



Scott+Scott Achieves Settlement in Truvia® Natural Sweetener Class Action Lawsuit

On July 24, 2014, Judge Leslie E. Kobayashi of the United States District Court for the District of Hawaii entered an order preliminarily approving a class action settlement in *Howerton v. Cargill, Inc.*, No. 1:13-cv-00336-LEK-BMK (D. Haw.) and *Martin and Barry, et al. v. Cargill, Inc.*, No. 1:14-cv-00218-LEK-BMK (D. Haw.), arising from allegations concerning deceptive labeling and marketing of Truvia natural sweetener manufactured by the Cargill Company (“Cargill”).

The proposed settlement provides for \$6.1 million in monetary relief for the benefit of the settlement class. The Class consists of all persons who, from July 1, 2008 to July 24, 2014, both resided in the United States and purchased in

the United States any of the Truvia Consumer Products for their household use or personal consumption and not for resale. Class members who submit valid claims can receive up to a \$45.00 cash refund (or a \$90.00 voucher for free Truvia products). As part of the settlement, Cargill agreed to revise certain of the challenged labeling and to modify the content of its website to more accurately describe the manufacturing process of Truvia and its ingredients.

Specifically, plaintiffs challenged the labeling and marketing of Truvia as “natural” and consisting predominantly of the “stevia leaf extract.” Plaintiffs further alleged that the “natural” labeling, read in conjunction with other marketing statements and imagery, was misleading because, contrary to what Cargill’s marketing message conveyed, Truvia’s two main ingredients —

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Scott+Scott’s **Market + Litigation Monthly** highlights current market and litigation trends and court filings that are of interest to all investors.

Scott+Scott Recovers \$7.85 Million for LHC Group, Inc. Investors

LHC Group, Inc. (NASDAQ: LHCG) (“LHC” or the “Company”) has agreed to pay at least \$7,850,000 to purchasers of its common stock from July 30, 2008 to October 26, 2011, to settle securities fraud claims against the Company and its Chief Executive Officer (“CEO”) Keith Meyers. LHC is a health-care company that provides a variety of services to its patients, one of which is home healthcare service. The Scott+Scott attorneys who represented the investors consider this a great result, and on July 29, 2014, United States District Court Magistrate Judge for the Western District of Louisiana, the Honorable C. Michael Hill granted preliminary approval for the settlement.

The case, originally filed in June of 2012, alleges that shareholders were damaged when LHC made false statements about the company’s improved financial performance and failed to disclose that the improved performance was due to its home healthcare segment’s systematic abuses of Medicare reimbursement programs. Medicare reimburses home healthcare providers, like LHC, for each home visit, with bonuses when

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SCOTT+SCOTT Achieves Victory in Case Involving “Issues of First Impression” Regarding the Wrongful Imposition of Mortgage Late Fees

Scott+Scott recently defeated a motion to dismiss brought by a bank that is alleged to have wrongfully imposed late fees on timely mortgage payments. The decision, published on July 14, 2014, is *Friedman v. Maspeth Federal Loan & Savings Association*, ___ F. Supp. 2d ___, No. 13-cv-6295, 2014 WL 3473407 (E.D.N.Y. July 14, 2014), in the Eastern District of New York. The Court noted that this case involved “issues of first impression” with respect to the federal Real Estate Settlement Procedures Act (“RESPA”).

Maspeth, the bank, provided the plaintiff and other members of the pro-

posed class with a mortgage loan payment book. This book provided that Maspeth would not impose late charges as long as payments were “received by 8:00 p.m. on the 16th of each month.” Despite this clear language and the fact that the plaintiff had postal receipts demonstrating that Maspeth had received his payments before that date and time, Maspeth has repeatedly charged the plaintiff late fees. The plaintiff sent written requests to Maspeth to both explain and correct the wrongfully-imposed late fees, yet Maspeth refused to fix its errors.

York General Business law, and other common law claims. RESPA regulates mortgage servicing to ensure that consumers are provided with accurate and timely information so that they can correct errors when they occur. Loans or credit transactions that are made “primarily for business, commercial, or agricultural purposes” are not protected under RESPA. One of the critical issues involved in the motion to dismiss in this case was whether this exemption applied. The plaintiff obtained the loan to secure a single family house for his daughter, son-in-law, and their children to live in. In his amended complaint, the plaintiff made clear that the house was not rented to anyone, but was occupied only by his children and grandchildren. The Court rejected

Maspeth’s attempt to invoke this exemption and held that “[t]he fact that plaintiff has the means to buy a home for his child without seeking a profit from the purchase should not bar him from seeking relief under a federal statute designed to protect homeowners from abusive business practices.” The Court dispensed with all of Maspeth’s other arguments, and sustained the plaintiff’s RESPA claim.

Despite clear language and the fact that the plaintiff had postal receipts demonstrating that Maspeth had received his payments before that date and time, Maspeth has repeatedly charged the plaintiff late fees.

The Court also sustained all of the plaintiff’s other claims, including the claim brought under the New York General Business Law. Maspeth had argued that the plaintiff failed to allege that Maspeth’s practices misled consumers in a material way and that these practices caused actual injuries. Again, the Court rejected these arguments.

