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POMERANTZ ACHIEVES $110 MILLION CLASS ACTION SETTLEMENT IN FIAT CHRYSLER LITIGATION

By Michael J. Wernke

In a significant victory for investors, Pomerantz, as lead counsel for the class, has achieved a $110 million settlement with Fiat Chrysler Automobiles N.V. as well as certain of Fiat Chrysler's former executives. Judge Jesse Furman in the district court of the Southern District of New York granted preliminary approval of the settlement on April 10, 2019 and set the final approval hearing for September 5, 2019.

The litigation against one of the world's largest car manufacturers involved accusations that the defendants misled investors when they asserted that the company was complying with its obligations to conduct safety recalls under regulations promulgated by the National Highway Traffic Safety Administration ("NHTSA") as well as with emissions regulations, promulgated by the Environmental Protection Agency ("EPA") and the European Union, designed to control emissions of Nitrogen Oxide ("NOx"). In truth, Fiat Chrysler had a widespread pattern of violations dating back to 2013, in which the company would purposefully delay notifying vehicle owners of defects and failing to repair the defects for months or years. The company also improperly outfitted its diesel vehicles in the U.S. and Europe (including Jeep Grand Cherokee and Ram 1500) with "defeat device" software designed to cheat NOx emissions regulations. The defeat device software, which was similar to that employed by Volkswagen in the highly publicized "Dieselgate" scandal, was able to detect when the vehicle was being tested by a regulator (such as the EPA). When testing conditions were detected, the vehicle would perform in a compliant manner, limiting emissions of NOx. When testing conditions were not detected, such as during real-world driving conditions, the emissions controls were disabled, and the vehicles would spew illegal and dangerous levels of NOx.

The truth concerning Fiat Chrysler's violations was revealed in a series of disclosures that caused the company's stock price to plummet. On July 26, 2015, NHTSA announced a Consent Order against Fiat Chrysler, fining the company a record-high $105 million and requiring a substantial number of recalls and repairs. On October 28, 2015, the company announced a $900 million charge to earnings for an increase in estimated future recalls. The company's stock price also declined in 2016 and 2017, when the EPA and other US and European regulators publicly accused Fiat Chrysler of using defeat devices to cheat NOx emissions regulations.

The settlement was achieved after three and a half years of hard-fought litigation. Discovery was wide-ranging. It involved analyzing millions of pages of documents concerning highly complex issues of emissions software programming and resulted in the exchange of reports by eleven experts on issues implicating U.S. as well as European regulations. The claims ultimately survived multiple rounds of motions to dismiss. Initially the emissions allegations were dismissed because the court determined that the complaint did not plead facts sufficient to demonstrate that the defendants knew that their statements of compliance were misleading. We were given leave to replead, and Pomerantz then filed Freedom of Information Act requests with the EPA. Its response included emails from Fiat Chrysler executives showing that they knew that the EPA had discovered certain defeat devices on the company's vehicles. The defendants nevertheless continued to falsely assure investors that the company's vehicles were compliant and did not contain any such defeat devices. When we filed an amended complaint that included those facts, these additional allegations revived the emissions claims.


Partner Michael J. Wernke

Ultimately Pomerantz secured class certification on behalf of investors, which was followed by summary judgment proceedings. As the prospect of trial loomed, defendants finally agreed to the settlement.

In addition to creating precedent-setting case law in successfully defending the various motions to dismiss, Pomerantz also significantly advanced investors' ability to obtain critically important discovery from regulators that are often at the center of securities actions. During the course of the litigation, Pomerantz sought the deposition of a former employee of NHTSA. The United States Department of Transportation ("USDOT"), like most federal

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agencies, has enacted a set of regulations — known as "Touhy regulations" — governing when its employees may be called by private parties to testify in court. On their face, USDOT's regulations apply to both current and former employees. In response to Pomerantz's request to depose a former NHTSA employee that interacted with Fiat Chrysler, NHTSA denied the request, citing the Touhy regulation. Despite the widespread application, and assumed appropriateness, of applying these regulations to former employees throughout the case law, Pomerantz filed an action against USDOT and NHTSA, arguing that the statute pursuant to which the Touhy regulations were enacted speaks only of "employees," which should be interpreted to apply only to current employees. The court granted summary judgment in favor of Pomerantz's clients, holding that "USDOT's Touhy regulations are unlawful to the extent that they apply to former employees." This victory will greatly shift the discovery tools available, so that investor plaintiffs in securities class actions against highly-regulated entities (for example, companies subject to FDA regulations) will now be able to depose former employees of the regulators that interacted with the defendants during the class period to get critical testimony concerning the company's violations and misdeeds.

