the POMERANTZ MONITOR

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CELEBRATING OUR 80th BIRTHDAY!

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HOW BAD DOES THE BEHAVIOR HAVE TO BE BEFORE SHAREHOLDERS CAN INVESTIGATE IT?

By Anna Karin F. Manalasay

As the *Monitor* has previously reported, shareholders of Delaware corporations have a right to demand access to books and records of their company, provided that they have a "proper purpose" for doing so. One proper purpose is to investigate whether corporate officers and directors have violated their fiduciary duties. But merely expressing a desire to investigate such a possibility is not enough; the shareholder has to show that there are reasonable grounds to suspect that such a breach may have occurred. Many cases have explored the question of how much smoke there has to be to create a reasonable suspicion that there may well be a fire worth investigating.

Recently corporations have ratcheted up the argument. Now, they say, not only must there be grounds for suspicion of a breach, but that breach must be of the type that is compensable in damages. Since a books and records complaint is filed before there is any claim on file for breach of fiduciary duty, this argument requires that the court forecast the type of claim that might be made in the future.

Delaware law provides broad protections for directors against damage claims based merely on violations of the duty of care; only much more serious violations, such as breaches of the duty of loyalty, are compensable in damages. To escalate a claim of carelessness into a duty of loyalty claim, the shareholder must be able to show extreme misconduct -- the type of conduct that is hard to plead without company records to provide the crucial details. Those, of course, are the very details that the inspection provisions of Delaware law were intended to provide. It is to obtain such information that the shareholders bring a books and records proceeding in the first place. This question is now being considered by the Delaware Supreme Court in a case involving the AbbVie corporation, in which oral argument was heard on November 4, 2015.

In the action, Southeastern Pennsylvania Transportation Authority ("SEPTA"), a shareholder of AbbVie, sought access to AbbVie's books and records relating to AbbVie's failed $55 billion merger with Shire. Plaintiff claimed that it had a proper purpose because it wanted to investigate whether the AbbVie directors breached their fiduciary duties in connection with the approval of that merger.

The goal of the merger was to allow AbbVie to take advantage of Jersey's more favorable tax laws, since Shire is incorporated in Jersey, a tiny island principality off the coast of Normandy that is controlled by England. If the merger had been consummated, AbbVie's tax rate for 2016 would have dropped from about 22 percent to roughly 13 percent. About two months after the announcement of the merger, the Treasury Department and Internal Revenue Service, alarmed over the possible drop in tax revenues from such "inversion" transactions, vowed to take action to deter American companies from acquiring foreign competitors to avoid domestic taxes. The AbbVie board responded by withdrawing its recommendation that stockholders vote in favor of the deal. The AbbVie board ultimately terminated the deal and paid Shire a $1.6 billion con tractual termination fee.

Attorney, Anna Karin F. Manalasay

SEPTA argued that it had a right to investigate the question of whether AbbVie would not have had to pay $1.6 billion if the AbbVie board had properly evaluated the risks of the merger, as required by their fiduciary duty. SEPTA demanded that AbbVie produce board minutes, correspondence, and other documents to investigate potential corporate wrongdoing.

In denying the books and record demand, Vice Chancellor Glasscock inferred that they were seeking an investigation to aid in future derivative litigation against the directors.

The court then held that if a plaintiff's sole purpose for seeking inspection was to decide whether to bring derivative litigation to recover for alleged corporate wrong-

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doing, a proper purpose exists only if the plaintiff has demonstrated that the possible wrongdoing would be compensable in damages, and was not barred by the "raincoat" protections of Delaware law. Because SEPTA did not show that the conduct it was investigating could possibly rise to the level of a duty of loyalty claim, the court dismissed the inspection demand.

On appeal, SEPTA argued that the lower court's decision essentially puts stockholders in the impossible situation of having to show exactly how serious the potential breaches of fiduciary duty might be before they could gain access to the records they would need to make that decision. AbbVie countered that without such detailed information, SEPTA was engaged in a mere fishing expedition, which the books and records statute does not allow.

