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Dollar General Execs Allegedly Downplayed In-Store Chaos

By **Sydney Price**

Law360 (January 29, 2024, 6:58 PM EST) -- Dollar General executives and directors were hit with a shareholder derivative suit alleging they downplayed staffing struggles and disarray in the retailer's stores, which resulted in a buildup of unwanted inventory and government investigations.

Shareholder Nathan Silva alleged in Tennessee federal court on Friday that Dollar General failed to address logistics problems within its stores, including chronic understaffing and cluttered shelves, and also faced investigations in Ohio, Arizona, Louisiana, Mississippi and North Carolina for allegedly charging higher-than-advertised prices.

"As a result of chronic understaffing, employees lacked sufficient time to update merchandise pricing or deal with inventory issues as they arose, especially as the growing inventory on store shelves began piling up, leading to crowded isles and disorganized shelves," the suit states. "These practices resulted in an uninviting shopping environment which dissuaded consumers from patronizing Dollar General stores."

In addition to nominal defendant Dollar General, the suit lists 13 individual defendants, including current CEO Todd J. Vasos, former CEO Jeff Owen, chief financial officer Kelly Dilts, and several directors.

The suit's relevant period begins May 28, 2020, the day Dollar General held its first quarter 2020 earnings call. During the call, the company's executives praised the company's strong merchandising capabilities. Over the next several months, the company continued to tout its strong inventory position, sustainable sales and profit growth in the midst of the COVID-19 pandemic, according to the complaint.

But, the suit alleges, Dollar General failed to warn investors that it was not working on fixing inventory issues within its stores, and that it was facing regulatory scrutiny across several states.

The truth began to emerge on Feb. 23, the suit claims. That day, Dollar General told investors its fourth quarter 2022 earnings metrics would be "materially below" what the company had previously projected.

On this news, Dollar General shares declined more than $8 to close at $217.11 per share on Feb. 23, according to the suit.

On March 16, Dollar General released its lower-than-expected earnings, attributing them to store closures. That same day, the company revealed that it would make a one-time, $100 million investment in its stores to "build on our sales momentum and capture additional market share."

As a result, Dollar General shares declined $6.47 on March 16, according to the suit.

The company still continued to downplay its inventory glut in its stores over the next several weeks, but on June 1, Dollar General cut its guidance for the second half of the year, stating it only expected same-store sales to rise between 1% and 2% for the year.

Dollar General shares then declined $39, or nearly 20%, on June 1, according to the suit.

The retailer cut sales and profit outlook for 2023 again on Aug. 31, citing weaker consumer spending and theft, the suit states. The company told investors the same day that Dollar General was deploying "smart teams" to organize excess inventory at stores as its campaign to enhance store personnel and improve store appearance, according to the suit.

On this news, Dollar General shares declined $19, or 12%, on Aug. 31, according to the suit.

Just a couple of weeks later, Missouri's attorney general filed suit against Dollar General claiming that hundreds of the company's retail stores in the state were offering "unfair and deceptive pricing" by advertising one price on the shelves and charging another at the register, the ongoing suit states.

In a press release, the Office of the Attorney General of Missouri stated that a joint investigation revealed "92 of the 147 locations where investigations were conducted failed inspection. Price discrepancies ranged up to as much as $6.50 per item, with an average overcharge of $2.71 for the over 5,000 items price-checked by investigators."

The suit accuses the individual defendants of violating the Exchange Act, breaching fiduciary duties, unjust enrichment and wasting corporate assets. The complaint also notes that the company is currently litigating a related **securities class action** in Tennessee federal court.

"As a direct and proximate result of the Individual Defendants' breach of their fiduciary duties, the Company has suffered damage, not only monetarily, but also to its corporate image and goodwill," the suit states. "Such damage includes, among other things, costs incurred in defending itself in the Securities Action."

Counsel for Silva and a representative of Dollar General did not immediately respond to requests for comment.

Silva is represented by Seth D. Rigrodsky of Rigrodsky Law PA, Joshua H. Grabar of Grabar Law Office and Wade B. Cowan of Wade B. Cowan Attorney at Law.

Counsel information for Dollar General was not immediately available on Monday.

The case is Silva v. Vasos et al., case number 3:24-cv-00083, in the U.S. District Court for the Middle District of Tennessee.

--Additional reporting by Katryna Perera. Editing by Nicole Bleier.
