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INTUIT SHAREHOLDERS AND DIRECTORS REJECT FORCED ARBITRATION PROPOSAL

By Jared M. Schneider

While ardent disputes between investors and management about conducting securities litigations might not be newsworthy, their rare agreements are. One such agreement occurred at the meeting of Intuit's shareholders on January 23, 2020. Harvard Law's Nomura Professor Emeritus Hal Scott, an activist for forced securities arbitrations, filed a shareholder proposal (as trustee of the Doris Behr 2012 Irrevocable Trust) that would have waived the right to bring class action claims against the company. Professor Scott wanted Intuit's shareholders to be required to submit individual claims to mandatory arbitration in the event that Intuit violated the securities laws, instead of being able to file a class action in court.

Despite the proposal's assurances that "arbitration is an effective alternative to class actions" that "can balance the rights of plaintiffs to bring federal securities law claims with cost-effective protections for the corporation and its stockholders," Intuit's board of directors ultimately recommended voting against the proposal, finding it "not in the best interest of Intuit or its shareholders." Over 97.6% of Intuit's shareholders agreed.

The overwhelming rejection of the mandatory arbitration proposal by Intuit's board and shareholders makes sense. Forced arbitration is not the grand balancing of interests between these two groups that its supporters claim it to be, and instead harms shareholders, the broader market, and even the companies themselves.

For an individual investor, prosecuting a fraud claim against a public company is a remarkably expensive, risky, and time-consuming proposition. Under the Federal Rules of Civil Procedure, an ordinary plaintiff's complaint is only required to contain a "short and plain statement" explaining why the plaintiff is entitled to relief. However, since 1995, the pleading requirements to allege a claim for securities fraud have favored management's interests. To state a claim under the management-endorsed Private Securities Litigation Reform Act of 1995, victims of securities fraud must allege specific, particular facts about (a) which statements were false or misleading (including who made the statements, when they were made, and in what context they were made); (b) why those statements were false; and (c) a strong inference—at least as compelling as any competing inference—that the maker of the false statements knew, or was reckless in not knowing, that they were false.

By itself, establishing sufficient particular facts to allege that a statement is false presents a significant challenge. But requiring the investor to uncover additional facts establishing that the company knew the statement was false, without the benefit of reviewing the company's internal documents or speaking with its current employees, makes this challenge a high hurdle bordering on clairvoyance.

Prosecuting a securities fraud action is frequently a years-long, multi-million-dollar endeavor. Thus, if shareholders who were subject to forced arbitration became victims of a company's securities fraud, only the company's largest shareholders (i.e., its closest and most sophisticated investors) would be able to recover their losses through individualized mandatory arbitrations.

Beyond providing a way for investors to recover losses due to fraud, securities class actions are prophylactic, protecting both current stockholders and the broader market. Research indicates that, with all else being equal, a person is more likely to lie when there is a lower chance that they will be caught lying, or when the probable punishment (financial or reputational) is slight. A system that provides accountability, like the current one for class action securities litigation that enables private persons to uncover and prosecute fraud as well as recover their losses, serves as a deterrent and increases the likelihood of bringing fraudsters to justice over a system that does not (such as individualized mandatory arbitration). Similarly, the specter of a damages judgement that encompasses the losses in all of a company's public shares will act as a better deterrent than damages based off of a small percentage of those shares.

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A MESSAGE TO OUR READERS ABOUT COVID-19

Pomerantz Partner Jennifer Pafiti reports on the situation and shares advice on working from home

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Aside from the enhanced deterring effect of class actions above individualized mandatory arbitrations, the nature of public litigation and the potential for appellate review forces judges to issue written and, ideally, well-reasoned decisions. These decisions form the body of law for securities-fraud claims and help to define the contours and limits of permissible conduct. Private arbitrators, who are usually not subject to appellate review and issue confidential decisions, do not have the same motivation to issue reasoned decisions or to form precedence. Forced arbitration needlessly increases uncertainty and risk in markets that are already uncertain and risky.