Even if the appeal is denied, however, the Vice Chancellor, on several occasions, specifically noted that SEPTA sought inspection solely to investigate whether to bring derivative litigation, and that in order to state a proper purpose the claims must be non-exculpated. An exculpatory provision, however, does not bar all derivative litigation, and, accordingly, even in the face of an exculpatory provision, under certain circumstances investigating potential derivative litigation may still be a proper purpose. For example, claims seeking injunctive relief, such as an order barring consummation of a merger, or requiring additional disclosures, are not exculpated and therefore could be explored in a document inspection. At the early stage where a books and records case is filed, the plaintiff shareholder has not yet made any specific claims of actual wrongdoing, and can posit that, depending on what the documents may show, all sorts of non-exculpated relief could be possible.

Partner Michael J. Wernke

COURT UPHOLDS OUR CLAIMS AGAINST LUMBER LIQUIDATORS

By Michael J. Wernke

Judge Allen of the Eastern District of Virginia recently denied defendants' motion to dismiss our class action complaint against Lumber Liquidators Holdings, Inc. During the class period, the company, which sells hardwood and laminate flooring, reported record gross margins that were substantially higher than its major competitors'. Defendants represented that the major driver of these high margins was legitimate "sourcing initiatives" in China that supposedly reduced the cost of goods and cut out middlemen. In truth, however, the company's high margins were due to importing cheap flooring made from illegally-harvested wood and laminate that was contaminated with high levels of formaldehyde. When the truth emerged in a series of disclosures and events – including news of federal criminal charges for violations of the Lacey Act and the well-substantiated, televised broadcast by 60 Minutes of extensive wrongdoing -- the stock price plunged by 68%. In the aftermath, the board suspended the sale of Chinese laminate products, the CEO, CFO and the company's "Head of Sourcing" abruptly resigned, and the company replaced its compliance officer.

The court held that the complaint adequately alleged that defendants' statements were false: its increased margins were not due to legitimate "sourcing initiatives," or to the company's efforts to work with mills to produce flooring that meets their "high quality standard," or to policies to ensure regulatory compliance, as the company had said. In fact, the company later admitted that its Chinese suppliers failed to adhere to regulations and that it did not build a compliance team in China until December 2014.

The court also held that the complaint raised a strong inference of scienter, because defendants had access to non-public information suggesting that their statements were false; third parties easily discovered the regulatory violations; defendants repeatedly discussed analyst calls regarding their personal involvement in the sourcing initiatives in China that were driving their margins higher; and defendants sold a majority of their stock during the class period. The court found that, given the importance and focus of the sourcing initiatives in China, it was part of the "core operations" of the business, another factor that supported the conclusion that management must have known the truth. Finally, the court imputed to management, and to the company, the knowledge of its head of sourcing.

Finally, the court found that the complaint adequately pleaded loss causation because the partial disclosures, when "taken together.... revealed the widespread scope of

defendants' allegedly fraudulent scheme."

YOUR RIGHT TO KNOW IF YOUR PERSONAL INFORMATION HAS BEEN HACKED

By Perry Gattegno

In today's digitized world, every day, nearly every consumer willingly or unwittingly shares sensitive personal information online. Almost as often, hackers successfully access corporate information databases, taking whatever data they can find.

Fortunately, nearly every state has data breach notification laws that apply to any entity that collects personally identifiable information. Those laws generally require the collecting entity to notify individuals when their personal information has been accessed by an unauthorized user. The first such law, enacted in California in 2003, set the model for data breach notification mechanisms by creating obligations for "any agency that owns or licenses computerized data that includes personal information." In the case of a breach of security systems, the hacked company must disclose the breach to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

The definition of personal information varies from state to state, but it generally includes names, telephone and Social Security numbers, home and e-mail addresses, and any information that falls under the umbrella of "personally identifiable information." As defined by the California law, this extra information includes credit and financial data that creates access to private accounts, and driver's license numbers. In California, only unencrypted information that has been transmitted to unauthorized persons must be reported, so California entities can obviate their reporting duties by encrypting all data.

