the Pomerantz Monitor

Volume 7, Issue 5 January/February 2011

Supremes Wade Hip Deep Into Securities Laws Bog

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The Supreme Court continues to put its stamp on securities class actions as it takes on cases involving hot-button issues. Within the past few weeks it heard arguments in two cases and granted cert in a third.

Supremes Split on Liability of Unidentified Author of Misleading Prospectus

The Supremes appeared closely divided at the recent argument of a case involving the Janus Capital Group, the investment advisor to the Janus "family" of mutual funds. Shares of these funds are sold to investors through prospectuses, which bear the name of the fund but which are actually written by the funds' advisor. Although it is common knowledge in the industry that the advisors manage the funds and write their prospectuses, here the advisor argued that what "everyone knows" is irrelevant, and that it could not be liable because the prospectus did not identify it as the author.

In its previous decisions, the Supreme Court has drawn a sharp distinction between those who actually make a misstatement – and are therefore "primary violators" of the securities laws – and those who merely help the primary violators by "aiding and abetting" them. The primary violators are liable, but the helpers are not. In trying to escape responsibility, various "secondary actors," such as attorneys, accountants, or bankers, claim that no matter how deeply involved they were in drafting the offending disclosure documents, unless they are publicly identified as the authors, they are just "helpers" and can't be sued.

In the *Janus* case, the defendant mutual fund investment advisor was completely responsible for writing the "market timing" policy disclosed in the funds' prospectuses. Although the advisor was not named as an author of the prospectuses, shareholders who invested in the parent company of the investment advisor filed suit against the advisor.

Discussion during oral arguments suggested that the Court is closely divided on these questions, along the usual lines. Justices Ginsburg, Sotomayor and Kagan appeared concerned that investment advisors could insulate themselves from all fraud claims if they are not held accountable for misrepresentations in prospectuses that they have written. Justices Alito, Scalia, and Chief Justice Roberts, on the other hand, emphasized in their questions the fact that the prospectuses were attributed to the mutual funds, not the advisor, and the funds were legally separate entities from the advisor and retained their own outside counsel to review the policy statements. Justice Scalia observed that the mutual funds controlled the contents of their prospectuses and could have stopped the challenged language from being placed in them.

Marie L. Oliver

Is "Statistically Insignificant" Information "Material"?

On January 10, the Supreme Court heard argument in *Matrixx*, a securities case involving the question of whether information that is not "statistically significant" can nonetheless be "material" and have to be disclosed. As we previously reported, in *Matrixx*, a pharmaceutical

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Is "Statistically Insignificant" Information Material?
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company did not disclose that it had received around 20 reports that its cold medication Zicam causes anosmia, the loss of the sense of smell. The information did not become public until a doctor presented his findings on "Good Morning America," allegedly causing the stock price to plummet.

The company claimed that it did not have to disclose this information because these reports were so few and far between, relative to the huge number of patients taking the drug, that they were not "statistically significant." In other words, the reported instances could have been random occurrences. The argument, essentially, was that investors were behaving irrationally by dumping the stock because of this information, because these isolated reports, objectively speaking, were not material.

The Ninth Circuit refused to dismiss the complaint, holding that failure to disclose this information could have been "an extreme departure from the standards of ordinary care" and decided that a jury should hear whether the reports were statistically significant enough to establish materiality for a securities fraud claim.

Several members of the Court seemed dubious that courts should be deciding, at the pleading stage of a case, whether investors were or were not justified in considering the information to be important. It seems unlikely that the Court will adopt a categorical rule that statistical significance must be proven to establish materiality.

Court Will Decide Whether Loss Causation Must be Proven at the Class Certification Stage

Few decisions have caused more members of the plaintiffs' bar to pull their hair out than the Fifth Circuit's 2007 decision in *Oscar Private Equities*. There the court held that a class could not be certified in a securities fraud case unless the plaintiff could prove, by a preponderance of the evidence, that the false statements caused the investors' losses. This is a critical issue because the Supreme Court has held that "loss causation" is an essential element of a securities fraud claim, and that it requires a showing that disclosure of the true facts actually caused a drop in the market price of the company's shares.

