IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

RICHARD DELMAN, Plaintiff, v. BRYANT R. RILEY, DANIEL SHRIBMAN, KENNETH YOUNG, PATRICK J. BARTELS, JR., JAMES L. KEMPNER, TIMOTHY M. PRESUTTI, ROBERT SUSS, and B. RILEY PRINCIPAL SPONSOR CO. II, LLC, Defendants.	C.A. No. 2023-0293-LWW **Confidential Version Filed: March 8, 2023** **Public Version Filed: March 13, 2023**

VERIFIED CLASS ACTION COMPLAINT

Plaintiff Richard Delman ("Plaintiff"), on behalf of himself and similarly situated current and former stockholders of B. Riley Principal Merger Corp. II ("BRII" or the "Company"), brings this Verified Class Action Complaint asserting: (i) breach of fiduciary duty claims arising from BRII's merger (the "Merger") with Eos Energy Storage, LLC ("Legacy Eos") against (a) Bryant R. Riley ("Riley"), Daniel Shribman ("Shribman"), Kenneth Young ("Young"), Patrick J. Bartels, Jr. ("Bartels"), James L. Kempner ("Kempner"), Timothy M. Presutti ("Presutti"), and Robert Suss ("Suss"), in their capacities as members of BRII's board of directors (the "Board" or the "Director Defendants"); (b) BRII CEO and CFO Shribman in his capacity as officer of BRII (the "Officer Defendant") and (c) B. Riley Principal Sponsor Co. II, LLC (the "Sponsor"), a wholly owned subsidiary of B. Riley

Financial, Inc., Riley, Shribman, and Young in their capacities as BRII's controllers (the "Controller Defendants") and (ii) unjust enrichment of the Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss as a result of the Merger.

The allegations herein are based on Plaintiff's knowledge as to himself, and on information and belief, including counsel's investigation and review of publicly available information and documents produced in response to Plaintiff's inspection demand pursuant to 8 *Del. C.* § 220, as to all other allegations.

NATURE OF THE ACTION

1. BRII, now renamed Eos Energy Enterprises, Inc. ("New Eos"), is a Delaware corporation that was formed as a special purpose acquisition company ("SPAC") by the Controller Defendants.

2. A SPAC is a financial innovation that traces its origin back to the 1990s, but whose current structure was largely standardized about a decade ago. The use of SPACs skyrocketed from 2019 through 2021 as a means by which a private company can go public through a reverse merger, rather than an IPO. More recently, increased scrutiny from stockholders, courts, and regulatory agencies, including the United States Securities and Exchange Commission ("SEC"), has resulted in a slowdown of SPAC business combinations.

3. BRII's history is part of a disturbing trend of SPAC transactions in which financial conflicts of interest of sponsors and other insiders override good

corporate governance and the interests of SPAC public stockholders. The BRII merger with Legacy Eos failed to observe the most basic principle of Delaware corporate governance—namely, that a corporation's governance structure should be designed to protect and promote the interests of the public stockholders, not the special financial interests of its insiders and controllers. Here, Defendants allowed their financial self-interests to override their fiduciary duties and responsibilities as controlling stockholders and directors of a Delaware corporation by forcing through a value destroying merger with Legacy Eos on the basis of false and misleading disclosures that induced BRII's public stockholders to invest in the merger in lieu of redeeming their shares for $10.00 per share plus interest.

4. BRII went public through an initial public offering ("IPO") that closed on May 22, 2020, selling 17,500,000 units to public stockholders for $10.00 per unit. Each unit consisted of one share of BRII Class A common stock and one-half of one warrant, with each whole warrant exercisable to purchase one share of Class A common stock at a price of $11.50 per share.

5. Prior to the IPO, the Controller Defendants granted the Sponsor 5,750,000 shares (following a stock split) of BRII Class B common stock ("Founder Shares") in exchange for $1.00 (or $0.00000017 per share). Each share of Class B common stock was convertible to one share of Class A common stock in connection

with a business combination. These shares were intended to amount to approximately 20 percent of BRII's post-IPO equity.

6. Contemporaneously with the IPO, the Sponsor purchased 650,000 private placement units for $10.00 per share (the "Private Placement Units"). Each Private Placement Unit consisted of one share of Class A common stock (the "Private Placement Shares") and one-half of one warrant, with each whole warrant exercisable to purchase one share of Class A common stock at a price of $11.50 (the "Private Placement Warrants").

7. As a SPAC, BRII was different from a typical corporation. First, unlike a traditional IPO, in which the cash raised becomes an asset of the company going public, the BRII IPO proceeds were placed in trust for the benefit of BRII's public stockholders. Second, BRII had only a 24-month window following the IPO within which to consummate a merger. If BRII failed to complete a deal during the 24-month window, its charter required that it liquidate and that the cash in the trust, plus accrued interest, be returned to its public stockholders. Third, if BRII entered into a merger agreement, its public stockholders had a choice—either exercise their right to redeem their shares at a price equal to $10.00 per share plus interest that accrued in the trust since the IPO or invest in the business combination. BRII's charter provided that BRII would receive cash from the trust, if it consummated a business combination,

and, when it did, only after public stockholders that redeemed their shares were paid what they were due.

8. Under the terms of BRII's charter, the Founder Shares and the Private Placement Shares waived any redemption right and had no right to participate in a distribution from the trust if BRII were to fail to merge, and, instead, liquidated. The Private Placement Warrants could only be exercised and were not saleable unless and until 30 days after the close of a business combination.

9. The structure established by BRII's charter created an inherent conflict of interest between the Sponsor and the public stockholders. If BRII succeeded in consummating a merger, the Sponsor would hold shares and warrants in the combined company. But if BRII did not merge, the Sponsor's Founder Shares and its Private Placement Units would be worthless—the Sponsor would lose its entire investment. Thus, the interests of the Sponsor, and the directors and officers who were given interests in the Sponsor and/or Founder Shares, were in getting any deal done during that 24-month window and avoiding liquidation, providing them with incentives to get a deal done regardless of whether it was in the best interests of the Company's public stockholders.

10. Although a sponsor can neutralize these inherent conflicts of interest by establishing a governance structure that protects the interests of public stockholders and by providing full and accurate disclosures to stockholders in connection with

their redemption decisions—and some sponsors do—some sponsors instead adopt a governance structure for their SPACs that protects their own financial interests at the expense of public stockholders. BRII followed the latter approach.

11. BRII was controlled by its Sponsor and its managing members, Riley, Shribman, and Young, who, inter alia: (1) selected the SPAC's directors, (2) dominated the SPAC's board, (3) dominated the SPAC's management, (4) dominated the merger process, (5) for only a nominal investment of $1.00, received an approximately 20% equity stake in BRII, (6) provided for a staggered board in BRII's charter, and did not hold an annual meeting, which ensured that public stockholders would have no influence over the BRII board of directors, and (7) granted BRII's "independent" directors 20,000 Founder Shares to align their personal financial interests with the interests of the Controller Defendants, diverging them from the interests of BRII's public stockholders.

12. Additionally, in connection with the IPO, an affiliate of the Sponsor, B. Riley Securities, Inc. ("BRFBR"), provided consulting and underwriting services to BRII, entitling BRFBR to receive $6,125,000 in underwriting and advisory fees upon the closing of a merger. If no merger were to occur, BRFBR would be entitled to no compensation.

