Investment Advisor and Asset Manager Litigation Recent Representations

- We cemented our prior victories on behalf of Indonesian bank **PT Bank Mutiara**, Tbk (now known as PT Bank JTrust Indonesia) against a crooked Mauritian hedge fund, leaving the fund with no assets and no recourse in the United States. Nearly six years ago, the hedge fund improperly seized and retained several million dollars of our client's assets and refused to return the money despite numerous court orders to do so. The court held the fund and its owner in contempt, imposed fines that eventually reached more than $400 million, and ultimately granted our request that it transfer the ownership of the hedge fund itself to our client. Following that order, and the Court of Appeals' affirmance, the hedge fund's former management commenced a new action in Delaware to oust the newly appointed board of directors and to retake control of the entities. We swiftly obtained an injunction stopping that case, which the Court of Appeals affirmed last week. The decision leaves the hedge fund with no viable means to continue its pursuit of our client in courts in the United States or anywhere else around the world.

- A federal judge has given final approval to settlements with the final defendants in our ISDAfix case, which was brought on behalf of investors such as insurance companies, pension funds, hedge funds, and other sophisticated actors. That brings the total recoveries in the case, which concerns the rigging of a financial benchmark used to determine the settlement value of certain financial derivatives, to over $500 million. We built the case from the ground-up after noticing anomalies in the data, before the government even acted. The successful settlement and then certification of the class was the result of years of dogged, groundbreaking work. We had to find traders explicitly admitting they were interested in manipulating the benchmark. We then had to match that admission to can actual trade by the right person, at the right time, in the right direction. We then had to demonstrate we could show that those acts damaged class members, some of whom may have only traded hours or even days later. The Court said that this was the "the most complicated case" he ever faced, and that he could "not really imagine" how much more complicated "it would have been if I didn't have counsel who had done as admirable a job in briefing it and arguing it as" we did.

- The firm won a major victory for two investment funds, **Zohar II 2005-1, Ltd.** and Zohar III, Ltd. (the "Zohar Funds"), in a dispute with their former collateral manager, Lynn Tilton. The immediate dispute concerned ownership and control over three Delaware corporations—FSAR Holdings, Inc., UI Acquisition Holding Co., and Glenoit Universal Ltd.—but has ramifications for dozens of other portfolio companies that are subject to the same dispute. The Zohar Funds claimed legal and beneficial ownership of the three subject companies, and elected new directors to their boards by written consent. Tilton refused to recognize the election, claiming that the Zohar Funds were merely record

holders of equity in the companies, while she was the true beneficial owner entitled to all rights and privileges of ownership, including the right to elect their directors. Following a six day trial before the Delaware Court of Chancery, the Court issued a 95-page Memorandum Opinion finding for the Zohar Funds on all counts. The Court confirmed the Zohar Funds' appointees as the rightful directors of the subject companies and rejected Tilton's claim of beneficial ownership of the Defendant Companies as "not credible" and based upon "hindsight observations" the Court characterized as "revisionist."

- We represented **Solus Alternative Asset Management LP** against GSO Capital Partners ("GSO") and Hovnanian Enterprises Inc. ("Hovnanian), in a suit arising from GSO's agreement to lend money to Hovnanian in exchange for Hovnanian agreeing to default on a portion of its debt. The default would trigger a credit event on credit default swaps, which would require Solus to pay millions of dollars in payments and would yield GSO millions of dollars in CDS payments. In addition, certain aspects of the transaction between GSO and Hovnanian were explicitly designed to set the price of the payout required from Solus in the case of a credit event. Solus alleged that this agreement violated Sections 10(b) and 14(e) of the Securities Exchange Act and that GSO had tortiously interfered with Solus's prospective economic advantage. The case settled at the end of May; as part of the settlement, Hovnanian cured the agreed-upon default, thereby avoiding the threatened credit event.

