

Complex Financial Services Litigation and Dispute Resolution

Increased competition for baby boomer customers and the sheer size of this aging group of people could lead to more disputes facing financial services providers in the next decade.

A significant portion of Briggs and Morgan's Financial Markets group client representation is focused on dispute resolution. The successes our litigators have accumulated include complex financial services litigation, class action defense, arbitration and regulatory investigations.

Complex Financial Services Litigation

The Financial Markets group attorneys understand complex financial transactions and the regulations that impact them. Our attorneys bring years of legal experience in the areas of manufacture and sale of financial instruments, as well as trading and regulation in secondary markets. We are keenly familiar with the agencies enforcing industry regulations and have appeared before many, including the Financial Industry Regulatory Authority (FINRA), the Securities Exchange Commission (SEC), state regulators, state attorneys general, the Commodity Futures Trading Commission (CFTC) and other Self-Regulated Organizations (SROs).

Clients we represent find themselves in situations related to violations or fraud in the offer and sale of securities, the registration of securities, regulatory investigations, customer disputes, breach of contract, suitability and fairness, unauthorized trading, shareholder and partnership disputes and more. As a result of the long list of clients we represent and the knowledge our attorneys bring to each case, our Financial Markets group attorneys are able to hit the ground running with each new case and to swiftly work toward a successful outcome.

Having experience in some of the largest fraud and white collar criminal cases in the United States, Financial Markets group practice leader, Frank Taylor, brings nearly 40 years of experience to our clients. In the well-known Keating case, the largest securities fraud case to be taken to trial, Frank represented investment banker defendants and officers targeted in federal and state investigations. He was also lead counsel in the largest commodities fraud case brought by the CFTC, as well as the largest tax fraud case brought in Minnesota.

Class Action Defense

Briggs and Morgan has handled class action suits in state and federal courts across the country, frequently involving billions of dollars. We are aware that class actions can amass thousands of small claims to pose a serious threat to a financial services company.

The experience of our Financial Markets group in class action disputes (as well as opt-out litigation) spans the financial industry and includes price dropping, selling away, Ponzi schemes, suitability issues in the sale of all products (including deferred annuities), malfeasance in offer and sale of securities, derivative actions, home equity stripping, failed limited partnerships, ERISA actions and others.

Arbitration

Because many agreements between investors and brokerage firms/broker-dealers include language related to arbitration, very few customer disputes are heard in court. Many times the rules of the National Association of Securities Dealers, Inc. (NASD) require arbitration, even when an agreement is not clear or

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does not exist.

Our Financial Markets group attorneys regularly represent broker-dealers, registered representatives and investment firms in arbitration cases before the Financial Industry Regulatory Authority or FINRA (formerly the NASD), the American Arbitration Association and other self-regulatory organizations (SROs). We most often defend clients in customer disputes involving claims of churning, unsuitability, misrepresentation, breach of fiduciary duty, fraud, selling away, unauthorized trading and violations of securities laws.

Arbitration proceedings are less formal than court cases and follow the rules of substantive law. Our attorneys are very familiar with the various legislated acts governing arbitration proceedings including the Federal Arbitration Act, the NASD Code of Arbitration Procedure, the NYSE Arbitration Rules, the Commercial Arbitration Rules and the Uniform Arbitration Act.

Regulatory Investigations

The Securities and Exchange Commission (SEC) monitors activities involving securities, variable annuities, and mutual funds. Should a broker-dealer, investment advisor or their firms be targeted by the SEC for investigation, it is likely to be related to violations of securities laws such as non-disclosure of market-related information, lack of fair dealing and fraud or theft.

Whether informal or formal, investigations are enforcement actions and can come with stiff financial penalties. The Financial Markets group is experienced and knowledgeable in the SEC enforcement arena. Our attorneys have represented individuals and companies facing claims of fraudulent misrepresentation, sales by unregistered individuals, lack of compliance controls within a firm, theft by officers, insider trading, Ponzi schemes and many others.

Our attorneys are also familiar with the Sarbanes-Oxley Act (SOX), which is meant to improve the reliability of corporate financial disclosures. SEC investigations related to SOX are most often targeted at officers and directors, who are expected to comply with the guidelines of SOX. Briggs Financial Markets Group attorneys have a wealth of experience related to internal controls needed to comply with SOX, in particular IT controls and audits.

Insights & Events

News

Julie Firestone and Daniel Supalla Named "Attorneys of the Year"
December 22, 2014

Briggs and Morgan Fifth Annual Securities Forum a Success
June 18, 2014

Podcast: Practical Tips for FINRA Arbitration
May 2, 2014

Events

Upper Midwest Securities Litigation and Enforcement Forum

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Publications

Podcast: Practical Tips for FINRA Arbitration
May 2, 2014

"The Issuance of Securities by Small and Growing Businesses: A Primer," *William Mitchell Law Review*, Vol. 22, No. 4

"Are Financial Instruments Issued by Cooperatives Securities? A Framework Analysis," *Drake Journal of Agricultural Law*, Vol. 5, No. 1