

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SEB INVESTMENT MANAGEMENT AB,
individually and on behalf of all other similarly
situated,

Plaintiffs,

v.

SYMANTEC CORPORATION and
GREGORY S. CLARK,

Defendants

SUPPLEMENTAL NOTICE OF PENDENCY OF CLASS ACTION

TO: All persons or entities who purchased or otherwise acquired publicly-traded Symantec Corporation (“Symantec”) common stock during the period from May 11, 2017, to August 2, 2018, inclusive (the “Class Period”), and who were damaged thereby (the “Class”).

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

On May 8, 2020, the Court determined that this lawsuit may proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. In the Action, Lead Plaintiff alleges that Defendants Symantec (now known as NortonLifeLock Inc.) and Gregory S. Clark defrauded shareholders by manipulating Symantec’s financial reports to create the illusion of stronger-than-actual financial performance and outlook for fiscal years 2017 and 2018, and that Defendant Clark engaged in insider trading by selling shares of Symantec common stock during the Class Period while in possession of material, non-public information in violation of federal securities laws. Defendants deny all of Lead Plaintiff’s allegations, and deny any wrongdoing or violation of law.

All persons and entities who were identified as potential members of the Class were previously mailed a Notice of Pendency of Class Action dated June 26, 2020 (the “Original Class Notice”) during the summer of 2020. If you did not receive the Original Class Notice, a copy is available at www.SymantecSecuritiesLitigation.com or you can obtain one by calling 1-800-949-0026. As set forth in the Original Class Notice, Class Members had the opportunity to request exclusion from the Class if they submitted such a request postmarked by August 25, 2020. **If you requested exclusion by the August 25, 2020 deadline, you are not a member of the Class and you do not need to do anything at this time.**

In April 2021, the Court ordered that this Supplemental Notice be mailed to all Class Members. This notice is not an expression by the Court of any opinion as to the merits of any of the claims or defenses asserted by either side in the lawsuit.

1. THE COURT’S APRIL 20, 2021 ORDER REQUIRING ADDITIONAL NOTICE TO THE CLASS

On April 20, 2021, the Court entered an Order that required Class Counsel Bernstein Litowitz Berger & Grossmann LLP (“BLBG”) and Lead Plaintiff SEB Investment Management AB (“Lead Plaintiff” or “SEB”) to provide additional notice to the Class to (a) inform Class Members of the circumstances described in a recent order of the Court dated April 20, 2021, including that Class Counsel hired Hans Ek, the former Deputy Chief Executive Officer

of Lead Plaintiff SEB Investment Management AB; and **(b)** provide Class Members with a second opportunity to request exclusion from the Class. The full text of the Court's order, that sets forth the reasons for requiring additional notice to the Class, is attached as **Schedule A** hereto. Information on how to request exclusion from the Class is set forth in Section 4 below.

2. THE DEFINITION OF THE CLASS

The definition of the Class has not changed since the Original Class Notice. However, for your convenience, the full definition of the Class is set forth again here. By order dated May 8, 2020, the Court certified the following Class of plaintiffs:

All persons and entities who purchased or otherwise acquired publicly-traded Symantec common stock during the period from May 11, 2017, to August 2, 2018, inclusive (the "Class Period"), and who were damaged thereby (the "Class"). The Class includes all persons or entities who purchased Symantec common stock contemporaneously with sales of Symantec common stock made or caused by Defendant Clark during the Class Period.

Excluded from the Class by definition are:

Defendants; members of the immediate family of Defendant Clark; any person who was an officer or director of Symantec; any firm or entity in which any Defendant has or had a controlling interest; any person who participated in the wrongdoing alleged; Defendants' liability insurance carriers; any affiliates, parents, or subsidiaries of Symantec, all Symantec plans that are covered by ERISA; and the legal representatives, heirs, beneficiaries, successors-in interest, or assigns of any excluded person or entity, in their respective capacity as such.

Also excluded from the Class are all persons and entities who requested exclusion by August 25, 2020.

The ruling by the Court certifying the Class does not address the merits of this litigation. Rather, the certification of the Class means only that the ultimate outcome of the Action—whether favorable or unfavorable to the Class or Defendants—will apply in like manner to each Class Member who does not timely elect to be excluded from the Class.

