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THE SECOND CIRCUIT HOLDS THAT FRAUD THAT PERPETUATES AN INFLATED STOCK PRICE IS ACTIONABLE

By Emma Gilmore and Marc C. Gorrie

INSIDE THIS ISSUE

In a recent decision in the long-running *Vivendi* case, the Second Circuit has issued a landmark ruling adopting the so-called "price maintenance" theory of securities fraud. This theory holds that investors can recover for fraudulent statements that did not push up the price of a company's securities, but maintained that price at an artificially inflated level.

The *Vivendi* case is 14 years old and counting, one of the longest running securities fraud cases ever. It is also one of the few securities fraud class actions that ever went to trial. That trial lasted three months and, in January of 2010, a jury returned a verdict for plaintiffs, finding that Vivendi had recklessly issued 57 public statements that misstated or obscured its true – and dire – financial condition.

But the jury's verdict almost seven years ago was far from the end of the story. The Supreme Court subsequently issued its decision in *Morrison*, holding that the federal securities laws do not apply to foreign securities transactions. As a result, class members who purchased Vivendi stock on foreign exchanges were excluded from the case. Since Vivendi is a French company, that ruling wiped out the claims of many class members, and potentially billions of dollars in judgments went down the drain.

Before awarding damages to other individual class members, the district court allowed defendants to try to prove that some of them, specifically certain sophisticated institutional investors, did not rely on defendants' misstatements in buying their shares and therefore could not recover damages either. That dispute is what led to the Second Circuit's decision adopting the "price maintenance" theory.

Background. In 1998, Compagnie Générale des Eaux, the French utilities conglomerate, changed its name to Vivendi and transformed itself seemingly overnight into a global media conglomerate by aggressively acquiring diverse media and communications businesses in the United States and abroad. Vivendi financed these leveraged mergers and acquisitions by issuing stock, but by 2002 the company was "running critically low" of cash and in serious danger of being unable to meet its financial obligations.

Vivendi did not disclose this, but instead made numerous representations to the market suggesting that its business prospects were robust.

Eventually a series of credit downgrades revealing Vivendi's cash problems sent the company's shares tumbling, and securities litigation ensued.

By mid-2002, consolidated class actions were filed in the Southern District of New York against Vivendi and its former CEO, Jean Marie Messier, and CFO, Guillaume Hannezo. Plaintiffs alleged that Vivendi violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 in issuing "persistently optimistic representations" denying the company's near-bankrupt state, and that the CEO and CFO were liable as controlling persons under Section 20(a) of the Exchange Act. As noted above, in 2010 the jury found for the plaintiff class against Vivendi, but exonerated the two individual defendants.

Partner, Emma Gilmore

After trial, the district court ruled that Vivendi should be given the opportunity to show that sophisticated financial institutions had not relied on their misrepresentations in purchasing their shares. Vivendi claimed that plaintiffs failed to prove reliance because its misrepresentations merely maintained its stock price, rather than pushing it up. In its view, unless the price of the company's stock actually rose as a result of a misrepresentation, there was no price impact and, therefore, no reliance. In this view, maintaining a pre-existing inflated stock price does not constitute a price impact.

The reliance requirement asks whether there is a "proper" connection between a defendant's misrepresentation and a plaintiff's injury. To resolve the difficulties of proving direct reliance in the context of modern securities markets, where impersonal trading rather than face-to-face transactions are the norm, the Supreme Court has held that a prospective class of plaintiffs could invoke a rebuttable presumption of reliance by invoking the "fraud on the market theory," which provides that "[a]n investor who buys

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or sells stock at the price set by the market does so in reliance on the integrity of that price," where material information about the company (including any fraudulent public statements) are reflected in the market price. Investors are all presumed to rely on the "integrity" of that market price when they purchase shares. Thus, part of what they are relying on, indirectly, are the fraudulent statements.

