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Feedback

news

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Amaranth, Morgan Stanley, BP, AIG, HSBC in Court News (Update 1)

[Email](#) | [Print](#) | [A](#) [A](#) [A](#)

- [Exclusive](#)
- [Worldwide](#)
- [Regions](#)
- [Markets](#)
- [Industries](#)
- [Economy](#)
- [Politics](#)
- [Law](#)
- [Environment](#)
- [Invest](#)
- [Science](#)
- [Opinion](#)
- [Spend](#)
- [Sports](#)
- [Arts and Culture](#)
- [Editors' Video](#)
- [Picks](#)
- [Bloomberg Markets Magazine](#)
- [Special Report](#)

By Elizabeth Amon

May 23 (Bloomberg) -- Amaranth Advisors LLC and its former head energy trader, Brian Hunter, must face a lawsuit brought by the Commodity Futures Trading Commission claiming they sought to manipulate the price of natural-gas futures contracts.

U.S. District Judge [Denny Chin](#) in New York rejected a request by Amaranth and Hunter to dismiss the suit. He denied a claim that the commission, known as the CFTC, wants to "transform legitimate speculative trading" into a violation of the Commodity Exchange Act.

"The complaint makes a number of factual allegations from which one could reasonably infer an intent on the part of the defendants to affect the prices of natural gas futures contracts," Chin wrote in a 28-page opinion dated May 21.

Amaranth, of Greenwich, Connecticut, lost \$6.6 billion in wrong-way bets on gas before collapsing in September 2006. The Federal Energy Regulatory Commission last year imposed a \$291 million fine on the hedge fund, after FERC and CFTC filed enforcement actions against Amaranth for its trading practices.

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Amaranth's lawyer, [David Mollon](#), and Hunter's lawyer, Michael Kim, didn't return calls seeking comment. Hunter now advises the [Peak Ridge Commodity Volatility Fund](#), which seeks to profit from price differences in the natural-gas market. The fund returned 17 percent last month using a strategy similar to one that Hunter used at Amaranth.

Chin didn't rule on the merits of the case and said only that the complaint alleged enough facts to go forward. In his opinion, Chin cited Hunter's instant-message conversations as proof that he intended to affect the price of the contracts. In one message, Hunter said he "needed the March 2006 contracts to get smashed," Chin wrote.

The case is CFTC v. Amaranth, 07-cv-6682, U.S. District Court, Southern District of New York (Manhattan).

Bayer Rice-Contamination Suits Should Be Combined, Lawyers Say

[Bayer AG's](#) agricultural units contaminated U.S. crops with genetically modified rice and farmers in five states should be allowed to pursue negligence claims against the company as group actions, their lawyer said.

The farmers sued after the U.S. Department of Agriculture announced in August 2006 that trace amounts of a Bayer-created, genetically modified rice had been found in commercial long-grain rice in the U.S. This led to restrictions on exports, bans on two of the highest-yield rice seed varieties and

a drop in market prices for U.S. rice, the farmers said.

“All the class members suffered some damages in 2006,” providing a common issue for a group lawsuit, farmers' attorney Don Downing said at a hearing yesterday in federal court in St. Louis. Individual lawsuits would be inefficient, he said. “It would mean 700 separate trials.”

The farmers asked U.S. District Judge [Catherine D. Perry](#) to grant class-action status to five separate statewide classes of rice growers in Arkansas, Louisiana, Mississippi, Missouri and Texas. A class action allows plaintiffs to sue as a group, reducing the cost of [litigation](#) and increasing pressure on defendants to settle. The farmers seek unspecified damages.

The lawsuits name as defendants Leverkusen, Germany-based [Bayer](#) and current subsidiaries or predecessor units including Bayer CropScience AG. Bayer opposes class certification and denies the allegations.

The class requested wasn't “clearly defined,” Bayer attorney Mark Ferguson argued yesterday. “With some of these people, you can't tell whether the rice price was set before or after” the August 2006 USDA announcement.

“Plaintiffs base their class-certification motion on a collection of unsupported assumptions,” the company said in court papers. The plaintiffs' individual claims predominate, making the lawsuit ineligible for class-action status, Ferguson said yesterday.

Perry, who also considered evidence from two experts at the hearing, didn't indicate when she would decide on the farmers' motion.

The lawsuits are consolidated in In Re Genetically Modified Rice Litigation, 06-MD-1181, U.S. District Court, Eastern District of Missouri (St. Louis).

