

# *Eastwood Enterprises LLC, individually and on behalf of all others similarly situated v. Todd S. Farha, et al.*

**COURT:** United States District Court for the Middle District of Florida  
**CASE NUMBER:** 07-cv-01940  
**CLASS PERIOD:** 02/14/2005 - 10/25/2007  
**CASE LEADERS:** John Rizio-Hamilton, Jeremy P. Robinson

Securities fraud class action filed on behalf of a class of persons and entities who purchased or acquired the securities of WellCare Health Plans, Inc. ("WellCare" or the "Company") between February 14, 2005 and 10:59 a.m. Eastern Standard Time on October 24, 2007, when trading of WellCare's common stock on the New York Stock Exchange was halted. (the "Class Period").

On March 11, 2008, the Honorable Susan C. Bucklew, United States District Judge for the Middle District of Florida, appointed the Teachers' Retirement System of Louisiana, Public School Teachers Pension & Retirement Fund of Chicago, Policemen's Annuity and Benefit Fund of Chicago, the New Mexico State Investment Council, and the Public Employees Retirement Association of New Mexico, as Co-Lead Plaintiffs (collectively, the "Public Pension Funds Group" or "Lead Plaintiffs"). The Court also appointed BLB&G as Co-Lead Counsel for the Class.

## **Court Grants Final Approval of \$200 Million Settlement in *WellCare* - "Largest Federal Securities Settlement in Florida History"**

On May 4, 2011, the Court granted final approval of the settlement reached by Lead Plaintiffs and Wellcare and its former executives, consisting of \$87.5 million in cash and \$112.5 million in bonds, for a total of at least \$200 million. As part of the settlement, the Company also agreed to pay an additional \$25 million in cash if, at any time in the next three years, WellCare is acquired or experiences a change in control at a share price of \$30 or more after adjustments for dilution or stock splits. Additionally, WellCare agreed to pay the Class 25% of any proceeds it recovers from Individual Defendants Todd S. Farha, Paul Behrens, and Thaddeus Bereday.

The Court hailed the settlement as an "excellent result for the class," noting that it represented the "largest federal securities settlement in Florida history and the second largest securities settlement in the Eleventh Circuit." According to the Court, "the settlement amount is remarkable since at the time of the settlement WellCare had only approximately \$150 million in unregulated funds or available cash, most of which it needed to fund its business." The Court also praised Lead Plaintiffs, whose efforts were recognized as "essential to the successful continued prosecution of the case against defendants and resulted in a significant recovery for the class."

### **Background**

WellCare is a private manager of Medicaid insurance plans. The claims against WellCare arise from a scheme, perpetrated by its former senior management, to misappropriate Medicaid funds in order to artificially inflate the Company's publicly-reported income. On October 24, 2007, more than 200 armed federal and state agents descended upon WellCare's Florida headquarters to execute a search warrant. The agents reportedly questioned WellCare's directors and senior officers, and seized a truckload of documents, BlackBerries, and computers from WellCare's offices -- including from the offices of its senior management. As this news became public, the price of

WellCare common stock precipitously fell from \$122.27 per share to \$42.67 -- a decline of approximately 65% -- on the stock's highest trading volume of the year. In the days following the raid, it became known that the Securities and Exchange Commission and several additional state agencies were conducting their own inquiries into WellCare's business practices. Shortly after the raid, the Company's CEO, CFO, and Chief Compliance Officer and General Counsel "resigned," supposedly to pursue other, unidentified interests.

In December of 2007, a former WellCare employee, Gregory West, pled guilty to conspiracy to commit Medicaid fraud in the Middle District of Florida. In his plea agreement, West admitted that as early as 2004, he took part in a conspiracy headed by WellCare's officers with the object of misappropriating Medicaid funds in order to increase WellCare's publicly-reported profit. In July of 2008, WellCare announced that it had illegally withheld approximately \$46 million in Medicaid funds that it was required to return to the States of Florida and Illinois. The Company further announced that as a result of that misconduct, it would restate its financial statements for 2004, 2005, 2006, and the first two quarters of 2007. The restatement has decreased the Company's net income by between 5% and 14% for the affected periods.

On October 31, 2008, BLB&G filed a Consolidated Class Action Complaint on behalf of the Public Pension Funds Group. The Defendants moved to dismiss the Complaint on January 23, 2009. BLB&G filed Lead Plaintiffs' opposition brief on March 13, 2009, and Defendants filed their reply briefs on April 24.

On May 5, 2009, WellCare entered into a Deferred Prosecution Agreement ("DPA") with the U.S. Attorney for the Middle District of Florida and the Florida Attorney General. In the DPA, WellCare admitted that since mid-2002 it had misappropriated at least \$40 million from the Medicaid program in order to inflate its income, and agreed to be charged with one count of criminal conspiracy, pay restitution and a fine totaling \$80 million, and cooperate in the government's investigation of its former senior management. On May 13, the Company further agreed to a consent judgment in an action by the SEC, which requires WellCare to pay a \$10 million penalty for artificially inflating its publicly-reported net income throughout its entire history as a public company.

On September 28, 2009, the Hon. Virginia M. Hernandez Covington, to whom the case has been transferred, denied Defendants' motions to dismiss the Complaint in their entirety, holding that the Complaint adequately alleged that Defendants knowingly or recklessly engaged in the scheme described above.

## Case Documents

- March 30, 2011 - Lead Counsel's Motion and Incorporated Memorandum of Law for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses
- March 30, 2011 - Exhibit I - Firm Resume
- March 30, 2011 - Declaration of Marc I. Gross, Esq., of Pomerantz Haudek Grossman & Gross LLP in Support of an Attorneys' Fees and Expenses Award
- March 30, 2011 - Declaration of Barrack, Rodos & Bacine in Support of Application for Award of Attorneys' Fees and Reimbursement of Expenses
- March 30, 2011 - Exhibit E
- March 30, 2011 - Declaration of Steven B. Singer in Support of Application for Attorneys' Fees and Reimbursement of Expenses Filed on Behalf of Bernstein Litowitz Berger & Grossmann LLP

- March 30, 2011 - Exhibit C
- March 30, 2011 - Declaration of Jose C. Fraga Regarding (A) Mailing of The Notice and Proof of Claim; (B) Publication of The Summary Notice; and (C) Report on Requests for Exclusion
- March 30, 2011 - Joint Declaration of Lead Plaintiffs in Support of Final Approval of Settlement and Request for Attorneys Fees and Reimbursement of Litigation Expenses
- February 24, 2011 - Notice of Pendency of Class Action and Proposed Settlement Fairness Hearing, and Motion for Attorneys' Fees and Reimbursement of Litigation Expenses
- August 9, 2010 - Press Release Announcing Settlement with WellCare Health Plans, Inc.
- September 28, 2009 - Order Denying Motion to Dismiss
- October 31, 2008 - Class Action Complaint