Oscar caused such agita because the Fifth Circuit seemed to be saying that now plaintiff had to prove, at the class certification stage, not only that there were "common questions" concerning loss causation, but also that he was going to *prevail* on that merits-related issue. This is not an academic question, because experts often disagree about what may have caused the price of a stock to move on any given day. In *Oscar* itself, certification was denied because the company disclosed other information at the same time as it corrected its previous fraudulent statements, and plaintiff's expert could not separate the effects of one disclosure from the effects of the other. Needless to say, companies in the position of making "corrective disclosures" have become more and more sophisticated in mixing such disclosures up with other disclosures so as to obscure the "loss causation" effects.

This issue has enormous practical consequences, because if *Oscar* is upheld, an additional obstacle will be interposed in securities fraud cases. Defendants would now have three chances before trial to attack the case on the merits: at the motion to dismiss stage; at summary judgment; and, now, at the class certification stage as well. Until recently, it had been accepted that the courts were to decide issues related to the merits of the case in the course of ruling on a class certification motion.

Luckily, no other Circuit has gone along with the *Oscar* decision; and now, there is a good chance that even in the Fifth Circuit the *Oscar* rule may bite the dust. Although *Oscar* never went up to the Supreme Court, the principle established in that case has finally found its way there, in another Fifth Circuit case, involving Halliburton. In that case, an institutional investor alleged that Halliburton executives deliberately misrepresented the company's financial results, and when Halliburton subsequently disclosed the true facts, the market declined. However, the lower courts denied class certification because plaintiffs had not proven that disclosure of the fraud had caused the market price of the shares to fall. If, as we expect (hope) that decision is reversed, *Oscar* will be history.

The Supremes and U.S. Chamber of Commerce Read from Same Playbook

One of the most controversial Supreme Court decisions of 2010, *Citizens United v. Federal Election Commission*, fundamentally altered the way elections will be conducted in our country. The Court held that corporations and unions have the same First Amendment rights as people and therefore can spend unlimited amounts of money in elections. The U.S. Chamber of Commerce filed an amicus brief in this case that supported the extension of First Amendment rights to inanimate entities.

As the *New York Times* recently reported, the Chamber is hav-

ing an extraordinary degree of success at the Supreme Court these days. Indeed, Carter G. Phillips, who often represents the Chamber, has said that "except for the solicitor general representing the United States, no single entity has more influence on what cases the Supreme Court decides and how it decides them than the [Chamber's] National Chamber Litigation Center."

Although hundreds of lower court decisions are appealed to the Supreme Court every year, the Court only agrees to hear a few of those cases. For average citizens, the odds of obtaining Supreme Court review are about 1 in 100. According to the Chamber's lawyers, *their* odds of convincing the Court to take a case are 30%.

Not only does the Court tend to take those cases the Chamber wants it to take, it tends to rule the way the Chamber wants it to rule. Consider these facts:

- The Chamber's positions have prevailed 68 percent of the time since Justice Roberts became Chief Justice, compared with 56 percent in the last 11 years (with no personnel changes) of the Rehnquist court.

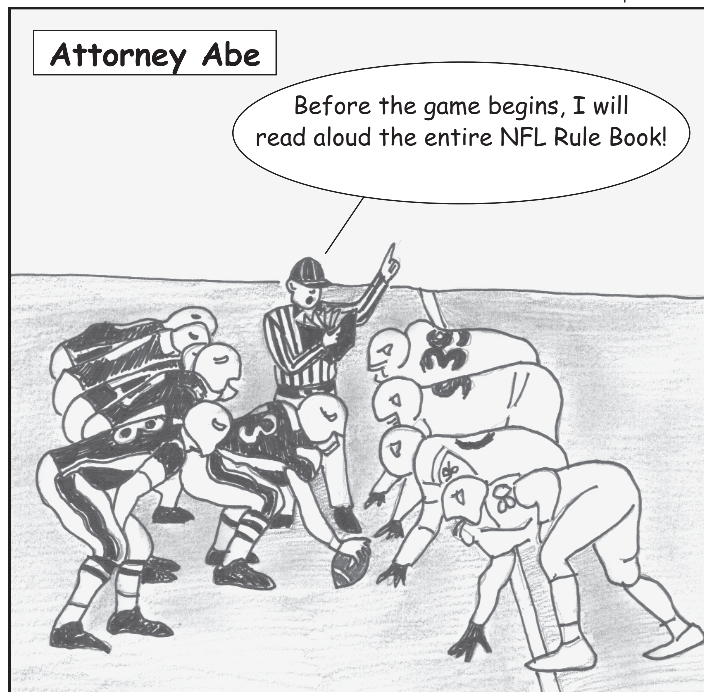
- Under Justice Roberts, the Court has ruled for business interests 61 percent of the time, compared with 42 percent by the Court overall since 1953.