Attorney Jared M. Schneider

In various interviews, Professor Scott supposes that class actions for securities fraud actually hurt shareholders because such lawsuits merely move money from one group of shareholders to another. This sophistic analysis, however, is both wrong and misguided as it ignores the significant societal goods that attend a robust practice of litigating claims of securities fraud. Securities fraud suits are not the cause of the harm to the company's current shareholders. The company's fraud causes the harm and resulting destruction in value, not the subsequent efforts to recover investors' losses caused by that misconduct. Moreover, as explained above, the threat of private litigation to enforce the securities laws helps to keep capital markets honest.

The market's understanding that bad actors will be punished for their misdeeds translates to investor confidence in the integrity of the market for public securities. Conversely, if the market understood that toothless mandatory arbitration provisions would allow public companies and their insiders to commit fraud with impunity, investors' confidence in those companies—and the market in general—would be curtailed. Thus, refusing mandatory arbitration makes sense from management's perspective as well. Why would investors want to invest in a company that was allowed to defraud them?

The market's exploration of mandatory arbitration provisions is developing. Aside from Intuit, only one other American company, Johnson & Johnson, has considered such a provision (also brought by Professor Scott). After Johnson & Johnson refused his attempt to include a mandatory arbitration shareholder proposal in the company's proxy statement, Professor Scott sued. Pomerantz has been retained by the Colorado Public Employees' Retirement Association to intervene in the Johnson & Johnson proxy litigation to ensure that investors' rights are protected. Pomerantz Partners Marc I. Gross and Michael Grunfeld discussed this litigation in the May/June 2019 issue of the *Monitor*.

Even prior to intervening in the Johnson & Johnson proxy litigation, Pomerantz was no stranger to the fight against forced arbitration. When the SEC and U.S. Treasury department signaled a potential policy shift toward forced arbitrations, Pomerantz took action. The Firm organized an international coalition of institutional investors to meet with SEC Chairman Jay Clayton and congressional staff, to caution against allowing forced arbitration/class action waiver bylaws. As a result of Pomerantz's advocacy, ten Republican State Treasurers, in a letter co-authored by the State Financial Officers Foundation, urged the SEC to maintain their existing stance against forced arbitration. "It is a significant and unusual step to have ten Republican Treasurers publicly take a position contrary to two Republican SEC Commissioners and the Treasury Department," wrote partner Jennifer Pafiti in an article on the subject in the November/December 2018 issue of the *Monitor*.

Look for updates on the fight against forced arbitration in future issues of the *Monitor* as the issue is analyzed by the courts.

WHO'S REALLY IN CONTROL? AND WHY DOES IT MATTER?

By Daryoush Behbood

Today, most (if not all) Delaware corporations protect their board members through certain exculpatory provisions included in their certificates of incorporation. These provisions, as authorized by 8 Del. C. § 102(b)(7), eliminate the personal liability of a director for breaches of the duty of care. However, exculpatory provisions cannot eliminate, or even limit, the liability of a director for any breach of the director's duty of loyalty, acts of bad faith, intentional misconduct, self-dealing, or knowing violations of law.

Why is this important? When a stockholder alleges a board of directors breached their duty of loyalty, he or she can attempt to prove such a breach by demonstrating that the board members acceded to the will of a "controlling stockholder." A putative class of stockholders ("Plaintiffs") for Essendant, Inc. recently tried to apply this theory to uphold their complaint in a merger case called *In Re Essendant, Inc. Stockholder Litigation*. The decision highlighted the fine line that sometimes separates shareholders who actually control a corporation, or a particular corporate decision, and those who don't.

In the spring of 2018, Essendant signed a merger agreement with Genuine Parts Company ("GPC"), whereby Essendant would combine with a GPC affiliate. The agreement contemplated a stock-for-stock transaction that would result in Essendant stockholders owning 49% of the combined company. Significantly, the merger agreement contained a "non-solicitation" provision which prohibited Essendant from knowingly encouraging a competing acquisition proposal. The non-solicitation provision did not, however, prohibit Essendant from considering alternative unsolicited proposals, such as the one received by Essendant's board of directors from Sycamore Partners. Sycamore submitted an offer to acquire Essendant for $11.50 per share in an all-cash trans-

action. Essendant's board eventually determined that Sycamore's offer was "reasonably likely to lead to a superior acquisition proposal" and invited GPC to exercise its matching rights. While Essendant was negotiating with GPC, Sycamore began acquiring Essendant's stock on the open market, and eventually acquired an 11.16% interest in Essendant.