The firm's perseverance resulted in a recovery that provides the class of investors with as much as 20% of recoverable damages—an excellent result when compared to historical statistics in class action settlements, where typical recoveries for cases of this size are between 1.6% and 3.3%.

Attorney Omar Jafri

SUPREMES: DISTRIBUTING FALSE STATEMENT CAN BE SECURITIES FRAUD

By Omar Jafri

In a case called *Stoneridge* brought by Pomerantz a decade ago, the Supreme Court approved the doctrine of "scheme liability," holding that a defendant can be liable for securities fraud even if he never made a misleading statement to investors, so long as he participated in an "act, practice, or course of business which operates or would operate as a fraud or deceit." Later, in *Janus,* the Court held that a defendant cannot be liable for a misleading statement made to investors unless he made the misstatement itself or had ultimate authority over the contents of that statement. Any lesser involvement, such as drafting the contents of the statement, could at most be considered "aiding and abetting," which, under yet another Supreme Court decision, is not a violation.

These doctrines have now intersected in a recent Supreme Court decision in *Lorenzo v. SEC.* In this case, a false statement was made to investors, but the defendant was not the "maker" of the statement. The Supreme Court held that the defendant, who merely forwarded his boss's false statement to his clients, was liable for securities fraud under the theory of scheme liability.

Scheme liability is based on the language of SEC Rule 10b-5, which makes it unlawful to (a) "employ any device, scheme, or artifice to defraud," … or (c) "engage in any act, practice, or course of business which operates or would operate as a fraud or deceit … in connection with the purchase or sale of any security." The question before the Court in *Lorenzo* was whether those who do not "make" the misleading statements, but who disseminate them to investors with the intent to defraud, can be found to have violated subsections (a) and (c) and other related provisions of the securities laws. Defendant Lorenzo argued that scheme liability applies only when there are no false statements; otherwise, someone could be held liable for a false statement even if he did not make the statement himself. The Supreme Court rejected that argument.

Lorenzo was a director of investment banking at Charles Vista, LLC ("Charles Vista"). Lorenzo's client, Waste2Energy, publicly touted that its assets were worth about $14 million, but Lorenzo knew that this figure included intellectual property claimed to be valued at $10 million that, as he later testified, was a "dead asset" that "didn't really work." In 2009, Waste2Energy hired Charles Vista to sell debentures to investors. In the fall of 2009, Waste2Energy told Lorenzo that the company had written off all its intellectual property as "worthless," which left the company with a net worth of $370,552. Still, Lorenzo sent two emails to potential investors that described the debentures as having "multiple layers of protection," including "$10 million in confirmed assets." Lorenzo testified that he had not composed the emails himself but had merely forwarded them to clients at the direction of his boss. But he did know they were false.

The Supreme Court held that Lorenzo's dissemination of false or misleading statements fell within the scope of subsections (a) and (c) and subjected him to scheme liability. The Court held that because Lorenzo sent emails that he knew contained material untruths, he had "employed" a "device," "scheme," and "artifice" to "defraud" and had violated subsection (c) because he "engage[d] in a[n] act, practice, or course of business" that "operate[d] … as a fraud or deceit." The Court, repeatedly noting that Lorenzo's conduct easily fell within the ambit of both subsections (a) and (c), relied on dictionary definitions of the words contained in those subsections to emphasize that they apply to a wide range of misconduct.

The Court also repeatedly emphasized that its conclusion is consistent with the purpose of the securities laws. For example, the Court noted that the application of subsections (a) and (c) to a broad range of misconduct is consistent with the principle established in the Court's decision in *SEC v W.J. Howey & Company* over seventy years ago: "to substitute a philosophy of full disclosure for the philosophy of caveat emptor in the securities industry." Similarly, the Court noted that its broad interpretation of subsections (a) and (c) was consistent with the principle highlighted in an earlier decision in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*: that even a "bit participant in the securities market … may be liable as a primary violator under Rule 10b-5," so long as all of the other requirements are met.

