

U.S. District Court Finds TCI and 3G Violated Federal Securities Laws

by PR-NewsWire

ACKSONVILLE, Fla., June 11 /PRNewswire-FirstCall/ -- CSX Corporation (NYSE:CSX) today announced that the U.S. District Court for the Southern District of New York has ruled that The Children's Investment Fund (TCI) and 3G Capital Partners (3G) (together, the TCI Group) violated federal securities laws in their actions with respect to CSX. The Court also rejected the counterclaims filed by the TCI Group against the Company in their entirety. Specifically, the Court's opinion states:

- "The defendants violated Section 13(d) in that (1) TCI did not file the required disclosure within 10 days of acquiring beneficial ownership in 5 percent of CSX shares, and (2) TCI and 3G failed to file the required disclosure within 10 days of forming a group."
- Defendants "testified falsely in a number of respects, notably including incredible claims of failed recollection, to avoid responsibility for their actions."
- "[T]he Court finds that [Christopher] Hohn [of TCI] and [Alexandre] Behring [of 3G] are jointly and severally liable for the violations of Section 13(d)."
- "Defendants have sought to control CSX for over a year. As obstacles to control surfaced, they adapted their strategy for achieving control, making disclosures only when convenient to their strategy. Defendants' latest strategy for control will be tested at the annual shareholder meeting. And if this strategy is not successful, the Court perceives a substantial likelihood that the defendants would craft a new strategy for control without regard to their disclosure obligations."
- TCI and 3G, "formed a group many months before they filed the necessary disclosure statement." The Court found that they acted, "in close coordination with each other and without making the public disclosure required of 5 percent shareholders and groups by the Williams Act, a statute that was enacted to ensure that other shareholders are informed of such accumulations and arrangements."
- "TCI intentionally entered into the [swaps], with the purpose and intent of preventing the vesting of beneficial ownership in TCI, as part of a plan or scheme to evade the reporting requirements of Section 13(d) and thus concealed precisely what Section 13(d) was intended to force into the open."

The Court's opinion enjoins TCI and 3G from further violations of federal securities laws. The Court concluded that current case law prevents a ruling that would prohibit TCI and 3G from voting their shares, though "if it were free to grant such relief it would exercise its discretion to do so." The Court concluded that any penalties for TCI's and 3G's misconduct will have to come by way of action by the Securities and Exchange Commission and the Department of Justice.

Importantly, the Court found that TCI and 3G violated the law by using swaps for the purposes of evading the regulatory filing requirements, creating a false impression that there was no large-scale accumulation of CSX

stock taking place.

A copy of the Court's decision is available in the "Investor Relations" section of the company's website.

About CSX

CSX Corporation, based in Jacksonville, Fla., is one of the nation's leading transportation companies, providing rail, intermodal and rail-to-truck trainload services. The company's transportation network spans approximately 21,000 miles, with service to 23 eastern states and the District of Columbia, and connects to more than 70 ocean, river and lake ports. More information about CSX Corporation and its subsidiaries is available at the company's web site, www.csx.com.

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