



.. BERMAN

FOCUS AREAS

Securities Fraud

Global

Shareholder

Litigation

Direct & Opt-Out

Fiduciary

Arbitration

SecuritiesTracker™

Corporate

Governance &

M+A

Consumer

Protection

Whistleblower

EDUCATION

Brandeis

University

B.A. with honors

The George

Washington

University Law

School

Stuart L. Berman has opened doors for victims of securities fraud to pursue recoveries around the world. As head of Kessler Topaz Meltzer & Check's global litigation practice, Stu actively counsels institutional investors on filing lawsuits in jurisdictions outside the United States and has helped recover billions of dollars for investors worldwide.

The Firm's global litigation focus first began around 2009 through Stu's role in representing European investors in the precedent-setting \$350 million settlement with Royal Dutch Shell in the Netherlands—the first such settlement approved under Dutch law. Since then, Stu has helped organize and lead shareholder actions against companies in the Netherlands (Fortis), Germany (VW and Porsche), France (Vivendi), Japan (Olympic and Toshiba and Mitsubishi), Australia (BHP Billiton), Portugal (BES) and the United Kingdom (Royal Bank of Scotland).

A well-known authority on global litigation and portfolio monitoring, Stu actively engages with institutional clients regarding how they may best protect their investments made in the United States and abroad. Through Kessler Topaz's proprietary Securities Tracker program, which Stu helped create and launch, the firm's institutional clients are able to quickly review and analyze potential claims anywhere in the world. The clients trust Stu to accurately assess their fiduciary responsibilities and guide them on how best to pursue and recover assets lost to fraud. His experience and judgment are indispensable in determining when the right combination of facts, law and source of recovery to warrant a commitment to active litigation.

In actions brought in the United States, Stu has been instrumental in representing numerous institutional investors through the lead plaintiff, discovery and class certification process in high-profile class actions. He also has represented institutional clients as named plaintiffs in direct (opt-out) actions against companies such as Petrobras, Merck and Vivendi.

Stu is a frequent speaker and panelist at investor meetings and conferences around the world on topics such as shareholder actions, corporate governance, shareholder rights, and the importance of monitoring and analyzing shareholder claims on a global basis. Stu also serves as General Counsel to Kessler Topaz Meltzer & Check, LLP.

J.D.

ADMISSIONS

Pennsylvania

New Jersey

USDC, District of
New JerseyUSDC, Eastern
District of
PennsylvaniaUSDC, Eastern
District of
WisconsinUSCA, Second
CircuitUSCA, Ninth
CircuitUSCA, Tenth
Circuit**Current Cases**

- Banco Espirito Santo (Portugal)

The Firm is representing and funding a group of institutional investors who hold senior Banco Espirito Santo bonds in a recently filed action against the Bank of Portugal. The action is an administrative challenge to the Bank of Portugal's December 29, 2015 decision to re-transfer certain senior notes from Novo Banco back to the now defunct Banco Espirito Santo. When Banco Espirito Santo collapsed in August of 2017, the Bank of Portugal created a new bank, Novo Banco, and transferred all assets and some bonds to Novo Banco. On December 29, 2015, the Bank of Portugal decided to retransfer €2 billion worth of bonds from Novo Banco (which has assets) back to Banco Espirito Santo (which has no assets and is currently in bankruptcy proceedings). The result is that bondholders lost at least 90% of the value of their bonds. This case is ongoing.

- BHP Billiton Limited (Australia)

The Firm is representing and funding a number of institutional investors in securities litigation in Australia against BHP Billiton Limited ("BHP") and certain of its executives. BHP is an Australian-headquartered multinational company that serves as the world's largest diversified mining and mineral resources company. The case against BHP alleges that BHP knew or should have known as early as 2013 that there was a significant risk that its Fundão mining waste dam at the Germano iron ore mine in Brazil would collapse (which it ultimately did on November 5, 2015 and caused a toxic mudslide that swept away a village, killed 19 people, and caused permanent environmental damage). The Firm, its partners and its Australian lawyers filed proceedings on November 31, 2018. After entertaining carriage motions, the Australian court ultimately ordered the Firm's group as co-lead in the case.

- Deutsche Postbank (Germany)

The Firm is representing and funding a number of institutional investors in securities litigation in Germany against Deutsche Bank AG ("Deutsche Bank"). In September 2008, Deutsche Bank entered into an agreement with Deutsche Post to acquire Deutsche Post's majority share (50% +1 of the total outstanding shares) of Deutsche Postbank, one of Germany's largest banks and financial service providers. The case against Deutsche Bank alleges that Deutsche Bank violated German law (which requires that a mandatory tender offer be issued once an acquirer crosses a threshold of owning 30% of the company it is seeking to acquire) because Deutsche Bank failed to issue a public tender offer for shares of Deutsche Postbank until 18 months after Deutsche Bank paid the majority of the purchase price to Deutsche Post. By delaying the tender offer, Deutsche Bank benefited from market changes that allowed it to make a tender offer significantly lower than the price would have been had Deutsche Bank made a timely tender offer. The facts leading to the allegations were discovered during the course of appraisal action proceedings brought by the German investor Effecten-Spiegel AG against Deutsche Bank. The Firm and its local German counsel filed two waves of complaints on behalf of institutional investors: the first on April 3, 2017, and the other on December 15, 2017.

