



## NATURE OF THE CASE

1. This is a securities class action on behalf of all purchasers of the publicly traded securities of Bausch & Lomb Incorporated (“Bausch & Lomb” or the “Company”) between January 27, 2005 and April 10, 2006 (the “Class Period”), against Bausch & Lomb and certain of its officers and directors for violations of the Securities Exchange Act of 1934 (the “1934 Act”).

2. Bausch & Lomb engages in the development, manufacture, and marketing of eye health products. The Company offers its products in five product categories: contact lens, lens care, pharmaceuticals, cataract and vitreoretinal, and refractive. The contact lens product category includes replacement and daily disposable, multifocal, continuous wear, and toric soft lenses; and rigid gas permeable lenses and materials. These products are marketed by its sales force and through distributors to licensed eye care professionals and health product retailers. The lens care product category comprises multipurpose solutions, enzyme cleaners, and saline solutions.

3. During the Class Period, defendants made positive but false statements about, among other things, Bausch & Lomb’s results and business, while concealing material adverse information about the true nature of the Company’s revenues, the lack of adequate internal controls and the underpayment of taxes resulting in tens of millions of dollars in penalties, which ultimately resulted in the restatement of the Company’s financials over a period of five years. Additionally, the Company failed to disclose that, in November 2005, it was contacted by health authorities in Hong Kong that the Company’s contact lens solution was causing a rare eye infection among users.

4. On December 22, 2005, after the markets closed, the Company provided an update on an internal investigation related to its Brazil subsidiary and announced that it would restate its financial results for 2000 through the first half of 2005. The press release issued by the Company stated in part:

Bausch & Lomb today provided an update on the investigation, previously reported on October 26, 2005, into allegations of improper conduct by management of its Brazilian subsidiary, BL Industria Otica Ltda. (BLIO) and tax assessments against BLIO by Brazilian taxing authorities that related to several prior years. The Company has concluded, based on the investigation, that certain prior-period financial statements will be required to be restated. In addition, the Company has preliminarily identified a material weakness in its controls over financial reporting relating to detection and prevention of local management's fraudulent override of Brazil tax reporting controls. Bausch & Lomb also announced today that the Audit Committee of its Board of Directors has commenced an independent investigation into revenue recognition practices in its Korean subsidiary.

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#### Restatement of Financial Information

The Company expects to restate its financial results for the fiscal years ended 2000, 2001, 2002, 2003, 2004, as well as the first and second quarters of 2005. Accordingly, the financial statements contained in the following Company filings with the Securities and Exchange Commission should no longer be relied upon:

- Annual Report on Form 10-K for the year ended December 25, 2004;
- Quarterly Report on Form 10-Q for the quarterly period ended March 26, 2005; and
- Quarterly Report on Form 10-Q for the quarterly period ended June 25, 2005.

5. On this disclosure, Bausch & Lomb's stock price dropped to as low as \$71.54 per share, a 9% decline from its close on December 22, 2005 – the equivalent of a \$374 million market capitalization loss. However, prior to these revelations of accounting fraud, the Company's top officers and directors illegally reaped over \$29 million in insider trading proceeds.

6. On March 31, 2006, after the markets closed, the Company announced that it was collaborating in a scientific investigation with health authorities to determine the extent and cause of an increase in a rare fungus infection among contact lens wearers that first surfaced in certain parts of Asia. At that time, the Company stated that the eye infections were “*not related to a specific contact lens or lens-care product.*”

7. Then, on April 10, 2006, after the markets closed, the Company announced that it was temporarily suspending U.S. shipments of ReNu® with MoistureLoc® produced at its Greenville, S.C., manufacturing facility in order to facilitate the further investigation of reports of fungal keratitis infections among contact lens wearers in the United States. Although it had evidence which suggested otherwise, the Company declared that the “source of these infections has not been determined.”

8. Upon this shocking news, on the next trading day, shares of the Company’s stock plummeted, falling \$8.41 per share, or almost 15%, to close at \$49.03 per share, on extraordinary trading volume.

9. Following these disclosures, on April 13, 2006, the Company asked U.S. retailers to remove ReNu® with MoistureLoc® from their shelves temporarily, and recommended that consumers switch to another lens care solution for the time being, until the investigation of reports of fungal keratitis infections among contact lens wearers in the United States is concluded.

10. Subsequently, on April 27, 2006, *The Wall Street Journal* reported that the Company was notified by Hong Kong health authorities of eye infections in users of the Company's contact-lens solution *in November 2005, several months before the Company stopped selling the product there.*

#### **JURISDICTION AND VENUE**

11. Jurisdiction is conferred by §27 of the 1934 Act. The claims asserted herein arise under §§10(b) and 20(a) of the 1934 Act and Rule 10b-5.

12. Venue is proper in this District pursuant to §27 of the 1934 Act. Many of the false and misleading statements were made in or issued from this District and the Company conducts substantial business in this District.

## **THE PARTIES**

13. Plaintiff Laborers Local 100 and 397 Pension Fund purchased Bausch & Lomb publicly traded securities as described in the attached certification and was damaged thereby.

14. Defendant Bausch & Lomb engages in the development, manufacture, and marketing of eye health products. The Company offers its products in five product categories: contact lens, lens care, pharmaceuticals, cataract and vitreoretinal, and refractive. The contact lens product category includes replacement and daily disposable, multifocal, continuous wear, and toric soft lenses; and rigid gas permeable lenses and materials. These products are marketed by its sales force and through distributors to licensed eye care professionals and health product retailers. The lens care product category comprises multipurpose solutions, enzyme cleaners, and saline solutions.

15. Defendant Ronald L. Zarrella (“Zarrella”) was Chief Executive Officer of Bausch & Lomb during the Class Period. Zarrella also prepared each of the Forms 10-Q filed with the SEC during the Class Period and participated in drafting the press releases incorporating the Company’s financial results which defendants now admit to be false. During the Class Period, while in possession of material adverse information about Bausch & Lomb’s business, Zarrella sold 75,100 shares of Bausch & Lomb stock for proceeds of \$5.7 million.

16. Defendant Stephen C. McCluski (“McCluski”) was Chief Financial Officer of Bausch & Lomb during the Class Period. McCluski also prepared each of the Forms 10-Q filed with the SEC during the Class Period and participated in drafting the press releases incorporating the Company’s financial results which defendants now admit to be false. During the Class Period, while in possession of material adverse information about Bausch & Lomb’s business, McCluski sold 30,439 shares of Bausch & Lomb stock for proceeds of \$2.4 million.

17. Defendant John M. Loughlin (“Loughlin”) was a Regional Vice President of Bausch & Lomb during the Class Period. During the Class Period, while in possession of material adverse

information about Bausch & Lomb's business, Loughlin sold 71,482 shares of Bausch & Lomb stock for proceeds of \$5.4 million.

18. Defendant Dwain L. Hahs ("Hahs") was the Vice President of Global Operations of Bausch & Lomb during the Class Period. Hahs had served the Company in multiple capacities since joining Bausch & Lomb nearly 30 years ago in 1977. From these occupational positions and tenure, and as the Company's former Vice President of International Relations, Hahs had unique access to information concerning the Company's operations complained of herein. During the Class Period, while in possession of material adverse information about Bausch & Lomb's business, Hahs sold 15,320 shares of Bausch & Lomb stock for proceeds of \$1.1 million.

19. Defendant Angela J. Panzarella ("Panzarella") was a Vice President of Bausch & Lomb during the Class Period. Throughout Panzarella's tenure at the Company, she was heavily involved in the Company's legal affairs and participated in legal matters where the Company was accused of improprieties, giving her unique access to information concerning the Company's operations complained of herein. During the Class Period, while in possession of material adverse information about Bausch & Lomb's business, Panzarella sold 1,710 shares of Bausch & Lomb stock for proceeds of \$123,380.

20. Defendant Robert B. Stiles ("Stiles") was Senior Vice President and General Counsel of Bausch & Lomb during the Class Period. As the Company's legal counsel, Stiles was privy to the Company's legal affairs, including the Company's legal troubles giving rise to the multi-year restatement. During the Class Period, while in possession of material adverse information about Bausch & Lomb's business, Stiles sold 38,082 shares of Bausch & Lomb stock for proceeds of \$2.9 million.

