Milbank

LITIGATION & ARBITRATION 2013 YEAR IN REVIEW

Dear Clients and Friends,

It is with a sense of accomplishment that we present this Year in Review, highlighting some of the many successes of Milbank's Litigation and Arbitration Group in 2013. From multi-jurisdiction securities litigations to regulatory investigations to complex disputes involving bankruptcy, intellectual property, reinsurance, M&A, competition, and other commercial litigation, in 2013 we represented clients in "bet the company" cases and served as lead counsel in some of the largest and highest-profile commercial disputes in the world. We also continued our long-standing commitment to public interest work, as highlighted by the pro bono litigations summarized herein.

Our Litigation and Arbitration Group includes over 130 lawyers located in New York, Washington, DC, Los Angeles, and London. Our litigators pride themselves on being trial lawyers. As you will see in the 2013 highlights, we frequently try cases in federal and state courts throughout the U.S., in the English Courts, and before domestic and international arbitral tribunals in a broad range of matters.

To our clients, thank you for the confidence you place in Milbank when you entrust us to represent you in your most difficult and complex litigation matters. The dozens of successes described herein demonstrate that your trust is well-placed. Although not every matter we handled last year resulted in a complete victory, I can say with certainty that the same creativity, talent, experience, and hard work that led to the successful results were applied by Milbank attorneys to every matter we handled. Fortunately, as you can read in the following pages, our clients often wound up on the winning side in 2013.

We hope you enjoy this Year in Review, and look forward to continuing to work with you in 2014 and beyond.

Alan J. Stone
Milbank Litigation and Arbitration Practice Group Leader

LITIGATION & ARBITRATION YEAR IN REVIEW

COMPLEX COMMERCIAL LITIGATION

MILBANK REPRESENTS BROADCAST MUSIC INC. IN HIGH-PROFILE RATE-SETTING PROCEEDINGS IN THE SDNY

Milbank represents the national performing rights organization, Broadcast Music, Inc. (BMI), in two rate-setting cases in the U.S. District Court for the Southern District of New York. BMI licenses the public performing rights in musical compositions for its 500,000 affiliated composers, writers, and publishers.

In June 2013, BMI brought an action against Pandora Media, Inc., asking the District Court to set a reasonable license fee for Pandora's use of BMI-affiliated musical compositions. The license at issue will cover Pandora's performance of BMI-affiliated musical compositions that are accessible via (a) Pandora's website; (b) mobile devices; and (c) third-party platforms with which Pandora has a contractual economic relationship. BMI asserts that Pandora should pay a higher rate to BMI than it currently does. In response, Pandora asserts that its current license fees should be reduced to match the rates paid by traditional radio stations. The litigation is in its early stages, with a trial anticipated in November 2014.

In another proceeding, the owners of approximately 1,200 local television stations petitioned the District Court to set a reasonable rate for license fees that would allow the local television stations to broadcast the musical compositions in the BMI repertoire for January 1, 2005 through December 31, 2014. The local television stations asked the Court to dramatically reduce license fees as a result of decreased industry revenues since their last license with BMI. Milbank aggressively litigated the rate-setting proceeding, resulting in a successful settlement of licensing fees covering January 1, 2005 through December 31, 2017.

WHILE SUCCESSFULLY MANAGING LIBOR INVESTIGATIONS, MILBANK SECURES THE DISMISSAL OF SEVERAL PRIVATE ACTIONS AGAINST RABOBANK

Milbank represents Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. (Rabobank) in connection with class action litigation and other civil claims concerning the London Interbank Offered Rate (LIBOR) and other interest rate benchmarks (IRBs).

The British Bankers Association (BBA) publishes daily LIBOR in multiple currencies across several maturities based on the daily submissions of panels of banks chosen by the BBA. In 2008, a Wall Street Journal article suggested that in the face of market turmoil and the liquidity crunch in 2007 and 2008, LIBOR, which is supposed to approximate a given bank's cost of funds, should have increased, but did not. This called into question the accuracy of this widely-recognized benchmark. Regulators around the world began to investigate the process by which LIBOR and other IRBs are determined. And numerous individuals and entities commenced private litigation against banks that historically served on the BBA LIBOR panels, asserting violations of various federal and state laws.

In the multi-district litigation pending in the U.S. District Court for the Southern District of New York, where the majority of IRB-related private litigation in the U.S. is ongoing, Milbank, together with members of a joint defense group, obtained dismissal of numerous claims asserted by private civil plaintiffs under federal (Sherman Act) and California (Cartwright Act) antitrust laws, the Racketeer Influenced and Corrupt Organization Act, the Commodity Exchange Act, and New York common law (unjust enrichment). Some of those claims are now pending appeal.

WORKING WITH THEIR PROJECT FINANCE COLLEAGUES, MILBANK LITIGATORS SAFEGUARD LIENS FOR SENIOR LENDERS

Milbank represented Portigon AG, New York Branch, as administrative agent for a group of lenders (the Senior Lenders), in its intervention in an enforcement action brought by CIMC Raffles Offshore (Singapore) Pte. Ltd. (CIMC), a shipbuilder, against several borrowers—Baerfield Drilling LLC, Soratu Drilling LLC, Black Gold Drilling LLC, Schahin Holding S.A., Schahin Engenharia S.A., and Sea Biscuit International Inc. (the Schahin Entities)—which agreed to purchase two oil-drilling rigs from CIMC. The Schahin Entities operated the rigs for Petrobras, a Brazilian state-owned oil company. The Senior Lenders financed the purchase of the rigs from CIMC, and the Schahin Entities repaid the Senior Lenders with the proceeds received from Petrobras for operation of the rigs.

The Schahin Entities, citing CIMC's late delivery of the rigs, refused to pay the amounts due on the shipbuilding contracts and counterclaimed for damages allegedly caused by the late delivery. In an arbitration in New York, CIMC was awarded approximately $70 million in damages to be paid by the Schahin Entities and sought enforcement of the award in federal court. CIMC undertook a variety of enforcement actions, including a novel attempt to invade the project accounts—which were already pledged to the Senior Lenders—including the accounts from which Portigon and the other lenders were paid the principal and interest on the loans they made to the Schahin Entities. In addition, CIMC sought to impose a lien on the rigs themselves, which were also already pledged to the Senior Lenders. Milbank successfully beat back CIMC's attempts to bypass the Senior Lenders' first priority liens, and the lenders continued to receive their principal and interest.

MILBANK OBTAINS FORUM NON CONVENIENS DISMISSAL OF LAWSUIT FILED IN NEW YORK AGAINST FOREIGN-BASED BANKS

Milbank represents Credit Suisse Holdings (USA), Inc., Credit Suisse First Boston (International) Holding Limited, and three Brazil-based Credit Suisse entities, in defense of litigation alleging custodianship of and involvement in the sale of $500 million in Argentine global bonds to a Brazilian paper company.

The plaintiff, Industrias de Papel R. Ramenzoni S.A., alleged that it purchased these bonds between 1997 and 1999 from 44 different sellers, in a series of transactions conceived and executed by Banco de Investimentos Garantia S.A., a Brazilian investment bank that was later acquired by Credit Suisse. Ramenzoni commenced litigation in New York State Court. Milbank obtained a dismissal of the claims against the New York-based Credit Suisse defendants under the doctrine of forum non conveniens. As to the Brazil-based defendants, the court agreed with Milbank's arguments that these defendants are not subject to specific personal jurisdiction in New York. The court also rejected many of the complaint's theories of general personal jurisdiction, but granted limited discovery on this issue.

MILBANK ...

...in the news

BMI Files Suit Against Pandora, *The Hollywood Reporter*, June 13, 2013

BMI Attacks Pandora Deal, *The Deal*, June 14, 2013

Credit Suisse's NY Banks Escape $500M Bond Fraud Suit, *Law360*, January 22, 2014

...speaks

Practicing Law Institute's Pretrial Practice 2013

Milbank Partner Sander Bak was a panelist in this May 20th PLI program that focused on effective pretrial strategies.

FINANCIAL RESTRUCTURING LITIGATION

MILBANK RECOVERS BILLIONS FOR LEHMAN'S UNSECURED CREDITORS

Since 2008, Milbank has represented the Official Committee of Unsecured Creditors in the Chapter 11 cases of Lehman Brothers Holdings Inc. and its affiliates. As counsel to the Committee, Milbank has actively litigated contract disputes and avoidance actions to maximize creditor recoveries. These efforts have been hugely successful, resulting in the recovery of billions of dollars and helping bring closure to the largest and most complicated restructuring in U.S. history.

During 2013, Milbank focused on representing the Committee in disputes arising from the termination of complex derivatives contracts that Lehman entered into in the years preceding its bankruptcy. Many of these disputes have been resolved through Court-ordered mediation, which has resulted in more than 260 settlements and generated more than $1.5 billion in new dollars for the Lehman estates so far. Leveraging its experience in litigation, financial restructuring, and complex financing transactions, Milbank has played a pivotal role in these mediations, negotiating several favorable settlements for the benefit of unsecured creditors.

Recently, Milbank has been retained as counsel for the Lehman estates in connection with the mediation and litigation of additional derivatives disputes.

MILBANK OBTAINS GROUNDBREAKING DECISIONS IN MULTI-BILLION DOLLAR CROSS-BORDER RESTRUCTURING

Milbank represented Vitro, S.A.B. de C.V.—a Mexican corporation that, together with its subsidiaries, comprises the largest glass manufacturer in Mexico and one of the largest in North America—in its restructuring of approximately $3.5 billion of indebtedness, including approximately $1.2 billion in face amount of high yield bonds. Because the bonds were issued in the U.S., governed by New York law and held primarily by investors in the U.S., the restructuring involved Milbank's representation of the company in numerous highly contentious proceedings in the U.S. Bankruptcy Court for the Northern District of Texas, state courts in New York and elsewhere, as well as various appellate courts, including the Fifth Circuit. The proceedings produced several important judicial decisions on issues of first impression that are expected to significantly impact future cross-border restructurings and the ability of international companies based in Mexico and other foreign jurisdictions to operate, obtain credit, and restructure in the U.S. In April 2013, Vitro reached a favorable global settlement with the bondholders who opposed its Mexican restructuring and the related relief that Vitro sought in the U.S. In November 2013, Vitro's U.S. subsidiaries confirmed a Chapter 11 plan of reorganization, completing Vitro's multi-national reorganization.

