the **Pomerantz Monitor**

Volume 7, Issue 3 May/June 2010

Credit Rating Agencies May Be Heading For a Comeuppance

by Joshua B. Silverman and H. Adam Prussin

The financial crisis was fueled by drastic losses in subprime mortgage-backed securities that had been rated AAA by the major ratings agencies. But until now no one has been able to hold the ratings agencies accountable. They have remained almost invulnerable to investor lawsuits.

The case for malfeasance by the ratings agencies keeps getting stronger. In Congressional hearings, top executives from ratings agencies have admitted that they used flawed models to generate AAA and other investment-grade ratings for securitizations of toxic mortgages, and that they made "adjustments" to their ratings results in order to appease issuers and maintain their share of the structured finance market. In a recent article, the eminent securities law expert Professor John C. Coffee, Jr., reported on recently published research that studied 916 collateralized debt obligations. The study concluded that in rating these CDOs the agencies had deviated from their quantitative models and adjusted their ratings upward so often that they had collectively inflated the market price of the CDOs by about $86.22 billion.

Until now, the ratings agencies, protected by regulators and courts, have been able to slough off findings like these. Perhaps most important is the special treatment the agencies have received from the courts under Section 11 of the Securities Act, which governs all public offerings of securities. Section 11 allows investors to sue, among others, professionals and experts who "prepared or certified any report or valuation which is used in connection with the registration statement" if those reports or valuations are materially false or misleading. This would appear at first blush to include the reports and opinions of the ratings agencies, which are almost always referenced in the registration statements for bond offerings. However, the SEC, by regulation, exempts the ratings agencies from suit under this provision. The courts have also refused to categorize the ratings agencies as "underwriters," cutting off that theory of recovery under Section 11 as well, even when the agencies played a major role in creating the securities that are being offered to the public.

On top of this, the courts have historically extended Constitutional and common law protection to the ratings agencies, often finding that the ratings themselves are protected opinions on matters of public concern, or that the ratings agencies are journalists within the scope of the First Amendment. This makes it very difficult to attack an agency rating. A plaintiff would have to show that the agency actually knew that the rating it gave was not supported by its own criteria. Other courts have held that ratings agencies cannot be sued for negligence by investors, because there was no direct relationship between them and the investor – hence, the agency owed no "duty" to the investor.

The judicial tide may, however, be starting to turn. Investors have sustained claims in a few recent cases. Twice, Judge Scheindlin of the Southern District of New York refused to dismiss state law negligent misrepresentation claims against ratings agencies for careless ratings of structured investment vehicles (SIVs). So did San Francisco Superior Court Judge Kramer in May, in a case involving SIVs brought by CalPERS against Moody's, S & P and Fitch.

continued on Page 2 . . . /

Inside This Issue

1 Credit Rating Agencies
2 Senate Financial Overhaul Bill
2 Second Circuit on Unidentified Drafters of Fraudulent Documents
3 Say on Pay
3 Attorney Abe
4 Illinois Brick Repealer Statute
4 Supremes Rule on Arbitration Agreements
5 European Legal System Inadequately Protects Investors
5 Supremes on ERISA Plan Administrators
6 Notable Dates
7 PomTrack© Update

The Pomerantz Monitor may be considered to be attorney advertising under applicable rules of the State of New York

PomTalk
The Blog for Institutional Investors
www.PomTalk.com

Visit PomTalk for Insightful Commentary on Matters Essential to Effective Fund Management

Credit Rating Agencies May Be Heading for a Comeuppance
. . . /continued from Page 1

These cases may turn on their facts. SIVs are privately offered, and the offering materials are restricted to qualified institutional purchasers. Because the ratings were not publicly disseminated, the court reasoned that they did not constitute opinions on matters of public concern, and therefore were outside the scope of the First Amendment.

Investors in publicly-offered instruments like most mortgage-backed securities have not shared the success of SIV purchasers in claims against the ratings agencies. In the Southern District of New York alone, three different judges have dismissed claims against ratings agencies for ratings on mortgage-backed securities.

