



Recent Securities Representations

- We represented **Kimberlite Corporation** and its **Chief Executive Officer** in a suit by Kimberlite's former President and Chief Operating Officer arising out of a transaction whereby Kimberlite was sold to its employees through an Employee Stock Ownership Program ("ESOP"). The plaintiff asserted numerous claims, including breach of employment contract, breach of partnership agreement, breach of fiduciary duty, fraud, wrongful termination, and breach of certain contractual obligations arising out of the ESOP transaction. Quinn Emanuel was substituted as counsel several months after the action commenced. We immediately asserted cross-claims against the plaintiff for breach of fiduciary duty and misappropriation of corporate assets, and proceeded to quickly obtain several tactical victories in connection with discovery disputes. After obtaining key admissions from plaintiff in discovery, we successfully moved for summary judgment on plaintiff's breach of fiduciary duty and partnership-related claims, significantly narrowing the scope of the case. The remaining claims were tried to a jury in Fresno, California in the spring of 2009. After winning most of the 23 motions in limine we filed on behalf of our clients, a team of Quinn Emanuel attorneys tried the case over the course of six weeks. We elicited devastating testimony from numerous witnesses on both direct and cross examination throughout the trial. At the beginning of the seventh week of trial, the plaintiff proposed to settle the case and our clients accepted. Both our corporate and individual clients were thrilled with the confidential settlement.
- We are representing two hedge funds that purchased **approximately \$43 million in mortgage-backed securities** from **Countrywide Financial Corporation**. The funds assert Section 11 and 12 and Rule 10b-5 against Countrywide and certain of its former executives based on misstatements and omissions in the Registration Statements and Prospectuses under which the securities were marketed to investors. The complaint also asserts successor liability claims against Bank of America, which acquired Countrywide in July 2008.
- We represent several major institutional investors in connection with **approximately \$1 billion in claims** they are making against a major investment bank relating to an international fund governed by the laws of the Cayman islands and other laws in jurisdictions around the world where the causes of action have accrued. The claims involve allegations of self-dealing and mismanagement of the Fund, including allegations of improper actions taken in connection with currency hedge trading that caused the Fund to suffer hundreds of millions of dollars in losses.

- We represent **Palm, Inc.** in a \$60 million claim against Merrill Lynch arising out of Merrill's sale to Palm of auction rate securities and CDOs. The case is one of the largest litigations in the country arising out of the failure of the auction rate securities market.
- We represent **MBIA** in two law suits arising out of misrepresentations in the sale of mortgage-backed securities by Countrywide and Indy Mac. The lawsuits seek in excess of \$1.5 billion and \$450 million, respectively.
- We represented about two dozen hedge funds, including international funds, grouped under four management entities -- **Elliott, Davidson-Kempner, Appaloosa, and Angelo Gordon** -- as plaintiff-holders of Yosemite and Enron Credit-Linked (ECLN) Notes in the Yosemite v. Citibank action in the Enron MDL. 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 under which our clients will receive in excess of \$2.1 billion in payments.
- We are representing Dr. Enrico Bondi, Extraordinary Commissioner of **Parmalat S.P.A.**, in three separate \$10 billion lawsuits arising out of the largest bankruptcy in European history -- against Grant Thornton, Bank of America, and Citigroup, for aiding and abetting Parmalat's insiders in the commission of massive fraud and for auditor malfeasance. We recently obtained a \$150 million settlement from Deloitte & Touche.
- We represented a former director of **Peregrine Systems, Inc.** against claims by putative classes of federal plaintiffs, two state-court lawsuits by groups of investors, and claims by the Peregrine Litigation Trust, which sought more than \$2 billion from Peregrine's directors, officers, and others arising from the company's \$500 million financial restatement. The claims allege improper accounting for reseller channel sales and other revenue recognition issues, including interpretation of SOP 97-2. (A dozen insiders have already either pleaded guilty or been indicted in connection with these claims.) We obtained complete dismissal of all federal securities fraud claims, leading to a successful settlement of all pending cases. The largest state court action had been pending for more than three years, and we never let plaintiffs progress beyond the pleading stage.
- We are serving as counsel in various **stock option matters**, including internal investigations, SEC, DOJ, and shareholder derivative actions for **Maxim Integrated Products, Barnes & Noble** and **Terayon**; for the Special Committee in **Apple**; and for individual officers of **Brocade, Marvell, and Computer Sciences Corp.**
- We are representing an investment advisor in a **federal criminal investigation** arising out of an alleged **\$70 million securities fraud/Ponzi scheme**. The statute of limitations expired without any criminal charges being brought against our client.

