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FOCUS AREAS

Securities Fraud

Global Shareholder Litigation

Direct & Opt-Out

Fiduciary

EDUCATION

Cornell University
B.S.

New College, Oxford University
Joint Programme in International Human Rights Law

The George Washington University Law School
J.D.

ADMISSIONS

Pennsylvania

New Jersey

New York

Delaware

USDC, Southern District of New York

USDC, Eastern District of New York

Sharan Nirmul, a partner of the Firm, concentrates his practice in the area of securities, consumer and fiduciary class action and complex commercial litigation, exclusively representing the interests of plaintiffs and particularly, institutional investors.

Sharan represents a number of the world's largest institutional investors in cutting edge, high stakes complex litigation. In addition to his securities litigation practice, he has been at the forefront of developing the Firm's fiduciary litigation practice and has litigated ground-breaking cases in areas of securities lending, foreign exchange, and MBS trustee litigation. Mr. Nirmul was instrumental in developed the underlying theories that propelled the successful recoveries for customers of custodial banks in *Compsource Oklahoma v. BNY Mello*n, a $280 million recovery for investors in BNY Mellon's securities lending program, and *AFTRA v. JP Morgan*, a $150 million recovery for investors in JP Morgan's securities lending program. In *Transatlantic Re v. A.I.G.*, Mr. Nirmul recovered $70 million for Transatlantic Re in a binding arbitration against its former parent, American International Group, arising out of AIG's management of a securities lending program.

Focused on issues of transparency by fiduciary banks to their custodial clients, Mr. Nirmul served as lead counsel in a multi-district litigation against BNY Mellon for the excess spreads it charged to its custodial customers for automated FX services. Litigated over four years, involving 128 depositions and millions of pages of document discovery, and with unprecedented collaboration with the U.S. Department of Justice and the New York Attorney General, the litigation resulted in a settlement for the

USDC, District of New Jersey

USDC, District of Delaware

USDC, Eastern District of Pennsylvania

USCA, Second Circuit

USCA, Third Circuit

USCA, Seventh Circuit

Bank's custodial customers of $504 million. Mr. Nirmul also spearheaded litigation against the nation's largest ADR programs, Citibank, BNY Mellon and JP Morgan, which alleged they charged hidden FX fees for conversion of ADR dividends. The litigation resulted in $100 million in recoveries for ADR holders and significant reforms in the FX practices for ADRs.

Mr. Nirmul has served as lead counsel in several high-profile securities fraud cases, including a $2.4 billion recovery for Bank of America shareholders arising from BoA's shotgun merger with Merrill Lynch in 2009. More recently, Mr. Nirmul was lead trial counsel in litigation arising from the IPO of social media company Snap, Inc., which has resulted in a $187.5 million settlement for Snap's investors, claims against Endo Pharmaceuticals, arising from its disclosures concerning the efficacy of its opioid drug, Opana ER, which resulted in a recovery of $80.5 million for Endo's shareholders, and claims against Ocwen Financial, arising from its mortgage servicing practices and disclosures to investors, which settled on the eve of trial for $56 million. Mr. Nirmul currently serves as lead trial counsel in pending securities class actions involving General Electric, Kraft-Heinz, and the stunning collapse of Luckin Coffee Inc., following disclosure of a massive accounting fraud just ten months after its IPO. He also currently serves on the Executive Committee for the multi-district litigation involving the Chicago Board Options Exchange and the manipulation of its key product, the Cboe Volatility Index.

Mr. Nirmul received his law degree from The George Washington University National Law Center and undergraduate degree from Cornell University. He was born and grew up in Durban, South Africa.

Current Cases

- Becton, Dickinson and Company ("BD")

CASE CAPTION	*Industriens Pensionsforsikring A/S v. Becton, Dickinson and Company, et al.*
COURT	United States District Court for the District of New Jersey
CASE NUMBER	2:20-cv-02155-SRC-CLW
JUDGE	Honorable Stanley R. Chesler and Honorable Cathy L. Waldor
PLAINTIFF	Industriens Pensionsforsikring A/S ("Industriens")
DEFENDANTS	Becton, Dickinson and Company, Vincent A. Forlenza, Thomas E. Polen, and Christopher R. Reidy

CLASS PERIOD	November 5, 2019 through February 5, 2020, inclusive

This securities fraud class action arises out of Becton's alleged misrepresentations concerning its ability to market one of its key products—the Alaris infusion pump system ("Alaris")—in 2020.

