

Teachers' Retirement System of Louisiana, et al. v. Suprema Specialties, Inc, et al.

COURT: United States District Court for the District of New Jersey
CASE NUMBER: 02-cv-168
CLASS PERIOD: 09/27/2000 - 12/21/2001
CASE LEADERS: Max W. Berger, Mark Lebovitch

Securities fraud class action filed against various parties associated with the now-bankrupt Suprema Specialties, Inc. ("Suprema"), including certain of its former officers, directors, auditors, and underwriters. On June 28, 2002, the Court appointed firm client the Teachers' Retirement System of Louisiana as the Lead Plaintiff and BLB&G as Lead Counsel in the litigation.

Lead Plaintiff Obtains \$19 Million Partial Recovery in Suprema Class Action

On December 12, 2007, the Court preliminarily approved an agreement to settle the Class's claims against certain defendants in this action for \$19 million in cash. Lead Plaintiff continues to prosecute this action against non-settling Defendants Mark Cocchiola and Marco Cocchiola (deceased). Defendant Steven Venechanos has been dismissed from the case.

A settlement fairness hearing was held on March 17, 2008 before the Honorable William H. Walls at the United States District Court for the District of New Jersey. In order to be eligible to share in the benefits of the settlement, class members should have submitted a completed and signed Proof of Claim form postmarked no later than April 10, 2008.

Background

The case arises out of a massive scheme perpetrated by Suprema's senior management, in which they caused the Company to engage in millions of dollars of fictitious sales. Five people, including four of Suprema's customers and one of its senior officers, have already pled guilty to charges of securities fraud, and the two senior officers of Suprema, defendants Mark Cocchiola (its chief executive officer) and Steven Venechanos (its chief financial officer), are currently under criminal indictment. The Second Amended Class Action Complaint alleges violations of the Securities Act arising from a secondary stock offering undertaken by the Company a mere six weeks before Venechanos and the Company's Controller resigned and trading in the Company's stock was halted by the NASDAQ. The Complaint also alleges fraud claims under Section 10(b) and Rule 10b-5 against Cocchiola and Venechanos, who allegedly orchestrated the fraud, and Suprema's auditor, BDO Seidman, LLP, which allegedly turned a blind eye to the fraud despite the existence of more than 30 "red flags" of potential wrongdoing.

Third Circuit Court of Appeals Sustains Plaintiff's Complaint; Decision Provides Significant Protections for Shareholders in Connection with Public Securities Offerings and for Future Management and Auditor Fraud Prosecutions

Despite the detailed allegations in the Complaint, the case was originally dismissed by Hon. William H. Walls, United States District Judge for the District of New Jersey. On February 23, 2006, however, the Third Circuit reversed that decision in its entirety, upholding all of the Class's claims, including its Securities Act claims against all of the

defendants and its fraud claims against Suprema's officers and auditors. The Third Circuit's decision is notable in several respects, including its discussion of the "sounds in fraud" doctrine, auditor liability, control person liability, tracing, and insider trading.

On April 2, 2007, Messrs. Cocchiola and Venechanos were convicted on all counts in the criminal trial. On April 23, 2007, U.S. District Judge William Walls certified the class in the securities fraud class action.

Case Documents

- February 23, 2006 - Third Circuit Opinion
- September 15, 2004 - Lead Plaintiff's Appellate Brief
- January 30, 2004 - Second Amended Class Action Complaint
- December 17, 2007 - Order of Voluntary Dismissal of Defendant Steven Venechanos Without Prejudice
- March 18, 2008 - Summary Notice of Proposed Settlement
- December 12, 2007 - Order Granting Application for Preliminary Approval of Partial Settlement
- December 12, 2007 - Notice of Pendency and Proposed Partial Settlement