In September 2018, after further negotiations, Essendant announced that it had agreed to accept Sycamore's revised acquisition proposal of $12.80 per share in cash. Essendant again extended a matching right to GPC, but GPC declined. The Sycamore merger ensued. Believing the merger with Sycamore to be unfair to Essendant's public stockholders, Plaintiffs, representing a class of Essendant stockholders, filed a class action complaint against Essendant's Board in October 2018.

In the complaint, Plaintiffs alleged breaches of fiduciary duties flowing from the Board's "failure to obtain the highest value reasonably available for Essendant by approving and recommending the Sycamore merger…" Plaintiffs further alleged that the Board "caved to the will of Sycamore [by] knowingly and willfully allowing the GPC merger to be sabotaged by Sycamore so that Sycamore could acquire Essendant at an unfair price." Plaintiffs also filed a claim against Sycamore for breaching its fiduciary duties as a controlling stockholder. In that regard, Plaintiffs alleged Sycamore "used its control against the interests of the non-controlling stockholders by pressuring the Essendant Board to accept its inadequate offer."

Because Essendant had an exculpatory charter provision protecting directors from claims alleging breach of their "due care" obligations, Plaintiffs' complaint had to "invoke loyalty and bad faith claims." Plaintiffs attempted to overcome this burden by, among other things, alleging that the directors breached their duty of loyalty by acceding to the will of Sycamore as a controlling stockholder. The Delaware Court of Chancery ultimately decided that Plaintiffs failed to meet this burden. In reaching its decision, the Court analyzed whether the factual allegations of the complaint, if true, could establish that Sycamore was a "controlling stockholder" in the first place.

In so holding, the Court of Chancery reaffirmed Delaware law that a stockholder is a controlling stockholder only if it "(1) owns more than 50% of the company's voting power or (2) owns less than 50% of the voting power of the corporation but exercises control over the business affairs of the corporation" such that "as a practical matter, it [is] no differently situated than if it had majority voting control." Plaintiffs could only succeed on this theory if the Court was able to conclude that Sycamore's stake was "so potent that independent directors could not freely exercise their judgment, fearing retribution from Sycamore."

This was difficult because Sycamore's 11.16% stake was far less than 50% and, in fact, it was only the third largest shareholder of Essendant. Nor did the complaint allege facts supporting any claim that Sycamore exercised de facto control of the company. As the Court noted, "Sycamore did not (i) nominate any members of the Essendant Board, (ii) wield coercive contractual rights, (iii) maintain personal relationships with any of the Essendant Board members, (iv) maintain any commercial relationships with Essendant that would afford leverage in its negotiations, (v) threaten removal, challenge or retaliate against any of the Essendant Board members or (vi) otherwise exercise 'outsized influence' in Essendant's Board room."

Attorney Daryoush Behbood

In support of their claim that Sycamore exercised de facto control, Plaintiffs alleged that while Sycamore may not have exercised day to day control over Essendant, it managed to exert control with respect to this particular transaction, essentially by bullying the board and threatening it with a proxy contest for control. In support of their theory, Plaintiffs relied on a Maryland case which applied Delaware law. The case involved a merger transaction and a pushy shareholder, Ares. There, the court found that Ares, an aggressive institutional investor that held a 13.2% stake in the company, managed to force the board to sell the company in a transaction that was unfair to the company's stockholders. According to the Maryland court, "the role played by [the shareholder], the apparent willingness of at least two other buyers…to pay a higher price, and the discount to book value [in the approved transaction] gives credence to the plaintiffs' contentions that the board knew that Ares' bid substantially undervalued the Company, but brushed this concern aside because it was worried about losing a proxy battle…" The Court also held that the complaint alleged facts showing that Ares had inserted itself into the board's deliberations and procured a $3 million fee for itself for its "advisory" services in pushing the deal through.

