The complementary nature of our two firms provides incredible fit, adding clinical, operational and financial strength, and depth without any meaningful conflicts or overlaps in management, geography, and service capabilities. I believe the combined company will have the management team with the broadest and deepest experience of all the national in-home healthcare providers."

"By combining the best of both our long track records of success and patient-focused cultures, we will be able to accomplish much more together than either of us could possibly achieve alone. I am extremely proud of the work we've done, the progress we've made, and the tremendous prospects for our future together. I look forward to working with Keith and the rest of the management team in the continued evolution of these companies."

26. The Merger Consideration appears inadequate in light of the Company's recent

financial performance and prospects for future growth. For instance, the Company has reported positive sales growth since 2013 and positive gross income growth since 2014, with double-digit gross income growth in 2016. Moreover, the Company's EBITDA has increased by double-digits since 2014.

27. In sum, it appears that Almost Family is well-positioned for financial growth, and that the Merger Consideration fails to adequately compensate the Company's shareholders. It is imperative that Defendants disclose the material information they have omitted from the S-4, discussed in detail below, so that the Company's shareholders can properly assess the fairness of the Merger Consideration for themselves and make an informed decision concerning whether or not to vote in favor of the Proposed Merger.

II. The Materially Incomplete and Misleading S-4

28. On December 21, 2017, Defendants caused the S-4 to be filed with the SEC in connection with the Proposed Merger. The S-4 solicits the Company's shareholders to vote in favor of the Proposed Merger. Defendants were obligated to carefully review the S-4 before it was filed with the SEC and disseminated to the Company's shareholders to ensure that it did not contain any material misrepresentations or omissions. However, the S-4 misrepresents and/or omits material information that is necessary for the Company's shareholders to make an informed decision concerning whether to vote in favor of the Proposed Merger, in violation of Sections 14(a) and 20(a) of the Exchange Act.

Financial Projections that Violate Regulation G and SEC Rule 14a-9

29. The S-4 fails to provide material information concerning the Company's financial projections, which were developed by the Company's management and relied upon by the Board in recommending that the shareholders vote in favor of the Proposed Merger. S-4, 101-102. The S-4 also fails to provide material information concerning LHC's financial projections, which were

distributed by Almost Family's management to its shareholders in connection with the Proposed Merger. S-4, 98. These financial projections were relied upon by the Company's financial advisor, Guggenheim, in rendering its fairness opinion. S-4, 86.

30. Specifically, the S-4 provides values for non-GAAP (Generally Accepted Accounting Principles) financial metrics such as (1) Adjusted EBITDA-NCI and (2) Adjusted EBITDA-NCI+SBC, but fails to provide the (i) line items used to calculate these non-GAAP metrics nor (ii) a reconciliation of these non-GAAP projections to the most comparable GAAP measures, in direct violation of Regulation G and consequently Section 14(a). S-4, 102-103.

31. The Company defines "Adjusted EBITDA-NCI" as: "GAAP net income attributable to Almost Family for such period excluding: (i) interest income, (ii) interest expense, (iii) provision for taxes on income, (iv) depreciation and amortization expenses and (v) non-cash expenses and non-recurring expenses identified by Almost Family's management." S-4, 102. However, the S-4 fails to provide the values of any of these line items, and fails to reconcile Adjusted EBITDA-NCI to its most comparable GAAP equivalent. S-4, 102.

32. Similarly, "Adjusted EBITDA-NCI+SBC" is defined as: "GAAP net income attributable to Almost Family for such period excluding: (i) interest income, (ii) interest expense, (iii) provision for taxes on income, (iv) depreciation and amortization expenses, (v) non-cash expenses and non-recurring expenses identified by Almost Family's management and (vi) stock-based compensation expense." S-4, 103. Nevertheless, the Company again fails to provide the values of any of these line items, and fails to reconcile Adjusted EBITDA-NCI+SBC to its most comparable GAAP equivalent. S-4, 103.