21. Defendant Kamal Sarbadhikari (“Sarbadhikari”) was Vice President of the Company’s Regulatory and Quality Affairs during the Class Period. As such, Sarbadhikari was privy to the regulatory problems giving rise to the Company’s multi-year restatement. During the Class Period, while in possession of material adverse information about Bausch & Lomb’s business, Sarbadhikari sold 37,100 shares of Bausch & Lomb stock for proceeds of \$2.8 million.

22. Defendant Geoffrey F. Ide (“Ide”) was a Regional Vice President of Bausch & Lomb during the Class Period. Further, Ide was the former manager of the Company’s Latin American operations. As such, Ide was privy to information concerning the true nature of the Company’s Brazilian operations giving rise to the multi-year restatement. During the Class Period, while in possession of material adverse information about Bausch & Lomb’s business, Ide sold 31,000 shares of Bausch & Lomb stock for proceeds of \$2.3 million.

23. Defendant William H. Waltrip (“Waltrip”) was the Lead Director and former Chairman of the Board of Bausch & Lomb during the Class Period. During the Class Period, while in possession of material adverse information about Bausch & Lomb’s business, Waltrip sold 90,292 shares of Bausch & Lomb stock for proceeds of \$6.9 million.

24. The defendants named in ¶¶15-23 are collectively referred to herein as the “Individual Defendants.”

#### **SCIENTER, FRAUDULENT SCHEME AND COURSE OF BUSINESS**

25. Bausch & Lomb’s top officers and directors, including the Individual Defendants, had knowledge of Bausch & Lomb’s problems with generating legitimate sales and earnings growth to the extent the market expected and were motivated to conceal such problems. The slowing economy and potential decline in growth was the most important factor facing Bausch & Lomb in 2004 and 2005. Bausch & Lomb’s growth was dependent on two factors: internal growth and its ability to consummate acquisitions of large revenue generating corporations.

26. Bausch & Lomb and the Individual Defendants are liable for making false statements, including those by its executive officers. Defendants' fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Bausch & Lomb stock was a success, as it: (i) temporarily deceived the investing public regarding Bausch & Lomb's prospects and business; (ii) artificially inflated the prices of Bausch & Lomb's publicly traded securities; (iii) caused plaintiff and other members of the Class to purchase Bausch & Lomb publicly traded securities at inflated prices; and (iv) *permitted defendants to sell \$29 million worth of Bausch & Lomb stock prior to the accounting scheme being disclosed (and subsequent restatement), which devastated Bausch & Lomb's share price.*

#### **BACKGROUND TO THE CLASS PERIOD**

27. Bausch & Lomb engages in the development, manufacture, and marketing of eye health products. The Company offers its products in five product categories: contact lens, lens care, pharmaceuticals, cataract and vitreoretinal, and refractive. The contact lens product category includes replacement and daily disposable, multifocal, continuous wear, and toric soft lenses; and rigid gas permeable lenses and materials. These products are marketed by its sales force and through distributors to licensed eye care professionals and health product retailers. The lens care product category comprises multipurpose solutions, enzyme cleaners, and saline solutions.

28. On April 21, 2004, the Company issued a press release entitled "Bausch & Lomb First-Quarter Earnings Per Share Rise 39 Percent on 14 Percent Higher Revenues." The press release stated in part:

- Sales grow six percent excluding currency benefits
- First-quarter earnings per share of \$0.43 compare to \$0.31 earnings per share from continuing operations in 2003

- ***Company raises full-year earnings per share guidance to \$0.10 to \$2.70 to \$2.75***

Bausch & Lomb today reported worldwide sales of \$510.3 million for its first quarter ended March 27, 2004, an increase of 14 percent (or six percent on a constant-currency basis) over the \$448.0 million reported in the first quarter of 2003. Constant-currency sales growth was reported in the Company's contact lens, pharmaceuticals, refractive surgery and lens care categories, with a slight decline reported for cataract surgery products.

Net earnings per share were \$0.43 in the first quarter of 2004, compared to earnings per share from continuing operations of \$0.31 in 2003 and net earnings per share of \$0.29, which reflected a \$0.02 per share cumulative impact from adopting a new accounting principle.

***Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella said, "Our first-quarter results were solid, with constant-currency sales growth in line with, and operating margins somewhat above, our original projections. These operational factors generated about half the earnings per share upside as compared to our previous guidance, with the rest coming from lower-than-anticipated net financing expense." Zarrella continued, "We remain comfortable with our projections for full-year 2004 constant-currency revenue growth in the mid-single digits and expect full-year operating margins above 12 percent, reflecting leverage from favorable mix shifts and continuing benefits from our profitability improvement programs. Combined with the results reported today, those trends should result in earnings per share in the range of \$2.70 to \$2.75 for the year, assuming currency rates remain relatively consistent with current levels."***

29. On July 29, 2004, the Company issued a press release entitled "Bausch & Lomb Reports 43 Percent Second-Quarter Earnings Per Share Growth on 11 Percent Sales Gain." The press release stated in part:

- Worldwide revenues grow eight percent excluding currency effects
- Second-quarter earnings per share were \$0.76, compared to \$0.53 in 2003
- ***Company increases full-year earnings per share guidance to between \$2.80 and \$2.85***

Bausch & Lomb today reported worldwide sales of \$566.5 million for the quarter ended June 26, 2004, an 11 percent increase (or growth of eight percent on a constant-currency basis) over the prior-year period. ***Each of the Company's product categories reported solid sales growth.***

Earnings per share of \$0.76 grew 43 percent as compared to the \$0.53 per share reported in the prior-year period. Operating margins of 13.3 percent of sales

increased from 11 percent of sales in the prior year, reflecting *improved gross margins* and *lower operating expenses* as a percentage of sales.

\* \* \*

*Commenting on second-quarter financial performance, Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella said, “We are pleased with the solid results we reported today, which demonstrate our continued progress toward our established financial goals. Just as important, we’re starting to see the top-line contributions from recent product introductions. With more of those in the pipeline, we have good reason to be optimistic about our future growth prospects.”*

*Bausch & Lomb indicated that it is now projecting full-year earnings per share to be in the range of \$2.80 to \$2.85. Previous guidance had been in the range of \$2.70 to \$2.75 per share. Zarrella commented, “The increased guidance reflects our current expectation for full-year constant-currency revenue growth of six to seven percent, with reported revenue growth in the low double digits if exchange rates remain where they are today.*

30. On October 20, 2004, the Company issued a press release entitled “Bausch & Lomb Earnings Per Share Up 32 Percent on Eight Percent Higher Sales.” The press release stated in part:

- Worldwide revenues grow four percent excluding currency effects
- Third-quarter earnings per share were \$0.79, compared to \$0.60 in 2003
- Company expects full-year 2004 earnings per share between \$2.85 and \$2.90, growing to between \$3.30 and \$3.40 in 2005

Bausch & Lomb today reported worldwide sales of \$548.9 million for the quarter ended September 25, 2004, an eight percent increase (or growth of four percent on a constant-currency basis) over the prior-year period. Sales gains were reported in each of the company’s geographic business segments and in all product categories except lens care.

Earnings per share of \$0.79 grew 32 percent as compared to the \$0.60 per share reported a year ago. Operating margins were 14 percent of sales in the third quarter, compared to 12 percent in the prior year.

\* \* \*

*The company indicated that it now expects full-year 2004 constant-currency revenue growth of approximately six percent, translating to reported growth of between nine and ten percent, should exchange rates remain where they*

*are today. Earnings per share are now forecast at between \$2.85 and \$2.90 per share, up from previous expectations of between \$2.80 and \$2.85 per share. For 2005, the company projects constant-currency revenue growth of between six and seven percent, yielding earnings per share between \$3.30 and \$3.40.*

\* \* \*

*“Given the leverage opportunities within our current structure, we are confident in our ability to achieve the 2005 earnings targets we set forth today.”*

## **FALSE AND MISLEADING STATEMENTS DURING THE CLASS PERIOD**

31. On January 27, 2005, the Company issued a press release entitled “Bausch & Lomb’s 2004 Revenues Grow 11 Percent, Generating \$2.93 Earnings Per Share.” The press release stated in part:

- Full-year revenues grow six percent excluding currency benefits
- Full-year comparable-basis EPS rise 29 percent from 2003
- Company expects constant-currency revenues to grow six to seven percent in 2005, with earnings per share at the high end of previous guidance

Bausch & Lomb today reported results for its full year and fourth quarter ended December 25, 2004.

