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Pomerantz Achieves $90 Million Class Action Settlement in Altria and JUUL Litigation

By Michael J. Wernke

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In a significant victory for investors, Pomerantz, as lead counsel for the class, has achieved a $90 million settlement in a securities fraud class action against Altria Group, Inc. ("Altria"), JUUL Labs, Inc. ("JUUL"), and certain current and former officers of the two companies. Judge David J. Novak of the United States District Court of the Eastern District of Virginia granted preliminary approval of the settlement on December 16, 2021 and set the final approval hearing for March 31, 2022.

Altria is one of the world's largest manufacturers of tobacco products, such as Marlboro cigarettes. JUUL is a leading manufacturer of e-cigarettes. On December 20, 2018, Altria announced that it paid $12.8 billion to acquire a 35% interest in JUUL. Pomerantz brought the action on behalf of investors that acquired Altria shares following the investment. The complaint alleges that Altria, JUUL and the officers violated section 10(b) of the Securities Exchange Act as well as section 20(a), the "control person" provision, by misleading regulators, the public, and investors regarding JUUL's illegal marketing practices that targeted underage consumers.

Specifically, our complaint alleges that when Altria made its investment in JUUL, underage usage of e-cigarettes had increased to epidemic proportions, with JUUL being the preferred brand of teens. Regulators, as well as the public at large, were concerned that e-cigarette companies such as JUUL may have purposefully targeted underage users, as Altria and the rest of "Big Tobacco" had done with traditional cigarettes in decades past. However, when the massive investment was announced, both Altria and JUUL reassured investors that JUUL's "intent was never to have youth use JUUL products" and that both companies were committed to solving the youth vaping epidemic. JUUL repeatedly stated "[w]e have never marketed to youth and never will."

The truth was much different – and unsettling. JUUL's co-founders had carefully studied the marketing tactics previously employed by Big Tobacco to target underage consumers in the hopes they would create lifelong customers for JUUL's products. They designed and created a technologically advanced product that appealed to the modern underage consumer and delivered highly addictive and dangerous levels of nicotine. In addition to a sleek design that resembled a USB drive that youth could hide in plain sight, JUUL made its products powerfully addictive and enticing, offering an array of kid-friendly flavor options for their JUULpods, including mango, crème brûlée and mint. Lured in by these flavors, youth users experienced JUUL's nicotine delivery system (in the form of JUULpods), which, by design reduced the harsh effects of traditional combustible tobacco products, minimized the "throat hit" associated with traditional cigarette use, and released nicotine more effectively, making the nicotine impact more potent and likely to cause addiction. During its investment due diligence process, Altria quickly recognized JUUL's scheme to entice adolescents, because JUUL was mimicking the marketing gimmicks that Altria and the rest of Big Tobacco were caught doing years before. Altria, however, turned a blind eye to JUUL's improper practices. Altria was desperate to acquire JUUL, regardless of the risks, because Altria was unable to meaningfully compete with JUUL in the burgeoning and lucrative market for e-cigarettes.

Michael J. Wernke, Partner

When JUUL's and Altria's scheme was discovered, and regulators began to act, Altria's investors (who now owned 35% of JUUL) paid the price. The risks of regulatory scrutiny and extensive litigation from the defendants' intentional and illegal scheme began to materialize, resulting in Altria taking three separate write-downs of its JUUL investment until it was valued at only $1.6 billion, or 12.5% of its original $12.8 billion investment. As the market learned the truth concealed by the defendants' fraud, Altria's stock lost one-third of its value.

The settlement was achieved after approximately two years of hard-fought litigation. The defendants filed four motions to dismiss the complaint, which the court denied in their entirety in March 2021. The court's opinion was particularly significant because it upheld claims against

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JUUL in addition to Altria, even though all claims were based on the plaintiffs' purchases of Altria securities (not JUUL securities). Normally, courts hold that a plaintiff that purchased shares in Company A (Altria) lacks standing to pursue 10(b) claims against a distinct Company B (JUUL) for statements that Company B made about itself. This crucial "standing issue" is one in which there had heretofore been a wide gap in case law.