33. The Company explains its lack of reconciliation to comparable GAAP measures, stating:

Almost Family does not provide a reconciliation of the forward-looking non-GAAP financial measures of Adjusted EBITDA-NCI and Adjusted EBITDA-NCI+SBC to the comparable GAAP financial measures because it is unable to reasonably predict certain items contained in the GAAP measures, **including non-recurring and infrequent items that are not indicative of Almost Family's ongoing operations. These items are uncertain, depend on various factors and could have a material impact on Almost Family's GAAP results for the applicable period.**

S-4, 103 (emphasis added).

34. According to the Company, several of these line items may be variable and difficult to predict, preventing it from providing reconciliation to comparable GAAP measures. However, the “non-recurring and infrequent items” that the Company claims exempts it from having to reconcile non-GAAP measures to GAAP measures constitute just one of the line items used to calculate Adjusted EBITDA-NCI and Adjusted EBITDA-NCI+SBC. Certain line items, such as interest income, interest expense, depreciation and amortization expenses, and stock-based compensation expense, are commonly utilized and calculated accounting measures that are known to be informative as to a company's ongoing operations. These line items and reconciliations must be disclosed to allow shareholders to adequately evaluate the Proposed Merger.

35. Additionally, the S-4 discloses that Guggenheim utilized Almost Family's unlevered free cash flows (“UFCF”) in its financial analyses, S-4 at 91, which is defined as “after-tax unlevered operating cash flow minus CapEx and changes in working capital.” S-4 at 89.

36. The S-4 also discloses that the “Almost Family financial projections were provided to, and reviewed and approved by, the Almost Family board of directors and provided to (i) Almost Family's financial advisor for its use and reliance in connection with its financial analyses and opinion” S-4, 101.

37. Despite the two statements above, Almost Family's UFCF is not disclosed nor is it clear whether UFCF was calculated by Almost Family's management or by Guggenheim, independently. As a result, the S-4 is materially misleading for two reasons.

38. First, if management calculated UFCF then the financial projections are materially misleading because: (1) the S-4 omits the most important forecasted financial metric utilized by Guggenheim; and (2) as a non-GAAP financial metric, must be reconciled to its most comparable GAAP metric.

39. Second, if Guggenheim did in fact calculate UFCF, the S-4 fails to clearly state as such. Further, shareholders would want to know whether the Board considered and agreed with those calculations.

40. When a company discloses non-GAAP financial measures in a registration statement that were relied on by a board of directors to recommend that shareholders exercise their corporate suffrage rights in a particular manner, the company must, pursuant to SEC regulatory mandates, also disclose all projections and information necessary to make the non-GAAP measures not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial measure disclosed or released with the most comparable financial measure or measures calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100.

41. Indeed, the SEC has increased its scrutiny of the use of non-GAAP financial measures in communications with shareholders. Former SEC Chairwoman Mary Jo White has stated that the frequent use by publicly traded companies of unique company-specific non-GAAP financial measures (as Almost Family included in the S-4 here), implicates the centerpiece of the SEC's disclosures regime:

In too many cases, the non-GAAP information, which is meant to supplement the GAAP information, has become the key message to investors, crowding out and effectively supplanting the GAAP presentation. Jim Schnurr, our Chief Accountant, Mark Kronforst, our Chief Accountant in the Division of Corporation Finance and I, along with other members of the staff, have spoken out frequently about our concerns to raise the awareness of boards, management and investors. And last month, the staff issued guidance addressing a number of troublesome practices *which can make non-GAAP disclosures misleading*: the lack of equal or greater prominence for GAAP measures; exclusion of normal, recurring cash operating expenses; individually tailored non-GAAP revenues; lack of consistency; cherry-picking; and the use of cash per share data. I strongly urge companies to carefully consider this guidance and revisit their approach to non-GAAP disclosures. I also urge again, as I did last December, that appropriate controls be considered and that audit committees carefully oversee their company's use of non-GAAP measures and disclosures.³

42. The SEC has repeatedly emphasized that disclosure of non-GAAP projections can be inherently misleading, and has therefore heightened its scrutiny of the use of such projections.⁴ Indeed, the SEC's Division of Corporation Finance released a new and updated Compliance and Disclosure Interpretation ("C&DIs") on the use of non-GAAP financial measures to clarify the extremely narrow and limited circumstances, known as the business combination exemption, where Regulation G would not apply.⁵

³ Mary Jo White, *Keynote Address, International Corporate Governance Network Annual Conference: Focusing the Lens of Disclosure to Set the Path Forward on Board Diversity, Non-GAAP, and Sustainability* (June 27, 2016), <https://www.sec.gov/news/speech/chair-white-icgn-speech.html>. (emphasis added).

