

Securities and Structured Finance



We have litigated to verdict or settlement many of the highest-stakes cases in the history of the field, establishing key precedents in securities law and winning landmark victories that include recoveries in excess of 100% of principal and market losses. Our recoveries for our clients total over \$40 billion. On the defense side, we frequently succeed in having claims dismissed early or in negotiating favorable resolutions for clients.

Our mastery in structured finance and related insurance matters includes mortgage-backed obligations, synthetic and asset-backed collateralized debt obligations, credit-default swaps, credit-linked notes, financial guaranty insurance, reinsurance, and other complex financial structures.

"They're outstanding. Very hard-working, focused, and knowledgeable about the law, with an instinctively solid grasp of the case." - *Chambers & Partners*

Selendy Gay's partners also have a track record of working closely with private equity and hedge funds, not only to overcome the recurring litigation risks that funds face across industry sectors, but also to capitalize on opportunities where litigation drives an investment's value. This expertise, combined with our proven trial skills, have resulted in successes in a broad array of matters involving insider trading, market timing, distressed investments, adversary proceedings in bankruptcy, claims of breach of fiduciary duty and self-dealing, PIPEs investing, and disputes of many types with the nation's largest banks and broker dealers, among others. We have also leveraged our experience and familiarity with major regulators in successfully representing investment funds, or executives of such funds, in proceedings conducted by the DOJ and the SEC.

Our representative engagements include:

- **Federal Housing Finance Agency**, for over seven years in the Southern District of New York and the District of Connecticut, as lead counsel across FHFA's entire platform of RMBS litigation, obtaining \$25 billion in recoveries for U.S. taxpayers in residential mortgage-backed securities suits against Bank of America, Barclays, Citigroup, Credit Suisse, Countrywide, Deutsche Bank, First Horizon, Goldman Sachs, HSBC, JPMorgan, Merrill Lynch, RBS, and UBS.
- **Federal Housing Finance Agency** in a one-month securities fraud trial in the Southern District of New York, in which plaintiff asserted claims under the 1933 Securities Act and the Blue Sky statutes of D.C. and Virginia based on statements made by Nomura and RBS in offering

materials for residential mortgage-backed securities. After the presentation of over 40 witnesses including a dozen experts, FHFA won on all of its claims, obtaining over \$800 million for U.S. taxpayers from Nomura and RBS. The judgment was unanimously affirmed by the Second Circuit.

- **Cerberus Capital Management**, a leading private equity firm, as plaintiff in a breach of contract action against the Canadian Imperial Bank of Commerce, one of Canada's largest banks. In 2018, the First Department agreed with Cerberus' interpretation of the agreements and held that CIBC's contrary interpretation was "unmoored" from the contracts. After a damages hearing and related decision that rejected nearly all of CIBC's damages arguments, the New York Supreme Court – on February 6, 2023 – entered judgment for Cerberus for \$855 million. The trial verdict, which CIBC did not appeal following a post-trial settlement, was substantially shaped by our appellate work on interlocutory issues that preceded trial.
- **Represented mutual fund shareholders** who purchased, sold, or liquidated mutual fund shares managed by Allianz Global Investors U.S. LLC's Structured Property Groups from January 1, 2015 to December 31, 2020, securing a \$145 million settlement. The suit alleged that, instead of managing the Mutual Funds as represented, AllianzGI prioritized returns over risk management in ways that were fundamentally inconsistent with AllianzGI's representations concerning the Mutual Funds Principal Investment Strategies. Selendy Gay was co-lead counsel with Silver Golub & Teitell and Bernstein Litowitz Berger & Grossman.
- **MBIA**, a monoline insurer, against Bank of America, Countrywide, and related entities in litigation in New York state court arising out of securitization insurance. We obtained a series of rulings including at summary judgment that set the basic framework for RMBS litigation nationwide, ultimately allowing MBIA to survive as a going concern and to achieve a multi-billion dollar settlement including the commutation of \$7.4 billion in swaps.
- **Altaba (formerly Yahoo Inc.)**, in defense of claims by BNY Mellon Trust in Delaware Court of Chancery alleging that our client owed \$300 million under a convertible note agreement after the sale of Yahoo's operating business to Verizon. We succeeded in having the case dismissed with prejudice at the pleading stage.
- **CIFG**, a family of financial guaranty companies, against Bear Stearns in a suit seeking to hold Bear Stearns (and JPMorgan, as its successor) accountable for both the RMBS and collateralized debt obligations it created and sold, contributing to the housing and global financial crisis of 2008.
- **Computershare**, as separate securities administrator of Natixis Real Estate Capital Trust 2007-HE2 Trust, in a putback action against Natixis Real Estate Capital Inc. This case represents the largest exposure for Natixis resulting from the mortgage crisis; the trust's losses total over \$500 million. The case has also made new law; in a matter of first impression, we obtained a ruling from New York's Appellate Division, First Department that a non-trustee could assert claims on behalf of a trust against Natixis as the trust sponsor.
- **AIG**, in Article 77 proceedings initiated by RMBS trustees over the distribution methodology in a \$8.5 billion settlement with Bank of America and a \$4.5 billion settlement with
- **Interpath**, as joint liquidators of the BVI-based Kingate Global Fund and Kingate Euro Fund, in defending against claims brought by Deutsche Bank Securities Inc. relating to DBSI's alleged purchase from the funds of more than \$1.6 billion of claims against the **Bernard Madoff estate**. The parties reached a mediated settlement.
- **Warburg Pincus**, a global private equity firm, and obtained a total dismissal of all claims in securities and breach of contract litigation arising from the acquisition of FSNS, LLC, a food safety and testing company, in the federal district court in Delaware.
- **Crypto-asset investors**, in multiple class actions in the Southern District of New York against several of the world's major crypto-asset exchanges and digital token issuers who allegedly

offered and sold billions of dollars of unregistered digital tokens and other financial instruments to investors in violation of federal and state securities laws.