In *Halliburton*, however, the Supreme Court held that the fraud on the market theory creates only a presumption of reliance, and defendants are entitled to try to rebut that presumption in particular cases. In *Vivendi* the company argued that it had rebutted that presumption by showing that its stock price did not increase after most of the alleged misstatements, and therefore those misstatements had no effect on the investors' decisions to invest.

The district court rejected that argument, accepting the so-called price maintenance theory. This theory, which is being debated in federal courts all over the country, holds that plaintiffs do not have to show that the fraudulent statements pushed the stock price up. Rather, the theory posits that fraud that artificially maintains the inflated market price of a stock does have a price impact and therefore supports investors' claims that they relied on the integrity of the market price when they purchased their shares.

Vivendi appealed.

Second Circuit Decision. Delivering a major victory for investors, the Second Circuit, in its *Vivendi* decision, embraced the price maintenance theory for the first time. It joined the Eleventh and Seventh Circuits in rejecting the idea that a fraudulent statement, to be actionable, must always introduce "new" inflation into the price of a security. The Second Circuit analyzed Vivendi's contention as resting on two premises: that the artificial inflation in the company's share price caused by the market's misapprehension of the company's liquidity risk would not have dissipated had Vivendi remained silent and that Vivendi had the option to remain silent, thus permitting the preexisting inflation to persist. In other words, Vivendi argued that their fraudulent statements had no impact because its stock price would have remained inflated anyway had it just said nothing.

The Second Circuit rejected that argument. First, it held that it was not necessarily true that the stock price would have remained unchanged if Vivendi had said nothing:

> Perhaps, in the face of silence, inflation could have remained unchanged. But it also could have plummeted rapidly, or gradually, as the truth came out on its own, no longer hidden by a misstatement's perpetuation of the misconception....It is far more coherent to conclude that such a misstatement does not simply maintain the inflation, but indeed "prevents [the] preexisting inflation in a stock price from dissipating."

Second, it held that because it chose to issue statements about its financial condition, Vivendi had no option to remain silent about its liquidity problems:

Attorney Marc C. Gorrie

> Vivendi misunderstands the nature of the obligations a company takes upon itself at the moment it chooses, even without obligation, to speak. It is well established precedent in this Circuit that "once a company speaks on an issue or topic, there is a duty to tell the whole truth," "[e]ven when there is no existing independent duty to disclose information" on the issue or topic.

Thus, far from being a "fabricated" and "erroneous" argument, as Vivendi labeled it, the Second Circuit said that the price maintenance theory prevents companies from "eschew[ing] securities-fraud liability whenever they actively perpetuate (i.e., through affirmative misstatements) inflation that is already extant in their stock price, as long as they cannot be found liable for whatever originally introduced the inflation. Indeed, under Vivendi's approach, companies (like Vivendi) would have every incentive to maintain inflation that already exists in their stock price by making false or misleading statements. After all, the alternatives would only operate to the company's detriment: remaining silent, as already noted, could allow the inflation to dissipate, and making true statements on the issue would ensure that inflation dissipates immediately." After discussing the theory with approval and at length, the Second Circuit concluded:

> In rejecting Vivendi's position that an alleged misstatement must be associated with an increase in inflation to have a "price impact," we join in the Seventh and Eleventh Circuits' conclusion that "theories of 'inflation maintenance' and 'inflation introduction' are not separate legal categories . . . Put differently, we agree with the Seventh and Eleventh Circuits that securities fraud defendants cannot avoid liability for an alleged misstatement merely because the misstatement is not associated with an uptick in inflation.

DELAWARE SUPREME COURT DETERMINES THAT INVESTOR "HOLDER" CLAIMS BELONG TO THEM, NOT THE COMPANY

By H. Adam Prussin

In 1998, Arthur and Angela Williams became investors in Citigroup. They planned to sell all their shares in 2007; but because the company's financial disclosures looked good at that time, they sold only 1 million shares, at a price of $55 per share, holding onto their other 16.6 million shares. 22 months later, after the financial meltdown of 2008, they sold the rest of their shares, for $3.09 per share, $800 million less than they would have received had they sold those shares when they originally planned. They then sued Citigroup and several of its officers and directors in federal court for failing to disclose Citigroup's true financial condition, and thereby inducing them not to sell their shares.

