the POMERANTZ MONITOR

VOLUME 12, ISSUE 4 JULY/AUGUST 2015

PETROBRAS: THE WHOLE BARREL IS TAINTED, NOT JUST FOUR ROTTEN APPLES

By Justin Nematzadeh

INSIDE THIS ISSUE

On July 9, 2015, Pomerantz won a significant victory for investors against Petrobras, the Brazilian energy giant, and four of its senior executives, when the district court rejected defendants' motion to dismiss the action. For years Petrobras has been embroiled in a massive scandal, as prosecutors there have been pursuing the largest corruption investigation in that country's history. In 2009 Petrobras had a market capitalization of $310 billion; now, since this massive scheme came to light, it is down to $55 billion. As the *Monitor* previously reported, the scheme involved overcharging Petrobras for goods and services, with the excessive payments being used to bribe a host of Petrobras and government officials. This scheme was allegedly orchestrated by four Petrobras officials, all of whom are defendants in our action.

The heart of the company's motion was its contention that scienter, or knowledge, of the wrongdoing was limited to four "rogue" officers of the company, and that their knowledge cannot be "imputed," or attributed, to the company, under the so-called "adverse interest" theory. Normally, a company is deemed to know what its senior executives know; but if those executives are acting for their own personal interests, and contrary to the interests of their company, they are acting outside the scope of their employment and their knowledge is not imputed to the company. Here, defendants argued that the officers' conduct was adverse to the company's interests because the scheme diverted cash from the company, as a result of the overcharges the company paid, and into the pockets of the four individual defendants and various corrupt politicians and other conspirators. In addition, by artificially inflating asset values on Petrobras' balance sheet, defendants argued that the individuals harmed the company by causing it to pay excessive prices that were reflected in the carrying value of those assets.

But, as senior Pomerantz partner Jeremy Lieberman explained to the Court at the hearing on the motion to dismiss, knowledge of the scheme was not limited to the four "rotten apples," but was, in fact, widely disseminated in the company. Most notably, perhaps, he highlighted evidence showing that the Petrobras board was aware of the overbilling scheme. Moreover, he argued that the adverse interest exception applies only when the company receives no benefit whatsoever from the misconduct. Here, in contrast, the beneficiaries of the scheme were officials of the Brazilian government – which owns 51% of Petrobras' stock. Moreover, by failing to correct the company's fraudulent financial statements, the defendants were benefiting Petrobras by avoiding a massive write-down of the company's assets.

Attorney Justin Nematzadeh

Defendants also argued that the scheme was immaterial because its payments to contractors were inflated by only 3% and that the four conspirators received kickbacks amounting to a small portion of this 3%. As a result, when the scheme was disclosed Petrobras was forced to write off only $2.5 billion of property, plant and equipment on its balance sheet, about 8% of the total assets. In fact, however, our well-founded allegations showed that Petrobras was overbilled by about 20%, not 3%, and that the $2.5 billion write-down reflected only a small fraction of the actual impact of the fraudulent scheme.

OMNICARE

By Jessica N. Dell and H. Adam Prussin

In March, the Supreme Court, in a case called *Omnicare*, tackled the issue of when statements of opinion that appear in a registration statement can violate Section 11 of the Securities Act. Section 11 creates a private right of action for investors who purchased shares in an initial public offering when the registration statement contained materially false or misleading information. Unlike the antifraud provisions of the Exchange Act, Section 11 does not require that the investor show that the issuer, or the directors who signed the registration statement, had a culpable state of mind. If the registration statement was

Continued on page 2

Attorney Jessica N. Dell

wrong, defendants are liable. The company is subject to strict liability; the directors can escape liability only if they can establish an affirmative defense.

In *Omnicare* the registration statement expressed the belief that the rebates Omnicare was receiving from suppliers were legal. In its decision below, the Sixth Circuit had held that under Section 11 a statement of opinion or belief can violate Section 11 if the opinion or belief turned out to be wrong – even if the issuer and its directors sincerely believed it at the time.