13. Thus, Defendants and their various affiliates all were incentivized to push BRII into a merger, regardless of whether it was a *very bad* deal for BRII's

public stockholders, because even a very bad deal for BRII's public stockholders would result in a windfall for Defendants, whereas a liquidation would result in nothing for the Director and Officer Defendants and a loss for the Sponsor.

14. Because of these perverse incentives, BRII moved quickly towards a merger with Legacy Eos. Legacy Eos designed and produced battery energy storage systems ("BESS") for electrical grids, primarily used to store and balance the energy output from industrial- and utility-scale wind and solar farms. Its "flagship technology" is the proprietary Eos Znyth aqueous zinc battery, which is purported to have both "front-of-the-meter" and "behind-the-meter" applications, allegedly including applications with three- to twelve-hour use cases.

15. The quick connection between BRII and Legacy Eos was not surprising. Even prior to the IPO, in July 2019, BRII CFO Shribman, who was also CFO of B. Riley Principal Merger Corp I ("BRPM"), another B. Riley Financial, Inc. ("BRF") affiliated SPAC,[1] was introduced to Legacy Eos's financial advisor Guggenheim Securities LLC ("Guggenheim") and received an initial investment presentation. At the time, BRPM and Legacy Eos entered into a non-disclosure

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[1] Defendants Riley, Shribman, Young, Bartels, Jr., Kempner, Presutti, and Suss also served on the board of directors of BRPM. Shribman also served as BRPM CFO and Young as CEO. Each had a direct or indirect financial interest in BRPM's Sponsor and/or the founder shares issued in connection with that SPAC's IPO.

agreement after initial discussions. Ultimately, BRPM did not pursue a deal with Legacy Eos.

16. One week after BRII's IPO, Shribman reinitiated conversations with Legacy Eos, signing a non-disclosure agreement on June 21, 2020 and negotiating and executing a letter of intent, including agreement as to a contemplated valuation of Legacy Eos in the two days that followed, before the BRII Board had even met.

17. In fact, the Board barely met at all concerning the Merger or Legacy Eos, ultimately rubber stamping the Controller Defendants' preferred deal by written consent pursuant to which the Board purportedly:

> (i) determined that the Merger Agreement was fair, advisable and in the commercial interests of the Company, (ii) adopted and approved the Merger Agreement, (iii) recommended that the Company's stockholders approve the Merger Agreement and such other proposals and (iv) directed the officers of the Company to submit the business combination and the Merger Agreement to the stockholders of the Company for adoption and approval.

18. While the Proxy filed in connection with the Merger and disseminated to stockholders extolled BRII's "extensive" due diligence of Legacy Eos leading to the Board's recommendation that the Merger was in the best interests of BRII's public stockholders, in reality, the due diligence was sparse and outcome driven from the start and resulted in Defendants' publication of a materially false and misleading proxy statement filed with the SEC on October 23, 2020 in connection with the Merger (the "Proxy").

19. This "due diligence" conducted by "management," (Young and Shribman) and endorsed by the Board, included receipt of a

20.

21. The “due diligence” disclosed in the Proxy also purportedly involved “extensive calls with potential Eos customers” and “previous customers” and “extensive meetings and calls with Eos’s management team regarding operations and forecasts.” An October 20, 2020 investor presentation (the “Investor Presentation”) that was published by BRII, filed with the SEC, and disseminated to BRII’s stockholders in connection with the Merger, touted Legacy Eos’s customer pipeline, which, according to the Investor Presentation, included signed letters of intent with at least five distinct customers requiring them to purchase BESS batteries totaling 1,524.6 megawatt hours.

In reality,

22. The Proxy also withheld additional critical information from BRII's public stockholders concerning the high degree of dilution of BRII shares that would occur in connection with the Merger. While not disclosed to stockholders, the actual

net cash BRII would contribute to the Merger, assuming no redemptions, was less than $7.00 per share—not the $10.00 per share that the merger agreement and Proxy attributed to the merger consideration. This information was critical to BRII public stockholders' decision both as to how to vote their shares and whether to redeem their shares—that is, whether they should redeem their shares $10.00 plus interest, or, instead invest less than $7.00 per share in the Merger.

23. Ultimately, BRII stockholders approved the Merger, which closed on November 16, 2020. While New Eos's stock price traded above $10.00 per share for a period after the Merger, information started to leak out to the market that undermined and called into question various representations in the Proxy, including with regard to [REDACTED] Ultimately, New Eos was forced to drastically lower revenue guidance for 2021 and 2022 far below the Proxy Projections, [REDACTED] New Eos's repeated missed guidance caused its stock price to plummet to $1.90 per share on March 6, 2023, though for a period in December 2022, the stock was trading at less than $1.00 per share.

24. Defendants breached their duties of loyalty and candor by failing to provide the public stockholders with accurate, material information regarding the Merger. Their breaches robbed BRII's public stockholders of their right to make an

informed decision whether to redeem their shares or invest in the Merger. Moreover, this breach furthered a disloyal transaction in which Defendants stood to gain and Plaintiff and Class members would prove to lose.

25. While the Merger represented an abysmal deal for BRII's public stockholders, the Merger was a windfall for Defendants. The first day after the Merger closed, the stock traded at $10.59 per share, meaning Defendants' $6,500,001 investment, not even accounting for the value of the Private Placement Warrants, was now worth over $80 million. Even at the March 6, 2023 stock price, had Defendants not sold any of their shares, they still would have made a significant profit—as the shares as of that date still would be worth over $8.3 million, returning an over 28% profit to Defendants, while Plaintiff and other BRII stockholders have suffered losses, in some cases of over 90%.

26. Due to the conflicts of interest on the part of all Defendants, the Merger requires judicial review for entire fairness.

PARTIES

27. Plaintiff Richard Delman purchased BRII shares on August 6, 2020 and has continued to hold those shares through the date of the filing of this Complaint.

28. Defendant B. Riley Principal Sponsor Co. II, LLC (the "Sponsor") was a Delaware limited liability company and a wholly owned subsidiary of B. Riley

Financial, Inc. and BRII's sponsor. The Sponsor was controlled by Riley, Shribman, and Young.

29. Defendant Daniel Shribman was chief executive officer ("CEO"), chief financial officer ("CFO"), and a director of the Company. Shribman was a member and controller of the Sponsor. Shribman also served as a director on the New Eos board of directors for a period following the Merger. Shribman has served as the chief investment officer ("CIO") of BRF since September 2019, and as president of B. Riley Investments, LLC since September 2018. Shribman works with Bryant Riley to oversee the asset base of B. Riley Financial, which has a cash flow of roughly $750 million. Shribman is also on the board of directors of Alta Equipment Group ("Alta"), which was acquired by BRPM, BRF's first SPAC, as to which Shribman also served as the CFO and a director. Shribman also served as a director, CEO, and CFO of B. Riley Principal 150 Sponsor Co., LLC ("BR 150"), another B. Riley-affiliated SPAC that merged with FaZe Holdings, Inc. in July 2022, and held an interest in that SPAC's sponsor with Riley, Presutti, and Young. Shribman continued to serve as a member of the board of directors of BR 150's post-merger company. Shribman also serves as a director, CEO, and CFO of B. Riley Principal 250 Merger Corp. ("BR 250").

