

# In re Bennett Environmental Inc. Securities Litigation

**COURT:** United States District Court, Southern District of New York  
**CASE NUMBER:** 04-cv-05852  
**JUDGE:** Hon. Laura T. Swain  
**CLASS PERIOD:** 06/02/2003 - 07/22/2004

Securities fraud class action filed on behalf of a class of persons and entities who, during the period between June 2, 2003 and July 22, 2004, inclusive, (i) purchased or otherwise acquired Bennett Environmental Inc. ("Bennett") common stock or (ii) purchased or otherwise acquired "units" of Bennett securities sold pursuant to a private placement announced on January 12, 2004. On November 19, 2004, the Court appointed BLB&G clients Metropolitan Capital Advisors, L.P. and Metropolitan Capital Partners III, L.P. as Lead Plaintiffs, and appointed BLB&G as Lead Counsel for the Class.

## **BENNETT ENVIRONMENTAL AGREES TO SETTLE CLAIMS FOR \$9.75 MILLION**

On August 30, 2005, Lead Plaintiffs reached an agreement in principle with Bennett to settle all claims against the Company and the individual defendants for an aggregate cash payment to class members of US \$9.75 million. Under the proposed settlement, all claims asserted against the Company and the other named defendants will be dismissed with prejudice. A settlement fairness hearing was held on January 13, 2006, and with final approval granted, the distribution of settlement funds is currently in progress. The Notice of Settlement and Proof of Claim form are available below. In order to have been eligible to share in the benefits of the settlement, class members must have submitted a completed and signed Proof of Claim form postmarked no later than March 15, 2006.

## **BACKGROUND**

Bennett is a public corporation headquartered in Oakville, Ontario, whose primary business involves the transportation, treatment and disposal of contaminated soil. On June 2, 2003, Bennett announced that it received a contract to treat an estimated 300,000 tons of soil at the Federal Creosote Superfund Site in New Jersey, worth a purported value of (CAD) \$200 million (the "Creosote Contract"). On July 22, 2004, Bennett's disclosure that the Army Corps of Engineers had withdrawn its consent for the Creosote Contract, and that the Creosote Contract was not an agreement to treat 300,000 tons of soil, devastated the price of Bennett stock, which dropped 39% to close at \$5.99 on July 26, 2004.

On December 23, 2004, Lead Plaintiffs filed a Consolidated Amended Class Action Complaint on behalf of the Class, which charges Bennett and certain of its officers and directors with violations of the Securities Exchange Act of 1934 for knowingly or recklessly making materially false and misleading statements during the Class Period.

The Complaint alleges that defendants misled the investing public because the Creosote Contract in fact only guaranteed that Bennett would treat 500 tons of soil. In addition, the Complaint alleges that defendants violated the federal securities laws by failing to disclose that, less than a month after Bennett announced its receipt of the Creosote Contract, the U.S. Army Corps of Engineers withdrew its consent for awarding the contract to Bennett. The Complaint further alleges that defendants misled the investing public by claiming that the Creosote Contract would provide adequate soil for operating Bennett's largest facility at Saint Ambroise, Quebec, and warranted the construction of a new treatment facility at Belledune, New Brunswick. Indeed, as a result of Bennett's inadequate soil supply, the Saint Ambroise facility was in fact shut down during a portion of the Class Period, and Bennett's new facility in Belledune has not yet been used.