The Supreme Court rejected that view, holding that statements of opinion or belief are not "misstatements of fact" for purposes of Section 11. "Most important, a statement of fact ('the coffee is hot') expresses certainty about a thing, whereas a statement of opinion ('I think the coffee is hot') does not." Because statements of opinion do not convey certainty about the subject, the Court rejected the contention that an expression of opinion or belief can be a misstatement of fact simply because it turned out to be wrong. Instead, the Court held that beliefs or opinions can be misstatements of fact only if the issuer did not really believe them at the time. While opinions themselves may be subjective, whether one holds them or not is an objective fact. In *Omnicare*, defendants clearly believed what they had said, so there was no misstatement of fact.

But the Court's opinion did not stop there. It also held that a reasonable investor is entitled to assume that the issuer had a basis for the opinion or belief it is conveying. For example, if the issuer says that it believes that certain of its business practices are in compliance with applicable law, as Omnicare did here, it would also have to disclose whether it had formed that belief without consulting a lawyer, or if its lawyers had given contrary advice. Omissions can render those statements misleading if "the investor … identifies particular (and material) facts going to the basis for the issuer's opinion—facts about the inquiry the issuer did or did not conduct or the knowledge it did or did not have—whose omission makes the opinion statement at issue misleading to a reasonable person reading the statement fairly and in context."

This issue is going to be the focus of future litigation over Section 11 liability for statements of opinion or belief. What type of foundation can investors reasonably assume a company has for such statements, and what qualifies as a material fact that had to be disclosed because it might undermine that assumed foundation? Time will tell.

OUR WALTER CASE SURVIVES MOTION TO DISMISS

By Murielle Stevens Walsh

Judge Ungaro of the U.S. District Court for the Southern District of Florida has recently denied the motion to dismiss our complaint against Walter Investment Management and several of its officers.

The case alleges that the defendants misrepresented that the company had sound internal controls and was in compliance with federal regulations regarding mortgage servicing, when in fact one of the company's primary subsidiaries, Green Tree Servicing, had engaged in rampant violations of federal consumer laws. Walter's stock price declined when the company revealed that the government was investigating it for these violations. Defendants initially moved to dismiss our original complaint, arguing that the disclosure of the investigation was not enough to establish loss causation, a requirement for a securities fraud claim. The court agreed, because under applicable 11th Circuit standards, the disclosure of a government investigation and possible government action, standing alone, were not enough to establish loss causation. The theory is that an investigation means that there is merely some possibility that violations had occurred, which the court held is not certain enough to amount to a "corrective disclosure" that the company's statements about legal compliance were wrong. The court did, however, grant us leave to amend the complaint.

Our second amended complaint included the new allegation that the government announced that it had decided to bring an enforcement action against the company to seek injunctive relief and fines. Importantly, analysts factored this development into

their price target for Walter stock. We included these facts in our amended complaint; and the judge found that this disclosure was sufficient to establish loss causation – even though the initiation of a lawsuit by itself is not tantamount to a "corrective disclosure" either, because the company still could prevail at trial. But the Court held that the bringing of the government action moved the potential losses much closer to reality.

Ultimately, the company settled the government case, agreeing to injunctive relief and the payment of fines.

Partner, Murielle Stevens Walsh

Whether disclosure of an investigation satisfies the "loss causation" requirement is a contentious issue in securities fraud litigation. Typically, it is such disclosures that actually trigger most of the losses; after that point, the market factors into the market price much of the risk of eventual litigation and its consequences.

DELAWARE BAN ON FEE-SHIFTING BYLAWS SIGNED INTO LAW

By Samuel J. Adams

In a victory for shareholder rights, Delaware's Governor recently signed into law a bill that prohibits fee-shifting bylaws for Delaware-incorporated publicly traded corporations. The bill was passed in response to a growing number of Delaware stock corporations that had recently begun adopting fee-shifting provisions that sought to pass defense costs on to unsuccessful shareholder plaintiffs or, in some cases, even plaintiffs that were only partly successful in a lawsuit for breaches of fiduciary duty or other similar claims. Because shareholder plaintiffs – like plaintiffs in all other kinds of actions – almost never prevail on all counts asserted in a complaint, the specter of crushing financial liability from such bylaws threatened to choke off almost all shareholder litigation, regardless of the merits.