> "Milbank is considered 'peerless in the market in terms of easing a case through - both clients and lawyers love it' and it is also commended for its 'outstanding subject matter expertise.'"
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> *— Legal 500 USA 2013*

MILBANK ...

...in the news

Vitro Ends Creditor Feud with $235M Bond Deal,
Law360, March 4, 2013

Chem Rx Bosses Ask 2nd Circ. to Toss $106M Clawback Suit,
Law360, May 22, 2013

Senior Lenders Sue Cengage over $430M Withdrawal,
Law360, October 24, 2013

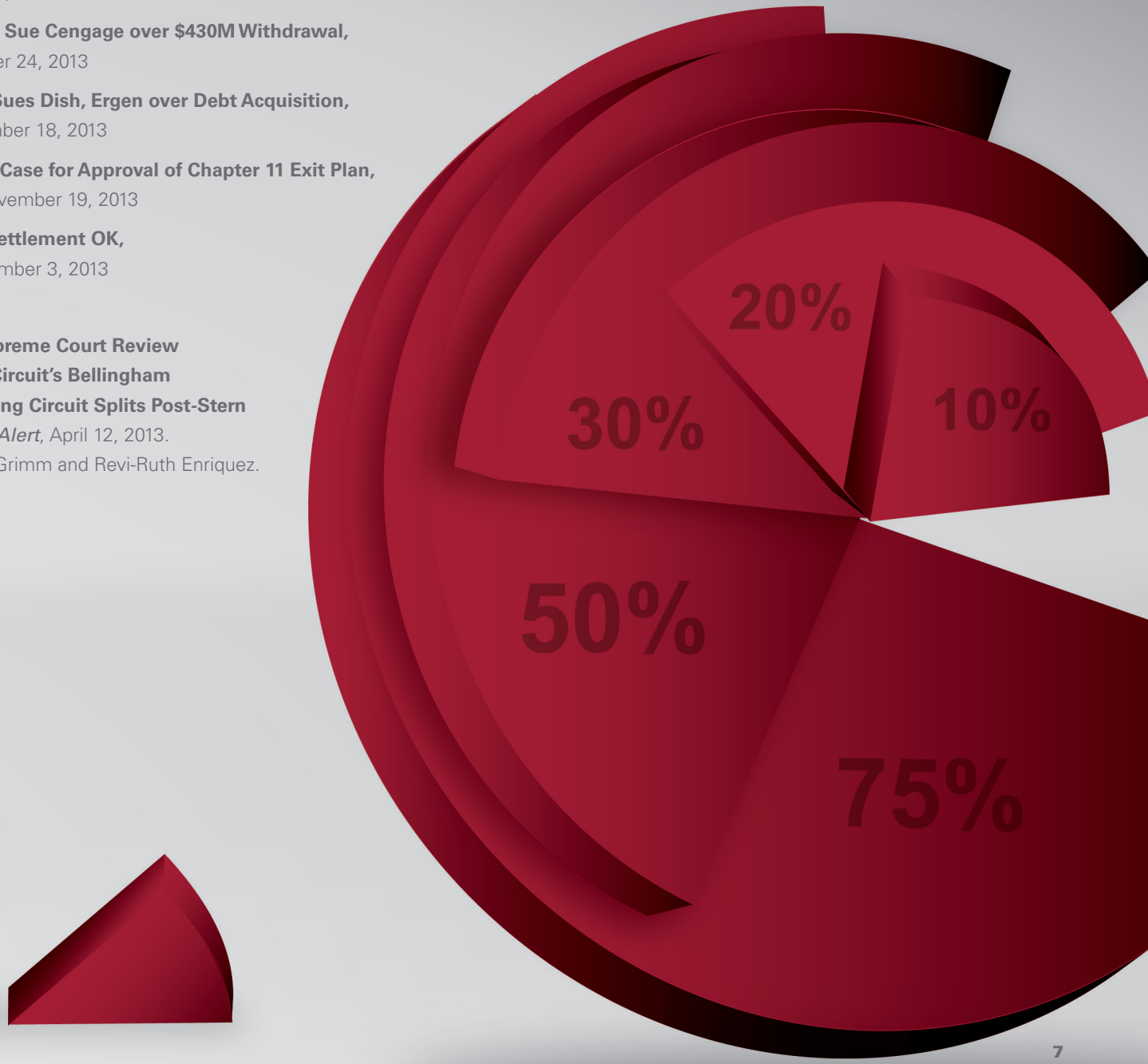
LightSquared Sues Dish, Ergen over Debt Acquisition,
Law360, November 18, 2013

ResCap Makes Case for Approval of Chapter 11 Exit Plan,
Dow Jones, November 19, 2013

ResCap Wins Settlement OK,
The Deal, December 3, 2013

...views

Petition for Supreme Court Review Filed in Ninth Circuit's Bellingham Case Highlighting Circuit Splits Post-Stern
Milbank Client Alert, April 12, 2013.
By Linda Dakin-Grimm and Revi-Ruth Enriquez.



SUCCESSFUL MOTION PRACTICE LEADS TO FAVORABLE SETTLEMENT OF LAWSUITS AGAINST CEO OF CHEM RX

Milbank represents Jerry Silva, President and CEO of Chem Rx, the third-largest institutional pharmacy in the U.S., specializing in the delivery of prescription and non-prescription medications to long-term care facilities, such as nursing homes, assisted living communities, addiction treatment facilities, and correctional institutions. Chem Rx and its affiliates were restructured pursuant to a Chapter 11 filing in 2010. In 2011, AP Services LLP, in its capacity as trustee of the CRC Litigation Trust, filed a complaint in the U.S. District Court for the Southern District of New York, alleging claims for fraudulent transfer and breach of fiduciary duty against Jerry, his son Steven, and his former wife Rosalie Silva. Milbank successfully moved to dismiss the action in full. The Court dismissed the action on November 7, 2012, ruling that the claims violated the safe harbor for securities transactions under the bankruptcy code. The District Court's decision was the first to analyze the "financial institution" requirement under the safe harbor provision, finding that the role of the financial institution as pled in the complaint was sufficient to implicate the safe harbor. The CRC Litigation Trustee appealed to the Second Circuit, while also filing a new complaint in New York Supreme Court on claims that were dismissed without prejudice. Following the argument in the Second Circuit, but prior to a ruling, the parties settled the pending actions.

AFTER TRIAL IN THE SDNY, MILBANK REACHES FAVORABLE SETTLEMENT FOR RESCAP NOTEHOLDERS

Milbank's Litigation Department and Financial Restructuring Group joined forces to represent an Ad Hoc Group of Junior Secured Noteholders, a group spearheaded by Aurelius Capital Management LP, in the bankruptcy and related adversary proceeding of Residential Capital, LLC and 50 of its affiliates. The Ad Hoc Group challenged the propriety of the Debtors' Proposed Plan and corresponding Global Settlement, which, if approved, would have deprived the Ad Hoc Group of valuable liens, leaving the Group undersecured and without the right to receive post-petition interest, fees, and expenses. After a five day trial in the Bankruptcy Court for the Southern District of New York, the Ad Hoc Group and the Debtors reached a compromise favorable to the Group, which will receive $125 million in post-petition interest and fees.