It rejected Lorenzo's argument that subsections (a) and (c) apply only to conduct that did not involve misstatements, and since he was not the "maker" of an untrue statement under subsection (b), none of the provisions of Rule 10(b)-5 applied to him. The Court held that this argument was irreconcilable with the plain and expansive language of subsections (a) and (c), and further held that sustaining Lorenzo's argument would allow those who disseminate, but do not make, statements to escape liability altogether. The Court also rejected Lorenzo's and the dissent's claim that an application of subsections (a) and (c) to his conduct would render the Court's decision in *Janus* a "dead letter." It noted that *Janus* remains relevant where an individual neither makes nor disseminates false or misleading statements. Because Lorenzo clearly disseminated false statements and, in fact, did not contest that he did so intentionally, the Court held that he violated subsections (a) and (c) of Rule 10b-5 even if he was not the "maker" of the statements under subsection (b).

The distinction between aiding and abetting, which is not actionable, and engaging in a scheme to defraud, which is, will doubtless continue to pose perplexing issues for courts well into the future. It is hard to understand why drafting a misstatement is OK, while sending that misstatement to someone else is not.

CAN SHAREHOLDERS PROPOSE BYLAWS REQUIRING MANDATORY ARBITRATION OF SECURITIES FRAUD CLAIMS?

By Marc I. Gross and Michael Grunfeld

Last year it was revealed that Johnson & Johnson ("J&J") had knowingly marketed talcum powder containing asbestos, which may have caused ovarian cancer in consumers. This revelation caused J&J's stock price to plummet and triggered a securities fraud class action on behalf of investors. In an effort to thwart that class action and others, Professor Hal S. Scott, the Director of the Program on International Financial Systems at Harvard Law School, representing a small J&J shareholder, submitted a proxy proposal to the Company for a shareholder vote to approve a corporate bylaw that would require all securities fraud claims against the company be pursued through mandatory arbitration, and would waive class action rights.

Such a proposal, if adopted, would sound the death knell for all securities claims against the company. In particular, prohibiting class actions would make it economically unfeasible, in almost all cases, for anyone but the largest shareholders to bring such an action.

J&J decided to reject this proposal because it would violate state law, and obtained a No Action Letter from the SEC, indicating that the agency would not object to exclusion of the proposal. Undeterred, Professor Scott filed an action in Federal District Court in New Jersey contesting the rejection, in an action called *The Doris Behr 2012 Irrevocable Trust v. Johnson & Johnson*. The court denied Professor Scott's motion for an order compelling J&J to include the Proxy Proposal for the shareholder meeting that recently took place, on grounds that the motion was too late for this year. Nonetheless, the case will continue on the merits and there is little doubt that Professor Scott will pursue the proposal next year. While to date J&J has

Left to right:
Partner Michael Grunfeld, and Senior Counsel Marc I. Gross

excluded the proposal from its proxy materials, there is no certainty that it will do so in the future. Pomerantz has been retained by the Colorado Public Employees' Retirement Association ("COPERA") to intervene in the Proxy Litigation to ensure that investors' rights are protected. We believe that COPERA, a large J&J investor that is also a putative class member in the pending class action arising from underlying securities fraud claims, is ideally suited to represent shareholders' interests—including their appellate rights—in the Proxy Litigation.

Historically, the Securities and Exchange Commission ("SEC") has opposed proposals to mandate arbitration of claims brought by IPO and open market purchasers. More recently, in response to questions posed at Congressional hearings in early 2018, SEC Chairman Jay Clayton committed to hold public hearings if the Commission rethought its position. Pomerantz and institutional investors such as COPERA have been at the forefront of explaining to the SEC why such proposals are contrary to law and public policy supporting shareholder rights.

