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FOCUS AREAS

Securities Fraud

Global Shareholder Litigation

Direct & Opt-Out

EDUCATION

Colgate University
A.B. 1989, *cum laude*

Fordham University School of Law
J.D. Dean's List, Fordham International Law Journal, 1994

ADMISSIONS

New York

Pennsylvania

USDC, Southern District of New York

USDC, Eastern District of New York

USDC, Eastern District of Pennsylvania

USDC, District of Colorado

USCA, Second Circuit

USCA, Third Circuit

USCA, Fourth Circuit

Johnston de Forest Whitman, Jr. (Jay) is a partner of the Firm, and his primary practice area is securities litigation.

Jay represents individual and institutional investors pursuing claims for securities fraud. In this capacity, Jay has helped clients obtain substantial recoveries in numerous class actions alleging claims under the federal securities laws, and has also assisted in obtaining favorable recoveries for institutional investors pursuing direct securities fraud claims.

Current Cases

- Apache Corp.

CASE CAPTION	*In re Apache Corp. Securities Litigation*
COURT	United States District Court for the Southern District of Texas
CASE	4:21-CV-

USCA, Eleventh Circuit

NUMBER	00575
JUDGE	Honorable George C. Hanks, Jr.
PLAINTIFFS	Court-appointed Lead Plaintiffs Plymouth County Retirement Association and the Trustees of the Teamsters Union No. 142 Pension Fund
DEFENDANTS	Apache Corporation, John F. Christmann IV, Timothy J. Sullivan, & Stephen J. Riney
CLASS PERIOD	September 7, 2016 to March 13, 2020, inclusive

This securities fraud class action arises from Apache's materially false and misleading statements regarding its purportedly groundbreaking oil and gas discovery in West Texas, which it dubbed "Alpine High." Starting in September 2016, Defendants claimed the play held copious amounts of valuable oil and gas on par with world-class plays like the Marcellus Shale in Pennsylvania and the Eagle Ford in Texas, which Apache could economically exploit, and thus drive company revenues for years to come.

Investors accepted the claims, and Apache's common stock price skyrocketed. However, Lead Plaintiffs' extensive investigation has revealed that Defendants' claims were baseless. Internal studies at Apache prior to September 2016 established that Alpine High was characterized by low-value gas, not valuable oil or gas resources.

Confirming this, Apache's own production data from the wells it drilled at Alpine High showed that the area held hardly any oil and gas that could be economically exploited, let alone the vast amounts Defendants repeatedly touted to investors. Scrambling to contain the failure, Defendants fired multiple dissenters from inside the company and shielded Alpine High production data from ordinary disclosure and review—but they could sustain the sham only so long. The truth concerning Alpine High was gradually revealed to the public through a series of disclosures on October 9, 2017, February 22, 2018, April 23, 2019, October 25, 2019, and March 16, 2020, which collectively showed that the play was an unprofitable bust. Apache's stock prices fell sharply on each partial corrective disclosure, causing massive losses to defrauded shareholders.

On December 17, 2021, Plaintiffs filed a Consolidated Class Action Complaint on behalf of a putative class of investors, alleging that Apache, John Christmann IV, Timothy Sullivan, and Stephen Riney violated Section 10(b) of the Exchange Act by making materially false and misleading statements regarding the Alpine High play; and that Christmann IV, Sullivan, and Riney, as controlling persons of Apache, violated Section 20(a) of the Exchange Act. On September 15, 2022, Magistrate Judge Edison issued a Memorandum and Recommendation denying Defendants' motion to dismiss. On November 29, 2022, the Court overruled Defendants' objections to the Recommendation. 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

- Goldman Sachs Group, Inc.

CASE CAPTION	*Sjunde AP-Fonden v. The Goldman Sachs Group, Inc. et al.*
COURT	United States District Court for the Southern District of New York
CASE NUMBER	1:18-cv-12084-VSB
JUDGE	Honorable Vernon S. Broderick
PLAINTIFF	Sjunde AP-Fonden ("AP7")
DEFENDANTS	The Goldman Sachs Group ("Goldman Sachs" or the "Company"), Lloyd C. Blankfein, Gary D. Cohn, and Harvey M. Schwartz

CLASS PERIOD February 28, 2014 to December 20, 2018, inclusive

This securities fraud class action case arises out of Goldman Sachs' role in the 1Malaysia Development Berhad ("1MDB") money laundering scandal, one of the largest financial frauds in recent memory.

In 2012 and 2013, Goldman served as the underwriter for 1MDB, the Malaysia state investment fund masterminded by financier Jho Low, in connection with three state-guaranteed bond offerings that raised over $6.5 billion. Goldman netted $600 million in fees for the three bond offerings—over 100 times the customary fee for comparable deals.

In concert with Goldman, Low and other conspirators including government officials from Malaysia, Saudi Arabia, and the United Arab Emirates ran an expansive bribery ring, siphoning $4.5 billion from the bond deals that Goldman peddled as investments for Malaysian state energy projects. In actuality, the deals were shell transactions used to facilitate the historic money laundering scheme. Nearly $700 million of the diverted funds ended up in the private bank account of Najib Razak, Malaysia's now-disgraced prime minister who was convicted for abuse of power in 2020. Other funds were funneled to Low and his associates and were used to buy luxury real estate in New York and Paris, super yachts, and even help finance the 2013 film "The Wolf of Wall Street."

