

DENDREON CLASS ACTION: PLAINTIFFS ALLEGE THAT DENDREON'S OFFICERS DEFRAUDED SHAREHOLDERS

THE DENDREON CLASS ACTION

On February 24, 2012, a class action complaint was filed in federal court in the Western District of Washington on behalf of all persons who purchased shares of the stock of Dendreon Corporation ("Dendreon") during the period from April 29, 2010 through August 3, 2011 (the "Class Period"). The purported class asserts claims for violations of the federal securities fraud laws against defendants Dendreon; Mitchell H. Gold (the former Chairman and Chief Executive Officer of Dendreon); Hans Bishop (the former Chief Operating Officer); and Gregory T. Schiffman (the former Chief Financial Officer).

The class action plaintiffs base their allegations of fraud on detailed evidence obtained from interviews with twelve Dendreon employees and from internal company documents. Based on this evidence, the class action plaintiffs allege that, during the Class Period, Dendreon and its officers perpetrated the following fraudulent scheme:

- Dendreon and its officers repeatedly inflated the level of demand for the company's one and only drug – Provenge. At numerous investor conferences, in press releases, S.E.C. filings and even television interviews, the defendants repeatedly and falsely trumpeted the "very strong demand", "very high demand", "incredibly high demand" and "no shortage of end-patient demand" that existed for Provenge. The defendants consistently told shareholders that demand was "exceeding our ability to supply the market", resulting in "completely sold out capacity" and "substantial waiting lists" at all or most of Dendreon's treatment sites.

- When analysts questioned the company about Provenge's high cost (doctors were required to advance from their own pockets the treatment cost of \$93,000 per patient, while they awaited reimbursement from the insurer), the defendants falsely claimed that they saw no hurdles to reimbursement and that the high upfront cost was not affecting the uptake of Provenge by doctors.

- To buttress all of these false claims about Provenge, Dendreon and its officers issued false forecasts as to Dendreon's expected sales and revenues.

The class action plaintiffs claim that the defendants, in fact, knew that these statements were all false. Dendreon and its officers knew at all material times that Provenge was performing poorly, and the precise reasons for the poor performance, based on plant "Capacity Reports", "Reimbursement Confidence Reports", "apheresis reports", "Prescriptions vs. Infusion Reports", and internal Dendreon market research reports.

According to the class action plaintiffs, the most damning evidence of all against the defendants is that, while they were making these statements to pump up Dendreon's stock price, the defendants and other company insiders were busy offloading their own holdings of Company stock. Specifically, during the Class Period, company insiders collectively sold nearly **\$86 million** of stock while the price was inflated by the defendants' false statements – including **\$35 million by defendant CEO Gold**, and another **\$5.7 million by defendant CFO Schiffman**.

Dendreon's unsuspecting shareholders, in contrast, were not so fortunate. On August 3, 2011, after the market closed, Dendreon halted trading in its securities and shocked the market by announcing significant shortfalls in the company's quarterly sales, totaling only \$49.6 million. The company said it was abandoning its previous revenue guidance of \$350-\$400 million for 2011 and now expected only "modest quarter over quarter revenue growth for the remainder of the year." The Company announced reductions in its workforce and other expenses due to the reduced demand for Provenge. As a result of this announcement, on August 4, 2011, Dendreon's stock plummeted from \$35.84 to close at just \$11.69, a staggering **67% decline in one day that wiped out over \$3.5 billion in market capitalization.**

Several of the defendants have now been fired from Dendreon. On September 8, 2011, defendant Bishop was terminated as the Chief Operating Officer, and on January 1, 2012, defendant Gold was terminated as the Chief Executive Officer.

REMEDIES FOR SHAREHOLDERS WHO HAVE SUFFERED LOSSES ON THEIR DENDREON STOCK

Shareholders of Dendreon who have suffered losses may have several options for pursuing claims. One option is to remain in the class and watch the class action litigation unfold.

Another, potentially more advantageous option is to "opt out" of the class action and pursue individual claims. There are several significant advantages in opting out.

First, opt-out plaintiffs may recover a greater percentage of their losses than they would recover by remaining passive members of the class. In past years, opt-out plaintiffs have achieved some

notable successes. In 2004, for example, three California state pension funds and five New York City pension funds opted out of the *WorldCom* securities class action and reported that they recovered approximately 3 times more than if they had remained in the class. In the *AOL Time Warner* securities litigation, the State of Alaska settled its \$60 million opt-out claim in 2007 for \$50 million, which they announced was "50 times what we would have recovered from the class." In the *Qwest* securities class action, the Teachers Retirement System of Texas announced that it recovered \$61.6 million, which contrasted with an estimated \$1.4 million it would have received as a passive member of the class.

Second, opt-out plaintiffs may pursue other claims that have not been alleged in the Dendreon class action. Specifically, by opting out, individual plaintiffs can assert claims under the Washington State Securities Act, which is advantageous because claims under that statute do not require proof of "scienter" or "loss causation."

For more information on the Dendreon class action, pursuing opt-out claims or if you hold Dendreon stock and would simply like to discuss your potential claims with a New York lawyer, please contact us as via telephone: **(212) 572-6434** or email: **info@hgtlaw.com.**