Our objection is based on the proposition that corporate bylaw provisions, such as the proposal here, violate the "internal affairs" doctrine that is a fundamental principle of state corporate law. As then-Chancellor Leo Strine (who is now Chief Justice of the Delaware Supreme Court) set out in *Boilermakers Local 154 Ret. Fund v. Chevron Corp.*, under Delaware law, the "internal affairs" doctrine limits corporate bylaws to regulation of intra corporate disputes between management and shareholders, such as breaches of fiduciary duty and waste. Bylaws cannot govern "external relationships" between third-party contractors and investors whose claims arise from deception when they purchased their shares. Consistent with that rule, on December 11, 2018, in *Sciabacucchi v. Salzberg*, the Delaware Court of Chancery rejected Blue Apron's adoption

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of a bylaw mandating that Securities Act claims be filed only in federal court. The court based this decision on the "internal affairs" doctrine, explaining that "there is no reason to believe that corporate governance documents, regulated by the law of the state of incorporation, can dictate mechanisms for bringing claims that do not concern corporate internal affairs, such as claims alleging fraud in connection with a securities sale." For these reasons, the New Jersey Attorney General issued an opinion on January 29, 2019 stating unequivocally that "the Proposal, if adopted, would cause Johnson & Johnson to violate New Jersey state law [where Johnson & Johnson is incorporated], [and] in the opinion of my office, the Proposal should be excluded" from the Company's proxy materials. The Attorney General based this determination on the text of the New Jersey Business Corporations Act (including recent amendments to the statute), New Jersey caselaw, and the Delaware cases described above.

While efforts to date have thwarted imposition of mandatory arbitration on federal securities law claims, continued vigilance is necessary. Professor Scott no doubt hopes to ultimately bring this matter to the U.S. Supreme Court for a ruling on whether the Federal Arbitration Act pre-empts state law restrictions on mandatory arbitration agreements. Starting with *AT&T Mobility v. Concepcion, 563 U.S. 333 (2011)*, the Supreme Court has held that brokerage clients, consumers, employees and others can be compelled by "contract" to arbitrate any disputes. Investors will argue, though, that aside from the Supreme Court's prior deference to state law for corporate governance matters, there is no "contract" between investors and companies when securities are purchased in the open market. The "contract" is only with the direct seller, and there is certainly no "consent" to the arbitration.

Pomerantz expects challenges will nonetheless arise in this area over the next few years and intends to continue its efforts to protect investor rights.

[Eds. Note: For a discussion of Pomerantz's role in urging the SEC to maintain its existing stance against forced arbitration, see Jennifer Pafiti's article in the November/December 2018 issue of the Monitor. For more on Sciabacucchi v. Salzberg*, read Andrea Farrah's article in the January/February 2019 issue.]*

Attorney Roxanna Talaie

SEC ISSUES EXPANDED "TEST-THE-WATERS" COMMUNICATION RULES

By Roxanna Talaie

On February 19, 2019, the U.S. Securities and Exchange Commission (the "SEC") proposed a rule under the Securities Act of 1933, Rule 163B, that would relax regulatory burdens for all issuers, including investment company issuers. Specifically, the new rule would permit all issuers to solicit investor views about potential offerings and to consider these views at an earlier stage than currently is permissible. Such a rule would expand the "test-the-waters" accommodation that is currently available to emerging growth companies ("ECGs"). If adopted, this rule would result in earlier communications with potential investors to assist in evaluating the market and developing relationships with them.

The notion of test-the-waters was originally introduced when Congress passed the Jumpstart Our Business Startups Act (the "JOBS Act") in 2012. Under the JOBS Act, ECGs are allowed to assess the interest of qualified institutional buyers and institutional accredited investors in connection with proposed securities offerings.

The proposed Rule 163B would allow issuers to engage in oral or written communications with potential investors that are, or that the issuer reasonably believes to be, qualified institutional buyers or institutional accredited investors. A qualified institutional buyer is a specified institution that owns and invests on a discretionary basis at least $100 million in securities of unaffiliated issuers. Institutional investors, including organizations not formed for the purpose of acquiring the securities offered and with assets in excess of $5 million, are considered accredited investors and must meet the criteria of SEC Rule 501(a)(1), (a)(2), (a)(3), (a)(7), or (a)(8), The SEC thus believes that these types of entities do not need the protection of the Securities Act's registration process as they are more financially sophisticated than an average investor.