- According to the Constitutional Accountability Center, the conservative bloc of the Court favored the Chamber position 74% of the time, compared to 43% of the time for the moderate/liberal bloc – a difference nearly triple that of the Rehnquist and Burger Courts.

- Last term, the Chamber's side won 13 of 16 cases. Six of those were decided with a majority vote of five justices, and five of those decisions favored the Chamber. (One of them was *Citizens United*.)

This year, the Court will hear a series of cases that pit shareholder interests against those of corporate managers. Want to handicap the outcome? Ask: what is the Chamber's position?

Jason S. Cowart



Pomerantz' Blue Cross Litigations Move Into Overdrive

On September 10, 2009, Pomerantz filed a class action lawsuit in Illinois Federal Court against 22 leading Blue Cross Blue Shield ("BCBS") insurers across the country on behalf of a class of health care providers and subscribers. The lawsuit challenges their use of so-called post-payment audits and reviews to generate improper repayment demands with respect to legitimate claims that were properly paid out. We allege that this process violates the Employee Retirement Income Security Act of 1974 ("ERISA") because these repayment demands are retroactive determinations that particular services are not covered under the terms of the health care plans, but do not provide for proper appeal or other protections required by ERISA. Instead of providing a dispute resolution process, the BCBS tries to foreclose any form of redress, and often just deducts the amount of these demanded repayments from amounts payable to the provider for other claims submitted, leaving the provider with no recourse. We estimate that the total amount of funds improperly withheld in this way could exceed half a billion dollars over the past few years.

Last May the Illinois court denied the defendants' motion to dismiss our ERISA claims, and extensive discovery is proceeding. In a related case, two of our clients have been sued in Rhode Island state court for recovery of previously paid benefits. We removed the case to federal court because ERISA, the federal statute which governs private sector employee benefit plans, preempts the state law claims and should proceed in federal court. On October 27, 2010, Judge Ronald R. Lagueux upheld our position, finding that ERISA "completely preempts" the state law claims and rejecting BCBSRI's motion

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Pomerantz Blue Cross Litigations Move Into Overdrive
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to remand the case back to state court. This was followed by a decision on January 11, 2011, in which the Court rejected the BCBS plea to file an interlocutory appeal, thereby allowing the case to proceed under ERISA.

As the class discovery in the Illinois case is ending and Pomerantz prepares its motion for class certification, the Rhode Island decision could have significant positive repercussions. The central claim in the class action is that retroactive determinations seeking a return of previously paid benefits arise under ERISA and require BCBS to provide ERISA procedural protections in making repayment demands, while precluding automatic recoupments. The Rhode Island decision, in which the court affirmatively found that ERISA applies and preempts state law claims, strongly supports our legal theory.

D. Brian Hufford

New Whistleblower Provisions Stir Debate

The Dodd-Frank Act financial reform legislation, as implemented by SEC regulation, contains new whistleblower provisions allowing whistleblowers to qualify for monetary awards of up to 30 percent of SEC recoveries if: (1) the whistleblower voluntarily provides information based on the whistleblower's independent knowledge or analysis rather than publicly-available sources; (2) that information leads to a successful judicial or administrative enforcement action by the SEC; and (3) the SEC action recovers more than $1 million. The SEC has set aside $452 million to fund whistleblower rewards.

Critics argue that the legislation will circumvent internal compliance programs, including those premised on the 2002 Sarbanes-Oxley Act. Why, after all, would an insider with important information try to work out a voluntary solution with the company, if he could rake in big bucks by going straight to the SEC? Two hundred sixty public companies recently sent a letter to the SEC complaining about the new rule, arguing that the measure was nothing but a "gold mine" for disaffected employees. Susan Hackett, a spokeswoman for the Association of Corporate Counsel, told the *Wall Street Journal* that the whistleblower rules fueled more concern than any other issue during her 22 years at the special interest group.