MILBANK SETTLES ADVERSARY PROCEEDING AFTER AGGRESSIVE LITIGATION STRATEGY

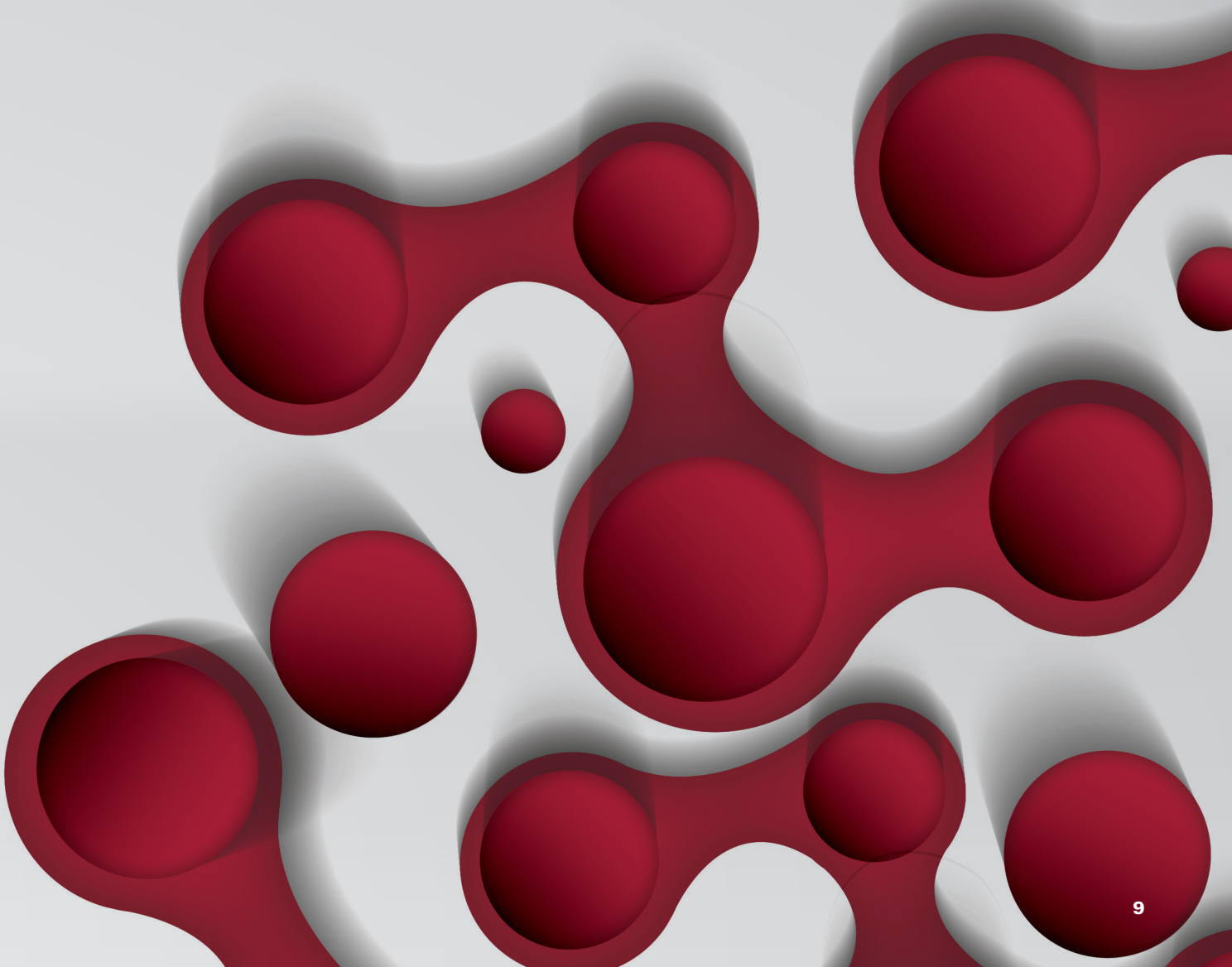
Milbank represented Citibank in an adversary proceeding filed by a trustee appointed by the Bankruptcy Court for the District of Delaware on behalf of a company that produced computer memory products. Citibank had issued a letter of credit to the company to collateralize industrial revenue bonds. The company later pledged certain collateral to Citibank to secure that obligation. To redeem the bonds, the company pre-paid its obligations to Citibank.

As a result of the decline in the market in 2008, the memory company and its U.S. subsidiary filed for insolvency. Following the filing, the U.S. subsidiary attempted to avoid the pledge of collateral and payment to Citibank as fraudulent and preferential transfers. Milbank's aggressive litigation strategy, which included pursuing testimony from witnesses around the world, ultimately led to a settlement with the company on very favorable terms.

INSURANCE & REINSURANCE LITIGATION

AFTER DEFEATING A MOTION TO DISMISS, MILBANK CONTINUES TO ADVOCATE ON BEHALF OF GREENLIGHT RE

Milbank's client, Greenlight Re, is owed money from Appalachian Underwriters, Inc. (AUI) and its affiliate Appalachian Reinsurance (Bermuda) Ltd. (App Re). AUI owes Greenlight Re commission payments due under a set of reinsurance agreements. App Re owes Greenlight Re collateral payments and other costs due under a set of retrocession agreements. AUI and Insurance Services Group, Inc. (ISG) guaranteed the obligations of App Re and AUI. Milbank sued AUI and ISG in the SDNY under the guarantee. AUI and ISG moved to dismiss the complaint, which Milbank defeated. The parties are now engaged in expedited discovery. At the same time, App Re commenced an arbitration against Greenlight Re for the claims arising under the retrocession agreements. Milbank represents Greenlight Re in that proceeding as well.



INTELLECTUAL PROPERTY LITIGATION

MILBANK WINS HIGH STAKES JURY TRIAL FOR APPLE IN TEXAS

In 2011, Wi-LAN Inc. sued Apple Inc. and six other technology companies in the Eastern District of Texas. Wi-LAN, a Canadian patent licensing company, alleged that Apple's iPhone and iPad infringed Wi-LAN's patent because they can communicate using several 3G cellular standards. Wi-LAN had secured licenses from over 130 other companies, and after two years of extensive litigation, every other defendant settled with Wi-LAN. However, the Milbank team took the case to trial for Apple on October 15, 2013. At trial, Wi-LAN asked for $248 million in damages, in addition to treble damages for willful infringement. On October 23, after deliberating for approximately one hour, the jury found that Apple did not infringe Wi-LAN's patent. The jury also found Wi-LAN's patent invalid.

AFTER WINNING SEVERAL KEY PRETRIAL MOTIONS, MILBANK SECURES ANOTHER JURY TRIAL VICTORY FOR APPLE

Milbank also represented Apple in a patent litigation suit brought by NetAirus Technologies, LLC in the U.S. District Court for the Central District of California. NetAirus alleged that Apple's iPhone products infringed its patent. Milbank secured several important pretrial decisions, including summary judgment that certain claims of the patent were invalid as obvious, and exclusion of NetAirus's damages and survey experts from presenting testimony at trial. Milbank also secured orders limiting the damages period and the products that NetAirus could accuse of infringement. Milbank's team took the case to a jury trial on November 12, 2013. The trial lasted six days. After three days of deliberation, the jury reached an impasse, and the parties took the unusual step of stipulating to a majority verdict. The jury returned a majority verdict in favor of Apple on all counts. The jury found that the patent was invalid as obvious and lacking written description, and that Apple did not directly or indirectly infringe the patent.

MILBANK WINS PATENT INFRINGEMENT TRIAL ON BEHALF OF ASTRAZENECA

Milbank represented AstraZeneca in a pharmaceutical patent litigation in the Southern District of New York, seeking damages from Andrx for its manufacture of a generic form of AstraZeneca's blockbuster drug Prilosec®. During the infringement trial, which was based on Andrx's application for approval of a generic version of Prilosec®, AstraZeneca learned that Andrx was manufacturing and stockpiling large quantities of generic product. After a successful infringement finding and injunction against Andrx, AstraZeneca sought damages for Andrx's infringing manufacture. Andrx filed a motion for summary judgment of no damages on the grounds that it never sold the infringing product, and thus, as a matter of statutory interpretation, AstraZeneca was not entitled to damages for "commercial manufacture" without sale under the Hatch-Waxman Act. The Court rejected Andrx's argument, finding that a drug can be manufactured commercially under the meaning of the Hatch-Waxman Act—even if it was never sold—and that damages are available.

MILBANK ASSERTS INFRINGEMENT CLAIMS THAT COULD RESULT IN BILLIONS OF DOLLARS FOR BAYER

Milbank represents Bayer in a patent-infringement-related arbitration administered by the ICC International Court of Arbitration, as well as in litigation in three federal district courts. Bayer owns the patent for the next generation of weed-resistant genetically-modified crops. These modified crops use glufosinate, a herbicide that is resistant to the "super weeds" that have lessened the efficacy of earlier versions of genetically-modified crops. Bayer licensed the limited use of its patent. At issue is whether the licensee infringed the patent by using Bayer's patent for the genetically-modified crops in a manner outside of the rights granted under the license. Bayer is claiming patent infringement with potential damages in the billions of dollars.

ONE DAY BEFORE THE CRITICAL FALL SALES SEASON, MILBANK OBTAINS PRELIMINARY INJUNCTION TO BLOCK DEFENDANT FROM INFRINGING CLIENT'S PATENT

Milbank is acting as plaintiff's counsel in a patent infringement lawsuit in the Middle District of North Carolina. Milbank moved for a preliminary injunction preventing the defendant from infringing plaintiff's patent. A day later, the defendant moved to dismiss the claims for willful, contributory, and induced infringement. The motion to dismiss was denied. While the preliminary injunction motion was pending, the defendant announced its plans to include the accused product in its annual sales push, which was set to kick off on October 1, 2013. Milbank moved for a TRO within hours, briefing on the TRO was expedited, and a hearing on the TRO and preliminary injunction was held on September 27. The motion for a preliminary injunction was granted from the bench after oral argument, and the Court's findings of fact and conclusions of law were issued on September 30. As a result, the defendant was forced to pull its accused product from the market one day before the critical fall sales season was scheduled to kick off. The defendant has appealed to the U.S. Court of Appeals for the Federal Circuit, which appeal Milbank is also handling for the plaintiff. Oral argument will be held in February 2014.

"Upper class operator Milbank has carved out a solid niche in the patent area. When it comes to patent litigation, it 'obviously enjoys a lot of success.'"

— Intellectual Asset Management 2013

AFTER OBTAINING A RARE MANDAMUS RULING ON BEHALF OF APPLE, MILBANK REACHES FAVORABLE SETTLEMENT

Milbank represented Apple in a litigation brought by MedioStream, Inc. against several defendants in the Eastern District of Texas. After the District Court denied multiple motions to transfer venue, the defendants filed a writ of mandamus to the U.S. Court of Appeals for the Federal Circuit. The Federal Circuit granted the writ and transferred the case to the U.S. District Court for the Northern District of California. Shortly thereafter, Milbank secured a favorable settlement on behalf of Apple.

MILBANK WINS TRADE SECRET MISAPPROPRIATION CASE IN THE ITC

Milbank represented complainant, SI Group, Inc., in a trade secret misappropriation case in the International Trade Commission (ITC) in Washington, DC. The claim alleged that Chinese companies Sino Legend and Red Avenue, along with certain of their affiliates and principals, stole SI Group's technology for manufacturing certain rubber resins, including several tackifiers important for the production of tires. The ITC judge that presided over the case issued a notice in June 2013 that a confidential initial determination had been issued in favor of SI Group. That initial determination was publicly released in August 2013 with numerous holdings, including that the respondents had access to and misappropriated SI Group trade secrets to develop four of their own competing resins and had taken active steps to conceal their activities. The ITC Commissioners reviewed the initial determination and, on January 15, 2014, issued an opinion confirming the judge's finding of misappropriation. The ITC Commissioners also issued a 10-year ban on respondents' importation into the U.S. of any product made using the misappropriated SI Group trade secrets.