In Essendant, the Court did not rule on the legal merit of the "bullying" theory of control over a single transaction. Instead, it held that Plaintiffs' complaint did not allege the type of behavior that occurred in the Maryland case. No bullying, no controlling stockholder.

When a board of directors loses control of its company, it can certainly have broad implications. However, as Essendant makes explicitly clear, the argument that a company's board of directors so lost their will to lead that a controlling stockholder was able to force a merger that was unfair to everyone but the stockholder in control, is a theory proving to be more and more difficult for plaintiff stockholders to support. Following an appeal of this decision, the Essendant Plaintiffs will have another bite at the apple in front of the Delaware Supreme Court.

CHALLENGING FOREIGN COMPANIES IN U.S. COURTS

By Heather Volik

As *Monitor* readers are well aware, in *Morrison v. National Australia Bank Ltd.* the Supreme Court held that the antifraud provisions of the Securities Exchange Act apply only to "transactions in securities listed on domestic exchanges, and domestic transactions in other securities." But what about so-called ADRs, American Depositary Receipts, which are securities traded in the U.S. that are linked to the price of underlying foreign securities?

Attorney Heather Volik

ADRs are negotiable certificates issued by U.S. depositary institutions, typically banks, which represent a beneficial interest in a specified number of shares of a non-U.S. company. Some of these ADRs are "unsponsored," meaning that they were not created by the foreign issuers themselves, but rather by unrelated entities that purchased stock of the foreign issuer overseas and now want to trade interests in those shares in the U.S.

This issue arose in the case of *Stoyas v. Toshiba Corporation*, whose shares trade only in Japan; but Toshiba ADRs are traded over the counter in the U.S. When Toshiba disclosed that it had used improper accounting techniques that overstated profits and concealed losses, the price of Toshiba's shares in Japan dropped sharply, as well as the price of the ADRs in the U.S. When those ADR purchasers sued Toshiba in federal court in the U.S., Toshiba moved to dismiss, arguing that it had nothing to do with the sales of the ADRs and that, in any event, sales of those ADRs were not conducted on a domestic exchange and could not be considered to be domestic transactions, as required by *Morrison*. The district court granted the motion, denying leave to amend the complaint on the ground that any amendment would be "futile."

The Circuit Court reversed, holding that an amendment to the complaint might not be futile. The defendants sought certiorari with the Supreme Court, which denied the petition after the solicitor general recommended declining review because the purchases were domestic.

Plaintiffs amended their complaint to add more details concerning the nature of the ADRs and where they were purchased. Toshiba then moved to dismiss again, arguing that the plaintiffs failed to allege that Toshiba was involved in a "domestic transaction." Toshiba ignored much of the complaint and surmised instead that the plaintiffs must have purchased their Toshiba shares on the Tokyo exchange, and then converted them into ADRs to trade in the U.S.

In January 2020, the Central California district court rejected Toshiba's assertion and concluded that the amended complaint supported the contention that transactions actually occurred in the U.S. In reaching that conclusion, the court relied on the allegations that the investment manager and broker, the OTC Link trading platform which routed the order, and the recording of the transfer of title, were all in New York.

The court also found that the foreign-based fraud was "in connection with" the purchase of those securities. The defendants had argued that Plaintiffs had not shown that "the fraudulent conduct 'induced' Plaintiffs to exchange Toshiba common stock for the unsponsored ADRs from Citibank, or that Toshiba had anything at all to do with that transaction." The court noted that plaintiffs had alleged "plausible consent to the sale of [Toshiba] stock in the United States as ADRs" with pleading that "it is unlikely that [that] many shares could have been acquired on the open market without the consent, assistance or participation of Toshiba."

The court also held that there was no strong policy interest in limiting liability of foreign companies. "The nationality of the parties here similarly weighs in favor of strong U.S. interests: Plaintiffs are U.S. nationals and the proposed class is composed of U.S. nationals only. In the absence of an identifiable foreign or public policy interest in relation to the regulation of securities, specifically, the court concludes that the United States has significant interests in regulating securities transactions made in the United States."

