

In re OPKO Health, Inc. Securities Litigation

COURT: United States District Court for the Southern District of Florida
CASE NUMBER: 1:18-cv-23786-JEM
CLASS PERIOD: 09/26/2013 - 09/07/2018
CASE LEADERS: John Rizio-Hamilton, Adam Hollander
CASE TEAM: Jai K. Chandrasekhar, R. Ryan Dykhouse

Securities fraud class action filed on behalf of a class of investors who purchased or otherwise acquired OPKO Health Inc. ("OPKO") common stock from September 26, 2013 to September 7, 2018, inclusive, and were damaged thereby (the "Class Period").

Lead Plaintiff Has Settled the Action for \$16.5 Million

The Court-appointed Lead Plaintiff, The Amitim Funds, on behalf of itself and the Settlement Class, has settled the Action for \$16,500,000 in cash (the "Settlement").

The Court held a hearing to consider approval of the Settlement and related matters on December 15, 2020. On April 28 and 29, 2021, the Court entered a Final Judgment and an Order finally approving the Settlement and approving the proposed Plan of Allocation, and an Order awarding attorneys' fees and expenses.

If you are a member of the Settlement Class, your rights will be affected and you may be eligible for a payment from the Settlement. The Settlement Class consists of:

all persons or entities that purchased or otherwise acquired OPKO common stock during the period from September 26, 2013 through September 7, 2018, inclusive (the "Class Period"), including, but not limited to, on either a U.S.-based exchange (including the New York Stock Exchange and Nasdaq), or on the Tel Aviv Stock Exchange, and who were damaged thereby.

Certain persons and entities are excluded from the Settlement Class by definition (see paragraph 23 of the [Notice](#)) or were excluded by request.

Please read the [Notice](#) to fully understand your rights. Copies of the [Notice](#) and [Claim Form](#) can be found on the Case Documents tab on the left-hand side of the page. You may also visit the Settlement website, OPKOHealthSecuritiesLitigation.com, for more information about the Settlement.

Information in Hebrew (**מידע בעברית**) can be found at OPKOHealthSecuritiesLitigation.com.

If you are a member of the Settlement Class and you purchased OPKO common stock on a U.S. stock exchange (New York Stock Exchange or Nasdaq), or you purchased or acquired shares through any other means *other than* on the Tel Aviv Stock Exchange, you must submit a Claim Form *postmarked no later than January 26, 2021 in order to be eligible to receive a payment under the Settlement.*

If you purchased OPKO common stock *only* on the Tel Aviv Stock Exchange ("TASE") you do not need to submit a Claim Form. Those Settlement Class Members will be eligible to receive a distribution from the Settlement based on the shares they purchased on the TASE without submitting a Claim Form.

Payments to eligible claimants will be made only after the completion of all claims processing. Please be patient, as this process will take some time to complete.

IMPORTANT DATES AND DEADLINES

January 26, 2021

Claim Filing Deadline. Claim Forms must be *postmarked no later than January 26, 2021* to be eligible for a payment from the Settlement.

The only way to be eligible to receive a payment from the Settlement Fund based on your purchases of OPKO common stock traded on a U.S. stock exchange (including the New York Stock Exchange or Nasdaq), or any other purchases or acquisitions of OPKO common stock by any other means *other than* on the Tel Aviv Stock Exchange, is to submit a Claim Form *postmarked by January 26, 2021*.

You do **not** need to submit a Claim Form to be eligible for a payment based on your purchases of OPKO common stock traded on the Tel Aviv Stock Exchange.

The Litigation

In September 2018, after a significant investigation, the SEC charged Frost and OPKO with numerous violations of the federal securities laws for this misconduct. After the disclosure of the SEC complaint, the price of OPKO common stock collapsed by more than 30%, causing significant harm to OPKO shareholders. The Complaint alleges that Defendant Phillip Frost, CEO and Chairman of Defendant OPKO, who enjoyed a reputation as a savvy investor in biotechnology companies and was sometimes referred to as the “Warren Buffet of biotech,” used OPKO, a publicly traded company, as a vehicle for illicit investing activities. The action arises from alleged false statements and omissions by Frost and OPKO concealing the involvement of Frost, OPKO and other Defendants in multiple illicit “pump-and-dump” stock schemes. The Defendants allegedly used orchestrated trading and false promotional pieces to artificially “pump” up the share price of companies in which they had invested, and then “dumped” their shares by selling them to unsuspecting investors, leaving investors holding stock that was, in truth, virtually worthless.

