

In re Refco, Inc. Securities Litigation

COURT: United States District Court for the Southern District of New York
CASE NUMBER: 05-cv-8626
CLASS PERIOD: 07/01/2004 - 10/17/2005
CASE LEADERS: Salvatore J. Graziano, Jeremy P. Robinson

Securities fraud class action on behalf of persons and entities who purchased or acquired the securities of Refco, Inc. ("Refco" or the "Company") during the period from July 1, 2004 through October 17, 2005.

The lawsuit arises from the revelation that Refco, a once prominent brokerage, had for years secreted amounts ranging from \$300 million to \$970 million of uncollectible receivables with a related entity controlled by Phillip Bennett, the Company's Chairman and Chief Executive Officer. This revelation caused the stunning collapse of the Company a mere two months after its August 10, 2005 initial public offering of common stock, and only fourteen months after its issuance of 9% Senior Subordinated Notes due 2012. Refco has filed one of the largest bankruptcies in U.S. history as a result.

Multiple settlements have been achieved by Lead Plaintiffs in the action resulting in a total recovery of \$367.3 million for the benefit of the settlement class. In addition, Lead Plaintiffs have obtained more than \$40 million in restitution funds from the United States government for the benefit of the class resulting in a total recovery for the class of over \$407 million.

Below is a summary of the most recent events of interest in the case.

March 22, 2011 - Judge Rakoff Approves Settlements with Grant Thornton LLP and Settling Officer Defendants

On March 22, 2011, following a Settlement Hearing on March 11, 2011, the Honorable Jed S. Rakoff entered orders granting final approval to the settlements reached with defendant Grant Thornton LLP and with defendants Joseph J. Murphy, Dennis A. Klejna and William M. Sexton (the "Settling Officer Defendants"), which together provided for an additional payment to the Settlement Class of \$25.3 million. Judge Rakoff also certified the Settlement Class as to these defendants, authorized the application of the previously approved Plan of Allocation to the proceeds of these settlements, and approved Lead Counsel's motion for attorneys' fees and expenses. The related Judgments and Court Orders may be found in the **Case Documents** section of this page.

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

February 4, 2011 - Lead Plaintiffs Submit Papers in Support of Final Approval of Settlements with Grant Thornton LLP and Settling Officer Defendants, and Lead Counsel Submit Papers in Support of Their Motion for Attorneys' Fees and Expenses

On February 4, 2011, Lead Plaintiffs filed papers with the Court in support of final approval of the proposed settlements with Grant Thornton LLP and with Joseph J. Murphy, Dennis A. Klejna and William M. Sexton (the "Settling Officer Defendants"), authorization to apply the previously approved Plan of Allocation of the settlement proceeds to these additional settlements, and final certification of the settlement class as to these defendants. Lead Counsel also filed papers in support of their motion for attorneys' fees and reimbursement of expenses.

November 12, 2010 - Judge Rakoff Grants Preliminary Approval to Settlements with Grant Thornton LLP and Settling Officer Defendants

On November 12, 2010, the Honorable Jed S. Rakoff granted preliminary approval to settlements reached between Lead Plaintiffs and Refco's former auditor, Grant Thornton LLP and between Lead Plaintiffs and Joseph J. Murphy, Dennis A. Klejna and William M. Sexton (the "Settling Officers Defendants"), providing for total payments of \$25,300,000 for the benefit of the Settlement Class. Judge Rakoff also preliminarily certified a settlement class as to these defendants and approved the distribution of notice to class members concerning these settlements.

Judge Rakoff scheduled a hearing (the "Settlement Hearing") for **March 11, 2011 at 4:00 p.m.** at the United States Courthouse, 500 Pearl Street, New York, NY 10007. The purpose of the Settlement Hearing will be to determine, among other things, whether the proposed settlements are fair, reasonable and adequate and should be approved by the Court and whether the plaintiffs' attorneys' application for an award of attorneys' fees and reimbursement of litigation expenses should be granted.