Significantly, the Court also rejected Maspeth’s argument that the plaintiff’s class allegations lacked factual detail. The Court rejected this argument, which is improperly raised at the motion to dismiss stage of litigation, and noted that “Plaintiff plausibly alleges that defendant’s mishandling of late fees constitutes a uniform practice applicable to a large number of bank clients.”

The plaintiff sent written requests to Maspeth to both explain and correct the wrongfully-imposed late fees, yet Maspeth refused to fix its errors.

The plaintiff filed his lawsuit on behalf of a class in November 2013. The lawsuit was later amended to assert claims under the federal RESPA, the New

UK's Serious Fraud Office Launches Criminal Investigation into Manipulation in the Foreign Exchange Market

In June 2013, a Bloomberg article revealed for the first time that the world's largest currency dealers had been front-running customer orders and rigging the most widely used foreign exchange ("FX") benchmarks – the WM/Reuters Closing Spot Rates. Following the article's publication, numerous pension funds and investment managers filed lawsuits, which were consolidated in federal court in New York as *In re Foreign Currency Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.). Defendants include Barclays, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JPMorgan, Lloyds Banking Group, Morgan Stanley, Royal Bank of Scotland, and UBS.

Law enforcement agencies worldwide opened their own investigations. In the United States, the U.S. Department of Justice has opened criminal and antitrust probes. UBS has applied for amnesty from criminal prosecution under the DOJ Antitrust Division's Leniency Program. U.S. Attorney General Eric H. Holder, Jr. stated that "the manipulation we've seen so far may just be the tip of the iceberg," and that "this is potentially an extremely consequential investigation." He further stated that the DOJ is "taking a lead role" in the "truly global investigation." Indeed, investigations are proceeding in the United Kingdom, at the European Commission, in Germany, Switzerland, Hong Kong, New Zealand, Australia, and Singapore.

Investigators in the United Kingdom have confirmed that the UK's Financial Conduct Authority ("UK-FCA") is targeting "a number of firms relating to trading on the [FX] market." UK-FCA's Chairman and CEO stated that the FX investigation is focused on "collusion between individuals at a number of firms and the use of chat rooms and phones to collude to influence prices." Commenting on the evidence, UK-FCA's CEO added, "Given what's come out, no, people will not trust the way the rates are fixed."

Recently, the United Kingdom's investigation escalated, with the Serious Fraud Office issuing a press release announcing it had opened a criminal investigation into manipulation of the FX market. According to the press release, the UK's Serious Fraud Office is an independent government department responsible for investigating and prosecuting serious and complex fraud, bribery, and corruption.

In February of 2014, Scott+Scott, Attorneys at Law, LLP was appointed interim class counsel for plaintiffs in the private action, which remains pending in New York.

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certain visit thresholds are met. Prior to 2008, Medicare paid a bonus after ten visits to a home health care patient. Beginning in 2008, however, Medicare changed its bonus policy and began paying bonuses at six, 14, and 20 visits.

During the class period, the revenue that LHC derived from providing home health care increased dramatically. LHC and its CEO Keith Myers told investors that this increase was due to "organic growth" and the acquisitions the Company had made. On April 26, 2010, The Wall Street Journal published an article entitled "Home Care Yields Medicare Bounty," which questioned whether LHC and other home health care providers were manipulating the number of in-home visits to meet the visit thresholds for bonuses.

In response to The Wall Street Journal article, the U.S. Senate Finance Committee initiated an investigation. On October 3, 2011 the Senate Finance Committee released a report which concluded that "[t]he home health care therapy practices identified ... at best represent abuses of the Medicare home health program. At worst, they may be ... defrauding the Medicare home health program at the expense of taxpayers." The report also cited an email from CEO Keith Myers about the need to increase the number of therapy visits performed by LHC in order to hit the bonus thresholds.

On March 15, 2013, the Honorable District Court Judge James Trimble denied the defendants' motion to dismiss, and ruled that the allegations in the complaint sufficiently stated claims for securities law violations. Following lengthy negotiations, the parties reached a preliminary settlement agreement during the discovery phase of the case. The parties' preliminary settlement agreement is

subject to certain requirements, including court approval of a final settlement agreement at a hearing later this year.

The case is *City of Omaha Police & Fire Retirement System v. LHC Group Inc., et al.*, Case No. 12-cv-1609 in the Western District of Louisiana. If you would like more information regarding this settlement, please visit <http://lhsecuritieslitigation.com> or contact Scott+Scott attorney John Jasnoch at 619-233-4565 or via email at jjasnoch@scott-scott.com.

Scott+Scott Achieves Settlement in Truvia® Natural Sweetener Class Action Lawsuit

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erythritol and stevia extract — were not "natural." Not only were these ingredients heavily processed, but Truvia consisted of only a minuscule amount of the stevia extract, and was thus, not primarily made from the stevia plant.