Generally, the statutes include language requiring disclosure of the breach "without unreasonable delay," (Connecticut, among others), "in the most expedient time possible" (Delaware, among many others) or "as soon as possible" (Indiana, among others). Most states allow the hacked company to wait until "delay is no longer necessary to restore the integrity of the computer system or to discover the scope of the breach," or also to comply with a criminal or civil investigation by law enforcement. Some states, such as Louisiana, allow the breached entity not to notify consumers of a breach "if after a reasonable investigation the person or business determines that there is no reasonable likelihood of harm to customers."

In the 13 years since the California law took effect, 47 states, as well as the District of Columbia, Guam, the U.S Virgin Islands and Puerto Rico, have enacted some form of data breach notification law. While they all authorize the local attorney general to enjoin violations and create civil and sometimes criminal penalties against violators, fewer than half the states also grant a private right of action to individuals whose data has been stolen. Civil penalties collectible by the state generally range from $100 to $2,500 per violation, while private rights of action generally permit aggrieved parties to recover actual damages, and often reasonable attorneys' fees, from the hacked entity. These rights create a strong incentive to disclose these breaches to victims of a data breach. Illinois and California are among the states where a private right of action exists, while New York and Florida are among the states where there is no private right of action.

Nevertheless, holders of confidential data must also weigh the public relations nightmare that often accompanies data breaches, which are becoming high-profile – and thus high-stakes – messes requiring immediate clean-up. Failing to comply with the relevant statute not only creates liability, it also causes embarrassment and discourages individuals from entrusting their data to the guilty party.

Attorney, Perry Gattegno

Even those states that do not have a private right of action may have unfair trade practices statutes that may provide an alternative route to recovery. For instance, the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) allows recovery of damages and attorneys' fees for "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." Because FIPA, Florida's data breach notification statute, defines a violation as an unfair or deceptive trade practice, the state statutory scheme essentially creates a single private right of action rather than FIPA creating a second one on top of the existing statute. FIPA merely creates a new category that falls under FDUTPA's umbrella. The interplay around the country between analogous statutes varies by state.

Permitted methods of notification vary by state, but generally written notice, e-mail notice, or telephone/fax notice are options if the breached entity has such consumer information in its possession. Some states permit alternatives in the event that none of the previous methods are available, such as "Conspicuous posting of the notice on the Internet Web site page of the [breached] person or business, if the person or business maintains one" and "notification to major statewide media."

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Data breach notification laws confirm and crystallize the duties and obligations of entities that undertake to collect personally identifiable information of individuals. Even the best-intentioned holders of data may occasionally suffer unintentional breaches of information, but these laws incentivize stringent security and prompt action to mitigate harm wherever and whenever it might occur.

AUDITING THE AUDITORS

By Joshua B. Silverman

Investors rely on auditors to insure the integrity of corporate financial statements, but have little insight into the individual auditors themselves. That is about to change. A new rule adopted by the Public Company Accounting Oversight Board (PCAOB) will soon provide investors with much more transparency into the audit partners conducting the audit, and whether the audit firm outsourced substantial audit work.

Currently, auditors hide behind a mask of anonymity. They sign the opinion letters that go into SEC filings under the firm name only. But as recent PCAOB inspection reports confirm, even "big four" auditors produce shoddy audits with alarmingly high frequency. In its most recent inspection, the PCAOB found that KPMG was deficient in 54% of inspected audits. The remaining "big four" were only modestly better: EY 36%, PwC 29%, Deloitte 21%.

According to PCAOB chair James Doty, many of those bad audits were produced by particular engagement partners. In a recent statement, he explained that "PCAOB inspections have revealed that, even within a single firm, and notwithstanding firm-wide or network-wide quality control systems, the quality of individual audit engagements varies. There are numerous factors required to achieve a high quality audit, but the role of the engagement partner in promoting quality, or allowing it to be compromised, is of singular importance to the ultimate reliability of the audit."

