the Pomerantz Monitor

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Delaware Court Finally Says "Yes" to the "Just Say No" Takeover Defense

by H. Adam Prussin

Can a board of directors "just say no" to a hostile tender offer at an above-market price, without providing a superior alternative? The Delaware courts have avoided answering this question directly for over 30 years. It has finally been answered in *Airgas*, a new case, where the Chancery Court reluctantly held that directors can continue to stonewall an offer they deem inadequate, and there is nothing shareholders can do about it.

So "just say no" is the law of Delaware, unless the Supreme Court reverses this decision on appeal. Ironically, the Chancery Court considered the shareholders' apparent readiness to accept the offer to be a good reason to block it.

The specific issue here is whether the court would order the Airgas board to "redeem" (deactivate) its so-called "poison pill," which would otherwise be triggered by the hostile offer. Once a pill is triggered, the company would distribute millions of new shares to existing shareholders – except for the bidder – making the acquisition prohibitively expensive for the bidder.

Poison pills are prone to abuse by those managers and directors who are most concerned about perpetuating themselves in office. That is why, under intense pressure from shareholder activists, many companies have done away with these devices. Recognizing the potential for abuse, Delaware law has long recognized that poison pills and other defensive mechanisms can be used only when a takeover offer presents a "threat" to shareholders.

Initially, pills were designed to be used to ward off vultures trying to acquire companies on the cheap, often through over-leveraged or other dubious means designed to coerce shareholders to accept the offer, regardless of its merits.

Poison pills also have other legitimate uses. They have sometimes forced hostile acquirers to negotiate with the board over the terms of the offer, to try to persuade the board to redeem the pill. Pills have also been used to delay a tender offer while the board tries to secure better offers from other bidders, or come up with its own reorganization plans, that might provide superior value to shareholders. But the whole idea was that the pill would stay in place only until the board has had a chance to come up with something better than the existing offer, which it could endorse as fair and reasonable. Then, at the end of the day, the pill would be redeemed so that the best deal could go forward.

But in *Airgas,* no better deal was ever found. Even though the bidder, Air Products, kept raising its price, the parties eventually reached an impasse on price and no other bidder came in to top the hostile offer. All the board had to offer, in lieu of the Air Products offer, was the hope that the company would do even better if it remained independent, under current management

Of course, such arguments can easily serve as pretexts for perpetuating current management regardless of the consequences. That is why the "just say no" defense can amount to simple entrenchment. The courts are well aware of this.

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Pomerantz Among "Top 10" Plaintiffs' Firms

Institutional Shareholder Services Inc. ("ISS") ranked Pomerantz among the Top 10 securities class action law firms of 2010. ISS's annual list ranks plaintiffs' law firms by the total dollar amount of final securities class action settlements in which the firm served as lead or co-lead counsel. In 2010, Pomerantz recouped $225m on behalf of investors.

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Airgas may be an unfortunate example of unusual facts making bad law. As part of its strategy to force the board to redeem the poison pill, Air Products had launched a successful proxy contest and elected three directors to the Airgas board. The idea, here, was for Air Products to stack the board with directors more favorably inclined to the offer. But this time that strategy backfired.

The three directors designated by Air Products persuaded the board to bring in a third financial advisor, Credit Suisse. After Credit Suisse delivered its opinion, the three new directors shocked everyone by agreeing that the Air Products offer was inadequate, and that management's own plans promised to produce better value for the company over the long term. Air Products had thus shot itself in the foot with its proxy victory.

But even if the Air Products price was too low, shouldn't it be the shareholders, rather than potentially self-interested directors, who have the ultimate say? In *Airgas* the court held that the shareholders are sophisticated and had all the information they needed to evaluate the positions of the board and the bidder. So why shouldn't they have the right to decide whether to tender their shares?

Here's where the decision has another surprise: the Chancellor was sympathetic to that view, stating that he had "a hard time believing that inadequate price alone … poses any threat" which would justify leaving the poison pill in place, particularly where the investors are sophisticated and have had more than enough opportunity to learn what they need to know about the company's plans and the bidder's offer.