The increasing number of fee-shifting bylaws adopted by Delaware corporations stemmed from the Delaware Supreme Court's decision last year in *ATP Tour v. Deutscher Tennis Bund*, which upheld a fee-shifting bylaw enacted by a private company. In that decision, the court held that a private Delaware corporation may adopt a bylaw which shifts all litigation expenses to a member plaintiff who does not obtain "a judgment on the merits that substantially achieves, in substance and amount, the full remedy sought." While the *ATP* court did not weigh in on whether such a bylaw would be permissible in the context of a public company, some public corporate boards of directors sensed an opening. With dozens of public companies adopting such fee-shifting provisions, action was needed by either the legislature or the judiciary in order to clarify the enforceability of these bylaws.

Earlier this year, prior to Delaware's enactment of the fee-shifting bylaw prohibition, Pomerantz was on the vanguard of the fight against fee-shifting provisions in a case of first impression in *Strougo v. Hollander*. In that opinion, the first to address fee-shifting provisions following *ATP*, the Delaware Court of Chancery found that a fee-shifting bylaw was inapplicable to a shareholder plaintiff and the class where the bylaw was adopted after a plaintiff had been forcibly cashed out through a reverse stock split. While not explicitly ruling on the broader issue of the applicability of fee-shifting bylaws generally to public corporations, Chancellor Bouchard found that the bylaw in that instance did not apply to the shareholder plaintiff both because the bylaw was adopted after the plaintiff had been forcibly cashed out as a shareholder, and also because Delaware law does not authorize bylaws that regulate the rights or powers of a stockholder whose equity interest in a corporation had been eliminated before the bylaw was adopted.

In enacting the bill, the Delaware legislature recognized the chilling effect that fee-shifting bylaws would likely have on the ability of shareholders to voice certain challenges to corporations in court. Because many public companies chose to incorporate in Delaware, the Delaware courts and judiciary have a substantial influence on corporate governance. The synopsis of the bill itself states that the prohibition on fee-shifting provisions was enacted "in order to preserve the efficacy of the enforcement of fiduciary duties in stock corporations." While many believed that the Delaware courts would have ultimately invalidated fee-shifting bylaws for public companies, the bill

Continued on page 4

Continued from page 3

obviated the need for the courts to weigh in on the issue. As a consequence, shareholder plaintiffs can seek to hold corporate fiduciaries accountable without the risk of liability to corporate defendants for potentially millions of dollars in attorneys' fees.

In a compromise, the recently-enacted bill also affirmed the enforceability of forum selection bylaws which seek to dictate the exclusive court in which plaintiffs may file certain types of shareholder litigation, such as those asserting claims for breaches of fiduciary duty. In many cases, shareholder plaintiff can elect to file such

Attorney Samuel J. Adams

litigation in either a public company's state of incorporation or the state of a corporation's headquarters. For Delaware public companies that wish to limit such litigation to a particular venue, the Delaware legislature clarified that such forum selection clauses are enforceable, so long as Delaware is selected as the exclusive forum for such litigation.

ARE AIRLINES CONSPIRING TO KEEP PRICES HIGH?

By Jayne Arnold Goldstein

Since 1978, when Congress enacted the Airline Deregulation Act ("ADA"), the domestic airline industry has been deregulated. The Act did away with governmental control over fares, routes and market entry of new airlines, leaving market forces to dictate these aspects of the industry, and causing the airlines to compete over fares, routes and seats.

Times have changed. Since 2005, with the merger of US Airways and America West, the airline industry has been significantly consolidated. The Delta and Northwest merger followed in 2008, the United and Continental merger in 2010, and the Southwest and AirTran merger in 2011. Most recently, American and US Airways merged in 2013, creating the biggest airline in the world. Today, American, United, Southwest and Delta account for over 80% of the domestic airline market. So much concentration of market power makes it easier for the few remaining behemoth competitors to rig the market.