For years, Alaris has been an important revenue driver for Becton, accounting for hundreds of millions of dollars in annual sales, and the cornerstone product of its main Becton Medical segment. Beginning in November 2019, Defendants stopped shipping Alaris, explaining to investors that the pause related to mere software "upgrades," would quickly resolve, and would simply push Alaris sales into the final three quarters of Becton's fiscal 2020, allowing for strong Company-wide 2020 earnings growth. In reality, however, the problems with Alaris were much more severe than Defendants let on, as the product had been beset with undisclosed defects, safety and compliance issues, and regulatory failures for months, and in some cases, years, prior to late 2019. The Alaris shipping hold was in fact precipitated by actions of the Food and Drug Administration, and highly likely to persist indefinitely, hurting Becton revenues. When Defendants revealed the full sweep of these issues in February 2020, and the fact that Alaris would be pulled from the market —causing earnings guidance for 2020 to be slashed—Becton's stock price dropped over $33.00 in a single day of trading.

Industriens filed a third amended complaint in October 2021 on behalf of a putative class of investors alleging that Becton and then-executives Forlenza, Polen and Reidy, violated Section 10(b) of the Securities Exchange Act by making false and misleading statements about Alaris and Company guidance. As alleged, Defendants downplayed and outright misrepresented the severe safety and regulatory problems Becton knew troubled the Alaris product line, and assured investors that Becton was on track to meet its earnings guidance for 2020, anchored by Alaris revenues, through a series of false or misleading statements. Meanwhile, Forlenza and Polen enriched themselves by together selling over $58 million worth of their personally-held shares of Becton stock between November 2019 and February 2020. The February 2020 revelation of the truth about the Alaris issues led directly to the sharp decline in Becton's stock price noted above, causing significant losses and injury to investors.

On August 11, 2022, U.S. District Court Judge Stanley R. Chesler issued an opinion denying the defendants' motion to dismiss in part. The opinion held that Industriens adequately alleged Polen

and Becton issued false and misleading statements regarding: (i) the impetus for Becton to halt shipping of Alaris, (ii) the nature and severity of the regulatory risks facing Alaris, (iii) the impact a freeze on Alaris sales would have on the feasibility of meeting the company-wide sales guidance for the 2020 fiscal year.
On December 22, 2022, Plaintiff moved for leave to amend the Complaint. On June 15, 2023, the Court granted Plaintiff's motion and Plaintiff filed an amended Complaint on June 22, 2023.
On January 17, 2023, Plaintiff moved for class certification. On August 3, 2023, Judge Chesler granted Plaintiff's motion, certifying a class of "All persons and entities who, from November 5, 2019 to February 5, 2020, inclusive . . . purchased or otherwise acquired Becton, Dickinson and Company ("BD") common stock or call options, or sold BD put options, and were damaged thereby . . ." and appointing Kessler Topaz Meltzer & Check as Class Counsel. On March 18, 2024, Plaintiff moved for final approval of the $85 million settlement. Judge Waldor has scheduled a final approval hearing for Monday, April 22, 2024.
Read Third Amended Class Action Complaint Here
Read Fourth Amended Class Action Complaint Here

- First Republic Bank

CASE CAPTION	*In re Alecta Tjänstepension Ömsesidigt, et al. v. Herbert, et al.*
COURT	United States District Court for the Northern District of California
CASE NUMBER	3:23-cv-02940-AMO
JUDGE	Honorable Araceli Martínez-Olguín
PLAINTIFF	Alecta Tjänstepension Ömsesidigt; Neil Fairman
DEFENDANTS	James Herbert

	II; Hafize Erkan; Michael Roffler; Olga Tsokova; Michael Selfridge; Neal Holland; and KPMG LLP
CLASS PERIOD	October 21, 2021 to April 28, 2023, inclusive

This securities fraud class action arises out of misrepresentations and omissions made by former executives of First Republic Bank ("FRB" or the "Bank") and FRB's auditor, KPMG LLP, about significant risks faced by FRB that led to its dramatic collapse in May 2023, the second largest bank collapse in U.S. history.

FRB was a California-based bank that catered to high-net worth individuals and businesses in coastal U.S. cities. Leading into and during the Class Period, FRB rapidly grew in size: in 2021 alone, FRB grew total deposits by 36% and total assets by 27%. In 2022, FRB grew by another 17%, exceeding $200 billion in total assets. During this period, Defendants assured investors that the Bank's deposits were well-diversified and stable. Defendants also assured investors that they were actively and effectively mitigating the Bank's liquidity and interest rate risks.