30. Defendant Bryant Riley was the Chairman of the Board. Riley has been the co-CEO of BRF since July 2018 and its chairman since July 2014. He has been a

director of BRF since August 2009. Riley was the chairman of B. Riley & Co., LLC ("BRC") from its inception in 1997 until its combination with FBR Capital Markets & Co., LLC in 2017. Riley was also the CEO of BRC from 1997 to 2006. Riley was the chairman of the BRPM board of directors from April 2019 until its merger with Alta. Riley has been a director of Babcock and Wilcox Enterprises Inc. ("BW") since April 2019, and a director of Select Interior Concepts, Inc. since November 2019. Riley was on the board of directors of Franchise Group, Inc. from September 2018 to March 2020, and on the board of directors of Sonim Technologies., Inc. from October 2017 to March 2019. B. Riley Principal Investments, LLC ("BRPI"), a BRF subsidiary, is a principal investor in Sonim. In connection with the closing of the Merger, on November 16, 2020, Shribman received a pro rata distribution by the Sponsor, which gave him 993,750 shares of New Eos common stock. Riley also, with Shribman, controlled the sponsor in BR 150 and BR 250 and served with Presutti and Shribman as a director of BR 150 and BR 250.

31. Defendant Kenneth Young was a BRII director. Young was a member and controller of the Sponsor. Young has been the President of BRF since July 2018 and was a director of BRF from May 2015 to October 2016. Young has been the CEO of BRPI since October 2016. Young was the CEO and a director of BRPM from October 2018 until its merger with Alta. Young is the CEO of BW, and is on the board of directors of Sonim. Young was on the Franchise Group board of directors

from August 2018 to March 2020. Young was also a director on the bebe stores, inc. board of directors from January 2018 to April 2019. Young was placed on the bebe board by BRF after it acquired 30 percent of bebe. Young is the CEO of B. Riley Principal Investments, LLC, which was the sponsor of BR 150.

32. Defendant Patrick J. Bartels, Jr. was a BRII director. Bartels was on the BRPM board of directors until it merged with Alta. Bartels was allocated 20,000 Founder Shares prior to the Merger.

33. Defendant James L. Kempner was a BRII director. Kempner was on the BRPM board of directors until it merged with Alta. Kempner was allocated 20,000 Founder Shares prior to the Merger.

34. Defendant Timothy M. Presutti was a BRII director. Presutti was on the BRPM board of directors until it merged with Alta. Presutti was allocated 20,000 Founder Shares prior to the Merger. Presutti also was given a position as a director and officer of BR 150 and was given an interest in that SPAC's sponsor by Riley. Presutti also serves on the BR 250 board of directors with Shribman and Riley.

35. Defendant Robert Suss was a BRII director. Suss was on the BRPM board of directors until it merged with Alta. Suss was allocated 20,000 Founder Shares prior to the Merger.

RELEVANT NON-PARTIES

36. Eos Energy Enterprises, Inc. ("New Eos") is a Delaware corporation, founded as a SPAC, BRII, which subsequent to the Merger changed its name to Eos Energy Enterprises, Inc.

37. Eos Energy Storage LLC ("Legacy Eos") was a private Delaware limited liability company headquartered in Edison, New Jersey. Legacy Eos designed, developed, manufactured and sold energy storage solutions for utility-scale microgrid, and commercial and industrial applications.

38. Guggenheim Securities, LLC ("Guggenheim") was the financial advisor to Legacy Eos in connection with the Merger.

39. BRFBR was BRII's capital markets advisor, and underwriter of the IPO, and is an affiliate of the Company and the Sponsor.

40. B. Riley Financial is the ultimate parent company of BRFBR and the Sponsor.

SUBSTANTIVE ALLEGATIONS

A. BRII'S SPAC STRUCTURE AND THE IPO

41. On June 3, 2019, the Sponsor incorporated BRII in Delaware. As a SPAC, BRII's sole purpose was to combine with another company in a transaction often referred to as a "de-SPAC" merger. By the terms of its charter, BRII had only 24 months from the closing of its IPO to effectuate a business combination, or it

would be required to liquidate and return the trust funds to BRII public stockholders, with interest.

42. After the formation and incorporation of BRII, prior to the IPO, and under the direction of the Controlling Stockholders, BRII issued 5,750,000 Founder Shares to the Sponsor for $1.00. Riley was BRII's Chairman of the Board and the managing member of the Sponsor, over which Young and Shribman also exercised control. Indeed, the Registration Statement issued in connection with BRII's IPO acknowledged that the Controller Defendants "will continue to exert control [over BRII] at least until the completion of our initial business combination."

43. As the controllers of the Sponsor, Riley, Shribman, and Young selected all other members of BRII's Board—Bartels, Kempner, Presutti, and Suss. The Controller Defendants ensured the interests of these directors were directly aligned with theirs by allocating each of them 20,000 Founder Shares, which would be worthless if BRII did not close a business combination.

44. Bartels, Kempner, Presutti, and Suss had preexisting relationships with Riley, Shribman, and Young prior to their appointment to the BRII Board. Riley, Shribman, and Young also controlled the sponsor of BRPM, another B. Riley Securities, Inc.-affiliated SPAC. As with BRII, the sponsor or BRPM granted itself millions of founder shares in exchange for nominal consideration. As with BRII, Riley, Shribman, and Young had a direct or indirect interest in BRPM's founder

shares through their interests in the BRPM's sponsor. As with BRII, Riley, Shribman, and Young appointed Bartels, Kempner, Presutti, and Suss to the BRPM board of directors. And, as with BRII, Riley, Shribman, and Young granted each of Bartels, Kempner, Presutti, and Suss 20,000 BRPM founder shares. Thus, each of these purportedly "independent" directors had a history with the Controller Defendants, receiving a substantial financial windfall as a result of their relationships, that, like with BRII, was conditional on BRPM closing a merger. With BRPM's post-merger entity trading at approximately $19.61 per share, the value of the benefit the Controller Defendants had conveyed to each of Bartels, Kempner, Presutti, and Suss in connection with BRPM was approximately $392,200 each.

45. Given the Controller Defendants' history of appointing the same directors to the boards of each of their affiliated SPACs, these directors would expect to be considered for directorships in other companies that the Sponsor launches in the future and that they would thereby would receive additional compensation accretive to their compensation in the Merger. Indeed, subsequent to the closing of the Merger, Presutti was appointed to the board of directors of another B. Riley Financial, Inc. affiliated SPAC, B. Riley Principal 250 Merger Corp., in connection with which he was granted a financial interest in the sponsor of that SPAC.

46. BRII completed its IPO on May 22, 2020, selling 17,500,000 units to public stockholders at $10.00 per unit, generating proceeds of $175,000.000. Each

unit consisted of one share of Class A common stock and one-half of one warrant, with each whole warrant exercisable to purchase one share of Class A common stock at a price of $11.50 per share. The IPO proceeds were placed in a trust for the benefit of BRII's public stockholders. In the event of a business combination, each public stockholder would have the right to redeem their shares for $10.00 per share plus any interest that had accrued since the IPO. Holding the IPO proceeds in trust assured that public stockholders' redemption right was protected. IPO proceeds remaining following any redemptions would be invested in the merger.