SEC enforcement actions confirm that some engagement partners are repeat offenders. For example, a recent action against Grant Thornton shows that the same partner, Melissa Koeppel, overlooked at least three major accounting frauds in public companies: headphone-manufacturer Koss, Assisted Living Concepts (ALC), and Broadwind. In its 2008 inspection of Grant Thornton, the SEC highlighted deficiencies in one of Ms. Koeppel's audits. By the third quarter of 2010, Ms. Koeppel's public company audit clients had restated financials four times, and Ms. Koeppel was on an internal monitoring list at Grant Thornton for partners with negative quality indicators. Her track record was so bad that Grant Thornton switched most of her audits to other engagement partners, but it kept her on the 2010 audit of ALC. Those financial statements had to be restated due to accounting irregularities that were brought to Ms. Koeppel's attention by subordinates, but were ignored.

Partner Joshua B. Silverman

Investors will soon get a new tool to help identify bad auditors like Ms. Koeppel. A recently-adopted PCAOB rule will require audit firms to file forms indicating the name of the engagement partner. The rule also requires identification of other firms that assisted in the audit, and the extent of their participation.

While the rule is an improvement, it was watered down under heavy pressure from accounting industry lobbyists. The original proposal called for the engagement partner to be identified directly in SEC filings, either in the audit opinion itself or by the issuer. The current rule places the information in a separate form, so investors will have to look in multiple places to find information about the audit. But this additional hurdle is minor. Over time, it may not pose any problem at all, as financial information providers like Bloomberg and Reuters begin to link audit engagement partner track record information into their profiles of corporate issuers.

POMERANTZ LLP

CHAMPIONING INVESTOR RIGHTS FOR 80 YEARS AND COUNTING

POMERANTZ, THE OLDEST SECURITIES LAW FIRM IN THE UNITED STATES, **PROUDLY CELEBRATES ITS 80TH BIRTHDAY**

Pomerantz was founded in 1936 by Abraham L. Pomerantz, who, during his legendary career, relentlessly fought to protect investor rights. In doing so, he secured numerous victories now enshrined in the laws applied to securities class actions and derivative lawsuits.

Abe's trailblazing spirit lives on at Pomerantz – from our historic Supreme Court victory recognizing the right to a jury trial in derivative actions in 1970, to being appointed sole lead counsel in 2015 in the action against Brazilian oil giant, Petróleo Brasileiro SA – Petrobras, surrounding its conduct in one of the largest corruption and bribery scandals of the 21st century. Although our client did not suffer the largest financial loss, the court found that Pomerantz's outstanding reputation and the client's conduct in overseeing counsel represented the "gold standard" for institutional investors seeking to move for appointment as lead plaintiff.

We are celebrating our 80 years with a bang. Pomerantz acts as lead counsel in a closely-watched securities class action lawsuit against ChinaCast Education Corp., stemming from its CEO's alleged misappropriation of $120 million in company funds. The Ninth Circuit recently revived the case – after its dismissal by a lower court – ruling that the CEO's fraud could be imputed to ChinaCast, even though his alleged embezzlement and misleading of investors went against the company's interests. The litigation will now return to the lower court for trial.

Pomerantz is co-lead counsel in a securities class action against S.A.C. Capital Advisors LLC, in which the court recently certified two classes of plaintiffs. The case arises from the most profitable insider-trading scheme ever uncovered, in which the defendants illegally gained profits and avoided losses of at least $555 million from trades in Elan Corporation plc and Wyeth Pharmaceuticals, Inc. securities and related options while in possession of material, non-public information.

In 2015, Pomerantz defeated defendants' motion to dismiss the class action against Barclays plc for misstatements about its "dark pool." The court found that, although revenues from Barclays' dark pool were under 5% of company revenues – a statistical benchmark often used to assess materiality – the misrepresentations went to the heart of its reputation and were therefore actionable. The decision is a victory for investors for its recognition that corporate integrity and ethics are material factors upon which investors rely when purchasing securities, even where the amounts of money involved fall below a presumptive numerical threshold.

