



## Proposed Class Regains Lost Ground In Amaranth Suit

By **Richard Vanderford**

Law360, New York (April 28, 2009) -- A federal judge has ruled that the new allegations in the amended complaint in a putative class action over alleged market manipulation by Amaranth Advisors LLC are detailed enough to survive a motion for dismissal.

In a ruling issued Monday, Judge Shira A. Scheindlin of the U.S. District Court for the Southern District of New York revived some claims after plaintiffs bolstered their allegations in an amended complaint. The new ruling upheld most other dismissals.

A group of NYMEX gas futures holders sued Amaranth in July 2007, alleging that the hedge fund exploited its heft in order to drive up prices on natural gas futures.

In October, Judge Scheindlin tossed several of their claims, including several alleging market manipulation by large position trading, saying the allegations were not specific enough.

Amaranth had argued that merely buying and selling large contracts was not market manipulation.

The plaintiffs countered with what Judge Scheindlin called “the rhetorical trope of metaphor” — an extended analogy about a “hole” in the “doughnut of the advisor’s argument,” a “doughnut smashing machine,” a “sweeping machine” that eliminates “crumbs from the erstwhile doughnut” and a “deodorizer” that removes any traces.

Judge Scheindlin was unconvinced at the time, and said at the time that the metaphor had not “illuminated the path” toward truth.

In their amended complaint, the plaintiffs returned with specific accusations that traders Brian Hunter and Matthew Donohoe allegedly exchanged text messages about the need for “upward pressure on q1 07,” and instructions for how to achieve it.

The new allegations were sufficient to sustain a reversal of earlier claim dismissals, Judge Scheindlin said.

The new ruling also allowed claims alleging vicarious liability on the part of the Cayman Islands-based master fund and a couple feeder funds to go forward.

Those claims had been dismissed earlier, but the amended complaint showed that plaintiff's allegations sufficiently demonstrate that an agency relationship existed between Amaranth and those groups, Judge Scheindlin said.

"We are very pleased with the court's decision in respect to the denial in large part of the Amaranth defendants' motions to dismiss," said Vincent Briganti, an attorney for the plaintiffs.

Attorneys for the defendants did not immediately respond to requests for comment.

Greenwich, Conn.-based Amaranth, once valued at \$9.3 billion, collapsed after squandering more than \$6 billion in poorly made bets in the natural gas sector over the course of a few days in September 2006.

At one point, Amaranth held as many as 100,000 natural gas futures contracts, which represented 5 percent of the natural gas used in the United States in one year, the complaint said.

The plaintiffs are represented by attorneys with Labaton Sucharow LLP, Lowey Dannenberg Cohen & Hart PC, Lovell Stewart & Halebian LLP, Law Office of Christopher J. Gray PC, Louis F. Burke PC and Coughlin Stoia Geller Rudman & Robbins LLP.

The defendants are represented by Winston & Strawn LLP, Bingham McCutchen LLP, Paul Weiss Rifkind Wharton & Garrison LLP, Alston & Bird LLP, Davis Polk & Wardwell, Kobre & Kim LLP and Simpson Thacher & Bartlett LLP.

The case is In re: Amaranth Natural Gas Commodities Litigation, case number 07-cv-06377, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Samuel Howard