The Complaint alleges that Defendants failed to disclose material risks associated with the Bank's deposit base and with respect to Defendants' management of liquidity and interest rate risk. In contrast to Defendants' representations regarding the safety and stability of FRB, the Complaint alleges that Defendants relied on undisclosed sales practices to inflate the Bank's deposit and loan growth, including, for example, by offering abnormally low interest rates on long-duration, fixed-rate mortgages in exchange for clients making checking deposits. And contrary to Defendants' representations that they actively and responsibly managed the Bank's interest rate risk, the Complaint details how Defendants continually violated the Bank's interest rate risk management policies by concentrating the Bank's assets in long-duration, fixed rate mortgages. In 2022, when the Federal Reserve began rapidly raising interest rates, the Bank's low-interest, long-duration loans began to decline in value, creating a mismatch between the Bank's assets and liabilities. Internally, FRB's interest rate models showed severe breaches of the Bank's risk limits in higher rate scenarios, and Defendants discussed potential corrective actions at risk management meetings. However, Defendants took no corrective action, continued to mislead investors about the Bank's interest

rate risk, and only amplified the Bank's risk profile by deepening the Bank's concentration in long-duration loans.

On October 14, 2022, investors began to learn the truth when FRB announced financial results for the third quarter of 2022, which showed that rising interest rates had begun to impact the Bank's key financial metrics and that the Bank had lost $8 billion in checking deposits. Despite these trends, Defendants continued to reassure investors that Bank's deposits were well-diversified and stable, that FRB had ample liquidity, and that rising interest rates would not limit the growth in FRB's residential mortgage loan business. In FRB's 2022 annual report (released in February 2023, and audited by KPMG), Defendants further claimed that, despite the Bank's increasing interest rate risks, the Bank possessed the ability to hold its concentrated portfolio of long-duration loans and securities to maturity. The undisclosed risks materialized further on March 10, 2023, when peer bank Silicon Valley Bank failed and FRB experienced massive deposit withdrawals of up to $65 billion over two business days, constituting over 40% of the Bank's total deposits. Defendants did not reveal these catastrophic deposit outflows to the market and instead reassured investors regarding the Bank's liquidity position. In the ensuing weeks, FRB's financial position unraveled further, resulting in multiple downgrades by rating agencies, and additional disclosures regarding the magnitude of FRB's deposit outflows and the Bank's worsening liquidity position. On May 1, 2023, FRB was seized by regulators and placed into receivership. These disclosures virtually eliminated the value of FRB's common stock and preferred stock.

On February 13, 2024, Plaintiffs filed a 203-page complaint on behalf of a putative class of investors who purchased FRB common stock and preferred stock, alleging violations of Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934. The parties are currently engaged in briefing on Defendants' motions to dismiss.

- General Electric Company

CASE CAPTION	*Sjunde AP-Fonden, et al., v. General Electric Company, et al.*
COURT	United States District Court for the Southern District of New York
CASE NUMBER	1:17-cv-08457-JMF
JUDGE	Honorable Jesse M. Furman
PLAINTIFFS	Sjunde AP-Fonden and The Cleveland Bakers and Teamsters Pension Fund

DEFENDANTS	General Electric Company and Jeffrey S. Bornstein
CLASS PERIOD	March 2, 2015 through January 23, 2018, inclusive

This securities fraud class action case arises out of alleged misrepresentations made by General Electric ("GE") and its former Chief Financial Officer, Jeffrey S. Bornstein (together, "Defendants"), regarding the use of factoring to conceal cash flow problems that existed within GE Power between March 2, 2015, and January 24, 2018 (the "Class Period").

GE Power is the largest business in GE's Industrials operating segment. The segment constructs and sells power plants, generators, and turbines, and also services such assets through long term service agreements ("LTSAs"). In the years leading up to the Class Period, as global demand for traditional power waned, so too did GE's sales of gas turbines and its customer's utilization of existing GE-serviced equipment. These declines drove down GE Power's earnings under its LTSAs associated with that equipment. This was because GE could only collect cash from customers when certain utilization levels were achieved or upon some occurrence within the LTSA, such as significant service work.

Plaintiffs allege that in an attempt to make up for these lost earnings, GE modified existing LTSAs to increase its profit margin and then utilized an accounting technique known as a "cumulative catch-up adjustment" to book immediate profits based on that higher margin. In most instances, GE recorded those cumulative catch-up earnings on its income statement long before it could actually invoice customers and collect cash under those agreements. This contributed to a growing gap between GE's recorded non-cash revenues (or "Contract Assets") and its industrial cash flows from operating activities ("Industrial CFOA").