### **Full-Year Results**

Full-year worldwide net sales of \$2.23 billion increased 11 percent from \$2.02 billion in 2003, and were up six percent excluding the positive benefit of changes in foreign currency exchange rates. Growth was reported for all product categories in each geographic segment.

Full-year GAAP earnings per share were \$2.93 in 2004. In 2003, GAAP earnings per share were \$2.34 and included certain significant items as well as the cumulative effect of a change in accounting principle. Excluding those items, 2004 earnings per share increased 29 percent on a comparable-basis from 2003.

Full-year comparable-basis operating margins increased to 12.5 percent of sales in 2004 from 11.6 percent of sales in the prior year. Gross margins expanded to 58.1 percent of sales from 57.5 percent of sales in 2003. This improvement, combined with lower selling, general and administrative expenses as a percentage of sales, was partially offset by higher investment in research and development. For the full year, comparable-basis research and development expense increased 13 percent to \$162.5 million, or 7.3 percent of sales.

## Fourth-Quarter Results

Fourth-quarter net sales of \$606.6 million represented a 10 percent increase (or growth of seven percent on a constant-currency basis) over the prior-year period. Gains were reported in every product category in each of the Company's geographic business segments except for an anticipated decline in sales from refractive surgery products in the Americas region.

Fourth-quarter GAAP earnings per share were \$0.94. In 2003, fourth-quarter GAAP earnings per share of \$0.92 included certain significant items. Excluding those items, earnings per share increased 13 percent on a comparable basis in 2004.

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*“We are very pleased with the strong results reported for both the fourth quarter and all of 2004, which clearly demonstrate that the Company is beyond the turnaround stage,” said Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella. “Led by improved operational performance, we surpassed the earnings per share expectations we established at the beginning of the year and exited 2004 with increased momentum. We are well positioned for accelerated sales growth and continued strong financial performance in 2005.”*

32. On April 19, 2005, the Company issued a press release entitled “**Bausch & Lomb Reports Solid First Quarter.**” The press release stated in part:

- Earnings Per Share Up 47 Percent on Nine Percent Sales Gain
- Company Raises Full-Year EPS Guidance Five Cents to \$3.45

Bausch & Lomb today released results for the first quarter ended March 26, 2005. Total reported sales of \$554.3 million increased nine percent over the \$510.3 million reported in the first quarter of 2004, or six percent on a constant-currency basis. The Company's lens care category led sales growth, increasing 13 percent in the quarter (11 percent in constant currency), primarily reflecting the timing of a significant order from a major U.S. retail customer.

First-quarter earnings per share rose 47 percent to \$0.63, compared to \$0.43 a year ago, reflecting a favorable sales mix due to the strong lens care performance, partially offset by increased investment in research and development, and higher selling, general and administrative expenses.

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*“This was a solid first quarter,” said Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella. “Strong overall operating performance generated about three cents of earnings upside compared to our expectations. That was augmented by the earnings impact from higher-than-anticipated lens*

*care sales. While the majority of the lens care upside was associated with the timing of a major customer promotion that shifted sales from the second quarter to the first, we believe some of it was incremental to our previous expectations. As a result, we have increased full-year EPS guidance from \$3.40 to \$3.45.”*

33. On July 27, 2005, the Company issued a press release entitled “Bausch & Lomb Earns 81 Cents Per Share on Seven-Percent Sales Gain Company Increases Full-Year Guidance by Five Cents.” The press release stated in part:

- *Company increases full-year guidance by five cents*
- Board of Directors approves additional share repurchase
- Company finalizes plans to repatriate offshore funds

Bausch & Lomb today reported results for its second quarter ended June 25, 2005. Worldwide net sales of \$608.3 million increased seven percent from \$566.5 million in the 2004 period, and were up five percent on a constant-currency basis. Gains were reported in each of the Company’s geographic segments and product categories. Earnings per share of \$0.81 increased seven percent from 2004.

\* \* \*

*“We were very satisfied with our second-quarter performance,” said Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella, “and from an earnings perspective, first-half results were a bit ahead of our expectations. Given our performance to date, and recognizing that new products and further share gains are expected to accelerate top-line growth in the second half of 2005, we have upwardly revised our outlook for the full year.”*

#### **DEFENDANTS BEGIN TO REVEAL THE BRAZILIAN TAX PROBLEMS BUT DOWNPLAY THE IMPACT OF MATERIALITY TO THE COMPANY**

34. On October 26, 2005, the Company issued a press release entitled “Bausch & Lomb Reports Preliminary Third-Quarter Results.” The press release stated in part:

- *Worldwide Sales Increase Seven Percent*
- Third-quarter GAAP earnings per share of \$0.32 reflect certain discrete items as well as charges associated with an ongoing investigation related to Brazilian subsidiary
- Comparable-basis earnings per share of \$1.02 increase 29 percent from 2004

- Company updates full-year guidance and comments on expectations for 2006
- Results are preliminary pending outcome of the ongoing investigation

Bausch & Lomb today reported preliminary results of operations for the third quarter and nine months ended September 24, 2005, and said it may delay the filing of its Quarterly Report on Form 10-Q, which is due on November 3, 2005, pending the results of an investigation, described below, into allegations of improper conduct by management of the Company's Brazilian subsidiary, BL Industria Otica, Ltda. ("BLIO"), and past tax assessments against BLIO by Brazilian taxing authorities. BLIO manufactures contact lenses and markets a range of the Company's vision care, surgical and pharmaceutical products in Brazil. In 2004 it accounted for approximately \$20 million in net sales, which is less than one percent of Bausch & Lomb's consolidated revenues.

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Third-quarter worldwide net sales were \$588.7 million, up seven percent from \$548.9 million in the 2004 period. . . .

GAAP earnings per share for the third quarter and year-to-date periods were \$0.32 and \$1.75 respectively, compared to \$0.79 and \$2.00 in 2004. Current-year reported results reflect improved gross margins, offset by higher selling, general and administrative expenses to support new product launches and increased investment in research and development. The preliminary results also reflect charges totaling approximately \$19.6 million after tax, or \$0.35 per share, related to the matters that are subject to the investigation described below; a loss of \$0.04 per share after taxes on the previously announced disposal of the Company's Woehlk subsidiary; and several income tax items described below. Excluding those items, comparable-basis earnings per share were \$1.02 and \$2.45 for the quarter- and year-to-date periods, respectively.

Bausch & Lomb Chairman and Chief Executive Officer Ronald L. Zarrella said, "***The underlying improvement in our fundamental operating performance in the quarter continues to demonstrate how we are leveraging sales gains into even higher earnings growth, notwithstanding the various discrete items and the charges that were recorded as a result of the ongoing investigation in Brazil.***"

35. Later that day, *Bloomberg* issued a story entitled "Bausch & Lomb May Delay Filing Amid Brazil Inquiry," which stated in part:

Bausch & Lomb Inc., the world's fourth-largest maker of contact lenses, said it may delay filing its fiscal third-quarter results, due Nov. 3, pending an investigation into the management at a Brazilian unit.

An audit committee found the general manager, controller and other employees of BL Industria Otica didn't properly account for about \$600,000 in expenses for an unauthorized pension plan, Rochester, New York-based Bausch & Lomb said today in a preliminary earnings statement.

***Bausch & Lomb said the U.S. Securities and Exchange Commission is conducting an informal inquiry into the matter. Brazilian tax authorities have also said the unit owes \$5 million in taxes and \$21 million in penalties. The company had third-quarter costs of \$19.6 million, or 35 cents, related to the Brazilian investigation.***

\* \* \*

Small Subsidiary

***Bausch & Lomb fired the general manager and controller of the Brazilian unit, known as BLIO, and will consider further steps when the audit committee's independent investigation is finished. The subsidiary accounted for less than 1 percent of Bausch & Lomb's revenue in 2004, with \$20 million in sales.***

36. Defendants downplayed the significance of the Company's Brazilian unit. The Company's shares lost but \$2 intra-day and quickly soared to new heights. The shares continued to trade above \$80 until the revelations of December 22, 2005.