This decision should open claims of liability by U.S. investors against foreign issuers under 10(b), even when the issuers had limited involvement in the issuance of the securities in the United States and the misstatements were made in a foreign country. The decision provides a formula for successful claims against foreign corporations, including alleging the specific connections to the U.S. market that link the foreign issuer to the purchase.

LESSONS FOR COVID-19

By Jennifer Pafiti

At the end of 2019, the world began to hear of an infectious respiratory disease referred to as Coronavirus, now identified as COVID-19. In early 2020, we learned that the disease was spreading globally and on March 11, 2020 the World Health Organization (WHO) declared the virus to be a global pandemic, pushing the threat beyond the Global Health Emergency the WHO had announced in January.

At the time of this writing, many of us are experiencing a new way of life as schools have closed, social distancing is the norm, non-essential travel is discouraged, and businesses close their offices.

At Pomerantz, we are closely monitoring developments and adhering to local guidelines as well as guidelines issued from the Centers for Disease Control and Prevention and the World Health Organization. We want to ensure that we are taking every step possible to protect the health and safety of our clients, employees, advisory partners and their families.

As part of our business continuity plan, we have implemented several sensible policies, including conducting meetings remotely and encouraging many of our employees to work from home, even before it became mandatory. Our client-focused approach combines legal expertise with the latest technological tools to allow us to operate from our offices, or remotely, to ensure that it is business as usual for our clients.

Until COVID-19, a normal working week for Jennifer Pafiti, Pomerantz Partner and Head of Client Services, included travel across the globe to meet with and advise clients, and to participate in educational events for institutional investors. Drawing from her experience, she has put together a few recommendations for being productive while working outside of a regular office setting:

1. Consider your workspace – Make sure your workspace is as comfortable and functional as possible. Having a dedicated workspace (even if just a seat at the dining table) will allow you to go into 'work mode' much like when you arrive at your regular place of work.

2. Get to work! – Set a routine similar to timings and habits you would have as part of your regular workday. For example, being dressed and ready to work by 9 a.m. or taking your regular lunch break should form part of your remote working day.

3. Avoid distractions – Avoid unnecessary distractions by logging out of social media accounts and setting a schedule of work that allows for breaks but also makes sure your "to-do" list is attended to.

4. Communicate with colleagues – Keeping in touch with colleagues and maintaining good communication is vital to minimize disconnection from your team. Call, email and take advantage of some of the fantastic technology available today to still enjoy face-to-face meetings, just from a distance!

Partner and Head of Client Services, Jennifer Pafiti

Pomerantz, as the oldest law firm in the world dedicated to representing defrauded investors, has weathered many storms. Since its founding by legendary attorney Abe Pomerantz in 1936, the Firm and its clients have endured through the tail end of the Great Depression, World War II, Black Monday (1987), the early 1990's recession, and the 2008 banking crisis. Today, as the world faces yet another crisis, Pomerantz and its clients will weather it together.

On behalf of the entire team at Pomerantz, we wish our readers, their families, friends, and loved ones good health. Stay safe!

For real-time updates on the latest situation with COVID-19, please refer to information provided by the World Health Organization (www.who.int), the Centers for Disease Control and Prevention (www.cdc.gov) and official, local resources specific to your region.

POMERANTZ HONORED AS 2020 PLAINTIFF FIRM OF THE YEAR BY BENCHMARK LITIGATION

In February, Pomerantz was honored as the 2020 Plaintiff Firm of the Year by Benchmark Litigation at their 2020 U.S. awards ceremony in New York City.

Michael Rafalowich, Benchmark Litigation's Managing Editor, presented the award to Pomerantz Partner Gustavo Bruckner. Mr. Rafalowich cited Pomerantz's historic $3 billion settlement with Brazilian energy giant Petrobras (recognized as a Benchmark National Impact Case in 2019) and the Firm's success in the ongoing *Perrigo* securities litigation that has resulted in the first certification for a class of investors that purchased securities on a non-U.S. exchange as key contributing factors in awarding this singular honor to Pomerantz.

