

## Corporate & Financial Weekly Digest

Posted at 12:57 PM on July 30, 2010 by [Bruce M. Sabados](#)

### **Forward-Looking Statements Held Non-Actionable Under Federal Securities Law**

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Plaintiff brought claims for federal securities fraud against defendants, alleging that defendants made false and misleading statements in a business plan which contained projections which were presented to prospective investors in a natural gas development. Plaintiff alleged that defendants used the projections to entice investors but never intended to take steps to effectuate the projections. The lower court granted defendants' judgment as a matter of law after a trial, finding that plaintiff failed to show reliance on any material misrepresentation made by defendants.

The U.S. Court of Appeals for the Fifth Circuit affirmed. It held that defendants' business plan contained only forward-looking projections of future performance which generally do not provide a basis for securities fraud. The Fifth Circuit also found that there was no basis to plaintiff's claim that the defendants knew the projections contained in the business plan were false when made. Instead, the evidence showed that defendants completed the first phase of the business plan and had been diligently working to complete the next stage.

*Arkoma Basin Project Limited Partnership v. West Fork Energy Co., LLC*, 2010 WL 2711086 (5th Cir. June 29, 2010)

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