An issuer or person authorized to act on the issuer's behalf would be required only to reasonably believe that a potential investor is a qualified institutional buyer or institutional accredited investor. The SEC failed to provide specific steps that an issuer could or must take to establish a reasonable belief that the intended recipient of the communications is qualified. Instead, the SEC is apparently assuming that issuers can and should continue to rely on current and previous methods used to assess an investor's status.

SEC chairman Jay Clayton issued a press release announcing the proposed rule with the goal that "[e]xtending the test-the-waters reform to a broader range of issuers is designed to enhance [the issuer's] ability to conduct successful public securities offerings and lower their cost of capital, and ultimately to provide investors with more opportunities to invest in public companies."

Proponents of this new rule argue that in allowing more issuers to engage with a set of financially sophisticated institutional investors while the company is in the process of preparing for a securities offering could help issuers assess the demand for and value of their securities. Further, issuers would be able to discern which terms and structural components of the offering would be important to investors before the company incurs costs associated with the launch of an offering.

Ultimately, it appears that the SEC's goal is to increase registered offerings in the United States. In doing so, the SEC believes that it can "have long-term benefits for investors and [the U.S.] markets, including issuer disclosures, increased transparency in the marketplace, better informed investors, and a broader pool of issuers in which any investor may invest." According to the *Wall Street Journal*, the number of public companies has declined by about 50% since the mid-1990s. The JOBS Act failed to substantially increase the number of initial public offerings ("IPOs") that occurred in the past few years. Close to 40% of eligible ECGs that conducted IPOs took advantage of the JOBS Act test-the-waters provision in 2015, but that percentage fell to less than 25% in 2016. It is difficult to ascertain at this time whether Rule 163B will increase IPOs. If that is the case, one can only hope that the SEC's goal of providing issuers and investors flexibility and transparency alike does not lead to increased litigation regarding fraudulent claims as we have previously seen in IPOs filed and a company's related subsequent stock drop.

Taking the potential benefits of Rule 163B into consideration, the next logical question that follows would be how these expanded rules play into the protection that investors would be afforded. Although the new rule would exempt test-the-waters communications and would need not be filed with the SEC, that is not to say that investors are left without any type of protection. The proposed rule provides that such communications would still be considered "offers" as defined under the Securities Act, thereby allowing liability and anti-fraud provisions to continue to be applicable. Further, the information disclosed during communications must not conflict with material information in the related registration statement and, as is the practice of the SEC when reviewing offerings conducted by EGCs, the SEC or its staff can "request that an issuer furnish the staff any test-the-waters communication used in connection with an offering." Lastly, the SEC cautioned public companies that certain test-the-water communications could trigger disclosure under Regulation FD, which requires public companies to make public disclosure of any material non-public information that has been selectively disclosed to certain securities market professionals or shareholders. To avoid the application of Regulation FD, the SEC recommended having the recipient of the communication enter into a non-disclosure agreement to mitigate the need for public disclosure.

Flexibility and efficiency continue to be touted as reasons why this proposed rule is beneficial. The SEC argues that it will increase access to public capital markets by providing flexibility to issuers regarding their communications and determining which investors qualify under Rule 163B as intended recipients of such communications. As such, companies are in a better position to evaluate market interest and have discussions regarding the transaction terms required to address the most important concerns institutional investors may have, thereby providing a more efficient and effective capital-raising process. By the same token, the goal for investors will be transparency and obtaining information that may allow for more sound, confident financial decisions. Ultimately, investor protection must be at the forefront of any regulation created or amended by the SEC, without which interest in capital markets would greatly decrease.

Proposed Rule 163B was subject to a 60-day public comment period following its publication in the Federal Register. That period ended on April 29, 2019.

SEC TRIMS PUBLIC COMPANY DISCLOSURE RULES

By Brenda Szydlo

Of Counsel Brenda Szydlo

After the stock market crash in October 1929 that led to the Great Depression, public confidence in the markets was at an all-time low. The Securities Act of 1933 and the Securities Exchange Act of 1934 were designed to restore confidence in public markets by providing investors with *more* reliable information.

On March 20, 2019, without an open meeting, the Securities Exchange Commission ("SEC") voted to trim certain disclosure requirements for public companies. The only dissenting Commissioner was Robert Jackson. According to the SEC's March 20, 2019 press release, "[t]he amendments are intended to improve the readability and navigability of company disclosures, and to discourage repetition and disclosure of immaterial information."