These concerns seem overblown. The new proposed SEC whistleblower rule is much weaker than the False Claims Act, to which it is often compared. Most notably, the SEC's program does not allow the whistleblower to commence an action on his own. Instead, the whistleblower must rely upon the SEC to conduct any necessary further investigation, file claims, and successfully prosecute the action. These are all serious wildcards given the SEC's dismal history of neglecting wistleblower leads, and its recent announcement that it will defer establishing an office to handle whistleblower claims due to resource constraints. Moreover, even in a successful action, the SEC retains a great deal of discretion in deciding whether the whistleblower is entitled to anything and, if so, how much. Unless the SEC and Congress enhance these provisions, the new whistleblower program is unlikely to put a meaningful dent in corporate fraud.

Joshua B. Silverman

New York AG, In Final Act, Sues Ernst & Young Over Lehman Collapse

Is Ernst & Young too big to fail? That was the question being debated at year's end after Andrew Cuomo, in the final days of his tenure as New York Attorney General, sued Ernst & Young for its role in the demise of Lehman Brothers, for which it was acting as outside auditor. This is the first case arising from the financial crisis brought against anyone by any governmental agency. The last time a big-time government regulator went after a major accounting firm, Arthur Andersen was the target – and the Big 5 auditing companies suddenly became the Big 4. Arthur Andersen was facing criminal charges, though, while E&Y isn't, yet. Is that enough to make a difference? No one is sure, but the betting here is that the rumors of E&Y's impending demise are grossly exaggerated.

Cuomo's case was brought primarily under New York's Martin Act, a uniquely powerful weapon that only the state government can wield. The Martin Act prohibits "all deceitful practices contrary to the plain rules of common honesty and all acts tending to deceive or mislead the public, whether or not the product of scienter or intent to defraud." This is quite a club for any regulator to wield.

Cuomo's case is based largely on a 2,000-page report of Lehman's bankruptcy examiner that was released last March. As we previously reported, the examiner report's most noteworthy finding, and Cuomo's most noteworthy accusation, was that Lehman was guilty of "window dressing" its financial statements by moving up to $50 billion of its debts "off the books" just before the end of financial reporting periods, through so-called "Repo 105" transactions, and then bringing them back afterwards. Both the examiner and the AG's

complaint allege that E&Y was aware of, and approved, these Repo 105 deals. The AG's office is demanding that E&Y repay to the state of New York the fees it obtained from Lehman Brothers from 2001 to the present (over $150 million), as well as investor damages.

Although E&Y claims that it was just following GAAP principles as they existed at the time, the fact is that in 2001 the regulator of the nation's biggest banks told its examiners to be on the lookout for firms whose regulatory filings made them look healthier than they really were. That followed guidelines issued in 1990 that said that banks could face disciplinary action if their filings "have significant inaccuracies or are 'window dressed.' "

The NYAG's suit is part of its broader investigation into whether other banks also used "window dressing" transactions to spruce up their financial statements. The AG's office has sought documents and information from several firms, including Bank of America , which earlier this year disclosed six transactions that it admitted had been wrongly classified as sales. Securities and Exchange Commission inquiries subsequently turned up billions of dollars in repo transactions that Bank of America and Citigroup Inc. acknowledged they had accounted for incorrectly – classifying them as sales when they should have been borrowings, akin to what Lehman did with its Repo 105s.

A *Wall Street Journal* analysis found that, since the beginning of 2009, the group of 18 large Federal Reserve primary-dealer banks has reduced a key form of short-term borrowing, known as repurchase agreements, or "repos." The banks dropped their loans by an average of 42% at quarter's end from their peak level during the same quarter, only to raise them again after the start of the next quarter, according to the *Journal* analysis.

But the SEC said it hasn't found any widespread inappropriate practices in companies' repo accounting, nor has it taken any public action against any companies over the issue beyond requiring more disclosure.

SEC Implements Dodd-Frank Provisions Concerning Derivative Transparency

The Dodd-Frank financial legislation requires the SEC to adopt rules concerning transactions in derivatives known as security-based swaps. To that end, on October 13, 2010 the SEC adopted a regulation which requires parties to report security-based swap information to the SEC or to a registered security-based swap data repository, and to preserve data pertaining to the terms of pre-enactment security-based swaps in support of the reporting requirements.