Scott+Scott has been appointed as Class Counsel. A settlement website containing the relevant court filings and important deadlines, as well as the forms to submit a claim for cash or vouchers for free Truvia, has been established at: www.Triviasweetenerlawsuit.com. A final settlement hearing is scheduled by the Court for October 27, 2014.

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August Conferences and Seminars

+ August 2-6, 2014

National Association of State Retirement Administrators (NASRA) 60th Annual Conference

Grove Park Inn and Conference Center
Asheville, North Carolina

NASRA is a non-profit association whose members are the directors of the nation's state, territorial, and largest statewide public retirement systems. NASRA members oversee retirement systems that hold more than two-thirds of the more than \$2 trillion in state and local government assets and that provide pension and other benefits to most state and local government employees. The annual NASRA conference held exclusively for members takes place the first week in August every year. Presentations by informed speakers are on a variety of pertinent subjects including investment management, world events applicable to the pension industry, actuarial, data processing, health care, and significant happenings in each of the states and territories.

+ August 3-6, 2014

County Commissioners Association of Pennsylvania (CCAP) Annual Conference

Lancaster Marriott at Penn Square and Lancaster County Convention Center
Lancaster, Pennsylvania

The County Commissioners Association of Pennsylvania is a statewide, nonprofit, bipartisan association representing the commissioners, chief clerks, administrators, their equivalents in home rule counties, and solicitors of Pennsylvania's 67 counties. The County Commissioners Association of Pennsylvania (CCAP) and its member counties are committed to excellence in county government. CCAP advocates for and provides leadership on those issues that will enhance and strengthen the ability of county commissioners to better serve their citizens and govern more effectively and efficiently. The Association strives to educate and inform the public, administrative, legislative and regulatory bodies, decision makers, and the media about county government.

+ August 10-12, 2014

Texas Association of Public Employee Retirement Systems (TEXPERS) Summer Forum

Omni Houston Hotel and Conference Center
Houston, Texas

A small group of individuals, who were members of several Texas Public employee retirement systems, formed Texas Association of Public Employee Retirement Systems (TEXPERS) in 1989 as a statewide, voluntary, nonprofit association to provide quality education to trustees, administrators, professional service providers, and employee groups and associations engaged or interested in the management of public employee retirement systems. TEXPERS system and associate membership has grown substantially, representing \$475 billion in assets. TEXPERS executes its educational mission by organizing two annual conferences for pension trustees to receive information about investments, fiduciary duties, governance, ethics, and legal matters. This year's forum takes a look into the stock market, which is up 80% since 2009, and topics will include market risk in several asset classes.

+ August 9-13, 2014

National Association of State Auditors, Comptrollers and Treasurers (NASACT) 99th Annual Conference

Eldorado Hotel and Conference Center
Santa Fe, New Mexico

The National Association of State Auditors, Comptrollers and Treasurers was founded in 1915 to allow principal state officials concerned with state financial management to gather annually and discuss problems and issues of mutual interest. Over the years, state financial management has become increasingly complex, and, in response, NASACT has grown to address new needs by offering increased levels of service, training, and networking. NASACT is also affiliated with the Center for Governmental Financial Management (CGFM), a not-for-profit 501(c)(3) entity created to facilitate NASACT's

Mission and goals on an international level. The association's Washington office acts as a liaison with Congressional committees, federal agencies, and other national associations on issues of interest to NASACT, while its Lexington, Kentucky office is the main headquarters for training and development. Transparency and clear direction is an ongoing theme within NASACT's training. NASACT's annual conference, held each August, is the association's premiere event designed to provide maximum opportunities for state auditors, state comptrollers, and state treasurers to network with each other and hear industry leaders speak on current and emerging issues.

Government Finance Officer's Association Conferences

+ August 20-22, 2014

Government Finance Officers' Association of Alabama (GFOAA)

Hampton Inn and Suites
Orange Beach/Gulf Front
Orange Beach, Alabama
<http://www.gfoaa.org>

+ August 27-29, 2014

New Mexico Municipal League (NMML)

Albuquerque Convention Center
Albuquerque, New Mexico
<http://www.nmml.org>

+ August 6-8, 2014

Government Finance Officers of Arizona (GFOAZ)

The Westin La Paloma Resort & Spa
Tucson, Arizona
<http://www.gfoaz.org>

Union Labor Conference

+ August 25-27, 2014

IBEW 3rd District Progress Meeting

Pittsburgh, Pennsylvania

Scott+Scott's PT+SM System is the Firm's proprietary investment portfolio tracking service. Carefully combining the Firm's proprietary computer-based portfolio monitoring software with Scott+Scott's hands-on approach to client relations is a proven method for institutional investors and their trustees to successfully:

- + **Monitor** their investment portfolios
- + **Identify** losses arising from corporate fraud
- + **Consider** what level of participation any given situation requires
- + **Recover** funds obtained on their behalf through investor litigation action

To obtain more information about Scott+Scott's PT+SM services or to schedule a presentation to fund trustees, fund advisors or asset managers, please contact:

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ATTORNEYS AT LAW, LLP'S
PORTFOLIO TRACKING +
LOSS RECOVERY SYSTEMSM**