The court, persuaded by Pomerantz's arguments on the standing issue, stated that JUUL "can face liability for its own statements that Altria investors may have relied upon." The court found the alleged statements material, holding that "[p]laintiffs have alleged an abundance of facts showing that JUUL targeted youth and sufficient facts that Altria and JUUL knew of this marketing scheme and the risks that it posed to JUUL and Altria. However, they chose not to inform investors about these risks," which disclosure "would have altered the 'total mix' of information available that a reasonable investor would have considered." *Altria* is the first case to present a fact pattern that had previously only been suggested as viable in dicta by circuit courts. In securing this precedent-setting decision, Pomerantz has forged a new inroad for investors' rights.

Discovery was wide-ranging. It involved analyzing approximately 30 million pages of documents concerning a diverse range of highly complex issues and dozens of depositions. Settlement was only achieved as discovery was ending and the parties were preparing for summary judgment briefing.

Pomerantz's perseverance resulted in one of the largest recoveries ever achieved in a securities class action in Virginia and in the Fourth Circuit, and which is approximately seven times the median settlement value of all federal securities class actions between 2018 and 2020. ■

Pomerantz Achieves Victory for Qihoo Investors

By Michael Grunfeld

Pomerantz achieved a significant victory for investors when the Second Circuit Court of Appeals vacated the district court's dismissal of a securities fraud class action against Qihoo 360 Technology Co. Ltd. ("Qihoo") on November 24, 2021.

Qihoo is a leading technology company in China that provides internet security services and other technology offerings. This case arises out of Qihoo's management buyout in 2016, followed by the announcement in 2017 that the company would relist on the stock market in China for multiple times what the buyers paid to shareholders in the buyout. A group of buyers that included Qihoo's top executives took Qihoo private for $9.4 billion in a deal that closed on July 15, 2016. After the buyout, Qihoo split up its businesses and then, on November 2, 2017, SJEC—an elevator-manufacturing company listed on the Shanghai Stock Exchange—announced that it would be conducting a backdoor listing (also known as a reverse merger) with Qihoo's main businesses. On February 28, 2018, Qihoo's shares effectively began trading on the Shanghai Stock Exchange; the company had a market capitalization of $62 billion at the end of its first day of trading.

The complaint alleges that that the defendants violated Section 10(b) and other provisions of the Securities Exchange Act of 1934 because they misrepresented that the buyers (including Qihoo's CEO and President) planned, at the time of the privatization, to relist the company in China. The district court applied an overly demanding standard to conclude that the complaint did not plead a false and misleading statement because it did not adequately allege a "concrete and definite" relisting plan at the time of the buyout, despite the multiple sources of evidence supporting the allegation that the buyers had precisely that plan.

In vacating the district court's ruling, the Second Circuit explained that the lower court improperly discounted the evidence showing that a relisting plan existed at the time of the buyout. This evidence includes news articles referencing materials provided to investors in the privatization that discussed the relisting plan, an expert's analysis of the amount of time it takes to plan for a backdoor listing in China, and information from a confidential witness who was at a meeting with one of the defendants. The Second Circuit concluded that these allegations created a "plausible inference that a concrete plan was in place at the time Qihoo issued the Proxy Materials." This meant that the plaintiffs adequately alleged that "the statement in the Proxy Materials that 'the Buyer Group does not have any current plans' to relist Qihoo—as well as its omission of any such plan—was misleading."

The Second Circuit's decision contains several notable rulings. First, the decision provides a helpful reminder that "[a]lthough pleading standards are heightened for securities fraud claims, we must be careful not to mistake heightened pleading standards for impossible ones." This is an important acknowledgment that courts must apply common sense when assessing the plausible inferences that should be drawn from the facts alleged in a complaint at the pleading stage.

In addition, the Second Circuit's decision is significant in its recognition of what the plaintiffs alleged to be false. The complaint alleged that the defendants' statement, in the proxy materials for the privatization, that the buyer group did not have any "current plans, proposals or negotiations" for an "extraordinary corporate transaction" was false because the group already had its relisting plan when it made that statement. The district court held that because the proxy materials also noted that after the buyout, the company "may propose or develop plans and proposals" to relist, the plaintiffs faced a higher hurdle in what they were required to show in order to allege the falsity of the defendants' statements. On appeal, the plaintiffs argued that the defendants' warning that the company might *at some point in the future* "propose or develop plans and proposals" to relist has no bearing on whether the buyer group had any "*current* plans" at the time of buyout. The Second Circuit agreed. Because the complaint plausibly alleged that the

Michael Grunfeld, Partner

buyer group had a plan to relist at the time of the buyout, the defendants' denial of "any current plans to relist Qihoo" was adequately alleged to be false and misleading.