In order to conceal this increasing disparity, Plaintiffs allege that GE increased its reliance on long-term receivables factoring (i.e., selling future receivables to GE Capital, GE's financing arm, or third parties for immediate cash). Through long-term factoring, GE pulled forward future cash flows, which it then reported as cash from operating activities ("CFOA"). GE relied on long-term factoring to generate CFOA needed to reach publicly disclosed cash flow targets. Thus, in stark contrast to the true state of affairs within GE Power—and in violation of Item 303 of Regulation S-K—GE's Class Period financial statements did not disclose material facts regarding GE's factoring practices, the true extent of the cash flow problems that GE was attempting to conceal through receivables factoring, or the risks associated with GE's reliance on factoring.

Eventually, however, GE could no longer rely on this unsustainable practice to conceal its weak Industrial cash flows. As the truth was gradually revealed to investors—in the form of, among other things, disclosures of poor Industrial cash flows and massive reductions in Industrial CFOA guidance—GE's stock price plummeted, causing substantial harm to Plaintiffs and the Class.
In January 2021, the Court sustained Plaintiffs' claims based on allegations that GE failed to disclose material facts relating its practice of and reliance on factoring, in violation of Item 303, and affirmatively misled investors about the purpose of GE's factoring practices. In April 2022, following the completion of fact discovery, the Court granted Plaintiffs' motion for class certification, certifying a Class of investors who purchased or otherwise acquired GE common stock between February 29, 2016 and January 23, 2018. In that same order, the Court granted Plaintiffs' motion for leave to amend their complaint to pursue claims based on an additional false statement made by Defendant Bornstein. The Court had previously dismissed these claims but, upon reviewing Plaintiffs' motion—based on evidence obtained through discovery—permitted the claim to proceed.
On September 28, 2023, the Court entered an order denying Defendants' motion for summary judgment, sending Plaintiffs' claims to trial. In March 2023, the Court denied Defendants' motion for reconsideration of its summary judgment decision. Trial is set to begin in November 2024.
Read Fifth Amended Consolidated Class Action Complaint Here
Read Opinion and Order Granting and Denying in Part Motion to Dismiss Here
Read Order Granting Motion for Class Certification and for Leave to Amend Here
Click Here to Read the Class Notice
Read Opinion and Order Here (9/28/23)
Read Memorandum Opinion & Order Here (3/21/24)

- Organogenesis Holdings Inc.,

CASE CAPTION	*Meyer, et al. v. Organogenesis Holdings Inc., Gary S. Gillheeney, Sr., and David C. Francisco*
COURT	United States District Court for the Eastern District of New York
CASE	1:21-cv-06845

NUMBER	
JUDGE	Honorable Diane Gujarati
PLAINTIFFS	Donald Martin Meyer, Manishkumar H. Bhagat, and Dustin L. Lineweber
DEFENDANTS	Organogenesis Holdings Inc. (“Organogenesis”), Gary S. Gillheeney, Sr., and David C. Francisco
CLASS PERIOD	August 10, 2020 through August 9, 2022

This securities fraud class action case arises out of Defendants’ false or misleading statements and omissions of material fact regarding Organogenesis’s revenue growth between August 10, 2020 and August 9, 2022. Organogenesis primarily manufacturers and sells skin substitute products used in the treatment of chronic and acute wounds. During the Class Period, Plaintiffs allege that Organogenesis and Defendants Gillheeney and Francisco, the Company’s Chief Executive Office and Chief Financial Officer, respectively, engaged in a scheme to game the Medicare reimbursement system for two of Organogenesis’s skin substitute products—Affinity and PuraPly XT—to boost revenues and inflate the Company’s stock price. Defendants’ scheme centered on illegal marketing efforts that sought to induce physicians to purchase Affinity and PuraPly XT over competing products by marketing the difference, or “spread” between the amount Organogenesis charged physicians for these products and the amount physicians were reimbursed by certain Medicare Administrative Contractors (“MAC”). Plaintiffs further allege that Defendant Gillheeney personally profited from Defendants’ scheme by selling $16.8 million of Organogenesis common stock during the Class Period while the Company’s stock price was inflated as a result of Defendants’ misstatements and omissions.

Defendants’ scheme gradually unraveled beginning on October 12, 2021, when a market analyst issued a report alleging that Organogenesis’s rapid growth was the result of Defendants’

undisclosed marketing of the Medicare reimbursement "spread" for Affinity and PuraPly XT–i.e., the difference between the price paid by a physician and the amount reimbursed by Medicare. This disclosure caused Organogenesis's stock price to decline approximately 14%. Defendants, however, continued to mislead the market and reassure investors that Organogenesis's revenue growth was genuine and sustainable.

Defendants' scheme was thwarted when Medicare set a national Average Selling Price ("ASP") for Affinity that was significantly lower than the amount physicians were reimbursed by the MACs, leading to a rapid decline in Affinity sales. On August 9, 2022, Organogenesis announced its second quarter 2022 financial results, which disclosed that Affinity sales had declined substantially as a result of the recently established ASP. Following this revelation, Organogenesis's stock price declined 20%.

