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"London Whale" Settlement Makes Big Splash

by H. Adam Prussin and Jessica N. Dell

Inside This Issue

1 "London Whale"

3 SEC Wrests Admissions in Falcone Case

3 Attorney Abe

4 Not So "Fabulous" After All

4 Decision on Mergers and Derivative Litigation

5 A New Way to Curtail Class Actions?

6 Our Clients Take the Lead

6 Notable Dates

7 PomTrack© Update

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Timing is everything. By the time this issue of the Monitor hits your inbox, the $920 million London Whale settlement, as huge as it is, will seem like a pittance compared to the apparently impending *$11 billion* settlement of charges relating to JPMorgan Chase's misadventures in the mortgage and mortgage-backed securities markets. Yet, the Whale case remains a landmark, and paved the way for the downfall of former master of the universe Jamie Dimon, JPMorgan's Chairman and CEO. He's still there, but he seems to have shrunk dramatically.

More than a year after Dimon characterized the London Whale scandal as a mere "tempest in a teapot, JP Morgan has agreed to pay over $920 million to resolve the case and to admit to wrongdoing. JPMorgan has admitted that its financial controls were bad: bad enough to permit London Whale trader Bruno Iksil and others at London's Chief Investment Office (CIO) to accumulate enormous positions in exotic, high-risk credit default swaps, causing over $6.2 billion in trading losses; and bad enough to allow traders to cover up most of those losses for months. Although the value of these securities had cratered,the London office systematically overvalued them on JPMorgan's books, understating the losses and causing the bank to issue misleading financial statements. It was only when the securities were finally sold that the full extent of the losses finally came to light.

The crisis first surfaced in May of 2012, when JPMorgan disclosed that its chief investment office in London had made bad bets in credit derivative trades, called credit default swaps. At the time the bank reported that it had suffered losses on those trades of about $2 billion. That figure turned out to be a gross underestimate. When the underlying securities were finally sold in the second quarter, it turned out that the actual losses were $4.4 billion higher than that. In July 2012, the bank restated its first-quarter financial statements, docking its earnings by $459 million for the fiscal quarter on news that traders had falsified information about positions they had taken in order to hide the losses.

Now we know that Iksil had decided to take a massive position in certain credit default swaps, in one instance amassing an $82 billion position in one of them, representing about half the total outstanding shares of that security. Iksil himself described the position as becoming "more and more monstrous." JPMorgan's risk management controls should have prevented this from happening, but they didn't. The *Times* quoted April Brooks, a senior F.B.I. official, as stating that the bank's compliance regime was "little more than a rubber stamp."

In March of this year, the U.S. Senate's Permanent Subcommittee on Investigations accused JPMorgan officials, including Dimon, of ignoring internal warnings about these trades and of deliberately hiding them from regulators and shareholders. Ina Drew, who ran the London office at the time, retired when news of the scandal broke, and the bank later "clawed back" two years of her pay.

This episode leaves no doubt that even now, five years after the financial meltdown of 2008, big banks are still taking huge financial risks and have failed to implement adequate controls to

Continued on Page 2 . . ./

“”London Whale” Settlement Makes Big Splash
. . . /continued from Page 1

rein themselves in. It is also clear that trading in opaque, complex derivative securities, which were at the heart of this scandal, are still not being adequately regulated, notwithstanding the requirements of the Dodd-Frank financial reform act. So long as many of these securities remain thinly traded in private transactions between a handful of big banks, it will be difficult for regulators to police these transactions, and very easy for traders to manipulate the prices and valuations of these securities.

Investigations by numerous U.S. and British agencies have been ongoing since May, 2012, when Dimon first admitted that there was a problem with these trades. On August 13 of this year, while the agencies were negotiating with JPMorgan to settle the cases, the U.S. Attorney’s office in Manhattan announced that criminal charges were being filed against two former London-based JPMorgan traders, Javier Martin-Artajo and Julien Grout, described as “low level” or “junior” traders, for their role in covering up the losses. Julien Grout was indeed a junior trader who reported to Iksil, but Martin-Artajo had been Iksil's direct supervisor and oversaw the bank’s trading in credit instruments.