The Second Circuit's decision also explains clearly how the materiality element applies here. The plaintiffs argued on appeal that it does not matter how advanced the buyer group's relisting plan was because the stage of development of the plan relates to the separate issue of materiality, which—particularly in the context of significant corporate transactions—is a fact-intensive issue that cannot be decided on a motion to dismiss. The Second Circuit again agreed. It stated the well-known standard that "a complaint may not properly be dismissed on the ground that the alleged misstatements or omissions are not material unless they are so obviously unimportant to a reasonable investor that reasonable minds could not differ on the question of their importance." The Court also cited cases holding that this standard is particularly important in the merger context, where "the materiality of merger negotiations depends on the specific facts of each case." For example, information concerning merger negotiations has been held to be "material even when negotiations had not jelled to the point where a merger was probable." Applying these principles to the facts alleged here, the Court held that because the plaintiffs adequately alleged that negotiations for the relisting "were ongoing—or had already happened—at the time of the shareholder vote," these facts were not "'so obviously unimportant to a reasonable investor' as to allow the dismissal of the appellants' claims."

This decision in *Qihoo* has considerable implications for other cases that raise similar issues. Qihoo is one of several Chinese companies that have gone private from U.S. exchanges in recent years and relisted shortly thereafter on a foreign stock exchange for multiple times the price they paid to investors to take the company private. Other Chinese companies might soon follow, based on recent political and regulatory developments involving Chinese companies that are listed on U.S. exchanges. Multiple other courts have relied on the district court's now-vacated decision in *Qihoo* when deciding that a relisting plan was not adequately alleged. Those other courts, as well as courts that address claims about future relistings, will need to apply the Second Circuit's important *Qihoo* decision to the facts before them. ■

Pomerantz Secures Important Ninth Circuit Ruling in *Nikola*

By J. Alexander Hood II

On November 18, 2021, Pomerantz LLP and Block & Leviton LLP were appointed as co-lead counsel in a securities class action on behalf of investors in the securities of Nikola Corporation, on behalf of a group of three individual investors serving jointly as co-lead plaintiffs. The co-lead counsel appointment in *Nikola* was the culmination of a 14-month process that began in September 2020 and included a successful petition to the Ninth Circuit Court of Appeals for a writ of mandamus, securing an opinion that provided important clarity to the lead plaintiff appointment provisions of the Private Securities Litigation Reform Act of 1995 (the "PSLRA").

In September 2020, the first of several related class actions complaints was filed in the United States District Court for the District of Arizona on behalf of Nikola investors, alleging that Nikola and its founder and Executive Chairman, Trevor Milton, had defrauded investors by, among other things, claiming to have designed technology and vehicle components that Nikola had, in reality, purchased from other manufacturers, and wholly fabricating the existence of a purportedly "breakthrough" battery system that Milton claimed was under development. After Nikola's malfeasance was laid bare, that value of the company's securities plummeted, damaging investors.

On the November 16, 2020 motion deadline, the Pomerantz LLP and Block & Leviton investor group (the "P-BL Group") was one of several movants to seek appointment as lead plaintiff in the *Nikola* class action, alleging an aggregate loss of $6 million.

The PSLRA, which governs federal securities class actions, provides a three-step analysis for the appointment of a lead plaintiff. Specifically, the statute creates a strong presumption that a court will appoint the movant or group of movants that: (1) possesses the largest financial interest (generally meaning monetary loss) in the litigation; and (2) has made a preliminary showing that it is adequate and typical under Federal Rule of Civil Procedure 23—that is, that the class representative's interests are not antagonistic to those of the class and its claims against the defendants arise from the same course of conduct as those of the other class members. After a movant has satisfied those two criteria, a competing movant may attempt to rebut the presumption in favor of that movant's appointment by presenting proof that the presumptive movant is in fact atypical or inadequate to represent the class, or otherwise subject to some disqualifying unique defense (Step 3 of the analysis).

Considering the competing motions in *Nikola*, the district judge applied the PSLRA's three-step analysis. At Step 1, the district judge recognized that the P-BL Group's

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$6 million loss was "millions higher than any other would-be lead plaintiff," giving the group the largest financial interest in the litigation. At Step 2, the court likewise found that the group was both typical and adequate.

