

Prometheus Law Receivership FAQs

1. What is the SEC's civil case about and what is the status?

The SEC filed its civil lawsuit on April 15, 2016 against Defendants Prometheus Law and its principals James Catipay and David Aldrich. The SEC alleged that Defendants committed securities fraud in connection with the solicitation of investments in the Prometheus legal marketing program. These solicitations constituted the illegal sale of unregistered securities and included fraudulent promises of short term returns in excess of 100% and other false statements and representations.

On April 26, 2016, the Court entered a Preliminary Injunction and appointed a Receiver to take control of PLC's operations. (See FAQ No. 3 below for details on the Receiver's role and duties.)

The SEC case was resolved when David Aldrich and James Catipay both stipulated to liability and consented to the entry of judgments against them. The Aldrich judgment includes a monetary judgment of \$3.6 million payable to the SEC which has not been paid. The Catipay judgment also includes a monetary award, but the amount will be determined in a future court hearing. If funds are paid to the SEC, it would make them available for restitution to investors through the receivership.

2. What is the criminal case about and what is the status?

David Aldrich and James Catipay were both charged with criminal securities fraud by the U.S. Attorney's Office in San Diego. Both pled guilty to one count of conspiracy to commit securities fraud and were sentenced to federal prison (24 months for James Catipay and 18 months for David Aldrich). Both were also ordered to make restitution of an aggregate amount of \$11.7 million.

Although the same conduct was involved, the SEC civil case and the criminal case are separate proceedings.

3. What is a receivership and how does it work?

When the SEC filed its civil action in the federal Court, it asked the Court to appoint a Receiver to immediately take over operations of the Prometheus business. The order appointing the Receiver grants the Receiver broad powers over the business. In that role, the Receiver is an independent party. He does not work for the SEC or for the Defendants. He reports directly to the Court, is supervised by the Court, and can make no payments for fees of the Receiver or his professionals without the Court's approval based on detailed written application.

After confirming the illegality of the business, the Receiver suspended operations and shifted all efforts to the collection of available assets. The funds collected, net expenses, will be disbursed to the defrauded investors, subject to Court approval.

Prometheus Law Receivership FAQs

4. How do I keep up with what the Receiver is doing?

The Receiver's website is the most efficient vehicle for investors to keep up with developments. Go to <http://regulatoryresolutions.com/> and click the link for cases and then *Securities and Exchange Commission v. PLCMGMT LLC, et al.*

As required, the Receiver regularly files Status Reports and accountings with the Court which are also posted on the Receiver's website. The most recent such report (Receiver's Second Status Report and Accounting) was filed April 3, 2017 and is available on the website.

5. Does the Receiver Prepare Accountings of Receivership Activity?

Yes, the Receiver regularly prepares and files accountings with the Court. The most recent accounting is contained in the April 3, 2017 Second Status Report and Accounting which is available on the Receiver's website.

6. Is it true that David Aldrich has paid back \$3.5 million?

No. Some investors have reported that they heard that Aldrich has paid back \$3.5 million. The SEC does have a judgment against Aldrich for \$3.6 million, but he has made no payments toward satisfaction of that judgment. That judgment is in favor of the SEC, not the receivership, but if Aldrich does make any payments to the SEC, we anticipate that the SEC will make them available for restitution through the receivership.

7. When will the Los Angeles condominium be sold?

The receivership does now control the condominium in Los Angeles purchased with \$1.1 million of PLC funds, but that condominium is subject to a \$2.9 million Deed of Trust in favor of a third party which was agreed to by Aldrich. The Receiver believes that this Deed of Trust is fraudulent and voidable, but it may require litigation to secure its removal. If and when that Deed of Trust is rescinded, the receivership would immediately sell the condominium

8. Has the Receiver received any money from the Case Portfolios?

Yes, to date, we have received fees from lead counsel totaling \$151,000 as the receivership's share of fees in connection with the settlement of 13 cases involving the drugs Actos and Nuvaring. For more details on the Portfolio, see FAQ No. 11 below. We have received no funds related to Risperdal cases because none have been settled or resolved.

9. What percentage of the funds collected does the Receiver get?

None. Several investors have suggested that the Receiver may receive some sort of percentage of the funds collected by the receivership. The Receiver does not receive any percentage. The Receiver and professionals retained by the Receiver are compensated at

Prometheus Law Receivership FAQs

an hourly rate approved by the Court. And no payments may be made to the Receiver or his professionals until the Court approves such payments based on the detailed written application of the Receiver.

