

Company's efforts to cover up risky strategy fail

Misleading financial statements were issued to raise stock price

In a class-action lawsuit filed in U.S. District Court, Eastern District of Michigan, the plaintiffs asserted that defendant Collins & Aikman Corp. (C&A) and several of its former officers and directors engaged in securities fraud.

The plaintiffs assert that, in order to achieve a "Mega Tier 2" supplier designation, C&A had undertaken a risky acquisition strategy.

However, it was contended, that C&A had no viable plan to integrate these acquisitions and that it was unable to handle the size of its new business and disarray erupted at many of its plants.

Further, when it became apparent that its integration strategy was failing, C&A and its co-defendants deceived the market by reporting that the integration strategy was successful, thus issuing materially false and misleading financial statements.

Subsequently, plaintiffs alleged that defendants intended to capitalize on the substantial increase in C&A's stock price caused by their materially false and misleading statements with respect to C&A's financial condition and prospects by selling their C&A shares to the public at artificially inflated prices.

To this end, C&A's owner filed with the SEC, on April 17, 2002, a registration statement that would enable C&A to raise as much as \$1 billion through the sale of common stock and debt and preferred securities.

The plaintiffs contended that the truth became apparent Aug. 5, 2002, when C&A revealed that it was not growing into a more prosperous company. Instead, it was losing money, and substantially more than had been anticipated, based on the company's statements about its financial condition and prospects.

The company reported a net loss of \$20.3 million, or \$0.29 per diluted share, compared with net income of \$9.2 million, or \$0.11 per diluted share a year earlier; and expected 2002 earnings of \$0.20 to \$0.26 per share, well below the consensus estimate of \$0.74 per share.

The lawsuit settled for \$10.8 million.

Type of action: Class-action securities fraud

Type of injuries: Loss in value of securities stemming from false and misleading statements about Collins & Aikman's earnings

Name of case: In re Collins & Aikman Securities Litigation

Court/Case no./Date: U.S. District Court, Eastern District of Michigan; 03-CV-71173-GER; July 30, 2009

Name of judge: Gerald Rosen

Settlement amount: \$10.8 million

Attorneys for plaintiff: E. Powell Miller, Marc L. Newman, David H. Fink, Barry Weprin

Attorney(s) for defendant: Withheld

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