"We are grateful to Benchmark Litigation for acknowledging the importance of the vigorous work we do on behalf of investors, including investors in dual-listed shares, a staple of most current global portfolios," commented Pomerantz Managing Partner Jeremy Lieberman. "We hope that the decision Pomerantz secured in Perrigo paves the way for investors that purchase on non-U.S. exchanges to procure a recovery in the U.S. courts which would have otherwise been foreclosed by Morrison."

Michael Rafalowich (left), with Gustavo F. Bruckner.

CORPORATE GOVERNANCE ROUNDTABLE EVENT

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Please join institutional investors and corporate governance professionals from around the globe to discuss the evolving role of institutional investors, ESG risk and governance challenges, featuring Remarks by President Bill Clinton

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Seating is limited. To reserve your place, please email: pomerantzroundtable2020@pomlaw.com

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
Anadarko Petroleum Corp.	APC	February 20, 2015 to May 17, 2017	April 20, 2020
HP, Inc.	HPQ	February 23, 2017 to October 3, 2019	April 20, 2020
JELD-WEN Holding, Inc.	JELD	January 26, 2017 to October 15, 2018	April 20, 2020
Southwest Airlines Co.	LUV	February 7, 2017 to June 25, 2019	April 20, 2020
CPI Aerostructures, Inc.	CVU	May 15, 2018 to February 14, 2020	April 24, 2020
Becton, Dickinson and Co.	BDX	November 5, 2019 to February 5, 2020	April 27, 2020
Crown Castle International Corp.	CCI	February 26, 2018 to February 26, 2020	April 27, 2020
Sterling Bancorp, Inc.	SBT	November 17, 2017 to December 8, 2019	April 27, 2020
Tivity Health, Inc.	TVTY	March 8, 2019 to February 19, 2020	April 27, 2020
Tufin Software Technologies Ltd.	TUFN	Related to April 11, 2019 IPO	April 27, 2020
Tupperware Brands Corp.	TUP	January 30, 2019 to February 24, 2020	April 27, 2020
Aaron's, Inc.	AAN	March 2, 2018 to February 19, 2020	April 28, 2020
Fluor Corp.	FLR	November 2, 2017 to February 14, 2020	April 28, 2020
MGP Ingredients, Inc.	MGPI	February 27, 2019 to February 25, 2020	April 28, 2020
Align Technology, Inc.	ALGN	April 24, 2019 to July 24, 2019	May 1, 2020
Canaan, Inc.	CAN	Related to November 20, 2019 IPO	May 4, 2020
PharmaCielo Ltd.	PCLOF	June 21, 2019 to March 2, 2020	May 5, 2020
Tilray, Inc.	TLRY	January 15, 2019 to March 2, 2020	May 5, 2020
World Wrestling Entertainment, Inc.	WWE	February 7, 2019 to February 5, 2020	May 6, 2020
Allakos Inc.	ALLK	August 5, 2019 to December 17, 2019	May 11, 2020
Cronos Group, Inc.	CRON	May 9, 2019 to March 2, 2020	May 11, 2020
Funko, Inc.	FNKO	October 31, 2019 to March 5, 2020	May 11, 2020
NMC Health plc	NMHLY	March 13, 2016 to March 10, 2020	May 11, 2020
Norwegian Cruise Line Holdings Ltd.	NCLH	February 20, 2020 to March 12, 2020	May 11, 2020
Inovio Pharmaceuticals, Inc.	INO	February 14, 2020 to March 9, 2020	May 12, 2020
Alpha and Omega Semiconductor Ltd.	AOSL	August 7, 2019 to February 5, 2020	May 18, 2020
Gulfport Energy Corp.	GPOR	May 3, 2019 to February 27, 2020	May 18, 2020
LogicBio Therapeutics, Inc.	LOGC	December 3, 2018 to February 10, 2020	May 18, 2020
Paysign, Inc. f/k/a 3PEA International, Inc.	PAYS	March 12, 2019 to March 15, 2020	May 18, 2020
XP, Inc.	XP	Related to December 19, 2019 IPO	May 20, 2020
Exela Technologies, Inc.	XELA	March 16, 2018 to March 16, 2020	May 22, 2020