The SEC plans to propose other regulations with regard to security-based swaps during the January 2011 to March 2011 timeframe. The proposed rules will address, among other matters, reporting obligations, conflict of interest and external business conduct standards for security-based swap execution facilities, clearing agencies, dealers and major security-based swap participants. The SEC also proposes to require that banks and other issuers of asset-backed securities review the underlying assets and publicly disclose their findings.

The SEC's adopted and proposed regulations should bring much-needed transparency to complex and previously murky investment products.

Tamar A. Weinrib

You Bet My Life

Most of us think of life insurance as a way to provide for our loved ones after we are gone. But some would prefer to use this prosaic product in another craps game in the never-ending Wall Street casino.

Earlier in this past decade a new, morbid type of investment was born, the so-called "stranger originated" life insurance. From 2004-2008, individuals bought tens of billions of dollars of life insurance on themselves, which they then assigned to investors. The investors paid the premiums in exchange for the right to keep the death benefits. In other words, investors were betting that the insureds would die sooner than the insurance company thought, and that they could make a killing picking up death benefits after only a few years of paying premiums.

In some form of divine justice, this scheme collapsed in 2008, along with mortgaged-backed securities and other "innovative" types of investments. Not only did people live longer than expected, but the bond market declined, lowering the insurance companies' returns on the invested premiums. And the jackals are now suing each other over the remains. Insurance carriers are trying to rescind the policies, claiming that they were shocked – shocked! – to learn that their policyholders planned to assign the policies to investors. They invoke the doctrine that under insurance laws, only those with an "insurable interest" in something or someone can insure it from loss, and that a stranger has no financial or other insurable interest in the policy holder. The insurers want to rescind all the

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You Bet My Life
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policies for fraud, while keeping the premiums already paid. Hundreds of such suits have been filed since 2008.

There are now signs that a counterattack has begun. Some investors are asserting that the insurers' agents and managers encouraged investor-driven sales to boost their compensation, and that the industry cried foul only when faced with big payouts on the policies and bond-market declines that made some policies less profitable than expected. The investors want the insurers to be forced to honor the contracts, or to refund all of the premiums they have paid.

There are also suits being filed by relatives of some of the deceased elderly, alleging that death benefits belong to the family members.

Investors in a pair of cases in California reportedly scored a victory in November when a state-court judge in Santa Barbara ruled they had met the minimum pleading standards necessary to move forward with their fraud claims against Hartford, Connecticut insurer Phoenix Companies. These two lawsuits involve about 30 policies totaling more than $260 million in face amount. In the lawsuits, the investment entities allege that Phoenix, in around 2005, "embarked on a concerted effort to regain momentum in its sale of life-insurance products." The insurer targeted the elderly to buy high-face-value policies that the insurer "knew were likely to be resold" to investors, in a "scheme" aimed at generating large commissions and bonuses for its agents and managers, the suits contend.

But after two small institutional investors bought rights to various Phoenix policies, the insurer attempted to rescind almost all of those policies and said it was entitled to retain the premiums that had been paid, the suits allege.

Meanwhile, in a lawsuit in state court in Tarrant County, Texas, a different set of investors alleges that insurers, including AIG, also once welcomed stranger-originated policies as a way to boost revenue. AIG "relaxed or disregarded their own underwriting guidelines, disregarded any issues or 'red flags' raised in the underwriting process," and "did not seek information that they now contend, after the fact, to be material," according to the lawsuit. The policies in dispute were mostly issued in 2007.

All this sounds a lot like arguments being made in mortgage foreclosure cases: the lender/insurer made me do it.

H. Adam Prussin

notable dates

. . . on the Pomerantz horizon

Speaking Engagements:

Feb. 28 - March 2: **Robert J. Axelrod** will speak at the Investment Education Symposium/Louisiana Trustee Education Council (LATEC) in New Orleans, LA.