⁴ See, e.g., Nicolas Grabar and Sandra Flow, *Non-GAAP Financial Measures: The SEC's Evolving Views*, Harvard Law School Forum on Corporate Governance and Financial Regulation (June 24, 2016), <https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-secs-evolving-views/>; Gretchen Morgenson, *Fantasy Math Is Helping Companies Spin Losses Into Profits*, N.Y. Times, Apr. 22, 2016, http://www.nytimes.com/2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0.

⁵ *Non-GAAP Financial Measures*, U.S. Securities and Exchange Commission (Oct. 17, 2017), available at <https://www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm#101>. To be sure, there are other situations where Regulation G would not apply but are not applicable here.

43. More importantly, the C&DI clarifies when the business combination exemption does not apply:

There is an exemption from Regulation G and Item 10(e) of Regulation S-K for non-GAAP financial measures disclosed in communications subject to Securities Act Rule 425 and Exchange Act Rules 14a-12 and 14d-2(b)(2); it is also intended to apply to communications subject to Exchange Act Rule 14d-9(a)(2). This exemption does not extend beyond such communications. Consequently, if the same non-GAAP financial measure that was included in a communication filed under one of those rules is also disclosed in a Securities Act registration statement, proxy statement, or tender offer statement, this exemption from Regulation G and Item 10(e) of Regulation S-K would not be available for that non-GAAP financial measure.

Id.

44. Thus, the C&DI makes clear that the so-called “business combination” exemption from the Regulation G non-GAAP to GAAP reconciliation requirement applies solely to the extent that a third-party such as financial banker has utilized projected non-GAAP financial measures to render a report or opinion to the Board. To the extent the Board also examined and relied on internal financial projections to recommend a transaction, Regulation G applies.

45. Because the S-4 explicitly discloses that the Board considered “its knowledge of Almost Family’s business, operations, financial condition, earnings and prospects, as well as its assessment of LHC’s business, operations, financial condition, earnings and prospects, taking into account the results of Almost Family’s due diligence review of LHC” to recommend voting in favor of the Merger Agreement, no exemption from Regulation G is applicable. S-4, 73.

46. Thus, in order to bring the S-4 into compliance with Regulation G as well as cure the materially misleading nature of the projections under SEC Rule 14a-9 as a result of the omitted information on pages 98-102, Defendants must provide a reconciliation table of the non-GAAP measures to the most comparable GAAP measures. At the very least, the Company must disclose the line item projections for the financial metrics that were used to calculate the aforementioned non-GAAP measures. Such projections are necessary to make the non-GAAP projections included

in the S-4 not misleading. Indeed, Defendants caution Almost Family shareholders regarding the information contained in the financial projections, which incorporate non-GAAP financial metrics. Specifically, with respect to Adjusted EBITDA-NCI and Adjusted EBITDA-NCI+SBC, the Company stated:

Adjusted EBITDA-NCI and Adjusted EBITDA-NCI+SBC are non-GAAP financial measures within the meaning of Regulation G promulgated by the SEC that are used by Almost Family and that Almost Family believes, *when considered together with GAAP financial measures*, provides information that is useful to investors in understanding Almost Family's operating results. Non-GAAP financial measures used by Almost Family may not be comparable to similarly titled financial measures used by LHC or other companies.

S-4, 103 (emphasis added).

The Materially Misleading Financial Analyses

47. The financial projections at issue were relied upon by the Company's financial advisor, Guggenheim, in connection with its valuation analyses and respective fairness opinions. S-4, 86. The opacity concerning the Company's internal projections renders the valuation analyses described below materially incomplete and misleading, particularly as companies formulate non-GAAP metrics differently. Once a registration statement discloses internal projections relied upon by the Board, those projections must be complete and accurate.