One of the many issues in the case was whether their claim belonged to them or, rather, was a "derivative" claim that belonged to Citigroup. Because Citigroup is a Delaware corporation, the federal courts turned, for the answer to this question, to the Delaware Supreme Court. Its answer, in a recent en banc decision called *AHW investment Partnership*, was that the Williams' claim was a direct claim that they could assert themselves.

In hindsight, this decision looks like a no-brainer. How could Citigroup be the owner of a claim seeking recovery from *Citigroup,* for false public statements *Citigroup itself issued*, which allegedly injured investors directly?

But here is the problem: Citigroup also suffered from whatever wrongdoing its officers and directors committed that led to the meltdown of its share price, including the financial misrepresentations made to its investors. So, could the same wrongs produce separate injuries and separate claims belonging to entirely different people? There was case law that suggested that the answer was no: a claim either belonged to the company or its shareholders, but not both. *AHW* says that, at least where the claims do not involve breaches of fiduciary duty, separate claims based on the same wrongdoing can belong to both.

A Distinction With a Difference. One of the many esoteric distinctions made by Delaware corporate law is between "direct" and "derivative" investor claims. Direct claims are those that belong to the investors personally, involving injuries that they have suffered directly. Derivative claims are those that belong to the company in which they have invested, and affect its investors only as an indirect result of injury to the company. Of course, anything that injures the company also injures its shareholders – but only indirectly. For example, if officers mismanage the company, that injures the company directly. Investors suffer the consequences, but, usually, only indirectly.

From a litigation standpoint this distinction has major consequences. In a direct suit any damages recovered go to the investors; but in a derivative suit, damages go to the company, not the investors. Moreover, from a tactical standpoint, while investors may pursue their own "direct" claims without restriction, they can prosecute derivative claims only if they can surmount the "demand" hurdle. Normally, investors are allowed to pursue derivative claims only if they can show that the directors are so conflicted that they cannot independently decide whether to pursue those claims. In such cases, demanding that the board bring a lawsuit would be "futile." This "demand" requirement is often an insurmountable obstacle.

Many investor suits involve claims that the company's directors have breached their fiduciary duties. Some of those duties run to the company itself, such as the duties of loyalty and care; others run to the shareholders directly, such as the duty of "candor" in communications made to investors. Sometimes these same duties can run in both directions. So Delaware law devised a legal test to distinguish whether fiduciary duty claims in a particular case are direct or derivative. In a 2004 decision named *Tooley* the Delaware Supreme Court held that this test involves two questions:

> ((1) who suffered the alleged harm (the corporation or the suing stock-holders, individually): and (2) who would receive the benefit of any recovery or other remedy (the corporation or the suing stock-holders, individually)?

The question, then, is either or: either the corporation owns the claim, or the investors do, but not both.

In *Tooley*, the investors claimed that the directors breached their fiduciary duties by improperly agreeing to postpone the closing of a merger, which delayed the payout of the merger consideration to the shareholders. The Court held that this was not a derivative claim because "there is no derivative claim asserting injury to the corporate entity. There is no relief that would go to the corporation."

Since *Tooley*, many Delaware cases have held, or implied, that if the alleged injury is caused by a drop in the company's stock price, the investors' losses flowed from an injury to the corporation, and that under *Tooley* the claims must be derivative.

In *AHW*, for example, Citigroup argued that plaintiffs' losses flowed from injuries suffered by the corporation, which caused the price of its stock to collapse. Nonetheless, AHW held that these individual investors had their own direct claim, based on representations made to investors. The court held that the Tooley "either/or" analysis for claims involving fiduciary duties did not apply to other types of claims.

