the Pomerantz Monitor

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No Suit for You – Court Strikes Down "Cross-Listed Shares" Theory

by C. Dov Berger

Inside This Issue

In 2010, the United States Supreme Court handed down its landmark decision in *Morrison v. National Australia Bank*, which held that United States federal securities laws only apply to transactions in securities listed on U.S. exchanges, or to securities transactions that take place in the U.S. The ruling has been interpreted to bar recovery under the U.S. federal securities laws by investors who bought shares on foreign exchanges. As previously reported in the *Monitor* (Volume 10, Issue 6, November/December 2013), Pomerantz has led the effort to seek alternative paths to recovery in the U.S. courts, including via pursuit of common law claims against issuers like British Petroleum and corporate executives charged with securities fraud.

But what about instances where a security is listed both in the U.S. and on a foreign exchange, and the investor bought his shares overseas? A case in point is *City of Pontiac Policemen's & Firemen's Ret. Sys. v. UBS AG*, No. 12-4355-cv (2d. Cir.), a securities class action against Swiss Investment Bank UBS AG by foreign and domestic institutional investors that bought shares of UBS stock on the SIX Swiss Exchange.

The complaint alleged that UBS failed to disclose that its balance sheet had inflated the value of billions of dollars in residential mortgage-backed securities and collateralized debt obligations. It alleged that when the market for those securities dried up, UBS eventually had to recognize a loss of $48 billion. The complaint also alleged that the bank made misleading statements claiming that it was in compliance with U.S. tax laws, only to be forced to settle tax fraud claims with federal authorities for a penalty of $780 million.

Although the plaintiffs had bought UBS shares on a foreign exchange, they invoked the so-called "Listing Theory," which posits that since shares of UBS are traded on both the Swiss Exchange and in the U.S. on the New York Stock Exchange, all purchasers of UBS shares should be protected by the U.S. federal securities laws, regardless of which exchange they used to purchase their shares.

The plaintiffs also invoked the "Foreign-Squared Claims Theory," which posits that the place where the buy order was placed should control, rather than the location of the exchange where the trade was ultimately executed. The buy orders for some of the purchases of UBS shares at issue had been placed in the U.S. Under this theory's rationale, such transactions should satisfy the second prong in *Morrison*, which applies the U.S. federal securities laws to "transactions" that take place in the U.S.

However, the District Court rejected both theories, holding that (1) reading *Morrison* as a whole, the limitation precluding U.S. securities laws from applying on foreign transactions should apply even when the foreign issuer also lists shares on a U.S. Exchange, and (2) the mere placement of a buy order in the U.S. is too tenuous a connection for the U.S. securities laws to apply to claims for losses related to a securities trade. The Second Circuit affirmed that ruling on appeal on May 6, 2014, in an opinion that aligns with the dominant interpretations of *Morrison*, whereby investors that had purchased UBS

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Court Strikes Down "Cross-Listed Shares" Theory
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securities on the NYSE could have sought remedies under the U.S. federal securities laws, while those who had purchased UBS securities on the Swiss Exchange could not do so. The decision, a victory for dual-listed issuers, further curtails investor rights and remedies under the U.S. federal securities laws barring an appeal to the U.S. Supreme Court.

As their rights to seek recovery under U.S. law for foreign-listed securities evaporate in the wake of Morrison, investors can only try to convince Congress to revise the federal securities laws so as to restore, in whole or in part, the protections they once offered. Otherwise, under certain circumstances, they may seek to pursue common law claims such as those pursued by Pomerantz against BP.

Until then, investors will have to further weigh the benefits of buying shares of dual-listed companies on foreign exchanges, which may include better prices or lower transaction costs, against the possibility of losing the protection of U.S. federal securities laws in the U.S. courts. The *UBS* ruling could have added significance if it is followed in other U.S. federal Circuits.

Delaware Court Raises the Bar in Controlling Shareholder Transactions

It is long-established law that where a transaction involving self-dealing by a controlling shareholder is challenged, the transaction will be reviewed under a standard referred to as "entire fairness." That standard places the burden on the defendant to prove that the transaction with the controlling shareholder was entirely fair to the minority stockholders, including not only a fair price but a fair process for negotiating the transaction.