But the Chancellor felt bound by precedent to recognize that inadequate consideration constitutes a "substantive threat" that a board can use to justify defensive action, at least where there is some reason to believe that shareholders may mistakenly accept an inferior bid. The Chancellor held that because much of the Airgas stock had been scooped up by arbitrageurs, who care only about a quick, sure profit, a threat existed that "a majority of stockholders might be willing to tender their shares regardless of whether the price is adequate or not." Since the arbs routinely sweep up the stock of takeover targets, this situation is likely to be present in most tender offer cases, turning an "inadequate" price into a universal "threat."

The decisive factor in this case, we believe, was the fact that the directors appointed by Air Products agreed with management that the Air Products offer was inadequate, an unusual development that gave credibility to the other directors' position. But there is a danger that these unusual facts will make bad law. Absent outside confirmation like we see here, there is good reason to remain skeptical of boards who offer excuses as to why shareholders would be better off sticking with them than defecting to someone else who is offering a better deal. We are also skeptical of the doctrine of "substantive coercion" based on the "threat" that shareholders will act "irrationally" by tendering for an inadequate price. We can only hope that the Delaware Supremes will agree with the Chancellor and "have a hard time believing that inadequate price alone poses any threat."

Pomerantz Spearheads Effort to Roll Back Damage Caused by the *Morrison* Decision

As previously reported by the *Monitor*, the Supreme Court's recent ruling in *Morrison v. National Australia Bank Ltd.* sounded the death knell for class action securities fraud claims of thousands of institutional investors who purchased securities on foreign exchanges. This ruling bars not only class action claims against foreign companies, but those against U.S. companies as well, if their stock was purchased on overseas exchanges. For example, if Goldman Sachs, a U.S. company with headquarters in New York, issued materially false and misleading financial statements in New York, investors who bought Goldman securities on the NYSE would be able to participate in a federal securities class action, but those who bought Goldman securities on the London Stock Exchange would be excluded.

Pomerantz has actively taken steps both on the legislative and judicial front to repeal or limit *Morrison*. On the legislative front, pursuant to the Dodd-Frank Act, the SEC has requested comments from the public as to whether it should recommend to Congress that the ruling should be overruled or limited by Congress. Pomerantz submitted a letter to the SEC on behalf of nearly a dozen prominent international institutional investors, urging it to recommend that Congress overturn the decision through legislation. Pomerantz also met with representatives of the Israel Securities Authority ("ISA") to urge it to voice its opposition to *Morrison*. The ISA submitted an opinion letter arguing that securities listed under Israel's dual-listed regime, which allows U.S. listed companies to automatically list on the Tel Aviv Stock Exchange ("TASE") without any additional reporting requirements, should be excepted from *Morrison*'s ruling.

Pomerantz is also actively seeking a judicial remedy to *Morrison* through the courts. In the *Perrigo Co.* securities litigation, Pomerantz represents four Israeli institutional investors. Perrigo is dual listed on both NASDAQ and the TASE; unlike

ADRs, such shares can be purchased in the U.S. and sold on the TASE, and vice versa. This should satisfy the "U.S. listing" requirement set forth in *Morrison*. In opposing a motion to dismiss, Pomerantz further argued that given the ISA's stance that such dual listed securities should be included in federal securities class actions, the concerns of international comity guiding the Supreme Court's decision were not applicable.

While *Morrison* precludes pursuit of class action claims under federal law for purchases on foreign markets, it does not address the ability of investors to recover individually under state law. This option warrants consideration by institutional investors who purchased common stock of Royal Bank of Scotland, BP, and others. Pomerantz will continue to vigorously fight for international investors' rights under the U.S. securities laws.

