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New York Southern District Court
Case No. 1:14-cv-09662
IN RE: Petrobras Securities Litigation

Document 259



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: PETROBRAS SECURITIES
LITIGATION

14-cv-9662 (JSR)

ORDER

This Document Applies to:

Dimensional Emerging Markets
Value Fund, et al. v. Petr leo
Brasileiro S.A - Petrobras,
No. 15-cv-2165 (JSR)

Skagen, et al. v. Petr leo
Brasileiro S.A. - Petrobras,
et al., No. 15-cv-2214 (JSR)

New York City Employees'
Retirement System, et al.
v. Petr leo Brasileiro S.A.
- Petrobras, et al.,
No. 15-cv-2192 (JSR)

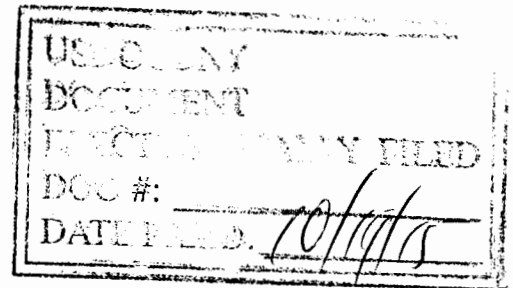
Transamerica Income Shares,
Inc., et al. v. Petr leo
Brasileiro S.A. - Petrobras,
et al., No. 15-cv-3733 (JSR)

Aberdeen Emerging Markets Fund,
et al. v. Petr leo Brasileiro S.A.
- Petrobras, No. 15-cv-3860 (JSR)

Ohio Public Employees Retirement
System v. Petr leo Brasileiro S.A.
- Petrobras, et al.,
No. 15-cv-3887 (JSR)

Central States Southeast and
Southwest Areas Pension Fund v.
Petr leo Brasileiro S.A. -
Petrobras, et al.,
No. 15-cv-3911 (JSR)

Washington State Investment Board
v. Petr leo Brasileiro S.A. -
Petrobras, et al.,



No. 15-cv-3923 (JSR) :
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Aberdeen Latin American Income ;
Fund Limited, et al. v. Petr6leo :
Brasileiro S.A. - Petrobras, :
 No. 15-cv-4043 (JSR) :
 :
NN Investment Partners B.V., :
et al. v. Petr6leo Brasileiro S.A. :
- Petrobras, et al., :
 No. 15-cv-4226 (JSR) :
 :
Aura Capital Ltd. v. Petr6leo :
Brasileiro S.A. - Petrobras, :
et al., No. 15-cv-4951 (JSR) :
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JED S. RAKOFF, U.S.D.J.

Plaintiffs bring the above-captioned individual but related actions against defendant Petr6leo Brasileiro S.A. - Petrobras ("Petrobras") and related individuals and entities, alleging violations of the Securities Exchange Act of 1934 (the "Exchange Act"), the Securities Act of 1933 (the "Securities Act"), state law, and Brazilian law. Defendants have moved to dismiss these complaints. Having reviewed the parties' submissions and heard oral argument, the Court now rules as follows.

Defendants' motion to dismiss the Exchange Act and Securities Act claims concerning Petrobras debt securities (the "Petrobras Notes") in Skagen, et al. v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-2214; New York City Employees' Retirement System, et al. v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-2192; Transamerica Income Shares,

Inc., et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.,
No. 15-cv-3733; Ohio Public Employees Retirement System v.
Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3887;
Washington State Investment Board v. Petróleo Brasileiro S.A. -
Petrobras, et al., No. 15-cv-3923, is granted on the ground that
plaintiffs have failed to allege that they purchased the
relevant securities in domestic transactions. See Morrison v.
Nat'l Austral. Bank Ltd., 561 U.S. 247, 273 (2010). However,
leave to amend with respect to this issue is granted, provided
such amended pleadings are filed no later than October 22, 2015.

Defendants' motion to dismiss the claims arising under
Section 12(a)(2) of the Securities Act in New York City
Employees' Retirement System, et al. v. Petróleo Brasileiro S.A.
- Petrobras, et al., No. 15-cv-2192; Transamerica Income Shares,
Inc., et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.,
No. 15-cv-3733; Ohio Public Employees Retirement System v.
Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3887;
Washington State Investment Board v. Petróleo Brasileiro S.A. -
Petrobras, et al., No. 15-cv-3923, is granted on the ground that
plaintiffs have failed to adequately plead that they purchased
the relevant Notes in an initial offering. However, leave to
amend with respect to this issue is granted, provided such
amended pleadings are filed no later than October 22, 2015.