37. On December 22, 2005, after the markets closed, the Company provided an update on an internal investigation related to its Brazil subsidiary and announced that it will restate its financial results for 2000 through the first half of 2005. The press release issued by the Company stated in part:

Bausch & Lomb today provided an update on the investigation, previously reported on October 26, 2005, into allegations of improper conduct by management of its Brazilian subsidiary, BL Industria Otica Ltda. (BLIO) and tax assessments against BLIO by Brazilian taxing authorities that related to several prior years. The Company has concluded, based on the investigation, that certain prior-period financial statements will be required to be restated. In addition, the Company has preliminarily identified a material weakness in its controls over financial reporting relating to detection and prevention of local management's fraudulent override of Brazil tax reporting controls. Bausch & Lomb also announced today that the Audit Committee of its Board of Directors has commenced an independent investigation into revenue recognition practices in its Korean subsidiary. Information provided on each of these matters is presented below.

## Brazil Matters

On October 26, 2005, the Company reported preliminary results of operations for the third quarter and nine months ended September 24, 2005, pending the results of an investigation into allegations of improper conduct by management of the Company's Brazilian subsidiary, BL Industria Otica Ltda., and past tax assessments against BLIO by Brazilian taxing authorities. BLIO accounted for approximately \$20 million in net sales in 2004, which is less than one percent of Bausch & Lomb's consolidated revenues.

As described in the October 26 release, in September of 2005, the Audit Committee of the Board of Directors commenced an independent investigation into allegations of misconduct by the management of BLIO, which had been reported to the Company's senior management by a BLIO employee pursuant to the Company's established compliance program. The Audit Committee engaged the law firm of Cahill Gordon & Reindel LLP to assist with the investigation. Bausch & Lomb also voluntarily reported these matters to the staff of the Northeast Regional Office of the Securities and Exchange Commission, which commenced an informal inquiry into the matter.

The Audit Committee's independent investigation determined that the general manager, the controller and other employees of BLIO, in violation of Company policies, engaged in improper management and accounting practices, including, among other things, the mischaracterization of approximately \$600,000 in expenses to fund an approximately \$1.5 million unauthorized local pension arrangement for the benefit of themselves and other members of local management, the avoidance of Brazilian payroll tax obligations, and the misuse of Company assets for personal benefit. As noted in the October 26 release, Bausch & Lomb has terminated the employment of the BLIO general manager and BLIO controller.

Also as a result of the Audit Committee's investigation, it was learned that certain Brazilian tax authorities have made tax assessments relating to or arising from Brazilian VAT, social contribution, income and certain import-related taxes against BLIO for unpaid taxes totaling approximately \$5 million, interest of approximately \$7 million, plus approximately \$21 million in claimed penalties which relate back to various earlier periods. These assessments include approximately \$19 million in penalties arising from tax-credit transactions involving BLIO and third parties, alleged by Brazilian tax authorities to have been fraudulently structured and implemented. Appropriate reserves relating to these assessments were not reflected by BLIO in its subsidiary financial statements, as required by the Company's established policies and procedures. In its October 26 release, the Company indicated that, based on its assessments, in consultation with outside tax counsel, of the outstanding Brazil tax matters, it was recording a reserve in the Company's third quarter financial statement of approximately \$22 million, yielding an after-tax charge of \$19.6 million. The Company also cautioned in the October 26 release that there could be no assurance that the reserve for these tax matters would not be required to be materially increased or recorded in a different period.

\* \* \*

The Audit Committee's investigation of the BLIO matters is substantially complete. On December 22, 2005, the Board of Directors, on recommendation of the Audit Committee and management, concluded that the Company should restate certain previously issued financial statements, as described below.

#### Restatement of Financial Information

The Company expects to restate its financial results for the fiscal years ended 2000, 2001, 2002, 2003, 2004, as well as the first and second quarters of 2005. Accordingly, the financial statements contained in the following Company filings with the Securities and Exchange Commission should no longer be relied upon:

- Annual Report on Form 10-K for the year ended December 25, 2004;
- Quarterly Report on Form 10-Q for the quarterly period ended March 26, 2005; and
- Quarterly Report on Form 10-Q for the quarterly period ended June 25, 2005

38. In response to these revelations, the Company's shares plummeted from \$79.07 to \$67.20 per share over the following trading days.

#### **THE COMPANY REVEALS THAT ITS EYE SOLUTION CAUSES A RARE EYE INFECTION**

39. On March 31, 2006, after the markets closed, the Company issued a press release announcing that it is collaborating in a scientific investigation with health authorities to determine the extent and cause of an increase in a rare fungus infection among contact lens wearers that first surfaced in certain parts of Asia. The press release revealed, in pertinent part, as follows:

Based on the Company's data to date and consultations with leading epidemiologists, Bausch & Lomb believes that the root cause of these infections *is not related to a specific contact lens or lens-care product.*

Reports of an unusual incidence of Fusarium keratitis among contact lens wearers first came from health authorities in Singapore, Hong Kong and Malaysia. Because these infections are rare, there now is a heightened level of awareness and surveillance surrounding this issue in other markets, resulting in reports of cases from a variety of locations. Efforts to enhance surveillance programs that track the incidence of the fungal infections are now in place in the U.S., Singapore, Hong Kong and Malaysia.

\* \* \* \*

### Extensive Testing Confirms Sterility and Efficacy of ReNu® Multi-Purpose Solutions

When the first reports of the unusual spike in contact lens-related Fusarium keratitis in Singapore and Hong Kong first came to the attention of Bausch & Lomb, the Company immediately suspended sales of ReNu multi-purpose solutions there and initiated an extensive series of additional tests on the sterility and biocidal efficacy of its products. ***The results have yielded no evidence to suggest that the products in any way caused or contributed to the infections.*** Moreover, health authorities in Hong Kong and Shanghai reported that their independent tests of samples of ReNu multi-purpose solutions obtained in those markets confirmed that the products are sterile. Examples of the Company's test results are listed below.

\* \* \* \*

***Bausch & Lomb indicated that this situation is expected to reduce first quarter vision care revenues in the Asia region by as much as \$10 million versus the Company's internal expectations.*** Hong Kong and Singapore are relatively small markets, but the publicity associated with the unusual incidence has spread beyond their borders. That has depressed sales in other areas, particularly China, which is being impacted despite the fact that there have been no reports of Fusarium infections among contact lens wearers there. [Emphasis added.]

40. Upon this news, on the next trading day, shares of the Company's stock fell \$2.45 per share to close at \$61.25 per share.

41. The statements referenced above in ¶39 were materially false and misleading because they misrepresented and failed to disclose the following adverse facts:

(a) that the Company's ReNu® with MoistureLoc® solution product was causing a rare eye infection among users; and

(b) that, as a result, the Company's present and future revenue streams from its ReNu® with MoistureLoc® solution would be in serious doubt.

42. Then, on April 10, 2006, after the markets closed, the Company issued a press release announcing that it is temporarily suspending U.S. shipments of ReNu® with MoistureLoc® produced at its Greenville, S.C., manufacturing facility in order to facilitate the further investigation

of reports of fungal keratitis infections among contact lens wearers in the United States. The press release continued, in pertinent part, as follows:

Today's announcement follows the release of a report by the U.S. Centers for Disease Control and Prevention that it is reviewing reports of 109 cases of suspected fungal keratitis. The CDC reports that the majority of cases have yet to be reviewed, but of the 30 cases reviewed to date, 28 involved contact lens wearers. Twenty-one reported using ReNu brand contact lens care products and 5 reported using a combination of ReNu and products manufactured by other companies. Bausch & Lomb has been collaborating with the U.S. Food and Drug Administration, the CDC, major eye centers and health authorities in a comprehensive investigation to determine if the reports represent an increase in the historical incidence of these infections, and to determine the root cause.