Jeremy A. Lieberman

SEC Endorses Rule that Would Delay Bank Executive Bonuses

The Securities and Exchange Commission has taken steps to back a government-supported plan that would curb risk-taking in the banking sector. Voting 3-2, the SEC now endorses a proposed rule that would require top executives at large financial firms to wait at least three years to be paid as much as half of their annual bonuses. Any deferred amount would also be subjected to an adjustment based on losses incurred by the firm during the waiting period. The SEC thus becomes the third of seven agencies that are required to approve the rule before it goes into effect.

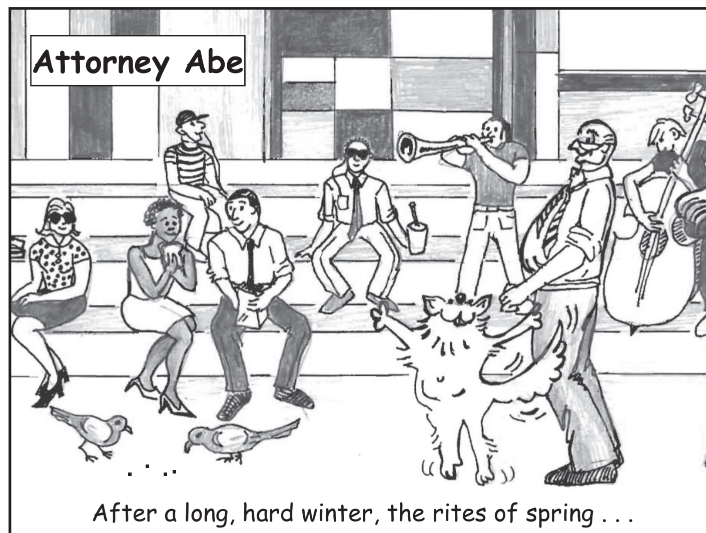
Under the rule, the board of directors would have to identify the employees who could expose the firm to significant risk and examine their incentive-pay structure. Additionally, financial firms with at least $1 billion in assets would be required to submit a report annually to regulators providing a detailed description of their bonus arrangements.

This delayed compensation requirement aims to tie executives' bonuses to the firm's financial performance over a long period of time and would apply to such major institutions as JPMorgan Chase, Citigroup and Goldman Sachs.

The proposed rule was likely prompted by Section 956 of the Dodd-Frank Act, which directed the SEC and other agencies to promulgate rules regarding compensation practices at "covered financial institutions." It is not, however, without its critics. At a recent meeting, Republican Commissioners Kathleen Casey and Troy Paredes both voiced concerns. Commissioner Casey contended that this approach removes important decision-making authority from those who oversee the firms, while Commissioner Paredes asserted that it could limit recruitment of top employees, which could, in turn, compromise competitiveness and capability. On the other hand, leaving all decision-making in the control of the financial institutions, who use a no-holds-barred approach to compensation in order to recruit the best and the brightest, contributed mightily to the very problems the Dodd-Frank Act was designed to rectify.

While officials have said a final rule could take effect by fall, other financial regulators, including the Federal Reserve and two Treasury Department agencies, must also vote to send out the rule for a 45-day public comment period before it is made final.

Delisha J. Grant



After a long, hard winter, the rites of spring . . .

Florida Appeals Court Affirms Class Certification in Title Insurance Cases

For years, Pomerantz has been fighting against title insurance companies that violated Florida law by overcharging for title insurance on mortgage refinancing transactions. The law requires title insurers in refinancing transactions to apply a lower "reissue" rate for lender's title insurance where the borrower has an owner's policy of title insurance. The title insurers have skirted the reissue rate, usually by requiring borrowers to present a copy of the owner's policy.

Pomerantz partner Robert Axelrod and associate Jay Dean have countered that the plain language of Florida law im-

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Class Cert in Title Insurance Cases
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poses no duty on borrowers for the reissue rate to apply if they qualify. Two such cases were certified to proceed as class actions last year. The title insurers appealed.

In February, a Florida appeals court affirmed both class certification orders. The certified classes consist of several hundred thousand Floridians in two separate cases against First American Title Insurance Company and Commonwealth Land Title Insurance Company.