Twenty years ago, the Delaware Supreme Court was presented with the question of whether the business judgment rule might apply to transactions with a controlling shareholder if the transaction was approved either by a special committee of independent directors, or by an informed vote of the majority of the minority shareholders. The Court said no, but that in such cases the burden of proof on the issue of the entire fairness of the transaction would be shifted to the plaintiff shareholders. While this may sound like splitting hairs, in fact the question of which standard — entire fairness or business judgment — will be applied usually determines the outcome of the case.

Now, in *Kahn v. M&F Worldwide Corp.*, the Delaware Supreme Court was presented with a case where the controlling shareholder had used *both* protective devices: the transaction had to be approved *both* by an independent special committee *and* by the minority shareholders. The question was: What is the appropriate standard of review now?

The Court concluded that those provisions, taken together, neutralized the influence of the controlling shareholder and the highly deferential business judgment standard of review should apply. This creates a much higher barrier for plaintiffs to overcome. They will now have the burden of proving that the challenged transaction was so egregious that it could not have been a result of sound business judgment.

To demonstrate that the business judgment rule should apply, the controlling shareholder will have to agree at the outset that the completion of the merger will be contingent on the approval of a special committee and approval of the majority of the minority shareholders. Then, defendant must show that

- ✓ The special committee was composed of independent directors;
- ✓ The special committee was empowered to reject the controlling shareholder's proposal, and is free to engage its own legal and financial advisors to evaluate the proposal;
- ✓ The special committee met its duty of care in negotiating a fair price;
- ✓ The majority of the minority shareholders was informed; and
- ✓ There was no coercion of the minority.

The Court reasoned that the dual protections of the special committee and the majority of the minority "optimally protects the minority stockholders in controller buyouts." It concluded that the controlling shareholder knows from the inception of the deal that s/he will not be able to circumvent the special committee's ability to say no, and that s/he will not be able to dangle a majority of the minority provision in front of the special committee in order to close the deal late in the process, but will have to make a price move instead.

While this ruling may serve as a setback to plaintiffs in certain cases, the business judgment standard of review will only apply when all of the above criteria are met. Defendants may be unwilling to condition the completion of the transaction at the outset on the approval of a special committee and a majority of the minority shareholders, as this might create too much uncertainty and risk around the proposed transaction.

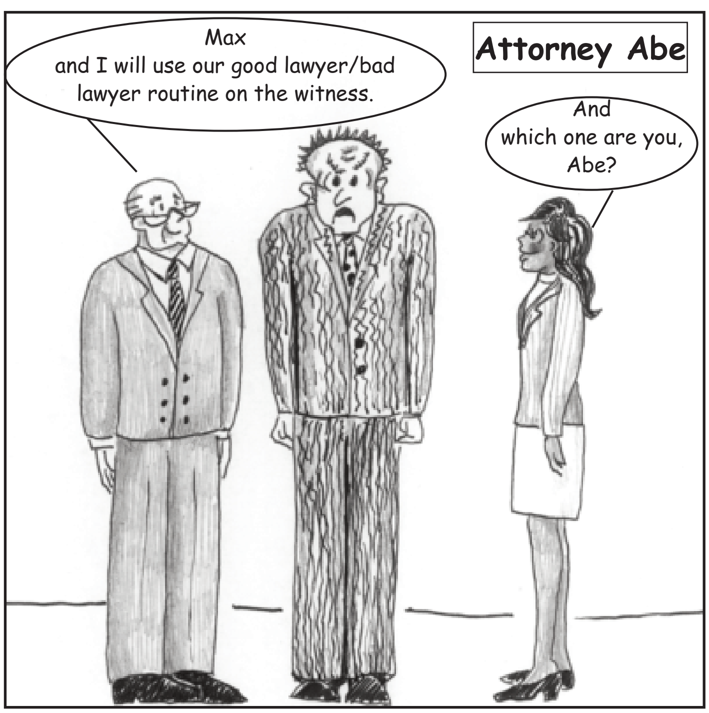
Alla Zayenchik

Lululemon Ordered to Produce Records of Its Stock Trading Plan

In a dishearteningly familiar scenario, a couple of years ago the chairman of lululemon athletica dumped a large number of company shares he owned, a few hours before the company announced that its CEO was resigning. By trading ahead of the news, the Chairman saved about $10 million. In defending himself from the charge that he traded the shares on inside information, the company's chairman had publicly claimed that he had sold a big block of his company stock pursuant to his 10b5-1 stock trading plan, and not because he had inside information about impending bad news.