Fitch has vowed to appeal Judge Kramer's decision in the CalPERS case, and with the radically different rulings between judges within the Southern District of New York, it is only a matter of time before the issue is brought before the Second Circuit Court of Appeals.

Meanwhile, the financial overhaul just passed by the Senate incorporated, at the 11th hour, several reforms aimed at the ratings agencies. One provision, introduced by Senator LeMieux of Florida, would strip from federal laws a requirement that certain institutional investors, such as banks, insurers and money market funds, can buy only bonds carrying high ratings from one of the national ratings agencies. The idea here is to lessen the importance of the agencies in the distribution process. Under the current regime, issuers of bonds are beholden to the agencies to bestow their blessing on their offerings, so that they can be sold to these institutional investors.

Another provision in the overhaul bill, introduced by Senator Franken of Minnesota, would have a more direct impact because it would stop the practice of corporations shopping around for agencies that will give the best ratings to their offerings. The Franken amendment would create a regulatory board that would assign ratings agencies to particular issuers or offerings. This would presumably alleviate the "race to the bottom" that has existed up to now, as agencies bid for business by promising higher ratings.

It is likely that the Lemieux or the Franken provisions, or both, will survive the reconciliation process with the House version of the bill.

Senate Financial Overhaul Bill Has Some Goodies for Investors Too

The Senate's financial overhaul legislation contains a host of other provisions as well, several of which are of particular importance to investors.

Much press attention has focused on the creation of the new consumer protection agency within the Fed and the initiation of regulation of the derivative markets. But investors should take note of the provisions that would give the SEC the authority to grant shareholders access to the company's proxy ballot to nominate directors; require that directors receive a majority of yes votes in order to be elected; and grant to shareholders the right to a non-binding "say on pay" vote.

When this issue went to press, the Senate had not acted on an amendment sponsored by lame duck Senator Spector that would restore "aiding and abetting" liability to the federal securities laws. As the following article shows, this is a giant loophole that allows all sorts of malefactors to participate in securities fraud with impunity. The prospects for this amendment ever working its way into the final bill seem dim.

Second Circuit: Unidentified Drafter of Fraudulent Document Is Just an "Aider and Abetter"

In *Pacific Investment Management Co. v. Mayer Brown*, the Second Circuit recently ruled that a person cannot be liable for false or misleading statements unless the statements in question are expressly attributed to that actor. This decision is the latest blow to plaintiffs' efforts to hold accountable those individuals who had substantial involvement creating materially misleading statements but were not explicitly identified as the maker of the statements.

Plaintiffs alleged that law firm Mayer Brown and one of its former partners committed securities fraud by helping draft and review an allegedly false and misleading offering memorandum issued by Refco. Although the law firm was identified in the offering materials as outside counsel for the issuer company, the documents themselves did not disclose that the law firm had supplied any of the information or had helped draft the materials.

Plaintiffs, with the support of the SEC, argued that these defendants were nonetheless liable because they participated in the creation of the false and misleading offering materials.

In *Wright v. Ernst & Young*, decided in 1998, the Second Circuit had previously held that "attribution" is necessary to satisfy the reliance element of a private damages action under Rule 10b-5, *i.e.* misleading materials must reflect that the defendant created them. Later, in its 2001 decision in *In re Scholastic Corp Securities Litigation*, the Court seemingly reached a different result, holding that a corporate officer could be liable for misrepresentations made by the corporation, even though none of the statements at issue were specifically attributed to him. The different results in *Wright* and *Scholastic* could be attributable to the fact that one involved an outsider of the issuer while the other involved a corporate insider.

Most recently, in *Lattanzio v. Deloitte & Touche*, the Court refused to hold Deloitte liable for misstatements in a financial report that the accounting firm had reviewed and approved in advance of issuance. Plaintiffs in *Pacific Investment* tried to distinguish *Lattanzio* on the grounds that the defendants in that case merely reviewed, but did not create, the false statements at issue. Notwithstanding this distinction, the Court flatly rejected the "creator" standard for secondary actor liability.