3. HOW DO YOU PARTICIPATE IN THIS CLASS ACTION?

If you fall within the definition of the Class set forth above and did not previously request exclusion, you are a member of the Class. **IF YOU WISH TO REMAIN A MEMBER OF THE CLASS, YOU DO NOT NEED TO DO ANYTHING AT THIS TIME.** As a Class Member, you will be bound by any judgment or settlement, whether favorable or unfavorable, in this Action. Thus, you may participate in any monetary settlement or judgment rendered in favor of the Class, and you may submit a Proof of Claim following such a settlement or judgment. **No settlement or judgment has occurred at this time. You will necessarily also be bound by any unfavorable judgment which may be rendered in favor of Defendants.**

Lead Plaintiff and Class Counsel represent the Class and all of its members. Class Counsel has agreed to pursue this Action on a contingent-fee basis. All attorney's fees and expenses will be payable only out of a recovery by the Class, if any, and will be subject to approval by the Court. Class Members will not have to pay lawyers any additional amounts, and in no event will individual Class Members be obligated to pay any judgment, court costs, or lawyer's fees for participating in this Action. Any Class Member who does not request exclusion from the Class may also enter an appearance through his or her own counsel at his or her own expense.

Members of the Class will be eligible to participate in any recovery that might be obtained in the Action. While this Notice is not intended to suggest any likelihood that members of the Class will recover any money, should there be a recovery, Class Members will be required to submit a Proof of Claim demonstrating their membership in the Class and documenting their sales, purchases, and/or holdings of Symantec common stock, and their resulting damages. ***For this reason, please be sure to keep all records of your transactions and holdings in Symantec common stock. DO NOT mail them to Class Counsel or the Notice Administrator at this time.*** No money or benefits are available now and there

is no guarantee that money or benefits will be obtained. If they are, Class Members will be notified regarding how to obtain a share.

4. SECOND OPPORTUNITY TO REQUEST EXCLUSION FROM THE CLASS

The Court has ordered that members of the Class be given a second opportunity to request exclusion from the Class, if they submit such a request ***postmarked by no later than July 2, 2021***. **PLEASE NOTE:** if you previously requested exclusion from the Class in response to the Original Class Notice, you do **NOT** need to re-submit your request. A list of the persons and entities who previously requested exclusion from the Class (“List of Previous Opt-Outs”) is available at www.SymantecSecuritiesLitigation.com.

If you wish to be excluded from the Class, meaning to opt out of the lawsuit, you must submit a request for exclusion in accordance with the instructions in the next paragraph. **If you choose to be excluded: (1) you will NOT be entitled to share in any recovery from any settlement or judgment that may be paid to members of the Class as a result of a trial or other resolution of this lawsuit; (2) you will NOT be bound by any judgment or release entered in this lawsuit; and (3) at your own expense, you MAY pursue any claims that you have by filing your own lawsuit or taking other action.**

To exclude yourself from the Class, you must send a letter stating that you “request exclusion from the Class in *SEB Investment Management AB v. Symantec Corp.*, Case No. C 18-02902-WHA.” Your request must: (i) state the name, address, and telephone number of the person or entity requesting exclusion, and, in the case of entities, the name and telephone number of the appropriate contact person; and (ii) be signed by the person or entity requesting exclusion or an authorized representative, accompanied by proof of authorization. You must mail your exclusion request, ***postmarked by no later than July 2, 2021***, to the Notice Administrator, A.B. Data, Ltd., at the following address:

Symantec Securities Litigation
EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

Only request exclusion if you do NOT wish to participate in the Class Action and do NOT wish to share in any potential recovery that the Class may obtain.

AS NOTED ABOVE, IF YOU PREVIOUSLY REQUESTED EXCLUSION FOR THE CLASS, YOU DO NOT NEED TO SUBMIT A SECOND REQUEST. If your name is included in the “List of Previous Opt-Outs,” available at www.SymantecSecuritiesLitigation.com, you are already excluded from the Class and you will remain excluded based on your previous submission.

5. HOW CAN YOU GET MORE INFORMATION?

For more detailed information regarding the matters involved in this litigation, please refer to the papers on file in this Action, which may be inspected, during business hours, at the Office of the Clerk of Court, 450 Golden Gate Ave., San Francisco, CA 94102. In addition, important documents in the case have been posted on the following website: www.SymantecSecuritiesLitigation.com. Inquiries regarding this litigation may be addressed to the following contact information at Class Counsel:

Symantec Securities Litigation
blbg@blbglaw.com
**BERNSTEIN LITOWITZ
BERGER & GROSSMANN LLP**
1251 Avenue of the Americas
New York, NY 10020
1-800-380-8496

6. CHANGE IN YOUR ADDRESS.

If this notice was mailed to you at an old address, or if you move, please advise the Notice Administrator of your current address so that you can receive any future notice and/or Proof of Claim forms. The Notice Administrator can be reached at *Symantec Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173106, Milwaukee, WI 53217. If you are not a member of the Class, you may discard this notice.