More Trouble For MERS

A recent *Monitor* article highlighted the massive legal problems created by banks' use of MERS, the Mortgage Electronic Registration Systems. MERS is listed as record owner of over 60 million mortgage loans, about half of all mortgages outstanding. It is, in fact, just a shell company owned by a consortium of banks that really own the mortgage loans. The banks designate MERS as their agent so that they can trade mortgages with the speed of light among themselves without actually changing the name of the record owner on local land registries, and without generating mortgage transfer taxes and fees. However, when a mortgage goes into default the use of MERS as holder of record has made it far more difficult to determine which bank is the actual owner of the mortgage.

The *New York Times* recently reported that challenges to MERS are mounting and are threatening mortgage foreclosures in many states. The Arkansas Supreme Court has reportedly ruled that MERS can no longer file foreclosure proceedings there, because it does not actually make or service any loans. In February of this year, a Utah judge declared one homeowner's mortgage void because ownership and record title of the mortgage were held by two different entities, and a judge on Long Island has ruled that MERS could no longer act as "agent" for mortgage lenders.

The problem is not only that the use of MERS as record owner of mortgages may be illegal, but also that MERS' record keeping has, at times, been incredibly sloppy, making it difficult or even impossible to determine who actually owns a mortgage. With so many people in foreclosure, questions about whether a particular entity actually is entitled to foreclose on a mortgage can bring the whole process to a crashing halt.

Buyouts and Sellouts

Strike Two and You're Out. It's rare enough for shareholders to reject one buyout offer, but two? Dynegy shareholders have now done just that, rejecting management's second agreement to sell the company. Do investors know something that the bidders and the directors don't? Or are they kidding themselves?

Dynegy, a Houston-based power generation company, has been losing money at an alarming rate because of low wholesale power prices and some customers' switch to renewable energy sources. Its two biggest shareholders are Carl Icahn and a hedge fund named Seneca Capital, each of whom owns about 10%. It's been shopping around for a buyer for quite some time.

Last November, the Blackstone Group bid $4.50 per share for Dynegy. The Dynegy Board agreed, but the shareholders, led by Seneca and Icahn, balked. Then Icahn bid $5.50 per share; the board once again agreed, and the shareholders once again balked, led by Seneca. Immediately after the shareholders delivered strike two, the stock was trading at just under $6 per share, well above both offers. It's under $6 now.

Having now been twice spanked by the shareholders, Dynegy's CEO and CFO have announced their resignations; the company's directors announced that they will not run for reelection, and on March 9, Dynegy announced that it may need to file for bankruptcy protection. Nice going, guys.

J. Crew Management LBO Goes Through. When a take-over proposal is a proposed management LBO, even if it is at a hefty premium to the market price, shareholders should grab their wallets: chances are that management is trying to take advantage of them.

Why are they willing to pay more than the market price? They can't claim they would do a better job than current managers, because they *are* the current managers. Maybe they are planning to make major changes after the LBO goes through that they think will create shareholder value. If so, why haven't they made those changes already? Are they holding back until after the LBO so they can keep all the benefits of the new business plan for themselves? Or maybe they know something good is about to happen that they have been keeping secret. Any way you slice it, there are reasons to be suspicious.

To defend against overreaching by managers, most companies, when presented with a management LBO proposal, will appoint a special committee of independent directors to review it. And it is typical for those directors, even if they agree to the proposal, to require that the deal include a "go shop" provision allowing the company to solicit competing bids from outsiders.

How effective is that going to be? If the CEO wants to buy the company, how cooperative is he or she going to be with shop-

ping the company to someone else? How likely is it that management will agree to stay on if the outsider tops their own bid?

In the case of J.Crew yet another problem arose. The CEO, after he started working with venture capital groups to put the LBO together, waited for seven weeks to tell the board about it. This strategy gave the LBO proposal a huge head start over any possible competitor. And guess what: no one else came forward to compete with this insider deal.

