



Case & Project Experience

State Street Bank and Trust

The Situation

On 30 June 2006, State Street entered into an agreement with GM under which State Street would serve as the Fiduciary and Investment manager for GM's ERISA plan. One of the plan offerings was GM stock. As the economy worsened and GM faltered, on 2 November 2008, State Street suspended purchases of additional stock in that plan offering. On 31 March 2009, State Street began to liquidate the holdings of GM stock. Plaintiffs sued, arguing that these actions were late-coming and should have been implemented earlier, specifically citing four prior dates on which such decisions allegedly should have been made.

After a victory on a motion to dismiss was overturned by the Sixth Circuit and a class was certified, the case moved to the summary judgment stage.

NERA's Role

NERA provided support for Kenneth Lehn, a former chief economist at the Securities and Exchange Commission and a professor at the University of Pittsburgh, in submitting an expert report detailing the economic and financial reasoning as to why State Street's actions were reasonable. The analysis included both theoretical discussions about why future movements, such as potential declines, in GM's stock were not foreseeable, as well as analyses of actual GM stock price movements and of holdings by large institutional holders.

The Outcome

The Honorable Denise Page Hood dismissed the case, citing, among other documents, the Lehn Report's findings that "in the days following the July 15, 2008 turnaround plan announcement, GM's stock price increased, 55.8% on July 28,

2008 from its July 14, 2008 closing price, and 48.6% increase from its July 15, 2008 closing price," that "market participants, including institutional investors and pension plans, continued to display confidence in GM," and that "some of the largest public pension funds continued to hold GM stock." The opinion is available at <http://assets.law360news.com/0529000/529022/DOC001.PDF>

Expert Involved

David Tabak, Senior Vice President

Dr. Tabak is a member of NERA's Securities and Finance Practice. In the area of securities class actions, Dr. Tabak has testified on topics including class certification, liability, materiality, affected trading volume, and damage calculations in cases with allegations such as improper valuations, accounting irregularities, and merger disputes. He has also testified on valuations of equity, financial derivatives, fixed-income instruments, businesses, and litigation settlements.

Dr. Tabak has been retained as an expert to address issues including allegations of valuations, contract disputes, commercial damages, and disputes between brokers and customers. Dr. Tabak has appeared as an expert in state, federal, and bankruptcy court, and before arbitration panels, including the National Association of Securities Dealers (NASD), the American Arbitration Association, the International Dispute Resolution Centre, and the International Chamber of Commerce International Court of Arbitration. His non-litigation work has included developing a risk-scoring model for a reinsurance company, assisting financial institutions in new product development, analysis of potential insider trading for a financial institution, and interpretation of statistical analyses of treatment effectiveness for a program for at-risk youth.

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

Contact

Dr. David Tabak

Senior Vice President

+1 212 345 2176

david.tabak@nera.com