7. NOTICE TO BROKERS AND CUSTODIANS.

If you previously provided the names and addresses of persons and entities on whose behalf you purchased or acquired publicly-traded Symantec common stock during the period from May 11, 2017 to August 2, 2018, inclusive, in connection with the Original Class Notice, and (i) those names and addresses remain current and (ii) you have no additional names and addresses for potential Class Members to provide to the Notice Administrator, you need do nothing further at this time. The Notice Administrator will mail a copy of this Supplemental Notice to the beneficial owners whose names and addresses were previously provided in connection with the Class Notice.

If you elected to mail the Original Class Notice directly to beneficial owners, you were advised that you must retain the mailing records for use in connection with any further notices that may be provided in the Action. If you elected this option, the Notice Administrator will forward the same number of Supplemental Notices to you to send to the beneficial owners. You must mail the Supplemental Notices to the beneficial owners no later than June 4, 2021.

If you have additional name and address information, need additional copies of the Supplemental Notices, or have not already provided information regarding persons and entities on whose behalf you purchased or acquired publicly-traded Symantec common stock during the period from May 11, 2017 to August 2, 2018, inclusive, in connection with the Original Class Notice, then, the Court has ordered that you must either: (i) promptly send a list of the names and addresses of such beneficial owners to the Notice Administrator at *Symantec Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173106, Milwaukee, WI 53217, in which event the Notice Administrator shall promptly mail the Supplemental Notice to such beneficial owners; or (ii) promptly request from A.B. Data sufficient copies of the Supplemental Notice to forward to all such beneficial owners, which the Nominee shall mail to beneficial owners no later than June 4, 2021. As stated above, if you have already provided this information in connection with the Original Class Notice, unless that information has changed (*e.g.*, the beneficial owner has changed address), it is unnecessary to provide such information again.

Upon full and timely compliance with these directions, nominees who mail the Supplemental Notice to beneficial owners may seek reimbursement of their reasonable expenses actually incurred regarding this Supplement Notice by providing the Notice Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees shall be paid by Class Counsel, with any disputes as to the reasonableness or documentation of expenses incurred subject to review by the Court.

Copies of this Notice may also be obtained from www.SymantecSecuritiesLitigation.com, or by calling the Notice Administrator toll free at 1-800-949-0206.

DATED: May 7, 2021.

BY ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Schedule A

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SEB INVESTMENT MANAGEMENT AB,
individually and on behalf of all others
similarly situated,

No. C 18-02902 WHA

Plaintiff,

v.

ORDER RE CONFLICT DISPUTE

SYMANTEC CORPORATION and
GREGORY S. CLARK,

Defendants.

This order resolves a pending question concerning the conduct of class counsel and lead plaintiff and an allegation that they engaged in play to pay, which means, “you hire me as counsel, and I’ll make it up to you down the road.” Such arrangements are adverse to the interests of the class because class counsel should be selected as the best lawyer for the class.

In this case, SEB Investment Management AB won the role of lead plaintiff. At the lead plaintiff selection hearing, SEB introduced Mr. Hans Ek as the staff member at SEB who would oversee the case if SEB won the job. SEB showcased his experience and abilities. The order appointing SEB said the following about him: “SEB identified Hans Ek, SEB’s Deputy Chief Executive Officer, as being the individual in charge of managing its litigation responsibilities. In addition, SEB’s in-house legal counsel will be advising Mr. Ek and assisting with overseeing the litigation” (Dkt. No. 88).

1 After SEB won the job, an order required Mr. Ek to interview law firms for the job of
2 class counsel. SEB interviewed several firms but ultimately selected Bernstein, Litowitz,
3 Berger & Grossmann, LLP (BLBG), its existing counsel, even though BLBG asked for a richer
4 fee proposal than others. The Court deferred to lead plaintiff's judgment and appointed BLBG
5 (*ibid.*).

6 Twenty-five months went by. Litigation churned forward. Then another law firm,
7 Robbins, Geller, Rudman & Dowd, LLP, on behalf of a class member (Norfolk County
8 Council as Administering Authority of the Norfolk Pension Fund) reported to the Court that
9 Mr. Ek had left SEB and was now working for BLBG.

10 Upon inquiry by the Court, BLBG confirmed this.

11 Discovery was allowed into the problem and several hearings were held. After careful
12 consideration of all the evidence and argument, the Court remains unable to determine whether
13 the move of Mr. Ek to BLBG was coincidental versus culpable. It's possible that there was a
14 *quid pro quo* of sorts but, if so, it's not clear in the evidence.

