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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 **SECURITIES AND EXCHANGE**
14 **COMMISSION,**

15 Plaintiff,

16 vs.

17 **BODYSCAN CORPORATION and**
18 **ANTHONY SCIUTO,**

19 Defendants.

Case No.

**COMPLAINT FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS**

20
21 Plaintiff Securities and Exchange Commission (“Commission”) alleges as
22 follows:

23 **JURISDICTION AND VENUE**

24 1. This Court has jurisdiction over this action pursuant to Sections
25 21(d)(1), 21(d)(2), 21(d)(3)(A), 21(d)(5), 21(e) and 27 of the Securities Exchange
26 Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1), 78u(d)(2), 78u(d)(3)(A),
27 78u(d)(5), 78u(e) & 78aa. Defendants have, directly or indirectly, made use of the
28 means or instrumentalities of interstate commerce, of the mails, or of the facilities

1 of a national securities exchange, in connection with the transactions, acts,
2 practices, and courses of conduct alleged in this complaint.

3 2. Venue is proper in this district pursuant to Section 27 of the Exchange
4 Act, 15 U.S.C. § 78aa, because certain of the transactions, acts, practices, and
5 courses of conduct constituting violations of the federal securities laws occurred
6 within this district.

7 **SUMMARY**

8 3. This case involves violations of the antifraud provisions of the federal
9 securities laws by BodyScan Corporation (“BodyScan”), a company whose shares
10 are quoted on the Pink Sheets, and by Anthony Sciuto (“Sciuto”), a recidivist
11 securities law violator who is BodyScan’s president and CEO. BodyScan purports
12 to operate diagnostic or “imaging” centers that utilize electron-beam scanners to
13 detect disease or other abnormalities of the internal organs at an early stage.
14 BodyScan purports to operate as many as eleven imaging centers in cities across
15 the United States, with plans to expand in the near future.

16 4. In BodyScan’s press releases, in information available on its website,
17 and in an interview given by Sciuto, BodyScan and Sciuto represented that
18 BodyScan’s business was expanding, and that the company expected continued
19 expansion and growth in earnings. BodyScan represented that it operated eleven
20 imaging centers, and Sciuto, in a May 2004 interview, stated that BodyScan
21 planned to continue its expansion and expected revenues of \$20 million in 2004.

22 5. None of these statements was true. In fact, BodyScan’s imaging
23 centers had been closing due to non-payment of rent and repossession of their
24 scanning equipment until, by mid-2003, BodyScan had only two operational
25 imaging centers. These imaging centers also subsequently closed and, since March
26 2004, BodyScan has not had any operational imaging centers. Neither BodyScan
27 nor Sciuto have ever corrected their false statements.

28 ///

1 **THE DEFENDANTS**

2 6. BodyScan is a Nevada corporation with headquarters in Irvine,
3 California. BodyScan resulted from a reverse merger through a stock-for-stock
4 transfer between BodyScan Imaging, LLC and a shell company in October 2003.
5 On December 16, 2003, the company changed its name to BodyScan Corporation.
6 Its shares are quoted on the Pink Sheets under the symbol “BDYS.”

7 7. Anthony Sciuto, age 59, resides in San Clemente, California. Sciuto
8 is the president and CEO of BodyScan, and its only officer and director. In 1999,
9 the Wisconsin Department of Financial Institutions filed an action against Sciuto
10 for acting as an unlicensed securities agent and offering for sale an unregistered
11 security on behalf of First Liberty Financial, an unlicensed broker-dealer located in
12 Irvine, California. In March 2002, the Missouri Secretary of State’s Division of
13 Securities entered a consent order against Sciuto for offering unregistered
14 securities and prohibited him from selling any securities until such securities were
15 registered with that state.

16 **MISREPRESENTATIONS AND OMISSIONS: BODYSCAN AND SCIUTO MISREPRESENT**
17 **THE NUMBER OF IMAGING CENTERS THAT BODYSCAN OPERATES AND THE**
18 **COMPANY’S GROWTH PROSPECTS**

19 8. BodyScan purports to be in the business of medical technology and
20 preventive health services. It purports to operate facilities that use state-of-the-art
21 computer tomography scanners to diagnose and evaluate the presence of coronary
22 artery disease and lung disease and, by doing so at an early stage, delay or prevent
23 the onset of more serious illnesses. BodyScan operated several imaging centers at
24 various times from 2000 through 2004, although all of the imaging centers are now
25 closed.