Pomerantz acts as lead counsel for investors in a securities class action against Groupon for alleged misconduct related to its 2011 initial public offering, a case in which we have won every substantive motion to date. One of the most important milestones was our defeat of a defense motion to disqualify the plaintiffs' class certification expert in March 2015. The defense argued that he was unreliable as he failed to conduct put-call parity and short lending fee analyses. We disagreed, citing the landmark U.S. Supreme Court ruling in *Halliburton*. After an extensive evidentiary hearing, the court sided with Pomerantz, holding that such tests were unnecessary because they addressed an extreme variation of market efficiency that "was squarely rejected by the *Halliburton* court."

We are lead counsel in a securities class action against Walter Investment Management Corporation, in which the court dismissed our original complaint, while granting leave to file an amended complaint. Pomerantz then prevailed, overcoming the difficult burden to prove, in the motion to dismiss phase, that disclosure of a government investigation of and proposed enforcement action against the company satisfied the requirement for loss causation. Given the *Myers/Loos* standard prevailing in the Ninth and Tenth Circuits, which strictly limits the circumstances under which the announcement of a government investigation can be said to cause a loss, this victory is significant.

And, beyond the cases . . .

In January, 2016, Pomerantz was honored by Equal Rights Advocates ("ERA") for its outstanding commitment to diversity and equal opportunities for women. In addition, partners Murielle Steven Walsh and Jennifer Pafiti were appointed to serve on ERA's Honorary Steering Committee, which focuses on specific issues that women face in the legal profession. ERA has transformed the law for hundreds of thousands of women and girls for over four decades through impact litigation, advice and counseling, and policy reform. Pomerantz is proud to have earned their recognition.

SCOTUS SHORTS

By H. Adam Prussin

The Supreme Court has just issued two very significant rulings. In the first one, it granted certiorari to review ***U.S. v. Salman***, a criminal insider trading prosecution. The case turns on the question of what sort of personal benefit, if any, a "tippee" has to give to his "tipper" in exchange for the inside information before the tippee can be liable for trading on it. This issue received national attention a few months ago when the Second Circuit gave its answer to this question in *U.S. v. Newman*; but the Supremes denied cert in that case.

In *Salman*, defendant Salman received the inside information from a close friend who, in turn, had heard it from his brother. The question is whether the personal relationship between the two brothers in itself satisfies the "personal benefit" requirement for insider trading, or whether the government also has to show that the tippee brother gave an additional, tangible benefit to his brother in exchange for the information. In its decision, the 9th Circuit held that no additional tangible benefit, beyond the personal relationship, was required. In *Newman*, the Second Circuit previously held otherwise. Curiously, the 9th Circuit's opinion was written by Judge Rakoff, a District Court judge sitting by designation. Judge Rakoff sits in the Southern District of New York, which is part of the Second Circuit. Through this quirk of fate, Judge Rakoff got another circuit court to disagree, publicly, with the Second Circuit's *Newman* decision, which is binding on him when he sits as a district judge in New York

In the Supreme Court's second ruling, ***Campbell Ewold***, it struck a blow against a tactic increasingly used by defendants in class actions: trying to "moot" the claims of the class representative by offering to pay all of his claimed damages. If the representative's claim is mooted (i.e., satisfied), his individual claim would be dismissed, and the class would have no representative. If the class could not find another representative, the whole class action would be dismissed. If this could work, the class action device could be eviscerated.

