In re Advanced Marketing Services, Inc. Securities Litigation

COURT: United States District Court, Southern District of California
CASE NUMBER: 04-cv-00121
JUDGE: Hon. Roger T. Benitez
CLASS PERIOD: 01/16/1999 - 01/13/2004

Securities fraud class action seeking recovery on behalf of all persons and entities that purchased or otherwise acquired Advanced Marketing Services, Inc. (NYSE: "MKT") common stock or call options or sold AMS put options (collectively "AMS Securities") between January 16, 1999 and January 13, 2004 (the "Class Period").

On May 4, 2004, U.S. District Court Judge Jeffrey T. Miller appointed BLB&G to serve as Lead Counsel representing Lead Plaintiff, The Police and Fire Retirement System of the City of Detroit, and the Class. The Lead Plaintiff brings this action against Advanced Marketing Services, Inc. and the individually named defendants for their violations of the federal securities laws.

On February 17, 2006, the parties reached an agreement to settle the litigation, which was ratified by the Boards of the Lead Plaintiff and AMS. On July 31, 2006, U.S. District Court Judge Roger T. Benitez granted preliminary approval of the parties' settlement and plan of allocation. On October 16, 2006, the Court entered the Order of Final Judgment and Dismissal of the Action with Prejudice and granted final approval of the Settlement, the Plan of Allocation of Settlement Proceeds and the Request for Attorneys' Fees and Reimbursement of Expenses.

IN ORDER TO BE ELIGIBLE TO SHARE IN THE BENEFITS OF THE SETTLEMENT, CLASS MEMBERS MUST HAVE PREVIOUSLY SUBMITTED A COMPLETED AND SIGNED PROOF OF CLAIM FORM POSTMARKED NO LATER THAN DECEMBER 19, 2006.

Summary of the Allegations:

Headquartered in San Diego, California, AMS was a leading global distributor of general interest, computer and business books and books-on-tape to the membership warehouse club industry and other specialty retailers. AMS distributed its products to customers in the United States, Canada, Mexico, the United Kingdom, Australia, Singapore and certain other Pacific Rim countries. Beginning on January 21, 1999 and continuing through May 9, 2003, AMS reported progressively better financial results, with successive "strong" or "record" quarters, and made several public statements partly attributing the Company's continuing success to growth of its customized, value-added advertising services. But, on January 14, 2004, AMS announced that it had overstated earnings for the five previous fiscal years and would restate its financial statements as a result of accounting irregularities related to its advertising services. On December 29, 2006, AMS announced that it had filed a voluntary petition under Chapter 11 of the Federal Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.

The Company is alleged to have manipulated its financial results and misled investors during the Class Period by improperly recognizing advertising revenue and reporting advertising liabilities as income in violation of Generally Accepted Accounting Principles ("GAAP"). As a "value-added" service to AMS clients, the advertising services division mailed promotional materials directly to readers under a cooperative advertising agreement with publishers. Specifically, the Company admitted that it had overestimated circulation for its advertising materials, thereby collecting unearned revenues from its publisher partners, and also improperly counted costs for the ads as income. According to one news report, "some money that should have been spent on the ads went toward the bottom line." Additionally, the individual defendants, all top officers and directors, made materially false and misleading statements in investor conference calls about the nature and condition of the Company's financial results, then-current condition, and prospects.