Conferences:

Cheryl D. Hamer will participate in the following:

January 23 - 25: Made in America Conference, The 8th Annual Taft-Hartley Benefit Fund Summit, Caesar's Palace, Las Vegas

Jan. 30 - Feb. 1: National Conference on Public Employee Retirement Systems (NCPERS) Legislative Conference, Washington, DC

February 2 - 4: National Association of Public Pension Attorneys (NAPPA) Winter Seminar Meetings, Washington, DC

February 7 - 9: International Association of Employee Benefit Plans (IFEBP) Trustees and Administrators Conference, Lake Buena Vista, FL

March 5 - 8: California Association of Public Retirement Systems (CALAPRS) General Assembly Annual Conference, Monterey, CA

March 27 - 30: National Association of State Treasurers (NAST) Legislative Conference, Washington, DC

We hope to see you there!

Cheryl D. Hamer

PomTrack© Class Actions Update

The Pomerantz Firm, through its proprietary PomTrack© system, monitors client portfolios to identify potential claims for securities fraud, and to identify and evaluate clients' potential participation in class action settlements.

NEW CASES:

A selection of recently filed securities class action cases filed by various law firms are listed below. If you believe your fund is affected by any of these cases, contact Pomerantz for a consultation.

Case Name	Ticker	Class Period	Lead Plaintiff Deadline
OZ Minerals Limited (Australia) (Slater & Gordon)	OXR, OZL	February 29, 2008 - December 1, 2008	January 20, 2011
MELA Sciences, Inc.	MELA	February 13, 2009 - November 16, 2010	January 21, 2011
Lender Processing Services, Inc.	LPS	July 29, 2009 - October 4, 2010	January 24, 2011
Downer EDI Limited (Australia) (2010)	DOW	February 25, 2010 - May 31, 2010	January 28, 2011
China Education Alliance, Inc.	CEU	March 31, 2009 - November 29, 2010	January 31, 2011
Mecox Lane Limited	MCOX		February 1, 2011
SMART Technologies, Inc.	SMT		February 1, 2011
Genoptix, Inc.	GXDX	July 31, 2009 - June 15, 2010	February 4, 2011
National Lampoon, Inc.	NLMP	March 1, 2008 - December 15, 2008	February 7, 2011
Mediacom Communications Corporation (S.D.N.Y.)	MCCC		Feb. 14, 2011
Bucyrus International, Inc. (E.D. Wis.)	BUCY		Feb. 21, 2011
Geron Corporation	GERN	July 30, 2010 - December 6, 2010	Feb. 21, 2011
J.Crew Group, Inc. (S.D.N.Y.)	JCG	March 1, 2008	Feb. 22, 2011
NYSE-Arca or CME/COMEX Exchange-Traded Silver Bar Financial Instruments	SIVR, SLV		Feb. 25, 2011
Nufarm Limited (Australia) (Maurice Blackburn)	NUF	September 28, 2009 - August 31, 2010	Feb. 28, 2011
Tongxin International, Ltd. (C.D. Cal.)	TXIC	May 15, 2009 - December 14, 2010	March 4, 2011
Tongxin International, Ltd. (E.D.N.Y.)	TXIC	May 15, 2009 - December 14, 2010	March 4, 2011
Tekelec	TKLC	February 11, 2010 - August 5, 2010	March 7, 2011
Alternate Energy Holdings, Inc.	AEHI	September 20, 2006 - December 14, 2010	March 8, 2011
Fortis SA/NV (Belgium)	AGESY, AGS, FORB, FORSY	May 29, 2007- October 3, 2008	March 31, 2011
MLP AG (Germany)	MLP AG	January 1, 1999 - December 31, 2002	Dec. 31, 2012

SETTLEMENTS:

The following class action settlements were recently announced. If you purchased securities during the listed class period, you may be eligible to participate in the recovery.

