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Occupy the SEC works to ensure that financial regulators protect the interests of the public, not Wall Street.

FOR IMMEDIATE RELEASE:

Occupy the SEC Submits Amicus Brief to U.S. Supreme Court in *Omnicare, Inc. v. Laborers*, Advocating for Victims of Misrepresentation in Securities Offerings

New York, NY – September 5, 2014

Occupy the SEC (“OSEC”) has submitted an amicus brief in *Omnicare, Inc. v. Laborers District Council Construction Industry Pension Fund*, a case that is currently pending before the U.S. Supreme Court. The case centers on a key provision of the Securities Act of 1933 (“’33 Act”), Section 11, which creates an express right of action against issuers and their agents for material misrepresentations contained in the offering materials of registered securities.

Shoddy mortgage-backed securities played a pernicious role in the recent financial crisis, which destabilized the capital markets, soured the global economy and jeopardized the financial position of the average person. In the run-up to the crisis, the registration statements of many toxic securities falsely touted these instruments’ credit-worthiness, to the financial detriment of investors. Unfortunately, enforcement agencies such as the Securities and Exchange Commission have been of limited effectiveness in adequately addressing these wrongs. Section 11 is an important tool that aggrieved investors can use to seek remedy for misleading statements made by issuers and their agents.

Both Supreme Court precedent and the legislative history of the ’33 Act support the view that a Section 11 plaintiff need only allege a material misrepresentation in order to establish a claim. However, the Petitioners in this case (and numerous pro-industry lobby groups) have urged the Court to upend this history by requiring Section 11 plaintiffs to prove that the speaker of a materially misleading statement of opinion actually held a different opinion than the one expressed (“subjective falsity”).

OSEC’s amicus brief rejects the “subjective falsity” requirement, arguing that this novel standard would severely inhibit aggrieved investors from seeking redress for material misrepresentations contained in offering documents. The Supreme Court will hear oral arguments on the case in the upcoming term.

Occupy the SEC is a group of concerned citizens, activists, and financial professionals that works to ensure that financial regulators protect the interests of the public, not Wall Street. OSEC has previously filed amicus curiae briefs in court cases that raise significant issues of concern for financial activists, including the recent Supreme Court cases *Gabelli v. SEC*, 133 S. Ct. 1216 (2013) and *Chadbourne & Parke LLP v. Troice*, 134 S. Ct. 1058 (2014). For further information, visit <http://occupythesecc.org> or email info@occupythesecc.org.

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