MILBANK PROTECTS CLIENT'S INDEMNIFICATION RIGHTS REGARDING MULTI-NATIONAL INFRINGEMENT CLAIMS

Milbank represents a multi-national medical diagnostic company in an action relating to its 2008 acquisition of a California-based diagnostics company. In connection with that acquisition, the sellers represented that the company faced no litigation threats and had clear rights to its intellectual property, and promised to indemnify our client to the extent such representations turned out to be inaccurate and our client incurred resulting expenses. The sellers' representations were in fact inaccurate, as intellectual property infringement claims had been threatened against the company prior to the sale and, soon after the sale, infringement claims were asserted against the company in Germany and the U.S. After the sellers refused to honor their indemnification obligations in relation to the German and U.S. actions, our client filed suit in the Southern District of California to enforce its indemnification rights. The Milbank team won summary judgment as to the sellers' indemnification obligations and resulting damages, as well as an order awarding our client substantially all of the attorneys' fees it incurred in pursuing the action. The sellers have appealed those rulings to the Ninth Circuit, where Milbank will continue to represent our client.

MILBANK ...

... in the news

Early Claim Construction can Aid Multi-Defendant IP Suits, *Law360*, January 22, 2013

Apple Beats Wi-LAN at Wireless Patent Trial, *Law360*, October 23, 2013

Litigator of the Week: Mark Scarsi of Milbank, *The American Lawyer*, October 24, 2013

Apple Gets Expert Report Excluded from IPhone IP Case, *Law360*, October 24, 2013

Milbank Aims for Back-to-Back Wins in Apple Patent Trials, *The American Lawyer*, October 29, 2013

Jury Finds IPhone 4 Doesn't Infringe NetAirus Wireless Patent, *Law360*, November 26, 2013

... speaks

New York State Bar Association's Annual Meeting of the Intellectual Property Law Section
Milbank Partner Chris Gaspar was a panelist for the January 22nd session "All-in-One, Once Again: Joinder, Venue, Consolidated Trials, and Multi-District Litigation."

IP in China: Growth and Opportunities for US Companies
Milbank Partner Chris Chalsen delivered the keynote address at *Managing Intellectual Property* magazine's conference on IP in China, which took place on April 30th in New York and May 2nd in Chicago.

International Trademark Association 2013 Annual Meeting
Milbank Associate Jennifer Miremadi was a panelist on the panel entitled "What They didn't Teach You in Law School about Trademark Law," which took place May 4th – 8th in Dallas.

Third Annual Intellectual Property Litigation Regional CLE Workshop
Milbank Partner Errol Taylor was a panelist on the June 7th session "Trial Techniques: Direct and Cross-Examination." The Workshop was presented by the Intellectual Property Litigation Committee of the ABA Section of Litigation.

"The firm is recognized for offering an approach to litigation that combines deep expertise in technical IP matters with a historical focus on business and financial law."

— Managing Intellectual Property Handbook 2013

INTERNATIONAL ARBITRATION

IN ONE OF THE BIGGEST ARBITRATIONS IN THE HISTORY OF THE WORLD BANK, MILBANK ATTAINS VICTORIES ON BEHALF OF THE OWNER OF FRANKFURT AIRPORT

Milbank represents Fraport AG Frankfurt Airport Services Worldwide, the owner and operator of the Frankfurt Airport, in connection with the unlawful expropriation and destruction of Fraport's $450 million investment in the Manila Airport. Following what has been recognized as one of the most important arbitration awards of the year, in which Milbank succeeded in annulling a split decision in favor of the Philippines, Milbank reintroduced claims before an ICSID (World Bank) tribunal. The resubmitted arbitration is one of the biggest in the history of the World Bank, with the Philippines alone submitting 174 separate witness statements and reports.

In September 2013, Milbank completed a two-week hearing on jurisdiction and liability. Milbank had earlier prevailed in resisting efforts from the Philippines to assign "binding effect" to the findings contained in the previous arbitral award.

MILBANK FAVORABLY SETTLES ARBITRATION FOR LATIN AMERICAN INVESTMENT FUND

Milbank represented a Latin American investment fund in confidential arbitration proceedings before the International Centre for Dispute Resolution brought by its former management company for an alleged contract breach following the termination of the management company. The principals of the management company had been directors of the investment fund. The investment fund asserted several counterclaims against the management company and its principals for various breaches of fiduciary duty and other wrongdoing, specifically related to a large asset purchase that had taken place while the management company's principals were directing the investment fund. The management company and the principals objected to the arbitrability of the counterclaims as outside of the scope of the arbitration agreement contained in the management contract. As Milbank was preparing to file the investment fund's counterclaims as direct claims in federal court, the parties agreed to settle the claims and counterclaims. The settlement was on very favorable terms for our client.

MILBANK ...

...views

Emerging Market Investments Need Political Risk Protection

Mergers & Acquisitions, June 26, 2013. By Michael Nolan and Mark Rockefeller.

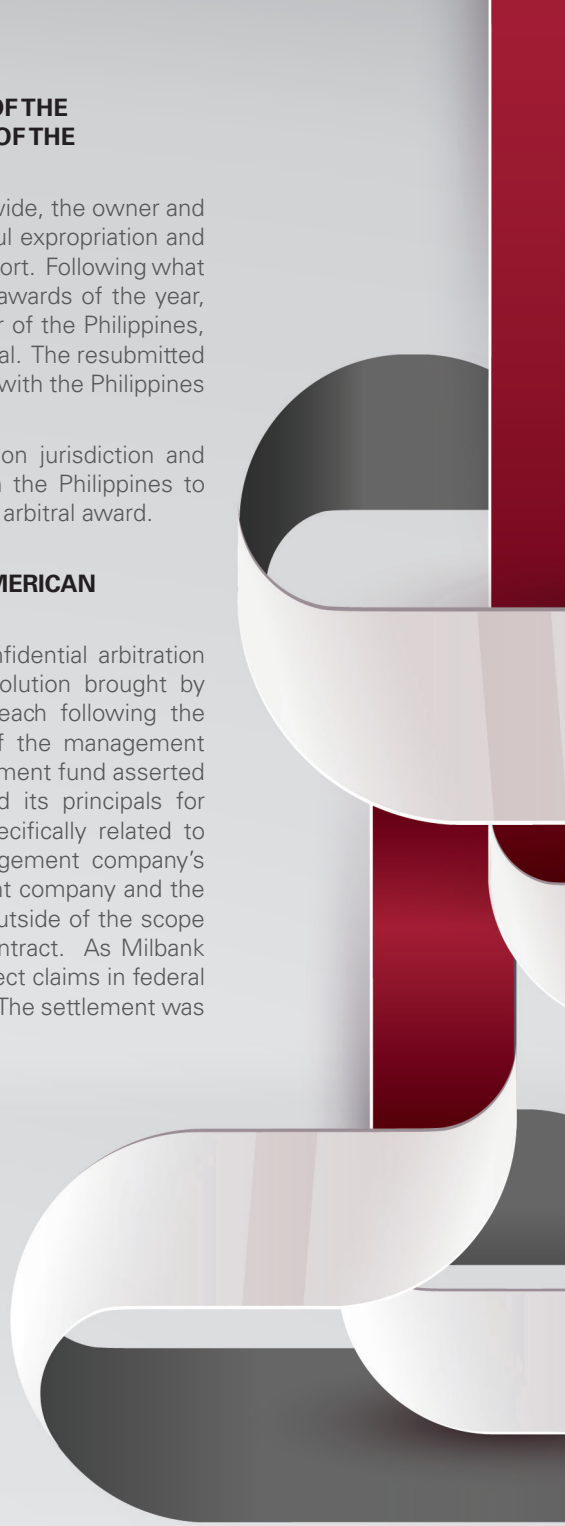
...speaks

International Arbitration Conference

Milbank Partner Michael Nolan presented the closing remarks at the October 1st International Arbitration Conference hosted by Georgetown Law and the Chartered Institute of Arbitrators. The main topic of the Conference was "Privately Finance Infrastructure Projects: Managing and Resolving Disputes Involving Commercial and State Actors."

Second Annual Damages in International Arbitration Conference

Milbank Partner Michael Nolan moderated a November 18th panel on "Perspectives on Valuing a Case."



INTERNATIONAL LITIGATION

MILBANK OBTAINS DISMISSAL OF BILLION DOLLAR CASE AGAINST DEUTSCHE BANK BEFORE DISCOVERY

Milbank successfully defended Deutsche Bank AG and other Deutsche Bank entities against claims brought in the Central District of California by an individual claiming to be an heir of a prominent German family, the Wertheims. Edward D. Fagan claimed that, only days before filing suit, he purchased interests in the assets of the Wertheim family and that the Deutsche Bank entities (and others) improperly transferred certain of those assets in the early 1990s. The complaint asserted damages in excess of one billion dollars. Milbank moved to dismiss the complaint on grounds of forum non conveniens, for lack of jurisdiction, lack of standing, lack of capacity, as time-barred, and for failure to state a claim. The plaintiff filed a motion to amend the complaint, which Milbank opposed. The plaintiff then voluntarily withdrew all of his claims against the Deutsche Bank entities. Simultaneously, other individuals and entities also claiming to be Wertheim heirs sought to intervene. On January 8, 2013, the Court entered an order, without hearing, denying the plaintiff's motion to amend the complaint and denying the motion to intervene. The Court further ordered the plaintiff to show cause, in writing, why the action should not be dismissed for improper venue. When the plaintiff failed to do so, the Court dismissed the action in its entirety.