Background

In December 2013, investment company Lakewood Capital Management (“Lakewood”) published a detailed report titled, “OPKO Health: The Placebo Effect” (the “Lakewood Report”), which connected Frost and OPKO with two individuals named Barry Honig and Michael Brauser, among others, implicated in numerous suspect investments going back years. The Lakewood Report detailed examples of litigation against, and suspected fraud by, Honig and Brauser, and raised serious concern among OPKO investors. In the days after Lakewood’s criticisms were aired, OPKO’s stock declined significantly on elevated trading volume. Frost and Opko denied the allegations in the Lakewood Report.

Throughout the Class Period, Frost and OPKO made a host of other public statements in SEC filings, investor conferences, and the media that were designed to reassure investors that their investment activities were

legitimate, were based on the identification of valuable medical technology, and were made to benefit OPKO and its shareholders.

The Complaint alleges, however, that these statements were materially false and misleading, and served to conceal a disturbing truth: unbeknownst to investors, Frost and OPKO were indeed involved in multiple alleged illicit “pump-and-dump” schemes with Honig and Brauser. Investors in OPKO stock did not learn the truth about this alleged misconduct until September 7, 2018, when the SEC charged Frost, OPKO, Honig, Brauser, and multiple additional entities controlled by Frost with a litany of violations of the federal securities laws for engaging in multiple “‘pump-and-dump’ schemes” leaving “retail investors holding virtually worthless shares.”

On February 4, 2019, the Court appointed The Amitim Funds as Lead Plaintiff, and BLB&G as Lead Counsel, for the Class, and on May 3, 2019, Lead Plaintiff filed the Complaint on behalf of a class of investors who purchased or otherwise acquired OPKO common stock from September 26, 2013 to September 7, 2018. In June 2020, the parties reached a proposed settlement of \$16.5 million that was subject to Court approval.

On September 4, 2020, the Court entered an Order preliminarily approving the Settlement, approving the mailing of notice to the Settlement Class, and scheduling a final Settlement Hearing for December 15, 2020.

On April 28, 2021, the Court entered an Order finally approving the Settlement and approving the proposed Plan of Allocation. On April 29, 2021, the Court entered an Order awarding attorneys’ fees and expenses and a Final Judgment.

Case Documents

- Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (“Notice”)
- Proof of Claim and Release Form (“Claim Form”)
- March 23, 2022 - OPKO Distribution Motion Order Approving Distribution of Funds
- November 19, 2021 - Motion for Approval of Distribution Plan
- November 19, 2021 - Proposed Order
- November 19, 2021 - Declaration of Luiggy Segura in Support of Motion for Approval of Distribution Plan
- November 19, 2021 - Exhibit A
- November 19, 2021 - Exhibit B
- November 19, 2021 - Exhibit C
- November 19, 2021 - Exhibit D
- November 19, 2021 - Exhibit E
- November 19, 2021 - Exhibit F
- November 19, 2021 - Exhibit G
- November 19, 2021 - Exhibit H

- April 29, 2021 – Final Judgment
- April 29, 2021 – Order on Motion for Attorneys’ Fees and Litigation Expenses
- April 28, 2021 – Order Granting Final Approval of Class Action Settlement and Order of Dismissal with Prejudice
- December 8, 2020 – Reply Memorandum in Further Support of (A) Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation and (B) Lead Counsel’s Motion for Attorneys’ Fees and Litigation Expenses
- December 8, 2020 - Supplemental Declaration of Luiggy Segura Regarding: (A) Mailing of the Notice and Claim Form and (B) Report on Requests for Exclusion Received
- November 10, 2020 - Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation, and Incorporated Memorandum of Law
- November 10, 2020 - Lead Counsel’s Motion for Attorneys’ Fees and Litigation Expenses, and Incorporated Memorandum of Law
- November 10, 2020 - Declaration of John Rizio-Hamilton in Support of (I) Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for Attorneys’ Fees and Litigation Expenses
- September 4, 2020 - Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice of Settlement
- June 26, 2020 – Stipulation and Agreement of Settlement
- May 3, 2019 - Consolidated Class Action Complaint