The charges against these two came on the heels of reports that Iksil himself had entered into a "non-prosecution cooperation agreement" with the Justice Department, suggesting that Iksil had helped put together the case against his former colleagues. On August 27th, Martin-Artajo was arrested in Spain but released pending indictment, while Grout’s lawyer was reportedly seeking leniency. By mid-September both had been indicted.

The settlements of the agency investigations were announced shortly after the indictments. The regulators cited the bank for “deficiencies” in “oversight of the risks,” assessment of controls and development of “internal financial reporting.” The penalties include $300 million to be paid to the U.S. Office of the Comptroller of the Currency, $200 million to the Federal Reserve, $200 million to the U.S. Securities and Exchange Commission, and £137.6 million ($219.74 million) to the U.K.'s Financial Conduct Authority.

The bank called the settlements "a major step in the firm's ongoing efforts to put these issues behind it." But in fact JPMorgan continues to be exposed to additional penalties for its handling of this matter. As of our press time, the bank was still negotiating a separate penalty with another regulator, the Commodity Futures Trading Commission, over allegations that the bank’s trading in these thinly-traded securities was so extensive that it manipulated the market prices for them. The CFTC apparently intends to recommend an enforcement action against the bank for its derivatives trading.

On the plus side, these settlements reflect an emerging new standard at the SEC and other agencies: JPMorgan was not allowed to “neither admit nor deny” the charges, but was forced to admit to at least some of its wrongdoing. However, the language of those admissions was carefully crafted to minimize the damage they will do in pending private shareholder litigations. While the bank conceded that it had failed to ensure that traders in London had correctly valued the portfolio, and that management hadn't informed the audit committee about "severe breakdowns" in internal controls, it did not go so far as to say that the bank, or any member of its senior management, acted intentionally or even recklessly; and the bank continues to claim that senior management acted “in good faith”. As a result, plaintiffs in private shareholder litigations will have a ways to go to establish civil liability against the bank or against individual bank officers.

Many observers have been obsessing over why no charges have been filed so far against more senior executives at the bank. Although the agencies have made serious allegations of wrongdoing by many of the higher-ups, the settlement documents identified them only by title, not by name. So, we know that the agencies are not happy about the actions of JPMorgan’s CEO, CFO, Chief Risk Officer, Controller, and General Auditor. But, although everyone knows who they are, the agencies’ reluctance to identify them by name seems weirdly deferential under the circumstances. Despite that, we hope that the government will eventually go after some of them.

There is good reason to expect that other shoes are going to drop. For example, in an email to another bank employee who queried Mr. Grout about some of his under-valuations of the securities on JPMorgan’s books, Mr. Grout suggested that he should “ask management.” The *New York Times* reported that prosecutors and the F.B.I. are also investigating more senior executives at the bank.

Although CEO Dimon himself has not yet been charged -- and probably never will be -- the board cut his pay in half this year, to about $11.5 million, as a result of the scandal, and earlier this year he narrowly escaped a shareholder effort to oust him as chairman.

The London Whale case is not the only blot on the bank’s reputation. Claims and investigations are flying around about its alleged fixing of energy markets, manipulation of prices for credit derivatives, fraud in the sale of mortgage-backed securities, failing to disclose its suspicions about Bernie Madoff’s machinations, dubious debt collection practices, money laundering complicity, and efforts to manipulate LIBOR, the benchmark inter-bank lending rate.

And, as noted at the beginning of this article, just before *Monitor* press time, the *Times* and the *Wall Street Journal* reported that JPMorgan had offered to pay as much as $11 billion to settle the investigations into its sales of mortgage backed securities and, potentially, other investigations as well.

