

HEDGE FUND, PRIVATE EQUITY, AND FINANCIAL INSTITUTION LITIGATION



Bartlit Beck represents hedge funds, trustees, and private investors in a wide range of complex financial and other disputes. Our lawyers have successfully handled fraud and market manipulation claims, disputes arising out of residential mortgage-backed securities transactions, the pursuit of assigned claims (particularly in the secondary debt market), investor litigation, bankruptcy trustee litigation, and disputes over post-closing adjustments and alleged misrepresentation of financial performance in mergers and acquisitions. Our representation of hedge funds has also included representing funds victimized in times of financial distress by financial institutions and clearing firms, as well as in corporate control contests and proxy fight-related litigation. We have also represented both funds and individuals in disputes following employee departures.

Our lawyers have extensive experience in the industry, with a roster that includes former transactional lawyers who understand complex merger, acquisition, credit, and other agreements, former certified public accountants with audit experience, and former management consultants experienced in complex business and financial analysis.

Our deep understanding of the field and extensive trial experience has driven an outstanding record of success for our clients, including many trial and arbitration wins, as well as favorable pre-trial resolutions and creative settlements.

EXPERIENCE

Elliott Associates, L.P., et al. v. AbbVie Inc.

Represent various investment funds in fraud actions in circuit court in Chicago arising from AbbVie's aborted \$50 billion acquisition of Shire in 2014.

Rauner v. Kirkpatrick (Confidential AAA Arbitration) and Kirkpatrick v. Rauner

Represented Bruce Rauner (former Illinois Governor and former managing partner of private equity firm GTCR) in arbitration related to investment as limited partner in private equity fund. Dispute centered on whether general partner breached fiduciary duties. Tried to a final, confidential arbitral award. Kirkpatrick attempted to litigate a portion of the dispute in the Cook County Circuit Court, but we successfully moved to compel arbitration.

Treasurer of the State of Conn. v. Forstmann Little, et al.

Represented Forstmann Little in litigation brought by the State of Connecticut, alleging breach of fiduciary duty, breach of contract, and violations of securities laws. Connecticut sought approximately \$1 billion in damages. After five-week trial in the Superior Court in Connecticut, the jury rendered a complete defense verdict.

Massachusetts Mutual Life Ins. Co. Residential Mortgage-Backed Securities Litigation

Represented MassMutual in actions in D. Massachusetts under the Massachusetts Uniform Securities Act, against underwriters Credit Suisse and Goldman Sachs, arising from their sales of residential mortgage-backed securities to MassMutual in 2005-2007. Credit Suisse settled after four weeks of trial, taking an additional \$79.5 million charge to earnings because of the settlement payment. Goldman Sachs settled shortly thereafter.

Residential Funding (GMAC) v. DeGeorge Financial

Represented Residential Funding in D. Connecticut jury trial of lender liability case involving purchases of home construction loans. DeGeorge sought \$390 million plus punitive damages. Residential Funding sought \$96 million by counterclaim. Jury verdict for Residential Funding on all issues and awarded \$96 million in damages.

FGIC Ad Hoc Group of Investors

Represented ad hoc group of investors, comprised of hedge funds and insurance companies, in nine Countrywide residential mortgage-backed securities trusts insured by Financial Guaranty Insurance Company (FGIC). Facilitated a \$950 million settlement among Bank of America, FGIC, and BNY Mellon as trustee for the nine trusts.

Countrywide and BAC Home Loans Servicing v. Mortgage Guaranty Insurance Corp.

Represented MGIC in a N.D. California dispute with Countrywide over mortgage insurance coverage. Countrywide, which alleged over \$1 billion in damages, filed a declaratory judgment action against MGIC in California state court. Succeeded in obtaining a stay pending arbitration. Case favorably resolved.

Keely v. Janus

Represented former Janus portfolio manager in D. Colorado action for fraud, breach of employment contract, and related claims against mutual fund company. Won \$4.8 million jury verdict, which was later increased to over \$7 million due to statutory enhancements, interest, and attorneys' fees.

Mortgage Guarantee Insurance Corp. v. Lehman Brothers

Represented MGIC against Lehman Brothers for fraud and breaches of representations and warranties related to mortgage loans insured by MGIC. Bankruptcy trustee sought to disallow MGIC's claim altogether. Following briefing on the issue and mediation, trustee and MGIC reached settlement granting MGIC a \$33 million unsecured claim against Lehman Brothers bankruptcy estate.

Law Debenture Trust Co. of New York

Represented special trustee in investigation regarding compliance with representations and warranties made by seller of mortgage loans and to enforce certain of seller's repurchase obligations.

Hedge Fund Litigation Counseling – Residential Mortgage-Backed Securities

Represented numerous hedge funds on issues involving rights and remedies of securitization certificate holders and securitization trusts, including review of documentation, design of legal strategies, and negotiation

with adverse parties.

DK Acquisition Partners, et al. v. J.P. Morgan Chase, et al.

Represented holders of more than \$1.5 billion in Enron bank debt in S.D. Texas and S.D. New York actions against J.P. Morgan Chase, Citigroup, and affiliates, alleging fraud and other wrongdoing based on defendants' knowledge of and participation in scheme to conceal Enron's true financial condition. Case settled.

Ocean Ridge Capital Advisors, as Litigation Trustee v. Metropolitan Life Insurance Company, et al.

Represented litigation trustee in S.D. New York action against directors and officers for breach of fiduciary duty and against recipients of preferential and fraudulent transfers exceeding \$60 million from Meridian Automotive Systems, Inc. Case settled.

Amaranth LLC v. J.P. Morgan Chase & Co.

Represented hedge fund and trading advisor in their action for breach of contract and tortious interference with prospective economic advantage against investment bank, commercial bank, and futures commission merchant.

Racepoint Partners v. JPMorgan Chase

Represented holders of more than \$1 billion in Enron bonds in their action in Supreme Court in New York against JPMorgan Chase as indenture trustee, alleging breach of contract, breach of implied duty of good faith and fair dealing, and breach of fiduciary duty.

Private Equity Fund Arbitration

Represented the private equity fund buyer of company in post-closing and indemnification dispute in Washington, D.C. with private equity fund seller of company. Case settled.

Merrill Lynch Bank & Trust Co., FSB v. National City Bank

Represented National City Bank in Supreme Court in New York case concerning its \$4.5 billion sale of mortgage origination and servicing businesses to Merrill Lynch. Case settled.

JPMorgan v. IDW and Edsparr

Represented hedge fund in S.D. New York dispute involving post-employment obligations of former employee. Case favorably resolved.