On June 11, 2015, the *New York Times* published the article, "'Discipline' for Airlines, Pain for Fliers," in which it revealed that airlines had discussed maintaining "discipline" at a recent industry conference at the International Air Transport Association ("IATA") held in Miami earlier that month. "Discipline" in this context is a euphemism for limiting flights and seats, raising prices and increasing profit margins. At the meeting, Delta Airline's president, Ed Bastian, stated that Delta was "continuing with the discipline that the market place is expecting." Also at this meeting, American Airlines' chief, Dough Parker, stated that the airlines had learned their lessons from past price wars: "I think everybody in the industry understands that," he told Reuters. In May 2015, Defendant Southwest's chief executive, Gary C. Kelly, had considered breaking ranks and announced that Southwest would expand capacity in 2015-2016 by as much as 8 percent. However, after coming under fire at the IATA conference in June 2015, Mr. Kelly changed his position, stating, "We have taken steps this week to begin pulling down our second half 2015 to manage our 2015 capacity growth, year-over-year, to approximately 7 percent."

The "discipline" is paying off; it is projected that airline industry profits will more than double in 2015, to a record nearly $30 billion. When airlines (or other companies) collude to restrict capacity in their routes and seats, they are subject to violating the antitrust laws. When companies are not competing in the marketplace, consumers foot the bill with high prices.

Several senators called for a federal investigation of U.S. airline prices, which have not come down, despite the fact that the price of jet fuel has fallen dramatically. In mid-June, Senator Richard Blumenthal (D-Conn.) asked the Department of Justice to investigate possible collusion and anti-competitive behavior by U.S. airline companies following the meeting of top executives at the IATA annual conference. It appears that the Department of Justice heard the senators' requests, and is now investigating whether American, United, Southwest and Delta colluded to restrain capacity and drive up fares, an antitrust violation. On July 1, 2015, the airlines confirmed that the DOJ had requested information from them about capacity and other matters.

Partner, Jayne Arnold Goldstein

In the wake of alleged collusion among the airlines, numerous lawsuits have been filed. On July 10, 2015, Pomerantz instituted an antitrust class action on behalf of direct purchasers of airline tickets against American, United, Southwest and Delta. The case is pending in the Northern District of Illinois.

NINTH CIRCUIT REFUSES TO FOLLOW SECOND CIRCUIT'S INSIDER TRADING DECISION

By Leigh Handelman Smollar

In a controversial decision written by Manhattan U.S. District Judge Rakoff, sitting by designation, the 9th Circuit recently upheld an insider trading conviction and, in the process, refused to follow the standard established by the Second Circuit in its *Newman* opinion decided in 2014. That case made it more difficult to convict recipients of inside information ("tippees") by requiring the government to show that the tippee was not only aware that the information came from a corporate insider, but also that he or she knew that the insider (the "tipper") had received a tangible benefit in exchange for leaking the information, a benefit that was "objective, consequential and represents at least a potential gain of a pecuniary or similarly valuable nature." Newman rejects the theory that leaking to enhance a personal, family or business relationship satisfies the personal benefit requirement. Several guilty pleas obtained from tippees were overturned based on the decision.

The *Newman* case involved tippees who were several layers removed from the tipper's original disclosure of inside information. When inside information is passed

Continued on page 6

POMERANTZ WELCOMES JUSTIN NEMATZADEH AND J. ALEXANDER HOOD

The Firm welcomes two new associates to our securities litigation team in the New York office: Justin Nematzadeh and J. Alexander Hood II.

Prior to joining Pomerantz, Mr. Nematzadeh specialized in federal and state complex litigation and internal and regulatory investigations, focusing on securities and antitrust litigation. Mr. Nematzadeh earned his J.D. degree, cum laude, from Fordham University School of Law, where he served as a member of the Fordham Urban Law Journal and as business editor of the Fordham Dispute Resolution Society. Mr. Nematzadeh is the co-author of several legal articles and has contributed to chapters in the ABA's Antitrust Law Developments, as well as many other publications. He was awarded a 2013 Pro Bono Publico award from The Legal Aid Society. He earned his B.B.A. degree, with distinction, from the University of Michigan School of Business.