October 27, 2010 - Judge Rakoff Approves Settlements with Audit Committee Defendants and THL Defendants and with Underwriter Defendants and approves Plan of Allocation

On October 27, 2010, following a Settlement Hearing, the Honorable Jed S. Rakoff granted final approval to the settlements reached with the Audit Committee Defendants and the THL Defendants and the Underwriter Defendants (including Sandler O'Neil & Partners, L.P.). Judge Rakoff certified the settlement class as to these defendants and approved the proposed Plan of Allocation for the settlement proceeds. Judge Rakoff also approved Lead Counsel's motion for attorneys' fees and expenses. The related Court Orders and Judgments may be found in the **Case Documents** section of this page.

July 30, 2010 - Judge Rakoff Grants Preliminary Approval to Settlements with Audit Committee Defendants and THL Defendants and with Underwriter Defendants and Sets Settlement Hearing

On July 30, 2010, the Honorable Jed S. Rakoff granted preliminary approval to a settlement reached between Lead Plaintiffs and the Audit Committee Defendants and the THL Defendants, which provides for a payment of \$130 million for the benefit of the settlement class, plus a possible additional settlement payment of up to \$10 million; and to a settlement reached between Lead Plaintiffs and the Settling Underwriter Defendants, which provides for payment of \$49.5 million for the benefit of the settlement class. Judge Rakoff also preliminarily certified a settlement class for these settlements and approved the distribution of notice to class members concerning these settlements and a settlement between Lead Plaintiffs and Sandler O'Neill & Partners L.P., which provides for a payment of \$3.5 million, that had previously been preliminarily approved. The action is continuing against the remaining defendants.

Judge Rakoff scheduled a hearing (the "Settlement Hearing") for **October 27, 2010 at 4:00 p.m.** at the United States Courthouse, 500 Pearl Street, New York, NY 10007. The purpose of the Settlement Hearing will be to determine, among other things, whether the proposed settlements are fair, reasonable and adequate and should be approved by the Court; whether the proposed plan of allocation for the settlement proceeds is fair and reasonable and should be approved; and whether the plaintiffs' attorneys' application for an award of attorneys' fees and reimbursement of litigation expenses should be granted.

BACKGROUND

On February 3, 2006, the Honorable Gerard Lynch appointed BLB&G client RH Capital as Co-Lead Plaintiff and BLB&G as Co-Lead Counsel for the Class in this securities fraud class action. Judge Lynch cited the value of BLB&G's experience in prosecuting large and complex securities class actions, and the fact that BLB&G has "a particularly distinguished record in this kind of litigation" and has litigated many of the "largest recoveries since the enactment of the PSLRA," as significant factors in favor of appointing BLB&G as Co-Lead Counsel.