Case Name	Amount	Class Period	Claim Filing Deadline
Electro-Optical Systems Corp. (SEC)	$9,504,089	December 19, 1997 - March 13, 1998	January 24, 2011
National City Corp. (4.0% Convertible Senior Notes)	$22,500,000	January 23, 2008 - December 23, 2008	January 24, 2011
Stolt-Nielsen S.A.	$2,000,000	February 1, 2001- February 20, 2003	January 24, 2011
China Sunergy Co., Ltd.	$1,050,000	May 17, 2007 - August 23, 2007	January 27, 2011
National City Corp. (N.D. Ohio)	$11,000,000	January 5, 2007 - January 5, 2007	January 31, 2011
Skilled Healthcare Group, Inc.	$3,000,000	May 14, 2007 - June 9, 2009	February 8, 2011
Merix Corp. (2004)	$2,500,000	January 29, 2004 - May 13, 2004	February 12, 2011
Safenet, Inc. (2006)	$25,000,000	March 31, 2003 - May 18, 2006	February 14, 2011
Hemispherx Biopharma, Inc.	$3,600,000	February 18, 2009 - December 1, 2009	February 19, 2011
The Spectranetics Corp.	$8,500,000	March 16, 2007 - September 4, 2008	February 21, 2011
RSL Communications Ltd.	$6,750,000	April 30, 1999 - December 29, 2000	February 22, 2011
Micron Technology, Inc. (2006)	$42,000,000	February 24, 2001 - September 18, 2002	February 28, 2011
F&M Bancorp (SEC) (2004)	$315,179	February 24, 2003 - March 12, 2003	March 3, 2011
UTStarcom, Inc. (2004)	$2,900,000	February 21, 2003 - October 12, 2007	March 3, 2011
Dendreon Corporation	$16,500,000	March 29, 2007 - May 8, 2007	March 10, 2011
Gildan Activewear Inc. (USA)	$22,500,000	August 2, 2007 - April 29, 2008	March 10, 2011
Force Protection, Inc.	$24,000,000	January 18, 2007 - March 14, 2008	March 11, 2011
GSI Group Inc.	$3,250,000	February 27, 2007 - June 30, 2009	March 11, 2011
Apple Computer, Inc. (2006)	$16,500,000	August 24, 2001 - June 29, 2006	March 15, 2011
Refco, Inc.	$25,300,000	July 1, 2004 - October 17, 2005	March 15, 2011
Toll Brothers, Inc. (2007)	$25,000,000	December 9, 2004 - November 8, 2005	March 16, 2011
Conseco, Inc. (2002)	$41,465,000	April 24, 2001 - August 9, 2002	March 23, 2011
Allot Communications Ltd.	$1,300,000	November 15, 2006 - April 2, 2007	March 28, 2011
Dollar General Corp. (SEC)	$19,618,610	June 16, 1998 - January 14, 2002	April 2, 2011
Westaff, Inc.	$1,642,500	February 20, 2009 - March 17, 2009	April 8, 2011
NeoPharm, Inc.	$3,350,000	January 14, 2002 - April 19, 2002	April 11, 2011
Limelight Networks, Inc.	$1,900,000	June 7, 2007 - August 14, 2007	April 12, 2011
LG Display Co., Ltd. (f/k/a LG.Philips LCD Co., Ltd.)	$18,000,000	July 16, 2004 - December 11, 2006	April 16, 2011
Orion Energy Systems, Inc.	$3,250,000	December 18, 2007 - February 7, 2008	April 18, 2011
Veritas Software Corporation (SEC)	$30,888,696	January 3, 2001 - January 16, 2003	April 19, 2011
Jasmine, Ltd.	$650,000	December 15, 1993 - June 20, 1995	April 21, 2011
Sears, Roebuck & Co. (2004) (N.D. Ill.)	$550,000	September 9, 2004 - November 16, 2004	April 21, 2011
Countrywide Financial Corp. (2007) (C.D. Cal.)	$624,000,000	March 12, 2004 - March 7, 2008	April 26, 2011
Tyco International Ltd. (SEC)	$50,000,001	December 1, 1997 -March 13, 2003	May 6, 2011
China Shenghuo Pharmaceutical Holdings, Inc.	$800,000	August 16, 2007 - August 19, 2008	May 17, 2011

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The Law Firm Institutional Investors Trust
for Securities Monitoring and Litigation

The Pomerantz Firm is acknowledged as one of the premier firms in the areas of corporate, securities, antitrust, and insurance litigation. Founded by the late Abraham L. Pomerantz, known as the 'dean of the class action bar,' the Pomerantz Firm pioneered the field of securities class actions. Today, more than 70 years later, Pomerantz continues in the tradition that Abe Pomerantz established, fighting for the rights of victims of securities fraud, breaches of fiduciary duty, and corporate misconduct. Prior results, however, do not guarantee a similar outcome in future cases.

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