MILBANK ...

...in the news

Citibank Wins Bid to Keep $73M Fraud Suit in Federal Court, *Law360,* December 4, 2013

...views

In a Landmark Ruling for International Corporate Litigation, the U.S. Supreme Court Imposes a Significant Limitation on Alien Tort Statute Lawsuits

Milbank Client Alert, April 18, 2013. By Sander Bak, Michael Nolan, and Seth Zoracki.

"Milbank has strong global coverage, with eight of the 11 offices located overseas."

— Chambers Associate 2013

LONDON LITIGATION & ARBITRATION

EMPLOYING A CREATIVE LITIGATION STRATEGY, MILBANK CONVINCES JUDGE TO SET ASIDE HIS OWN ORDER

Milbank represented one of the junior noteholders in litigation arising from the restructuring of GHG, a leading private healthcare provider in the U.K. During the restructuring of the £1.6 billion debt, the trustee under the securitization deed commenced proceedings in the High Court in London to determine whether certain senior noteholders were permitted, by the terms of the trust deed, to vote in the restructuring. On the final day of the trial, the judge, of his own volition, decided that his judgment should bind all junior noteholders, as well as the defendant senior noteholders, notwithstanding that the juniors were not party to the proceedings. In a novel approach that has attracted considerable academic comment, he ordered the servicer to select a junior noteholder to act as a representative defendant and join the proceedings on an anonymous basis. Our client was identified and suddenly found itself potentially owing a duty to act in the best interests of all other junior noteholders, notwithstanding that it had not been involved in the trial at all. The application to set aside the judge's order required creative legal thinking. Milbank devised an alternative manner in which the Court's judgment could bind all juniors, without having to name a representative defendant. The judge endorsed Milbank's approach and ordered that our client's legal costs be paid, in full, by the trustee.

MILBANK ...

...views

FSA Fines Lamprell PLC for Listing Rules Breaches

Milbank Client Alert, March 22, 2013. By Charles Evans.

FSA Fines Prudential and Publicly Censures its CEO

Milbank Client Alert, April 3, 2013. By Charles Evans.

FCA Publishes Decision to Fine and Ban Former Non-Executive Director for Failing to Disclose Conflicts of Interest

Milbank Client Alert, May 30, 2013. By Charles Evans.

MERGERS & ACQUISITIONS LITIGATION

MILBANK DRAWS ON ITS VAST LITIGATION EXPERIENCE TO HANDLE TRIAL FOR RBC

RBC Capital Markets, LLC acted as a joint financial advisor for an ambulance company that conducted an auction process and was eventually sold to a private equity firm. The plaintiff brought a class action lawsuit that alleged that the ambulance company and its Board of Directors breached their fiduciary duties in selling the company and that the two financial advisors aided and abetted the breach. Specifically, the plaintiff claimed that RBC was conflicted and undervalued the company. A week before trial, the other two defendants, who had taken the lead on trial preparations, settled with the plaintiff. Milbank had to defend against both the breach of fiduciary duty and the aiding and abetting claims, and handle three additional fact witnesses and two expert witnesses. The team seamlessly handled the last-minute additional responsibilities. Post-trial briefs have been submitted and argued, and we are awaiting a decision from Vice Chancellor Laster.

MILBANK DEFENDS TOWERS PERRIN MERGER AGAINST STOCKHOLDERS' CLAIMS

Milbank successfully defended Towers, Perrin, Forster & Crosby, Inc.'s merger with Watson Wyatt Worldwide, Inc. against claims by former Towers Perrin stockholders seeking more than $1 billion of the merger proceeds. The various stockholder lawsuits, filed against Towers Perrin and the incumbent D&Os who approved and implemented the merger, alleged that the merger breached an oral contract (purportedly memorialized or referenced in certain writings) among the privately-held Towers Perrin and its stockholders under which prior generations of retiring stockholders had sold their shares back to Towers Perrin for less than market value in reliance upon a promise that Towers Perrin would remain privately owned by select employees. In December 2011, Milbank moved for summary judgment on all claims. The District Court granted the motion in December 2012, rejecting the claimed oral contract and finding that the company's stock offer letters and bylaws contained the entire agreement between the parties and did not include any promise to remain private. While on appeal to the Third Circuit, Milbank negotiated a settlement with a proposed class, which was preliminarily approved by the District Court in September 2013. Final approval of the settlement is pending.

MILBANK ...

...in the news

Rural/Metro Board Reaches $6.6M Deal to Settle Buyout Claims, *Law360*, May 1, 2013

Towers Perrin Settles Watson Wyatt Merger Suit for $10M, *Law360*, September 25, 2013

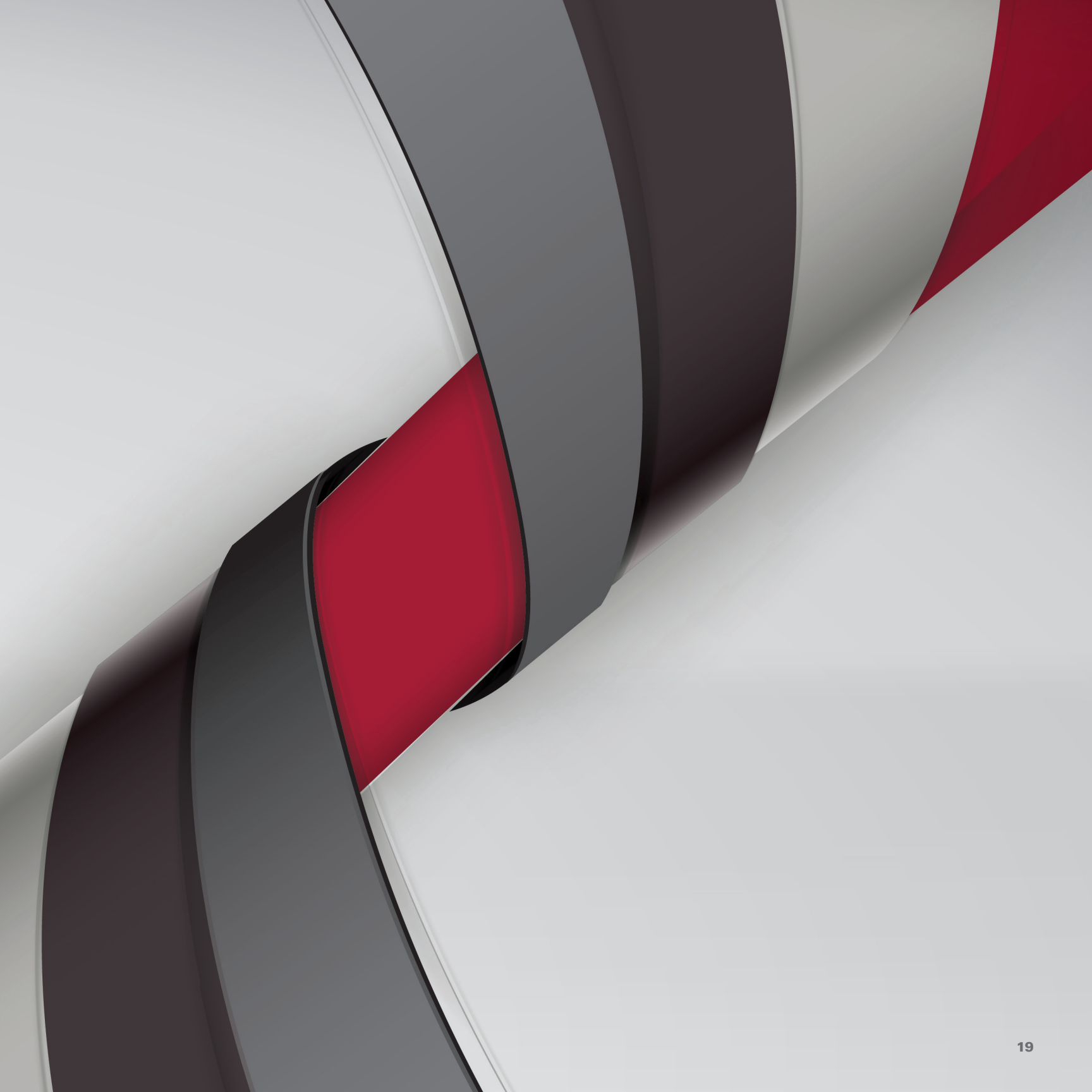
...views

NetSpend Board in Breach of Revlon Duties as Sale Process is Determined not to Be Designed to Produce Best Price

Milbank Client Alert, May 30, 2013. By Alan Stone and David Schwartz.

Deferential Business Judgment Rule Applied to Third Party Acquisition of Target with a Controlling Stockholder

Milbank Client Alert, August 7, 2013. By Alan Stone and David Schwartz.



MUTUAL FUNDS LITIGATION

SETTING ITSELF APART FROM OTHER FIRMS, MILBANK WINS DISMISSAL WITH PREJUDICE OF CLAIMS AGAINST NEUBERGER BERMAN

For almost five years, one plaintiff's attorney has sought to hold mutual funds liable for investments in Internet gambling companies that were listed on the London Stock Exchange, arguing that those investments constituted ownership of illegal gambling operations and violated state and federal anti-gambling laws. Representing various Neuberger Berman entities and executives, Milbank won a series of motions to dismiss such actions. Recently, the U.S. Court of Appeals for the Second Circuit ruled that these claims should have been dismissed with prejudice, which prevents the plaintiff from continuing to pursue these claims against Milbank's clients. Other mutual funds continue to face similar suits, as Milbank is the only firm that has obtained a dismissal of these claims with prejudice.