Pomerantz represents a shareholder of lululemon, and we and our client were interested in finding out whether the chairman's assertions were true. So we brought a "books and records" action, asking to inspect the company's records relating to the plan and to this particular transaction.

Deciding an issue of first impression in Delaware, the Chancery Court recently granted our request, holding that the circumstances of this transaction raised enough suspicion to warrant inspection. The importance of the inside information was beyond dispute. The company, which is known for its yoga apparel, had recently announced a highly embarrassing recall of approximately 17 percent of its women's workout pants. News of the recall caused the price of lululemon common stock to drop almost 7% within two days, which, in turn, led to the resignations of several key executives and the termination of the company's Chief Product Officer.



Then came the big blow: soon afterwards, the company's Chief Executive Officer announced his resignation. That news caused lululemon's stock to drop almost 22% in the span of a few days. The same day that the lululemon Board of Directors learned of the CEO's imminent departure, but prior to any public announcement of it, lululemon's chairman sold over 600,000 shares of company stock for more than $49.50 million. Had he waited to sell until after the public announcement, he would have received a little more than $39 million—approximately $10 million less. This looks a lot like insider trading.

Delaware law allows stockholders of public companies to inspect certain corporate documents, if the stockholder can assert a proper purpose and satisfy other technical requirements. After lululemon refused our requests, Pomerantz filed a complaint, known as a Section 220 action, to compel lululemon to produce certain documents relating to the stock trading plan. Delaware courts have encouraged stockholders to file Section 220 actions as investigatory tools before commencing other forms of litigation, such as derivative actions.

In response to the Section 220 action, lululemon argued that stockholders had no basis to question the chairman's stock sales because the trades were executed by the chairman's broker, who was granted sole discretion under a trading plan to sell shares on behalf of the chairman over a period of time. The plan, known as a 10b5-1 stock trading plan, is implemented by corporate insiders in an attempt to insulate themselves from allegations of insider trading.

Pomerantz, on the other hand, pointed to the fact that the stock sale at issue here was the single largest stock sale conducted on the chairman's behalf since the establishment of his pre-arranged stock trading plan in late 2012, raising suspicions as to both the timing and the size of the sale.

The Court found that the 10b5-1 stock trading plan did not preclude potential liability for insider trading. The Court also found that there were "legitimate questions as to the propriety" of the sale and ordered the production of certain related documents. In addition to acknowledging that the chairman's sale was the single largest he had made under the 10b5-1 stock trading plan, the Court also inferred that the number of shares sold was the maximum amount that the chairman could have sold in any one month under the terms of the 10b5-1 plan. These facts allowed the Court to infer a "credible basis" that wrongdoing may have taken place in con-

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lululemon Forced To Produce Its Stock-Trading Plan
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nection with the June 7, 2013 stock sale. Accordingly, the Court ordered lululemon to produce the 10b5-1 trading plan, as well as certain other documents relating to the stock sale.

The Court's holding that the mere existence of a 10b5-1 trading plan will not serve as an absolute defense for defendants and will not preclude a finding of a credible basis for an inference of wrongdoing, was an important victory for stockholders of public companies.

Samuel J. Adams

The Struggle Over the Use of Confidential Witnesses

In 1995, Congress passed the PSLRA to eliminate what it considered to be abusive practices in federal securities litigation. Among other things, it raised plaintiffs' burden in pleading federal securities fraud actions. It heightened the standard to plead *scienter*, requiring that the complaint plead facts "giving rise to a strong inference that the defendants acted with the required state of mind." At the same time, it instituted an automatic discovery stay until resolution of the defendant's motion to dismiss. In combination, these requirements can pose a significant hurdle to securities plaintiffs in making sufficiently specific allegations of wrongdoing.

Plaintiffs often attempt to meet this burden by relying on statements from former company insiders. Because they often are wary of the possibility of retaliation from their former employers, or because they are still employed, or hope to be employed, in the same line of business, they typically demand that their names be kept confidential, and complaints usually refer to them as "CWs," or confidential witnesses. Ultimately, their names must be disclosed to defendants, which must be relayed to the CW at the time of the interview.