Defendants' motion to dismiss the claims arising under Section 12(a)(2) of the Securities Act in *Skagen, et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.*, No. 15-cv-2214, on the ground that plaintiffs failed to adequately plead that they purchased Notes in an initial offering, is denied. The *Skagen* plaintiffs have attached to their Complaint transaction data sufficient to support a plausible inference that they purchased Notes in an initial offering in 2014.

Defendants' motion to dismiss claims arising under Section 10(b) of the Exchange Act and Illinois's common law of fraud in *Central States Southeast and Southwest Areas Pension Fund v. Petróleo Brasileiro S.A. - Petrobras, et al.*, No. 15-cv-3911, and *Washington State Investment Board v. Petróleo Brasileiro S.A. - Petrobras, et al.*, No. 15-cv-3923, is granted, with prejudice, to the extent such claims cover purchases prior to May 21, 2010, on the ground that such claims are barred by the statute of repose.

Defendants' motion to dismiss claims arising under Section 10(b) of the Exchange Act in *NN Investment Partners B.V., et al. v. Petróleo Brasileiro S.A. - Petrobras, et al.*, No. 15-cv-4226, No. 15-cv-3911, is granted, with prejudice, to the extent such claims cover purchases prior to June 2, 2010, on the ground that such claims are barred by the statute of repose.

Defendants' motion to dismiss plaintiffs' claims arising under Section 11 of the Securities Act is granted, with prejudice, with respect to claims based on the 2012 Note Offering, on the ground that such claims are barred by the statute of repose.

Defendants' motion to dismiss plaintiffs' claims arising under Section 18 of the Exchange Act is granted, with prejudice, to the extent such claims concern purchases made more than three years before each complaint was filed, on the ground that such claims are barred by the statute of repose.

Defendants' motion to dismiss the claims arising under Section 11 of the Securities Act in New York City Employees' Retirement System, et al. v. Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-2192, and Transamerica Income Shares, Inc., et al. v. Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3733, is granted, with prejudice, to the extent those claims are based on purchases made after August 11, 2014, on the ground that plaintiffs have failed to plead reliance.

Defendants' motion to dismiss the claims against the Underwriter Defendants arising under Section 12(a)(2) of the Securities Act in New York City Employees' Retirement System, et al. v. Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-2192; Transamerica Income Shares, Inc., et al. v. Petróleo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3733; Ohio Public

Employees Retirement System v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3887; Washington State Investment Board v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3923, is granted, on the ground that plaintiffs have failed to allege the specific underwriter defendant from whom they purchased Notes. However, leave to amend with respect to this issue is granted, provided such amended pleading is filed no later than October 22, 2015.

Defendants' motion to dismiss the claims against Theodore Helms arising under Section 15 of the Securities Act in New York City Employees' Retirement System, et al. v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-2192; Transamerica Income Shares, Inc., et al. v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3733; Ohio Public Employees Retirement System v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3887; Washington State Investment Board v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3923, is granted, on the ground that plaintiffs have failed to adequately plead that Helms was a control person for purposes of Section 15. However, leave to amend with respect to this issue is granted, provided such amended pleading is filed no later than October 22, 2015.

Defendants' motion to dismiss the state law claim in Central States Southeast and Southwest Areas Pension Fund v. Petr6leo Brasileiro S.A. - Petrobras, et al., No. 15-cv-3911, is

granted, with prejudice, on the ground that this claim is precluded by the Securities Litigation Uniform Standards Act (SLUSA).

The plaintiffs' Brazilian law claims are dismissed, with prejudice, on the ground that plaintiffs no longer seek to assert such claims. Individual Plaintiffs' Joint Memorandum in Opposition to Defendants' Motion to Dismiss at 2 n.1, ECF No. 213.

Defendants' motion is otherwise denied.

A memorandum explaining the reasons for these rulings will issue in due course.

The Clerk of the Court is directed to close document number 197 on the docket of this case.

SO ORDERED.

Dated: New York, NY
October 15, 2015


JED S. RAKOFF, U.S.D.J.