MILBANK BEATS BACK SEVERAL CLAIMS AGAINST PUTNAM

Intesa SanPaolo, S.p.A. v. Credit Agricole Corp. & Inv. Bank

In April 2012, Intesa SanPaolo, S.p.A. (Intesa) filed a complaint alleging violations of the federal securities laws and related state law claims, claiming that Putnam, Magnetar Capital (an equity investor in both Pyxis CDOs), and the issuers and underwriters for Pyxis 2006 fraudulently designed Pyxis 2006 to fail for the benefit of Magnetar, which had allegedly taken short positions against assets in Pyxis 2006. Milbank moved to dismiss on behalf of Putnam, arguing, among other things, that the claims were barred by the five-year statute of repose applicable to federal securities fraud claims. The Court granted Putnam's motion to dismiss in February 2013, but allowed Intesa to file an amended complaint. Putnam again moved to dismiss the amended complaint as time-barred. On September 2013, the Court dismissed Intesa's federal claims against Putnam with prejudice and declined to exercise jurisdiction over Intesa's state law claims. Intesa declined to pursue an appeal.

Financial Guaranty Insurance Co. v. Putnam Advisory Co., LLC

Financial Guaranty Insurance Company (FGIC) filed a complaint in October 2012, which, like Intesa's complaint, alleges that Putnam committed common-law fraud, negligence, and negligent misrepresentation in connection with its role as collateral manager for Pyxis 2006. Milbank moved to dismiss on behalf of Putnam, arguing that FGIC had failed to adequately allege loss causation. The Court granted Putnam's motion on September 10, 2013, with leave to amend, finding that FGIC had failed to allege sufficiently that its losses were caused by the alleged misstatements and omissions, as opposed to general market events. Putnam's motion to dismiss the amended complaint is pending.

MILBANK ...

...in the news

Credit Agricole Unit Dodges $180M Suit over Bum CDO, *Law360*, September 11, 2013

Neuberger Beats Suit over $30M Gambling Loss in 2nd Circ., *Law360*, October 28, 2013

...views

Developments in Litigation Involving Mutual Funds and Investment Advisers

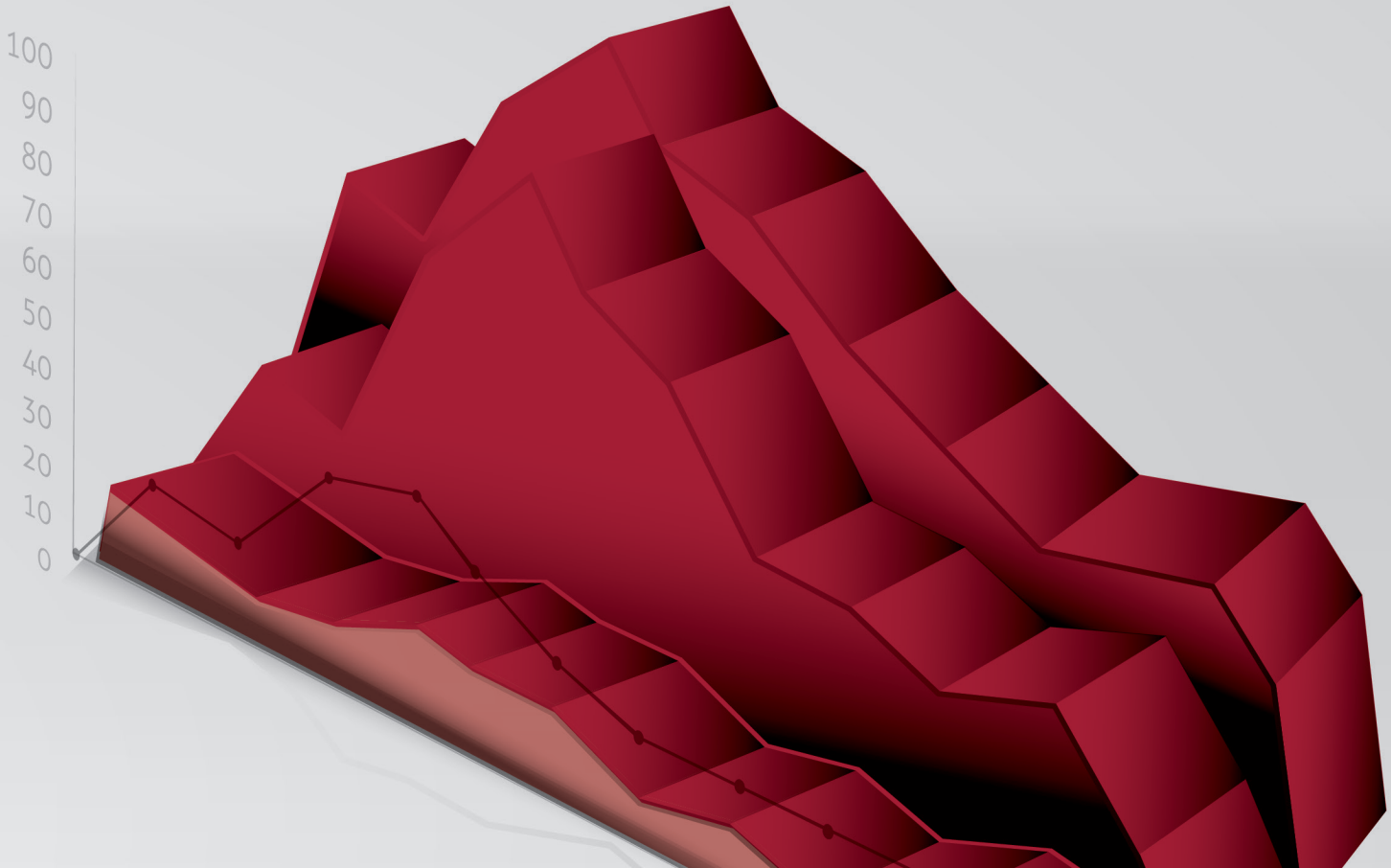
May 2013. By James N. Benedict, Sean M. Murphy, Robert C. Hora, and Michael B. Weiner.

MILBANK ACHIEVES VICTORY FOR AXA EQUITABLE IN "MANAGER OF MANAGER" LAWSUIT

Milbank represents AXA Equitable Life Insurance Company and AXA Equitable Funds Management Group, LLC in a derivative action brought in the District of New Jersey under Section 36(b) of the Investment Company Act of 1940 (ICA). The plaintiffs purport to bring the action on behalf of twelve mutual funds that are offered as investment options for variable annuity products sold by AXA Equitable. The plaintiffs allege that the defendants received excessive investment management and administrative fees for managing the funds in breach of their fiduciary duties under Section 36(b) of the ICA. As one of several "manager of manager" lawsuits that have recently been brought against mutual fund investment advisers, the plaintiffs allege that AXA has delegated substantially all of its management and administrative services to sub-advisers and a sub-administrator, while retaining most of the fees. The case is currently in discovery.

This past summer, Milbank's team successfully moved to strike the plaintiffs' demands for a jury trial. On July 3, 2013, Magistrate Judge Douglas Arpert adopted, in his report and recommendation, the arguments set forth in Milbank's briefs and at oral argument that the district judge grant the motion to strike plaintiffs' jury demand. On August 15, 2015, Judge Peter Sheridan adopted the magistrate's recommendation.

Milbank represents four of the six investment advisers currently defending lawsuits raising similar issues involving sub-advised funds, including ING Investments LLC, Russell Investment Management Company, and Hartford Investment Financial Services LLC.



PRO BONO LITIGATION

MILBANK HELPS A CHILD GET THE APPROPRIATE EDUCATION TO FIT HIS NEEDS

In a matter in which Milbank represented, pro bono, a ten-year-old boy on the Autism Spectrum, an Impartial Hearing Officer ordered the New York City Department of Education (DOE) to fund the child's education at the Cooke Center, a school uniquely tailored to his needs. Following an all-day hearing, Milbank convinced the Impartial Hearing Officer to find that the DOE failed to provide a free and appropriate public education for the 2012-2013 school year. The victory, which involved months of preparation and a post-hearing brief, resulted in our client being able to continue his education at the Cooke Center. Milbank continues to represent the child in the appeal process and regarding his placement for next year.