#### Morgan Stanley Employees Arrested in Stock-Loan Probe

Former employees of [Morgan Stanley](#) and Janney Montgomery Scott LLC were among a group of six people charged by U.S. prosecutors in a three-year probe of stock-loan desk workers who allegedly took millions of dollars in kickbacks.

Four people arrested yesterday in New York by the Federal Bureau of Investigation include former employees of the two firms, FBI spokesman [Jim Margolin](#) said. The defendants face charges including conspiracy and money laundering. Two additional defendants are scheduled to appear at a later date.

The government is investigating loan-desks and so-called finders, middlemen who track down stocks to lend to investors, said [Robert Nardoza](#), a spokesman for Brooklyn, New York, U.S. Attorney [Benton Campbell](#). The defendants face as long as 25 years in prison if convicted of conspiracy. The money-laundering charge carries a maximum term of 20 years.

“Stock-loan traders at several large brokerage firms funneled millions of dollars in fraudulent finder fees to their co-conspirators, often where no finders' services had been rendered, in exchange for cash bribes,” Nardoza said.

The indictments unsealed yesterday describe alleged schemes involving several individuals who have already been charged in the case. New charges were added against Donna Macli, 45, a secretary for a dentist, and her husband, Thomas Macli, 51, a U.S. Postal worker.

The couple allegedly accepted \$350,000 in phony finder fees paid to them by Donna Macli's brother, [Andrew Caccioppoli](#), a former manager at Philadelphia-based Janney's stock-loan desk, who was indicted last year, according to the indictment.

Also named in the new indictment is [Darin Demizio](#), 42, a former supervisor at New York-based Morgan Stanley, the second- biggest securities firm by market value. Previously charged in the case, Demizio was accused yesterday of securities and wire fraud.

He “routinely directed” Morgan Stanley stock-loan business to two finders, including Robert Johnson, 44, according to the indictment. Johnson claimed to be a stock-loan finder working at a firm called Tyde Inc., prosecutors claimed, adding that kickbacks were paid to two of Demizio's relatives.

Johnson was named in a separate indictment on charges of conspiracy to commit securities and wire fraud as well as money- laundering conspiracy.

Prosecutors accused him of paying kickbacks on stock loan trades to an unidentified trader at New York-based JPMorgan Chase & Co.

Lawyers for the defendants couldn't be reached for comment.

"We have fully supported and provided every assistance to the government's investigation," said Morgan Stanley spokeswoman [Mary Claire Delaney](#). [Karen Shakoske](#), a spokeswoman for Janney Montgomery, declined to comment.

The main case is U.S. v. Andrew Caccioppoli, 07-CR-0078, U.S. District Court, Eastern District of New York (Brooklyn).

BP Must Face Worker Suit in Texas Blast Case, State Judge Rules

[BP Plc](#), the British energy company that settled 95 percent of claims stemming from a fatal 2005 explosion at a Texas refinery, must face an employee's lawsuit over injuries he suffered in the blast, a state court judge ruled.

BP Products North America, the company's [refining division](#), has claimed responsibility for the explosion, which killed 15 and injured hundreds. The BP Plc unit is also the corporate entity that pleaded guilty to a federal criminal air-pollution violation linked to the blast and agreed to pay a \$50 million fine.

Judge [Susan Criss](#) in Galveston yesterday denied BP's motion to dismiss an injury claim by refinery employee Charles Pinder, allowing the lawsuit to go forward with nine others in a trial in Galveston that began this week.

BP said Pinder was blocked by Texas worker compensation laws from suing his employer. Pinder argued he may sue a separate subsidiary, BP Amoco Chemicals, because it was in charge of the Texas City equipment until shortly before it exploded. Since BP Amoco is separate from BP Products, Pinder said, compensation law restrictions don't apply.

"BP Chemical was not Mr. Pinder's employer," his attorney, Lance Lubel, said at a hearing before Judge Criss in Galveston yesterday. "The evidence shows that unit was managed or at least co-managed by BP Amoco Chemicals -- a separate company," Lubel said at an earlier hearing.

BP lawyer Mike Morris argued that Pinder was a BP refining employee, and as such "could've made a claim under workers comp and gotten lifetime medical care."

The explosion occurred as an octane-boosting unit overflowed while it was being restarted after repairs. Gasoline spilled into the vent system, called a blow-down drum, creating a vapor cloud that exploded, shattering windows five miles away.

London-based BP claimed it never intentionally endangered workers. The company set aside \$2.1 billion to [settle](#) more than 4,000 blast-related injury and property claims. BP has less than 200 claims pending and has settled all the lawsuits over deaths.