Having satisfied the requisite financial interest and adequacy and typicality criteria at Step 1 and Step 2, the district judge found that the P-BL Group was the presumptive lead plaintiff.

Turning to Step 3, however, the district judge found that competing movants had rebutted the presumption in favor of the group's appointment as lead plaintiff. Despite finding that the group's submissions had demonstrated its adequacy under Rule 23, the court considered arguments made by two competing movants—specifically, that the P-BL Group's submissions had not demonstrated that it was sufficiently cohesive and prepared to supervise the litigation, given that its members lacked a pre-litigation relationship—and expressed "misgivings about the cohesion of [the group] and its ability to control the litigation without undue influence from counsel." On that basis, the court denied the group's motion and appointed instead an individual movant, Angelo Baio, with a significantly smaller loss than the group.

Pomerantz and co-counsel promptly filed a petition for a writ of mandamus with the Ninth Circuit Court of Appeals, arguing that the district judge had erred in applying the PSLRA. Specifically, having determined that the P-BL Group had secured the "most adequate plaintiff" presumption after reviewing the evidence in the record, the judge could not then, at the next stage of the analysis, cite the same evidence that had established the presumption in the group's favor as the basis for "misgivings" and deny the group's motion.

The Ninth Circuit panel agreed that the district court had misapplied the statute and issued an opinion largely adopting Pomerantz and B&L's arguments: "For the presumption to have meaning at step three, competing movants must point to evidence of inadequacy. Competing movants must convince the district court that the presumptive lead plaintiff would not be adequate, not merely that the district court was wrong in determining that the *prima facie* elements of adequacy were met. That is the purpose of the presumption and burden-shifting. The district court made a *prima facie* determination at step two that the group was adequate. But at step three, it appeared to change its mind because other courts usually prefer members of the group to have a pre-litigation relationship. It pointed to no evidence to support its decision, instead relying only on the absence of proof by the group regarding a pre-litigation relationship and its misgivings. That does not comport with the burden-shifting process Congress established in the PSLRA."

Accordingly, the Ninth Circuit vacated the lead plaintiff order and remanded to the district court "to redetermine the lead plaintiff in a manner that is consistent with this opinion."

On remand, the district judge duly applied the statute in a manner consistent with the Ninth Circuit's opinion. At Step 1,

J. Alexander Hood II, Of Counsel

nothing changed in the court's analysis, as the group having the largest financial interest was never in dispute. This time, however, at Step 2, the court *expressly* considered the group's lack of a pre-litigation relationship in making an adequacy determination, as the Ninth Circuit acknowledged it could have done in the first instance. After considering the relevant factors, including the group's relatively small size and the prosecution procedures and communication mechanisms that the group attested to having adopted, the court ultimately reaffirmed its finding that the group was adequate, its lack of a pre-litigation relationship notwithstanding. Finally, at Step 3, the court found that no evidence had been adduced to the effect that the P-BL Group, as the presumptive "most adequate plaintiff," was inadequate, atypical, or subject to some disqualifying unique defense—expressly noting this time that the competing movants' arguments about the group's unrelatedness had already been addressed at Step 2.

Accordingly, the district court vacated Baio's appointment as lead plaintiff and appointed the P-BL Group as lead plaintiff instead.

This represents a significant achievement by Pomerantz and Block & Leviton. Guidance from the federal appellate courts on PSLRA jurisprudence is relatively rare, and the Ninth Circuit's issuance of an opinion, adopting in larger part the arguments advanced by Pomerantz and Block & Leviton, brings important clarity to a sometimes overlooked but nonetheless essential aspect of federal securities litigation. Moreover, the case against Nikola has only grown more compelling since the initial complaints were filed. In July 2021, Nikola's founder and former CEO, Trevor Milton, was indicted for fraud by federal prosecutors, and in December 2021, Nikola agreed to pay $125 million to settle fraud charges with the U.S. Securities and Exchange Commission. ■

Q&A

Charlie Morris

The *Monitor* recently interviewed Charlie Morris, Chief Investment Officer, EMEA & APAC, at Woodsford Litigation Funding.