In ruling on motions to dismiss, some federal judges have expressed discomfort in relying on statements of anonymous CWs, worrying that they may not be in a position to know what they are talking about, or that they may be disgruntled former employees looking for revenge while hiding behind a smokescreen of anonymity. Other federal judges believe that CWs are reliable where there is strength in the number of confidential witnesses, their corroborative aspects, and the specific descriptions of each of them. Many cases have required that allegations based on information from CWs must disclose enough about them to substantiate that they were in a position to know what they are talking about. This requirement, of course, makes it easier for the former employers to figure out their identity.

Once that happens, defendants have often tried to discredit their allegations or even to contact them to pressure them to "recant." Southern District of New York Judge Jed Rakoff, a leading jurist in securities litigation, has noted that heightened pleading standards in securities class actions have left confidential plaintiffs' witnesses in a tough spot—sometimes lured by plaintiffs lawyers to exaggerate wrongdoing, and/or unfairly pressured by defendants to recant truthful allegations.

Defense attorneys have different theories on what can be done to alleviate these concerns; however, many of these "theories" are not practical, such as, for example, requiring plaintiffs' lawyers to include a sworn declaration from a confidential witness verifying the allegations in the complaint. Such disclosures would reveal the name of the signatory, defeating the protection of confidentiality. As Judge Rakoff noted, once the identities of confidential witnesses are known, they can then be "pressured into denying outright the statements they had actually made." In fact, fear of retaliation by the former employer accounts for most of witness recantation. Moreover, any requirement that former employees sign a formal legal document, especially under oath, would have a chilling effect on their willingness to reveal what they know.

Defense attorneys have also suggested that plaintiffs' lawyers themselves, and not just investigators, participate in the witness interviews. While this might help ensure that the complaint's summary of CW allegations is accurate, it would be impractical. The involvement of a lawyer, rather than an investigator alone, would be a deterrent for some CWs. Investigators would have to coordinate meetings among counsel and the witnesses, making information collection much more burdensome and time-consuming.

There are, however, some steps that plaintiffs' counsel can take to make the CW process more reliable. Investigators should be required to state clearly that they work for a law firm adverse to the former employer, and that they do not represent the witness. They should also be required to ensure that the witness is not currently employed with the defendants and that there is no confidentiality agreement that precludes disclosure. Counsel should also make sure that the information from the CW is consistent with all of the other evidence gathered in the case. The court's decision in *Tellabs III* provides that corroborating evidence is the key to CW allegations.

Because the Reform Act requires plaintiffs to plead the details of the CW's position and ability to know the facts alleged, the defendants often can figure out who the CWs are, and "reach out" to them. As Judge Rakoff has stated, the witness often feels pressure to recant or water down what s/he has said. If defendants succeed in this effort and the complaint is dis-

Pomerantz is Pleased to Announce . . .

that **Jennifer Pafiti** has joined Pomerantz as an associate and our new Head of International Investor Relations.

Ms. Pafiti, a dual-qualified U.K. solicitor and U.S. attorney, heads the Firm's International Investor Relations team.

Ms. Pafiti earned a Bachelor of Science degree in Psychology at Thames Valley University in England prior to studying law. She earned her law degrees at Thames Valley University (G.D.L.) and the Inns of Court School of Law (L.P.C.) in the United Kingdom. She is admitted to practice law in England and Wales (Solicitor) and in California.

Before studying law in England, Ms. Pafiti was a regulated financial advisor and senior mortgage underwriter at a major U.K. financial institution. She holds full CeFA and CeMAP qualifications. After qualifying as a Solicitor, Ms. Pafiti specialized in private practice civil litigation which included the representation of clients in high profile cases in the Royal Courts of Justice. Prior to joining Pomerantz, Ms. Pafiti was an associate with Robbins Geller Rudman & Dowd LLP in their San Diego office.

Ms. Pafiti advises international investor clients in the United States and Europe on how best to evaluate losses to their investment portfolios attributable to financial fraud or other misconduct, and how best to maximize their potential recoveries. She also takes an active role in securities litigation, representing clients in both class and non-class actions.

In this ever-shrinking world, international institutions invest heavily in the capital markets of the United States. Pomerantz's international clients—pension funds, banks, unions, and investment managers—include institutional investors with portfolios in excess of $2 trillion. Along with our network of prominent law firms in England, France, Switzerland and the Middle East, we stand ready to assist global clients in recovering monies lost due to securities fraud.