- Mitsubishi Motors Corporation (Japan)

The Firm is representing and funding a number of institutional investors in a securities case in Tokyo against Mitsubishi Motors Corporation. The case against Mitsubishi arises from Mitsubishi's April 2017 revelation that it had falsely reported the fuel consumption of certain models of its vehicles to the Japanese regulators since 2013. In late June of 2017, Kessler Topaz, its partners, and Japanese counsel filed a complaint in Tokyo on behalf of more than 100 institutional investors. The case is ongoing.

- Nissan Motors Corporation (Japan)

The Firm is representing and funding over 100 institutional investors in securities litigation in Japan against Nissan Motors Corporation ("Nissan"). On November 19, 2018, Nissan's former Chairman and CEO, Carlos Ghosn, was arrested in Japan over allegations of financial misconduct. A subsequent internal investigation is ongoing.

Nissan found not only the financial wrongdoings of Ghosn and other executives, but also a lack of adequate internal checks and balances and other effective corporate governance measures at Nissan over a period of many years. The case against Nissan alleges that misconduct and lack of adequate internal measures resulted in the Company violating Japanese securities and tort laws and causing damages to the Company's investors. On June 22, 2020, the Firm and its local Japanese lawyers filed the first wave complaint and submitted demand letters to the Company on behalf of investors.

- Petrobras (Petróleo Brasileiro S.A.) (Brazil)

Kessler Topaz and its partners are representing and funding nearly 100 institutional investors in an arbitration against Petrobras before the Market Arbitration Chamber of Brazil. The arbitration stems from the large-scale corruption scandal in Brazilian history in which an investigation (dubbed "Operation Car Wash") revealed that former executives of Petrobras, the Brazilian state-run energy company, had falsely inflated the value of certain projects for their own profit and to pay bribes and kickbacks to politicians. The arbitration is ongoing.

- Toshiba Corporation (Japan)

The Firm is representing and funding a number of institutional investors in securities litigation in Tokyo against Toshiba Corporation. The case against Toshiba arises from a series of disclosures Toshiba made beginning on April 3, 2015 regarding a discovery of accounting irregularities that ultimately led to a ¥1.5 billion net loss for FY 2014/2015 and a revision of its pre-tax profit figures dating back to 2008. The Firm, its Japanese and U.S. counsel filed a complaint on behalf of a large group of investors in late March of 2017. The litigation is ongoing.

- Vivendi Universal, S.A. (France)

The Firm is representing and funding a number of institutional investors in a direct action in Paris, France against Vivendi Universal, S.A. and Jean-Marie Messier (Vivendi's former CEO) arising from the facts underlying a securities class action *In re Vivendi Universal Securities Litigation* in the Southern District of New York. The Firm represents investors who purchased Vivendi's securities on the Paris Bourse and whose claims were excluded from the U.S. litigation due to the Supreme Court's decision in *Morrison*. A trial has recently concluded and the parties await a ruling from the Court.

- Volkswagen AG (Germany)

Kessler Topaz is currently representing and funding a group of over 500 institutional investors in securities litigation in Germany against Volkswagen and Porsche concerning Volkswagen's "dieselgate" emissions scandal that caused substantial monetary damages to Volkswagen and Porsche shareholders. The Firm, its U.S. and German counsel filed three separate group complaints between March 2016 and May 2017, alleging damages of approximately €5 billion in damages. Altogether the Firm's group is the largest group of investors in the action against Volkswagen and the claims represent more than 50% of the total claims filed in Germany against Volkswagen. The proceedings in Germany are being adjudicated via the German model case proceeding system (or "KapMuG") and the court appointed Deka Investments, one of the plaintiffs in our group of investors, to serve as the model plaintiff. The court will utilize the KapMuG model case proceedings to make a determination on common issues of law and fact that apply to all investors who filed suit against Volkswagen. The parties are currently exchanging briefing and oral hearings are ongoing.

