

In re Virtus Investment Partners, Inc. Securities Litigation

COURT: United States District Court for the Southern District of New York
CASE NUMBER: 15-cv-1249
CLASS PERIOD: 5/28/13 - 12/22/14
CASE LEADERS: Jesse L. Jensen

This securities class action lawsuit was filed against Virtus Investment Partners, Inc. (“Virtus” or the “Company”) and certain of its executive officers and a director (the “Defendants”).

Settlement

On May 18, 2018, the parties entered into the Stipulation and Agreement of Settlement setting forth the terms and conditions of the proposed settlement of this action for \$22 million in cash (the “Settlement”).

On June 28, 2018, the Court entered the Preliminary Approval Order which authorized the dissemination of the Settlement Notice and Proof of Claim Form to potential Class Members, and set a final approval hearing for October 24, 2018.

On September 19, 2018, Lead Plaintiff filed its motion for final approval of the proposed Settlement and Plan of Allocation and Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses.

On December 12, 2018, the Court entered an Order granting Lead Plaintiff’s motion for final approval of the proposed Settlement and Plan of Allocation and Lead Counsel’s motion for an award of attorneys’ fees and payment of litigation expenses.

The First Distribution was conducted on November 4, 2019, as approved by the Court.

The claims administration process has concluded and the net settlement fund has been fully disbursed. This matter is considered closed.

Background of the Alleged Fraud

The Complaint, filed on February 20, 2015, alleges that during the class period, Defendants aggressively marketed and sold five mutual funds that were managed by a sub-adviser, F-Squared Investments, Inc. (“F-Squared”). F-Squared developed the “AlphaSector” strategy, which purported to use a proprietary quantitative model that generated buy and sell signals that were applied to a portfolio of exchange-traded funds. Virtus and F-Squared marketed these mutual funds based on the past performance of this strategy, claiming that from 2001 to 2008, investors realized gains which significantly exceeded the performance of the Standard & Poors Index (“S&P 500”). However, Defendants knew or recklessly disregarding that AlphaSector’s advertised performance was fabricated and was not used for real clients.

On September 5, 2014, *The Wall Street Journal* reported that F-Squared had received a Wells Notice from the SEC for falsifying its AlphaSector performance record. On this news, Virtus’s stock price declined \$37 per share or 16%. On December 22, 2014, the SEC formally charged F-Squared and its former CEO for defrauding investors and announced that F-Squared would pay \$35 million in disgorgements and penalties. On March 31, 2015, Virtus

announced that it was being investigated by the SEC regarding whether it had violated securities laws and set aside a “loss contingency.”

On June 9, 2015, the Honorable William H. Pauley III of the United States District Court for the Southern District of New York appointed BLB&G client, the Arkansas Teacher Retirement System, as Lead Plaintiff and BLB&G as Co-Lead Counsel for the Class.

Class Certification

On May 25, 2017, the Court entered an order certifying this action to proceed as a class action on behalf of the Class, consisting of all persons and entities that, during the period between January 25, 2013 and May 11, 2015, inclusive, purchased or otherwise acquired shares of Virtus publicly traded common, and were damaged thereby.

Case Documents

- Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for and Award of Attorneys' Fees and Payment of Litigation Expenses
- October 1, 2019 - Order Approving Settlement Distribution Plan
- December 4, 2018 - Memorandum & Order
- September 19, 2018 – Notice of Class Representative’s Motion for Final Approval of Class Action Settlement and Plan of Allocation
- September 19, 2018 – Memorandum of Law in Support of Class Representative’s Motion for Final Approval of Class Action Settlement and Plan of Allocation
- September 19, 2018 – Notice of Class Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses
- September 19, 2018 – Memorandum of Law in Support of Class Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses
- September 19, 2018 – Joint Declaration of Michael H. Rogers and John C. Browne in Support of (I) Class Representative’s Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (II) Class Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses, and Exhibits 1-4 attached thereto
- September 19, 2018 – Exhibits 5-7 of the Joint Declaration of Michael H. Rogers and John C. Browne in Support of (I) Class Representative’s Motion for Final Approval of Class Action Settlement and Plan of Allocation; and (II) Class Counsel’s Motion for an Award of Attorneys’ Fees and Payment of Litigation Expenses
- June 28, 2018 – Order Preliminarily Approving Settlement and Providing for Notice
- May 18, 2018 – Stipulation and Agreement of Settlement