15 What is crystal clear is that BLBG held Mr. Ek out as the professional who would guide
16 the class through the litigation and direct counsel. Also crystal clear is that BLBG and Mr. Ek
17 failed to tell the Court that he had gone over to the counsel side, meaning had left SEB and
18 joined BLBG. On his way out of SEB, he lateraled his case responsibilities to a colleague,
19 another fact not disclosed to the Court.

20 The PLSRA established the statutory office of lead plaintiff, usually intended to be an
21 institutional investor, for the very specific purpose of converting securities litigation from
22 "lawyer driven" to "investor driven" wherein the lead plaintiff actually manages the case for
23 the class, the lawyer no longer being in charge. When, as here, the very man or woman
24 presented to the Court as the one who will carry out the PSLRA mandate winds up as an
25 employee of the lawyer, one can easily ask whether a fundamental goal of the Act has been
26 compromised.

27 Separate from this is the pay to play problem. If a law firm winks and nods and says,
28 "Hire me as your class counsel and we'll return the favor down the road," then the class suffers

1 because class counsel should instead be selected on the merits of who will best represent the
2 class. The lead plaintiff owes a fiduciary duty to the class to select the best lawyer for the
3 class, not to treat the selection as a tradeoff of favors.

4 BLBG and SEB surely knew all these ramifications and knew how the undersigned judge
5 felt about these issues. The appearance alone raises eyebrows, arched eyebrows. BLBG
6 should have avoided this spectacle. So should have SEB and so should have Mr. Ek. This is
7 true even though discovery could not establish a clear-cut *quid pro quo*.

8 It's worth observing that while no clear-cut evidence of a *quid pro quo* emerged,
9 discovery did show that BLBG's initial explanation to the Court proved misleading. At our
10 hearing on January 21, 2021, Class Counsel Salvatore J. Graziano told the Court,

11 [F]irst and foremost, we never thought or raised the possibility of
12 Mr. Ek joining our firm when he was at SEB. That was back in
13 2018. He had no intention of leaving. We never thought would he
14 leave. He publicly left a year later, December 1 of 2019

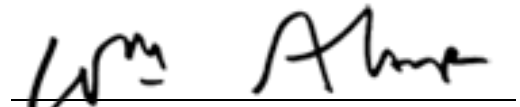
15 (Tr. at 4–5). After that hearing, the Court permitted discovery. Mr. Ek testified at his
16 deposition that he “was employed by SEB until the last day of March” in 2020 (Ek. Dep. at
17 51). Moreover, BLBG had sent Mr. Ek a recruitment email on December 19, 2019, while SEB
18 still employed him. In it, a BLBG attorney (on this case) said, “I know you said that you
19 wanted to transition your work at SEB towards the end of the year before thinking about next
20 steps. Now that we are almost at the end of the year, please know that I would love to continue
21 to work with you” but “of course, I don't know what your plans are or if you have given your
22 next steps any thought yet” (van Kwawegen Dep. at 55). In his brief summarizing Mr. Ek's
23 testimony (and other discovery), Attorney Graziano walked back his January 21 representation,
24 conceding, “BLB&G raised for the first time the prospect of working with Mr. Ek in late
25 December [2019],” but said it was “irrelevant” (Dkt. No. 284-3 at 3). Attorney Graziano's
26 brief continued, “[T]he sworn testimony on this issue confirms there was no “active
27 recruitment” prior to February 2020” (*ibid.*). This shifting-sands set of explanations is
28 concerning. But, still, it does not prove any *quid pro quo*.

1 We are too far into the case to replace SEB or BLBG, at least on this record. Instead, the
2 Court believes these circumstances should be brought to the attention of the class and a new
3 opportunity given to opt out. Counsel shall meet and confer on a form of notice and a timeline
4 for distribution and opt-out. BLBG shall pay for the costs of notice, distribution, and opt-out.
5 Please submit this within seven calendar days.

6 In addition, in future cases, both SEB in seeking appointment as a lead plaintiff and
7 BLBG in seeking appointment as class counsel shall bring this order to the attention of the
8 assigned judge and the decision-maker for the lead plaintiff who is to select counsel. This
9 disclosure requirement shall last for three years from the date of this order.

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12 **IT IS SO ORDERED.**

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14 Dated: April 20, 2021.

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16 
17 WILLIAM ALSUP
18 UNITED STATES DISTRICT JUDGE
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