Expert U.S.-based counsel is especially critical now that the Supreme Court has precluded foreign securities purchasers from monetary relief under the U.S. federal securities laws in *Morrison v. Nat'l Australia Bank*, 130 S. Ct. 2869 (2010). This ruling has triggered a seismic shift in the landscape of securities litigation, forcing both non-U.S. and U.S. pension funds and asset managers to seriously consider their options for pursuing individual or opt-in actions in order to recover losses incurred due to securities fraud.

Pomerantz is at the vanguard in addressing the challenges facing foreign investors raised by the *Morrison* decision. For more information, please visit our website at www.pomerantzlaw.com. Jennifer Pafiti may be reached at jpafiti@pomlaw.com and (310) 285-5330. She is based in Los Angeles.

missed, defendants often file a Rule 11 motion seeking sanctions against plaintiff's counsel. Such "recantation" should not be the basis for a Rule 11 motion.

Plaintiffs' attorneys should not be deterred by defendants' latest attempt to dismiss valid securities fraud cases through Rule 11 motions. However, plaintiffs' counsel should take care to ensure that the allegations in any complaint are accurate, and move for cross-sanctions where appropriate.

Leigh Handelman Smollar

Fannie Mae and Freddie Mac Secure $9.3 Billion Settlement With BofA

In March, Bank of America ("BofA") agreed to pay $9.3 billion to settle four settle lawsuits filed by the Federal Housing Finance Agency ("FHFA"). The lawsuits alleged that the bank misrepresented risks inherent in billions of dollars in mortgage-backed securities that it sold to Fannie Mae and Freddie Mac. Under the terms of the settlement, BofA subsidiaries Countrywide Financial Corp and Merrill Lynch will pay $5.83 billion and repurchase another $3.2 billion in mortgage-backed securities, FHFA said.

As many will recall, FHFA filed these lawsuits among seventeen similar cases in its capacity as conservator for Fannie Mae and Freddie Mac, after it was reported that Fannie and Freddie lost up to $30 billion in the subprime mortgage market. Cases were brought against all the big banks: JPMorgan, Barclays, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, and UBS. To date, the lawsuits have recovered more than $20 billion. Seven of those cases are still pending.

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Fannie Mae and Freddie Mac Secure $9.3 Billion Settlement With BofA
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The recovery is impressive, but brings renewed scrutiny to the whole fiasco, including the unclean hands of some Fannie and Freddie executives, who had long insisted that Fannie and Freddie's involvement with subprime loans was minimal. We now know that Daniel Mudd and Richard Syron, chief executives of Fannie and Freddie, were aware of the exposure and the risks. Internal documents released at Congressional hearings showed that both ignored repeated warnings from internal risk officers. In March 2006, Enrico Dallavecchia, Fannie Mae's chief risk officer, wrote to CEO Daniel Mudd to say, "Dan, I have a serious problem with the control process around subprime limits."

Fannie's role goes back to the beginning of the subprime phenomenon. *The New York Times* journalist Gretchen Morgenson reported that Fannie had actually recruited Countrywide to make the loans to help fulfill Fannie's own "affordable housing" goals. In return, Countrywide was given a discount on fees. By 2004, Countrywide was Fannie's top mortgage supplier, accounting for 26 percent of the loans purchased by Fannie. Fannie executives were also among the dozens of employees who enjoyed steeply discounted mortgage rates from Countrywide. The House Oversight and Government Reform Committee found that 153 "VIP loans" had been issued to 27 employees.

When the government took over and ousted the executives, Fannie and Freddie appeared to be winding down and out. But wait. Mel Watt, head of FHFA, just signaled that Fannie and Freddie may not be exiting the mortgage industry, but instead might be enjoying something of a renaissance. As the *Times* reported, in a quote attributed to Jim Parrott of the Urban Institute, "(Watt's) message was he will turn from focusing on the enterprises as institutions in intentional decline to institutions that should be better prepared to form the core of our system for years to come… this shift in focus ripples through the many decisions announced in the speech and signals a watershed moment in the brief history of the agency."

The BofA settlement plays a significant role in the appearance of renewal: of the $5.7 billion Fannie Mae reported as comprehensive income for the first quarter, $4.1 billion was revenue from legal settlements, nearly double the $2.2 billion that Fannie had garnered in 2013. Freddie Mac also reported $4.9 billion in benefits from legal settlements.