AHW involved claims of common law fraud and negligent misrepresentation. These are typically considered to be direct claims that investors can pursue on their own behalf. If the Williamses had purchased or sold their

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shares based on these misrepresentations, there would have been no confusion; but because they were asserting so-called "holder" claims, alleging that they were misled into holding onto their shares, their losses were traceable to injuries suffered by the company. *AHW* held that the *Tooley* analysis did not apply to claims that do not involve alleged breaches of fiduciary duty. The Court rejected the assertion that *Tooley*

> was —intended to be a general statement requiring all claims, whether based on a tort, contract, or statutory cause of action…to be brought derivatively whenever the corporation of which the plaintiff is a stockholder suffered the alleged harm….when a plaintiff asserts a claim based on the plaintiff's own right, such as a claim for breach of a commercial contract, Tooley does not apply.

In other words, the Court is saying that if an investor asserts a non-fiduciary duty claim that is clearly personal to him, it makes no difference whether the investor's losses flowed from an injury to the company.

Partner, Michael J. Wernke

COURT UPHOLDS OUR CLAIMS IN FIAT CHRYSLER CASE

By Michael J. Wernke

The district court for the Southern District of New York has substantially denied defendants' motion to dismiss our complaint in *Koopman v. Fiat Chrysler Automobiles N.V. et al.* The complaint alleges Section 10(b) and 20(a) violations against the Fiat-Chrysler ("FCA"), CEO Sergio Marchionne, and the executive in charge of vehicle safety regulatory compliance.

The complaint alleges that defendants misled investors when they asserted that FCA was "substantially in compliance" with the National Highway Traffic Safety Administration's ("NHTSA") regulations. In truth, FCA had a widespread pattern of systemic regulatory violations dating back to 2013, in which FCA would delay required owner notification of defects and vehicle repair. Prior to defendants' statements regarding compliance, NHTSA had at least twice written directly to Marchionne and the executive in charge of regulatory compliance, expressing concern about FCA's regulatory violations/non-compliance. The truth was revealed on July 26, 2015, when NHTSA announced a Consent Order against FCA, fining the company a record-high $105 million and requiring a substantial number of recalls and repairs. Then on October 28, 2015, the company announced a $900 million pre-tax charge for an increase in estimated future recalls. The stock declined about 5% following each disclosure.

The court denied defendants' motion to dismiss. It found that the complaint adequately alleged that defendants' statements that FCA was "substantially in compliance" with the "relevant global regulatory requirements" were false when made. The court rejected defendants' argument that violations in one country as to one regulator did not render such a broad statement misleading, agreeing with our argument that given the context of the statement the reasonable investor would conclude that FCA was in substantial compliance as to each area of regulation, including vehicle safety. The court also found that defendants' statements regarding the "robustness" of FCA's compliance systems and that they were "industry best" and similar statements were not puffery. However, the court found that the complaint failed to allege that the company's statements of loss reserves for recalls, which were opinions, were false.

The court also found that the complaint adequately alleged scienter because defendants had received a letter from NHTSA expressing concern about certain compliance issues. The court also found that defendants repeated public discussions of compliance, access to reports identifying violations and the abrupt resignation of the compliance executive supported an inference of scienter.

REALLY **LOST IN TRANSLATION**

By H. Adam Prussin

TransPerfect is – or was -- a very successful, privately held company primarily engaged in language translation services. It has 3,500 full-time employees, half a billion dollars in annual revenue and 92 offices in 86 cities around the world. It maintains a network of more than 10,000 translators, editors, and proofreaders working in approximately 170 different languages.

Yet the company is tearing itself apart because its two founders can no longer get along… Elizabeth Elting and Philip Shawe founded TransPerfect almost 25 years ago in the dorm room they shared while attending NYU Business School. They were co-owners, co-CEOs, and the only company directors. Initially they were romantically involved, but Elting broke off their engagement in 1996 and eventually married someone else. This apparently did not sit well with Shawe, and 15 years later, when it was Shawe's turn to get married, that didn't sit well with Elting either.