Settled

- Fortis Bank

In a case arising out of the subprime mortgage crisis, Kessler Topaz, on behalf of a number of large institutional investors, sued Fortis Bank, N.V. (Fortis) and its successor companies BNP Paribas and Fortis NL for fraud in connection with the company's failed 2007 attempt to acquire Dutch bank ABN AMRO Holding NV (ABN Amro). Our lawsuit alleged that Fortis misrepresented the value of its collateralized debt obligations, its exposure to subprime-related mortgage-backed securities, and the extent to which it was

decision to acquire ABN Amro jeopardized its solvency. After the acquisition failed, Fortis encountered financial difficulties and broke up in the fall of 2008. Its investors lost as much as 90% of the value of their investments. Our lawsuit survived rigorous jurisdictional challenges in the Netherlands Court of Appeal and proceedings on the merits were pending when we were able to successfully negotiate a \$1.1 billion multiparty settlement (including other plaintiff groups in the Netherlands and Belgium). The settlement was the largest settlement in Europe to date. Because of the Dutch procedural mechanism for collective settlements (known as the “WCAM”), all investors, including also those who had not participated in litigation against the company, were eligible to file claims for a portion of the settlement proceeds. However, Kessler Topaz’s clients and other investors who had directly pursued litigation against the company and driven the settlement negotiations received settlement payouts more than a year before other European Fortis investors.

- Kraft Heinz Company

Case Caption: *In re Kraft Heinz Sec. Litig.*

Case Number: 1:19-cv-01339

Court: Northern District of Illinois

Judge: Honorable Jorge L. Alonso

Plaintiffs: Sjunde AP-Fonden, Union Asset Management Holding AG, Booker Enterprises Pty Ltd.

Defendants: The Kraft Heinz Company, Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Bortolotto, George Zoghbi, Rafael Oliveira, 3G Capital Partners, 3G Capital, Inc., 3G Global Food Holdings, L.P., 3G Global Food Holdings GP LP, 3G Capital Partners LP, 3G Capital Partners II LP, and 3G Capital Partners III LP

Overview: In January 2023, the parties agreed to resolve this securities fraud class action in its entirety for \$450 million.

The case arose out of Defendants’ misstatements regarding the Company’s financial position, including the carrying value of Kraft Heinz’s assets, the sustainability of the Company’s margins, and the success of its cost-cutting strategies by Kraft Heinz.

Kraft Heinz is one of the world’s largest food and beverage manufacturer and produces well-known brands including Kraft, Heinz, Oscar Mayer, Jell-O, Maxwell House, and Velveeta. The Company was formed as a result of the 2015 merger between Kraft Foods Group, Inc. and H.J. Heinz Holding Corporation. That merger was orchestrated by the private equity firm 3G Capital (“3G”) and Berkshire Hathaway with the intent of wringing out excess costs from the legacy companies. 3G is particularly well-known for its strategy of acquiring mature companies with relatively slower growth and then cutting costs using “zero-based budgeting,” in which the budget for every expenditure begins at \$0 with increases being justified during every period.

Plaintiffs alleged that Kraft misrepresented the carrying value of its assets, sustainability of its margins, and success of the Company’s cost-cutting strategy in the wake of the 2015 merger. During the time that Kraft was making these misrepresentations and artificially inflating its stock price, Kraft’s private equity sponsor, 3G Capital, sold \$1.2 billion worth of Kraft stock.

On February 21, 2019, Kraft announced that it was forced to take a goodwill charge of \$15.4 billion to write down the value of the Kraft and Oscar Mayer brands—one of the largest goodwill impairment charges in the history of any company since the financial crisis. In connection with the charge, Kraft also announced that it would reduce its dividend by 36% and incur a \$12.6 billion loss for the fourth quarter of 2018. That loss was driven not only by Kraft’s write-down, but also by plunging margins and lower pricing throughout Kraft’s core business. In response, analysts immediately criticized the Company for concealing and “push[ing] forward” the “bubble” and characterized the Company’s industry-leading margins as a “façade.”

Heightening investor concerns, Kraft also revealed that it received a subpoena from the U.S. Securities and Exchange Commission in the same quarter it determined to take this write-down and was conducting an internal investigation relating to the Company’s side-agreements with vendors in its procurement division. Because of this subpoena and internal investigation, Kraft was also forced to take a separate \$25 million charge relating to its accounting practices. Plaintiffs alleged that because of the Company’s misrepresentations

the price of Kraft's shares traded at artificially-inflated levels during the Class Period.