This is only the latest in a seemingly endless cycle of banking industry misdeeds. In addition to misrepresentations about mortgage backed securities, we have money laundering, manipulations of LIBOR, aiding and abetting tax evasion, circumventing the sanctions on Iran, the London Whale fiasco, and a host of other high crimes and misdemeanors. That public outrage has somewhat waned on the matter might be attributed to sheer exhaustion. We have not seen the last of it. Not by a long shot.

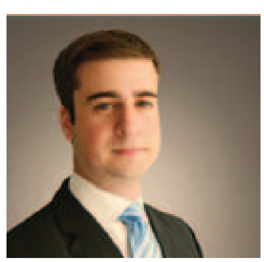
Jessica N. Dell

notable dates

. . . on the Pomerantz horizon

Jeremy Lieberman and **Jennifer Pafiti** will attend the **ICGN conference** on June 15 - 17 in Amsterdam. Jeremy will present at a panel on: "Shareholder Litigation v. Engagement: Which Is a Better Tool for Promoting Good Corporate Governance?"

Jayne Goldstein will attend the **Florida Public Pension Trustee's Association** conference in Orlando, Florida on June 29 - July 2, 2014, and will Co-Chair the **Practising Law Institute 2014 Class Action Litigation Strategies Conference** in New York, New York on July 9, 2014.



Mark Goldstein will attend the **Florida Public Pension Trustee's Association** conference in Orlando, Florida on June 29 - July 2, 2014.

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
Imperva, Inc.	IUSA	May 2, 2013 to April 9, 2014	June 10, 2014
Herbalife Ltd.	HLF	May 4, 2010 to April 11, 2014	June 13, 2014
Kansas City Southern	KSU	October 18, 2013 to February 18, 2014	June 16, 2014
ChinaCast Education Corporation (2014)	CAST	April 18, 2009 to April 19, 2012	June 17, 2014
GrowLife, Inc.	PHOT	November 14, 2013 to April 9, 2014	June 17, 2014
World Acceptance Corporation	WRLD	April 25, 2013 to March 12, 2014	June 17, 2014
Apollo Education Group, Inc.	APOL	October 19, 2011 to April 1, 2014	June 23, 2014
Axesstel, Inc.	AXST	February 25, 2013 to March 31, 2014	June 23, 2014
CannaVEST Corp.	CANV	May 20, 2013 to April 3, 2014	June 23, 2014
The ADT Corporation	ADT	November 27, 2012 to January 29, 2014	June 27, 2014
Advanced Emissions Solutions, Inc.	ADES	March 14, 2013 to April 23, 2014	June 30, 2014
Lihua International, Inc.	LIWA	August 9, 2012 to April 30, 2014	June 30, 2014
Och-Ziff Capital Management Group LLC	OZM	February 9, 2012 to April 25, 2014	July 7, 2014
Ruby Tuesday, Inc.	RT	April 11, 2013 to October 9, 2013	July 7, 2014
KBR, Inc.	KBR	April 25, 2013 to May 5, 2014	July 8, 2014
Cliffs Natural Resources Inc.	CLF	March 14, 2012 to March 26, 2013	July 11, 2014
Blucora, Inc.	BCOR	November 5, 2013 to February 20, 2014	July 14, 2014
Doral Financial Corporation (2014)	DRL	April 2, 2012 to May 1, 2014	July 14, 2014
Insys Therapeutics, Inc. (2014)	INSY	May 1, 2013 to May 8, 2014	July 14, 2014
Safeway Inc. (N.D. Cal.)	SWY		July 14, 2014
TelexFree	N/A		July 14, 2014
Ply Gem Holdings, Inc.	PGEM		July 18, 2014
Biozoom, Inc.	N/A	May 16, 2013 to June 25, 2013	July 21, 2014
Dell Inc. (2014)	DELL	February 22, 2012 to May 22, 2012	July 21, 2014
PowerSecure International, Inc.	POWR	March 10, 2014 to May 7, 2014	July 22, 2014
Higher One Holdings, Inc.	ONE	August 7, 2012 to May 12, 2014	July 28, 2014
Prospect Capital Corporation	PSEC	August 21, 2013 to May 6, 2014	July 28, 2014
Provectus Biopharmaceuticals, Inc.	N/A	December 17, 2013 toMay 22, 2014	July 28, 2014
Vertex Pharmaceuticals Incorporated (2014)	VRTX	May 7, 2012 to May 29, 2012	July 28, 2014
Covisint Corporation	COVS		July 29, 2014
Infoblox Inc.	BLOX	September 6, 2013 to February 10, 2014	July 29, 2014
Regional Management Corp.	RM		July 29, 2014
Chelsea Therapeutics International, Ltd. (2014) (D. Del)	CHTP		August 1, 2014