Del Monte LBO Goes Through, Too. On February 14, the Delaware Chancery Court enjoined for 20 days the consummation of a going private merger between Del Monte and a private equity group led by Kohlberg Kravis Roberts. The injunction allowed Del Monte to make another attempt to find a higher bid for the company. The court ordered the delay after finding that Barclay's, the investment bank that advised Del Monte on the merger, had schemed behind Del Monte's back to arrange for its own participation in the "buy side" financing of the acquisition. This participation agreement put Barclay's on both sides of the table, creating a conflict of interest that caused it to steer the deal towards KKR while discouraging competing bids. Perhaps most upsetting to the trial court was the evidence that Barclay's had teamed KKR up with another company to make a joint bid, despite instructions from Del Monte that no joint bids were to be allowed. The other company had made a previous offer for the company and, if required to bid separately, might have provided strong competition to KKR's bid. Barclay's maneuver interfered with Del Monte's efforts to get the best price for the company, by taking a potential competitor out of the game.

After the 20 days, no topping bid emerged, and shareholders were allowed to vote on the KKR deal. They approved it.

American Pipe Under Attack

Imagine this: you are a shareholder of company X and news surfaces suggesting that company X might have committed a securities violation. Let's say that there is a one year statute of limitations for the claim. Someone brings a securities class action within that period and you are included in the definition of the class. At that moment, you're covered: you don't have to file your own lawsuit in order to preserve your claim before the one year period expires; the class action does it for you. If, later, the court decides not to certify the class, you can still bring your action because the existence of the would-be class action stopped the statute of limitations clock for everyone in the putative class. This is the rule of *American Pipe*, decided by the Supreme Court 35 years ago.

But what if instead of refusing to certify the class, the court dismisses the pending class action because the plaintiff lacked "standing" to bring it – that is, the class representative who brought this claim was found not to be entitled to bring that claim in the first place. You, on the other hand, do have standing. Can you sue now? Has the statute of limitations clock been stopped in this case as well?

Three recent federal district court decisions, all involving mortgage backed securities, have said "no": if the plaintiff never had standing to bring the claim in the first place, then his filing of the claim did not toll the statute of limitations for class members who do have standing. What's the reason for this? Courts don't want the plaintiffs' bar to be able to file claims on behalf of "stalking horse" plaintiffs, who have no standing, just to have a class action on file before the statute of limitations expires, in the hope that someone who does have standing can be found later to intervene in the lawsuit and keep it going.

This approach has its own drawbacks, most notably that it undermines the protections investors thought they had under *American Pipe*. If this new trend continues, and someone brings a class action that includes you, that will not be enough to stop the clock. You, the investor, will have to investigate that plaintiff's standing, and determine whether it might be challenged at some point down the road.

Good luck with that.

Pomerantz is Pleased to Announce . . .

. . . that **Gustavo F. Brückner** is now Of Counsel to our firm. He will focus his practice at Pomerantz on securities and mergers & acquisitions class actions and derivative cases, bringing to the firm more than nineteen years' experience in those areas.

Mr. Brückner received his JD from Benjamin N. Cardozo School of Law in 1992. He obtained a BA in Marketing and International Business with honors from NYU in 1988 and an MBA in Finance and International Business from NYU's Stern School of Business in 1989.

We are also pleased to announce that **Matthew L. Tuccillo** has joined our firm as an Associate. Mr. Tuccillo brings to Pomerantz over a decade of experience in securities, consumer, and wage and hour class actions. He will continue to focus on those areas at the firm.

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Pomerantz is Pleased to Announce . . .
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Mr. Tuccillo graduated from the Georgetown University Law Center, where he made the Dean's List, in 1999.