"Bausch & Lomb's first priority is the health and safety of consumers," said Ronald L. Zarrella, chairman and CEO of the company. "The CDC data released today are both troubling and perplexing, as there is an apparent disproportionate representation of U.S. manufactured ReNu with MoistureLoc in the underlying data. The source of these infections has not been determined. Based on our extensive testing, analysis and further internal reviews, and communications with leading experts, the available scientific evidence does not establish any type of ReNu solution as a cause.

43. Upon this shocking news, on the next trading day, shares of the Company's stock plummeted, falling \$8.41 per share, or almost 15%, to close at \$49.03 per share, on extraordinary trading volume.

#### **Post-Class Period Revelation**

44. On April 13, 2006, the Company issued a press release announcing that it asked U.S. retailers to remove ReNu® with MoistureLoc® from their shelves temporarily, and recommended that consumers switch to another lens care solution for the time being, until the investigation of reports of fungal keratitis infections among contact lens wearers in the United States is concluded.

45. On April 27, 2006, in an article entitled *Bausch Was Told of Infections By Hong Kong Officials in Fall*, *The Wall Street Journal* reported that the Company was notified by Hong Kong health authorities of eye infections in users of the Company's contact-lens solution *in November*

*2005, several months before the Company stopped selling the product there.* The article revealed, in pertinent part, as follows:

Bausch acknowledged the November reports in Hong Kong yesterday. According to an account it later provided to the Food and Drug Administration, the company said it couldn't find a cause-and-effect relationship between its solution and the infections. A company spokeswoman, Meg Graham, said that on Feb. 18, the Singapore Ministry of Health reported to the company "an unusual spike" in the rates of eye infection in that country, which she called "the first indication we had that there may be an unusual occurrence with this infection."

Within a few days, the company halted sales of Renu with Moisture Loc in both Singapore and Hong Kong. The product is made for those markets in the same Greenville, S.C., plant that makes it for the U.S. Bausch also stopped selling the solution in the U.S. earlier this month, and then urged stores to remove it from their shelves after many large retailers had already taken that action on their own.

In an email, Ms. Graham said Hong Kong authorities reported to the company in November 2005 that they had "noted an increase in hospital admissions due to contact-lens-related keratitis from June to September 2005." Hong Kong officials reported to the company they interviewed 62 patients, of which 25 said they had used a ReNu solution. No information was provided to Bausch regarding the remaining 37 patients, Ms. Graham said. Of the 25 patients who used ReNu, there were seven cases of Fusarium keratitis, she said. The company performed an investigation which involved "a review of manufacturing records, testing data and release criteria" and provided a report of its investigation to Hong Kong officials, Ms. Graham said. "No additional questions or clarifying requests were made by the Hong Kong authorities" at the time, she added.

The company then filed reports for the 25 cases with the FDA, which received the information in December. The reports said "no causal factors can be determined and no conclusion can be drawn."

### **INSIDER SELLING**

46. As a result of the defendants' false statements, Bausch & Lomb stock traded at inflated levels during the Class Period. Defendants took advantage of this inflated stock price, selling a large portion of their available holdings for huge proceeds:

<b>Insider</b>	<b>Date</b>	<b>Shares</b>	<b>Price</b>	<b>Proceeds</b>
Hahs	2/15/2005	2,913	\$72.900	\$212,358
	2/15/2005	1,700	\$72.820	\$123,794
	2/15/2005	300	\$72.850	\$21,855
	5/16/2005	5,407	\$75.400	\$407,688
	8/15/2005	5,000	\$80.800	\$404,000

		15,320		\$1,169,695
Ide	5/4/2005	3,800	\$75.250	\$285,950
	5/4/2005	3,400	\$75.320	\$256,088
	5/4/2005	3,200	\$75.200	\$240,640
	5/4/2005	3,100	\$75.210	\$233,151
	5/4/2005	1,900	\$75.400	\$143,260
	5/4/2005	1,900	\$75.030	\$142,557
	5/4/2005	1,600	\$75.380	\$120,608
	5/4/2005	1,500	\$75.100	\$112,650
	5/4/2005	1,300	\$75.110	\$97,643
	5/4/2005	1,200	\$75.350	\$90,420
	5/4/2005	1,200	\$75.300	\$90,360
	5/4/2005	1,100	\$75.290	\$82,819
	5/4/2005	900	\$75.240	\$67,716
	5/4/2005	700	\$75.040	\$52,528
	5/4/2005	500	\$75.450	\$37,725
	5/4/2005	500	\$75.310	\$37,655
	5/4/2005	500	\$75.190	\$37,595
	5/4/2005	400	\$75.370	\$30,148
	5/4/2005	400	\$75.280	\$30,112
	5/4/2005	400	\$75.270	\$30,108
	5/4/2005	400	\$75.050	\$30,020
	5/4/2005	300	\$75.230	\$22,569
	5/4/2005	200	\$75.170	\$15,034
	5/4/2005	200	\$75.120	\$15,024
	5/4/2005	100	\$75.220	\$7,522
	5/4/2005	100	\$75.160	\$7,516
	5/4/2005	100	\$75.140	\$7,514
	5/4/2005	100	\$75.060	\$7,506
		31,000		\$2,332,438
Loughlin	2/10/2005	4,182	\$73.380	\$306,875
	2/10/2005	4,000	\$72.920	\$291,680
	2/10/2005	1,700	\$72.940	\$123,998
	2/10/2005	1,500	\$72.930	\$109,395
	2/10/2005	1,300	\$72.950	\$94,835
	2/10/2005	900	\$72.900	\$65,610
	2/10/2005	800	\$72.880	\$58,304
	2/10/2005	700	\$73.430	\$51,401
	2/10/2005	700	\$73.200	\$51,240
	2/10/2005	700	\$72.910	\$51,037
	2/10/2005	700	\$72.830	\$50,981
	2/10/2005	600	\$72.630	\$43,578
	2/10/2005	600	\$73.050	\$43,830
	2/10/2005	600	\$73.010	\$43,806

	2/10/2005	600	\$73.000	\$43,800
	2/10/2005	600	\$72.960	\$43,776
	2/10/2005	500	\$72.680	\$36,340
	2/10/2005	400	\$72.820	\$29,128
	2/10/2005	400	\$72.700	\$29,080
	2/10/2005	300	\$72.650	\$21,795
	2/10/2005	300	\$72.840	\$21,852
	2/10/2005	300	\$72.750	\$21,825
	2/10/2005	200	\$72.640	\$14,528
	2/10/2005	200	\$72.610	\$14,522
	2/10/2005	200	\$73.030	\$14,606
	2/10/2005	200	\$72.870	\$14,574
	2/10/2005	200	\$72.860	\$14,572
	2/10/2005	200	\$72.770	\$14,554
	2/10/2005	200	\$72.800	\$14,560
	2/10/2005	100	\$72.620	\$7,262
	2/10/2005	100	\$73.060	\$7,306
	2/10/2005	100	\$73.040	\$7,304
	2/10/2005	100	\$72.710	\$7,271
	5/10/2005	8,100	\$76.150	\$616,815
	5/10/2005	2,000	\$76.200	\$152,400
	5/10/2005	1,100	\$76.130	\$83,743
	5/10/2005	1,100	\$76.060	\$83,666
	5/10/2005	1,000	\$76.110	\$76,110
	5/10/2005	800	\$76.100	\$60,880
	5/10/2005	500	\$76.080	\$38,040
	5/10/2005	400	\$76.050	\$30,420
	8/10/2005	8,200	\$80.600	\$660,920
	8/10/2005	3,100	\$80.640	\$249,984
	8/10/2005	2,400	\$80.660	\$193,584
	8/10/2005	1,800	\$80.690	\$145,242
	8/10/2005	900	\$80.700	\$72,630
	8/10/2005	500	\$80.650	\$40,325
	8/10/2005	500	\$80.750	\$40,375
	8/10/2005	400	\$80.500	\$32,200
	8/10/2005	400	\$80.780	\$32,312
	8/10/2005	133	\$80.630	\$10,724
	11/9/2005	100	\$79.400	\$7,940
	11/10/2005	700	\$78.910	\$55,237
	11/10/2005	700	\$79.650	\$55,755
	11/10/2005	600	\$79.350	\$47,610
	11/10/2005	600	\$79.350	\$47,610
	11/10/2005	600	\$79.650	\$47,790
	11/10/2005	600	\$79.300	\$47,580
	11/10/2005	500	\$78.920	\$39,460
	11/10/2005	500	\$79.300	\$39,650
	11/10/2005	500	\$79.320	\$39,660
	11/10/2005	500	\$79.330	\$39,665

