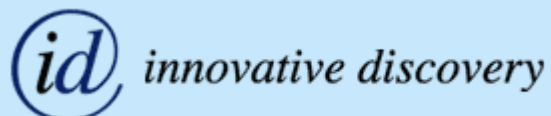


2008 YEAR IN REVIEW

SECURITIES LITIGATION AND ENFORCEMENT

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Agenda

- Introduction
- Presentations
 - > Kevin LaCroix — D&O Diary
 - > Tom Gorman — SEC Actions
 - > Francine McKenna — re: The Auditors
 - > Walter Olson — Point of Law; Overlawyered
- Questions and Answers — (*anonymous*)
- Slides — available on front page of Securities Docket
 - > www.securitiesdocket.com
- Conclusion

Webcast Series

- First in a series
- Next: January 14, 2008:
 - ** *Madoff Litigation — Can the Lost Billions be Recovered? How?*
 - > Brad Friedman, Milberg LLP
 - > Gerald Silk, Bernstein Litowitz
 - > Dr. Fred Dunbar, NERA Economic Consulting
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Panel



Kevin LaCroix



Tom Gorman



Francine McKenna



Walter Olson



Bruce Carton



Kevin LaCroix – The D&O Diary

Three Most Significant Developments of 2008

- Securities Class Actions Lawsuits Surge
- Subprime/Credit Crisis Lawsuits Spread Beyond Financial Sector
- Bank Failures Mount

Three Most Interesting Developments in 2008 Unrelated to Madoff Ponzi Scandal

- WaMu: A Thrift Falls in the Forest
- '33 Act Litigation: Coming Soon to a State Court Near You
- Siemens Pays Largest FCPA Fine Ever



Kevin LaCroix – The D&O Diary

One Bold Prediction for 2009

- SCA filings exceed 2002 levels, driven by Credit Crisis Litigation Outside Financial Sector and Madoff Litigation



Tom Gorman – SEC ACTIONS

Significant unsuccessful enforcement actions and rulings

- *SEC v. Madoff*, Case No. 08 CV 10791 (S.D.N.Y. Filed Dec. 19, 2008)
- *SEC v. Lyon*, Civil Action No. 06 CV 14338 (S.D.N.Y. Filed Dec. 12, 2006 (ruling 2008))

Significant appellate decisions

- *SEC v. Talbot*, Case No. 06-55561 (9th Cir. June 30, 2008)
- *U.S. v. Stringer*, Case No. 06-030100 (9th cir. April 4, 2008)



Tom Gorman – SEC ACTIONS

Key Policy Matter

- Publication of the Enforcement Manual

Significant successful enforcement cases

- *SEC v. Siemens Aktiengesellschaft*, Case No. 08-CV 2167 (D.D.C. Filed Dec. 15, 2008)
- *In The Matter of Faro Technologies, Inc.*, Adm. File No. 3-13059 (June 5, 2008)
- *SEC v. UnitedHealth Group, Inc.*, Case No. 08-CV 6455 (D. Minn. Filed Dec. 22, 2008)



Francine McKenna – re: the Auditors

Three Most Significant Developments of 2008

- Largest firms disclose litigation exposure in total to Treasury, but not their full financials. We're still talking about liability caps.
 - > Pre-Madoff 6 largest auditing firms defendants in 90 private actions with damage claims in excess of \$100 million.
 - > 41 cases seek damages in excess of \$500 million
 - > 27 cases seek damages in excess of \$1 billion
 - > 7 cases seek damages over \$10 billion.
- Big 4 escape significant subprime exposure so far but probably will get whacked by Madoff ancillary suits
- Settlements continue to set new highs but still no one wants to go to trial to settle the arguments once and for all



Francine McKenna – re: the Auditors

Three Most Interesting Developments in 2008 Unrelated to Madoff Ponzi Scandal

- BDO Seidman still hanging on in spite of Banco Espiritu Santo judgment
- All Big 4 subject to class action wage/overtime suits, US and Canada
- Deloitte, sued their own Vice Chairman for insider trading

One Bold Prediction for 2009

- Credit/financial crisis suits will finally use the absence of “going concern” opinions prior to big failures to push at least one Big 4 firm to brink of failure.



Walter Olson — Point of Law, Overlawyered

Three Most Significant Developments in 2008

- Crash turns public against Wall St.
- Democrats take Washington
- Scandals (including Weiss / Lerach Scandals)

Three Most Outrageous Developments in 2008

- Cutting-edge risk methods blow up (AIG, CDS, CDO)
- Low-tech trust-based methods blow up (Madoff)
- Correlation = near 1 among countries for crash if not for regulatory failure



Walter Olson — Point of Law, Overlawyered

One Bold Prediction for 2009

- Another formerly AAA firm will either have execs indicted or be revealed as insolvent



Bruce Carton — Securities Docket

Three Most Significant Developments in 2008

- Madoff, Madoff, Madoff
- SEC on the ropes
- Nov. 2007 – January 2008: Jury verdicts in two securities class action trials (JDS Uniphase; Apollo)

Three Most Interesting Developments in 2008

- SEC admits to ignoring credible evidence of Madoff Ponzi for years
- Marc Dreier, the Houdini of impersonation
- Mark Cuban Blog Attack on SEC

One Bold Prediction for 2009

- 90% of big law firms begin to use Twitter for public relations

Questions?

Thank You

Thank You for attending this webcast.

Next webcast:

- January 14, 2008, 2:00 pm EST

***Madoff Litigation: Can the Lost Billions be Recovered? How?*