26 9. Through press releases, information on the company’s website, and an
27 interview given by Sciuto, BodyScan and Sciuto made a number of materially false
28 and misleading statements regarding BodyScan’s business activities, its prospects

1 for growth, and its anticipated earnings. At the same time that the proposed
2 defendants were making statements that portrayed BodyScan as a vibrant,
3 expanding company, the reality was exactly the opposite. BodyScan's facilities
4 had been gradually closing due to non-payment of rent and repossession of their
5 equipment until, by mid-2003, only two facilities remained operational. Since
6 March 2004, BodyScan has not operated any imaging centers.

7 10. On November 10, 2003, BodyScan issued a press release (the
8 "November 2003 Release") stating that it would be opening a new imaging center
9 in San Antonio, Texas. The November 2003 Release represented that, as of that
10 date, BodyScan operated five imaging centers throughout the country. It listed
11 Sciuto as the company contact and it provided his telephone number, as well as a
12 link to the BodyScan website.

13 11. The November 2003 Release was followed by another on December
14 17, 2003. The December 17 press release announced that BodyScan had acquired
15 what it described as a publicly held company, that it had changed its name from
16 BodyScan Imaging to BodyScan Corporation, and that it would begin trading
17 under the symbol "BDYS." Again, the press release listed Sciuto as the contact
18 person, provided his telephone number, and included a link to the company's
19 website.

20 12. BodyScan issued another press release on February 4, 2004 in which
21 it announced that the San Antonio imaging center would open on February 9. In
22 the February 4 press release, the company represented that it operated "centers
23 located throughout the United States" and had two additional imaging centers
24 under construction. As with the other press releases, Sciuto was listed as the
25 contact person, and his telephone number and BodyScan's website address were
26 also provided.

27 13. The BodyScan website reinforced the representation that BodyScan
28 was operating at least eight functioning imaging centers. Until August 2004, the

1 BodyScan website provided contact information, including addresses and phone
2 numbers, for eleven BodyScan imaging centers located throughout the United
3 States, and provided links to web pages (which include purported exterior and/or
4 interior photographs and driving directions) for each of the eleven centers (three of
5 which were purported to be “in progress”).

6 14. Sciuto made additional misrepresentations in a May 2004 interview
7 with “Winning Stock Picks,” an online investor newsletter. In that interview,
8 Sciuto stated that BodyScan was “actually in the process of negotiating to acquire
9 another 12 centers right now”; that the company was “on-track to have 20 centers
10 up and running” within one year; that its objective was “to have 50 facilities up and
11 running within the next 5 years”; and that company sales would be “around the \$20
12 million mark for the end of 2004; that will double in every year from then on.”
13 Both the text and the audio version of the interview were available on the Internet
14 through September 2004.

15 **BODYSCAN HAD ONLY THREE IMAGING CENTERS BY LATE 2003, NONE OF WHICH**
16 **WERE OPERATIONAL BEYOND MARCH 2004**

17 15. The statements concerning the number of imaging centers operated by
18 BodyScan made in BodyScan’s press releases, on its website, and in Sciuto’s
19 interview, were false when they were made and remain false today. Contrary to
20 BodyScan’s and Sciuto’s representations, the number of imaging centers was not
21 growing and has not grown. Rather, the company’s imaging centers were closing
22 due to non-payment of rent and repossession of their imaging equipment.
23 Moreover, Sciuto’s interview statements concerning projected sales revenues were
24 made without a good faith basis. Contrary to Sciuto’s representations, BodyScan’s
25 projected revenues could only decrease, not increase, with the closing of the
26 imaging centers.