	11/10/2005	400	\$79.330	\$31,732
	11/10/2005	400	\$79.440	\$31,776
	11/10/2005	400	\$79.440	\$31,776
	11/10/2005	300	\$79.340	\$23,802
	11/10/2005	300	\$79.340	\$23,802
	11/10/2005	300	\$79.580	\$23,874
	11/10/2005	300	\$79.580	\$23,874
	11/10/2005	300	\$79.640	\$23,892
	11/10/2005	300	\$79.660	\$23,898
	11/10/2005	300	\$79.660	\$23,898
	11/10/2005	200	\$79.000	\$15,800
	11/10/2005	200	\$79.090	\$15,818
	11/10/2005	200	\$79.230	\$15,846
	11/10/2005	200	\$79.640	\$15,928
	11/10/2005	200	\$79.310	\$15,862
	11/10/2005	200	\$79.310	\$15,862
	11/10/2005	200	\$79.400	\$15,880
	11/10/2005	200	\$79.400	\$15,880
	11/10/2005	200	\$79.540	\$15,908
	11/10/2005	200	\$79.590	\$15,918
	11/10/2005	200	\$79.600	\$15,920
	11/10/2005	200	\$79.630	\$15,926
	11/10/2005	200	\$79.680	\$15,936
	11/10/2005	200	\$79.760	\$15,952
	11/10/2005	100	\$78.880	\$7,888
	11/10/2005	100	\$79.270	\$7,927
	11/10/2005	100	\$79.330	\$7,933
	11/10/2005	100	\$79.390	\$7,939
	11/10/2005	100	\$79.390	\$7,939
	11/10/2005	100	\$79.540	\$7,954
	11/10/2005	100	\$79.590	\$7,959
	11/10/2005	100	\$79.760	\$7,976
	11/10/2005	100	\$79.600	\$7,960
	11/10/2005	100	\$79.630	\$7,963
	11/10/2005	100	\$79.260	\$7,926
	11/10/2005	100	\$79.420	\$7,942
	11/10/2005	100	\$79.480	\$7,948
	11/10/2005	100	\$79.550	\$7,955
	11/10/2005	100	\$79.610	\$7,961
	11/10/2005	100	\$79.670	\$7,967
	11/10/2005	100	\$79.680	\$7,968
	11/10/2005	100	\$79.680	\$7,968
	11/10/2005	100	\$79.700	\$7,970
	11/10/2005	67	\$79.730	\$5,342
		71,482		\$5,494,697
McCluski	2/15/2005	5,239	\$72.900	\$381,923

	8/10/2005	14,500	\$80.600	\$1,168,700
	8/10/2005	3,100	\$80.640	\$249,984
	8/10/2005	2,500	\$80.660	\$201,650
	8/10/2005	1,900	\$80.690	\$153,311
	8/10/2005	900	\$80.700	\$72,630
	8/10/2005	600	\$80.650	\$48,390
	8/10/2005	600	\$80.750	\$48,450
	8/10/2005	400	\$80.500	\$32,200
	8/10/2005	400	\$80.780	\$32,312
	8/10/2005	100	\$80.590	\$8,059
	8/10/2005	100	\$80.670	\$8,067
	8/10/2005	100	\$80.710	\$8,071
		30,439		\$2,413,747
Panzarella	3/7/2005	900	\$72.140	\$64,926
	3/7/2005	600	\$72.160	\$43,296
	3/7/2005	210	\$72.180	\$15,158
		1,710		\$123,380
Sarbadhikari	2/3/2005	4,500	\$73.830	\$332,235
	2/3/2005	500	\$74.000	\$37,000
	4/21/2005	1,700	\$75.760	\$128,792
	4/21/2005	100	\$75.750	\$7,575
	4/22/2005	4,100	\$75.400	\$309,140
	4/22/2005	300	\$75.440	\$22,632
	4/27/2005	23,800	\$75.800	\$1,804,040
	5/9/2005	2,100	\$76.500	\$160,650
		37,100		\$2,802,064
Stiles	2/1/2005	2,280	\$72.950	\$166,326
	4/20/2005	3,222	\$74.310	\$239,427
	4/21/2005	2,580	\$75.000	\$193,500
	4/22/2005	20,000	\$75.070	\$1,501,400
	6/27/2005	10,000	\$80.000	\$800,000
		38,082		\$2,900,653
Waltrip	3/8/2005	1,900	\$73.860	\$140,334
	3/8/2005	331	\$73.880	\$24,454
	5/13/2005	5,200	\$75.800	\$394,160
	5/13/2005	3,400	\$76.100	\$258,740
	5/13/2005	3,200	\$75.720	\$242,304
	5/13/2005	2,600	\$75.210	\$195,546
	5/13/2005	1,800	\$76.330	\$137,394
	5/13/2005	1,500	\$75.330	\$112,995

	5/13/2005	1,400	\$76.350	\$106,890
	5/13/2005	1,300	\$75.500	\$98,150
	5/13/2005	1,200	\$76.010	\$91,212
	5/13/2005	1,000	\$76.640	\$76,640
	5/13/2005	1,000	\$75.480	\$75,480
	5/13/2005	900	\$75.490	\$67,941
	5/13/2005	900	\$75.300	\$67,770
	5/13/2005	800	\$75.220	\$60,176
	5/13/2005	700	\$76.610	\$53,627
	5/13/2005	700	\$76.030	\$53,221
	5/13/2005	700	\$75.200	\$52,640
	5/13/2005	600	\$76.500	\$45,900
	5/13/2005	600	\$76.050	\$45,630
	5/13/2005	600	\$75.830	\$45,498
	5/13/2005	600	\$75.370	\$45,222
	5/13/2005	600	\$75.260	\$45,156
	5/13/2005	600	\$75.110	\$45,066
	5/13/2005	561	\$76.800	\$43,085
	5/13/2005	500	\$76.690	\$38,345
	5/13/2005	500	\$76.650	\$38,325
	5/13/2005	500	\$76.570	\$38,285
	5/13/2005	500	\$76.510	\$38,255
	5/13/2005	500	\$76.210	\$38,105
	5/13/2005	500	\$75.850	\$37,925
	5/13/2005	500	\$75.790	\$37,895
	5/13/2005	500	\$75.740	\$37,870
	5/13/2005	500	\$75.320	\$37,660
	5/13/2005	500	\$75.290	\$37,645
	5/13/2005	500	\$75.230	\$37,615
	5/13/2005	400	\$76.360	\$30,544
	5/13/2005	400	\$76.320	\$30,528
	5/13/2005	400	\$76.120	\$30,448
	5/13/2005	400	\$75.820	\$30,328
	5/13/2005	400	\$75.560	\$30,224
	5/13/2005	400	\$75.360	\$30,144
	5/13/2005	400	\$75.250	\$30,100
	5/13/2005	300	\$76.400	\$22,920
	5/13/2005	300	\$76.200	\$22,860
	5/13/2005	300	\$76.170	\$22,851
	5/13/2005	300	\$75.840	\$22,752
	5/13/2005	300	\$75.730	\$22,719
	5/13/2005	300	\$75.700	\$22,710
	5/13/2005	300	\$75.170	\$22,551
	5/13/2005	200	\$76.850	\$15,370
	5/13/2005	200	\$76.810	\$15,362
	5/13/2005	200	\$76.620	\$15,324
	5/13/2005	200	\$76.580	\$15,316
	5/13/2005	200	\$76.560	\$15,312

