

Accounting & Financial Reporting Litigation

Financial statement reporting, accounting, and auditing is highly specialized and technical. Fluency in these fields is usually believed to be found only among trained accountants. Increasingly, however, modern commercial legal disputes, investigations, and regulatory matters arise from or are driven by accounting and reporting issues, and therefore victory for clients is often a function of their counsel's grasp of these specialized subjects.

Financial reporting cases frequently arise from company failures or corporate scandals. Potential defendants like the company's auditors blame management or other financial service providers. Applying the professional standards to determine liability, allocating harm among joint tortfeasors, and simultaneously navigating the potential defense of *in pari delicto* requires deep experience and nuanced advocacy. Our firm has decades of experience and more than fifty partners, associates, and counsel from around the globe who specialize in accounting and financial reporting litigation, including former qualified accountants. We understand the intricacies and methodologies of this area, and the technical standards of the profession and regulatory systems that govern them.

Several of our partners worked for or represented the Big 4 accounting firms before joining our firm. Because of our subject-matter expertise, our size, and our effectiveness in court, there is no law firm better equipped to hold the global accounting firms accountable. We have represented clients in some of the largest national and international accounting scandals of the past two decades, including Enron, Parmalat, MF Global, and Refco. The accounting firms know what we can do in court; they would rather avoid us. We have the skills needed to take an audit malpractice case from an early investigation all the way through to a jury trial, if necessary, and we are one of the few law firms in the world to have done so and won. Because of our reputation, we have been able to help clients obtain favorable outcomes outside of court, including several record-setting nine-figure settlements.

A substantial part of our practice also involves defending accountants, accounting firms, audit committees, officers and directors, companies, and financial institutions against accounting-related claims in court or investigations of all kinds. Our experience ranges from small regional cases to multi-billion dollar international and cross-border investigations and disputes. And we advise clients in non-litigation settings as well, such as helping them to address complicated financial reporting, accounting, and auditing challenges (including under complex interpretations of GAAP, GAAS, IFRS, and ISA), navigate thorny conflicts with outside auditors or regulators, conduct internal forensic accounting investigations, or analyze and mitigate litigation risk in the context of business transactions and investments. Because our firm handles plaintiff, defense, and regulatory matters, we have been able develop strong relationships with some of the most brilliant and trusted independent experts in these fields, working with them to help address the unique needs of our clients, in or out of the courtroom.

The highly technical world of accounting, auditing, and financial reporting is no place for beginners. We have deep domain knowledge and experience – an acumen uncommon among commercial litigators and white-collar practitioners. Combined with our large talent pool, global resources, and advocacy skills, there is no law firm in the world better qualified to assist clients in any litigation or investigatory setting involving these subjects whether defending these claims or pursuing them.

NOTABLE REPRESENTATIONS

- We represented **Alvarez and Marsal**, as Joint Administrators of NMC Health Europe LLP, in landmark fraud proceedings against the former CEO and CFO of NMC Healthcare (Dr Bavaguthu Shetty and Mr Prasanth Manghat) and the Bank of Baroda, an Indian state-owned bank listed in India. Following a four-month trial before a retired senior English judge, Sir Andrew Smith, QE secured a USD 600 million mid-trial settlement from the Bank of Baroda (during the course of closing submissions). This is one of the largest insolvency settlements ever achieved in the UK and the largest in the Abu Dhabi Global Markets (ADGM). The six-year matter involved complex cross-border fraud claims before the ADGM court, with parallel proceedings in London, relating to the collapse of NMC Health, once the largest private hospital group in the UAE. The Claimants are awaiting judgment in relation to the claims against Dr Shetty and Mr Manghat.
- We represent investors holding €800 million in bonds that were written down to zero as part of the collapse and regulatory resolution of the Spanish bank **Banco Popular**. The related proceedings include criminal investigations of the bank's auditors, **PwC**, who had signed off on the bank's accounts despite signs of fraud in the financial statements. We also represent investors seeking annulment of a decision of the Single Resolution Board, which involves sophisticated arguments concerning the justification and reliability of **Deloitte's** valuation.
- We represent **Lion Point**, which acquired claims from the bankruptcy trustee in a litigation against **EY**. The case concerns the auditors' failure to comply with the professional standards in connection with a Swiss company that was involved in a major bribery scandal – one of the largest ever insolvencies in Switzerland.
- We represent a **Global 500 company** in connection with a confidential investigation by the **Securities and Exchange Commission** into issues concerning accounting treatments, reporting disclosures, books and records, and internal controls stemming from the timeliness and accuracy of certain disclosures under International Financial Reporting Standards and International Accounting Standards.
- We represent **Alvarez & Marsal Europe LLP** as the Joint Administrators of **NMC Health PLC** (in administration), a former Financial Times Stock Exchange 100 listed company, in litigation against EY, its former statutory auditor. NMC Health asserts that EY breached its duties to NMC Health by failing to detect several billions of dollars of undisclosed fraudulent borrowing and failed to verify NMC's bank and debt balances.
- We represent various institutional investors in **Wirecard** shares in a German action against **EY** in relation to their audit failures at Wirecard. The claims are based on the allegation that the auditors signed off on Wirecard's balance sheets for years, disregarding the massive fraud scheme that led to Wirecard's insolvency in 2020 after KPMG refused to verify the existence of substantial cash amounts allegedly held in trust accounts on Wirecard's behalf. The alleged misconduct is subject to independent investigations on behalf of the German Parliament and supervisory procedures.
- We represent **Alvarez & Marsal Europe LLP** as the Joint Administrators of JD Classics Limited (in administration) ("**JDCL**"). JDCL brought claims in the United Kingdom High Court of Justice against its former auditor, **PwC**, concerning PwC's audits of JDCL's financial statements. JDCL