Supremes Rule for Plaintiffs in Matrixx

As this issue went to press, the Supreme Court issued its unanimous opinion in *Matrixx*, refusing to dismiss a claim alleging that a drug company had to disclose reports of adverse reactions to its drug even though there were not enough of those reports to be statistically significant. As we previously reported, at argument the Supremes were skeptical of endorsing a bright line statistical significance test, noting that when the adverse reports were finally disclosed, the stock tanked. Justice Sonia Sotomayor penned the opinion, ruling that any adverse event reports that alter the "total mix" of information available to investors must be disclosed by drug companies, rejecting a rule proposed by Matrixx that only statistically significant studies must be revealed to investors. The suit alleged that Matrixx concealed reports that its cold medication, Zicam, caused anosmia, a potentially permanent loss of the sense of smell.

notable dates

. . . on the Pomerantz horizon

Speaking Engagements:

April 5: **Marc Gross** will speak on U.S. Class Actions at a conference sponsored by Pomerantz in Paris, France

June 10: **Jeremy Lieberman** will participate in a panel discussion on "Pre-Litigation Conflict Resolution Strategies" at the American Conference Institute's National Summit on the Future of Fiduciary Responsibility in New York, NY

Conferences:

Pomerantz attorneys will participate in the following:

March 26-30: **Cheryl Hamer** and **Jason Cowart** – the annual conference of the Texas Association of Public Employee Retirement Systems (TexPers) in Austin, TX

March 27-30: **Jason Cowart** and **Jeremy Lieberman** – the National Association of State Treasurers Legislative (NAST) Conference in Washington, DC

April 3-5: **Cheryl Hamer** and **Jason Cowart** – the Council of Institutional Investors (CII) Spring Meeting in Washington, DC

April 5-8: **Marc Gross**, **Jason Cowart** and **Jim Hodgson** – the National Association of Shareholder and Consumer Attorneys (NASCAT)/Institute for Law and Economic Policy (ILEP) Spring Meeting in Palm Beach, FL; **Marc Gross** will be a panelist.

May 1-4: **Cheryl Hamer** and **Jason Cowart** – the National Association of State Treasurers (NAST) Treasury Management Training Symposium and Exposition in Atlanta, GA

May 10-13: **Cheryl Hamer** – the State Association of County Retirement Systems (SACRS) Spring Conference in Santa Barbara, CA

May 21-26: **Cheryl Hamer** and **Jason Cowart** – the National Conference on Public Employees Retirement Systems (NCPERS) Annual Conference in Miami, FL

June 13-16: **Cheryl Hamer** – the International Foundation of Employee Benefit Plans (IFEBP) conference in San Francisco, CA

We hope to see you there!

Cheryl D. Hamer

Jason S. Cowart

Marc I. Gross

Jeremy A. Lieberman

PomTrack© Class Actions Update

Pomerantz, 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
Coinstar, Inc.	CSTR	October 28, 2010 - February 3, 2011	March 25, 2011
Countrywide Financial Corp. (2011)	N/A		March 29, 2011
Airlux Electrical Co., Ltd. (Taiwan)	4609	July 1, 2010 – August 30, 2010	March 31, 2011
Fortis SA (Netherlands)	AGESY, AGS, AGSb, FORSY	May 29, 2007 - October 14, 2008	March 31, 2011
Fortis SA/NV (Belgium)	AGESY, AGS,FORB, FORSY	May 29, 2007 - October 3, 2008	March 31, 2011
MannKind Corp.	MNKD	June 25, 2010 - January 19, 2011	April 1, 2011
Bank of America Corporation (2011) (Bofa)	BAC	January 20, 2010 - October 19, 2010	April 4, 2011
Dynegy Inc. (2011)	DYN	April 4, 2011	
Life Partners Holdings, Inc.	LPHI	May 29, 2007 - January 27, 2011	April 4, 2011
The Talbots, Inc. (2011)	TLB	December 8, 2009 - January 11, 2011	April 4, 2011
China MediaExpress Holdings, Inc.	CCME	May 14, 2010 – March 11, 2011	April 5, 2011
China Valves Technology, Inc.	CVVT	January 12, 2010 - January 13, 2011	April 5, 2011
YRC Worldwide Inc.	YRCW	April 24, 2008 - November 2, 2009	April 8, 2011
Aegean Marine Petroleum Network Inc.	ANW	January 4, 2010 – February 3, 2011	April 11, 2011
All American Group, Inc.	COHM		April 11, 2011
Del Monte Foods Company (N.D. Cal.)	DLMA		April 11, 2011
LaserCard Corporation (N.D. Cal.)	LCRD		April 11, 2011
Novell, Inc. (2010) (D. Mass.)	NOVL		April 11, 2011
Broadwind Energy, Inc.	BWEN	March 17, 2009 - August 9, 2010	April 12, 2011
China Agritech, Inc.	CAGC	February 8, 2010 - February 3, 2011	April 12, 2011
Best Buy Co., Inc. (2011)	BBY	September 14, 2010 – Dec. 13, 2010	April 19, 2011
The Royal Bank of Scotland Group plc (2011)	RBS	March 1, 2007 – January 19, 2009	April 19, 2011