BP spokesman Daren Beudo declined to comment.

The civil suits are Arenazas v. BP Products North America, 05CV0337, 212 District Court, Galveston County, Texas (Galveston).

BP May Pay Russia Venture \$400 Million in Tetlis Suit

[BP Plc](#) may have to repay its Russian venture, TNK-BP, more than \$400 million after a minority shareholder sued in Siberia to annul an employment contract between the two oil producers.

Under an agreement allowing TNK-BP to use BP specialists, TNK-BP paid an average \$685,000 a worker each year, including salary, housing, travel and schooling costs, BP spokesman [Vladimir Buyanov](#) said yesterday by phone. BP seconded between 150 and 170 specialists a year to TNK-BP since the venture was formed in 2003, he said.

[Shareholder](#) ZAO Tetlis has demanded the accord be scrapped and BP return payments from TNK-BP, according to court documents viewed by Bloomberg. The payments reduced TNK-BP's profit available as dividends, the documents showed.

"We consider the recent legal claim to stop BP specialists working in TNK-BP

to be damaging to all our shareholders," TNK- BP Chief Executive Officer [Robert Dudley](#) said yesterday in an e- mailed statement. OAO TNK-BP Holding, Russia's third-largest oil producer, had [profit](#) of more than \$5 billion last year on sales of more than \$38 billion, Dudley said last month.

"The service we receive for BP specialists contains no element of profit for BP -- it is on a cost recovery basis only," Dudley said. TNK-BP employees who are contracted to work internationally with BP receive similar compensation packages, paid for by BP, he said.

Tetlis's founder and CEO Alexander Tagayev declined to comment when contacted on his cell phone yesterday. His lawyer, Eduard Karyukhin, also declined to comment, citing confidentiality.

BP's spokesman Buyanov declined to comment on the claims.

For more lawsuits news from yesterday, click [here](#).

New Suits

AIG Sued by Florida Pension Fund Over Subprime Losses

[American International Group Inc.](#), and four of its executives were sued by a Florida pension fund for allegedly inflating the insurer's stock price by misleading investors about its subprime investments.

The Jacksonville Police and Fire Pension Fund claims AIG, the world's biggest insurer by assets, hid losses tied to credit- default swaps. When AIG reported a \$7.8 billion first-quarter loss on May 8, defrauded shareholders lost billions, according to a complaint filed May 21 in federal court in New York.

"AIG hid or recklessly ignored facts regarding the mounting losses on the company's assets and insurance products tied to the residential mortgage market, even as its top management continued to claim that AIG's actual exposure was 'close to zero,'" the pension fund said in its complaint. A copy was posted on the Web site of its law firm, Bernstein Litowitz Berger & Grossmann.

The fund, which asks to represent other allegedly defrauded AIG investors, seeks unspecified damages.

AIG spokesman [Christopher Winans](#) declined to comment.

The case is Jacksonville Police and Fire Pension Fund v. American International Group Inc., U.S. District Court, Southern District of New York.

For more new suits news from yesterday, click [here](#). For copies of recent civil complaints, click [here](#).

Trials/Appeals

TCI's Hohn Says He Disclosed CSX Stake to Behring

Children's Investment Fund Managing Partner [Christopher Hohn](#) told [Alexandre Behring](#) of 3G Capital Partners that TCI invested in [CSX Corp.](#), the third-largest U.S. railroad, before telling other investors, Hohn said.

Hohn testified yesterday in a trial of CSX's [lawsuit](#) against TCI and 3G Capital Partners in federal court in New York. CSX wants to block the funds from winning five seats on its 12-member board at a shareholder meeting on June 25. CSX seeks to show that TCI and 3G Capital, its third- and fourth-largest holders, formed an investor group earlier than claimed, possibly requiring added disclosure. CSX also wants to block TCI and 3G Capital from voting their shares.

Under questioning from CSX's lawyer, Hohn testified that he received a call from Behring in January or February 2007, after TCI privately told its [investors](#) that it owned a stake in unnamed U.S. transportation companies. "He asked me, 'What is this?'" Hohn testified about their conversation.

"I did tell him it included a position in CSX," Hohn testified, adding that he didn't tell Behring he intended to buy more shares.

TCI publicly disclosed its stake in [CSX](#) in April 2007.

3G Capital, based in New York and London-based TCI want CSX, of

Jacksonville, Florida, to buy back more stock, raise [debt](#) and separate the roles of chief executive officer and chairman. As part of the proxy fight, TCI and 3G Capital have alleged that CSX misled investors in U.S. Securities and Exchange Commission filings and that its managers engaged in insider trading.