But the company they founded was so successful that neither wanted to walk away from it. Trying to force each other out, they began all-out warfare while the rest of management, and most of the employees, looked on in horror. Their sophomoric tantrums, retaliations, "hostage-taking" and other embarrassments have now been spelled out, in gory detail for the world to see, in a 104-page decision issued by the Delaware Chancery Court. The court, entering an unusual judgment forcing the sale of an immensely profitable company, concluded that

> the state of management of the corporation has devolved into one of complete dysfunction between Shawe and Elting, resulting in irretrievable deadlocks over significant matters that are causing the business to suffer and that are threatening the business with irreparable injury, notwithstanding its profitability to date.

Most of the infighting involved petty power struggles over what otherwise would have been routine business decisions. But eventually their disputes escalated way out of control. Among a list of embarrassing episodes the court found that Shawe repeatedly burglarized Elting's locked office, when she was away, to "dismantle" her computer hard drive so that he could read her thousands of confidential communications with her own lawyers; and that Shawe once filed a "domestic incident report" with the police, claiming that Elting had pushed him and kicked him in the ankle. According to the court, "Shawe identified Elting as his ex-fiancée, even though their engagement ended seventeen years earlier, apparently to ensure that the matter would be treated as a domestic violence incident and require Elting's arrest."

Before these two could completely destroy TransPerfect, the court granted Elting's request that a custodian take it over and put it up for sale. Selling a successful company obviously runs the risk of destroying whatever it was that made it so successful for so long. In the end, though, the court determined that leaving these two to fight it out to the end was an even riskier bet.

SCOTUS HEARS ORAL ARGUMENT ON STANDARDS FOR INSIDER TRADING

By Leigh Handelman Smollar

Partner, Leigh Handleman Smollar

We previously reported to you about the controversial decision by the Ninth Circuit, *U.S. v. Salman*, decided July 6, 2015, upholding an insider trading conviction. 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 he "could readily have inferred [his brother-in-law's] intent to benefit [his brother]." 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."

The *Salman* decision was a departure from the holding in a 2014 Second Circuit *Newman* decision, which overturned the insider trading convictions of hedge fund managers, who received information down the line. The *Newman* decision interpreted the standard for "personal benefit" more strictly, finding that prosecutors must show that the tipper received a "tangible" benefit. The split amongst the circuits allowed the Ninth Circuit *Salman* decision to appeal to the Supreme Court of the United States. On October 5, 2016, SCOTUS heard oral argument on the issue of what constitutes "personal benefit" for purposes of insider trading. This is the first insider trading case to come before SCOTUS in 20 years. Specifically, SCOTUS considered whether insider trading includes tips on material, nonpublic information passed between relatives and friends, without any financial benefit to the tipper.

Prosecutors argued that a tipper who simply provides a "gift," e.g., the tip, to family and friends, constitutes a benefit for purposes of insider trading. Opposing counsel argued that the benefit should be something that can be monetized. SCOTUS questioned both sides of the argument. While skeptical about giving prosecutors broad authority to determine whether the tip was a gift, SCOTUS seemed more skeptical in allowing insider trading only when the tipper gains a monetary benefit. Justice Anthony Kennedy said "you certainly benefit from giving to your family… It enables you and, in a sense it – it helps you financially because you make them more secure." Justice Breyer stated, "to help a close family member is like helping yourself." Justices Breyer and Kagan seemed to suggest that the defendants' position would require SCOTUS to change the statute that has been used to prosecute insider trading for decades. The Justices seemed reluctant to do so, given the fact that such a holding would conflict with the SCOTUS 1983 decision in *Dirks v. SEC*, which held that insider trading violates the federal securities laws if an insider makes a gift of nonpublic information to a trading relative or friend.

The tougher question is whether the government's position would apply to an unrelated friend, such as when a tipper tips nonpublic information to an acquantaince. The Justices seem to be struggling with where to draw the line. Justice Kagan seemed to suggest that they don't need to draw the line on this more esoteric situation.

A ruling by the court should clarify what prosecutors must prove to secure insider trading convictions based on tipping, and how far the Justices draw the line.