Following an intensive investigation by Kessler Topaz, which included interviews with former Organogenesis employees and obtaining Medicare reimbursement data through the Freedom of Information Act, on October 24, 2022, Plaintiffs filed an Amended Complaint on behalf of a putative class of investors alleging that Defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. On March 13, 2023, Defendants filed a motion to dismiss the Amended Complaint. Briefing on that motion is complete and pending before the Court.
Read Amended Class Action Complaint Here

- Rivian Automotive Inc.

CASE CAPTION	*Charles Larry Crews, Jr., et al. v. Rivian Automotive Inc., et al.*
COURT	United States District Court for the Central District of California Western Division
CASE NUMBER	2:22-cv-0524
JUDGE	Honorable Josephine L. Staton

PLAINTIFFS	Sjunde AP-Fonden, James Stephen Muhl
DEFENDANTS	Rivian Automotive, Inc. (“Rivian” or the “Company”), Robert J. Scaringe, Claire McDonough, Jeffrey R. Baker, Karen Boone, Sanford Schwartz, Rose Marcario, Peter Krawiec, Jay Flatley, Pamela Thomas-Graham, Morgan Stanley & Co. LLC, Goldman Sachs & Co., LLC, J.P. Morgan Securities LLC, Barclays Capital Inc., Deutsche Bank Securities Inc., Allen & Company LLC, BofA Securities, Inc., Mizuho Securities USA LLC, Wells Fargo Securities,

	LLC, Nomura Securities International, Inc., Piper Sandler & Co., RBC Capital Markets, LLC, Robert W. Baird & Co. Inc., Wedbush Securities Inc., Academy Securities, Inc., Blaylock Van, LLC, Cabrera Capital Markets LLC, C.L. King & Associates, Inc., Loop Capital Markets LLC, Samuel A. Ramirez & Co., Inc., Siebert Williams Shank & Co., LLC, and Tigress Financial Partners LLC.
CLASS PERIOD	November 10, 2021 through March 10, 2022, inclusive

This securities fraud class action case arises out of Defendants' representations and omissions made in connection with Rivian's highly-anticipated initial public offering ("IPO") on November 10, 2021. Specifically, the Company's IPO offering documents failed to disclose material facts and risks to investors arising from the true

cost of manufacturing the Company's electric vehicles, the R1T and R1S, and the planned price increase that was necessary to ensure the Company's long-term profitability. During the Class Period, Plaintiffs allege that certain defendants continued to mislead the market concerning the need for and timing of a price increase for the R1 vehicles. The truth concerning the state of affairs within the Company was gradually revealed to the public, first on March 1, 2022 through a significant price increase—and subsequent retraction on March 3, 2022—for existing and future preorders. And then on March 10, 2022, the full extent Rivian's long-term financial prospects was disclosed in connection with its Fiscal Year 2022 guidance. As alleged, following these revelations, Rivian's stock price fell precipitously, causing significant losses and damages to the Company's investors.

On July 22, 2022, Plaintiffs filed a Consolidated Class Action Complaint on behalf of a putative class of investors alleging that Rivian, and its CEO Robert J. Scaringe ("Scaringe"), CFO Claire McDonough ("McDonough"), and CAO Jeffrey R. Baker ("Baker") violated Sections 10(b) and 20(a) of the Securities Exchange Act. Plaintiffs also allege violations of Section 11, Section 12(a)(2), and Section 15 of the Securities Act against Rivian, Scaringe, McDonough, Baker, Rivian Director Karen Boone, Rivian Director Sanford Schwartz, Rivian Director Rose Marcario, Rivian Director Peter Krawiec, Rivian Director Jay Flatley, Rivian Director Pamela Thomas-Graham, and the Rivian IPO Underwriters. In August 2022, Defendants filed motions to dismiss, which the Court granted with leave to amend in February 2023. On March 16, 2023, Defendants filed motions to dismiss the amended complaint. In July 2023, the Court denied Defendants' motions to dismiss the amended complaint in its entirety. The case is now in fact discovery and the parties are engaged in briefing on Plaintiffs' motion for class certification.