While acknowledging that the Supreme Court has never directly addressed whether attribution at the time of dissemination is required for liability, the Court concluded that an attribution requirement was consistent with the Supreme Court's recent decision in the *Stoneridge,* which the Second Circuit believed was "instructive" on the issue. In doing so, the Court expressed its "preference for a bright line rule distinguishing primary violations of Rule 10b-5 from aiding and abetting."

Say on Pay Has Some Sway

According to the *WSJ*, about 300 companies will have "say on pay" votes this year, to allow shareholders to express non-binding opinions on executive pay at their companies. Companies that received bailouts from the government have to conduct these votes; and other companies have been pressured by shareholders to schedule them.

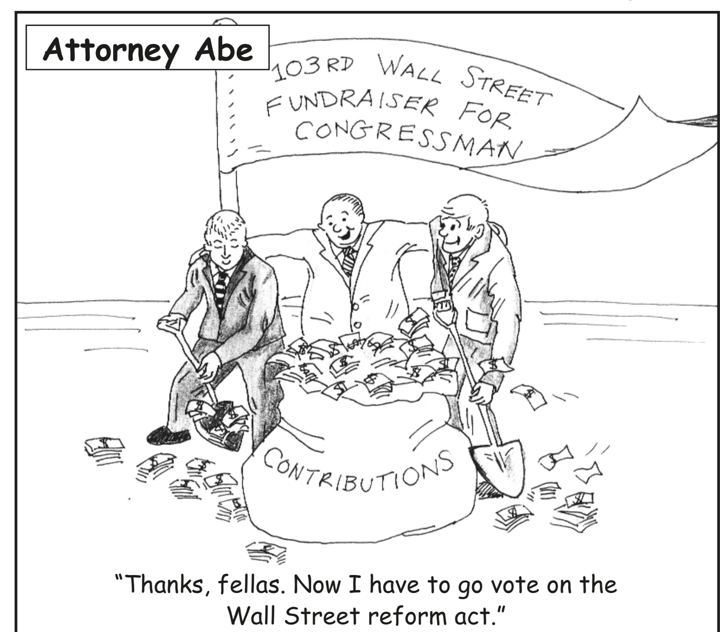
Last year no company "lost" a say on pay vote; but already this year, Motorola and Occidental Petroleum pay plans were rejected by shareholders. For example, after receiving only 64% approval last year, Motorola's shareholders rejected the compensation package this year, largely because of an arrangement for the CEO to receive "windfall" compensation payments in the multi-millions whether or not Motorola splits its mobile-phone and set-top box business into a new company, which the CEO would head. This sweetheart deal prompted RiskMetrics, the proxy advisor firm, to recommend that shareholders vote against the pay arrangements; and ASFCME, the public employee union whose pension plan holds a block of Motorola shares, also publicly came out against the arrangement.

Occidental's say on pay vote was its first, and it came out badly for the company as well, with a majority voting against it. The sore spot with shareholders was the pay package for CEO Ray Irani, who received over $52.2 million in direct compensation last year, tops in the *WSJ* survey of compensation at the top 200 corporations in America. His pay has long been targeted by corporate watchdogs, self-styled or otherwise.

What Motorola and Occidental will do, exactly, in response to these votes remains to be seen. But other companies have, in the past, tried to improve the situation in the face of shareholder disapproval, even when their pay practices have squeaked through the say on pay vote. The *WSJ* reports, for example, that Berkshire Hills Bancorp dialed back its compensation practices after winning only 62% approval last year.

These developments should be viewed in the context of a recent survey by the Associated Press, which shows that, although cash compensation to S&P 500 CEOs fell in 2009 for the second year in a row, that drop will be overshadowed by massive gains on stock options awarded a year ago, at a time when the Dow was in the 6700 range. By early 2009, 90 percent of options awarded in pre-crash 2008 were well under

continued on Page 4 . . . /



"Thanks, fellas. Now I have to go vote on the Wall Street reform act."

Say on Pay Has Some Sway
. . . /continued from Page 3

water. In an attempt to make up for this, corporations were generous in granting new options at the new, drastically lower, prevailing market prices the following spring. The AP analysis found that two-thirds of the stock compensation granted to CEOs last year have an exercise price that is way below what the option shares are currently worth. Specifically, options awarded in the first three months of 2009, when most boards typically make their annual compensation decisions, happened to coincide with a 12-year low for stock prices.