Testimony in the two-day non-jury trial concluded yesterday, and U.S. District Judge [Lewis Kaplan](#) has been asked to rule by June 12. At the close of the hearing, Kaplan posed several questions to the lawyers, asking what relief would be appropriate "assuming I find violations" of federal disclosure requirements by TCI and 3G Capital.

"A very large position was assembled" by the funds "that was opaque to the public markets," Kaplan said.

Hohn offered his direct testimony in writing. Under cross-examination by CSX lawyer [Rory Millson](#), Hohn said Behring told him in the first quarter of 2007 that 3G Capital also had invested in CSX and believed the company could be operated more profitably.

In his testimony yesterday, Behring said 3G Capital didn't form an investor group with TCI until at least November. He said it was coincidental that 3G Capital resumed buying shares in CSX immediately after Behring met with a TCI executive in late September.

"You're telling me the subject of CSX never came up in that meeting?" Kaplan asked Behring.

Behring said his fund resumed buying CSX stock that month because he'd grown comfortable with its "pricing and fundamentals."

The case is CSX v. TCI, 08-cv-2764, U.S. District Court, Southern District of New York (Manhattan).

#### U.K. Banks to Get Permission to Appeal Ruling on Overdraft Fees

[Royal Bank of Scotland Group Plc](#), [HSBC Holdings Plc](#) and six other U.K. banks were told by judge that they could appeal a ruling in an antitrust case that challenged fees on customers who exceeded overdraft limits.

Justice Andrew Smith said at hearing yesterday in London that he would give the banks permission to appeal his April 24 ruling. That decision said that the overdraft fees were subject to laws regulating unfair terms in consumer contracts, allowing the Office of Fair Trading to continue a legal challenge.

[British banks](#) charge as much as 30 pounds (\$59) and interest as high as 30 percent to customers who bounce checks or spend more than they have in their account, according to data company [Moneyfacts Group Plc](#).

The OFT argued the fees, which generate as much as 1 billion pounds a year in revenue, were illegal because they didn't reflect the cost of administering the accounts. After some customers won similar claims, the banks and the regulator agreed to take the issue to court to clarify the law.

#### Singapore's Temasek Files Appeal With Indonesia's Supreme Court

[Temasek Holdings Pte](#), a Singapore state-owned investment company, filed an appeal to Indonesia's Supreme Court after losing a bid to overturn an antitrust ruling.

An Indonesian court ruled on May 9 that Temasek and units including [Singapore Telecommunications Ltd.](#) broke antitrust laws and must sell their stakes in one of Indonesia's two biggest mobile-phone operators within a year.

"Temasek has not broken any laws and will vigorously contest all allegations against us," [Myrna Thomas](#), managing director for corporate affairs at Temasek, said in an e-mailed statement yesterday. "We fully respect the laws of Indonesia and hope that all our legal rights will likewise be respected."

The appeal highlights Temasek's challenges as the manager of more than \$100 billion of assets as it expands into emerging markets including Thailand and Indonesia. A Temasek-led group in March sold its 56 percent stake in PT Bank Internasional Indonesia to Malayan Banking Bhd. to comply with central bank ownership limits.

Indonesia's regulator said Temasek breached antitrust laws by using indirect stakes in PT Telekomunikasi Selular, known as Telkomsel, and [PT Indosat](#) to

fix prices.

Temasek owns 54 percent of Singapore Telecom, which holds 35 percent of Telkomsel, Indonesia's largest mobile-phone operator. Another unit, Singapore Technologies Telemedia Pte, controls 75 percent of Asia Mobile Holdings Pte, which in turn owns 40 percent of Indosat, Indonesia's second-largest phone company. The Indonesian government has a stake in both operators.

Indonesia's regulator, known as KPPU, said Nov. 19 that Temasek breached antitrust laws by using stakes in Telkomsel and Indosat to fix mobile-phone calling prices. The court on May 9 cut an earlier fine to 15 billion rupiah (\$1.6 million) from 25 billion rupiah. It also said Temasek has the option of cutting stakes in both companies by half.

For more trial and appeals news from yesterday, [click here](#).

Verdicts/Settlements

Evonik Degussa Loses Bid to Cut \$143 Million EU Fine

[Evonik Degussa GmbH](#) lost its appeal to the European Union's highest court seeking to cut a 91.1 million-euro (\$143.5 million) EU antitrust fine for fixing the price of a chicken-feed additive.