Case Documents

- March 22, 2011 - Judgement Approving Class Action Settlement with Defendant Grant Thornton LLP
- March 22, 2011 - Judgement Approving Class Action Settlement with Defendants Joseph J. Murphy, Dennis A. Klejna and William M. Sexton
- March 22, 2011 - Order Approving Application of Plan of Allocation to the Additional Settlements
- March 22, 2011 - Order Awarding Attorneys' Fees and Expenses
- February 4, 2011 - Notice of (A) Lead Plaintiffs' Motion for Final Approval of Settlements with Grant Thornton LLP and the Settling Officer Defendants, Authorization of Application of the Previously Approved Plan of Allocation to the Additional Settlements
- February 4, 2011 - Lead Plaintiffs' Memorandum of Law in Support of Motion for Final Approval of Settlements with Grant Thornton LLP and the Settling Officer Defendants, Authorization of Application of the Previously Approved Plan of Allocation to the A
- February 4, 2011 - Lead Counsel's Memorandum of Law in Support of Their Motion for an Award of Attorneys' Fees and Reimbursement of Expenses
- February 4, 2011 - Joint Declaration of Salvatore J. Graziano and Megan McIntyre in Support of (A) Lead Plaintiffs' Motion for Final Approval of Settlements with Grant Thornton LLP and the Settling Officer Defendants, Authorization of Application of the
- November 12, 2010 - Amended Order Preliminarily Approving Proposed Settlement with Defendant Grant Thornton LLP and Proposed Settlement with Defendants Joseph J. Murphy, Dennis A. Klejna and William M. Sexton
- December 15, 2010 - Approved Plan of Allocation Updated to Apply to Settlements Achieved with Defendants Grant Thornton LLP, Joseph J. Murphy, Dennis A. Klejna and William M. Sexton
- December 15, 2010 - Notice of (I) Proposed Settlement of Class Action with the Defendants Grant Thornton LLP, Joseph J. Murphy, Dennis A. Klejna and William M. Sexton, (II) Hearing on Proposed Settlement and (III) Motion for Award of Attorneys' Fees and
- October 27, 2010 - Judgment Approving Class Action Settlement with Sandler O'Neill & Partners, L.P.
- October 27, 2010 - Judgment Approving Class Action Settlement with Settling Underwriter Defendants
- October 27, 2010 - Judgment and Order of Dismissal with Prejudice [Audit Committee Defendants and THL Defendants]

- October 27, 2010 - Order Approving Plan of Allocation of Net Total Settlement Fund
- October 27, 2010 - Order Awarding Attorneys' Fees and Expenses
- September 22, 2010 - Lead Counsel's Memorandum of Law in Support of Their Motion for an Award of Attorneys' Fees and Reimbursement of Expenses
- September 22, 2010 - Joint Declaration of Salvatore J. Graziano and Megan McIntyre in Support of (A) Lead Plaintiffs' Motion for Final Approval of Settlements and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Expenses
- September 22, 2010 - Lead Plaintiffs' Memorandum of Law in Support of Motion For Final Approval of Settlements, Final Approval of Plan of Allocation of Settlement Proceeds and Final Certification of a Class for Settlement Purposes
- September 22, 2010 - Notice of (A) Lead Plaintiffs' Motion for Final Approval of Settlements and (B) Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Expenses
- July 30, 2010 - Order Approving Notice of Proposed Settlement with Sandler O'Neill & Partners L.P. and Setting Settlement Hearing
- July 30, 2010 - Order Preliminarily Approving Proposed Settlement with the Settling Underwriter Defendants
- July 30, 2010 - Order Preliminarily Approving Proposed Settlement with the Audit Committee and THL Defendants
- August 11, 2010 - Notice Packet, containing (i) notice concerning proposed settlement with the Audit Committee and THL Defendants; (ii) notice concerning proposed settlement with Underwriter Defendants; (iii) Plan of Allocation; and (iv) Proof of Claim
- April 1, 2009 - Declaration of John C. Browne In Support of Lead Plaintiffs' Motion for Partial Summary Judgment
- April 1, 2009 - Lead Plaintiffs' Statement Pursuant to Rule 56.1
- April 1, 2009 - Lead Plaintiffs' Memorandum of Law in Support of Motion for Partial Summary Judgment
- November 17, 2008 - Memorandum in Opposition to Defendants' Motion for Reconsideration of Order Granting Preliminary Approval of Settlement
- November 5, 2008 - Preliminary Approval of Settlement with Sandler O'Neill and Partners L.P.
- August 12, 2008 - Lead Plaintiffs' Letter Announcing Partial Settlement
- April 30, 2007 - Judge Lynch's Opinion
- March 5, 2007 - Judge Lynch's Opinion
- May 5, 2006 - First Amended Consolidated Class Action Complaint
- December 3, 2007 - Second Amended Consolidated Class Action Complaint
- October 1, 2007 - Complaint Against Mayer Brown LLP and Joseph P. Collins