***Monitor*: What led you to a career in litigation funding?**

Charlie Morris: Although, as the son of a criminal law judge, the law is in my blood, I studied modern languages at university. But after living in Japan for a couple of years after graduation, I took the plunge to become a commercial solicitor in the U.K. Several years of study and training later, I qualified as an English law litigator. Right from the off, and for the next seven years, I acted for plaintiffs in funded matters as well as for funders in various disputes about costs. Joining Woodsford allowed me to work in a business in which I continue to use my legal training.

M: Under what conditions might it be advantageous to pursue securities litigation outside the United States?

CM: Put simply, where a listed issuer has failed in its obligation to disclose material information to the market in a timely manner and that failure causes loss to its investors, those investors may have good cause to bring a securities claim. But the devil is in the detail. The specific ingredients required for a good securities claim vary from jurisdiction to jurisdiction. Some regimes are more claimant-friendly than others. For example, in some jurisdictions there is no requirement for claimants to prove 'reliance' (e.g. on published information or misrepresentations) or scienter (i.e., that a defendant was, at a sufficiently senior level of management, aware, negligent, fraudulent and/or dishonest in relation to the company's relevant disclosures). Whereas other jurisdictions do require that claimants prove reliance and scienter.

M: What is litigation funding and what is its role outside the US?

CM: The costs of litigation (anywhere in the world) can be prohibitive. Many claimants with meritorious claims either cannot afford to litigate or lack the appetite to do so. A litigation funder can fund the claimant's claim in return for a share of any recovery (if the claim succeeds). And if the claim does not succeed, the funder, not the claimant, bears the costs of a loss.

Litigation funding is available for all sorts of claims, particularly high value commercial claims. The advantage for institutional investors of having their non-U.S. securities claims funded by a reputable litigation funder like Woodsford is that the merits of their claims will be independently assessed by litigation experts, with the funder bearing the financial risk of it not succeeding. Funding allows institutional investors to comply with their stewardship obligations, by holding their investee companies to account, and to recover losses suffered without having to risk throwing good money after bad. Rarely will it make sense not to participate, even where it is necessary to actively 'opt-in' to participate.

M: What are the criteria for a case to be eligible for funding?

CM: Given that funders typically only recoup their investment in a claim and make a return if a sufficient recovery is made, a claim will typically only be eligible for funding if the funder has a clear line of sight to such a recovery. For example, if a claim is meritorious and likely to result in a favorable judgment, but the defendant is unlikely to be able to pay that judgment, the claim is unlikely to be eligible for funding. In a nutshell, a funder typically looks for a trustworthy claimant with a meritorious claim (in respect of liability, causation and quantum), to be heard by a reliable court or tribunal in an efficient manner, against a solvent defendant with sufficient assets in a jurisdiction where effective enforcement (if required) is possible.

M: What is the relationship between Woodsford and the legal team running a case?

CM: Although Woodsford can and does fund law firms, it will typically fund claimants. The claimants, in turn, will instruct and be the clients of the lawyers. The funder and lawyers may also have a direct contractual relationship in that scenario, but that is not always necessary. In securities actions that Woodsford funds, Woodsford typically identifies the law firm that it wants to act for the claimants, agrees to the best possible terms for the claimants and then presents the opportunity (sometimes jointly with the lawyers) to eligible investors.

M: In your 6+ years at Woodsford, what changes have you seen in international securities litigation?

CM: Ever since the U.S. Supreme Court's 2010 decision in *Morrison v National Australia Bank*, which saw the U.S. Courts limit the jurisdictional scope of the U.S. securities laws to U.S.-listed securities, international (or non-U.S.) securities litigation has grown significantly. This growth has been fuelled by the simultaneous growth in litigation funding. Funders have become more comfortable with the risks involved in securities litigation in various jurisdictions across the globe while investors are becoming ever more accustomed to what is involved in securities litigation outside of the U.S. Woodsford funded its first international securities litigation in 2017 and has funded many more since. It is funding more English securities claims than any other funder in the market.

In a number of jurisdictions, there is little jurisprudence in securities litigation, primarily because most claims settle before trial and judgment. This lack of jurisprudence means that the parties to the litigation are often defining the boundaries of how securities litigation works in a particular jurisdiction. For example, in England, the court has been asked to intervene in some cases to determine what is required for a claimant to have the requisite title to sue. In the Netherlands, there is a question mark over which law governs the dispute where the issuer is seated in the Netherlands but its securities are listed elsewhere. The more securities claims that are brought, the more defined the parameters in these non-U.S. jurisdictions will become, but for the time being, there are various uncertainties. It may be, however, that these uncertainties increase the prospects of settlement, as they exist for the defendant as much as they do for the claimants.