10. Why is the Receiver suing Sales Agents? They did not steal any money.

Some investors questioned why the Receiver is seeking the return of commissions by sales agents. One of the duties of a receiver in cases like PLC is to identify investors who received profits and sales consultants who received commissions. The law authorizes the Receiver to “clawback” such profits and commissions and add them to the pool of funds for later distribution to investors who lost money. Such clawback cases are a very common tool for receivers and are authorized by a long line of case authority. Only one investor actually made a profit from Prometheus and that was \$2,500 which has been returned to the receivership.

Sales agents/consultants were paid sizeable commissions of up to 11% for recruiting investors. The legal concept is that agents should not profit from the sale of unregistered securities in furtherance of a fraudulent enterprise, even if they were unaware of and did not participate in the actual fraud. By seeking to clawback commissions, the Receiver is not alleging that these salespeople stole money or were directly involved in the underlying fraud. We resolved many of the claims informally without the necessity of a formal suit and we anticipate that the others should be resolved in the early stages of the case.

11. What about the Case Portfolio – Shouldn't it generate enough money to pay back investors?

One of the most fundamental frauds of the Prometheus business was that Defendants mischaracterized and overvalued the portfolio of “cases” that had been identified or would be identified in the future. There is a Case Portfolio which is being managed by lead counsel of approximately 2,000 “cases” (95% of which are Risperdal) as to which the receivership has a claim to a portion of any fees paid to lead counsel on successful cases. But, it is important to recognize that the likelihood of success and the range of potential damages on each case (or potential plaintiff in cases that have not yet been filed in court) will depend on the specific facts of each. Some of them could be dropped from the portfolio entirely if further due diligence indicates that the potential plaintiffs are not qualified. Even filed cases cannot be fully evaluated until all the evidence and medical records are assembled. Some investors even had the impression that the drug companies had already paid, or committed to pay, millions of dollars into a fund that just needed to be split up between the Plaintiffs in the portfolio. There were no such funds.

If cases are settled or resolved in favor of the plaintiffs, the receivership is entitled to receive a portion (generally 1/3) of the 40% contingency fees paid to lead counsel. For example, if a case “settled” for \$100,000, the funds would be disbursed roughly as follows with some variations due to court fees and costs: the injured plaintiff would receive \$60,000; lead counsel would receive \$40,000; and lead counsel would remit to

Prometheus Law Receivership FAQs

the receivership 1/3 of the fees paid to them, which in this example would be \$13,333 (1/3 of \$40,000). For the receivership to achieve a full return of the \$11.7 million invested, the gross recovery from the cases would have to exceed \$90 million.

Lead counsel for the cases in the Case Portfolio have emphasized that it is not possible to project the “value” of the Portfolio or the fees that may flow from it or to provide any specific timeline as to when cases may be resolved. Litigation is inherently unpredictable and all cases are very fact and court specific. Beyond the lack of precision, it is also not strategically wise for counsel to provide public estimates of valuation which could adversely impact future trials or settlement negotiations.

There have been liability findings, damages awards, and settlements in Risperdal cases in various jurisdictions, but none yet in the PLC portfolio. While such verdicts and settlements provide an indication of the drug company’s potential liability, they do not necessarily translate directly to different cases with different plaintiffs in different court jurisdictions. Lead counsel have cautioned that Risperdal cases have their own specific universe of variables, including: the age of the potential plaintiff (adolescent cases with evidence of emotional harm tend to be more valuable than adult cases); the disclosures and warnings in effect during the time of usage; whether the drug used was a generic or brand Risperdal; the extent to which the full medical records confirm usage and injury; the level of cooperation from the plaintiff; the strategy and tactics of defense counsel; and the applicability of legal defenses such as statute of limitations and federal pre-emption (which has been successful in some cases to dismiss cases from state court); and others.

12. How Would Distributions to Investors Work?

The ultimate mission of the receivership is to return funds to the defrauded investors through a series of interim distributions. In this case, the ultimate amount of funds available will be driven in large part by the success of the Case Portfolio which to date has generated \$151,000. The Receiver will seek approval from the Court to make interim distributions on a pro rata basis based on the percentage that each investor’s investment bears to the total \$11.7 million net invested.