

Maverick Funds Sue Bausch Claiming Valeant Price-Gouging

By **Bill Wichert**

Law360 (February 28, 2020, 8:33 PM EST) -- Bausch Health Cos. Inc. was hit with a securities fraud suit in New Jersey federal court Friday from companies managed by hedge fund Maverick Capital alleging that the business, then known as Valeant Pharmaceuticals International Inc., engaged in a price-gouging scheme that cost investors billions.

Using a clandestine network of pharmacies to artificially boost its sales, Valeant hiked drug prices as part of a massive scandal that led its stock price to plummet from more than \$262 a share in August 2015 to less than \$25 in June 2016 after the misconduct came to light, according to the 120-page complaint.

"Defendants' fraud was so persuasive and the resulting losses so severe that industry participants have understandably referred to Valeant as the 'Pharmaceutical Enron,'" the Maverick companies said.

The lawsuit — which **mirrors** numerous other complaints against Valeant in recent years — comes a little more than two months after Bausch **announced** it will pay about \$1.2 billion to resolve a proposed class action in New Jersey federal court over related claims.

The plaintiffs in the current suit, including Maverick Fund LDC and Maverick Long Fund Ltd., said they bought Valeant stock between April 30, 2015, and Nov. 5, 2015.

During that period, Valeant touted its business model as a novel, low-risk strategy based on acquiring companies with established drug products, the complaint said. Valeant claimed the model "relied on 'organic growth' primarily sustained by volume increases and cost savings," the companies said.

But that purported model was a "sham," as the business secretly depended on price-gouging to maintain its growth and profitability, according to the complaint.

"This amounted to an unsustainable strategy of exponential price increases on Valeant drugs that was concealed from consumers, insurers, regulators, and investors," the companies said.

At the center of the scheme was "a fraudulent and secret network of closely-related or jointly held pharmacies" that Valeant developed "to allow the company to increase the prices of its branded drugs exponentially, even when cheaper generic versions of the drugs or cheaper versions of near-perfect substitutes were available," the complaint said.

The hub of that network was a Pennsylvania-based specialty pharmacy called Philidor Inc., the companies alleged. Valeant and Philidor engaged in a number of "unlawful 'backdoor' practices" to facilitate the price increases, according to the complaint.

Those practices included filling prescriptions through the network of pharmacies while hiding that they were affiliated with Valeant and altering prescriptions to ensure that Valeant's branded drugs were used instead of low-cost generics, the complaint said.

"These practices were designed to circumvent the applicable legal and contractual restrictions that would have otherwise required substitution of cheaper and medically equivalent alternative drugs, whether generics or cheaper branded equivalents, for Valeant's overpriced and medically undifferentiated branded drugs," the complaint said.

When the company's false and misleading statements were ultimately revealed, "tens of billions of dollars of shareholder market capitalization was destroyed," the complaint said.

"The ramifications of this fraud have been devastating for Valeant's business and shareholder value," the companies said.

Counsel for the plaintiffs declined to comment Friday. A Bausch spokesperson did not immediately respond to a request for comment Friday.

The Maverick Capital-managed companies are represented by Mark A. Strauss, Ira M. Press and Karen M. Lerner of Kirby McInerney LLP.

Counsel information for Bausch Health was not immediately available.

The case is Maverick Neutral Levered Fund Ltd. et al. v. Valeant Pharmaceuticals International Inc. et al., case number 3:20-cv-02190, in the U.S. District Court for the District of New Jersey.

--Additional reporting by Jeannie O'Sullivan. Editing by Haylee Pearl.