The AP analysis shows that 90 percent of the stock options given to CEOs last year are now worth more than they were on the day they were granted. For some, the value jumped by a factor of 10 or more.

New York Indirect Purchasers Have No Fear – Shady Grove is Here!

Decades ago the Supreme Court fashioned the so-called "Illinois Brick" doctrine of antitrust law, which prevents indirect purchasers from recovering damages from sellers that have violated those laws. Because consumers usually buy products through middlemen, such as wholesalers, retailers or dealers, Illinois Brick blocked recovery by the very people who were injured by the anti-competitive conduct. The direct purchasers – the middlemen – often have minimal actual losses because they typically pass along the effects of the misconduct – such as higher prices – to their customers.

In the late 1990s New York joined about 22 other states in adopting an "Illinois Brick repealer" statute. As the name implies, this law parallels the federal antitrust laws but allows indirect purchasers to recover treble damages for violations.

But there is a kicker. New York civil procedure rules do not allow class actions seeking to recover a statutory "penalty." In the years following adoption of the repealer statute, many courts concluded that this provision bars class actions under the act, because it provides for the recovery of treble damages. This includes many federal courts, which have determined that the New York class action rule is a substantive rule that must be enforced in federal court.

Without the ability to pool claims with others with similar injuries in a class action, few if any plaintiffs will have the financial incentive to bring an antitrust action, which is a notoriously expensive form of legal proceeding. As a result, up to now the Illinois Brick repealer statute in New York has been a dead letter.

But not any more. A recent U.S. Supreme Court decision in a case called *Shady Grove* rejected the argument that the New York rule is a substantive rule that must be enforced in federal court. The Supreme Court held that the issue of whether the action could be certified as a class action was governed by federal procedural rules – which, of course, allow class actions seeking treble damages or other "penalties."

Shady Grove opens the door to bringing class actions in federal court under the New York Illinois Brick repealer statute, as well as other statutes that impose "penalties," including New York consumer protection laws.

Michael M. Buchman

Supremes: Silence in Agreement Means No Consent to Classwide Arbitration

While the Supreme Court decision in *Shady Grove* just made it easier to bring class actions under certain state laws, its decision in *Stolt-Nielsen* took an unfriendly turn and made it virtually impossible to pursue class arbitration under many arbitration agreements. In April the Supreme Court ruled in *Stolt-Nielsen* that if an arbitration clause says nothing about whether a plaintiff can bring an action on behalf of a class, defendant cannot be forced to litigate the dispute as a class action.

The complaint alleged that Stolt-Nielsen and other shipping companies had engaged in a "global conspiracy to restrain competition in the world market for parcel tanker transportation services." The parties signed an international maritime contract that contains an arbitration clause that is silent as to whether class-wide arbitrations are to be allowed. Plaintiff asked the arbitrators to decide whether the arbitration clause permitted class actions. The arbitrators said that it did, and the Second Circuit agreed.

The Supreme Court reversed, deciding that silence in an arbitration agreement cannot be construed as an agreement to arbitrate on a class-wide basis. According to the Court, arbitration "is a matter of consent, not coercion." Class-wide arbitration is so different from individual arbitration that the parties have to agree expressly to such a significant provision.

Compulsory arbitration has recently been the subject of renewed Congressional debate, and drafts of a so-called "Arbitration Fairness Act," which would either abolish or greatly inhibit mandatory arbitration in certain kinds of disputes (e.g.,

consumer, employee or franchise cases), are circulating in both houses of Congress. In light of these bills and the still unresolved issue of class action arbitration waivers in arbitration agreements, the issue of class action arbitration may remain an area of ongoing debate.

Unless Congress acts, the Court's decision will drastically curtail class arbitration proceedings. Many standardized arbitration agreements are universally applied throughout an industry, and most of those are silent on the issue of class arbitration. Consequently, the Supreme Court may have effectively put an end to class arbitration in many categories of disputes.