47. Under its charter, following the IPO, BRII had a 24-month window within which to consummate a merger. If BRII failed to complete a deal during the 24-month window, its charter required that it liquidate and return its public stockholders' funds held in trust.

48. Following the IPO and a forfeiture of certain shares upon the underwriters' failure to fully exercise their overallotment option, the Sponsor held 4,375,000 Founder Shares, comprising approximately 20% of the Company's post-IPO outstanding common stock.

49. An affiliate of the Sponsor, BRFBR, served as underwriter in connection with the IPO. BRFBR also was retained as a capital markets advisor. For its involvement, BRFBR was to be paid $6,125,000, but only if BRII closed a business combination.

50. Concurrently with the IPO, BRII sold 650,000 Private Placement Units to the Sponsor at $10.00 per unit. Each Private Placement Unit consisted of one Private Placement Share and one-half of one Private Placement Warrant. Upon the closing of a business combination, each Private Placement Warrant was exercisable in exchange for one share of Class A common stock at a price of $11.50 per share. The Private Placement Shares waived any right to redemption and were not entitled to any liquidating distributions from the trust. The Private Placement Warrants were only tradable and exercisable 30 days after a business combination closed. Thus, absent a business combination, the Private Placement Units would have been worthless. A portion of the proceeds from the sale of the Private Placement Units were placed in the trust and would be used to fund redemption of the public shares in the event of a liquidating distribution.

B. MERGER PROCESS

51. Following the IPO, the Board had to find a target and complete a merger before BRII's liquidation deadline expired in 24 months, or BRII would be forced to liquidate the trust account and return the trust funds to BRII's public stockholders. Such a result would have been disastrous for Defendants. If a liquidation were to occur, all of Defendants' Founder Shares and Private Placement Units would be worthless.

52. In July 2019, BRPM's then-CFO, Defendant Shribman, engaged with Guggenheim about a potential merger between BRPM and Legacy Eos. BRPM and Legacy Eos entered into a non-disclosure agreement that allowed Shribman to access certain of Legacy Eos's non-public information. Shribman scheduled a visit to Legacy Eos's headquarters and a sit down for a management presentation, but decided to abandon his interactions with Legacy Eos and instead engage in discussions with other potential BRPM merger partners. Ultimately, BRPM merged with Alta in February 2020.

53. After BRPM merged with Alta, Defendants then shifted their financial interests to BRII. Within a week of BRII's IPO, on May 29, 2020, Shribman reached out to Guggenheim concerning Legacy Eos.

54. Throughout June 2020, Shribman continued to meet with Guggenheim and Legacy Eos management, discussing operational issues including "growth capital" and "operating projections." During this period, Legacy Eos management

[REDACTED]

[REDACTED] Despite the disclosures in the Proxy indicating otherwise, the Board was not involved at all in the due diligence process. The purportedly independent directors allowed the Controller Defendants to run the process without any oversight.

55. In fact, it appears that between the IPO and the date on which the Board agreed to consummate the Merger, the Board only held two meetings at which a

potential merger was discussed. [redacted]

three days earlier, Shribman had sent a letter of intent to Legacy Eos offering to purchase Legacy Eos at a $290 million valuation, or that it was countersigned by Legacy Eos the following day.

56.

57. From July to September, the Controller Defendants and Legacy Eos negotiated the final terms of the Merger agreement. On September 2, 2020, the Board approved the Merger Agreement (the "Merger Agreement"), and on September 7, 2020, the parties executed it. On September 8, 2020, BRII announced the Merger.

58. On October 15, 2020, approximately six weeks later, without any further meetings of the Board, and, thus, without the Board receiving any financial or legal advice in connection with the Merger or the final Merger Agreement, the BRII Board approved the Merger by written consent.

59. According to Board minutes produced in response to Plaintiff's 220 demand, [REDACTED] The Board allowed this to happen, rubber stamping an ill-advised and value destroying Merger, by written consent, apparently without receiving any outside legal or financial advice with regard to the final Merger agreement, by which the Board purportedly:

> (i) determined that the Merger Agreement was fair, advisable and in the commercial interests of the Company, (ii) adopted and approved the Merger Agreement, (iii) recommended that the Company's stockholders approve the Merger Agreement and such other proposals and (iv) directed the officers of the Company to submit the business combination and the Merger Agreement to the stockholders of the Company for adoption and approval.

60. The Board did not obtain a fairness opinion in connection with the Merger—it did not even retain a financial advisor.

C. FALSE AND MISLEADING DISCLOSURES SEAL THE DEAL

61. On October 23, 2020, BRII issued the Proxy, and on November 12, 2020, stockholders approved the Merger. On November 16, 2020, the Merger closed. The stockholder vote was both illusory and uninformed, and public stockholders were induced to invest in the Merger rather than redeeming their shares for $10.00 per share plus interest.

62. The stockholder vote in favor of the Merger was illusory for two reasons. First, under BRII's charter, public stockholders could redeem their shares but still vote on the Merger. Second, in addition to shares, stockholder held warrants. Even if public stockholders redeemed their shares, because they could retain their free warrants included in the public units sold in the IPO, they had incentive to vote, and vote in favor of an acquisition.

63. The stockholder vote was also uniformed, because the Proxy and other solicitations made in connection with the Merger made myriads of false and misleading representations and omitted information material to public stockholders' decision to either redeem their shares or invest in the Merger. In particular, the Proxy and other solicitation materials in connection with the Merger made misrepresentations concerning at least the following: (1) projections regarding

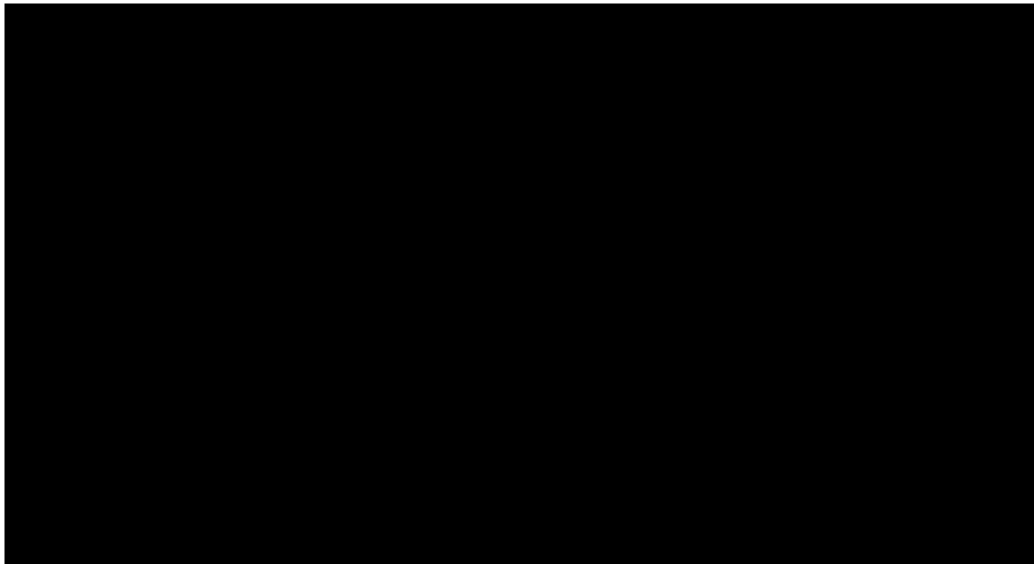
Legacy Eos's future performance; (2) existing customer commitments impacting near-term expectations; and (3) the net cash per share underlying the BRII shares in connection with the Merger.