48. With respect to Guggenheim's *Discounted Cash Flow Analysis* for both Almost Family and LHC, the S-4 states that Guggenheim based its discounted cash flow analysis on each company's respective "after-tax unlevered free cash flows" ("UFCF") as contemplated in the "five-year financial projections for Almost Family as provided by Almost Family's senior management" and the "five-year financial projections for LHC as provided by LHC's senior management (and approved for use by Almost Family's senior management)." S-4, 91, 93. Despite disclosing that the UFCF projections were provided by each Company's management, the

S-4 fails to disclose the actual projected values of UFCF or the values of the line items utilized to calculate UFCF.

49. More specifically, the S-4 defines UFCF as “the relevant company’s after-tax unlevered operating cash flow minus CapEx and changes in working capital.” S-4, 89. However, the S-4 fails to disclose neither the value of the projected after-tax unlevered free cash flows nor the underlying line items, including CapEx and changes in work capital, used in its calculation. The absence of this information renders Guggenheim’s discounted cash flow analyses incomplete and misleading.

50. The definition of projected after-tax UFCF is, in and of itself, and separate and apart from the mandates of Regulation G, materially false and/or misleading in violation of SEC Rule 14a-9 (17 C.F.R. 240.14a-9). Because neither the method nor the line items used to calculate projected after-tax UFCF were not disclosed, shareholders are unable to discern the veracity of Guggenheim’s illustrative discounted cash flow analyses. Without further disclosure, shareholders are unable to compare Guggenheim’s calculations with the Company’s financial projections. Thus, the Company’s shareholders are being materially misled regarding the value of the Company.

51. These key inputs are material to Almost Family shareholders, and their omission renders the summary of Guggenheim’s discounted cash flow analyses incomplete and misleading. As a highly-respected professor explained in one of the most thorough law review articles regarding the fundamental flaws with the valuation analyses bankers perform in support of fairness opinions, in a discounted cash flow analysis a banker takes management’s projections, and then makes several key choices “each of which can significantly affect the final valuation.” Steven M.

Davidoff, *Fairness Opinions*, 55 Am. U.L. Rev. 1557, 1576 (2006). Such choices include “the appropriate discount rate, and the terminal value . . .” *Id.* As Professor Davidoff explains:

There is substantial leeway to determine each of these, and any change can markedly affect the discounted cash flow value... The substantial discretion and lack of guidelines and standards also makes the process vulnerable to manipulation to arrive at the “right” answer for fairness. This raises a further dilemma in light of the conflicted nature of the investment banks who often provide these opinions.

Id. at 1577-78.

52. Clearly, shareholders would find this information material since the Board’s unanimous recommendation that shareholders vote in favor the Proposed Merger was based, in part on the following:

- its knowledge of Almost Family’s business, operations, financial condition, earnings and prospects, as well as its assessment of LHC’s business, operations, financial condition, earnings and prospects, taking into account the results of Almost Family’s due diligence review of LHC;
- the opinion, dated November 15, 2017, of Guggenheim Securities to Almost Family’s board of directors as to the fairness, from a financial point of view and as of the date of the opinion, of the exchange ratio to the stockholders of Almost Family (excluding LHC Group and its affiliates), which opinion was based on and subject to the matters considered, the procedures followed, the assumptions made and various limitations of and qualifications to the review undertaken as more fully described under the section entitled “— Opinion of Almost Family’s Financial Advisor” below;
- the fact that directors and executive officers of Almost Family and LHC who have an in-depth knowledge of their respective entity and its businesses will have substantial representation on the board of directors and on the senior management team, respectively, of the combined company;
- the fact that Mr. Yarmuth, the chairman of the board of directors and chief executive officer of Almost Family, will serve as a special advisor to the combined company and that Mr. Guenther, Almost Family’s current president and principal financial officer, will continue as president of Almost Family and serve as chief strategy officer of the combined company following the closing;

S-4, 73-74.