Tamar A. Weinrib

French Commentators: European Legal System Does Not Yet Provide U.S.-Style Protections for Investors

While the U.S. Supreme Court considers the reach of the federal securities laws in so-called "f-cubed" cases involving claims of foreign investors in foreign corporations, a timely article on this subject, from the perspective of foreign investors, appeared in *Revue Banque* in France in March of this year. Authored by Hubert de Vauplane, Director of Legal Affairs, Crédit Agricole SA, Associate Professor, Panthéon-Assas University Paris II, AEDBF Europe, and Jean-François Poulnais, Head of the Legal Department, Products and Markets, Amundi, the article explained that "European law, and French law in particular, does not offer satisfactory recourse for compensation of victims of market abuse. . . . This once again poses the question of the introduction, or not, of a class action procedure in Europe." French investors therefore often have no real choice but to litigate their claims in the U.S. courts.

> *"European law, and French law in particular, does not offer satisfactory recourse for compensation of victims of market abuse."*

As Messrs. de Vauplane and Poulnais explain, many Europeans first became aware of f-cubed jurisdiction when a federal court presided over the settlement of the *Royal Ahold* case, which involved the U.S. subsidiary of a Dutch corporation, and in which most of the class members were European investors. More recently, a U.S. court awarded billions of dollars in damages to a class that included French investors, in a case involving Vivendi, a French company. (Pomerantz acted as co-counsel in that case.)

The authors consider that Holland provides the only realistic alternative to suing in the U.S. But the new Dutch law applies only to class action *settlements*. The Dutch courts cannot *impose* a class-wide remedy. "In practice," the authors conclude, "this procedure is still too often perceived as a "second chance" for European shareholders who have been rejected from an action in the United States in relation to the definition of a class. The most prominent example in this respect is the case of Royal Dutch Shell."

The authors conclude with a plea that France and other nations revise their own remedies so that investors will not feel so much pressure to export their disputes to U.S. courts.

Note: This article relied on an English translation of the French original. Portions reprinted with permission of the authors.

Supremes Give ERISA Plan Administrators a Double Dose of "Deference"

Many benefit plans under ERISA provide that ambiguous terms in the benefit plan are to be interpreted, in the first instance, by the plan administrator, and the administrator's determinations have been afforded deference by the courts. But what if the administrator comes up with a completely unreasonable interpretation of a plan provision which, despite this deference, is thrown out by a court? And what if the administrator then comes up with another interpretation of the same provision? Is the administrator's second bite at the apple still entitled to deference?

Take, for example, a class of former Xerox employees who left the company in the 1980s and received a lump sum retirement distribution at that time. Later, they were rehired, and retired a second time decades later. The question was how their current pension payouts should be adjusted to reflect their earlier payout.

The plan administrator initially determined that the earlier benefits payouts should be calculated as if they had been invested in the Xerox retirement plan, where they would have appreci-

continued on Page 6 . . . /

Supremes Give ERISA Plan Administrators a Double Dose of "Deference"
. . . /continued from Page 5

ated enormously. Once these "phantom plan" values were deducted from the retirees' benefits, there wasn't much left. The Second Circuit rejected this interpretation as unreasonable. The plan administrator then proposed that the value of the original distributions be increased by a fixed interest rate. This time the district court refused to defer to the plan administrator's suggestion, agreeing instead with the plaintiffs that the plan did not allow any upward adjustment to reflect the passage of time since the payout.

The Supreme Court reversed, starting with the observation that "people make mistakes" and that a single mistake in interpretation by a plan administrator should not strip him of the deference due to his subsequent interpretations. Refusing to adopt a "one strike and you're out" standard, the Court came down on the side of deference to the plan administrator. "Deference promotes efficiency by encouraging resolution of benefits disputes through internal administrative proceedings rather than costly litigation. It also promotes predictability, as an employer can rely on the expertise of the plan administrator rather than worry about unexpected and inaccurate plan interpretations that might result from de novo judicial review."