(i) Projections

64. The Proxy Projections were massively overstated and thus, misleading as to Legacy Eos's and New Eos's actual expected future performance.

65.

66.



67. The Proxy, however,

Instead, the Proxy included significantly higher "Proxy Projections":

	Fiscal Year Ending December 31,					
($ in millions)	**2020**	**2021**	**2022**	**2023**	**2024 Base**	**2024 Growth**
Sales volume (MWh)	**13**	**260**	**1,511**	**4,620**	**6,786**	**11,654**
Total revenue	**$ 2.5**	**$ 50.3**	**$ 268.6**	**$ 735.5**	**$ 994.9**	**$ 1,700.4**
Gross profit	**$ (4.7)**	**$ (13.1)**	**$ 27.7**	**$ 132.4**	**$ 249.0**	**$ 425.1**
Adjusted operating income (loss)	**$ (14.1)**	**$ (32.0)**	**$ 7.0**	**$ 58.8**	**$ 149.2**	**$ 297.6**

68. The Proxy described the Proxy Projections as follows:

> In the view of Eos's management team, the Projections were prepared on a reasonable basis, reflected the best currently available estimates and judgments of [Legacy] Eos and presented, to the best of their knowledge and belief, the expected course of action and the expected future financial performance of Eos.

69. This statement and the inclusion of the Proxy Projections were misleading because the disclosures

The statement that the Proxy Projections reflected the best currently available estimates and judgments of Legacy Eos was also misleading, Instead, it appears that the Proxy Projections were inflated in a design to deter redemptions and seek approval of the Merger.

70. The Proxy failed to disclose that without any supporting internal or external documentary evidence,

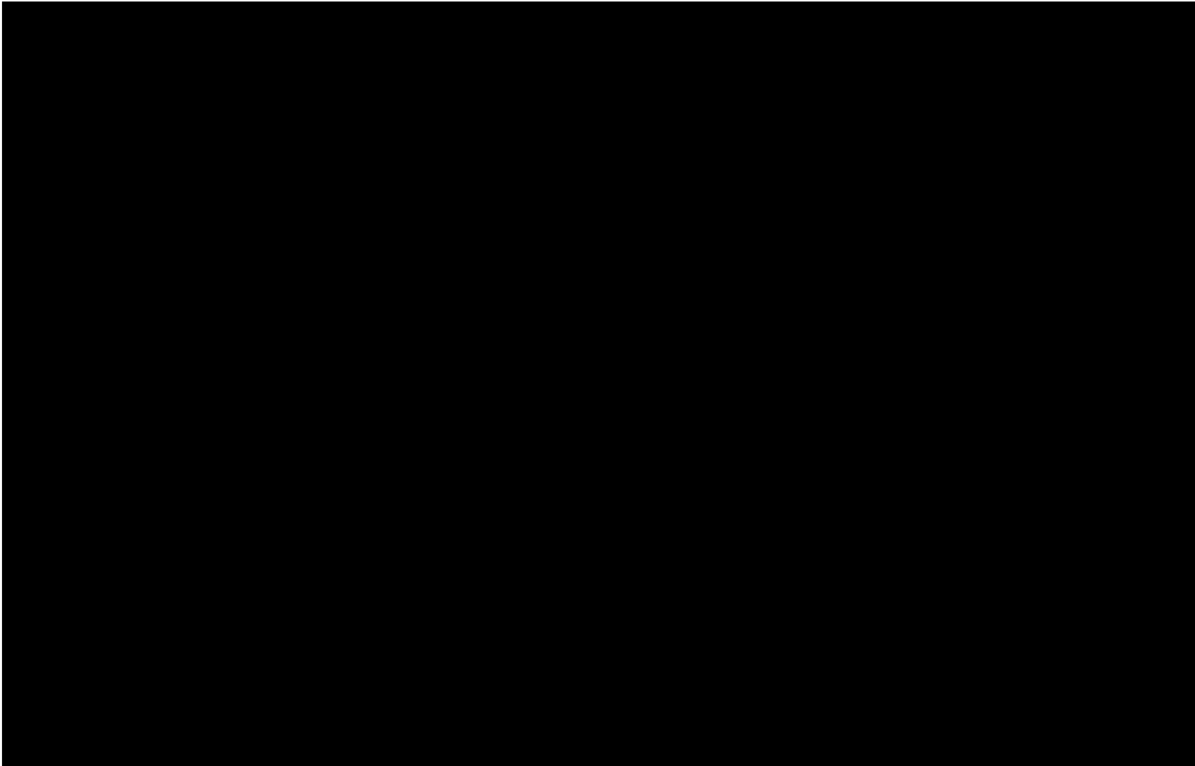
These unsupported assumptions were misleading because they painted a picture of unrealistic aggressive growth that was not aligned with expectations of Legacy Eos management or reality.

71.

Defendants endorsed and disclosed to BRII's stockholders Proxy Projections

(ii) Misrepresented and False Customer Commitments

72.

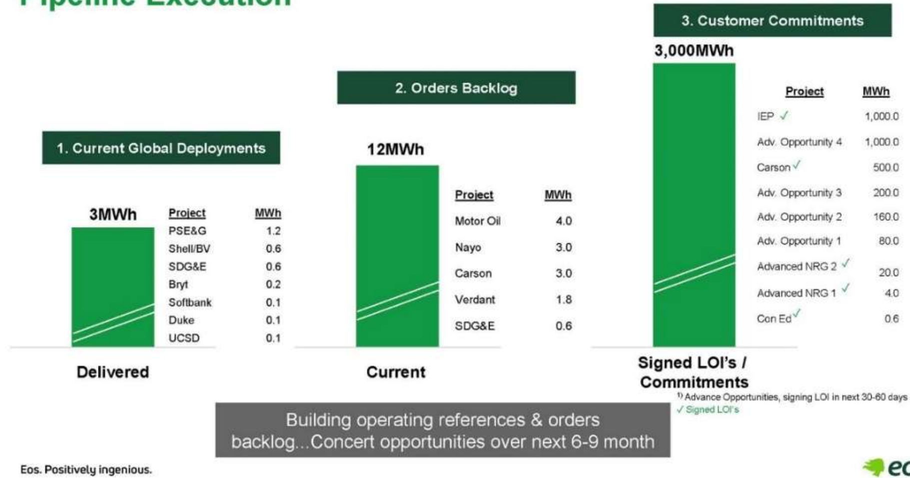


73.

74. Also in June 2020, Legacy Eos management provided the BRII Board with an additional presentation, entitled "Diligence Discussion Materials."

