

## Corporate & Financial Weekly Digest

September 30, 2011 by [Michael S. Gordon](#)

### **Misrepresentations Regarding Financing of Buy-Out of LLC Interest Not a 10b-5 Violation**

The U.S. Court of Appeals for the Eleventh Circuit affirmed summary judgment dismissing claims for, inter alia, alleged violations of federal securities laws and conspiracy to defraud brought by a member of a limited liability company (LLC) and its owners against the defendant who had financed the buy-out of the member's one-half interest in the LLC at issue. Defendant, Shelby Peeples, falsely stated that he had no involvement in the buy-out of member DynaVision Group, LLC's, interest in Signature Hospitality Carpets, LLC, when, in fact, Peeples had financed the buy-out. The circuit court found that Peeples' misrepresentation regarding his (lack of) involvement in the buy-out did not play a causative role in DynaVision's decision to sell its interest in the LLC, and thus did not rise to a level of fraud actionable under Rule 10b-5. Specifically, the circuit court found that because DynaVision lacked the expertise necessary to operate Signature, could not have persuaded the individual members of the LLC to stay on board, and was forced to choose between cashing out and total ownership (based on a buy-sell provision in Signature's operating agreement), DynaVision would be unable to prove the reliance element of a 10b-5 claim.

*Ledford v. Peeples*, No. 06-10715, 2011 WL 4424448 (11th Cir. Sept. 23, 2011).

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