NOTABLE DATES ON THE POMERANTZ HORIZON

Jeremy A. Lieberman

Jennifer Pafiti

On **November 29, JEREMY LIEBERMAN** will speak in **Brussels, Belgium,** at a **Pomerantz-Sponsored** conference for institutional investors, titled **The New Face of Corporate Governance in 2016 and U.S. Securities Class Actions: A Unique European Analysis of the Latest Legislation and Benchmark of Best Practices.**

JEREMY LIEBERMAN will be a featured speaker at the **ICGN-IIRC Conference** in **London, England,** on **December 6-7.** The event, jointly produced by the **International Corporate Governance Network** and the **International Integrated Reporting Council,** "will address how to properly integrate long-term value drivers in pursuing the success of companies – ultimately contributing to a more sustainable capital market system. Highly experienced commentators will share their perspectives on how to achieve 'integrated thinking' across governance, strategy, performance and future prospects and how this informs investment decision making." **JENNIFER PAFITI** will also attend.

NEW YORK
600 Third Avenue, New York, NY 10016 Tel: +1 212 661 1100 Fax: +1 917463 1044

CHICAGO
10 South La Salle Street, Suite 3505, Chicago, IL 60603 Tel: +1 312 377 1181 Fax: +1 312 377 1184

LOS ANGELES
468 North Camden Drive, Beverly Hills, CA 90210 Tel: +1 818 532 6499 Fax: +1 818 532 6499

WESTON, FL
1792 Bell Tower Lane, Suite 203, Weston, FL 33326 Tel: +1 954 315 3454 Fax: +1 954 315 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 +1 818 532 6499

Jeremy A. Lieberman, Esq.
jalieberman@pomlaw.com +1 212 661 1100

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
Chesapeake Energy Corporation	CHK	February 27, 2015 to September 28, 2016	December 5, 2016
Cognizant Technology Solutions Corporation	CTSH	February 25, 2016 to September 30, 2016	December 5, 2016
Ferrellgas Partners, L.P.	FGP	March 11, 2015 to September 28, 2016	December 5, 2016
National Beverage Corporation	FIZZ	July 16, 2015 to September 28, 2016	December 5, 2016
Tenet Healthcare Corporation	THC	February 28, 2012 to October 3, 2016	December 6, 2016
Mylan, Inc.	N/A	February 21, 2012 to October 5, 2016	December 12, 2016
Tyson Foods, Inc.	TSN	November 23, 2015 to October 7, 2016	December 16, 2016
Pilgrim's Pride Corporation	PPC	February 21, 2014 to October 6, 2016	December 19, 2016
Biogen, Inc.	BIIB, DSBG	July 23, 2014 to July 23, 2015	December 23, 2016
Xerox Corporation	XRX	April 23, 2012 to October 23, 2015	December 23, 2016
Adeptus Health, Inc.	ADPT	June 25, 2014 to November 1, 2016	December 26, 2016
Opus Bank	OPB	July 28, 2014 to October 17, 2016	December 26, 2016
Taro Pharmaceutical Industries Ltd.	TARO	July 3, 2014 to September 9, 2016	December 26, 2016
Sanderson Farms, Inc.	SAFM	December 17, 2013 to October 6, 2016	December 27, 2016
Allergan plc (f/k/a Actavis plc)	ACT, AGN	February 25, 2014 to November 3, 2016	January 3, 2017
Cempra, Inc.	CEMP	May 1, 2016 to November 1, 2016	January 3, 2017
Supreme Industries, Inc.	STS	July 22, 2016 to October 21, 2016	January 3, 2017
Teva Pharmaceutical Industries Ltd.	TEVA	February 10, 2014 to November 3, 2016	January 5, 2017
Exxon Mobil Corporation	XOM	February 19, 2016 to October 27, 2016	January 6, 2017
Agria Corporation	GRO	December 16, 2011 to November 4, 2016	January 9, 2017
Impax Laboratories, Inc.	IPXL	February 20, 2014 to November 3, 2016	January 9, 2017
InfuSystem Holdings, Inc.	HAPN, INFU	May 12, 2015 to November 7, 2016	January 9, 2017
ProNAi Therapeutics, Inc.	DNAI	July 15, 2015 to June 6, 2016	January 9, 2017
The Allstate Corporation	ALL	October 30, 2014 to August 3, 2015	January 9, 2017
Diplomat Pharmacy, Inc.	DPLO	October 9, 2014 to November 2, 2016	January 10, 2017
Pattern Energy Group, Inc.	PEGI	May 9, 2016 to November 4, 2016	January 10, 2017
Alere Inc.	ALR, IMI	February 29, 2012 to November 4, 2016	January 13, 2017
Centene Corporation	CNC	April 26, 2016 to September 6, 2016	January 13, 2017
Samarco Mineracao SA	N/A	October 31, 2012 to November 30, 2015	January 13, 2017
Arrowhead Pharmaceuticals, Inc.	ARWR	May 11, 2015 to November 8, 2016	January 16, 2017
Alexion Pharmaceuticals, Inc.	ALXN	February 10, 2014 to November 9, 2016	January 17, 2017
GoPro, Inc.	N/A	September 19, 2016 to November 4, 2016	January 17, 2017
Lannett Company, Inc.	LCI	September 12, 2013 to November 3, 2016	January 17, 2017
Ligand Pharmaceuticals, Inc.	LGND	November 9, 2015 to November 14, 2016	January 17, 2017
TerraVia Holdings, Inc.	SZYM, TVIA	August 8, 2016 to November 7, 2016	January 17, 2017
TreeHouse Foods, Inc.	THS	February 1, 2016 to November 2, 2016	January 17, 2017