	5/13/2005	200	\$76.520	\$15,304
	5/13/2005	200	\$76.390	\$15,278
	5/13/2005	200	\$76.130	\$15,226
	5/13/2005	200	\$75.350	\$15,070
	5/13/2005	200	\$75.240	\$15,048
	5/13/2005	200	\$75.150	\$15,030
	5/13/2005	100	\$76.860	\$7,686
	5/13/2005	100	\$76.730	\$7,673
	5/13/2005	100	\$76.680	\$7,668
	5/13/2005	100	\$76.670	\$7,667
	5/13/2005	100	\$76.600	\$7,660
	5/13/2005	100	\$76.490	\$7,649
	5/13/2005	100	\$76.460	\$7,646
	5/13/2005	100	\$76.430	\$7,643
	5/13/2005	100	\$76.410	\$7,641
	5/13/2005	100	\$76.250	\$7,625
	5/13/2005	100	\$76.150	\$7,615
	5/13/2005	100	\$76.040	\$7,604
	5/13/2005	100	\$75.710	\$7,571
	5/13/2005	100	\$76.650	\$7,665
	5/13/2005	100	\$75.640	\$7,564
	5/13/2005	100	\$75.610	\$7,561
	5/13/2005	100	\$75.600	\$7,560
	5/13/2005	100	\$75.590	\$7,559
	5/13/2005	100	\$75.580	\$7,558
	5/13/2005	100	\$75.310	\$7,531
	5/13/2005	100	\$75.270	\$7,527
	5/13/2005	100	\$75.190	\$7,519
	5/13/2005	100	\$75.180	\$7,518
	5/13/2005	100	\$75.100	\$7,510
	8/1/2005	4,200	\$84.750	\$355,950
	8/1/2005	2,900	\$84.730	\$245,717
	8/1/2005	2,300	\$83.850	\$192,855
	8/1/2005	1,200	\$84.650	\$101,580
	8/1/2005	600	\$84.200	\$50,520
	8/1/2005	600	\$84.780	\$50,868
	8/1/2005	500	\$84.130	\$42,065
	8/1/2005	500	\$84.300	\$42,150
	8/1/2005	400	\$84.100	\$33,640
	8/1/2005	300	\$83.810	\$25,143
	8/1/2005	300	\$83.830	\$25,149
	8/1/2005	300	\$84.560	\$25,368
	8/1/2005	200	\$83.840	\$16,768
	8/1/2005	200	\$84.000	\$16,800
	8/1/2005	200	\$84.010	\$16,802
	8/1/2005	200	\$84.090	\$16,818
	8/1/2005	200	\$84.790	\$16,958
	8/1/2005	100	\$83.990	\$8,399

	8/1/2005	100	\$84.060	\$8,406
	8/1/2005	100	\$84.470	\$8,447
	8/1/2005	100	\$84.500	\$8,450
	8/1/2005	100	\$84.810	\$8,481
	11/1/2005	6,700	\$73.370	\$491,579
	11/1/2005	4,000	\$74.040	\$296,160
	11/1/2005	2,400	\$73.400	\$176,160
	11/1/2005	2,400	\$73.920	\$177,408
	11/1/2005	1,600	\$74.090	\$118,544
	11/1/2005	1,200	\$73.860	\$88,632
	11/1/2005	800	\$73.870	\$59,096
	11/1/2005	600	\$73.470	\$44,082
	11/1/2005	600	\$73.880	\$44,328
	11/1/2005	500	\$73.680	\$36,840
	11/1/2005	500	\$73.850	\$36,925
	11/1/2005	400	\$73.530	\$29,412
	11/1/2005	400	\$73.620	\$29,448
	11/1/2005	300	\$73.380	\$22,014
	11/1/2005	300	\$73.450	\$22,035
	11/1/2005	300	\$73.900	\$22,170
	11/1/2005	300	\$73.930	\$22,179
	11/1/2005	300	\$73.950	\$22,185
	11/1/2005	200	\$73.700	\$14,740
	11/1/2005	200	\$73.740	\$14,748
	11/1/2005	200	\$73.750	\$14,750
	11/1/2005	200	\$73.810	\$14,762
	11/1/2005	200	\$74.060	\$14,812
	11/1/2005	100	\$73.490	\$7,349
	11/1/2005	100	\$73.510	\$7,351
	11/1/2005	100	\$73.910	\$7,391
	11/1/2005	100	\$73.980	\$7,398
		90,292		\$6,924,727
Zarella	2/17/2005	2,200	\$71.890	\$158,158
	2/17/2005	2,100	\$71.260	\$149,646
	2/17/2005	1,900	\$71.450	\$135,755
	2/17/2005	1,700	\$71.130	\$120,921
	2/17/2005	1,300	\$71.850	\$93,405
	2/17/2005	1,300	\$71.100	\$92,430
	2/17/2005	1,100	\$71.840	\$79,024
	2/17/2005	1,100	\$71.200	\$78,320
	2/17/2005	1,000	\$72.030	\$72,030
	2/17/2005	800	\$71.910	\$57,528
	2/17/2005	800	\$71.180	\$56,944
	2/17/2005	700	\$71.810	\$50,267
	2/17/2005	700	\$71.170	\$49,819
	2/17/2005	600	\$71.370	\$42,822

	2/17/2005	500	\$71.150	\$35,575
	2/17/2005	400	\$71.990	\$28,796
	2/17/2005	400	\$71.870	\$28,748
	2/17/2005	400	\$71.790	\$28,716
	2/17/2005	400	\$71.750	\$28,700
	2/17/2005	400	\$71.670	\$28,668
	2/17/2005	300	\$71.860	\$21,558
	2/17/2005	300	\$71.760	\$21,528
	2/17/2005	300	\$71.610	\$21,483
	2/17/2005	300	\$71.590	\$21,477
	2/17/2005	300	\$71.580	\$21,474
	2/17/2005	300	\$71.520	\$21,456
	2/17/2005	300	\$71.190	\$21,357
	2/17/2005	300	\$71.160	\$21,348
	2/17/2005	300	\$71.140	\$21,342
	2/17/2005	300	\$71.090	\$21,327
	2/17/2005	200	\$71.830	\$14,366
	2/17/2005	200	\$71.820	\$14,364
	2/17/2005	200	\$71.780	\$14,356
	2/17/2005	200	\$71.770	\$14,354
	2/17/2005	200	\$71.530	\$14,306
	2/17/2005	200	\$71.120	\$14,224
	2/17/2005	200	\$71.110	\$14,222
	2/17/2005	100	\$72.000	\$7,200
	2/17/2005	100	\$71.900	\$7,190
	2/17/2005	100	\$71.880	\$7,188
	2/17/2005	100	\$71.800	\$7,180
	2/17/2005	100	\$71.700	\$7,170
	2/17/2005	100	\$71.500	\$7,150
	2/17/2005	100	\$71.230	\$7,123
	5/17/2005	5,100	\$76.520	\$390,252
	5/17/2005	4,600	\$76.510	\$351,946
	5/17/2005	4,500	\$76.350	\$343,575
	5/17/2005	2,500	\$76.300	\$190,750
	5/17/2005	1,300	\$76.340	\$99,242
	5/17/2005	1,200	\$76.490	\$91,788
	5/17/2005	1,000	\$76.550	\$76,550
	5/17/2005	1,000	\$76.410	\$76,410
	5/17/2005	700	\$76.530	\$53,571
	5/17/2005	700	\$76.430	\$53,501
	5/17/2005	700	\$76.400	\$53,480
	5/17/2005	600	\$76.330	\$45,798
	5/17/2005	500	\$76.420	\$38,210
	5/17/2005	300	\$76.500	\$22,950
	5/17/2005	100	\$76.560	\$7,656
	5/17/2005	100	\$76.380	\$7,638
	5/17/2005	100	\$76.310	\$7,631
	8/17/2005	1,900	\$80.650	\$153,235