Plaintiffs argued that continuing to grant deference to administrators who come up with unreasonable interpretations of plan documents would open the door to repeated misinterpretations of plan documents by administrators trying to save money for the employers. The Supremes concluded that such concerns were "overblown."

notable dates

. . . on the Pomerantz horizon

COURT DATES

June 16, 2010: Argument of summary judgment motion in breach of fiduciary duty case against Goldman Sachs arising from its underpricing of the initial public offering of eToys, Inc.

June 21, 2010: Final fairness hearing date for approval of *Comverse* settlement. The second largest options backdating settlement ever, the settlement, if approved, would provide for payments of $225 million for a class of Comverse investors.

September 13 , 2010: Final fairness hearing date for approval of $350 million settlement of *United Healthcare* class action, alleging miscalculation of "usual and customary rates" for reimbursement of "out-of-network" health care services.

SPEAKING ENGAGEMENTS

June 10, 2010: **Stanley M. Grossman** will present "Silence Is Golden--Until It Is Deadly: The Fiduciary's Duty to Disclose" at The Institute of American and Talmudic Law in New York, NY

CONFERENCES

June 22-26, 2010: **Cheryl D. Hamer** will attend the National Association of Public Pension Attorneys (NAPPA) convention in Ashville, NC

Cheryl D. Hamer and **Jason S. Cowart** will participate in the following:

June 13-16: International Foundation of Employee Benefit Plans (IFEBP) in San Diego, CA

July 21-23: Public Funds Summit in Newport, RI

August 8-11: National Association of State Retirement Adminstrators conference (NASRA) in Seattle, WA

August 22-25: National Association of State Treasurers conference (NAST) in Williamsburg, VA

We hope to see you there!

Cheryl D. Hamer

Jason S. Cowart

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
The Hartford Financial Services Group, Inc. (2010)	HIG	December 10, 2007 - February 5, 2009	June 1, 2010
Hypo Real Estate Holding AG (2009) (Germany)	HRX	September 27, 2007 - January 15, 2008	June 2, 2010
Boston Scientific Corp. (2010)	BSX	April 20, 2009 - March 12, 2010	June 8, 2010
Compellent Technologies, Inc.	CML	October 28, 2009 - April 7, 2010	June 14, 2010
Frontier Financial Corp. (2010)	FTBK	July 22, 2008 - March 16, 2010	June 14, 2010
STEC, Inc. (2009)	STEC	June 16, 2009 - February 23, 2010	June 14, 2010
Goldman Sachs Group, Inc.	GS	January 2, 2007 - April 16, 2010	June 25, 2010
Massey Energy Company	MEE	October 28, 2009 - April 21, 2010	June 28, 2010
Morgan Keegain & Co., Inc. (Closed-End Funds)	RMA, RMH, RMY, RSF	June 6, 2005 - July 14, 2009	June 28, 2010
Regions Morgan Keegan Funds (Closed-End Funds)	RMA, RMH, RMY, RSF	December 6, 2004 - February 6, 2008	June 28, 2010
First Regional Bancorp	FRGB	January 1, 2007 - January 29, 2010	July 6, 2010
Heckmann Corporation (C.D. Cal.)	HEK	May 20, 2008 - May 8, 2009	July 6, 2010
Heckmann Corporation (D. Del.)	HEK	October 2, 2008 - May 8, 2009	July 6, 2010
BancorpSouth, Inc.	BXS	July 23, 2009 - February 25, 2010	July 12, 2010
CommScope, Inc.	CTV	April 29, 2008 - October 30, 2008	July 12, 2010
Mortgages Ltd./Radical Bunny, LLC	N/A	September 1, 2005 - June 3, 2008	July 12, 2010
NBTY, Inc. (2010)	NTY	November 9, 2009 - April 26, 2010	July 12, 2010
Pfizer, Inc. (2010)	PFE	July 20, 2005 - January 23, 2009	July 12, 2010
Transocean Ltd.	RIG	August 5, 2009 - May 7, 2010	July 12, 2010
City of Miami (Municipal Bonds)	N/A	September 30, 2005 - Nov. 17, 2009	July 19, 2010
Denbury Resources (Encore Acquisition)(E.D.N.Y.)	DNR, EAC	related to March 9, 2010 merger	July 19, 2010
TierOne Corporation	TONE	August 8, 2008 - May 14, 2010	July 20, 2010
Vitacost.com, Inc.	VITC	September 24, 2009 - April 20, 2010	July 23, 2010