The final amendments are consistent with the SEC's mandate under the Fixing America's Surface Transportation ("FAST") Act. In 2015, Congress mandated the SEC to review Regulation S-K, the rules that describe what public companies must report in public disclosures, and to streamline where possible. The amendments are also based on recommendations in the SEC staff's FAST Act Report as well as an overall review of the SEC's disclosure rules. The amendments span a number of topics; the more significant amendments are discussed below.

Elimination of Confidential Treatment Request Process

Specifically, the amendments provide that in regulatory filings, public companies can redact confidential information in material contracts and certain other exhibits without submitting a confidential treatment request. Regulation S-K has been amended to provide that a public company can make this decision on its own, as long as the information is not material and would likely cause competitive harm to the company if publicly disclosed. While issuers will surely find this amendment to be one of the most welcome changes in the new rules, investors will clearly be left with less information, which is troubling.

Commissioner Jackson is also troubled by the new rule. In a March 26, 2019 public statement on the final rules, Commissioner Jackson stated (emphasis in original):

> The rule . . . removes our Staff's role as gatekeepers when companies redact information from disclosures – despite evidence that redactions already deprive investors of important information.
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> ***
>
> Historically, we've required firms to work with our Staff when sensitive information is redacted from exhibits to registration statements. There are often good reasons for our Staff to permit redactions. But recent research shows that redactions *already* include information that insiders or the market deem material – showing how important careful review of these requests can be for investors.

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> Today's rule removes both the requirement that firms seek Staff review before redacting their filings and the requirement that companies give our Staff the materials they intend to redact. The release doesn't grapple with the effects of that decision for the marketplace. But one thing is clear: in a world where redactions already rob the market of information investors need, firms will now feel more free to redact as they wish. And investors, without the assurance that redactions have been reviewed by our Staff, will face more uncertainty.

Only Two-Year Discussion Needed in Management's Discussion and Analysis

The SEC also amended the rules to provide that public companies may disclose less information in the Management Discussion and Analysis ("MD&A") section of their filings. MD&As, which are the opinions of management, provide an overview of how the company performed in prior periods, its current financial condition, and projected results. This is one of the most closely reviewed parts of a company's financial statements. Historically, in an annual report on Form 10-K or Form 20-F, a public company was required to address the three-year period covered by the financial statements included in the filing. In the final amendments as adopted, where companies provide financial statements covering three years in the filing, companies will generally be able to exclude discussion of the earliest of three years in the MD&A if they have already included the discussion in a prior filing.

Description of Property Holdings

Prior to amendment, the rules provided that public companies must disclose the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. Because the rule created ambiguity and elicited information that may not have been consistently material, the rules were amended to provide that public companies are required to disclose information about their physical properties only to the extent that it is material to the companies.

Two-Year Look-Back for Material Contracts

Prior to amendment, the rules required companies to file every contract not made in the ordinary course of business if the contract is material and (i) to be performed after the filing of the registration statement or report, or (ii) was entered into not more than two years before the filing. The amended rules limit the application of the two-year look-back requirement for material contracts only to newly reporting registrants.

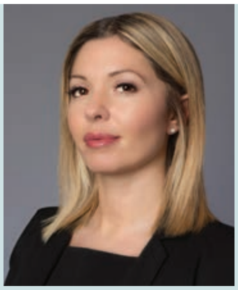
The SEC Abandons a Proposed Amendment Regarding Legal Entity Identifiers

The SEC also decided not to adopt a proposed amendment that would have required companies to include legal entity identifiers ("LEIs") of the registrant and each subsidiary listed in financial transactions. The LEI is a 20-digit, alphanumeric code that identifies legal entities participating in financial transactions. Given the increasingly complex organizational structures of companies, LEIs provide a precise standard for identifying legal entities responsible for risk-taking. Commissioner Jackson was troubled that this proposed amendment was abandoned. He was particularly concerned that "the financial crisis taught regulators that firms' complex structures made it impossible to identify the corporate entities responsible for risk taking," and that the Commission majority had provided "little evidence or reasoning" for eliminating that requirement. He concluded that, overall, the proposed new rules would "rob the market of information investors need to price decisions."