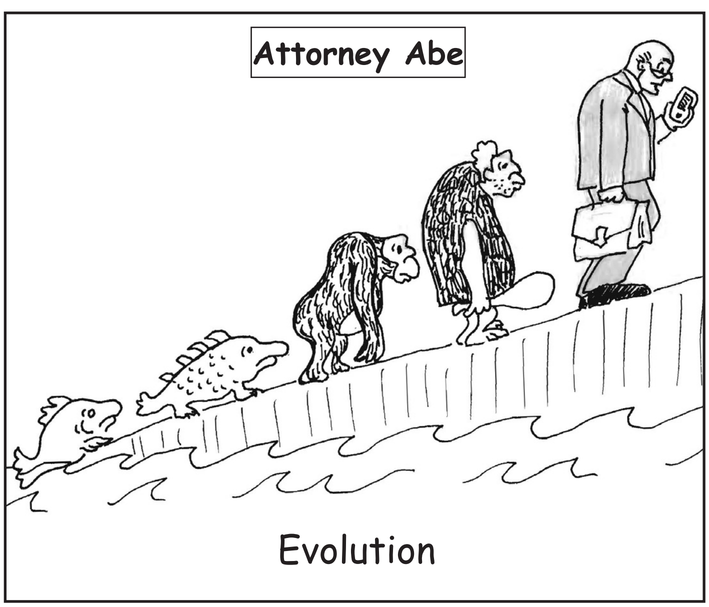
Not so long ago, JPMorgan was viewed as one of the few banks to come out of the financial crisis relatively unscathed, and Dimon himself was lionized on Wall Street as some kind of genius. Those days are over.

The Whale case was the subject of the biennial Abraham L. Pomerantz Lecture, which was given by Professor Hillary A. Sale of Washington University in St. Louis, on September 26, 2013, at the Brooklyn Law School.

SEC Wrests Admissions in Settlement of Falcone Case as Well

The JPMorgan "London Whale" case is not the first time the SEC has insisted on admissions of wrongdoing as part of its settlement agreements. A few weeks earlier, for example, the SEC secured admissions as part of its settlement of charges against Hedge Fund manager Philip Falcone.

The current push to insist on admissions of wrongdoing in these settlements can probably be traced to November of 2011, when Judge Rakoff of the Southern District New York famously rejected Citigroup's $285 million settlement with the SEC, primarily because it did not contain any admission of wrongdoing by the bank. The judge found that the deal was "neither fair, nor reasonable, nor adequate, nor in the public interest." Judge Rakoff has been highly critical of settlements that allow defendants to neither "admit nor deny," and has called them "a stew of confusion and hypocrisy unworthy of such a proud agency as the S.E.C."



Judge Rakoff was criticized as overstepping his bounds and challenging the authority of the SEC. Wall Street interests argued that admissions of wrongdoing in SEC settlements would encourage private investor litigation. Others pronounced that a requirement for admissions would make it difficult, if not impossible, for the SEC to settle cases. The Second Circuit is now reviewing whether, in fact, the court went too far.

But regardless of the outcome of that appeal, Judge Rakoff's opinion has had profound repercussions. When Mary Jo White was first appointed as the new SEC chair, she announced that henceforth the Commission would require admissions of wrongdoing as a condition to settlement in certain situations.

Judge Rakoff's colleague in the Southern District, Judge Marrero, recently approved a settlement between SAC Advisors and the SEC that also had no admissions of wrongdoing. However, he conditioned his approval on a finding by the Second Circuit in the *Citigroup* matter that district courts lack the authority to reject SEC settlements solely because of "admit or deny" policy. If the Second Circuit does not make such a finding, SAC will be back on the hook.