Fortunately, the Supremes said no, finding that a rejected offer of settlement does not wipe out the representative's claim; but, unfortunately, they left open the question of whether this tactic could work if, instead of just offering to pay the claimed damages, the defendant actually pays the money into an account for the benefit of the plaintiff, such as an escrow account or the clerk's office. To resolve that question, we may need *"Campbell Ewold 2."*

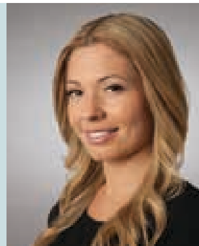
POMERANTZ NEWS, AT HOME AND ABROAD

As part of its commitment to education, Pomerantz presented a moot court in January 2016 for advanced law students of Bar Ilan University in Israel. Daniel J. Kramer, Partner at Paul, Weiss, acted as counsel for the defense; Jeremy Lieberman as counsel for plaintiffs; and Marc Gross as judge. They argued *Polycom*, an actual securities fraud class action in which Pomerantz is lead counsel for the plaintiff class. The case alleges that the company was making positive statements about its operation and prospects, while it did not disclose that its CEO had submitted numerous false expense reports, claiming personal expenses as business expenses, and thereby misappropriating hundreds of thousands of dollars from the company.

Meanwhile, on the home front, Pomerantz is proud to announce that Brenda Szydlo has joined the firm as Of Counsel in our New York office. Brenda has more than twenty-five years of experience in complex civil litigation in federal and state court on behalf of plaintiffs and defendants, with a particular focus on securities and financial fraud litigation, litigation against pharmaceutical corporations, accountants' liability, and commercial litigation.

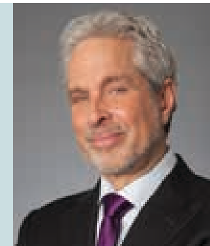
Brenda is a 1988 graduate of St. John's University School of Law, where she was a St. Thomas More Scholar and member of the Law Review. She received a B.A. in economics from Binghamton University in 1985.

NOTABLE DATES ON THE POMERANTZ HORIZON



Jennifer Pafiti

Jeremy A. Lieberman



Marc I. Gross

JENNIFER PAFITI will attend the **Made in America Taft-Hartley Benefits Summit** in **Las Vegas** on **January 24-26**; and the **CALAPRS 2016 General Assembly** in **Indian Wells, California** from **March 5-8**.

JEREMY LIEBERMAN will speak on and moderate the **"Emerging Markets Panel"** at the **SWFI Institutional Investor Forum 2016** on **February 10-11** in **Scottsdale, Arizona**. **JENNIFER PAFITI** will also attend.

JEREMY LIEBERMAN will speak at the **ICGN Conference** in **Frankfurt** on **March 8-9**.

MARC GROSS will speak on **March 31** at the **American Law Institute's Securities and Shareholder Litigation Conference** in **New York**.

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:

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
New Source Energy Partners LP	NSLP		January 25, 2016
Qualcomm Incorporated	QCOM	November 6, 2014 to July 22, 2015	January 29, 2016
ERBA Diagnostics, Inc.	ERB	April 14, 2014 to November 23, 2015	February 1, 2016
SunEdison, Inc.	SUNE	August 7, 2014 to November 9, 2015	February 1, 2016
Vital Therapies, Inc.	VTL	April 17, 2014 to August 21, 2015	February 1, 2016
Xbiotech, Inc.	XBIT	April 15, 2015 to November 23, 2015	February 1, 2016
Identiv, Inc.	INVE	November 7, 2013 to November 23, 2015	February 5, 2016
Vale S.A.	VALE	March 21, 2015 to November 30, 2015	February 5, 2016
SuperCom Ltd.	SPCB	June 1, 2015 to November 27, 2015	February 7, 2016
Dole Food Company, Inc.	DOLE	January 2, 2013 to October 31, 2013	February 8, 2016
Nimble Storage, Inc.	NMBL	May 27, 2015 to November 19, 2015	February 15, 2016
United Development Funding IV	UDF	June 4, 2014 to December 10, 2015	February 19, 2016
Rite Aid Corporation	RAD		February 22, 2016
Anavex Life Sciences Corp.	AVXL, TFYP	May 17, 2013 to December 28, 2015	February 29, 2016
Aixtron SE	AIXG	September 25, 2014 to December 9, 2015	March 4, 2016
Fifth Street Asset Mgmt, Inc.	FSAM		March 7, 2016
KLX Inc.	KLXI	March 9, 2015 to November 11, 2015	March 7, 2016
Chipotle Mexican Grill, Inc.	CMG	February 4, 2015 to January 5, 2016	March 8, 2016
Fitbit, Inc.	FIT	June 18, 2015 to January 6, 2016	March 11, 2016
Esperion Therapeutics, Inc.	ESPR	August 18, 2015 to September 28, 2015	March 14, 2016
GoPro, Inc.	GPRO	July 21, 2015 to January 13, 2016	March 14, 2016
Natural Health Trends Corp.	NHTC	March 6, 2015 to January 12, 2016	March 14, 2016
MannKind Corporation	MNKD	August 10, 2015 to January 5, 2016	March 15, 2016
Cnova N.V.	CNV	November 19, 2014 to December 18, 2015	March 21, 2016
GW Pharmaceuticals plc	GWPH	December 4, 2014 to January 8, 2016	March 21, 2016
Nobilis Health Corp.	HLTH, NCH	April 2, 2015 to January 6, 2016	March 21, 2016