53. In sum, the S-4 independently violates both (i) Regulation G, which requires a presentation and reconciliation of any non-GAAP financial to their most directly comparable

GAAP equivalent, and (ii) Rule 14a-9, since the material omitted information renders certain statements, discussed above, materially incomplete and misleading. As the S-4 independently contravenes the SEC rules and regulations, Defendants violated Section 14(a) and Section 20(a) of the Exchange Act by filing the S-4 to garner votes in support of the Proposed Merger from Almost Family shareholders.

54. Absent disclosure of the foregoing material information prior to the special shareholder meeting to vote on the Proposed Merger, Plaintiff and the other members of the Class will not be able to make a fully-informed decision regarding whether to vote in favor of the Proposed Merger, and they are thus threatened with irreparable harm, warranting the injunctive relief sought herein.

COUNT I

(Against All Defendants for Violations of Section 14(a) of the Exchange Act and 17 C.F.R. § 244.100 Promulgated Thereunder)

55. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

56. Section 14(a)(1) of the Exchange Act makes it “unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to section 78l of this title.” 15 U.S.C. § 78n(a)(1).

57. As set forth above, the S-4 omits information required by SEC Regulation G, 17 C.F.R. § 244.100, which independently violates Section 14(a). SEC Regulation G among other

things, requires an issuer that chooses to disclose a non-GAAP measure to provide a presentation of the “most directly comparable” GAAP measure, and a reconciliation “by schedule or other clearly understandable method” of the non-GAAP measure to the “most directly comparable” GAAP measure. 17 C.F.R. § 244.100(a).

58. The failure to reconcile the numerous non-GAAP financial measures included in the S-4 violates Regulation G and constitutes a violation of Section 14(a).

COUNT II

(Against All Defendants for Violations of Section 14(a) of the Exchange Act and Rule 14a-9 Promulgated Thereunder)

59. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

60. SEC Rule 14a-9 prohibits the solicitation of shareholder votes in registration statements that contain “any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading.” 17 C.F.R. § 240.14a-9.

61. Regulation G similarly prohibits the solicitation of shareholder votes by “mak[ing] public a non-GAAP financial measure that, taken together with the information accompanying that measure, contains an untrue statement of a material fact or *omits to state a material fact necessary in order to make the presentation of the non-GAAP financial measure... not misleading.*” 17 C.F.R. § 244.100(b).

62. Defendants have issued the S-4 with the intention of soliciting shareholder support for the Proposed Merger. Each of the Defendants reviewed and authorized the dissemination of the S-4, which fails to provide critical information regarding, amongst other things, the financial

projections for the Company and LHC.

63. In so doing, Defendants made untrue statements of fact and/or omitted material facts necessary to make the statements made not misleading. Each of the Individual Defendants, by virtue of their roles as directors and/or officers, were aware of the omitted information but failed to disclose such information, in violation of Section 14(a). The Individual Defendants were therefore negligent, as they had reasonable grounds to believe material facts existed that were misstated or omitted from the S-4, but nonetheless failed to obtain and disclose such information to shareholders although they could have done so without extraordinary effort.

64. The Individual Defendants knew or were negligent in not knowing that the S-4 is materially misleading and omits material facts that are necessary to render it not misleading. The Individual Defendants undoubtedly reviewed and relied upon the omitted information identified above in connection with their decision to approve and recommend the Proposed Merger.

65. The Individual Defendants knew or were negligent in not knowing that the material information identified above has been omitted from the S-4, rendering the sections of the S-4 identified above to be materially incomplete and misleading.

66. The Individual Defendants were, at the very least, negligent in preparing and reviewing the S-4. The preparation of a registration statement by corporate insiders containing materially false or misleading statements or omitting a material fact constitutes negligence. The Individual Defendants were negligent in choosing to omit material information from the S-4 or failing to notice the material omissions in the S-4 upon reviewing it, which they were required to do carefully as the Company's directors. Indeed, the Individual Defendants were intricately involved in the process leading up to the signing of the Merger Agreement and the preparation of the Company's financial projections.

67. Almost Family is also deemed negligent as a result of the Individual Defendants' negligence in preparing and reviewing the S-4.

68. The misrepresentations and omissions in the S-4 are material to Plaintiff and the Class, who will be deprived of their right to cast an informed vote if such misrepresentations and omissions are not corrected prior to the vote on the Proposed Merger.