- **Olympus Corporation**
Obtained an 11 billion yen (\$92 million) settlement in an action filed in Japan over an accounting one of the largest securities-fraud recoveries ever in that country, if not the largest. In 2011, former Olympus CEO and whistleblower Michael Woodford revealed that Olympus had lost more than \$1 billion in losses through a series of sham transactions, many of which involved "paying" exorbitant fees for financial advice. Olympus was forced to restate five years of earnings, and three executives pled guilty to the fraud. We represented defrauded shareholders in proceedings in Tokyo alleging that Olympus and its officers had violated their duties under Japanese Company Law. Following a two-day mediation, we reached a settlement agreement for 11 billion yen.
- **Royal Bank of Scotland**
Recovered £267 million on behalf of a group of institutional investors who participated in the Global Litigation Order (GLO) proceedings against the Royal Bank of Scotland (RBS). The entire GLO settlement was approximately £900 million. At the time it was resolved, the settlement of the GLO was the largest securities settlement in UK history. Working with UK counsel, we represented a group of institutional investors in a UK case alleging that RBS misled investors about its exposure to subprime-related assets, collateralized debt obligations, and the inflated value of its assets in connection with a £13 billion Rights Offering that was completed in 2007. Just months later, in September 2008, RBS failed and had to be bailed out by the UK government. Investors who purchased shares in the Rights Offering lost nearly 90 percent of the value of that investment. Our clients, and investors who were part of other investors groups with which we worked closely, lost their investments in connection with the Rights Offering purchases and subsequent RBS collapse. RBS's write-downs in its 2008 reported full-year net loss for 2008, represented the largest loss ever for a UK-based company and the largest for any commercial bank in the world. After the initial September 2008 bailout, the UK government bailed out RBS on two subsequent occasions, becoming an 82% shareholder of the company.
- **Royal Dutch Shell**
On behalf of investors in European-based shares of Royal Dutch Shell, recovered more than \$350 million in a class settlement of claims related to the company's announced re-categorizations and/or restatements of certain oil and gas reserves. The settlement was the first of its kind under Dutch law and arguably began the trend of bringing class actions in numerous jurisdictions around the globe.
- **Theodoros Adamakopoulos and Others v. Republic of Cyprus, International Centre for the Settlement of Investment Disputes (ICSID) Case No. ARB/15/49**

Kessler Topaz is co-counsel in an investment treaty arbitration on behalf of nearly 1000 claimants against the Republic of Cyprus before the International Centre for the Settlement of Investment Disputes ("ICSID").

Claimants, nationals of Greece and Luxembourg, were all depositors or bondholders of either Cyprus Popular Bank (also known as Marfin Popular Bank or Laiki Bank) or the Bank of Cyprus, and suffered substantial losses when their bonds/deposits were confiscated as part of Cyprus' response (known as "Plan B") to the Cypriot financial crisis. Claimants allege that Cyprus violated its obligations under two bilateral investment treaties (the Cyprus-Greece BIT and the Belgo-Luxembourg Economic Union – Cyprus BIT). In response to the claimants' allegations, the Claimants, Cyprus contested ICSID's jurisdiction to hear the dispute. On February 7, 2020, in a 2-1 opinion, the ICSID Tribunal determined that it has proper jurisdiction over the dispute. The decision is significant in that it involves claims by a number of claimants that is well in excess of most other mass arbitrations (including being larger than two out of the three cases pursued by bondholders against Argentina following Argentina's debt crisis in the 2000s). The dispute will now proceed to the merits stage.

News

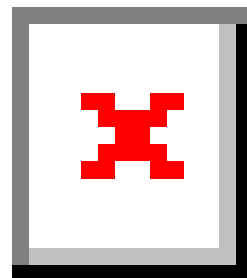
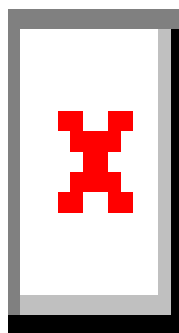
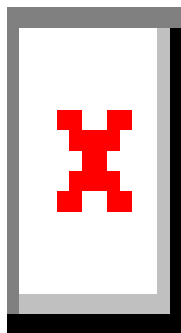
- October 1, 2020 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2021
- February 12, 2020 - Groundbreaking ICSID Arbitration Decision
- September 24, 2019 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation Guide to America's Leading Litigation Firms and Attorneys for 2020
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The Legal Intelligencer

Speaking Engagements

Stu is a frequent speaker at investor conferences and meetings in the United States and around the world, such as The European Pension Symposium in Florence, The European Investment Roundtable in Barcelona, The Public Funds Symposium in Washington, D.C., The International Foundation of Employee Benefit Plans in Orlando, The Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, and The New York Pension Summit in Newport. In addition, Stu regularly speaks at the Firm's annual conferences for institutional investor clients at the Rights & Responsibilities for Institutional Investors in Amsterdam and Evolving Obligations of Pensions Plans in Washington, D.C.

Awards/Rankings

- Benchmark Litigation Star, 2019-2025
- Lawdragon 500 Leading Global Plaintiff Lawyers, 2024-2025
- Lawdragon 500 Leading Plaintiff Financial Lawyer, 2019-2024



Memberships

- American Bar Association

Community Involvement

Stu proudly supports and raises awareness and funds for the National Kidney Foundation.