

City of Hialeah Employees' Retirement System v. The Scotts Miracle-Gro Company

COURT: United States District Court for the Southern District of Ohio
CASE NUMBER: 24-cv-03132
CLASS PERIOD: 11/03/2021 - 08/01/2023
CASE LEADERS: Hannah Ross, Avi Josefson, Scott R. Foglietta

On June 6, 2024, Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") filed a class action lawsuit in the U.S. District Court for the Southern District of Ohio alleging violations of the federal securities laws by The Scotts Miracle-Gro Company ("Scotts" or the "Company") and certain of the Company's current and former senior executives (collectively, "Defendants"). The action is brought on behalf of all persons or entities that purchased Scotts common stock between November 3, 2021, and August 1, 2023, inclusive (the "Class Period").

BLB&G filed this action on behalf of its client, City of Hialeah Employees' Retirement System, and the case is captioned *City of Hialeah Employees' Retirement System v. The Scotts Miracle-Gro Company*, No. 24-cv-03132 (S.D. Ohio). The complaint is based on an extensive investigation and a careful evaluation of the merits of this case. To view the complaint, see the **Case Documents** section of this page.

Scotts' Alleged Fraud

Scotts produces various lawn, garden, and agricultural products for both consumer and professional purposes. It is also the world's largest marketer of branded consumer products for lawn and garden care. In 2014, Scotts formed a wholly owned subsidiary, The Hawthorne Gardening Company, which focuses on hydroponics for the emerging cannabis growing market. The Company sells a vast majority of its products through third-party distributors.

During the Class Period, Scotts was highly leveraged, with its senior secured credit facilities containing various restrictive covenants and cross-default provisions that require the Company maintain specific financial ratios. A breach of any of these covenants could result in a default, enabling the Company's lenders to declare all outstanding indebtedness immediately due and payable. A key covenant required that Scotts maintain a debt-to-EBITDA ratio under 6.25. In 2020 and 2021, prior to the beginning of the Class Period, Scotts had missed out on millions of dollars in sales due to a lack of inventory as it faced surging demand. In response to this strong demand, Scotts significantly increased its inventory.

The complaint alleges that, throughout the Class Period, Defendants made numerous materially false and misleading statements and omissions concerning the Company's inventory levels, debt covenant compliance, and financial performance. Specifically, Defendants repeatedly assured investors that the Company's inventory levels were appropriate, while attributing strong sales to "selling through high-cost inventory," which resulted in "peak selling" and "record" shipments. Defendants also repeatedly assuaged investors' concerns about the Company's debt, stating that they were "optimistic we will remain within the bounds of our bank covenants" and "[did] not see leverage compliance issues going forward." As a result of these misrepresentations, Scotts common stock traded at artificially inflated prices during the Class Period.

In reality, Scotts' executives engaged in a scheme to saturate the Company's sales channels with more inventory than could be sold to end users. This scheme enabled Scotts to book as revenue the sales to its distributors and maintain earnings to debt ratios that just barely exceeded those required by its debt covenants.

The truth began to emerge on June 8, 2022, when Scotts revealed that replenishment orders from its U.S. retailers were \$300 million below target in the month of May alone. The Company also cut its 2022 full-year earnings guidance by roughly half and announced plans to take on additional debt to cover restructuring charges as it attempted to cut costs. These disclosures came mere weeks after the Company promised that it was "tracking to do even better" than its guidance. However, throughout the rest of the Class Period, Defendants continued to downplay the Company's inventory and debt compliance issues.

Then, on August 2, 2023, Scotts revealed that quarterly sales for its fiscal third quarter had declined by 6% and gross margins fell by 420 basis points. The Company also slashed fiscal year EBITDA guidance by a staggering 25% and announced it had to take a \$20 million write down for "pandemic driven excess inventories." Scotts further disclosed that it had to modify its debt covenants from 6.25 times debt-to-EBITDA ratio to 7.00 times debt-to-EBITDA ratio. As a result of these disclosures, the price of Scotts common stock declined precipitously.

If you wish to serve as Lead Plaintiff for the Class, you must file a motion with the Court no later than August 5, 2024, which is the first business day on which the U.S. District Court for the Southern District of Ohio is open that is 60 days after the publication date of June 6, 2024. Any member of the proposed Class may seek to serve as Lead Plaintiff through counsel of their choice, or may choose to do nothing and remain a member of the proposed Class.

If you wish to discuss this action or have any questions concerning this notice or your rights or interests, please contact Scott R. Foglietta of BLB&G at 212-554-1903, or via e-mail at scott.foglietta@blbglaw.com.

Case Documents

- June 6, 2024 - Initial Complaint
- June 6, 2024 - PSLRA Notice