M: Are there common hurdles in persuading investors to join international group actions?

CM: Yes, most investors have the same concerns. They typically want to minimize or extinguish any costs risk, maintain as low a profile as possible, and minimize the management time required to progress the claims.

M: Can you describe a personal career highlight at Woodsford?

CM: In 2018, Woodsford funded a securities litigation against a bank that had engaged in serious, undisclosed wrongdoing. Within a year of commencing proceedings, the investors achieved a highly positive settlement without having to engage in substantive litigation. That outcome was satisfying for me personally and catapulted Woodsford's securities business into what it is today. ■

Pomerantz Achieves Corporate Governance Reform at Troubled State Street

By Daryoush Behbood

Daryoush Behbood, Associate

State Street Corporation is an American financial services and bank holding company headquartered in Boston, Massachusetts. It is the second-oldest United States bank, with operations worldwide and trillions of dollars of assets under management.

However, over the course of many years, State Street was encumbered with numerous high-profile problems. In 2015, State Street disclosed that for nearly twenty years, it had incorrectly invoiced clients for out-of-pocket expenses (expenses billed as the actual cost State Street was incurring). While the company paid back more than $370 million to customers, its reputation took a substantial hit. In January 2016, the SEC announced that State Street Bank and Trust Company ("SSBT"), a wholly owned subsidiary of State Street, had paid $12 million to settle claims that a senior vice president of SSBT's public funds group caused State Street to enter into improper lobbying agreements to facilitate SSBT's ability to obtain custody services contracts with state pension funds. The SEC also alleged that the senior vice president and an outside lawyer for State Street made and facilitated improper political campaign contributions, contrary to SSBT's Standards of Conduct for employees, for the same purpose.

In April 2016, two former State Street executives were charged with defrauding State Street clients through undisclosed commissions applied to billions of dollars in securities trades. According to the U.S. indictment, the executives and others illegally conspired (from at least February 2010 to September 2011) to add more than $20 million in secret commissions to fixed income and equity trades performed for at least six of State Street's institutional clients. One executive pled guilty and the other was convicted in a jury trial for conspiracy, securities fraud, and wire fraud. State Street ultimately paid $64.6 million to resolve civil and criminal investigations related to the allegations. Finally, in July 2016, State Street announced that it would pay $530 million to resolve regulatory and class action claims that it misled certain custody clients related to how the company priced indirect foreign exchange trades.

All in all, these issues caused State Street to pay over $1.2 billion in reimbursement and penalties, harming not only the company itself, but State Street's many shareholders. To vindicate its shareholders' rights, Pomerantz, on behalf of two of its clients (State Street shareholders) sent a letter to State Street's Board of Directors demanding that it undertake an independent internal investigation concerning: (i) the overbilling of clients; (ii) the payment of $12 million to settle charges that the company devised a pay-to-play scheme with respect to Ohio pension funds; (iii) undisclosed commissions applied to billions of dollars in securities trades; and (iv) the $530 million settlement with regulators and public pension funds to resolve foreign exchange fraud claims.

As alleged in the complaint that was eventually filed by Pomerantz on behalf of State Street shareholders, despite the demand letter, the company's then Board of Directors failed to take any meaningful action towards resolving the weaknesses in its corporate governance that led to the numerous issues outlined above. After a three-year investigatory process, however, the plaintiffs and State Street were able to reach a settlement agreement that required the company to implement and maintain a comprehensive collection of corporate governance and internal control reforms. The reforms included the following:

First, State Street's Board of Directors was required to revise its corporate governance guidelines to specify that it would be explicitly responsible for overseeing management's assessment of the adequacy and effectiveness of internal controls, ensuring, in no uncertain terms, a compliance oversight function at the Board level. The importance of the Board's oversight function cannot be overstated. Creating a compliance oversight function at the board level is extremely important because it elevates the compliance function, separate and apart from management. The targeted language added to the Board's guidelines will remedy the responsibility gap at State Street and help prevent the recurrence of problems that were previously overlooked, such as overbilling and overcharging State Street clients for out-of-pocket expenses.