27 16. Several of the scanners were repossessed in early to mid-2003, prior
28 to the issuance of the November 2003 Release. GE Healthcare Financial Services

1 (“GE”), the lessor of the scanners used in several of the BodyScan imaging centers,
2 entered into leases with and delivered scanners to BodyScan imaging centers in
3 Scottsdale, Arizona; Las Vegas, Nevada; Purchase, New York; and Tampa,
4 Florida. Each of these imaging centers defaulted on its equipment lease payment
5 obligations, and GE repossessed the machinery in each of these imaging centers
6 between April and July 2003. GE also had earlier contracted to deliver a scanner
7 to BodyScan’s Philadelphia imaging center but elected not to do so in light of the
8 non-payment issues that arose with respect to the other imaging centers.

9 17. Several more imaging centers were closed before the issuance of the
10 November 2003 Release because they failed to pay their rent: the Austin site lost
11 its lease before a scanner was ever installed; the Orlando imaging center ceased
12 operations in mid-2003 when the landlord evicted it for failure to pay rent; and the
13 Sarasota imaging center ceased operations in August 2003 when it too was evicted
14 from the premises for failure to pay rent, and its scanner was moved to the San
15 Antonio facility shortly thereafter.

16 18. By November 2003, BodyScan operated only three imaging centers –
17 New York City, Kansas City and San Antonio -- only two of which had
18 functioning machinery. The New York City imaging center’s scanner was
19 rendered non-operational in early March 2004, at which time the imaging center
20 ceased operations. The scanner was never serviced and, consequently, the New
21 York City imaging center closed in May 2004. The Kansas City imaging center
22 closed in March 2004 due to its failure to pay rent, and its scanner was put into
23 storage. The San Antonio imaging center obtained its scanner from the Sarasota
24 imaging center in October 2003, but the scanner required servicing before it could
25 be used. The required repairs were never made, the machine was never
26 operational, and the San Antonio imaging center closed in July 2004, without ever
27 opening for business.

28 ///

1 scienter:

- 2 a. employed devices, schemes, or artifices to defraud;
- 3 b. made untrue statements of a material fact or omitted to state a
4 material fact necessary in order to make the statements made,
5 in the light of the circumstances under which they were made,
6 not misleading; or
- 7 c. engaged in acts, practices, or courses of business which
8 operated or would operate as a fraud or deceit upon other
9 persons.

10 23. By engaging in the conduct described above, defendants BodyScan
11 and Sciuto, and each of them, violated, and unless restrained and enjoined will
12 continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and
13 Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the Commission respectfully requests that the Court:

16 **I.**

17 Issue findings of fact and conclusions of law that the defendants committed
18 the alleged violations.

19 **II.**

20 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d),
21 permanently enjoining defendants BodyScan and Sciuto and their officers, agents,
22 servants, employees, and attorneys, and those persons in active concert or
23 participation with any of them, who receive actual notice of the judgment by
24 personal service or otherwise, and each of them, from violating Section 10(b) of
25 the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R.
26 § 240.10b-5.

27 **III.**

28 Enter an order, pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C.

1 § 78u(d)(2), prohibiting Sciuto from acting as an officer or director of any issuer
2 that has a class of securities registered pursuant to Section 12 of the Exchange Act,
3 15 U.S.C. § 781, or that is required to file reports pursuant to Section 15(d) of the
4 Exchange Act, 15 U.S.C. § 78o(d).

5 **IV.**

6 Enter an order, pursuant to Section 21(d)(5) of the Exchange Act, 15 U.S.C.
7 § 78u(d)(5), equitably barring Sciuto from acting as an officer or director of any
8 company, public or non-public.

9 **V.**

10 Order each of the defendants to pay civil penalties pursuant to Section
11 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

12 **VI.**

13 Retain jurisdiction of this action in accordance with the principles of equity
14 and the Federal Rules of Civil Procedure in order to implement and carry out the
15 terms of all orders and decrees that may be entered, or to entertain any suitable
16 application or motion for additional relief within the jurisdiction of this Court.

17 **VII.**

18 Grant such other and further relief as this Court may determine to be just and
19 necessary.

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21 DATED: March __, 2005

22 _____
23 MICHAEL A. PIAZZA
24 NICOLAS MORGAN
25 PETER F. DEL GRECO
26 Attorneys for Plaintiff
27 Securities and Exchange Commission
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