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

COUNT III

(Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act)

70. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

71. The Individual Defendants acted as controlling persons of Almost Family within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as directors and/or officers of Almost Family, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the incomplete and misleading statements contained in the S-4 filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that Plaintiff contends are materially incomplete and misleading.

72. Each of the Individual Defendants was provided with or had unlimited access to copies of the S-4 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.

73. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the Exchange Act violations alleged herein, and exercised the same. The S-4 at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Merger. They were thus directly involved in preparing the S-4.

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

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

76. 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) 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 Exchange Act. As a direct and proximate result of Individual Defendants' conduct, Plaintiff and the Class will be irreparably harmed.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- A. Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class Representative and his counsel as Class Counsel;
- B. Enjoining Defendants and all persons acting in concert with them from proceeding with the shareholder vote on the Proposed Merger or consummating the Proposed Merger, unless and until the Company discloses the material information discussed above which has been omitted from the S-4;
- C. Directing the Defendants to account to Plaintiff and the Class for all damages sustained as a result of their wrongdoing;
- D. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and expert fees and expenses;
- E. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: January 23, 2018

OF COUNSEL:

FARUQI & FARUQI, LLP

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Counsel for Plaintiff

Respectfully submitted,

FARUQI & FARUQI, LLP

By: /s/ Michael Van Gorder
Michael Van Gorder (#6214)
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Wilmington, DE 19807
Tel.: (302) 482-3182
Email: mvangorder@faruqilaw.com

Counsel for Plaintiff

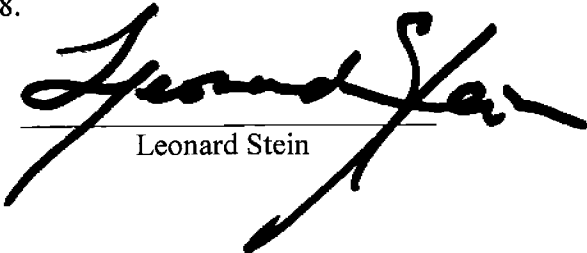
CERTIFICATION OF PROPOSED LEAD PLAINTIFF

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

1. Plaintiff has reviewed a draft complaint against Almost Family, Inc. ("Almost Family") and its board of directors and has authorized the filing of a complaint substantially similar to the one I reviewed.
2. Plaintiff selects Faruqi & Faruqi, LLP and any firm with which it affiliates for the purpose of prosecuting this action as my counsel for purposes of prosecuting my claim against defendants.
3. Plaintiff did not purchase the security that is the subject of the complaint at the direction of Plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
4. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
5. Plaintiff's transactions in Almost Family securities that are the subject of the complaint during the class period specified in the complaint are set forth in the chart attached hereto.
6. In the past three years, Plaintiff has not sought to serve nor has served as a representative party on behalf of a class in an action filed under the federal securities laws, except as specified below:
7. Plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing information is correct to the best of my knowledge.

Signed this 21st day of January 2018.


Leonard Stein

Transaction (Purchase or Sale)	Trade Date	Quantity
Purchase	06/28/16	200

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

LEONARD STEIN, Individually and on Behalf of All Others Similarly Situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Faruqi & Faruqi, LLP
20 Montchanin Rd., Suite 145, Wilmington, DE 19807
(302) 482-3182

DEFENDANTS

ALMOST FAMILY, INC., WILLIAM B. YARMUTH, STEVEN B. BING, DONALD G. MCCLINTON, TYREE G. WILBURN, JONATHAN D. GOLDBERG, W. EARL REED III, HENRY M. ALTMAN, JR., and CLIFFORD S. HOLTZ,

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

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

Attorneys (If Known)

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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

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

Click here for: [Nature of Suit Code Descriptions.](#)

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

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Sections 14(a) and 20(a) of the Securities Exchange Act of 1934
Brief description of cause:
Proposed merger between Almost Family and a subsidiary of LHC Group, Inc.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 01/23/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Van Gorder

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Home Health Care Co. Almost Family Facing Securities Case Over Proposed Merger with LHC Group](#)
