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Verdicts & Settlements

Securities class action settles for \$200M

Plaintiffs allege loss of share value in 'round trip trades'

The plaintiffs in this class-action lawsuit asserted claims on behalf of purchasers of CMS Energy securities during the period from Aug. 3, 2000, through May 10, 2002.

In the suit, they contended that CMS engaged in sham "round trip trades" of electricity, and improperly recorded at least \$4.4 billion of revenue from these transactions. CMS would sell a given amount of electrical energy at a certain price to another company on the wholesale electricity market. Simultaneously, the other company would sell back to CMS an identical amount of electrical energy at the same price.

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Although the actual profit to CMS from such a transaction was zero, it would still record the entire selling price as revenue. Plaintiffs alleged these "round trip trades" misled investors about the amount of revenue generated by CMS, the volume of its business, and the liquidity of the wholesale electricity market.

The plaintiffs alleged the defendants concealed the fact that CMS had engaged in round trip electricity trading and had recorded revenues from such trades. Late in the afternoon on May 10, 2002, CMS announced that the Securities and Exchange Commission (SEC) had asked it to provide information about its round trip trades pursuant to an informal inquiry. The market response to the disclosure was a 22 percent drop in the share price of CMS common stock the following day.

As a result of the class action, CMS Energy agreed to settle the matter by paying \$200 million in cash to the class members. The settlement amount is one of the largest securities fraud settlements in the 6th Circuit approved to date.

Type of action: Securities class action

Type of injuries: Loss of share value

Name of case: *In re CMS Energy Securities*

Court/Case no./Date: U.S. District Court — Eastern District of Michigan; 02-72004; Sept.

6, 2007

Name of judge: George Caram Steeh

Settlement amount: \$200 million

Attorneys for plaintiff: E. Powell Miller, Marc L. Newman, Elwood S. Simon, Vincent R. Cappucci and Robert A. Wallner

Attorney for defendant: Withheld

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