We also represented the client in a variety of securities fraud matters in multiple civil and bankruptcy court proceedings.

- We were retained, on the eve of trial, as counsel to **Terayon Communications Systems** and its various officers and directors to assume the defense of shareholder class and derivative actions. We successfully resolved matters after summary judgment argument and expert discovery.
- We represented **AOL Time Warner** in the **Homestore.com** securities litigation, as a defendant in a \$1 billion securities matter related to the bankrupt internet company. Our client was alleged to have participated in roundtrip or barter transactions that the debtor had misrepresented in its financial statements. The matter was dismissed as to our client, and the dismissal was affirmed by the Ninth Circuit in 2006.
- We represented the founding stakeholders of **Intermix** (founders of **MySpace.com**) and **StubHub**, launching derivative and related actions that led to the sales of the companies to major media acquirers.
- We represented an **internet-based entertainment company** in a federal criminal investigation into allegations of securities fraud made in a parallel civil lawsuit. We convinced the government not to prosecute. We had previously represented this client in multiple civil securities fraud and related fraudulent transfer lawsuits.
- We secured a settlement on securities and other claims in excess of \$150 million for our client, Chapter 11 debtor **Superior National Insurance Group**. Superior National was a holding company that purchased four workers compensation insurance companies from Foundation Health Corporation (now HealthNet, Inc.). The core allegation was that Foundation defrauded Superior by not disclosing certain financial and claims information that undermined its actuaries' reserve opinions.
- We represented two preeminent Silicon Valley venture capital firms and their individual directors in the **In re Shopping.com Securities Litigation**, and successfully demurred to the securities fraud claims then removed the matter to federal court upon plaintiffs' amendment. The matter was then favorably settled on confidential terms.
- 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 **Mercury Insurance, Erie Insurance** and **Minnesota Power** in a Section 11 case against multiple defendants, including a major investment bank. After we defeated various summary judgment motions, we obtained seven-figure settlements from the investment bank and others before trial.

- We represented **PricewaterhouseCoopers** in two federal shareholder class actions in the ICN Pharmaceuticals Securities Litigation, obtaining dismissals with prejudice. PwC was alleged to have prepared and certified false financial statements for its audit client ICN, and was the only defendant dismissed with prejudice. The dismissal was affirmed by the Ninth Circuit.
- We represented various outside directors in connection with the **In re Crown Vantage Liquidating Trust Litigation** regarding claims of securities fraud, purportedly seeking over \$1 billion, arising out of the spin-off merger and subsequent bankruptcy of this subsidiary of a leading paper company. We obtained dismissal of all claims, affirmed by the Ninth Circuit.
- We represented an officer of **JB Oxford/National Clearing Corporation** in an action by the SEC, and achieved a low five-figure settlement on the eve of trial of the first federal **market timing/late trading** action to approach trial.
- We served as individual counsel in the **Biovail Pharmaceuticals Securities Litigation** arising out of alleged misstatements regarding product development and prospects.
- We served as company counsel to **Tier Technologies** in an audit committee investigation arising out of an accounting restatement.
- We defended investment company **Waterton Management** and its manager in a securities action arising from the merger of two internet companies shortly before the dot com bubble burst. Plaintiff asserted claims for common law fraud and securities fraud under California state law. We obtained summary judgment on all claims, which was affirmed on appeal.
- We represented the former CEO and Chairman of **People's Choice Home Loan, Inc.**, a failed subprime lender, in connection with claims being asserted by the liquidating trustee in bankruptcy against officers of that subprime lender.
- We represented the minority shareholder of **Envision Hospital Corporation**, which controls a group of hospitals, in a take-over battle over one of the hospitals controlled by that parent company.
- We represented **Unisys Corporation** against claims that the company and its officers had fraudulently failed to disclose adverse business developments when Unisys missed quarterly revenue growth projections and experienced a significant drop in stock price. As much as \$1 billion in damages was at stake. After limited discovery, we settled litigation for nuisance costs of approximately \$5 million, including attorneys fees.