“The appeal must be rejected in its entirety,” the European Court of Justice said in its ruling in Luxembourg yesterday, dismissing the company's arguments.

The market for the additive, methionine, also used to improve cow fertility, was about 260 million euros a year in Europe when the cartel operated, according to the European Commission. Degussa AG was acquired by Evonik Industries AG, the German energy and chemicals company, in 2006.

The case is the second appeal of a 118 million-euro fine levied by the commission in 2002 for the company's role in the cartel that operated worldwide for 12 1/2 years. A lower EU court in 2006 cut the penalty to 91.1 million euros.

The Essen, Germany-based company had challenged what it said was an “exorbitant” antitrust fine. The Brussels-based commission said Evonik Degussa's claim was wrong that the law governing the agency's fine-setting powers were imprecise.

“The court is leaving the commission so much leeway in its calculation of antitrust fines,” Christian Steinle, a lawyer for the company, said by telephone yesterday. “We still want to stress the significant reduction that we got at first instance, which the court today didn't put into question.”

The commission considers the gravity of the offense in order to set a base fine and then raises or lowers that figure depending on other factors, such as how long the cartel lasted and whether companies cooperated with the investigation.

The EU's second-highest court decided two years ago that the commission had misapplied its guidelines and overestimated the seriousness of the antitrust breach.

The court “confirmed that the rules which give the commission power to give discretionary fines are within the principle of legal certainty,” a spokesman for the commission's antitrust unit, [Jonathan Todd](#), told reporters in Brussels yesterday.

The case is C-266/06 P Evonik Degussa v. Commission and Council.

Medtronic Will Pay \$75 Million in False Claims Case

[Medtronic Inc.](#) agreed to pay \$75 million to settle U.S. allegations a company it purchased defrauded the Medicare health program.

The civil case alleged that Kyphon Inc., which Medtronic bought in November, previously carried out a seven-year marketing scheme that inflated Medicare bills, the Justice Department said yesterday in a statement. The government said Kyphon persuaded hospitals to bill Medicare for a spine operation at inpatient rates rather than for the less-costly outpatient treatment.

The alleged fraud involved kyphoplasty, in which spinal gaps are filled with bone cement. By getting hospitals to keep patients overnight, hospitals could

pump up charges to Medicare by \$10,000 for each operation while Kyphon raised the price of its spinal equipment, said [Mary Louise Cohen](#), a Washington attorney representing two Kyphon employees who reported the allegations.

``A big inpatient price tag allowed Kyphon to make thousands of dollars each time it sold a kyphoplasty kit," Cohen said in a statement. ``Because of the company's scheme, the Medicare program paid many millions of dollars more than it needed to pay."

Kyphon set aside money for the expected settlement last year before its [sale](#). Medtronic spokeswoman [Marybeth Thorsgaard](#) said in a telephone interview. Minneapolis-based Medtronic won't have to take a charge for the payment, she said.

The allegations covered a period before Medtronic bought Kyphon, she said. Medtronic, a leading maker of heart stents and defibrillators, spinal discs and other medical devices, won't release or discipline any employees and doesn't feel policies need to be changed as a result of the case.

The settlement ``reflects the company's assertion that Kyphon and its employees had not engaged in any wrongdoing or illegal activity," she said.

For more verdict and settlement news from yesterday, [click here](#). For more litigation department news from yesterday, [click here](#).

On the Docket

Mattel Infringement Trial Over Bratz Dolls to Start May 27

[Mattel Inc.](#), the world's biggest toymaker, will go before a California court May 27 to argue that MGA Entertainment Inc.'s Bratz doll was conceived while designer [Carter Bryant](#) was a Mattel employee. If the jury agrees, Mattel may pocket damages estimated at \$360 million and, based on its calculations, as much as \$500 million a year in MGA sales and licensing fees.

The first phase of the trial will focus on evidence that Mattel claims will show that Bryant got the idea for Bratz and made sketches while still employed by the company.

An agreement Bryant signed gives Mattel the right to the drawings if he made them while working there, U.S. District Judge [Stephen Larson](#) ruled on April 25. Bryant worked twice for Mattel: from 1995 to April 1998 and from January 1999 to October 2000, according to court papers. He then moved to MGA.

Bryant and MGA maintain he worked on Bratz between stints at Mattel. Mattel settled a breach-of-contract suit with Bryant on May 19.

The case is Bryant v. Mattel, 04-9049, U.S. District Court, Central District of California (Riverside.)

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