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FOCUS AREAS

Securities Fraud

EDUCATION

Arizona State University
B.A. 2014, summa cum laude

Temple University Beasley School of Law
J.D. 2017, cum laude

ADMISSIONS

Pennsylvania

USDC, Eastern District of Pennsylvania

Evan Hoey, an associate of the Firm, focuses his practice in securities litigation.

Current Cases

- 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. Defendants' responses to the complaint are due on April 29, 2024.

- 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.

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

- 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.

- Natera, Inc.

CASE CAPTION	*John Harvey Schneider, et al. v. Natera, Inc., et al.*
COURT	United States District Court for the Western District of Texas
CASE NUMBER	1:22-cv-00398-LY
JUDGE	Honorable Lee Yeakel
PLAINTIFFS	British Airways Pension Trustees Limited ("BAPTL") and Key West Police & Fire Pension Fund ("Key West P&F")
DEFENDANTS	Natera, Inc., Steve Chapman, Michael Brophy, Matthew Rabinowitz, Paul R. Billings, Roy Baynes, Monica Bertagnolli, Roelof F. Botha, Rowan Chapman, Todd Cozzens, James I. Healy, Gail Marcus, Herm Rosenman, Jonathan Sheena, Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC, Cowen and Company, LLC, SVB Leerink LLC, Robert W. Baird & Co. Inc., BTIG, LLC, and Craig-Hallum Capital Group LLC
CLASS PERIOD	February 26, 2020 to March 14, 2022, inclusive

This securities fraud class action arises out of Natera's representations and omissions about the purported "superiority" of its kidney transplant rejection test, Prospera, compared to a competitor's product, AlloSure, and the revenues and demand associated with the Company's flagship non-invasive prenatal screening test, Panorama. During the Class Period, Defendants touted Prospera's superiority over AlloSure based on what they represented as a head-to-head comparison of underlying study data. However, internal Natera emails revealed that Natera recognized that the comparisons were unsupported and misleading. Further, Defendants consistently highlighted the impressive revenue performance and seemingly organic demand for Panorama. However, the market was unaware that Natera employed several deceptive billing and sales practices that inflated these metrics. Meanwhile, Defendants, CEO Steve Chapman, CFO Matthew Brophy, and co-founder and Executive Chairman of the Board, Matthew Rabinowitz, sold more than $137 million worth of Natera common stock during the Class Period. Natera also cashed in, conducting two secondary public offerings, selling investors over $800 million of Natera common stock during the Class Period. The truth regarding Prospera's false claims of superiority and the Company's deceptive billing and sales practices was disclosed to the public through disclosures on March 9, 2022, and March 14, 2022. Natera's stock price fell significantly in response to each corrective disclosure, causing massive losses for investors.

On October 7, 2022, Plaintiffs filed an 89-page amended complaint on behalf of a putative class of investors alleging that Natera, Chapman, Brophy, Rabinowitz, and former Chief Medical Officer and Senior Vice President of Medical Affairs, Paul R. Billings, violated Sections 10(b) and 20(a) of the Securities Exchange Act. Plaintiffs also allege that Defendants Chapman, Brophy, and Rabinowitz violated Section 20A of the Exchange Act by selling personally held shares of Natera common stock, while aware of material nonpublic information concerning Prospera and Panorama. In addition, Plaintiffs claim that Defendants Chapman, Brophy, Rabinowitz, several Natera directors, and the underwriters associated with Natera's July 2021 secondary public offering violated Sections 11, 12(a)(2), and 15 of the Securities Act.

On December 16, 2022, Defendants filed motions to the complaint, which Plaintiffs opposed on February 17, 2023. On September 11, 2023, the Court entered an Order granting in part and denying in part Defendants' motions to dismiss the complaint. In the Order, the Court sustained all claims arising under Sections 10(b), 20(a), and 20(A) of the Exchange Act based on the complaint's Panorama allegations. The Court also sustained Plaintiffs' Securities Act claims based on the Panorama fraud that arose from Defendants' disclosure violations under two SEC regulations (Item 105 and Item 303), both of which required the provision of certain material facts in the Company's offering materials. The case is now in fact discovery.