The recent $18 million civil settlement between hedge-fund manager Philip Falcone and securities regulators is a case in point. Falcone and his hedge fund, Harbinger Capital Partners, had been accused of engaging in an illegal "short squeeze" to force short-sellers to sell distressed, high yield bonds at inflated prices, and favoring certain investors over others when granting redemption requests. An earlier agreement reached between Falcone and the SEC's enforcement staff did not contain any admissions of wrongdoing. In a rare move, the SEC commissioners rejected the agreement and sent the parties back to the table. The new deal contains Falcon's admissions of underlying facts of alleged improper behavior, specifically, that he had acted "recklessly" with regard to several market transactions. It does not, however, include admissions of specific securities law violations. Obviously, the facts can potentially be used as fodder in private litigation – in this case, an admission of reckless conduct has important ramifications for fraud claims.

At the same time, Falcone won't be limiting his legal options in other lawsuits that may follow on the heels of this settle-

Continued on Page 4 . . ./

SEC Wrests Admissions in Falcone Case
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ment. As noted by James Cox, a law professor at Duke University School of Law, the admitted facts “may be helpful, but not perfectly helpful, to follow-on litigation."

Murielle Steven Walsh

Not so “Fabulous” After All

In August, the SEC scored a much-needed win when a nine-member jury, after deliberating for two days, found Fabrice Tourre, a former Goldman Sachs bond trader once known as “Fabulous Fab,” liable on six of seven civil fraud charges.

The SEC brought the action in 2010 against both Mr. Tourre and Goldman Sachs, accusing both of misleading investors about a complex mortgage-based financial product known as “Abacus 2007-AC1.” Abacus was a “collateralized debt obligation,” a financial vehicle based on a collection of underlying mortgage-related securities. Tourre played a major role in putting Abacus together; but he (and Goldman) allegedly failed to disclose to potential investors that hedge fund titan John Paulson, a key Goldman Sachs client, had also played a major role in selecting the securities underlying Abacus. Paulson’s involvement was critical because he himself made a huge bet against Abacus, selling millions of shares short, and made a killing when Abacus failed. In other words, the SEC claimed that Abacus was secretly designed to fail so that Paulson could make a killing at the expense of Goldman’s other clients.

Goldman settled the SEC’s claims some time ago, agreeing to pay a $550 million fine, without admitting or denying wrongdoing. Abacus, and the large fine it generated, heavily damaged Goldman’s reputation, helping to earn it the sobriquet “great vampire squid.”

Even after Goldman settled, Tourre fought on, and lost. Tellingly, his lawyers opted not to call any witnesses at trial, an interesting strategy which perhaps reflected the weakness of their case. The SEC called two witnesses, Laura Schwartz from the ACA Financial Guaranty Corporation, and Gail Kreitman, a former Goldman saleswoman, who testified that they were misled about who was investing in Abacus. Also key to Mr. Tourre’s downfall was a number of emails to his girlfriend, which he called “love letters,” in which he joked about selling toxic real estate bonds to “widows and orphans.”

As of *Monitor* press time, Mr. Tourre was planning to ask the court at the end of September to either overturn his securities fraud verdict or grant a new jury trial. If the judge declines that request, the question will then become one of punishment. Mr. Tourre faces three potential remedies. First, the court can impose civil monetary penalties ranging from $5,000 to $130,000 for each violation. Second, the court can order that Mr. Tourre forfeit any profits he received from his violations, though it is unclear at this point what that would encompass. Third, Mr. Tourre could also face an administrative proceeding before the SEC, which could permanently bar him from any future association with the financial industry. One potential obstacle for the SEC in pursuing a bar, however, is that it obtained the power to do this when Congress passed the Dodd-Frank Act in 2010, three years after Mr. Tourre’s violations occurred. It is unclear whether the SEC’s authority to issue a bar applies retroactively. Given that Goldman continues to bankroll all of Mr. Tourre’s legal fees, it is likely he will appeal any bar order, challenging retroactivity, and continue to drag this case on further.

Mr. Tourre is now enrolled in a doctoral economics program at the University of Chicago and seems to be gearing up for a future in academia. Other than damage to his reputation, which he has already incurred in spades, it is questionable whether a bar would make much of a difference.