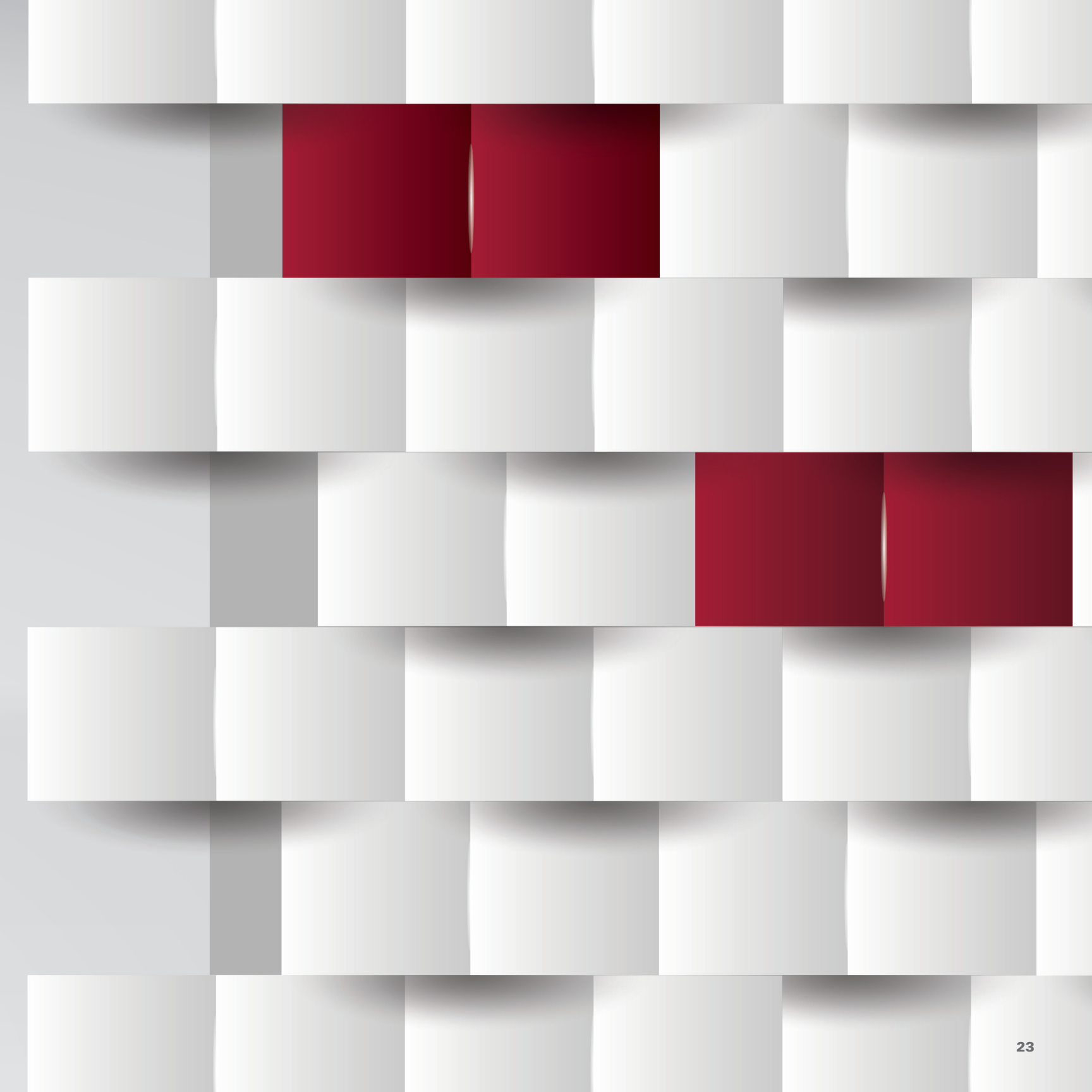
MILBANK ACHIEVES LARGEST JUDGMENT IN ANIMAL WELFARE LITIGATION HISTORY ON BEHALF OF THE HUMANE SOCIETY

Milbank represented the Humane Society of the U.S. (HSUS) in a federal court action related to an undercover investigation conducted by HSUS in 2007 at a beef slaughter and processing plant in Chino, California—Hallmark Meat Packing Company and Westland Meat Company (Westland). This investigation revealed that Westland purchased and slaughtered sick, injured, diseased, and disabled cattle that were unable to walk or even stand, and then mistreated the animals in attempts to force them to walk to slaughter. Westland then sold meat products derived from these animals for use in the National School Lunch Program at a cost of more than $150 million in violation of federal law and the express terms of contracts between Westland and the Agricultural Marketing Service of the U.S. Department of Agriculture. The HSUS has now reached settlement with all defendants, including a consent judgment against one defendant in the amount of $155 million. This judgment is the largest in animal welfare litigation history and should play an important role in deterring future misconduct.

MILBANK ...

...in the news

Co. Behind Largest US Beef Recall Pays $3M to End FCA Suit, *Law360*, November 27, 2013



SECURITIES & COMMODITIES LITIGATION

MILBANK REPRESENTS CENTRAL BANK IN MULTI-NATIONAL PROCEEDINGS

Milbank represents an Asian Central Bank in connection with the fraudulent procurement of various financial instruments by persons in the U.S., Canada, Switzerland, Dubai, and Iran. In connection with the proceedings, the alleged holders of the instruments seized the Central Bank's accounts in Germany and elsewhere. German courts have allowed for plaintiffs in the past to seize Central Bank accounts on the basis that these accounts were held for the benefit of the Central Bank and not for the sovereign purposes of the state, even where those accounts have been alleged to be foreign reserve accounts. This issue was ultimately brought before the German Constitutional Court (Germany's highest court) with the Court finding in favor of the Central Bank. The Court found that the accounts were foreign currency reserves held by the Central Bank in favor of the state and, thus, were immune from attachment.

Milbank is also currently representing the Central Bank regarding the enforcement of judgments of racketeering and fraud issued by a federal court in Florida against various defendants in Canada, Switzerland, and the U.S. The Central Bank recently enforced a default judgment in Canada against one of the wrongdoers. Milbank was able to show that the defendant had actual notice of the proceeding against him and, therefore, any question of service under the Hague Convention was moot.

IN GROUNDBREAKING SEC ACTION, MILBANK SUCCESSFULLY DEFENDS KNIGHT CAPITAL

Milbank defended Knight Capital Americas, LLC in the first enforcement action brought under SEC Rule 15c3-5, the Market Access Rule. Knight experienced a technology malfunction that erroneously sent 4 million orders for securities for 397 million shares into the market in 45 minutes. Over the course of 15 months, Milbank defended Knight, and numerous individual employees of the firm, from allegations that Knight's controls and procedures were not reasonably designed to limit the risks arising from its access to the securities markets. Milbank ultimately negotiated a settlement with the SEC, in which Knight, without admitting or denying the findings, consented to entry of a cease and desist order, a monetary fine, and an undertaking to engage a consultant. No individuals were charged.

MILBANK PROVIDES KEY ADVICE TO MAJOR PRIME BROKER

Milbank represented a major prime broker to funds advised by S.A.C. Capital Advisors, LLC regarding the criminal and civil forfeiture actions brought against SAC and its affiliates by the U.S. (the SAC Cases). Milbank advised the prime broker regarding the impact of the SAC Cases on the prime broker's rights and obligations under its agreements with the SAC-advised funds. Milbank also helped to negotiate a court order in the civil forfeiture action that protected the assets and other interests of the prime broker with respect to its ongoing relationship with the SAC-advised funds.

ENGAGED BY NUMEROUS BROKER-DEALERS, MILBANK ASSISTS WITH COMPLIANCE EFFORTS REGARDING THE MARKET ACCESS RULE

Milbank has been engaged by numerous broker-dealers to assist with ongoing compliance efforts regarding the Market Access Rule. Specifically, Milbank is advising broker-dealers regarding their software development lifecycle practices, their controls surrounding capital thresholds, and other matters related to market access controls.

MILBANK ...

...in the news

2nd Circ. Kills Antitrust Suit over Banks' ARS Exodus, *Law360*, March 5, 2013

Citigroup Wins Halt to $383 Million Arbitration Case, *Bloomberg News,* May 3, 2013

Judge Blocks Auction Rate Arbitration Against Citigroup, *Chicago Tribune*, May 6, 2013

...views

SEC Held to Five-Year Statute of Limitations for Civil Penalty Claims

Milbank Client Alert, March 5, 2013. By James Cavoli, Dorthy Heyl, and Robert Lindholm

Recent New York Court Decision Confirms that Email Exchanges can Create Enforceable Agreements

Milbank Client Alert, August 1, 2013. By Sander Bak and Jed Schwartz.

MILBANK WINS NINE-DAY BENCH TRIAL ON BEHALF OF CITIGROUP GLOBAL MARKETS

Milbank is lead U.S. litigation counsel for Citigroup Global Markets Inc. (CGMI) in connection with a claim brought by Saudi nationals Abdullah and Ghazi Abbar and their related investment vehicles. The Abbars filed a request for arbitration before the Financial Industry Regulatory Authority (FINRA) against CGMI, a FINRA member. They claimed that they lost over $350 million between 2006 and 2008, due to alleged misconduct by CGMI and other Citigroup entities with respect to the structuring, monitoring, and handling of the Abbars' investments.

In October 2011, CGMI filed an action in the U.S. District Court for Southern District of New York, seeking to permanently enjoin the FINRA arbitration on the grounds that the dispute is not arbitrable. To bring a claim before FINRA, a claimant must be a "customer" of a FINRA member. CGMI contended that the Abbars were not "customers" of CGMI, but were "customers" of various European Citigroup affiliates that are not FINRA members.

The parties conducted a nine-day bench trial in April and May of 2013. The Court ruled from the bench, and found that the Abbars and their investment vehicles were not customers of CGMI within the meaning of the applicable FINRA rule. The Court permanently enjoined the FINRA arbitration. The Court's written opinion followed its oral decision.

The matter is now on appeal before the U.S. Court of Appeals for the Second Circuit.

MILBANK OBTAINS DISMISSAL OF CDO CLAIMS

Between 2006 and 2007, Bank Thai Pcl. purchased from Morgan Stanley four managed synthetic CDOs and one synthetic bespoke CDO. During the financial crisis of 2007 and 2008, the value of those CDOs declined significantly before Bank Thai ultimately liquidated its position. On October 26, 2012, Bank Thai filed suit against Morgan Stanley and several of its affiliates in the Commercial Division of the New York Supreme Court. Bank Thai alleged over $100 million in damages and ten claims against Morgan Stanley including for fraud, breach of contract, breach of implied warranty, and unjust enrichment. On February 5, 2013, Milbank filed a motion to dismiss on behalf of Morgan Stanley, and in September 2013 the Court granted the motion in part. Although the Court allowed Bank Thai's claims for fraud to proceed, the Court dismissed nearly every other claim alleged by Bank Thai, including all of the claims relating to the synthetic bespoke CDO.

