Labaton Sucharow

Lead Counsel

THE RESOURCE FOR INVESTOR INFORMATION

Settlement with Bristol-Myers Squibb Mandates Sweeping Drug Disclosure

After prosecuting securities litigation claims against Bristol-Myers Squibb Co. ("BMS") for over five years, Labaton Sucharow, Lead Counsel representing the class and Lead Plaintiff, the LongView Collective Investment Fund of the Amalgamated Bank ("Amalgamated Bank"), reached an agreement to settle the claims for $185 million in addition to meaningful corporate governance reforms that will affect future consumers and investors alike. The class action settlement concludes a lengthy and arduous litigation that was headed for trial in early 2006.

Securities fraud claims were brought against BMS and others in the U.S. District Court for the District of New Jersey as a result of negative disclosures about BMS's potential "blockbuster" drug for hypertension called Vanlev. The case involved a complicated challenge to the company's public statements about the drug that arguably propped up its stock price and damaged class members. Notably, this settlement is the second largest recovery against a pharmaceutical company. It is also the largest recovery ever obtained against a pharmaceutical company in a securities fraud case involving the development of a new drug, and it is the largest ever obtained against a pharmaceutical company in a securities fraud case that did not involve a restatement of financial results. Labaton Sucharow's team was led by partners Thomas Dubbs and James Johnson with Nicole Zeiss as senior associate.

The Crux of the Plaintiff's Argument

The class action has been pending since April 2000, when BMS announced that it was withdrawing Vanlev's New Drug Application from consideration by the U.S. Food and Drug Administration because the agency expressed serious concerns about the incidence and severity of a side-effect called angioedema in patients taking Vanlev as part of several clinical studies. Amalgamated Bank, represented by Labaton Sucharow as Lead Counsel, was appointed Lead Plaintiff in the action and alleged that BMS withheld material information about this potential drug from investors and the public. Vanlev was never sold to the public.

Litigating the case against Goliath-size pharma giant, BMS, for more than five years was highly complex to manage. Lead Counsel, on behalf of Amalgamated Bank, reviewed more than four million pages of documents and deposed 36 current and former employees and officers of BMS, as well as a number of non-parties, including securities analysts who covered BMS. More than 1,500 exhibits were marked during these depositions. The case also involved 26 experts in the fields of cardiology, pharmacoeconomics, epidemiology, regulatory matters, airway management, securities markets and damages. Each of these experts submitted reports and was deposed.

Bristol-Myers (continued)

Unsurpassed Corporate Governance Reforms

As part of the settlement with BMS, the Lead Plaintiff was extremely interested in obtaining meaningful corporate governance reform measures. The Lead Plaintiff's interest in such reforms derived, in large part, from the nature of the alleged fraud. The corporate governance reforms ultimately obtained by Amalgamated Bank are noteworthy for several reasons.

First, following the adoption of the PSLRA in 1995, corporate reform measures obtained by lead plaintiffs generally have been limited to financial reforms and board memberships. The corporate reforms obtained in this case have expanded this traditional concept of corporate reform.

As a result of this settlement, anyone taking a drug manufactured by BMS will now, for the first time, have instant access to crucial information about the drug, especially serious side effects. (The disclosures will be posted on Bristol Myers Squibb's website, www.bms.com, as well as an industry website, www.clinicalstudyresults.org) This measure will allow for a more informed consumer and patient.

"As a union-owned bank, we were particularly concerned about the company's failure to disclose Vanlev's potential side-effects," stated Noel Beasley, the Lead Plaintiff and a representative from the Amalgamated Bank. "We have seen time and again in recent cases such as Vioxx and Paxil the unnecessary health risks posed because a drug company left the public in the dark. Now, consumers will have access to crucial information about BMS drugs, especially any serious side effects."

CORPORATE GOVERNANCE HIGHLIGHTS

In addition to funding a $185 million settlement, BMS has agreed to publicly disclose the following information concerning all its drugs:

- *a description of the clinical study design and methodology;*
- *results of the clinical trials; and*
- *safety results, including the reporting of adverse events seen during the clinical trial.*

The disclosures will be posted on BMS's website, www.BMS.com, as well as an industry website, www.clinicalstudyresults.org.

BMS has agreed to post these disclosures for a 10 year period following approval of the settlement, and has further agreed that any modifications to the disclosure protocol must be approved by the Court, at the request of Lead Counsel, unless the modifications increase the scope of the disclosures.

Second, the corporate reform measures obtained here exceed the scope of the reforms obtained by New York State Attorney General Eliot Spitzer in his settlement of an action against GlaxoSmithKline ("GSK") arising from the sale of Paxil, an antidepressant. The Paxil settlement, which required GSK to post results of its clinical trial data on a public website, was limited to drugs sold in the United States. The settlement in this action requires BMS to post the clinical trial results of drugs marketed in any country throughout the world. The settlement, as stated by Mr. Beasley, "takes it several steps further."

Finally, the corporate governance reforms obtained in this case implement many of the provisions of the proposed Fair Access to Clinical Trials Act of 2005, a bill introduced in the House of Representatives by Representatives Markey and Waxman and in the Senate by Senators Dodd, Grassley, Johnson and Wyden, but which has not been passed to date.

Thomas Dubbs, the partner leading Labaton Sucharow's litigation and trial team in the BMS case remarked, "Not only is this the largest settlement dealing with drug development disclosure, but it is also precedent setting in that BMS has agreed to publicly disclose the clinical study design and the results of clinical trials, including the reporting of adverse events, for each and every drug that is marketed in the United States or any other country."