Mr. Hood is a member of the Firm's new matter group and focuses on the identification and investigation of potential violations of the federal securities laws. Prior to joining Pomerantz, Mr. Hood worked on commercial, financial services, corporate governance and securities matters at the firms Alston & Bird LLP and Bernstein Litowitz Berger & Grossman LLP. Mr. Hood received his J.D. from Boston University School of Law and his LLM from the University of Oregon School of Law. While in law school, Mr. Hood clerked for the ACLU of Tennessee and worked on the Center for Biological Diversity's Clean Water Act suit against BP as a legal extern. Mr. Hood earned his BA in history from John Hopkins University.

around an investment firm, for example, it may be difficult to prove that someone way down the information food chain was aware of the original source of the leak and that the tipper had received a personal benefit.

In *U.S. v. Salman*, decided July 6, 2015, the 9th Circuit has refused to follow *Newman*. In that case Salman's brother-in-law leaked inside information to his own brother, who in turn, shared that information with Salman. The evidence at trial showed that Salman knew that his brother-in-law was the original source of the inside information.

But the evidence also showed that Salman did not know about any tangible economic benefit received by his brother-in-law in exchange for leaking the information.

But the 9th Circuit disagreed with the Second Circuit in *Newman* and affirmed the conviction anyway. The court held that the "personal benefit" requirement did not require that the tipper receive a financial quid pro quo. Instead, it held that it was enough that Salman "could readily have inferred [his brother-in-law's] intent to benefit [his brother]." In declining to follow *Newman*, the court noted that if the standard required that the tipper received something more than the chance to benefit a close family member, a tipper could provide material non-public information to family members to trade on as long as the tipper "asked for no tangible compensation in return."

Partner, Leigh Handelman Smollar

NOTABLE DATES ON THE POMERANTZ HORIZON

Jeremy A. Lieberman

Marc I. Gross

Jennifer Pafiti

Jayne Arnold Goldstein

Pomerantz will sponsor a **Corporate Governance & Litigation Roundtable Event** on July 21st in **New York**. Speakers will be Keith Johnson, former Legal Counsel to the State of Wisconsin Investment Board; Daniel Summerfield, Co-Head of Responsible Investment for the Universities Superannuation Scheme; Robert J. Jackson, Jr., Professor of Law and Co-Director, Ira M. Millstein Center, Columbia Law School; Stephen Davis, Associate Director and Senior Fellow, Harvard Law School Programs on Corporate Governance and Institutional Investors; and **Pomerantz** Senior Partners **MARC GROSS** and **JEREMY LIEBERMAN. Pomerantz** attorney **JENNIFER PAFITI** will also attend.

JEREMY LIEBERMAN and **JENNIFER PAFITI** will attend the **National Institute of Public Finance's conference** at Pepperdine University in **Malibu, California** on July 26-29.

JEREMY LIEBERMAN will also attend the **Republican Attorney Gerneral Association Summer National Meeting** on August 3-4 in **White Sulphur Springs, West Virginia**.

JENNIFER PAFITI will also attend the **NASRA CONFERENCE** in **Monterey, California** from August 3-5; the **TEXPERS Conference** in **San Antonio, Texas** from August 17-18, and the **CII Conference** in **Boston** from September 30-October 2.

JAYNE GOLDSTEIN will speak at the **IPPFA MidAmerican Pension Conference** in **Lahe Geneva, Wisconsin** on October 8 on **"Update on Securities Litigation."**

MARC GROSS will speak at the **ILEP Conference, The 20th Anniversary of the Private Securities Litigation Reform Act: Taking Stock,** at Loyola University in **Chicago** on October 16.