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
Ubiquiti Networks, Inc.	$15,000,000	May 9, 2013 to February 19, 2018	April 3, 2020
Constant Contact, Inc.	$13,000,000	July 25, 2014 to July 23, 2015	April 13, 2020
SITO Mobile, Ltd.	$1,250,000	August 15, 2016 to January 2, 2017	April 16, 2020
BioAmber, Inc.	$2,250,000	July 15, 2014 to August 3, 2017	April 22, 2020
Allegiant Travel Co.	$4,000,000	June 8, 2015 to May 9, 2018	April 23, 2020
Fenix Parts, Inc.	$3,300,000	May 14, 2015 to June 27, 2017	April 24, 2020
Illumina, Inc.	$13,850,000	July 26, 2016 to October 10, 2016	April 27, 2020
LJM Preservation and Growth Fund	$1,225,000	February 28, 2015 to February 7, 2018	April 30, 2020
Valeant Pharmaceuticals International, Inc.	$1,210,000,000	January 4, 2013 to March 15, 2016	May 6, 2020
GSE Bonds (Barclays)	$87,000,000	January 1, 2009 to January 1, 2019	May 12, 2020
GSE Bonds (12 Banks)	$250,000,000	January 1, 2009 to January 1, 2019	May 12, 2020
FleetCor Technologies, Inc.	$50,000,000	February 5, 2016 to May 3, 2017	May 13, 2020
MGT Capital Investments, Inc.	$750,000	October 9, 2015 to September 7, 2018	May 20, 2020
NantHealth, Inc.	$16,500,000	June 1, 2016 to May 1, 2017	May 22, 2020
The Advisory Board Co.	$7,500,000	May 6, 2015 to February 23, 2016	May 26, 2020
Parametric Sound Corp.	$9,650,000	On behalf of those that held on 1/15/2014	June 3, 2020
Forterra, Inc.	$5,500,000	October 19, 2016 to August 14, 2017	June 5, 2020
Adeptus Health, Inc.	$44,000,000	June 25, 2014 to March 1, 2017	June 8, 2020
Spectrum Pharmaceuticals, Inc.	$2,995,000	January 31, 2013 to September 16, 2016	June 8, 2020
Deutsche Bank AG	$18,500,000	Related to 11/6/07 and 2/14/08 Mergers	June 10, 2020
Silver Wheaton Corp.	$41,500,000	March 30, 2011 to July 6, 2015	June 13, 2020
Community Health Systems, Inc.	$53,000,000	July 27, 2006 to April 8, 2011	June 27, 2020
EndoChoice Holdings, Inc.	$8,500,000	Related to June 5, 2015 IPO	June 30, 2020
Vale S.A.	$25,000,000	May 8, 2014 to November 27, 2015	July 14, 2020
Namaste Technologies, Inc.	$2,150,000	November 29, 2017 to February 3, 2019	July 17, 2020
HD Supply Holdings, Inc.	$50,000,000	November 9, 2016 to June 5, 2017	July 18, 2020
Equifax, Inc.	$149,000,000	February 25, 2016 to September 15, 2017	July 22, 2020
LIBOR (Eurodollar Futures) (Antitrust)	$19,975,000	January 1, 2003 to May 31, 2011	December 1, 2020

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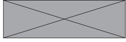

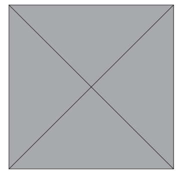

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THE LAW FIRM THAT INSTITUTIONAL INVESTORS TRUST FOR SECURITIES LITIGATION AND PORTFOLIO MONITORING

Pomerantz is acknowledged as one of the premier firms in the area of corporate securities and a leader in securities and corporate governance litigation. Our clients include major individual and institutional investors and financial institutions with combined assets of $5.6 trillion, and growing. 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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