Read Consolidated Class Action Complaint Here
Read Amended Consolidated Class Action Complaint Here

- Silicon Valley Bank ("SVB")

CASE CAPTION	*In re SVB Fin. Grp. Sec. Litig.*
COURT	United States District Court for the Northern District of California
CASE NUMBER	3:23-cv-01097-JD

JUDGE	Honorable James Donato
PLAINTIFFS	Norges Bank; Sjunde AP-Fonden; Asbestos Workers Philadelphia Welfare and Pension Fund; Heat & Frost Insulators Local 12 Funds
EXCHANGE ACT DEFENDANTS	Gregory W. Becker; Daniel J. Beck
EXCHANGE ACT CLASS	Purchasers of the common stock of Silicon Valley Bank Financial Group between January 21, 2021, to March 10, 2023, inclusive
SECURITIES ACT DEFENDANTS	Gregory W. Becker; Daniel J. Beck, Karen Hon; Goldman Sachs & Co. LLC; BofA Securities, Inc.; Keefe, Bruyette & Woods, Inc.; Morgan Stanley & Co. LLC; Roger Dunbar; Eric Benhamou; Elizabeth Burr; John Clendening;

	Richard Daniels; Alison Davis; Joel Friedman; Jeffrey Maggioncalda; Beverly Kay Matthews; Mary J. Miller; Kate Mitchell; Garen Staglin; KPMG LLP
SECURITIES ACT CLASS	Purchasers in the following registered offerings of securities issued by Silicon Valley Bank Financial Group: (i) Series B preferred stock and 1.8% Senior Notes offering on February 2, 2021; (ii) common stock offering on March 25, 2021; (iii) Series C preferred stock and 2.10% Senior Notes offering on May 13, 2021; (iv) common stock offering on August 12, 2021; (v) Series D preferred stock and 1.8% Senior Notes offering on October

28, 2021; and (vi) 4.345% Senior Fixed Rate/Floating Rate Notes and 4.750% Senior Fixed Rate/Floating Rate Notes offering on April 29, 2022.

Plaintiffs bring this securities fraud class action under the Securities Exchange Act of 1934 ("Exchange Act") and Securities Act of 1933 ("Securities Act") against former executives and Board members of Silicon Valley Bank ("SVB" or the "Bank"), underwriters of certain of SVB's securities offerings, and the Bank's auditor, KPMG LLP (collectively, "Defendants"). The action centers on Defendants' misrepresentations and omissions concerning the Bank's deficient risk management, including its management of liquidity and interest rate risks. A post mortem report from the Federal Reserve ultimately found that these deficiencies were directly linked to the Bank's collapse in March 2023.

The Exchange Act claims are brought on behalf of all persons and entities who purchased or otherwise acquired the common stock of Silicon Valley Bank Financial Group, the parent company of SVB, between January 21, 2021 and March 10, 2023, inclusive (the "Class Period"), and were damaged thereby. Specifically, Plaintiffs allege that throughout the Class Period, SVB's CEO Gregory W. Becker and CFO Daniel Beck (the "Exchange Act Defendants") made false and misleading statements and omissions regarding SVB's risk management practices, and its ability to hold tens of billions of dollars in "HTM" securities to maturity.

Contrary to the Exchange Act Defendants' statements, and unbeknownst to SVB investors, SVB suffered from severe and significant deficiencies in its risk management framework and, accordingly, could not adequately assess, measure, and mitigate the many risks facing the Bank, nor properly assess its ability to hold its HTM securities to maturity. As the Federal Reserve has outlined, SVB had a grossly deficient risk management program that posed a "significant risk" to "the Firm's prospects for remaining safe and sound"; had in place interest rate models that were unrealistic and "not reliable"; employed antiquated stress testing methodologies; and had a liquidity risk management program that threatened SVB's "longer term financial resiliency" by failing to ensure that the Bank would have "enough easy-to-tap cash on hand in the event of trouble" or assess how its projected

contingency funding would behave during a stress event. Plaintiffs further allege that the Exchange Act Defendants were well aware of these deficiencies because, among other things, the Federal Reserve repeatedly warned the Exchange Act Defendants about the deficiencies and the dangers they posed throughout the Class Period.

The Securities Act claims are brought on behalf of all persons and entities who purchased or acquired SVB securities in or traceable to SVB's securities offerings completed on or about February 2, 2021, March 25, 2021, May 13, 2021, August 12, 2021, October 28, 2021, and April 29, 2022 (the "Offerings"). Plaintiffs allege that the offering documents accompanying these issuances also contained materially false statements regarding the effectiveness of the Bank's interest rate and liquidity risk management, and its ability to hold its HTM securities to maturity. Through these Offerings, SVB raised $8 billion from investors.