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
Venoco, Inc.	$19,000,000	May 1, 2011 to October 3, 2012	December 5, 2016
St. Jude Medical, Inc.	$39,250,000	February 5, 2010 to November 20, 2012	December 8, 2016
Cadiz, Inc.	$3,000,000	March 11, 2014 to October 9, 2015	December 14, 2016
AuthenTec, Inc.	$10,000,000	July 27, 2012 to October 4, 2012	December 21, 2016
MagnaChip Semiconductor Corporation	$23,500,000	February 1, 2012 to February 12, 2015	December 21, 2016
Amgen, Inc.	$95,000,000	April 22, 2004 to May 10, 2007	December 23, 2016
IsoRay, Inc.	$3,537,500	May 20, 2015 to May 21, 2015	January 3, 2017
Lentuo International, Inc.	$1,000,000	May 15, 2014 to March 9, 2015	January 9, 2017
Sterling Chemicals, Inc.	$17,500,000	June 22, 2011 to August 9, 2011	January 9, 2017
The Bancorp Inc.	$17,500,000	January 26, 2011 to June 26, 2015	January 13, 2017
Pain Therapeutics, Inc.	$8,500,000	December 27, 2010 to June 26, 2011	January 16, 2017
Flow International Corporation	$12,750,000	September 25, 2013 to January 31, 2014	January 18, 2017
Velti plc (Underwriter Defendants)	$750,000	January 27, 2011 to August 20, 2013	January 18, 2017
Bankrate, Inc.	$20,000,000	October 27, 2011 to October 9, 2014	January 21, 2017
Dynavax Technologies Corporation	$4,500,000	April 26, 2012 to June 10, 2013	January 21, 2017
Pfizer, Inc.	$486,000,000	October 31, 2000 to October 19, 2005	January 28, 2017
Pacific Coast Oil Trust	$7,600,000	May 2, 2012 to July 1, 2014	February 2, 2017
A10 Networks, Inc.	$9,837,500	March 21, 2014 to January 29, 2015	February 10, 2017
Advanced Emissions Solutions, Inc.	$3,950,000	May 12, 2011 to January 29, 2015	February 10, 2017
Digital Domain Media Group, Inc.	$5,500,000	November 18, 2011 to September 6, 2012	February 13, 2017
Physicians Formula Holdings, Inc.	$5,600,000	August 15, 2012 to December 13, 2012	March 13, 2017
BP p.l.c.	$175,000,000	April 26, 2010 to May 28, 2010	April 1, 2017

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600 Third Avenue, New York, NY 10016