

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

_____)	
JOSEF A. KOHEN, BREAKWATER)	
TRADING LLC, and RICHARD HERSHEY,)	No. 05 C 4681
Plaintiffs,)	
v.)	
PACIFIC INVESTMENT MANAGEMENT)	Judge Ronald A. Guzman
COMPANY LLC, and PIMCO FUNDS,)	Magistrate Michael T. Mason
Defendants.)	
_____)	

NOTICE OF CLASS ACTION AND RIGHT TO OPT OUT

To: All persons and entities who purchased June 2005 Ten Year Treasury Note Futures Contracts Between May 9, 2005 and June 30, 2005, inclusive, to liquidate a short position

THIS NOTICE MAY AFFECT YOUR RIGHTS - PLEASE READ IT CAREFULLY.

A federal Court authorized this Notice. This is not a solicitation from a lawyer.

The Purpose of This Notice.

This Notice is being sent to you because you may be a Class Member. If you are a Class Member, it advises you of your rights, including the right to either participate in or exclude yourself from this class action.

How Do I Know if I Am a Class Member?

The Court has certified a class defined as follows: All persons who purchased, between May 9, 2005 and June 30, 2005, inclusive (the "Class Period"), a June 2005 10-year Treasury note futures contract in order to liquidate a short position. Excluded from the class are defendants Pacific Investment Management Company LLC ("PIMCO"), PIMCO Funds, and any affiliated or associated parties.

Who Are the Parties to this Class Action?

The named Plaintiffs in the Action are Joseph Kohen, Richard Hershey and Breakwater Trading, LLC. Each purchased during the Class Period a June 10-year Treasury note futures contracts in order to liquidate a short position. Mr. Hershey and Breakwater Trading LLC brought this as a class action to assert not only their own individual claims, but also to represent a class of persons who have similar claims. The lawsuit is pending in the United States District Court for the Northern District of Illinois, Judge Ronald A. Guzman presiding.

What Is This Lawsuit About?

Plaintiffs claim that defendants manipulated the price of June 2005 Ten Year Treasury Note futures contract during the Class Period by allegedly taking a large long position in the June 2005 Ten Year Treasury Note futures contract (the “June 2005 futures contract”) while at the same time acquiring a large holding in the U.S. Treasury note maturing in February 2012, which was the cheapest to deliver on the June 2005 futures contract. Plaintiffs further allege that such actions by the defendants manipulated the price of the June 2005 futures contract and the Treasury notes maturing in February 2012 during the Class Period. Plaintiffs also claim that the defendants’ unlawful conduct allegedly caused plaintiffs and others similarly situated to pay artificial prices, in alleged violation of the Commodity Exchange Act (“CEA”), as amended, 7 U.S.C. §1 *et seq.*

Defendants vigorously deny these claims. The Court has not ruled on the merits of the claims against or the defenses asserted by the defendants. This Notice does not imply that the Court has found that the defendants violated the law, or that the class will recover any amount.

What is the Status of the Lawsuit?

Document and deposition discovery in this case began in January 2006 and ended in January 2007. Expert discovery ended on September 10, 2007. During discovery, Defendants produced over ten million pages of documents, and the parties took approximately twenty four fact and twelve expert depositions. On July 31, 2007, the Court substantially denied Defendants' motions to dismiss and granted Plaintiffs' motion to certify the class. By September 10, 2007, all expert discovery was completed. One of Plaintiffs' expert reports, by Professor Craig Pirrong, estimates the price artificiality allegedly caused by Defendants for each day of the Class Period. Defendants contest Professor Pirrong's artificiality estimates, and in any event dispute that there was any artificiality caused by Defendants during the Class Period.

On July 7, 2009 the Seventh Circuit Court of Appeals affirmed this Court's order granting class certification. Defendants' petition for rehearing and rehearing *en banc* was denied on July 31, 2009.

Defendants are now moving for judgment in their favor without a trial ("summary judgment"). Plaintiffs are now opposing summary judgment and requesting a trial date.

For more information, go to the website www.pimcocommoditieslitigation.com or call (212) 608-1900

What Are My Options?

If you are a class member, you have the following options:

- Remain in the Case:** If you do nothing, you will remain in the class. By remaining in the class, you will be included in and bound by any resolution of the claims, whether favorable or unfavorable to Plaintiffs and the Class.
- Opt Out:** You have the right, should you choose, to exclude yourself from this class action. If you exclude yourself, you will be able to bring a separate case at your own expense, if you choose. Follow the steps listed below to exclude yourself.

IF YOU DO NOT TIMELY SUBMIT A WRITTEN NOTICE TO OPT OUT OF THE CLASS, YOU WILL BE BOUND BY ANY RESOLUTION OF YOUR CLAIMS OR JUDGMENT IN THIS LITIGATION, WHETHER FAVORABLE OR UNFAVORABLE TO PLAINTIFFS AND THE CLASS.

IF YOU CHOOSE TO EXCLUDE YOURSELF FROM THE CLASS, YOU WILL NOT BE ELIGIBLE TO PARTICIPATE IN THE LITIGATION AND YOU WILL NOT BE BOUND BY ORDERS OF THE COURT.

What Steps Should I Take If I Want to Opt Out?

The Court will exclude you from the Class only if you make a written request for exclusion which is mailed to the address below and **received by December 1, 2009**. You are requested to supply the following information with your opt out notice: (a) a statement that you wish to be excluded; and (b) your name and address. Also, if you had a joint account with another person, include the names of all account holders. Your request for exclusion must be mailed to:

Christopher McGrath, Esq.
Lovell Stewart Halebian LLP
61 Broadway, Suite 501
New York, New York 10006

Do I Need to Hire My Own Lawyer?

You do not have to hire your own lawyer. But you can if you want to, and have that lawyer make an appearance on your behalf, at your own cost. The Court has appointed the firm listed below to represent the class.

Lovell Stewart Halebian LLP
61 Broadway, Suite 501
New York, New York 10006

What if I am a Broker or Trustee?

If you are a brokerage firm or trustee through whom CBOT June 2005 Ten Year Treasury Note Futures Contracts were purchased during the Class Period, for customers that are members of the Class, you should provide the name and last known address of such customers by two weeks (14 days) of the date of mailing to Christopher McGrath at the address listed above. Plaintiffs' class counsel will cause copies of this Notice to be forwarded to each beneficial owner so designated at the address so designated. Alternatively, you may mail copies of this Notice to such persons or entities that are members of the Class within two (2) weeks of receiving this Notice.

Dated: August 20, 2009

Clerk of the United States District Court
Northern District of Illinois, Eastern Division