	8/17/2005	1,800	\$80.580	\$145,044
	8/17/2005	1,400	\$80.400	\$112,560
	8/17/2005	1,300	\$80.000	\$104,000
	8/17/2005	1,200	\$80.110	\$96,132
	8/17/2005	1,100	\$80.600	\$88,660
	8/17/2005	1,000	\$79.910	\$79,910
	8/17/2005	1,000	\$80.640	\$80,640
	8/17/2005	800	\$80.660	\$64,528
	8/17/2005	800	\$80.720	\$64,576
	8/17/2005	700	\$80.680	\$56,476
	8/17/2005	600	\$80.620	\$48,372
	8/17/2005	600	\$80.700	\$48,420
	8/17/2005	500	\$80.370	\$40,185
	8/17/2005	500	\$80.180	\$40,090
	8/17/2005	500	\$80.250	\$40,125
	8/17/2005	400	\$79.950	\$31,980
	8/17/2005	400	\$80.070	\$32,028
	8/17/2005	400	\$80.500	\$32,200
	8/17/2005	400	\$80.570	\$32,228
	8/17/2005	400	\$80.590	\$32,236
	8/17/2005	300	\$79.860	\$23,958
	8/17/2005	300	\$79.940	\$23,982
	8/17/2005	300	\$79.980	\$23,994
	8/17/2005	300	\$80.350	\$24,105
	8/17/2005	300	\$80.130	\$24,039
	8/17/2005	300	\$80.290	\$24,087
	8/17/2005	300	\$80.710	\$24,213
	8/17/2005	200	\$79.840	\$15,968
	8/17/2005	200	\$79.870	\$15,974
	8/17/2005	200	\$79.900	\$15,980
	8/17/2005	200	\$79.920	\$15,984
	8/17/2005	200	\$79.930	\$15,986
	8/17/2005	200	\$79.970	\$15,994
	8/17/2005	200	\$80.010	\$16,002
	8/17/2005	200	\$80.020	\$16,004
	8/17/2005	200	\$80.380	\$16,076
	8/17/2005	200	\$80.030	\$16,006
	8/17/2005	200	\$80.050	\$16,010
	8/17/2005	200	\$80.060	\$16,012
	8/17/2005	200	\$80.160	\$16,032
	8/17/2005	200	\$80.170	\$16,034
	8/17/2005	200	\$80.410	\$16,082
	8/17/2005	200	\$80.560	\$16,112
	8/17/2005	200	\$80.670	\$16,134
	8/17/2005	200	\$80.690	\$16,138
	8/17/2005	200	\$80.750	\$16,150
	8/17/2005	100	\$79.850	\$7,985
	8/17/2005	100	\$79.890	\$7,989

	8/17/2005	100	\$79.960	\$7,996
	8/17/2005	100	\$79.990	\$7,999
	8/17/2005	100	\$80.210	\$8,021
	8/17/2005	100	\$80.280	\$8,028
	8/17/2005	100	\$80.310	\$8,031
	8/17/2005	100	\$80.140	\$8,014
	8/17/2005	100	\$80.190	\$8,019
	8/17/2005	100	\$80.330	\$8,033
	8/17/2005	100	\$80.340	\$8,034
	8/17/2005	100	\$80.430	\$8,043
	8/17/2005	100	\$80.450	\$8,045
	8/17/2005	100	\$80.510	\$8,051
	8/17/2005	100	\$80.520	\$8,052
	8/17/2005	100	\$80.550	\$8,055
		75,100		\$5,717,039
		<b>390,525</b>		<b>\$29,878,439</b>

#### UNDISCLOSED ADVERSE INFORMATION

47. Bausch & Lomb’s financials had been false for at least two years due to its improper accounting for expenses and misclassifications of key financial metrics. As a result, Bausch & Lomb’s results were presented in violation of Generally Accepted Accounting Principles (“GAAP”).

48. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practices at a particular time. Regulation S-X, 17 C.F.R. §210.4-01(a)(1), states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosures that would be duplicative of disclosures accompanying annual financial statements.

49. Pursuant to GAAP, as set forth in Accounting Principles Board Opinion (“APB”) No. 20, the type of restatements and revisions announced by Bausch & Lomb were to correct for material errors in previously issued financial statements. APB No. 20, ¶¶7-13. The restatement of past financial statements is a disfavored method of recognizing an accounting change as it dilutes confidence by investors in the financial statements, it makes it difficult to compare financial statements and it is often difficult, if not impossible, to generate the numbers when restatement

occurs. *Id.*, ¶14. Thus, GAAP provides that financial statements should only be restated in limited circumstances, *i.e.*, when there is a change in the reporting entity, there is a change in accounting principles used or to correct an error in previously issued financial statements. Bausch & Lomb's restatements and revisions were not due to a change in reporting entity or a change in accounting principle, but rather to errors in previously issued financial statements. Thus, the restatements and revisions were an admission by defendants that Bausch & Lomb's previously issued financial results and its public statements regarding those results were false and misleading. Moreover, immaterial corrections are not required to be restated. *Id.*, ¶38. Thus, the restatement indicates that the errors were material.

50. As a result of these materially false and misleading statements and failures to disclose, Bausch & Lomb's publicly traded securities traded at inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired Bausch & Lomb's publicly traded securities relying upon the integrity of the market price of Bausch & Lomb publicly traded securities and market information relating to Bausch & Lomb, and have been damaged thereby.

#### **LOSS CAUSATION/ECONOMIC LOSS**

51. During the Class Period, as detailed herein, defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated Bausch & Lomb's stock price and operated as a fraud or deceit on Class Period purchasers of Bausch & Lomb stock by misrepresenting the Company's business success and future business prospects. Defendants achieved this façade of success, growth and strong future business prospects by misrepresenting the Company's financial statements, earnings and prospects. Later, however, when defendants' prior misrepresentations and fraudulent conduct were disclosed and became apparent to the market, Bausch & Lomb stock fell precipitously as the prior artificial inflation came out of Bausch & Lomb's stock price. As a result of their purchases of Bausch & Lomb stock during the Class Period,

plaintiff and other members of the Class suffered economic loss, *i.e.*, damages, under the federal securities laws.

## COUNT II

### **For Violation of §10(b) of the 1934 Act and Rule 10b-5 Against All Defendants**

52. Plaintiff incorporates ¶¶1-51 by reference.

53. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or recklessly disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

54. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

(a) Employed devices, schemes, and artifices to defraud;

(b) Made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) Engaged in acts, practices, and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Bausch & Lomb publicly traded securities during the Class Period.

55. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Bausch & Lomb publicly traded securities. Plaintiff and the Class would not have purchased Bausch & Lomb publicly traded securities at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants' misleading statements.

56. As a direct and proximate result of these defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their purchases of Bausch & Lomb publicly traded securities during the Class Period.

## COUNT II

### For Violation of §20(a) of the 1934 Act Against All Defendants

57. Plaintiff incorporates ¶¶1-56 by reference.

58. The Individual Defendants acted as controlling persons of Bausch & Lomb within the meaning of §20 of the 1934 Act. By virtue of their positions and their power to control public statements about Bausch & Lomb, the Individual Defendants had the power and ability to control the actions of Bausch & Lomb and its employees. Bausch & Lomb controlled the Individual Defendants and its other officers and employees. By reason of such conduct, defendants are liable pursuant to §20(a) of the 1934 Act.

### CLASS ACTION ALLEGATIONS

59. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who purchased Bausch & Lomb publicly traded securities (the “Class”) during the Class Period. Excluded from the Class are defendants, directors and officers of Bausch & Lomb and their families and affiliates.

60. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. Bausch & Lomb had more than 53 million shares of stock outstanding, owned by thousands of persons.

61. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

- (a) Whether the 1934 Act was violated by defendants;
- (b) Whether defendants omitted and/or misrepresented material facts;
- (c) Whether defendants’ statements omitted material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(d) Whether defendants knew or recklessly disregarded that their statements were false and misleading;

(e) Whether the price of Bausch & Lomb publicly traded securities was artificially inflated; and

(f) The extent of damage sustained by Class members and the appropriate measure of damages.

62. Plaintiff's claims are typical of those of the Class because plaintiff and the Class sustained damages from defendants' wrongful conduct.

63. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in class action securities litigation. Plaintiff has no interests which conflict with those of the Class.

64. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays for judgment as follows:

- A. Declaring this action to be a proper class action pursuant to Rule 23;
- B. Awarding plaintiff and the members of the Class damages and interest;
- C. Awarding plaintiff's reasonable costs, including attorneys' fees; and
- D. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

#### **JURY DEMAND**

Plaintiff demands a trial by jury.

DATED: May 5, 2006

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