Investors began to learn the relevant truth concealed by Defendants' misrepresentations and omissions in 2022, when Defendants reported that, contrary to their prior representations, the rising interest rate environment had caused an immediate impact to the Bank's financial results and future estimates. On March 8, 2023, the relevant truth was further revealed when SVB announced that, due to short-term liquidity needs, the Bank had been forced to sell all of its available for sale securities portfolio for a nearly $2 billion dollar loss, and would need to raise an additional $2.25 billion in funding. Two days later, on March 10, 2023, the California Department of Financial Protection & Innovation closed SVB and appointed the FDIC as the Bank's receiver. SVB has filed for bankruptcy, and Congress, the DOJ, the SEC, and multiple other government regulators have commenced investigations into the Bank's collapse and the Exchange Act Defendants' insider trading.

On January 16, 2024, Plaintiffs filed an amended operative complaint detailing Defendants' violations of the federal securities laws. The parties are currently engaged in briefing on Defendants' motions to dismiss.

- Wells Fargo (SEB)

CASE CAPTION	*SEB Investment Management AB, et al. v. Wells Fargo & Co., et al.*
COURT	United States District Court for the Northern District of California
CASE NUMBER	3:22-cv-03811-TLT
JUDGE	Honorable Trina L. Thompson

PLAINTIFFS	SEB Investment Management AB; West Palm Beach Firefighters' Pension Fund
DEFENDANTS	Wells Fargo & Company, Charles W. Scharf, Kleber R. Santos, and Carly Sanchez
CLASS PERIOD	February 24, 2021 to June 9, 2022, inclusive

This securities fraud class action arises out of Wells Fargo's misrepresentations and omissions regarding its diversity hiring initiative, the Diverse Search Requirement. According to Wells Fargo, the Diverse Search Requirement mandated that for virtually all United States job openings at Wells Fargo that paid $100,000 a year or more, at least half of the candidates interviewed for an open position had to be diverse (which included underrepresented racial or ethnic groups, women, veterans, LGBTQ individuals, and those with disabilities).
Throughout the Class Period, Defendants repeatedly lauded the Diverse Search Requirement to the market. In reality, however, Wells Fargo was conducting "fake" interviews of diverse candidates simply to allow the Company to claim compliance with the Diverse Search Requirement. Specifically, Wells Fargo was conducting interviews with diverse candidates for jobs where another candidate had already been selected. These fake interviews were widespread, occurring across many of Wells Fargo's business lines prior to and throughout the Class Period. When the relevant truth concealed by Defendants' false and misleading statements was revealed on June 9, 2022, the Company's stock price declined significantly, causing significant losses to investors.
On January 31, 2023, Plaintiffs filed a complaint on behalf of a putative class of investors alleging that Defendants Wells Fargo, Scharf, Santos, and Sanchez violated Section 10(b) of the Securities Exchange Act of 1934. In addition, the complaint alleged that Scharf, as CEO of Wells Fargo, violated Section 20(a) of the Securities Exchange Act of 1934. Defendants filed a motion to dismiss on April 3, 2023, which the Court granted with leave to amend on August 18, 2023. On September 8, 2023, Plaintiffs filed an amended complaint. Defendants' moved to dismiss the amended complaint in October 2023. Briefing on that motion will be complete in January 2024.
Read the Class Action Complaint for Violations of the Federal Securities Laws Here

Settled

- BNY Mellon Bank, N.A.
  Served as co-lead counsel in case alleging that BNY Mellon

Bank, N.A. and the Bank of New York Mellon (BNY Mellon) breached fiduciary and contractual duties in connection with its securities lending program.
On behalf of the Electrical Workers Local No. 26 Pension Trust Fund, we claimed that BNY Mellon imprudently invested cash collateral obtained under the lending program in medium term notes issued by Sigma Finance, Inc.—a foreign structured investment vehicle that went into receivership—in breach of its common law fiduciary duties, its fiduciary duties under ERISA and its contractual obligations under the securities lending agreements. After the close of discovery, the case settled for $280 million.

- Countrywide Financial Corp.
  As co-lead counsel representing the Maine Public Employees' Retirement System, secured a $500 million settlement for a class of plaintiffs that purchased mortgage-backed securities (MBS) issued by Countrywide Financial Corporation (Countrywide).
  Plaintiffs alleged that Countrywide and various of its subsidiaries, officers and investment banks made false and misleading statements in more than 450 prospectus supplements relating to the issuance of subprime and Alt-A MBS—in particular, the quality of the underlying loans. When information about the loans became public, the plaintiffs' investments declined in value. The ensuing six-year litigation raised several issues of first impression in the Ninth Circuit.