AP7 filed a 200-page complaint in October 2019 on behalf of a putative class of investors alleging that Goldman and its former executives, including former CEO Lloyd Blankfein and former President Gary Cohn, violated Section 10(b) of the Securities Exchange Act by making false and misleading statements about Goldman's role in the 1MDB fraud. As alleged, when media reports began to surface about the collapse of 1MDB, Goldman denied any involvement in the criminal scheme. Simultaneously, Goldman misrepresented its risk controls and continued to falsely tout the robustness of its compliance measures. Following a series of revelations about investigations into allegations of money laundering and corruption at 1MDB, Goldman's stock price fell precipitously, causing significant losses and damages to the Company's investors.

In October 2020, the U.S. Department of Justice announced that Goldman's Malaysia subsidiary had pled guilty to violating the Foreign Corrupt Practices Act ("FCPA") which criminalizes the payment of bribes to foreign officials, and that Goldman had agreed to pay $2.9 billion pursuant to a deferred prosecution agreement. This amount includes the largest ever penalty under the FCPA.

On June 28, 2021, The Honorable Vernon S. Broderick of the U.S. District Court for the Southern District of New York sustained

Plaintiff's complaint in a 44-page published opinion. On July 31, 2023, the Court granted Plaintiff's motion to amend the complaint to conform the pleadings to the evidence adduced during discovery, which is now complete.
Plaintiff first moved for class certification in November 2021. While that motion was pending, the Court granted Plaintiff's motion to amend the complaint and subsequently ordered that Plaintiff's motion for class certification be newly briefed in light of the amended pleading. On September 29, 2023, Plaintiff renewed its motion for class certification. On April 5, 2024, Magistrate Judge Katharine H. Parker of the U.S. District Court for the Southern District of New York issued a 59-page Report and Recommendation recommending that the District Court grant Lead Plaintiff AP7's motion to certify the class. Meanwhile, expert discovery is ongoing.

Read Third Amended Class Action Complaint Here

Read Opinion and Order Granting and Denying in Part Motion to Dismiss Here

Read the Report and Recommendation on Motion for Class Certification Here

- Lucid Group, Inc.

CASE CAPTION	*In re Lucid Group, Inc. Sec. Litig.*
COURT	United States District Court for the Northern District of California
CASE NUMBER	3:22-cv-02094-JD
JUDGE	Honorable James Donato
PLAINTIFF	Sjunde AP-Fonden ("AP7")
DEFENDANTS	Lucid Group, Inc., Peter Rawlinson, and Sherry House
CLASS PERIOD	November 15, 2021 to August 3, 2022, inclusive

Defendant Lucid designs, produces, and sells luxury EVs. This securities fraud class action arises out of Defendants' misrepresentations and omissions regarding Lucid's production of its only commercially-available electronic vehicle ("EV"), the Lucid Air, and the factors impacting that production.
To start the Class Period, on November 15, 2021, Defendants told investors that Lucid would produce 20,000 Lucid Airs in 2022. This was false, and Defendants knew it. According to numerous former

Lucid employees, Defendants already knew then that Lucid would produce less than 10,000 units in 2022, and admitted this fact during internal meetings preceding the Class Period. They also knew why Lucid could not meet this production target—the Company was suffering from its own unique and severe problems that were stalling production of the Lucid Air, including internal logistics issues, design flaws, and the key drivers of parts shortages. These problems had not only prevented, but continued to prevent Lucid from ramping up production of the Lucid Air. Despite the actual state of affairs at Lucid, on November 15, 2021, and at all times thereafter during the Class Period, Defendants concealed these severe, internal, Company-specific problems. At every turn, when asked about the pace of production, or to explain the factors causing Lucid's production delays, Defendants blamed the Company's woes on the purported impact of external, industrywide supply chain problems and repeatedly assured investors that the Company was "mitigating" that global impact. These misrepresentations left investors with a materially false and misleading impression about Lucid's actual production and internal ability and readiness to mass produce its vehicles. Against that backdrop, Defendants then lied, time and again, about the number of vehicles Lucid would produce. Even when, in February 2022, Defendants announced a reduced production target of 12,000 to 14,000 units, they continued to point to purported industry-wide supply chain problems and once more assured the market that the Company was thriving in spite of such issues. When the truth regarding Lucid's false claims about its production and the factors impacting that production finally emerged, Lucid's stock price cratered, causing massive losses for investors.
On December 13, 2022, Plaintiffs filed a 138-page consolidated complaint on behalf of a putative class of investors alleging that Defendants Lucid, Rawlinson, and House violated 10(b) and 20(a) of the Securities Exchange Act. On February 23, 2023, Defendants filed a motion to dismiss. Briefing on that motion was completed in June 2023, and the Court heard oral argument in August 2023. The motion remains pending.

Settled

- J.P. Morgan Chase & Co.

This securities fraud class action in the United States District Court for the Southern District of New York stemmed from the "London Whale" derivatives trading scandal at JPMorgan Chase. Shareholders alleged that JPMorgan concealed the high-risk, proprietary trading activities of the investment bank's Chief Investment Office, including the highly volatile, synthetic credit portfolio linked to trader Bruno Iksil—a.k.a., the "London Whale"—which caused a $6.2 billion loss in a matter of weeks. Shareholders accused JPMorgan of falsely downplaying media reports of the synthetic portfolio, including on an April 2012 conference call when

JPMorgan CEO Jamie Dimon dismissed these reports as a “tempest in a teapot,” when in fact, the portfolio’s losses were swelling as a result of the bank’s failed oversight.

This case was resolved in 2015 for $150 million, following U.S. District Judge George B. Daniels’ order certifying the class, representing a significant victory for investors.

News

- April 9, 2024 - Kessler Topaz Achieves Class Certification Win in 1MDB Fraud Suit Against Goldman Sachs
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer
- Kessler Topaz Secures a $150 Million Recovery for Shareholders in JPMorgan Chase & Co. Securities Class Action