Read Amended Consolidated Class Action Complaint Here

- Perrigo Co. plc

CASE CAPTION	*Carmignac Gestion, S.A. v. Perrigo Co. plc, et al.; First Manhattan Co. v. Perrigo Co. plc, et al.; Nationwide Mutual Funds, on behalf of its series Nationwide Geneva Mid Cap Growth and Nationwide S&P 500 Index Fund, et al. v. Perrigo Co. plc, et al.; Aberdeen Canada*

	Funds – Global Equity Fund, a series of Aberdeen Canada Funds, et al. v. Perrigo Co. plc, et al.; Schwab Capital Trust on behalf of its series Schwab S&P 500 Index Fund, Schwab Total Stock Market Index Fund, Schwab Fundamental U.S. Large Company Index Fund, and Schwab Health Care Fund, et al. v. Perrigo Co. plc, et al.; Principal Funds, Inc., et al. v. Perrigo Co. plc, et al.; and *Kuwait Investment Authority, et al. v. Perrigo Co. plc, et al.*
COURT	United States District Court for the District of New Jersey
CASE NUMBER	No. 2:17-cv-10467-MCA-LDW; No. 2:18-cv-02291-MCA-LDW; No. 2:18-cv-15382-MCA-LDW; No. 2:19-cv-06560-MCA-LDW; No. 2:19-cv-03973-MCA-LDW; No. 2:20-cv-02410-MCA-LDW; No. 2:20-cv-03431-MCA-LDW
JUDGE	Honorable Madeline Cox Arleo and Honorable Leda Dunn Wettre
PLAINTIFFS	Carmignac Gestion, S.A., First Manhattan Co., Schwab Capital Trust, *et al*., Principal Funds, Inc., Kuwait Investment Authority, *et al*., Nationwide Mutual Funds, *et al*., and Aberdeen Canada Funds – Global Equity Fund, *et al*.
DEFENDANTS	Perrigo Company plc ("Perrigo"), Joseph C. Papa, and Judy L. Brown
CLASS PERIOD	April 21, 2015 through May 3, 2017, inclusive

These seven shareholder opt-out actions stem from drug maker Perrigo's efforts to mislead investors to stave off a hostile takeover bid by pharmaceutical rival Mylan in 2015. The plaintiff investment funds allege that Perrigo and its senior officers misrepresented the true state of the company's $4.5 billion acquisition of Omega Pharma, an over-the-counter healthcare company based in Belgium, and fraudulently touted its ability to withstand pricing pressure from the influx of competing drugs in the generic drug markets.

In 2018, we filed the first of these actions in the United States District Court for the District of New Jersey on behalf of institutional investors in the United States, the United Kingdom, France, and Kuwait. The Honorable Madeline Cox Arleo denied Defendants' motions to dismiss the actions in 2019. The parties concluded discovery in November 2021 and are awaiting summary judgment motion practice.

Read Charles Schwab v. Perrigo Amended Complaint Here
Read First Manhattan v. Perrigo Amended Complaint Here
Read First Manhattan v. Perrigo Motion to Dismiss Opinion Here
Read Kuwait v. Perrigo Complaint Here
Read Nationwide v. Perrigo Complaint Here
Read Nationwide v. Perrigo Motion to Dismiss Opinion Here
Read Principal v. Perrigo Complaint Here
Read Aberdeen v. Perrigo Complaint Here
Read Carmignac Gestion v. Perrigo Complaint Here
Read Carmignac Gestion v. Perrigo Motion to Dismiss Opinion 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.
Read Consolidated Class Action Complaint Here
Read Amended Consolidated Class Action Complaint Here

- 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