

US Securities Class Action Litigation

AEIP-NCCMP-MEBCO Transatlantic Conference

June 2010, Brussels, Belgium

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US Securities Litigation Outline

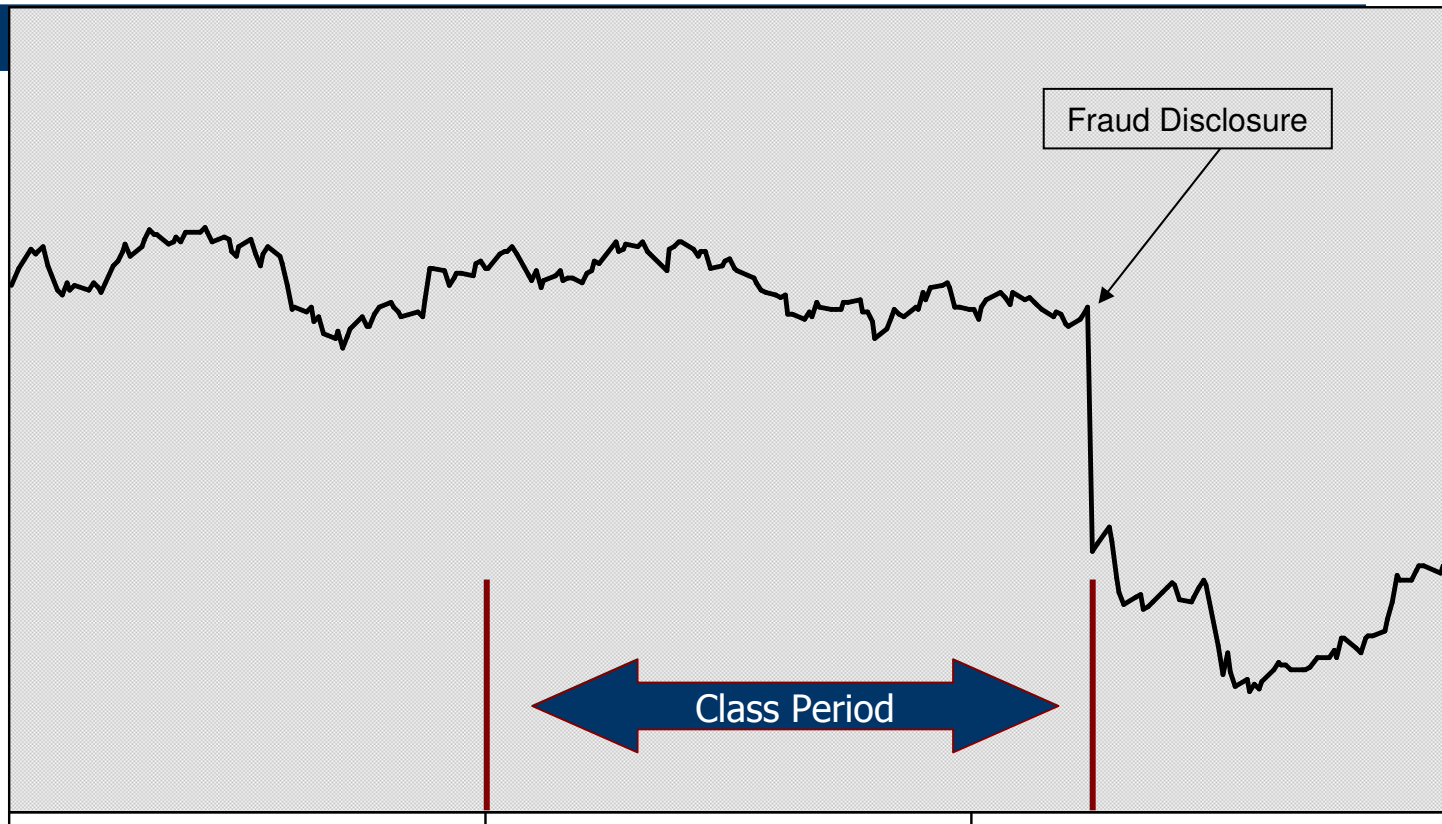
- I. History of Private Securities Litigation Reform Act of 1995 (PSLRA)
- II. What is a Class Member & When is There a Fraud?
- III. Trends in Securities Litigation
- IV. Corporate Governance Reforms
- V. Public vs. Private Enforcement of US Securities Laws
- VI. Portfolio Monitoring & Reporting
- VII. Benefits to Being a Proactive Institutional Investor