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
MoneyGram International, Inc.	MGI		July 20, 2015
Vipshop Holdings Limited	VIPS	February 17, 2015 to May 28, 2015	July 20, 2015
Isoray, Inc.	ISR	May 20, 2015 to May 21, 2015	July 21, 2015
TrueCar, Inc.	TRUE	May 16, 2014 to May 20, 2015	July 27, 2015
Yingli Green Energy Holding Company Limited	YGE	March 18, 2014 to May 15, 2015	July 27, 2015
Nationstar Mortgage Holdings Inc.	NSM	February 27, 2014 to May 4, 2015	August 1, 2015
Puma Biotechnology, Inc.	PBYI	July 23, 2014 to May 13, 2015	August 3, 2015
Toshiba Corporation	TOSBF, TOSYY	May 8, 2012 to May 7, 2015	August 3, 2015
China Finance Online Co. Limited	JRJC	May 6, 2014 to June 3, 2015	August 4, 2015
Xunlei Limited	XNET	June 24, 2014 to May 20, 2015	August 7, 2015
SandRidge Energy, Inc.	SDT, SDR	April 7, 2011 to November 8, 2012	August 10, 2015
3D Systems Corporation	DDD	October 29, 2013 to October 22, 2014	August 14, 2015
Keurig Green Mountain, Inc.	GMCR	February 4, 2015 to May 14, 2015	August 18, 2015
QRxPharma Limited	QRXPY	January 24, 2011 to April 23, 2014	August 21, 2015
Iconix Brand Group, Inc.	ICON	February 20, 2013 to April 17, 2015	August 22, 2015
Airmedia Group Inc.	AMCN	April 15, 2015 to June 15, 2015	August 24, 2015
Associated Estates Realty Corporation	AEC		August 24, 2015
Root9b Technologies, Inc.	RTNB, PIMO	December 1, 2014 to June 15, 2015	August 24, 2015
Solazyme, Inc	SZYM	February 27, 2014 to November 5, 2014	August 24, 2015
Uranium Energy Corp.	UEC	October 14, 2014 to June 17, 2015	August 28, 2015
Braskem S.A.	BAK	June 1, 2010 to March 11, 2015	August 31, 2015
Celladon Corporation	CLDN	July 7, 2014 to June 25, 2015	August 31, 2015
CorMedix Inc.	CRMD	March 12, 2011 to June 29, 2015	September 4, 2015
Edison International (2015)	EIX	July 31, 2014 to June 24, 2015	September 4, 2015
Avalanche Biotechnologies, Inc.	AAVL	July 31, 2014 to June 15, 2015	September 8, 2015
ServiceSource International, Inc. (2015)	SREV	January 22, 2014 to May 1, 2014	September 8, 2015
Silver Wheaton Corp.	SLW	March 30, 2011 to July 6, 2015	September 8, 2015