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
Delta Petroleum, Inc.	$3,200,000	March 11, 2010 to November 9, 2011	January 29, 2016
NeuStar, Inc.	$2,625,000	April 19, 2013 to June 6, 2014	February 3, 2016
Donnybrook Energy/Donnycreek Energy	$4,323,870		February 11, 2016
iBio, Inc.	$1,875,000	October 6, 2014 to October 23, 2014	March 7, 2016
Zynga, Inc.	$23,000,000	December 15, 2011 to July 25, 2012	March 11, 2016
Education Management Corporation (2014)	$2,500,000	July 1, 2011 to September 16, 2014	March 18, 2016
Barclays PLC	$14,000,000	July 10, 2007 to June 27, 2012	March 21, 2016
Triad Guaranty Inc.	$1,600,000	October 26, 2006 to April 1, 2008	March 21, 2016
ITT Educational Services, Inc.	$16,962,500	April 24, 2008 to February 25, 2013	March 22, 2016
Prospect Medical Holdings, Inc.	$6,500,000	April 16, 2010 to December 15, 2010	March 22, 2016
CVS Caremark Corp.	$48,000,000	October 30, 2008 to November 4, 2009	March 23, 2016
Model N, Inc.	$8,550,000		March 28, 2016
NQ Mobile Inc.	$5,100,000	March 6, 2013 to July 3, 2014	March 31, 2016
Suntech Power Holding Co., Ltd.	$5,000,000	August 18, 2010 to July 30, 2012	April 5, 2016
Dole Food Company, Inc.	$113,293,838	June 11, 2013 to November 1, 2013	April 11, 2016
Orthofix International N.V.	$11,000,000	March 2, 2010 to July 29, 2013	April 16, 2016
Bridgepoint Education, Inc.	$15,500,000	May 3, 2011 to July 13, 2012	April 27, 2016
General Motors Company	$300,000,000	November 17, 2010 to July 24, 2014	April 27, 2016
Tesco PLC	$12,000,000	April 18, 2012 to September 22, 2014	May 5, 2016
Walter Energy, Inc.	$25,000,000	April 20, 2011 to September 21, 2011	May 9, 2016
GS Mortgage Securities Corp.	$272,000,000	January 2, 1900 to December 31, 2099	May 13, 2016
Bernard L. Madoff Invest. Sec.	$55,000,000		May 23, 2016
Yukos Oil Company	$337,000,000	July 2, 2003 to November 28, 2007	May 30, 2016
IMAX Corp.	$2,885,370	February 17, 2006 to August 9, 2006	May 31, 2016
Cliffs Natural Resources Inc.	$10,000,000		June 14, 2016

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THE LAW FIRM THAT INSTITUTIONAL INVESTORS TRUST FOR SECURITIES MONITORING AND LITIGATION

Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities. Pomerantz is a recognized leader in securities and corporate governance litigation. Our clients include major individual and institutional investors and financial institutions with combined assets of $2 trillion. 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. For 80 years and counting, Pomerantz has continued 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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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: wwww.pomerantzlaw.com or contact:

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