I. History of US Securities Litigation

- Private Securities Litigation Reform Act of 1995
 - Objective: Discourage Lawyer-Driven Litigation
 - Primary Changes Designed to Meet Objectives:
 1. Investor or Group with Largest Loss
 2. 60-Day Deadlines for Lead Plaintiff
 3. Higher Pleading Standards

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II. Securities Fraud: Class Members



**PRE-CLASS PURCHASERS NOT PART OF
TRADITIONAL CLASS**

II. Sample Factors in Determining Meritorious Cases

Claims of Fraud Can Be Alleged in the Event of:

- Restatement
- GAAP Violations
- Improper Revenue Recognition
- Internal Controls
- Governmental Investigations
- Sudden Departure of Executives
- Knowingly Making False or Misleading Statements

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III. Trends in Securities Litigation

Annual Filings Remain Above Average

<u>'09</u>	<u>'08</u>	<u>'07</u>	<u>'06</u>	<u>'05</u>	<u>Avg</u> <u>'96-'09</u>
235*	255	195	131	189	219

- Credit crisis still driving increased levels of securities class actions.
- Over 50% of cases filed in 2008 and 2009 named financial institutions as defendants
- Median investor losses for cases filed in 2008 and 2009 are 40% higher than in recent years
 - **Result: Future settlements may be higher**

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III. Top Ten PSLRA Settlements and the Lead Plaintiff

	<u>Case</u>	<u>Settlement</u>	<u>Lead Plaintiff</u>
1.	Enron Corp.	\$7.2 billion	Univ. of CA Regents
2.	WorldCom, Inc.	\$6.2 billion	NYSCRF
3.	Tyco International, Ltd.	\$3.2 billion	LA Teachers, et al
4.	Cendant Corp.	\$3.2 billion	NYSCRF, CALPERS
5.	AOL Time Warner, Inc.	\$2.65 billion	MN (MSBI)
6.	Nortel Networks (I)	\$1.1 billion	Ontario Funds
7.	Royal Ahold, NV	\$1.1 billion	COLPERA
8.	Nortel Networks (II)	\$1.07 billion	Ontario Funds, NJ
9.	McKesson HBOC, Inc.	\$1.04 billion	NYSCRF
10.	United Healthgroup	\$925 million	CALPERS

IV. Corporate Governance Reforms Achieved

- Demanding Greater Board Independence
- 100% Independent Directors on Audit and Compensation Committees
- Personal Accountability by Directors
- Shareholder Votes for Revaluing Stock Options
- Shorter Terms for Directors & Requiring More Accountability
- Standing Authorization for Boards to Retain Independent Legal Advisors
- Creating a Corporate Governance Committee Comprised Entirely of Independent Directors

V. Public vs. Private Enforcement

SEC Enforcement

- "Fair Fund" provision - offers only limited potential relief for private investors
- Resource limitations

Selected Class Action Settlements vs. SEC Actions (\$mil)		
Case	Class Settlement	SEC Recovery
WorldCom	\$6,150	\$750
Tyco International	\$3,200	\$50*
Lucent Technologies	\$600	\$25
Cardinal Health	\$600	\$35
Symbol Technologies	\$102	\$37

* tentative

VI. Portfolio Monitoring & Reporting

- Custodial bank provides data feed access to monitoring firms
- BR&B reviews purchases & sales during class period of alleged fraud
- BR&B calculates via LIFO and FIFO methods
- BR&B either reports to fund staff & trustees on fund's status in each case and/or puts in recommendation in BEAMS
- Meritorious Case + Significant Loss = Fund's participation maybe suggested
- BR&B monitors cases until settled and works with banks to ensure they are filing proofs of claim