The Take-Away

Pomerantz echoes Commissioner Jackson's concerns that abandoning a proposed amendment regarding LEIs and trimming certain disclosure rules for public companies rob the market of information investors need to price decisions.

NOTABLE DATES ON THE POMERANTZ HORIZON



Jennifer Pafiti

Jeremy A. Lieberman

Ari Y. Basser

JEREMY LIEBERMAN and **JENNIFER PAFITI** will attend the Conference of Western Attorneys General (CWAG)'s Annual Meeting in Santa Barbara, California from June 17 - 20.

Jennifer will also attend the National Association of Public Pension Employees (NAPPA)'s Legal Education Conference in San Diego, California from June 25 – 28.

Pomerantz will host a Roundtable Discussion in Tel Aviv on July 15, titled: Streamlining Regulatory and Legal Impediments to Increased U.S.-Israeli Capital Markets Investment. Featured speakers will be **ROBERT J. JACKSON, JR.**, Commissioner of the SEC, and **ANAT GUETTA**, Chairperson of the Israeli Securities Authority. **JEREMY LIEBERMAN** will also speak at the event.

ARI BASSER will attend the American Association for Justice conference in San Diego, CA, from July 27-30.

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
Amyris, Inc.	AMRS	March 15, 2018 to March 19, 2019	June 3, 2019
Care.com, Inc.	CRCM	March 27, 2015 to April 1, 2019	June 3, 2019
Flex Ltd.	FLEX	January 26, 2017 to October 25, 2018	June 4, 2019
comScore, Inc.	SCOR	November 8, 2018 to March 29, 2019	June 10, 2019
Mueller Water Products, Inc.	MWA	May 9, 2016 to August 6, 2018	June 10, 2019
Orion Group Holdings, Inc.	ORN	March 13, 2018 to March 26, 2019	June 10, 2019
The Boeing Company	BA	January 8, 2019 to May 8, 2019	June 10, 2019
Zogenix, Inc.	ZGNX	February 6, 2019 to April 8, 2019	June 11, 2019
BrightView Holdings, Inc.	BV	purchases pursuant to July 2, 2018 IPO	June 14, 2019
Eventbrite, Inc.	EB	September 20, 2018 to March 7, 2019	June 14, 2019
South Carolina Public Service Authority	N/A	August 23, 2013 to July 31, 2017	June 14, 2019
Taronis Technologies, Inc.	TRNX	January 28, 2019 to February 12, 2019	June 14, 2019
Teligent, Inc.	TLGT	May 2, 2017 to November 7, 2017	June 14, 2019
Apple Inc.	AAPL	November 2, 2018 to January 2, 2019	June 17, 2019
Apyx Medical f/k/a/ Bovie Medical	APYX	August 1, 2018 to April 1, 2019	June 17, 2019
Fusion Connect, Inc.	FSNN	August 14, 2018 to April 2, 2019	June 17, 2019
Whitestone REIT	WSR	May 9, 2018 to February 27, 2019	June 17, 2019
Nokia Corporation	NOK	April 15, 2015 to March 21, 2019	June 18, 2019
Sprint Corporation	S	January 31, 2019 to April 16, 2019	June 21, 2019
Boston Scientific Corp.	BSX	February 26, 2015 to April 16, 2019	June 24, 2019
Indivior PLC	INVVY	March 10, 2015 to April 9, 2019	June 24, 2019
KushCo Holdings, Inc.	KSHB	July 13, 2017 to April 9, 2019	July 1, 2019
Nabriva Therapeutics plc	NBRV	November 1, 2018 to April 30, 2019	July 8, 2019
Equity Bancshares, Inc.	EQBK	May 11, 2018 to April 22, 2019	July 12, 2019
AAC Holdings, Inc.	AAC	March 8, 2017 to April 15, 2019	July 15, 2019
Intersect ENT, Inc.	XENT	August 1, 2018 to May 6, 2019	July 15, 2019
Jumia Technologies AG	JMIA	April 12, 2019 to May 9, 2019	July 15, 2019
Momo Inc.	MOMO	April 21, 2015 to April 29, 2019	July 15, 2019
Revlon, Inc.	REV	March 12, 2015 to March 28, 2019	July 15, 2019
CBL & Associates Properties, Inc.	CBL, CBL.PRD,CBL.PRE	November 8, 2017 to March 26, 2019	July 16, 2019
Dynagas LNG Partners LP	DLNG	February 16, 2018 to March 21, 2019	July 16, 2019
Lyft, Inc.	LYFT	purchases pursuant to March 28, 2018 IPO	July 16, 2019