Meanwhile, the Tourre trial, though clearly a success for the SEC, has led many to question why the agency continues to pursue mid-level employees like Mr. Tourre while leaving the high- level executives unscathed. Mr. Tourre clearly did not commit these violations on his own.

Tamar A. Weinrib

Delaware Supreme Court Holds That Mergers Foreclose Derivative Litigation

In a case involving the notorious Countrywide Corporation, with implications for derivative actions filed across the country, the Delaware Supreme Court, has declined to expand the circumstances under which a derivative action, brought on behalf of the injured corporation, can survive a merger of that corporation into another. Because mergers often happen while derivative suits are pending, and in fact are sometimes motivated by the directors’ desire to eliminate derivative claims against them, this decision will make it harder in many cases to hold directors of Delaware corporations accountable for their reckless mismanagement.

As is well known, Countrywide played a major role in the financial crash of 2008, because it was probably the most prolific perpetrator of toxic mortgage securities. When the mortgage market imploded, Countrywide nearly collapsed and was sold under the gun to Bank of America (“B of A”) –

the unlucky purchaser of last resort not only of Countrywide but also of equally ill-fated Merrill Lynch. If ever there were directors who deserved to be sued for destroying their company, the directors of Countrywide fit the bill. Yet, when they were sued by Countrywide shareholders, they claimed that the sale to B of A wiped out the plaintiffs' claims.

The directors were invoking the so-called "continuous ownership" rule, which says that in order to assert a derivative claim a plaintiff shareholder must have owned stock in the injured corporation continuously from the time of the alleged wrong until the resolution of the litigation. Should the corporation be sold in a cash-out merger before the litigation is resolved, the shareholder plaintiff would be divested of his holdings, and therefore his chain of continuous ownership would be broken.

Here, plaintiffs sued the former directors of Countrywide in California federal court, claiming that they were responsible for allowing Countrywide to engage in a host of reckless and fraudulent mortgage practices. The District Court dismissed the derivative claims under the "continuing ownership" rule, holding that under Delaware law plaintiffs lost standing to pursue the derivative claims upon consummation of Countrywide's Merger with B of A. Plaintiffs had argued that there was an exception to this rule in cases where it was the alleged wrongdoing that forced the company to enter into the merger in the first place. On appeal, the United States Court of Appeals for the Ninth Circuit asked the Delaware Supreme Court to consider, as a "certified question," whether this exception actually existed and, if so, whether it applied here. The certified question was prompted, in part, by the fact that state and federal courts had reached divergent results in previous cases applying Delaware law in this situation.

In a famous decision decades ago in *Lewis v. Anderson*, the Delaware Supreme Court recognized a "fraud exception" to the continuous ownership rule, allowing plaintiffs to litigate post-merger derivative claims "where the merger itself is the subject of a claim of fraud," meaning that the merger served "no alternative valid business purpose" other than eliminating derivative claims. Although there is a very low threshold for finding a "valid business purpose" for a merger, it is a short step from this doctrine to the proposition that the exception should apply if the very fraud that was the subject of the derivative action also drove the corporation to enter into the merger.

Arguing before the Delaware Supreme Court, plaintiffs, in a twist, urged the court to consider resolving the certified question by creating a new cause of action, which they referred to as a "quasi-derivative" claim. Defendants argued that there is "no need and no basis" to recognize an exception to the continuous ownership rule even where the conduct in question forced the company to merge with another company.

The Delaware Supreme Court found in favor of defendants, holding that shareholders cannot pursue derivative claims against a corporation after a merger divests them of their ownership interest, even if a board's fraud effectively forced the corporation into the merger. However, the court was careful to note that shareholders who lose derivative standing in a merger may nonetheless have post-merger standing to recover damages from a direct fraud claim, should one be properly pleaded.

Samuel J. Adams

A New Way to Curtail Class Actions?

A recent decision by the Third Circuit has the potential to further restrain consumer and other types of class actions. Last August, in *Carrera v. Bayer Corp.*, the Third Circuit reversed and remanded the certification of a class of Florida consumers who purchased Bayer's One–A–Day WeightSmart diet supplements.