VI. BEAMS Cases with Losses*

LMD**	Company Name	Class Period Begin	Class Period End	Case Status	Trade Activity	Estimated Loss	Rec.
7/20/2010	BP PLC	3/4/2009	4/20/2010	NEW	ACT	(\$4,323,421.00)	UR
7/11/2010	CommScope, Inc.	4/29/2008	10/30/2008	NEW	ACT	(\$189,456.00)	M
7/10/2010	Pfizer, Inc.	7/20/2005	1/23/2009	NEW	ACT	(\$3,467,890.00)	UR
7/10/2010	NBTY, Inc.	11/9/2009	4/26/2010	NEW	ACT	(\$34,234.00)	M
7/6/2010	First Regional Bancorp	1/1/2007	1/29/2010	NEW	ACT	(\$98,765.00)	M
6/28/2010	Massey Energy Company	10/28/2009	4/21/2010	NEW	ACT	(\$454.00)	M
6/25/2010	Goldman Sachs Group, Inc.	1/2/2007	4/16/2010	NEW	ACT	(\$3,457,987.00)	UR
6/14/2010	Frontier Financial Corporation	7/22/2008	3/16/2010	NEW	ACT	(\$32,098.00)	M
5/30/2010	Hartford Financial Services Group, Inc., The	12/10/2007	2/5/2009	NEW	ACT	(\$4,589.00)	M
5/18/2010	Fuqi International, Inc.	5/15/2009	3/17/2010	ACTIVE	ACT	(\$256,567.00)	M
5/17/2010	St. Jude Medical, Inc.	4/22/2009	10/26/2009	ACTIVE	ACT	(\$3,456,789.00)	RLM
5/11/2010	Cell Therapeutics, Inc.	5/5/2009	3/19/2010	ACTIVE	ACT	(\$78,965.00)	M

*BEAMS is Barrack, Rodos & Bacine's patented propriety portfolio monitoring system.

**Due to limited space not all fields are shown. All cases shown are actual cases with upcoming and recently passed lead plaintiff motion deadlines.

VI. BEAMS Settled Cases*

LMD	Company Name	Effective Class Period Begin	Effective Class Period End	Claim Filing Deadline	Claim File Date	Claim Status	Estimated Allowed Claim
7/27/2007	Netlist, Inc.	11/29/2006	4/17/2007	8/2/2010		TBF	\$9,876.00
6/10/2008	Global Cash Access Holdings, Inc.	9/22/2005	11/14/2007	7/24/2010		TBF	\$26,789.00
9/23/2006	Jos. A. Banks Clothiers, Inc.	12/5/2005	6/7/2006	6/30/2010		TBF	\$298,768.00
8/26/2002	Touch America Holdings, Inc.	12/17/1999	9/21/2001	6/21/2010		NC	
10/6/2003	Flowserve Corporation	2/6/2001	9/27/2002	6/8/2010		TBF	\$87,546.00
8/3/2007	Shuffle Master Inc.	2/1/2006	3/12/2007	6/3/2010		TBF	\$123,567.00
1/30/2006	Stone Energy Corp.	5/2/2001	3/10/2006	5/22/2010		CN	\$4,532.00
11/13/2006	Dell, Inc.	5/16/2002	9/8/2006	5/11/2010		CN	\$876,763.00
12/3/2007	Sonic Solutions	10/23/2002	5/17/2007	3/22/2010	3/21/2010	CUSTCF	\$234.00
11/10/2006	ADVO, Inc.	7/6/2006	8/30/2006	3/18/2010	3/17/2010	CUSTCF	\$3,432.00
12/14/2004	Marsh & McLennan Companies, Inc.	10/14/1999	10/13/2004	2/22/2010	2/20/2010	CUSTCF	\$1,289.00

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VII. Benefits to Being a Proactive Institutional Investor

- Portfolio Monitoring and Reporting
- Class Period Analysis
- Control Over Litigation*
 - Set attorneys fees
 - Choose qualified counsel
 - Settlement authority
 - Direct corporate governance reforms

* Courts traditionally reimburse public funds who serve as lead plaintiff for costs and expenses related to the time spent on the particular case.