Second, the settlement required State Street to develop, implement, and assess a "culture training program" specifically for newly hired employees. The culture training program was designed to promote high ethical standards at the company, create awareness of the risks of unethical business conduct not only for individual employees, but for State Street as an institution, and more generally to prevent the recurrence of employee misconduct that caused the company to pay millions of dollars in penalties, fines, and restitution. Finally, the settlement required State Street to maintain a large suite of policies and procedures, thirty-eight in total, on a wide variety of fronts and in potentially high-risk areas, including billing, contracts, anti-fraud policies, marketing, ethics, and client invoicing. The settlement binds the company to keep these policies and procedures in place for three years, which will considerably strengthen State Street's internal controls, compliance with state and federal laws, promote appropriate business conduct, and force cultural changes that will persist into the future.

Overall, the corporate governance reforms specified within the settlement were designed to reduce the risk of the recurrence of issues such as those alleged within the plaintiffs' complaint, and they positioned the company to profit from the long-term benefits of strong corporate governance. Considering the substantial benefits provided to State Street and its shareholders via the settlement, Pomerantz's clients, and all State Street shareholders, expect that the company's worst days are behind it. ■

Jeremy A. Lieberman

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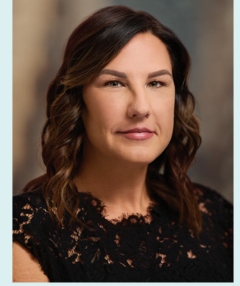
Janalee Spencer

NOTABLE DATES ON THE POMERANTZ HORIZON

IF YOU WILL BE ATTENDING ANY OF THESE EVENTS AND WOULD LIKE TO MEET WITH US, SEND US A MESSAGE AT EVENTS@POMLAW.COM.

On January 19, **JEREMY LIEBERMAN** will present a lecture titled **"Securities Class Action Litigation in the United States"** at the **11th World Litigation Forum 2022** in Dubai.

JENNIFER PAFITI will attend the **PPI Winter Roundtable** in Westlake, CA from January 23-25.

MARC GROSS, the Institute for Law and Economic Policy's President, will give the opening remarks at **ILEP's 28th Annual Symposium** to be held virtually on January 27 and 28 at www.ilep.org. **MICHAEL GRUNFELD** will moderate the panel on **"Enhancing Reputational Accountability to Investors."**

Along with **JANALEE SPENCER**, **JENNIFER** will attend **NAPO's Annual Police, EMS, & Municipal Employee Pension & Benefits Seminar** in Las Vegas, NV from February 27-March 1.

JANALEE will attend the **CALAPRS General Assembly** in San Diego, CA from March 5-8, as well as the **GAPPT Annual Conference** in Jekyll Island, GA from March 21-24.

EMMA GILMORE will be featured on a panel during **Practicing Law Institute's Securities Litigation 2022 program** in New York, NY on March 28. The panel, **"Prosecuting and Defending the Civil Action: Class Certification, Fact Discovery, Experts and Summary Judgment Motions in Securities Litigation,"** can be viewed by registered attendees via live webcast at www.pli.org.

JENNIFER will also attend the **CII Spring Conference** in Washington, D.C. from March 7-9, as well as the **TEXPERS Annual Conference** in Fort Worth, TX with **JANALEE** from April 3-6.

JANALEE will attend the **IPPFA Pension Conference** in East Peoria, IL from April 27-29.

CORPORATE GOVERNANCE ROUNDTABLE EVENT

WITH SPECIAL GUEST SPEAKER

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HOSTED BY

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Please join institutional investors and corporate governance professionals to discuss the evolving landscape of institutional investors, ESG risks and governance challenges, featuring remarks by President Bill Clinton.

Seating is limited. To express interest in attending, please email:
pomerantzroundtable2022@pomlaw.com

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

Pomerantz is acknowledged as a global leader in securities and corporate governance litigation. Pomerantz monitors the portfolios of some of the most influential institutional investors and financial institutions worldwide, monitoring assets in excess of $6.8 trillion. Founded by Abraham L. Pomerantz, who was known as the "dean of the plaintiffs' securities bar," the Firm pioneered the field of securities class actions. For 85 years and counting, Pomerantz has continued 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.

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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 www.pomlaw.com or contact:

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