- Delphi Corporation: Shareholders recover in accounting case
  Represented an Austrian mutual fund manager, Raiffeisen Capital Management, as co-lead plaintiff in class action litigation alleging that auto-parts manufacturer Delphi Corporation (Delphi) had materially overstated its revenue, net income and financial results over a five-year period.
  Specifically, we charged that Delphi had improperly (i) treated financing transactions involving inventory as sales and disposition of inventory; (ii) treated financing transactions involving "indirect materials" as sales of these materials; and (iii) accounted for payments made to and credits received from General Motors as warranty settlements and obligations. When the fraudulent accounting practices became known, Delphi was forced to restate five years of earnings, and ultimately declared bankruptcy. We reached a $38 million settlement with Delphi's outside auditor; in addition, the class has excellent prospects for recovery through bankruptcy litigation.

- Luckin Coffee Inc.
  This securities fraud class action arises out of Defendants' misrepresentations and omissions concerning the financial status of the Chinese coffee company Luckin Coffee, Inc. During the class period, Luckin promoted a sales model

wherein it would operate at a loss for several years for the purpose of gaining market share by opening thousands of app-based quick -serve coffee kiosks throughout China. Between 2017 and 2018, Luckin claimed its number of stores increased from just nine to 2,073 stores. It also claimed that its total net revenues grew from $35,302 to $118.7 million in that same period.

On May 17, 2019 Luckin, through an initial public offering (IPO) offered 33 million ADSs to investors at a price of $17.00 per ADS, and reaped over $650 million in gross proceeds. On January 10, 2020 Luckin conducted an SPO of 13.8 million ADSs pried at $42.00 each, netting another $643 million for the company. Unbeknownst to investors, however, Luckin's reported sales, profits, and other key operating metrics were vastly inflated by fraudulent receipt numbering schemes, fake related party transactions, and fraudulent inflation of reported costs, among other methods of obfuscating the truth.

Following a market analyst's report wherein the sustainability of Luckin's business model and the accuracy of its reported earnings were challenged, after conducting an internal investigation, Luckin ultimately admitted to the fraud.

Plaintiffs filed a 256 page complaint alleging violations of Section 10(b) of the Securities Exchange Act against the Exchange Act Defendants, violations of Section 20(a) of the Exchange Act against the Executive Defendants, violations against Section 11 of the Securities Act against all Defendants, violations of Section 15 of the Securities Act against the Executive Defendants and the Director Defendants, and violations of Section 12(a)(2) of the Securities Act against the Underwriter Defendants. As alleged, following a series of admissions from Luckin and Defendant Lu admitting the existence and scope of the fraud, Luckin's share price dropped from $26.20 to $1.38 per share, before ultimately being delisted.

Luckin is currently undergoing liquidation proceedings in the Cayman Islands, where it is incorporated. Luckin also filed for Chapter 15 bankruptcy in the Southern District of New York.

The Underwriter Defendants and Thomas Meier, an outside director filed motions to dismiss the Complaint which are pending. None of the Executive Defendants or any other Director Defendants have appeared in this Action and all are residents of the PRC. They were served pursuant to the Hague Convention.

On October 26, 2021, Lead Plaintiffs reached a $175 million settlement with Luckin to resolve all claims against all Defendants.

News

- August 19, 2021 - Claims Against Kraft Heinz and 3G Capital Arising From Unprecedented $15.4 Billion Writedown Proceed

to Discovery

- October 1, 2020 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2021
- September 24, 2019 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2020
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer
- November 5, 2015 - BNYM Settles Forex Claims for $504 Million In Restitution to its Domestic Custodial Clients

Speaking Engagements

Sharan is a regular speaker at the Firm's annual conferences, the Rights & Responsibilities of Institutional Investors in Amsterdam and the Evolving Fiduciary Obligations of Pension Plans in Washington, D.C.

Publications

Caught Off-Guard by Securities Lending Programs: How Supposedly Conservative Investments

Have Turned Into Unexpected Losses for Pension Funds, NAPPA Report, May 2009

Not All Foreign Plaintiffs Are Equal in U.S. Securities Class Actions, KTMC Client Update, http://www.ktmc.com/pdf/fall08.pdf

2nd Circuit's Dynex Decision, A Sensible Approach, Law 360, August 1, 2008. http://www.law360.com/articles/64829/2nd-circuit-s-dynex-decision-a-sensible-approach?article_related_content=1

Second Circuit Affirms "Corporate Scienter" Doctrine, KTMC Client Update, http://www.ktmc.com/pdf/spring08.pdf

Awards/Rankings

- Philadelphia Business Journal's Best of the Bar 2023
- Benchmark Litigation Stars, 2020-2024
- National Law Journal Trailblazers Plaintiffs' Lawyers, 2021
- Lawdragon 500 Leading Plaintiff Financial Lawyer, 2019-2023
- Lewis Memorial Award, George Washington National Law Center, 2001, for excellence in clinical practice