alleges that PwC breached duties as JDCL's auditor in its failure to detect material misstatements (fictitious transactions and asset overvaluations) and its consequent issuance of unqualified audit opinions. JDCL has sought damages from PwC for losses associated with a leveraged buyout of its shares and trading losses.

- We represent dozens of creditors of **Oceanografia S.A. de C.V.**, Mexico's largest oil services company, asserting claims against **Citigroup** and, previously, various **KPMG entities** for over **\$1.1 billion** in damages in connection with their culpable conduct in aiding and/or allowing the collapse and bankruptcy of their client Oceanografia in a massive fraud stemming from a credit facility extended by Citigroup.
- We represent numerous clients in Australia and New Zealand in confidential government regulatory investigations into our clients' accounting practices.
- We represent the administrator of one of the United Kingdom's largest wholesalers and distributors of grocery products in a professional malpractice case against **KPMG** concerning years of alleged breaches by KPMG resulting in damages of approximately £33 million.
- We represent an asset management firm and its principal in a confidential dispute with a Big 4 accounting firm related to the firm's mismanagement and significant accounting errors. Due to our efforts, the accounting firm has conceded its responsibility and is working expeditiously to resolve the significant issues to the client's satisfaction.
- We represent a private company in a confidential dispute against one of the Big 4 accounting firms, bringing claims for failing to detect a major revenue recognition error over a multi-year period. We also represent the company's ownership, which suffered tens of millions of dollars in potential tax losses stemming from the auditor's failure.
- We represented the **Vistra Group**, a global professional services organization, in connection with litigation in multiple jurisdictions over the collapse of the **DC Solar**, the largest Ponzi scheme in the history of the Eastern District of California. DC Solar was set up to manufacture, sell and then lease back solar-powered mobile generators, using funds from outside investor partners whose main upside was the green energy tax credits they could claim, plus additional rent that DC Solar was supposed to be collecting on the leased mobile generators. Ultimately, DC Solar could not find enough demand for solar generators to cover its interest payments and began using later investments to cover the missing rental income from earlier investments. Plaintiff investors sued Vistra on a theory of vicarious and successor liability for allegedly negligent audits performed by a purported predecessor entity, asserting over \$1 billion in losses. We were able to resolve all pending cases – involving differing plaintiff groups – on very attractive terms early in the deposition phase, while the majority of other professional service firm defendants remained in the case.
- We represented the Official Receiver of England and Wales in a claim related to **KPMG's** work as auditor of the **Carillion** group, which collapsed following the discovery of serious accounting irregularities. At the time of its collapse, Carillion was one of England's largest construction businesses. The collapse has been the focus of select committee and regulatory investigations. The claim against KPMG focused on numerous major construction projects across the globe, in which it was alleged that KPMG had fallen short of the standards of a reasonably competent auditor in failing to detect and report certain significant misstatements,

disclosure deficiencies, and management misconduct. The claim sought total damages of approximately £1.3 billion and settled on confidential terms in early 2023.

- We have represented numerous entertainment professionals and companies in challenges to royalty and participation accounting, involving cost accounting principles and contract accounting definitions. Representative clients include **Sony Pictures Entertainment, New Line Cinema Corp., and Warner Bros.**
- We represented **Hound Partners** against **PwC** in a Securities Act claim in the class-action securities fraud cases against **Valeant Pharmaceuticals**. Hound Partners alleged that Valeant and its auditor, PwC, made numerous materially misleading and untrue statements, hid the truth about certain unlawful and deceptive practices, and continued to minimize and obfuscate the truth even as the reality of Valeant's massive fraud to deceive investors began to emerge. Hound Partners settled with PwC on confidential terms.
- We represented plaintiffs in an **Australian shareholder class action**, where it was alleged that defendant auditors had failed to identify or communicate risks with respect to the goodwill valuation of publicly listed law firm Slater & Gordon.
- We represented the **PAH Litigation Trust**, created as part of the bankruptcy plan for **Physiotherapy Associates**, a healthcare company that owned and operated one of the largest networks of physical therapy outpatient clinics in the United States. We asserted breach of fiduciary duty claims against its former officers and directors, fraudulent transfer claims against the two largest selling PE firms, and a variety of claims against its former auditor and other professional advisors – obtaining confidential settlements totaling in the nine-figures.
- We oversaw litigation asserted by the **Sentinel Management Group Litigation Trust** on behalf of Sentinel and its customers against Sentinel's auditors, **McGladrey & Pullen**, which claims settled very favorably. We are further overseeing the prosecution of \$273 million in fraudulent transfer and preference claims asserted by the trust against various futures commissions merchant transferees.
- We represented **ING Bank** in a \$500 million fraud action against **JPMorgan Chase, Bank One, Deloitte, PwC**, 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** to date.
- We were retained by the **Refco Litigation Trust and the Refco Private Actions Trust**, litigation vehicles established pursuant to Refco's Chapter 11 plan to pursue claims belonging to the estates of Refco Inc. and its subsidiaries and private causes of action held by customers of the defunct broker-dealer. We were lead litigation counsel in actions seeking damages in excess of \$2 billion for fraud, breach of fiduciary duty, aiding and abetting, and professional malpractice brought by these Trusts against Refco's officers and professional advisors including, among others, Refco's accountant **Grant Thornton** and its outside counsel Mayer Brown. The case against Grant Thornton was settled on the opening day of a three-week jury trial. The case against **Mayer Brown** was settled on the eve of a critical appellate argument. Both cases were pending in the Southern District of New York.