75. Prior to the issuance of the Proxy, on October 20, 2020, BRII and Legacy Eos filed a presentation deck with the SEC (the "Investor Presentation")[2] that laid out the Proxy Projections and included a "Pipeline Execution" chart that attempted to substantiate the massive revenue and sales volume growth projected in the Proxy Projections by layering in "Signed LOIs / Commitments" equaling 3,000 MWh:

[2] The Investor Presentation was later incorporated in the Proxy.



76.

77.

78.

79. Defendants were aware that as of June 2020, Legacy Eos only had not the 3,000 MWh pipeline disclosed in the Investor Presentation. Defendants were also aware that, at most,

Defendants were further aware that the very large majority of Legacy Eos's pipeline through 2023— These truths were not disclosed in the Proxy.

80. The disclosure of these "Customer Commitments" was made further misleading given that had the truth of these "commitments" been disclosed, it would have called into question many of the assumptions underlying the Proxy Projections.[3]

81. Stockholders were kept in the dark about what they could realistically expect from the combined company. BRII did not tell investors that

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Stockholders were therefore materially misled as to the actual value of their investment in the Merger at the fulcrum point of their redemption decision.

(iii) Net Cash Per Share

82. Defendants omitted information from, and made false and misleading representations in, the Proxy regarding the value of BRII shares that BRII would issue to Legacy Eos stockholders in the Merger. Information regarding the value of those shares was reasonably available to the Board at the time it proposed the Merger, and it was material to stockholders given that net cash per share would provide a strong indication of value post-Merger and that the SPAC would see significant dilution and dissipation of cash upon closing.

83. The Board knew or should have known that the Merger would be a losing proposition for BRII public stockholders, but nevertheless approved and recommended the Merger, because even a bad deal for public stockholders was highly lucrative for the Sponsor, Riley, Shribman, Young, and the rest of the Board.

84. The Proxy presented public stockholders with a choice: Either redeem your shares for $10.00 per share plus interest ($10.10) or invest in the Merger. The

Proxy did not disclose that the value of public stockholders' investment in the Merger would be substantially less than the redemption value of their shares. Because the Proxy misstated and obfuscated the net cash per share underlying the investment public stockholders were being asked to make in New Eos, BRII's public stockholders were deprived of an ability to assess what investment was reasonably likely to yield. Consequently, they were deprived of the ability to make an informed choice whether to redeem their shares or invest in the Merger.

85. BRII's sole asset was cash. That included stockholder funds held in the trust account, funds to be received at closing from a private investment in public equity ("PIPE") offering, and net cash outside of the trust. To determine net cash per share, costs would be subtracted from that total cash before dividing the number of pre-merger shares:

$$\text{Net Cash per Share} = \frac{\text{Cash} - \text{Costs}}{\text{Pre-Merger Shares}}$$

86. The costs to be subtracted from the cash component of the numerator include: (1) transaction costs, including deferred underwriter fees and other Merger-related fees to be paid by BRII; and (2) the value of the warrants. The denominator, pre-Merger shares, consists of: (1) public shares issued in the IPO; (2) the Founder

Shares; (3) the Private Placement Shares; and (4) funds from the PIPE consummated in connection with the Merger.

87. After accounting for considerable dilution and dissipation of cash due to BRII's issuance of warrants, Founder Shares, and transaction costs, and even before taking into account any redemptions, BRII stockholders' investment in the Merger was significantly less than the redemption value. Using these inputs, BRII's net cash per share at the time the Proxy was filed was less than $7.00 per share. This basic fact was not provided to public stockholders. Furthermore, the Proxy did not indicate to public stockholders that they should attempt to figure this out from the information provided in the Proxy. That said, even if a stockholder were to scour the Proxy for the various inputs to this calculation, the raw data necessary to do so was either absent or presented in only the most indirect form. Therefore, BRII's public stockholders were left to rely on the Board's representations that the Merger was in their best interests.

88. The failure to disclose to stockholders that the net cash per share to be invested in the Merger was less than $7.00 per share was a material omission. Because BRII had less than $7.00 per share to contribute to the Merger, BRII's stockholders could not logically expect to receive more than $7.00 per share of value in exchange from Legacy Eos stockholders. Thus, stockholders could not reasonably

expect that their shares would be worth more than $7.00 per share following the Merger.

89. At best, the Board knowingly turned a blind eye to the dilution of BRII's shares and the dissipation of its cash. The Board failed to consider how much better off the stockholders would be had they received $10.10 per share in a liquidation or redemption, compared to allowing their funds to be invested in the Merger in which they would be investing less than $7.00 per share.

90. Further, this omission and these misrepresentations exacerbated other disclosure issues as the Merger Agreement set a deemed value for the Merger consideration of $10.00 per share. Because BRII was not worth $10.00 per share, and through the due diligence process, Legacy Eos would have known that BRII was not worth $10.00 per share, Legacy Eos management had incentive to inflate the value of Legacy Eos at least to match the inflated value of BRII. In order to support the inflated value, Legacy Eos would have to inflate its projections. Defendants knew all of this, and because they needed the Merger to close to realize their windfall, they had an incentive to accept the inflated valuation and inflated projections of Legacy Eos. Thus, instead of fully and accurately disclosing information material and necessary for public stockholders to make an informed redemption decision, the Controller Defendants and the Board created and/or accepted and disclosed inflated

projections for Legacy Eos built on unrealistic sales and revenue projections and passed this information along to BRII's public stockholders in the Proxy.

D. DEFENDANTS FAILED, DISLOYALLY TO DISCLOSE MATERIAL INFORMATION

91. Defendants failed, disloyally, to disclose information necessary for Plaintiff and the Class to knowledgeably exercise their redemption rights. Defendants breached their duties of loyalty and candor in the context of a transaction in which their interests diverged from that of public stockholders to whom they owed fiduciary duties. Those breaches promoted Defendants' interests at the expense of those of public stockholders.

92. The failure of Defendants to fully, fairly, and accurately inform BRII's public stockholders of material information concerning the Merger and Legacy Eos was consistent with their interest in minimizing redemptions and ensuring that the Merger would close. In addition to ensuring that BRII would have sufficient minimum cash to satisfy requirements in the Merger Agreement, the fewer the number of redemptions, the greater the value of Defendants' interests in New Eos. By avoiding making material disclosures and providing non-misleading information to stockholders, Defendants made tens of millions of dollars at the expense of BRII's public stockholders. As discussed herein, if the Merger did not close, the Sponsor and

BRII's directors would see their Founder Shares and Private Placement Units lose all value. Even worse for the Sponsor, it would also lose all of its investment in BRII.

E. The Truth Is Slowly Revealed

93. By mid-January 2021, on the basis of the false promises set forth in the Proxy and imaginary customer commitments, New Eos's stock price had risen to $30. On January 14, 2021, Iceberg Research issued a report entitled "Eos Energy: Fake Customers Won't Recharge a Dead Battery" (the "Report"). The Report revealed that Legacy Eos had only been able to generate $35,000 in revenue in the first nine months of 2020, casting doubt on the $50.3 million revenue projections for FY 2021 contained in the Proxy.

94. The Report's key observation was that the massive "commitments" of 3,000 MWh touted in the Investor Presentation were illusory. In particular, the Report pointed out that more than half of these projected sales were to come from small companies that did not plausibly have the financial resources to make such purchases.