> "Milbank has carved out a solid reputation for counseling investment advisers on securities and derivatives litigation."
>
> *— Chambers Associate 2013*

TRUSTS & ESTATES LITIGATION

MILBANK CONTINUES ITS SUCCESSFUL WORK IN HIGH-PROFILE TRUSTS AND ESTATES LITIGATION

Milbank litigators frequently are involved in high stakes and high profile trusts and estates and fiduciary disputes in New York, Delaware, and throughout the U.S., including will contests and trust disputes. A current example of such litigation involves the Estate of Huguette M. Clark. Milbank is co-counsel to the Public Administrator for New York County, who is acting as Temporary Administrator of the Estate of Huguette M. Clark. Mrs. Clark was the daughter of former U.S. Senator and industrialist William H. Clark, one of the wealthiest Americans in the early 20th century. She died in May 2011, at the age of 104, leaving a vast estate including homes in New York, Connecticut, and California, and masterpiece works of art. In the few years before her death, MSNBC published a series of investigative articles discussing Mrs. Clark's mysterious lifestyle and questioning the roles of her longtime attorney and accountant. Mrs. Clark spent the last 20 years of her life living in New York City hospitals, having little contact with anyone other than her nurses, doctors, attorney, and accountant. Mrs. Clark's last will, which was prepared by her attorney, named her attorney and accountant as executors and granted them, along with Mrs. Clark's private nurse, significant bequests while leaving nothing to Mrs. Clark's relatives. Upon Mrs. Clark's death, the Surrogate's Court, New York County, acting on concerns raised by the N.Y. Attorney General's Office, appointed the Public Administrator to act as Temporary Administrator in conjunction with the Preliminary Executors.

On December 20, 2011, the Public Administrator successfully filed an order to show cause and petition seeking the revocation of the Preliminary Letters Testamentary issued to the Preliminary Executors. Over the course of the last year, Milbank, as co-counsel for the Public Administrator, has prosecuted an accounting proceeding, seeking review of the payments that Mrs. Clark's attorney and accountant made in their purported capacities as attorneys-in-fact; an accountant malpractice action against Mrs. Clark's former accountants seeking damages for, among other things, failure to file Mrs. Clark's gift tax returns; a legal malpractice action against Mrs. Clark's attorney; and a turnover proceeding seeking recovery of millions of dollars of alleged "gifts" made by Mrs. Clark to persons with whom she was in a confidential relationship, including her nurses and doctors. As part of complex negotiations involving the administration of Mrs. Clark's estate, the Public Administrator and other parties have achieved settlement on many of the claims.

MILBANK ...

...in the news

Reclusive Heiress Huguette Clark's Fortune May Be Redistributed Among Family, *ABC News*, September 21, 2013

Huguette Clark Heirs Reach Deal to Divvy Up Her $300 M. Estate, *The New York Observer*, September 24, 2013

The Winners and The Losers in the Huguette Clark Will Settlement, *Vanity Fair*, September 25, 2013

WHITE COLLAR DEFENSE & INVESTIGATIONS

MILBANK RESOLVES MASSIVE MULTI-JURISDICTIONAL INVESTIGATIONS FOR RABOBANK

Acting for Rabobank, Milbank's U.S. and U.K. offices led all aspects of a multi-jurisdictional investigation relating to potential manipulation of various interest rate benchmarks (IRB), including LIBOR and EURIBOR. The representation involved an in-depth internal investigation of historical activities related to IRB submissions and practices at Rabobank; advising the client with respect to numerous remedial measures, including improved systems and controls related to IRBs; close oversight in the implementation of remedial measures; and representation and detailed advocacy before numerous regulatory bodies, including, but not limited to, the U.K. Financial Conduct Authority, the U.S. Commodities Futures Trading Commission and the U.S. Department of Justice. In October 2013, Rabobank reached resolution with six regulators in four countries relating to IRB matters.

MILBANK CONDUCTS CRITICAL INVESTIGATION ON BEHALF OF LARGE U.S.-BASED FINANCIAL INSTITUTION

Milbank was retained by a large U.S. financial institution to conduct an internal investigation arising from allegations that, among other things, one of our client's outsourcing vendors paid kickbacks to certain employees of the client in exchange for business. Milbank undertook a thorough investigation, which included a review of public records concerning business practices in pertinent outsourcing industry, assessing the background of the purported whistleblower, collecting and analyzing numerous documents, and interviewing pertinent employees. The investigation revealed that the allegations were without merit, but identified areas for possible improvement with respect to systems and controls, on which Milbank is advising.

MILBANK ASSESSES PRACTICES OF LARGE FOREIGN FINANCIAL INSTITUTION REGARDING ISDAFIX AND FX TRADING

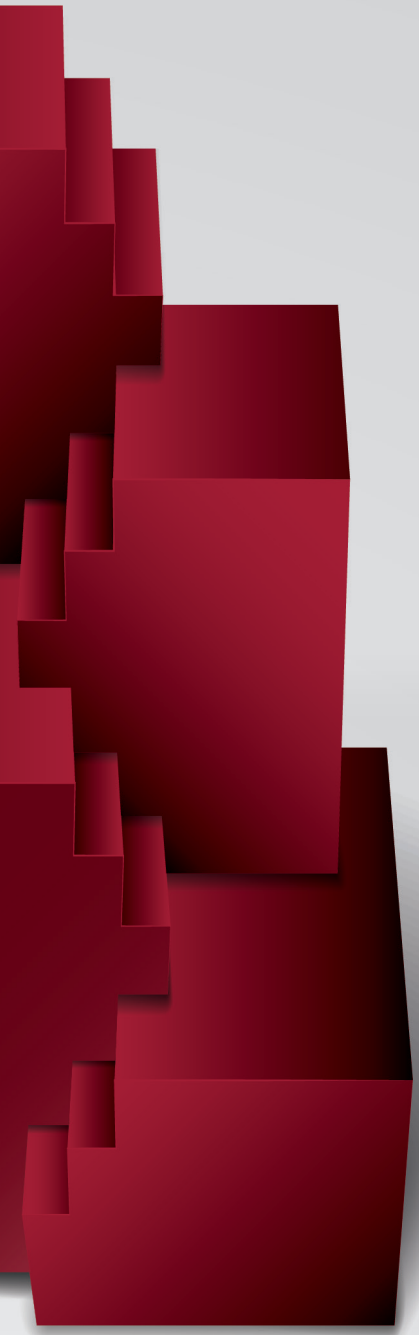
It has been widely reported in the media that international and domestic regulators are investigating historical conduct at numerous financial institutions relating to ISDAFIX, a benchmark used to value interest rate swaps, and in connection with foreign exchange trading and FX benchmarks. Milbank was retained by a large foreign financial institution to review and assess historical practices and systems and controls relating, among other things, to the institution's activities concerning ISDAFIX and FX trading.

MILBANK REPRESENTS SENIOR OFFICER AT MAJOR EUROPEAN BANK IN CONNECTION WITH LIBOR INVESTIGATIONS

Milbank represents a senior officer of a leading European bank in connection with the worldwide investigation into the submissions process for the LIBOR. Milbank has successfully represented the individual in connection with multiple investigations by regulators in the U.S. and the U.K., including the U.K. Financial Services Authority (now known as the Financial Conduct Authority) and the U.S. Securities and Exchange Commission. Milbank also represents the individual in connection with various private civil matters arising out of the LIBOR submission process.

MILBANK ADVISES EXECUTIVE AT MAJOR U.S. BANK REGARDING DOJ AND COMMODITY FUTURES TRADING COMMISSION INVESTIGATION

Milbank represents an executive at one of the largest U.S. banks in an investigation being conducted by the U.S. Department of Justice and the Commodity Futures Trading Commission. The investigation relates to possible improprieties involving block trading in certain futures markets, including possible front-running activities, and alleged misrepresentations to a self-regulatory organization in connection therewith.



IN CONNECTION WITH RMBS TRANSACTION INVESTIGATIONS, MILBANK REPRESENTS FORMER EXECUTIVES AT A MAJOR EUROPEAN INVESTMENT BANK

Milbank represents two former executives of a large European investment bank in connection with an investigation by the U.S. Attorney's Office, Southern District of New York, relating to possible improprieties in connection with residential mortgage-backed securities transactions.

MILBANK ATTAINS DISMISSAL OF SEVERAL ASPECTS OF SEC CASE AGAINST FORMER THORNBURG MORTGAGE INC. EXECUTIVE

Milbank represents the former Chief Accounting Officer of Thornburg Mortgage Inc. in an enforcement action brought by the Securities and Exchange Commission, alleging that Milbank's client and two other former Thornburg executives engaged in securities fraud and misled their outside auditors in connection with the filing of Thornburg's 2007 annual report and financial statements. The defendants moved to dismiss the SEC's claims in May 2012. In July 2013, the U.S. District Court for the District of New Mexico issued a 324-page memorandum opinion and order drastically narrowing the SEC's securities fraud claims, throwing out the SEC's "scheme liability" claim (and thus primary securities fraud liability against our client), dismissing two of the three alleged public false statements, and noting that the SEC's allegations as to the third alleged false statement may not survive summary judgment. Having completed fact discovery while waiting for the motion to dismiss ruling, the Milbank team filed a motion for summary judgment in August as to what remains of the case and is awaiting a ruling on that motion.

MILBANK SUCCESSFULLY REPRESENTS LARGE MULTINATIONAL BANK IN SEC INVESTIGATION INTO FX TRADING PRACTICES

In late 2010, news broke that some banks were allegedly overcharging their custodial customers for the foreign exchange, or FX transactions, that these banks executed with their customers. Among the allegations were claims that the banks would charge their clients the worst prices of the day for an FX transaction. For example, if the client sold a foreign currency, the banks would give the client the lowest price of the day, and if a client bought the currency, the banks would give it the highest price of the day. The alleged reason for doing this was that the banks were on the other side of the trade. As a result of these allegations, and subsequent lawsuits by private litigants, state regulators, and the federal government, many financial institutions, including a large, multinational bank that Milbank represented, began to investigate their own FX practices.

In early 2011, Milbank conducted an internal investigation of our client's FX practices. In April 2012, the SEC began an informal investigation into the client's FX trading practices. Earlier this year, the SEC continued the investigation by issuing a formal subpoena to the client. The SEC conducted a more than year-long investigation of the client but, at the end, the SEC terminated the investigation and determined that it would not recommend any enforcement action.

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