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
China Energy Savings Technology, Inc. (SEC)	$5,688,915	July 1, 2004 to February 15, 2006	June 4, 2019
Extreme Networks, Inc.	$7,000,000	September 12, 2013 to April 9, 2015	June 6, 2019
PHC, Inc. d/b/a Pioneer Behavioral Health	$3,076,190	regarding October 26, 2011 Merger	June 6, 2019
Barclays PLC	$27,000,000	August 2, 2011 to June 25, 2014	June 7, 2019
UBS Financial Services, Inc. of Puerto Rico (SEC)	$26,609,739	May 15, 2008 to September 30, 2009	June 10, 2019
Power Solutions International, Inc.	$8,500,000	February 27, 2014 to February 2, 2017	June 13, 2019
Thoratec Corporation	$11,900,000	May 11, 2011 to August 6, 2014	June 18, 2019
Sprouts Farmers Market, Inc.	$9,500,000	re March 5, 2015 secondary offering	June 25, 2019
Alere Inc.	$20,000,000	May 9, 2013 to October 3, 2017	June 26, 2019
MRI International, Inc. (LVT, Inc. d/b/a Sterling Escrow)	$800,000	July 5, 2008 to July 5, 2013	June 26, 2019
Omnicare, Inc.	$20,000,000	regarding December 12, 2005 IPO	July 1, 2019
Wells Fargo Bank, NA	$43,000,000	June 14, 2018 to the present	July 2, 2019
JBS S.A.	$5,466,600	June 1, 2013 to July 5, 2017	July 8, 2019
Fiat Chrysler Automobiles N.V.	$14,750,000	November 3, 2014 to July 26, 2016	July 10, 2019
K12 Inc.	$3,500,000	October 10, 2013 to October 27, 2015	July 13, 2019
Apollo Education Group, Inc.	$7,400,000	November 13, 2013 to October 21, 2015	July 19, 2019
LSB Industries, Inc.	$18,450,000	November 7, 2014 to November 5, 2015	July 23, 2019
ImmunoCellular Therapeutics, Ltd.	$1,150,000	May 1, 2012 to May 30, 2014	July 24, 2019
Diamond Foods, Inc. (SEC)	$5,250,000	February 26, 2010 to February 9, 2012	July 29, 2019
Inovalon Holdings, Inc.	$17,000,000	February 12, 2015 to August 5, 2015	July 30, 2019
EURIBOR (Antitrust) (JPMorgan/Citi)	$182,500,000	June 1, 2005 to March 31, 2011	July 31, 2019
Chiasma, Inc.	$18,750,000	July 15, 2015 to June 9, 2016	August 2, 2019
Stericycle, Inc.	$45,000,000	February 7, 2013 to February 21, 2018	August 7, 2019
Blount International, Inc.	$3,059,000	March 4, 2016 to April 12, 2016	August 12, 2019
Citi Sponsored ADRs (Citibank)	$14,750,000	January 1, 2006 to September 4, 2018	August 12, 2019
Terex Corporation	$10,000,000	February 20, 2008 to February 11, 2009	August 13, 2019
The Bank of New York Mellon ADR FX	$72,500,000	January 1, 1997 to January 17, 2019	August 15, 2019
FX Instruments (Canada) (SocGen) (Antitrust)	$1,385,838	January 1, 2013 to December 31, 2013	August 19, 2019
GoPro, Inc. (N.D. Cal.) (Karma drones)	$6,750,000	September 19, 2016 to November 8, 2016	August 20, 2019
Fiat Chrysler Automobiles N.V.	$110,000,000	October 13, 2014 to May 23, 2017	August 28, 2019
Alibaba Group Holding Limited	$250,000,000	September 19, 2014 to January 28, 2015	September 3, 2019
JPMorgan Chase Bank, N.A. ADR FX	$9,500,000	November 21, 2010 to July 18, 2018	September 19, 2019

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