This was a potential class action by consumers claiming that Bayer falsely and deceptively advertised its supplement. When the District Court certified the class, Bayer appealed, arguing that class certification was improper because the class members were not "ascertainable". This requirement means that "the class definition must be sufficiently definite so that it is administratively feasible to determine whether a particular person is a class member." This is important because all class members have to be notified if a class has been certified or if a settlement has been reached, and because, if there is a recovery for the class, the court can determine who is entitled to share in it, and who isn't.

Here the class was to consist of everyone who purchased the supplement in Florida. Figuring out who these people are is no easy matter. In securities cases, for example, there are brokerage and other records identifying everyone who bought or owned a particular security at a particular time. Similarly, records are kept of everyone who purchases prescription drugs. But no one keeps a comprehensive list of everyone who buys consumer products like over the counter diet supplements. If such a list must exist in order to certify a class action, it will be a major roadblock in many cases.

Plaintiffs here proposed that class members could be identified through retailers' records of online sales and of sales

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A New Way to Curtail Class Actions?
. . . /continued from Page 5

made through store loyalty or reward cards. They also suggested that when class members file their individual proofs of claim to share in any recovery, they could submit affidavits attesting that they purchased WeightSmart and stating the amount they paid and the quantity purchased.

The Third Circuit rejected those arguments, concluding that it could not know for certain whether retailers' records would identify all or most of the class members. It also held that affidavits from people who claimed, without documentary proof, that they bought the product could be unreliable.

It is too soon to know whether other Circuits will follow suit and adopt this standard for ascertainability. If they do that would be a problem. There are many products sold for which there is no comprehensive and authoritative source identifying all purchasers. In such cases, purchasers may have no feasible method for seeking recourse if defendants engage in deceptive or illegal conduct.

Mark B. Goldstein

Our Clients Take The Lead

Sept. 5: Pomerantz was appointed Lead Counsel for Lead Plaintiff in *Erickson v. Corinthian Colleges, Inc.* (S.D.N.Y.) 1:13-cv-4308-PKC

Sept.4: Pomerantz was appointed Co-Lead Counsel for Lead Plaintiffs in *In Re Trius Therapeutics, Inc. Sec. Litig.* (Del. Ch.) C.A. No. 8794-VCG

Aug. 27: Pomerantz was appointed Co-Lead Counsel for Lead Plaintiff in *Fitzpatrick v. Uni-Pixel, Inc.* (S.D. Tex.) 4:13-cv-01649

Aug. 9: Pomerantz was appointed Co-Lead Counsel for Lead Plaintiff in *Stein v. Tangoe, Inc.* (D. Conn.) 3:13-cv-00286 (VLB)

Aug. 6: Pomerantz was appointed Co-Lead Counsel for Lead Plaintiffs in *In Re AsiaInfo-Linkage, Inc.* (Del. Ch.) C.A. No. 8583-VCP

Aug. 2: Pomerantz was appointed Lead Counsel for Lead Plaintiffs in *Green v. Delcath Systems, Inc.* (S.D.N.Y.) 1:13-cv-03116-LGS

Aug. 1: Pomerantz was appointed Co-Lead Counsel for Lead Plaintiffs in Courtney v. *Avid Technology, Inc.* (D. Mass.) 1:13-cv-01686-WGY

notable dates

. . . on the Pomerantz horizon

September 10-12: **Cheryl Hamer** will attend the The Association of Canadian Pension Management's (**ACPM**) 2013 National Conference in Ottawa, Ontario.

September 25-27: **Cheryl Hamer** will attend the Council of Institutional Investors' (**CII**) 2013 Fall Conference in Chicago, Illinois.

October 2: **Jayne Goldstein** will speak at the Illinois Public Pension Fund Association's (**IPPFA**) Midwest Conference in Lake Geneva, Wisconsin.

