

SECURITIES FRAUD AND INSIDER TRADING

OVERVIEW

The post-financial crisis / Dodd-Frank era has ushered in reinvigorated regulatory enforcement from both the SEC and the Department of Justice. Bird Marella regularly represents clients, both individuals and corporations, who find themselves under government investigation for criminal securities fraud, insider trading, and a range of investment violations. We provide dual criminal and civil securities representation to address the concurrent investigations and private litigation that frequently occur. Many of these cases commence under the specter of enormous personal and professional risks and attract the media's glare. We work discreetly and assume control from the onset to contain threats to our client's reputation and livelihood.

Our depth of experience defending criminal securities cases is unparalleled. Prior to joining Bird Marella, several of our attorneys served as Assistant United States Attorneys where they handled white collar fraud and securities matters. We are well known and respected by the federal and state judiciaries. *Chambers USA* consistently ranks and recognizes our attorneys as senior statesmen in white collar crime and government investigations law.

In addition, we have served on several Bar-Bench committees for the Ninth Circuit, we have repeatedly served as leaders of the ABA's national White Collar Crime Committee and frequently speak and comment on securities law enforcement topics.

HIGH-PROFILE SECURITIES CASES

Our over 30-year record of achievement in securities law defense details numerous examples of successful results on behalf of our clients.

For example, Bird Marella represented a former bank president in a landmark mortgage / securities fraud investigation connected to the financial crisis of the late 2000's. We resolved the matter, including the grand jury investigation, and achieved no liability for our client.

In addition to securing declinations of charges from the SEC and DOJ, we have repeatedly reached civil settlements in options backdating, insider trading and revenue recognition claims. This includes in a \$2 billion fraud case and a wave of insider trading actions brought in the past decade against telecommunications and Fortune 500 companies and their officers and directors

EXPERIENCE

Attained No Criminal Charge in \$2B False Claims Case, Settled Civil Claim: We successfully represented the co-president and COO of the second largest publicly traded health care company against allegations of \$2 billion in False Claims Act violations, and securities and health care fraud claims. In the DOJ criminal investigation, no charges were ever filed, and we achieved a favorable civil settlement with the SEC.

Attained Civil Fraud Settlement, Criminal Defense Proceeds for Tech CFO: In our defense of the former CFO of a technology company, we achieved a settlement on civil fraud charges related to revenue recognition and options. Our representation continues in the U.S. District Court for the Southern District of New York on criminal charges of securities fraud, falsifying corporate records, and conspiracy.

Reversed Government Decision to Indict Aerospace Manufacturer: We conducted a wide-ranging investigation focused on the export practices of the Orange County unit of a global aerospace consortium. In the course of the international inquiry, we managed the joint defense team for several individuals facing criminal allegations. Bird Marella led negotiations with the FBI, DOJ, NCIS, IRS, the State Department and other government agencies. Following numerous oral and written presentations to these agencies, we persuaded the government to not indict our client.

Convinced Government to Not File Criminal Charges Against Bank President in Mortgage Fraud Investigation: We represented the former president of a bank considered by the media to be a “poster child” for the national mortgage crisis. Our client was investigated for mortgage / securities fraud and we resolved the matter, including the grand jury investigation, and achieved no liability for our client.

Resolved Federal and State Fraud and Class Actions for CFO: We represented the former CFO of a “Baby Bell” telephone company in criminal, SEC and civil litigation relating to revenue recognition and accounting fraud issues. We obtained a favorable resolution on these matters for our client.

Defending Investor in SEC and USAO Insider Trading Investigation: We serve as lead counsel for a highly successful, private investor in connection with a current, high-profile insider trading case under investigation by the SEC and Department of Justice.

Defending Prominent Investor in SEC Investment Fraud Charges: We are representing a high-profile Persian-American financial services client in federal criminal charges related to an alleged affinity investment fraud.

Advising Executive in FCPA Investigation: We are representing the CEO of a North American unit of a global company during an extensive Foreign Corrupt Practices Act investigation involving a government contractor.

Cleared GC in Company’s Securities Fraud Action: Our client was the general counsel of a publicly traded company in a securities fraud action. We persuaded the government to decline to prosecute our client and the case was resolved with a company-only settlement.

Persuaded DOJ Not to Prosecute Securities Broker: We obtained a declination of criminal prosecution and a non-fraud settlement for our stock broker clients. We achieved this against the backdrop of numerous others being charged by the DOJ and SEC with fraud and criminal convictions.

Counseling Hedge Fund in Parallel Grand Jury-SEC Investigations: We represent a hedge fund and its owner / operator in connection with a pending SEC case and parallel grand jury investigation.

Defended CFO on Misstatement Allegations, No Charge Result: In our representation of a chief financial officer under investigation for alleged misstatements on corporate financial statements, we persuaded the government to decline to bring charges.



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Averted Criminal Fraud Charges in SEC Investigation of CEO: We represented the chief executive officer of a prominent department store chain in a criminal securities fraud investigation. The government declined to bring charges after first indicating it intended to do so.