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
Ebix, Inc. (2011)	$6,500,000	May 6, 2009 to June 30, 2011	June 4, 2014
infoGROUP, Inc. (Delaware Chancery Court)	$13,000,000	August 20, 2008 to July 1, 2010	June 6, 2014
Lime Energy Co.	$2,500,000	May 14, 2008 to December 27, 2012	June 12, 2014
Safety Components International Inc. (2008) (n.k.a. International Textile Group, Inc.)	$10,000,000		June 16, 2014
Stillwater Funds (Gerova Financial Group, Ltd.) (S.D.N.Y.)	$2,058,000		June 16, 2014
K-V Pharmaceutical Company (2008)	$12,800,000	June 15, 2004 to January 23, 2009	June 19, 2014
Aeropostale, Inc.	$15,000,000	March 11, 2011 to August 18, 2011	June 20, 2014
Cybex International, Inc.	$1,830,000	October 17, 2012 to February 7, 2013	June 21, 2014
Smith Barney Mutual Funds	$4,950,000	September 11, 2000 to June 24, 2004	June 25, 2014
Novatel Wireless, Inc.	$16,000,000	February 27, 2007 to September 15, 2008	June 30, 2014
Textron Inc./Harman International Industries (SEC)	$6,228,728		June 30, 2014
Massey Energy Company (2010)	$265,000,000	February 1, 2008 to July 27, 2010	July 3, 2014
Genoptix, Inc. (S.D. Cal.)	$7,700,000	July 31, 2009 to June 16, 2010	July 7, 2014
China Green Agriculture, Inc.	$2,500,000	May 12, 2009 to January 4, 2011	July 9, 2014
CNinsure Inc.	$6,625,000	March 2, 2010 to November 21, 2011	July 9, 2014
UniTek Global Services, Inc.	$1,550,000	May 18, 2011 to April 12, 2013	July 11, 2014
Oppenheimer Champion Income, Core Bond Fds (SEC)	$35,366,000		July 20, 2014
Hospira, Inc.	$60,000,000	February 4, 2010 to October 17, 2011	July 21, 2014
Chanticleer Holdings, Inc	$850,000	June 21, 2012 to February 19, 2013	July 24, 2014
Yuhe International, Inc. (C.D. Cal.)	$2,700,000	December 31, 2009 to June 17, 2011	July 31, 2014
Swisher Hygiene Inc. (W.D. N.C.)	$5,500,000	March 1, 2011 to March 28, 2012	August 1, 2014
Chemed Corporation	$6,000,000	February 15, 2010 to May 2, 2013	August 8, 2014
First Regional Bancorp	$5,500,000	January 30, 2007 to January 29, 2010	August 8, 2014
The Orchard Enterprises, Inc. (2012)	$10,725,000	March 15, 2010 to July 29, 2010	August 12, 2014
Oclaro, Inc.	$3,700,000	May 6, 2010 to October 28, 2010	August 13, 2014
Advanta Corp. (2009)	$13,250,000	October 16, 2006 to January 30, 2008	August 18, 2014
Heckmann Corporation (n.k.a. Nuverra Environ'l Sol.)	$27,000,000	May 20, 2008 to May 8, 2009	August 18, 2014
Kosmos Energy Ltd.	$10,200,000	May 10, 2011 to January 10, 2012	August 18, 2014

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The Law Firm Institutional Investors Trust
for Securities Monitoring and Litigation

Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities, antitrust, mergers and acquisitions, and insurance litigation. Founded by the late Abraham L. Pomerantz, known as the 'dean of the class action bar,' the firm pioneered the field of securities class actions. Today, more than 77 years later, Pomerantz continues in the tradition that Abe Pomerantz established, fighting for the rights of victims of securities fraud, breaches of fiduciary duty, and corporate misconduct. Prior results, however, do not guarantee a similar outcome in future cases.

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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

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