October 20-23: **Cheryl Hamer** will attend the International Foundation of Employee Benefits' (**IFEBP**) Annual Conference in Las Vegas, Nevada.

October 24-25: **Brian Hufford** will speak on Benefit Claims Litigation at the American Conference Institute's National Forum on ERISA Litigation in New York, New York.

October 25: **Marc Gross** will speak at the Institute for Investor Protection Symposium School of Law at Loyola University in Chicago, Illinois.

November 12-15: **Cheryl Hamer** will attend the State Association of County Retirement Systems' (**SACRS**) Fall Conference in Indian Wells, California.

December 16-19: **Jeremy Lieberman** will attend the Israeli Pension Fund Conference in Eilat, Israel.


Marc I. Gross


Cheryl D. Hamer


Jayne A. Goldstein


Jeremy A. Lieberman


D. Brian Hufford

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
Accentia Biopharmaceuticals, Inc.	ABPI; ABPI; BVTI; BVTI	July 26, 2008 to August 14, 2012	September 30, 2013
Vocera Communications, Inc.	VCRA	March 28, 2012 to May 3, 2013	September 30, 2013
ATP Oil & Gas Corporation (S.D. Tex.)	ATPAQ	December 16, 2010 to August 17, 2012	October 4, 2013
Inteliquent, Inc.	IQNT	May 7, 2012 to August 7, 2013	October 8, 2013
Juniper Networks, Inc. (2013)	JNPR	April 24, 2012 to August 8, 2013	October 11, 2013
Microsoft Corporation	MSFT	April 18, 2013 to July 18, 2013	October 11, 2013
ECOtality, Inc.	ECTY	April 16, 2013 to August 9, 2013	October 14, 2013
Meadowbrook Insurance Group, Inc.	MIG	July 30, 2012 to August 8, 2013	October 14, 2013
Molycorp, Inc. (2013)	MCP	August 2, 2012 to August 7, 2013	October 14, 2013
Orthofix International N.V.	OFIX	May 5, 2011 to July 29, 2013	October 14, 2013
Furniture Brands International, Inc.	FBN	February 13, 2013 to August 5, 2013	October 15, 2013
McDermott International, Inc. (2013)	MDR	November 6, 2012 to August 5, 2013	October 15, 2013
KiOR, Inc.	KIOR	August 14, 2012 to August 7, 2013	October 21, 2013
Tower Group International, Ltd.	TWGP	May 9, 2011 to August 7, 2013	October 21, 2013
Velti plc	VELT	January 27, 2011 to August 20, 2013	October 21, 2013
Biolase, Inc.	BIOL	November 5, 2012 to August 12, 2013	October 22, 2013
Expedia, Inc. (2013)	EXPE	July 27, 2012 to July 25, 2013	October 28, 2013
LightInTheBox Holding Co., Ltd.	LITB	June 6, 2013 to August 19, 2013	October 28, 2013
NuVasive, Inc.	NUVA	October 22, 2008 to July 30, 2013	October 28, 2013
The First Marblehead Corporation (2013)	FMD	November 4, 2010 to August 15, 2013	October 28, 2013
Nuverra Environmental Solutions, Inc. (D. Ariz.)	NES	August 6, 2012 to August 23, 2013	November 4, 2013
Nuverra Environmental Solutions, Inc. (S.D.N.Y.)	NES	March 12, 2013 to August 23, 2013	November 4, 2013
PetroChina Company Limited	PTR	April 26, 2012 to August 27, 2013	November 4, 2013
MiMedx Group, Inc. (N.D. Ga.)	MDXG	March 7, 2013 to September 4, 2013	November 8, 2013
MiMedx Group, Inc. (S.D.N.Y.)	MDXG	October 26, 2011 to September 3, 2013	November 8, 2013
Active Power, Inc.	ACPW	April 30, 2013 to September 5, 2013	November 11, 2013
Liberty Silver Corp.	LBSV	April 1, 2008 to October 5, 2012	November 12, 2013
OvaScience, Inc.	OVAS	February 25, 2013 to September 10, 2013	November 15, 2013
Edwards Lifesciences Corporation	EW	April 25, 2012 to April 23, 2013	November 18, 2013