- We represented **Barnes & Noble, Inc.**, in federal and state derivative litigations that alleged the company's stock option practices violated securities laws and breached fiduciary duties. We settled the cases with minimal attorneys fees, particularly as compared to a number of other stock options cases.
- We represented **GE Capital** in McKesson-HBOC merger securities fraud litigation (alleged fraudulent revenue recognition at pre-merger HBOC). All claims were dismissed.
- We represented chairman and founder of **E- Universe** in securities class actions related to revenue recognition. All claims were dismissed, and the dismissal was affirmed on appeal.
- We represented **Hughes Electronics** in securities litigation arising out of the failed Hughes-Echostar merger. All claims were dismissed, and the dismissal was affirmed on appeal.
- We represented two preeminent Silicon Valley **venture capital firms** in securities fraud litigation arising out of merger of Epinions.com and DealTime.com. The bulk of the claims were dismissed, the case was removed, and then settled confidentially.
- We represented chairman and founder of **Ariba, Inc.**, in securities class action related to alleged accounting misstatements and failure to properly report expenses. All claims were dismissed.
- We represented **Vivendi S.A.** and its chairman in a holders/best price rule tender offer class action arising from a tender offer for U.S. Filter. We obtained dismissal on the pleadings.
- We represented **Bain Capital** and various individuals in the In re DDi Securities Litigation which alleged misstatements about product success and sales prospects. We obtained a favorable settlement before the class certification stage and before discovery.
- We represented the former President and Chief Operating Officer of **Brocade Communications Systems, Inc.** in federal securities class action and shareholder derivative suits; we obtained dismissal of our client from the federal class action.
- We represented **Infonet Securities** in class actions alleging various federal securities laws violations. The matter was settled on favorable terms following motions to dismiss.
- We represented **G & L Realty** in a class action alleging shareholder fraud and breach of fiduciary duty in connection with management buyout. The matter was settled on favorable terms following successful motions to dismiss.

- We represented **Northrop Grumman** in various consolidated class actions alleging breach of fiduciary duty and various federal and state securities laws violations. The cases were dismissed with no class certification and affirmed on appeal.
- We represented **NewMediaSpark plc** in a class action alleging fraud related to a private placement memorandum for a startup company to make e-commerce investments. The case was dismissed on repeated demurrers with no certification.
- We successfully represented directors and officers of **Bridgestone/Firestone** in securities fraud litigation arising from disclosures concerning move of corporate headquarters to Illinois.
- We successfully represented directors and officers of **Action Auto Rental** in securities fraud litigation brought after the company's stock price dropped following disclosures concerning, among other things, its substantial exposure to used car market.
- We represented **Allergan** and several of its officers and directors in a class action federal securities fraud matter involving revenue recognition and forecasting. We obtained complete dismissal on summary judgment.
- We represented **St. John Knits** and several of its officers and directors in a securities fraud class action arising in the context of a leveraged buyout transaction. We obtained early dismissal for a nominal settlement.
- We represented **IAC Inc.** and several of its officers and directors in a securities fraud class action arising in the context of a leveraged buyout transaction. We obtained early dismissal for a nominal settlement.
- We represented **PIMCO Advisors** and several of its officers and directors in a securities fraud class action arising in the context of a merger transaction. We obtained early dismissal for a nominal settlement.