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
Sprint Nextel Corporation	$131,000,000	October 26, 2000 to February 27, 2008	July 20, 2015
PRIMEDIA Inc.	$39,000,000	January 11, 2011 to July 13, 2011	July 21, 2015
Allscripts Healthcare Solutions, Inc.	$9,750,000	November 8, 2010 to April 26, 2012	July 22, 2015
Colonial BancGroup, Inc.	$7,900,000	April 18, 2007 to August 6, 2009	July 27, 2015
Houston American Energy Corp.	$7,000,000	November 9, 2009 to April 18, 2012	July 30, 2015
Pfizer, Inc.	$400,000,000	January 19, 2006 to January 23, 2009	July 30, 2015
Apollo Group, Inc.	$13,125,000	November 28, 2001 to October 18, 2006	August 3, 2015
New York Mercantile Exchange	$16,750,000		August 3, 2015
OCZ Technology Group, Inc.	$7,500,000	July 6, 2011 to January 22, 2013	August 13, 2015
Biolase, Inc.	$1,750,000	November 5, 2012 to August 13, 2013	August 15, 2015
Aurcana Corporation (Canada)	$3,200,960	June 24, 2011 to December 19, 2013	August 18, 2015
Hemispherx Biopharma, Inc.	$2,750,000	March 14, 2012 to December 20, 2012	August 21, 2015
Bear Stearns ARM Trust	$6,000,000		August 24, 2015
Gentiva Health Services, Inc.	$6,500,000	July 31, 2008 to October 4, 2011	August 25, 2015
China-Biotics, Inc.	$1,400,000	July 10, 2008 to July 1, 2011	August 27, 2015
CiG Wireless Corp.	$2,250,000		August 28, 2015
OmniVision Technologies, Inc.	$12,500,000	August 27, 2010 to November 6, 2011	August 30, 2015
CafePress Inc.	$8,000,000	March 28, 2012 to July 10, 2013	August 31, 2015
Kinross Gold Corporation (Canada)	$9,955,480	November 1, 2010 to January 16, 2012	August 31, 2015
New Frontier Media, Inc.	$2,250,000	October 15, 2012 to November 27, 2012	August 31, 2015
Questcor Pharmaceuticals, Inc.	$38,000,000	April 4, 2011 to September 21, 2012	September 2, 2015
JPMorgan Chase & Co.	$200,000,000	April 13, 2012 to May 20, 2012	September 4, 2015
ShengdaTech, Inc.	$1,900,000	May 6, 2008 to March 15, 2011	September 7, 2015
Regions Financial Corporation	$90,000,000	February 27, 2008 to January 19, 2009	September 9, 2015
PhotoMedex, Inc.	$1,500,000	November 6, 2012 to November 5, 2013	September 10, 2015
Celestica Inc.	$30,000,000	January 27, 2005 to January 30, 2007	September 17, 2015
Kinross Gold Corporation	$33,000,000	August 11, 2011 to January 16, 2012	September 17, 2015
W2007 Grace Acquisition I, Inc.	$68,000,000	October 25, 2007 to October 8, 2014	September 18, 2015
Municipal Mortgage & Equity, LLC	$676,820	May 3, 2004 to January 29, 2008	September 21, 2015
ViroPharma Incorporated	$8,000,000	December 14, 2011 to April 9, 2012	September 21, 2015
Keyuan Petrochemicals, Inc.	$2,650,000	August 16, 2010 to October 7, 2011	September 28, 2015
Great Lakes Dredge & Dock Corp.	$1,955,000	August 7, 2012 to August 7, 2013	September 30, 2015
China MediaExpress Holdings, Inc.	$12,000,000	April 1, 2010 to March 11, 2011	October 2, 2015
Smithtown Bancorp, Inc.	$1,950,000	March 13, 2008 to February 1, 2010	October 5, 2015
Facebook, Inc.	$26,500,000	May 18, 2012	October 7, 2015
Hot Topic, Inc.	$14,900,000	holders as of May 3, 2013	October 12, 2015
Insys Therapeutics, Inc.	$6,125,000	November 12, 2013 to May 14, 2014	October 28, 2015
Delcath Systems, Inc.	$8,500,000	April 21, 2010 to May 2, 2013	November 6, 2015
Feihe International, Inc.	$6,500,000	October 3, 2012 to June 28, 2013	November 6, 2015
Longtop Financial Technologies Limited	$2,300,000	February 21, 2008 to May 17, 2011	November 10, 2015

THE POMERANTZ MONITOR
A BI-MONTHLY PUBLICATION OF POMERANTZ LLP
600 Third Avenue, New York, NY 10016

POMERANTZLLP

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

Pomerantz is acknowledged as one of the premier firms in the areas of corporate, securities, 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, for more than 79 years, Pomerantz continues in the tradition that Abe Pomerantz established, fighting for the rights of victims of securities fraud, breaches of fiduciary duty, and corporate misconduct. Prior results, however, do not guarantee a similar outcome in future cases.

NEW YORK
600 Third Avenue, New York, NY 10016 Tel: 212.661.1100 Fax: 212.661.8665
CHICAGO
10 South Salle Street, Suite 3505, Chicago, IL 60603 Tel: 312.377.1181 Fax: 312.377.1184
LOS ANGELES
468 North Camden Drive, Beverly Hills, CA 90210 Phone: 310.285.5330 Fax: 310.285.5330
WESTON, FL
1792 Bell Tower Lane, Suite 203, Weston, FL 33326 Tel: 954.315.3454 Fax: 954.315.3455

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: wwww.pomerantzlaw.com or contact:

Jennifer Pafiti, Esq.
jpafiti@pomlaw.com 310.285.5330

Jeremy A. Lieberman, Esq.
jalieberman@pomlaw.com 212.661.1100