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quinn emanuel urquhart & sullivan, llp

Recent Banking and Financial Institution Representations

RECENT REPRESENTATIONS

- We represented **two groups of investors** in a bankrupt beverage manufacturer that was operated as a massive Ponzi scheme. In California state court, we represented approximately 73 par holders of the company's bonds in an action against the bank that underwrote the bonds and the company's outside auditors. In New York state court, we represent a large group of holders of the company's bank debt, in an action against the company's principal bank, outside auditors, and other third parties.
- We obtained a complete dismissal of claims by the New York Attorney General alleging securities fraud under the Martin Act relating to the sale of auction rate securities.
- We negotiated a favorable settlement with JPMorgan on behalf of the **Joint Provisional Liquidators of Parkcentral Global Hub Limited**. The settlement came after Justice Lowe of the New York Supreme Court vacated an order of attachment that he had previously awarded to JPMorgan pursuant to which JPMorgan had attached \$200 million in cash and securities belonging to Parkcentral. Immediately after Justice Lowe vacated the attachment, JPMorgan initiated settlement negotiations and ultimately agreed to a settlement in the amount that it would have received had it taken its claim to the Bermuda liquidation proceeding. The effect of our work was that the creditors received more than a 30% recovery on their claims, rather than close to zero.
- We obtained a nine-figure settlement for a **regional bank** in a novel lawsuit involving allegations that its insurer and broker had breached their contract and fiduciary duties in failing to automatically reallocate the bank's \$612 million investment in bank-owned life insurance policies to a more conservative fund when certain performance triggers were hit.
- We represented **Union Bank of California** in numerous class actions and individual lawsuits in state, federal and bankruptcy courts arising out of the perpetration of a \$600 million Ponzi scheme by one its clients and depositors.
- We obtained complete dismissal of claims under California's Unfair Competition Law against **American International Group** and related defendants, arising from accusations following the market crisis of 2008. The Court found that plaintiffs had no standing to assert their claims, and also that it would abstain from hearing the

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Prior results do not guarantee a similar outcome.

case even if plaintiffs could establish standing. The Court therefore sustained our demurrer without leave to amend.

- We represented the Yosemite Trusts and about two dozen hedge funds grouped under four management entities -- **Elliott, Davidson-Kempner, Appaloosa, and Angelo Gordon** -- in litigation against Citibank in the Enron MDL relating to Citibank's sale of Enron Credit-Linked (ECLN) Notes. Our clients asserted fraud and fraudulent transfer claims against Citibank and collectively sought in excess of \$2.4 billion. With Citibank's motion for summary judgment pending, Citibank and Enron agreed to a joint settlement; our clients will now receive in excess of \$2.1 billion in payments from the Enron bankruptcy estate.
- We represented a **leading mutual fund client** in similar litigation against Citibank relating to Citibank's sale to our client of Notes linked to Enron's credit. Less than six months after we substituted in as counsel, and with our summary judgment motions on liability pending, Citibank agreed to a mutually acceptable settlement.
- We were retained by **Solutia** virtually on the eve of its exit from its four-year Chapter 11 proceeding when the banks that had agreed to provide the necessary \$2 billion of exit financing (Citibank, Goldman Sachs and Deutsche Bank) refused to fund the loans claiming that the credit market downturn constituted a "materially adverse condition" (MAC) that enabled them to terminate the agreement. The issue we were brought in to litigate was whether Solutia or the banks bore the risk of the credit market downturn. The trial commenced after a month of expedited discovery in which we produced millions of documents, took and defended almost 30 depositions and prepared for trial. After three days of trial, and on the eve of closing arguments, the banks, which had previously refused to entertain settlement negotiations, indicated that they were eager to settle. Under the terms of the settlement, the banks were required to provide the \$2 billion in exit financing needed to fund the plan. The case is believed to be the first of its kind and is of great significance to the bankruptcy bar, financial institutions and companies in Chapter 11.
- We represent **MBIA Insurance Corporation** in its litigation against various Countrywide entities in N.Y. Supreme Court. MBIA's claims allege misrepresentations made to obtain financial guaranty insurance policies for mortgage pools and breaches of contractual representations and warranties. MBIA seeks to recoup over \$1.5 billion it has paid on its guarantees and to defend against additional claims in excess of several hundred million dollars.
- We represent **MBIA Insurance Corporation** in litigation in Los Angeles County Superior Court in two actions asserting state-law fraud and securities fraud claims against various Countrywide and Indymac entities, respectively. The claims, brought by MBIA as subrogee to noteholders it insured, seek \$1.5 billion from Countrywide entities and \$487 million from Indymac.