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 Medicine Corporation	$700,000	February 8, 2006 to January 31, 2013	September 27, 2013
Aracruz Celulose S.A. (n.k.a. Fibria Celulose S.A.)	$37,500,000	April 7, 2008 to October 2, 2008	September 30, 2013
Grifco International Inc. (SEC)	$1,577,579	January 1, 2005 to December 14, 2006	October 1, 2013
Carter's Inc.	$3,300,000	March 16, 2005 to November 10, 2009	October 3, 2013
SMART Technologies Inc. (2011) (Canada)	$15,470,972	July 15, 2010 to July 20, 2010	October 4, 2013
SMART Technologies, Inc. (2011) (S.D.N.Y.)	$15,250,000	July 14, 2010 to May 18, 2011	October 4, 2013
Computer Sciences Corp. (2011)	$97,500,000	August 5, 2008 to December 27, 2011	October 8, 2013
Fifth Third Bancorp (2008)	$16,000,000		October 8, 2013
Duoyuan Printing, Inc. (2010)	$4,300,000	November 6, 2009 to March 28, 2011	October 9, 2013
General Electric Co. (2009)	$40,000,000	September 25, 2008 to March 19, 2009	October 11, 2013
Pacific Biosciences of California, Inc. (Cal. Superior Court)	$7,686,494	October 27, 2010 to September 20, 2011	October 16, 2013
Gulf Resources, Inc.	$2,125,000	March 16, 2009 to April 26, 2011	October 21, 2013
Hansen Medical, Inc.	$8,500,000	February 19, 2008 to October 18, 2009	October 25, 2013
Suffolk Bancorp	$2,800,000	March 12, 2010 to August 10, 2011	October 30, 2013
Coventry Health Care, Inc. (2009)	$10,000,000	February 9, 2007 to October 22, 2008	October 31, 2013
CNX Gas Corporation (Delaware Chancery Court)	$42,730,913	March 21, 2010 to May 28, 2010	November 6, 2013
Idearc, Inc.	$33,750,000	August 9, 2007 to October 30, 2008	November 18, 2013
Merck & Co., Inc. (2008)	$215,000,000	December 6, 2006 to March 28, 2008	November 18, 2013
Schering-Plough Corp. (2008)	$473,000,000	January 3, 2007 to March 28, 2008	November 18, 2013
Lender Processing Services, Inc. (2010)	$14,000,000	August 6, 2008 to October 4, 2010	November 19, 2013
DGSE Companies, Inc.	$1,700,000	April 15, 2011 to April 17, 2012	November 23, 2013
Internap Network Services Corp.	$9,500,000	May 3, 2007 to August 5, 2008	December 4, 2013
The Blackstone Group L.P. (S.D.N.Y.)	$85,000,000	June 21, 2007 to March 12, 2008	December 10, 2013
Brantley Capital Corp. (SEC)	$957,729	March 31, 2003 to October 24, 2005	December 11, 2013
Winstar Communications, Inc.	$10,000,000	March 10, 2000 to April 2, 2001	December 12, 2013
Countrywide Financial Corp. (2010) (C.D. Cal.)	$500,000,000	March 12, 2004 to August 7, 2013	December 15, 2013
Adelphia Communications Corp.	$12,000,000	August 16, 1999 to June 10, 2002	December 16, 2013
Fushi Copperweld, Inc. (2011) (M.D. Tenn.)	$3,250,000	August 14, 2007 to May 4, 2011	December 17, 2013
Federal National Mortgage Assoc'n (Fannie Mae) (2004)	$153,000,000	April 17, 2001 to December 22, 2004	December 20, 2013
Johnson & Johnson (2010)	$22,900,000	October 14, 2008 to July 21, 2010	December 24, 2013

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