- We represented the Italian government-appointed commissioner of **Parmalat** in pursuing over \$10 billion in litigation claims in the United States, including claims against financial institutions and Parmalat's former auditors – arising from the largest bankruptcy in European history. We asserted aiding and abetting fraud and audit malpractice actions against numerous **Deloitte** and **Grant Thornton** entities. Early in the case, we obtained a precedent-setting decision in New York federal court to hold the U.S. member firms of both Deloitte and Grant Thornton liable for the conduct of their foreign member firms, despite an elaborate international structure designed by these global accounting firms to shield themselves from such liability. We then obtained a **\$150 million** settlement from Deloitte, and ultimately settled all claims against Grant Thornton on a confidential basis.
- We acted as counsel to the Trustee of the **SemGroup Litigation Trust**. SemGroup and its affiliated debtors filed for bankruptcy precipitously in July 2008, amid revelations of billions of dollars in commodities trading losses and allegations that one or more insiders had improperly utilized corporate resources and failed to adequately disclose unauthorized speculative trading practices. As counsel to the prior Creditors' Committee, we worked to protect and preserve the assets of the debtors' Chapter 11 estates, exploring all potential stand-alone restructuring options and asset-disposition strategies, and identifying value available for distribution to unsecured creditors. As counsel for the Litigation Trust, we obtained several settlements on behalf of the former creditors of SemGroup, including recovering \$30 million against the D&O defendants just after the pleading stage, and, in our \$1.1 billion action for professional malpractice and breach of fiduciary duty against SemGroup's former auditor PwC, reaching a substantial confidential settlement on the eve of a scheduled four-week jury trial in Oklahoma state court.
- We successfully defended numerous **Peregrine-related securities actions** arising from the employee accounting fraud at Peregrine on behalf of Peregrine's former Chairman and outside director, **John Moores**. The accounting fraud led to Peregrine's bankruptcy and conviction of twelve employees, including the CEO, who died in jail. We obtained dismissal on the pleadings for Mr. Moores of a state-court class action, obtained dismissal of the most significant claims in pending federal class actions, and obtained federal court approval of a favorable settlement dismissing Mr. Moores from consolidated federal class actions and from a related state-court action each seeking in excess of \$2 billion from Mr. Moores. We also obtained summary judgment on Mr. Moores' behalf in the state-court action with the largest number of plaintiffs, and obtained affirmance of that ruling on appeal. After fifteen years of litigation, the final opt-out case against Mr. Moores was dismissed, fittingly based on the statute of repose.
- We represented roughly two dozen hedge funds, including international funds, grouped under four management entities – **Elliott, Davidson-Kempner, Appalloosa, and Angelo Gordon** – as plaintiff-holders of Yosemite and Enron Credit-Linked (ECLN) Notes in an action in the **Enron MDL** against **Citibank**, based on its conduct in making loans to Enron that it knew were being accounted for as commodity "trades." 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 secured a settlement in excess of **\$150 million** on claims involving complex accounting and actuarial issues 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 obtained an eight-figure settlement from the actuaries and an additional **\$137 million** settlement from HealthNet.

- We represented a recording artist against **Coopers & Lybrand** (pre-merger) in a case alleging fraud, and obtained a 12-0 jury verdict that found malice, fraud and oppression. We then obtained a favorable settlement during the punitive damages phase.
- We represented London-based private equity funds managed by **Primary Capital Limited** in a professional negligence claim against **EY** arising out of EY's due diligence of a company acquired by the funds. The case, which was set to be the first full examination in the English courts of the duties owed by a due diligence accountant, settled on confidential terms shortly before the start of a four-week trial.
- We represented **United Technologies and Classmates.com** in an SEC investigation into alleged revenue recognition issues, including channel stuffing and roundtrip transactions. No charges were brought.

"Quinn Emanuel is exceptional. The firm is amazingly responsive, creative and provides knowledgeable counsel."

Client Testimonial, *Chambers and Partners*