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
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
United Rentals, Inc. (SEC)	$14,000,000	February 28, 2001 - August 30, 2004	March 31, 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
AtriCure, Inc. (2006)	$2,000,000	August 5, 2005 - February 16, 2006	April 21, 2011
Jasmine, Ltd.	$650,000	December 15, 1993 - June 20, 1995	April 21, 2011
Smart Online, Inc.	$2,037,500	May 2, 2005 - September 28, 2007	April 25, 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
Industrial Enterprises of America, Inc.	$3,400,000	December 4, 2006 - November 7, 2007	April 27, 2011
Huron Consulting Group Inc.	$38,000,000	April 27, 2006 - July 31, 2009	May 5, 2011
Superior Offshore International, Inc.	$1,900,000	April 20, 2007 - April 25, 2008	May 5, 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
Household International, Inc. (N.D. Ill.)	$1,500,000	October 23, 1997 - October 11, 2002	May 24, 2011
WellCare Health Plans, Inc.	$200,000,000	February 14, 2005 - October 24, 2007	June 4, 2011
Noah Education Holdings, Inc.	$1,750,000	October 18, 2007 - November 19, 2007	June 6, 2011
Chicago Board of Trade (June 2005 Ten Year Treasury Note Futures Contracts)	$118,750,000	May 9, 2005 - June 30, 2005	June 7, 2011
JA Solar Holdings Co. Ltd.	$4,500,000	August 12, 2008 - November 12, 2008	June 7, 2011
Navistar International Corp. (2007)	$13,000,000	February 14, 2003 - July 17, 2006	June 14, 2011
Intermix Media, Inc. (2006)	$45,000,000	July 18, 2005 - September 30, 2005	June 22, 2011
AuthentiDate Holding Corp.	$1,900,000	July 16, 2004 - May 27, 2005	July 1, 2011
Value Line Funds (SEC)	$43,705,765	January 1, 1986 - November 9, 2004	July 18, 2011
Panera Bread Co.	$5,750,000	November 1, 2005 - July 26, 2007	July 22, 2011
DVI, Inc.	$4,000,000	August 10, 1999 - August 13, 2003	August 31, 2011

POMERANTZ
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The Law Firm Institutional Investors Trust
for Securities Monitoring and Litigation

Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities, mergers and acquisitions, antitrust, and insurance litigation. Founded by the late Abraham L. Pomerantz, known as the 'dean of the class action bar,' the firm pioneered the field of securities class actions. Today, 75 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.

New York 100 Park Avenue, 26th Floor, New York, NY 10017 phone: 212.661.1100 fax: 212.661.8665

Chicago 10 South LaSalle Street, Suite 3505, Chicago, IL 60603 phone: 312.377.1181 fax: 312.377.1184

Washington 1025 Connecticut Avenue NW, Suite 1000, Washington, DC 20036 phone: 202.327.5420 fax: 202.327.5422

www.pomlaw.com

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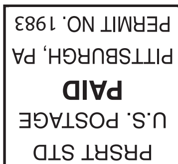
Cheryl D. Hamer, Esq. -- chamer@pomlaw.com 202.327.5420



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