95. The Report focused on three companies referred to in the October 2020 Investor Presentation in the "Customer Commitments" chart, Carson, IEP, and EnerSmart Storage LLC ("Enersmart"). The Report laid out extensive research that undermined the viability of these entities to support Eos's "Signed LOIs / Commitments." According to the Report, Carson's website suggested that the Carson "deal" was just an advertising piece for Legacy Eos; its power plant had been

inoperative since 2017, and it did not appear to have an existing renewable energy business. Lending considerable credence to this allegation, Carson's web site is no longer functional as of the date of this complaint, was last updated in November 2021, and was registered anonymously through a "Domains by Proxy" registration.

96. Additionally, the Report noted that IEP had no evidence of where it would be utilizing any batteries to be supplied by Legacy Eos in its public disclosures. Meanwhile, the Report revealed that EnerSmart [REDACTED] is an entity with resources "11 times smaller than" the value of its supposed contract with Legacy Eos, calling into further question whether the "commitment" was realistic.

97. As discussed above, [REDACTED]

98. In response to the Report, New Eos's stock price fell from a close of $28.41 on January 13, 2021, to $23.03 on January 15, 2021, a two-day loss of 19%, in heavy trading.

99. Consistent with the Report and the escalating warnings in the 2021 and 2022 Annual Reports, New Eos has never even approached the projections shared with investors in the Investor Presentation and the Proxy.

100. On May 12, 2021, on its first earnings call following the Merger, New Eos reported that its previously disclosed revenue projections for 2021 were way off track, stating on the call that for the first quarter of 2021, New Eos had realized only $164,000 in revenue. The Company would need to increase this number by a factor of 306.7 in order to hit its projected $50.3 million in revenue for the fiscal year. In the second quarter, New Eos delivered only $600,000 in revenue, requiring the company to increase its year to date revenue by a factor of 65.8 to realize the revenue that it projected in the Proxy.

101. Unsurprisingly, New Eos's dismal results prompted the company to announce on its second quarter earnings call that it was lowering its revenue guidance for 2021 to a mere $5 million (the "2021 Lowered Guidance"), a more than 90 percent reduction from the $50.3 million projected in the Proxy.

102. The company ultimately did not meet even the 2021 Lowered Guidance, realizing only $4.6 million in total revenue for fiscal year 2021. Instead of a projected net loss of $13.1 million, New Eos's 2021 net loss was $124.2 million.

103. Nor did the picture improve in 2022. The Proxy Projections projected total revenue for 2022 to be $268.6 million, but, as of its fourth quarter 2021 earnings

call on February 25, 2022, the company had already lowered its revenue guidance for the year to $50 million (the "2022 Lowered Guidance").[4]

104. Ultimately, New Eos would miss even the 2022 Lowered Guidance by more than 60%. On February 2, 2023, New Eos issued a press release announcing that its expected total revenue for full fiscal year 2022 was only $17 to $20 million, equating, on the high side, ***not even 7.5%*** of the revenue projections in the Proxy.

105. In New Eos's fiscal year 2020 Annual Report, it disclosed a warning that "if [New Eos is] not able to sustain revenue growth and continue to raise the capital necessary to support operations, we may be unable to continue as a going concern." A year later New Eos's fiscal year 2021 Annual Report disclosed an even more dire reality, representing, "***[w]e have a history of losses that casts <u>substantial doubt</u> as to our ability to continue as a going concern.***"

106. The result of the Company's repeated failure to meet projections and the negative press surrounding its misleading disclosures has been a long descent in New Eos's stock price, which closed at $1.90 per share on March 6, 2023.

F. DIRECTOR CONFLICTS OF INTEREST IMPLICATE ENTIRE FAIRNESS

107. Riley, Shribman, Young, and the Sponsor were controllers of BRII, Riley, Shribman, and Young through their control of the Sponsor.

[4] Q4 2021 Earnings Call Transcript.

108. Riley was the Chairman of the Board, and he controlled day-to-day operations of BRII and the Merger negotiations and diligence along with Shribman. In the registration statement disseminated with the IPO, BRII disclosed that Riley, with the other Controller Defendants, "would continue to exert control over the corporation at least until the completion of [BRII's] initial business combination."

109. Riley received a unique benefit from the Merger that differentiated from BRII's public stockholders. Riley's financial interests in the Merger were in the form of Class B Founder Shares and Private Placement Units, all of which would have been worthless if no merger had occurred within the acquisition window. As the of the record date, Riley and his affiliates held the equivalent of 7,740,234 shares of New Eos common stock, valued at $77,479,742.

110. Riley secured additional unique benefits by retention of his own affiliated entity, BRFBR, as a paid consultant to BRII. BRFBR assisted as an underwriter and capital markets advisor in connection with the IPO and the Merger. BRFBR was to be compensated with $6,125,000 in fees upon the close if the Merger, and only if the Merger closed.

111. With Riley, Young, and the Sponsor, Shribman was a controller of BRII. Shribman was BRII's CEO, CFO and a director. He is a direct and long-standing affiliate of Riley. Shribman is the CIO of BRF and works directly for Riley to oversee the asset base of BRF. He is a director of Alta, an entity acquired by

BRPM, and was the CFO of BRPM before it acquired Alta. Shribman was BRII's sole incorporator. He had the power to and did, with the other Controller Defendants, nominate and elect the other Defendant directors to the BRII Board. Shribman was the principal negotiator of the Merger on behalf of BRII, and thus, with Riley, controlled all the business operations of BRII through the close of the Merger. In the registration statement disseminated with the IPO, BRII disclosed that Shribman, with the other Controller Defendants, "would continue to exert control over the corporation at least until the completion of [BRII's] initial business combination."

112. With Riley, Shribman, and the Sponsor, Young was a controller of BRII. Young is the President of BRF and the CEO of BRPI. Young was the CEO and a director of BRPM. Young is the CEO of BW. Riley is on the BW board of directors. Young is on the Sonim board of directors and was on the Franchise Group board of directors. Riley sat on both those boards with Young. Young also was on the bebe board of directors—bebe was a principal investment of BRF.

113. Each of the purportedly "independent" directors was conflicted due to their extensive economic and business relationships with Riley, Shribman, and the Sponsor, and their direct financial interest in BRII Founder Shares that was disparate from BRII's public stockholders.

114. Bartels, Kempner, Presutti, and Suss have a past relationship with Riley, Shribman, and Young, having served as directors of their first SPAC, BRPM.

Each of these directors received a substantial benefit from their directorships at BRPM. Each director was allocated 20,000 shares of BRPM Class B common stock while on the BRPM board. BRPM's acquired entity, Alta, is currently trading at around $19.61 per share. Thus the current benefit for directorships at BRPM is approximately $392,200 for each director.

115. Bartels, Kempner, Presutti and Suss also were each allocated 20,000 Founder Shares in BRII.

116. Each of these directors would expect to be considered for directorships in other companies that the Sponsor launches in the future if they kept the Controller Defendants happy, and would expect to receive additional compensation accretive to their compensation in the Merger. In fact, Presutti was (i) later appointed by the Controller Defendants to a subsequent B. Riley-affiliated SPAC, (ii) given interests in the sponsor of that SPAC, which also held interest in that SPAC's founder shares. This promise for future opportunities was reinforced by the fact that all of BRII's directors served on the board of directors of Riley's and Shribman's prior SPAC, BRPM, in which they all had direct or indirect financial interests in its sponsor.