- We represented **ING Bank** in a \$500 million fraud action against J.P. Morgan Chase, Bank One, Deloitte, PriceWaterhouseCoopers, and others arising out of a massive fraud in connection with the demise of National Credit Finance Enterprises. We also represent ING Bank as a member of the steering committee of the Litigation Trust. We have assisted ING Bank in recovering in excess of \$210 million.
- We represented **ING Bank** and obtained a \$35 million settlement from a Big Four audit firm, which was seventy-five percent more than the settlements obtained by any of the other plaintiffs.
- We represented a major investment bank in the **In re AIG Securities Litigation**, forcing the plaintiffs to withdraw a multi-billion dollar securities class action prior to the filing of a threatened motion to dismiss.
- We represented public company home builder **TOUSA** in connection with a \$675 million claim brought by Deutsche Bank based on the default of an off-balance-sheet structured financing used to fund the largest acquisition of home sites in Florida history. We obtained a successful resolution of this matter.
- We represented **People's Choice Mortgage** and obtained summary judgment of class claims in the millions of dollars based upon allegations of lender misconduct against a lender from which People's Choice purchased a significant number of mortgages which it then packaged into mortgage-backed securities.
- We represent Morgan Stanley's captive fund, **Morgan Stanley Senior Funding**, which has investments in, and investors from, the UK and Europe in a variety of matters including a litigation involving distressed debt arising from activities that took place in Australia.
- We represented preferred stockholders and pursued Section 11 claims against directors, officers and lead underwriter on a preferred stock offering after **ARM Financial** filed for bankruptcy; our clients recovered separate seven-figure settlements from the directors and officers and from the lead underwriter.
- We represented **GMAC Mortgage** in several class actions alleging violations of usury statutes.
- We were retained by a **major insurance company** to pursue claims against Bank of America, as successor-in-interest to Countrywide, arising out of the client's purchase of over \$700 million in mortgage-backed securities. Using cutting-edge analytical tools, the complaint provides loan-level allegations despite the investor's typical lack of direct access to the underlying loan files, connecting what was known generally about Countrywide's practices to the actual securities the client purchased.
- We represented **Capmark** in a servicing dispute on \$300 million bond portfolio.

- We represented **Freddie Mac** in a suit over termination of \$100 million servicing contract.
- We represented a secured lender in foreclosing on a \$300 million office project.
- We represented **Bayerische Hypo- und Vereinsbank AG** (“HVB”) in a lawsuit against an investment vehicle that was wrongfully refusing to redeem shares held by HVB, bringing claims for breach of contract that sought approximately \$422 million in damages. Together with the filing of the complaint, we obtained an immediate ex parte attachment of all assets owned by the defendants located in the State of New York and we obtained an order sealing the file. The following day more than \$380 million of the Defendants’ assets in New York were attached. Having gained considerable leverage, we were able to reach a favorable settlement – receiving \$403 million – shortly thereafter.
- We have successfully represented officers and directors of banks, mortgage lenders (including those specializing in subprime loans), and other financial institutions in connection with regulatory matters and complaints brought against them arising from allegations of failure to observe their fiduciary duties, alleged fraud, alleged predatory lending practices, and other matters arising from their respective roles in guiding and leading the efforts in the marketplace of their institutions.
- We represent the **Federal Housing and Finance Agency** as Conservator of Fannie Mae and Freddie Mac in connection with its investigation regarding private label residential mortgage backed securities purchased by Fannie Mae and Freddie Mac.