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
Arotech Corp.	$2,900,000	November 9, 2004 - November 14, 2005	June 1, 2010
Shuffle Master, Inc.	$13,000,000	February 1, 2006 - March 12, 2007	June 3, 2010
CP Ships Limited (Canada)	$12,027,380	January 29, 2003 - August 9, 2004	June 7, 2010
Seragen, Inc.	$4,375,000	November 4, 1997 - August 12, 1998	June 7, 2010
Collins & Aikman Corp. (2005)	$12,262,500	August 6, 2002 - May 17, 2005	June 8, 2010
Flowserve Corp.	$55,000,000	February 6, 2001- September 27, 2002	June 8, 2010
SunOpta, Inc. (U.S. Class)	$11,250,000	February 23, 2007 - January 27, 2008	June 11, 2010
Montana Power Company (2001)	$39,280,000	December 17, 1999 - September 21, 2001	June 21, 2010
Montana Power Company (2002)	$19,000,000	January 30, 2001- November 14, 2001	June 21, 2010
Able Laboratories, Inc.	$9,150,000	October 30, 2002 - May 18, 2005	June 30, 2010
Jos. A. Bank Clothiers, Inc.	$4,000,000	December 5, 2005 - June 7, 2006	June 30, 2010
Adams Golf, Inc.	$16,500,000	July 10, 1998 - October 22, 1998	July 3, 2010
General Growth Properties, Inc. (2008)	$15,500,000	April 30, 2008 - October 24, 2008	July 19, 2010
Moneygram International, Inc. (D. Minn.)	$80,000,000	January 24, 2007 - March 25, 2008	July 22, 2010
Global Cash Access Holdings, Inc.	$5,875,000	September 22, 2005 - November 14, 2007	July 24, 2010
Netlist, Inc.	$2,600,000	November 29, 2006 - April 17, 2007	August 2, 2010
Comverse Technology, Inc. (2006)	$225,000,000	April 30, 2001 - January 29, 2008	August 5, 2010
DaimlerChrysler AG (2003)	$8,100,000	March 19, 1999 - June 15, 1999	August 13, 2010
America Service Group, Inc.	$10,500,000	September 24, 2003 - March 16, 2006	August 16, 2010
LDK Solar Co., Ltd.	$16,000,000	June 1, 2007 - October 7, 2007	August 16, 2010
PE Corporation Celera Genomics Group	$11,000,000	February 29, 2000	August 16, 2010
Dyadic International, Inc.	$4,800,000	October 29, 2004 - April 23, 2007	September 13, 2010
NovaGold Resources, Inc.	$26,644,800	October 25, 2005 - January 16, 2008	September 15, 2010
Leap Wireless International, Inc. (2007)	$13,750,000	August 3, 2006 - December 26, 2007	September 20, 2010
Converium Holding AG (SEC)	$25,000,001	December 11, 2001 - November 4, 2005	October 6, 2010
Adelphia Communications Corp.	$6,725,000	August 16, 1999 - June 10, 2002	October 8, 2010
Royal Dutch Petroleum Co./Shell Transport & Trading PLC (Netherlands)	$389,072,515	April 8, 1999 - March 18, 2004	November 5, 2010

A Bi-Monthly Publication of
Pomerantz Haudek Grossman & Gross LLP

PRSRT STD
U.S. POSTAGE
PAID
PITTSBURGH, PA
PERMIT NO. 1983

POMERANTZ
HAUDEK GROSSMAN & GROSS LLP

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.

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
Columbus 1900 Polaris Parkway, Suite 450, Columbus, OH 43240 phone: 614.410.6501 fax: 614.410.6502
Burlingame 840 Malcolm Road, Burlingame, CA 94010 phone: 415.241.1480 fax: 800.211.7194

Contact Us: We welcome input from our readers. If you have comments or suggestions about *The Pomerantz Monitor*, or would like more information about our firm, please visit our website at www.pomerantzlaw.com or contact:

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