CLASS ACTION ALLEGATIONS

117. Plaintiff, a stockholder in BRII, brings this action individually and as a class action pursuant to Rule 23 of the Rules of the Court of Chancery of the State of Delaware on behalf of himself and all record and beneficial holders of BRII common

stock who held such stock during the time period from the redemption deadline—November 10, 2020—through the Closing Date (except the Defendants herein, and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants) and who were injured by the Defendants' breaches of fiduciary duties and other violations of law (the "Class").

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

119. A class action is superior to other available methods of fair and efficient adjudication of this controversy.

120. The Class is so numerous that joinder of all members is impracticable. The number of Class members is believed to be in the thousands, and they are likely scattered across the United States. Moreover, damages suffered by individual Class members may be small, making it overly expensive and burdensome for individual Class members to pursue redress on their own.

121. There are questions of law and fact which are common to all Class members and which predominate over any questions affecting only individuals, including, without limitation:

a. whether Defendants owed fiduciary duties to Plaintiff and the Class;

b. whether the Controller Defendants controlled BRII;

c. whether "entire fairness" is the applicable standard of review;

d. which party or parties bear the burden of proof;

e. whether Defendants breached their fiduciary duties to Plaintiff and the Class;

f. the existence and extent of any injury to the Class or Plaintiff caused by any breach;

g. the availability and propriety of equitable re-opening of the redemption period; and

h. the proper measure of the Class's damages.

122. Plaintiff's claims and defenses are typical of the claims and defenses of other Class members, and Plaintiff has no interests antagonistic or adverse to the interests of other Class members. Plaintiff will fairly and adequately protect the interests of the Class.

123. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature.

124. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

125. 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

Defendants; or adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

COUNT I

(Direct Claim for Breach of Fiduciary Duty Against the Director Defendants)

126. Plaintiff repeats and realleges each and every allegation above and Count set forth below as if set forth in full herein.

127. As directors of the Company, the Director Defendants owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty, which subsume an obligation to act in good faith, with candor, and to make accurate material disclosures to the Company's stockholders.

128. These duties required them to place the interests of Company stockholders above their personal interests and the interests of the Controller Defendants.

129. Through the events and actions described herein, the Director Defendants breached their fiduciary duties of loyalty and candor to Plaintiff and the Class by prioritizing their own personal, financial, and/or reputational interests in a manner unfair to and misleading Plaintiff and the Class by failing to adequately

inform public stockholders of material information necessary to allow them to make an informed redemption decision.

130. As a result, Plaintiff and the Class were harmed due to the impairment of their redemption rights prior to the Merger.

131. In addition, by virtue of misstatements and omissions in the Proxy, Plaintiff and members of the Class could not exercise their vote in an informed manner and approved the Merger with Legacy Eos based on false and misleading information.

132. Plaintiff and the Class suffered damages in an amount to be determined at trial.

COUNT II

(Direct Claim for Breach of Fiduciary Duty Against the Officer Defendant)

133. Plaintiff repeats and realleges each and every allegation above and Count set forth above and below as if set forth in full herein.

134. As the most senior officer of the Company, Shribman owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty, which include an obligation to act in good faith, with candor, and to provide accurate material disclosures to the Company's stockholders.

135. These duties required Shribman to place the interests of the Company's stockholders above his personal interests and the interests of the Controller Defendants. Shribman is not exculpated for breaches of his duty of care for actions taken in his capacity as an officer (which include all actions set forth herein except his formal vote to approve the Merger).

136. Through the events and actions described herein, Shribman breached his fiduciary duties to Plaintiff and the Class by prioritizing his own personal, financial, and/or reputational interests and approving the Merger, which was unfair to the Company's public stockholders. Shribman also breached his duty of candor by issuing the false and misleading Proxy, as well as making other false and misleading statements with regard to the Merger.

137. As a result, Plaintiff and the Class were harmed due to the impairment of their redemption rights prior to the Merger.

138. In addition, by virtue of misstatements and omissions in the Proxy, members of the Class could not exercise their vote in an informed manner and approved the Merger with Legacy Eos based on false and misleading information.

139. Plaintiff and the Class suffered damages in an amount to be determined at trial.

COUNT III

(Direct Claim for Breach of Fiduciary Duty Against the Controller Defendants)

140. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

141. The Controller Defendants were the Sponsor, Riley, Shribman, and Young. The Sponsor—and Riley, Shribman, and Young through their control of the Sponsor—elected (and could remove at any time) the members of the Board. The Controller Defendants incentivized a majority of the Board to approve the Merger—through grants of Founder Shares, the granting of other financial incentives, and through close and longstanding business and financial relationships.

142. As such, the Controller Defendants owed Plaintiff and the Class fiduciary duties of care and loyalty, which include an obligation to act in good faith, and to provide accurate material disclosures to BRII stockholders.

143. At all relevant times, the Controller Defendants had the power to control, influence, and cause—and actually did control, influence, and cause—BRII to enter into the Merger and publish a false and misleading Proxy in connection therewith.

144. Through the events and actions described herein, the Controller Defendants breached their fiduciary duties of loyalty and candor to Plaintiff and Class

members by failing to adequately inform public stockholders of material information necessary to allow them to make an informed redemption decision.

145. As a result, Plaintiff and the Class were harmed due to the impairment of their redemption rights prior to the Merger.

146. Plaintiff and the Class suffered damages in an amount to be determined at trial.

COUNT IV

(Direct Claim for Unjust Enrichment Against the Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss)

147. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

148. As a result of the conduct described above, the Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss breached their fiduciary duties to BRII public stockholders and were disloyal by putting their own financial interests above those of BRII public stockholders.

149. The Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss were unjustly enriched by their disloyalty.

150. All unjust profits realized by the Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss should be disgorged and recouped by the affected stockholders.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and relief in his favor and in favor of the Class, and against Defendants, as follows:

A. Declaring that this Action is properly maintainable as a class action;

B. Finding the Director Defendants liable for breaching their fiduciary duties owed to Plaintiff and the Class;

C. Finding the Controller Defendants liable for breaching their fiduciary duties, in their capacity as the controllers of BRII, owed to Plaintiff and the Class;

D. Finding that the Sponsor, Riley, Shribman, Young, Bartels, Kempner, Presutti, and Suss were disloyal fiduciaries that were unjustly enriched;

E. Certifying the proposed Class;

F. Awarding Plaintiff and the other members of the Class damages in an amount which may be proven at trial, together with interest thereon;

G. Ordering disgorgement of any unjust enrichment to the plaintiff class;

H. With respect to Class members who had the right to seek redemption and still hold their shares, equitably re-opening the redemption window to allow them to redeem their shares, as per the terms of BRII's foundational documents;

I. Awarding Plaintiff and the members of the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' and experts' witness fees and other costs; and

J. Awarding Plaintiff and the Class such other relief as this Court deems just and equitable.

Dated: March 8, 2023

GRANT & EISENHOFER P.A.

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