- We represent **pharmaceutical executive Raymond Mirra** and several of his businesses and employees in a diversity action brought by Gigi Jordan, his former business partner who is currently serving an eighteen-year prison sentence for killing her eight-year-old autistic son. In her 80+ page complaint, Ms. Jordan alleged a multi-decade conspiracy and asserted ten causes of action—including fraud, fraudulent inducement, breach of fiduciary duty, unjust enrichment, and conversion—with damages in excess of $225 million. We moved to dismiss nine of the ten causes of action on multiple independent grounds, including failure to plead the elements of fraud and that the claims were barred by the statute of limitations and by the terms of a mutual general release agreement. The District Court for the District of Delaware recently granted our motion to dismiss on all three of these grounds, leaving a single claim for breach of warranties against Mr. Mirra alone—the only claim we did not contest. This marks the latest in a series of victories for our client Mr. Mirra. In August 2016, we secured the complete dismissal of a related RICO action brought by Ms. Jordan. That dismissal was affirmed on appeal by the Third Circuit in May 2017.

- We represented **PIMCO**, **Western Asset Management Co**., and dozens of clients whose assets they managed in pursuing federal securities claims arising from the multi-year kickback and bribery at the Brazilian state-owned oil company Petróleo Brasileiro S.A. ("**Petrobras**"). After less than a year of litigation, we obtained very favorable confidential settlements for each of the managed funds and separate account clients as part of **$353 million** paid by the company.

- We obtained complete dismissal with prejudice for **The Vanguard Group** of a shareholder class and derivative action that asserted RICO and other claims against Vanguard and some of its officers, trustees, and advisors, on the theory that Vanguard had

improperly invested in illegal gambling companies. After plaintiffs appealed, the Second Circuit Court of Appeals affirmed the dismissal.

- We have represented **Trust Company of the West** (**"TCW")** for many years in a variety of important matters, including in one highly publicized jury trial in which one of its senior portfolio managers was accused of stealing trade secrets and recruiting employees to follow him to set up a competing new business in violation of the terms of his employment agreement. After an eight week jury trial, we obtained a jury verdict finding in favor of **TCW** on its claim for theft of trade secrets and related claims.

- We serve as co-lead counsel for a class of major investors, including asset managers, alleging that the major banks colluded to keep the marketplace for **credit default swaps** from evolving beyond the "over the counter" system they dominated. The case ultimately settled for **$1.87 billion** dollars. Large asset managers—heavy users of credit default swaps – were among the largest class members, recovered tens of millions of dollars. The mediator, Judge Weinstein (Ret.), said in support of the settlement : "[I]n 30-plus years of mediating high-stakes disputes, this was one of the finest examples of efficient and effective lawyering by plaintiffs' counsel that I have ever witnessed."

- We also serve as co-lead counsel for a class alleging that major banks colluded to manipulate the marketplace for **interest rate swaps**. Asset managers are among the largest users of such swaps, as they represent a key risk-management tool. This is a pioneering lawsuit because it is not an outgrowth of prior government investigations, an indictment, or a guilty plea; the conduct at issue was instead uncovered and developed by our firm acting as "private attorneys general." In selecting Quinn Emanuel as co-lead counsel over other plaintiffs' firms, Judge Paul Engelmayer of the Southern District of New York recognized that "the efforts undertaken by Quinn Emanuel [in crafting the complaint] exceeded the investigative work of the other applicants by an order of magnitude."

- We defeated two class actions filed against **Schwab**'s Total Bond Fund in the Northern District of California. The actions were brought by a fund shareholder and an investment advisor who had purchased the fund for multiple clients, and included securities claims. We convinced the court that plaintiffs had failed to allege actionable representations, among other things, leading to involuntary or voluntary dismissal of all claims.

- We were appointed lead plaintiffs' counsel in a **class action concerning the ISDAfix rate**, an interest rate benchmark used to determine the settlement value of cash-settled swaptions (which are options on interest rate swaps) and other financial derivatives. The case alleges fourteen major Wall Street banks who set the ISDAfix rate each day conspired to rig ISDAfix in order to extract higher profits on financial instruments that are linked to the rate. In March 2016, Judge Jesse Furman of the SDNY largely rejected the defendants' motions to dismiss. In December 2016 and July 2017, the court preliminarily approved settlements with Goldman Sachs, HSBC, and UBS, bringing the firm's total recovery on behalf of the class to $408.5 million from 10 defendant banks: We have filed a motion for class certification and are continuing to pursue claims against the non-settling defendants.

- We represent numerous managed pension funds, sovereign wealth funds, and other sophisticated clients – including **California State Teachers' Retirement System ("CalSTRS")**, Norway's sovereign wealth fund, **Norges**, **Vanguard Funds**, **BlackRock Funds**, **State Street Corporation**, and others – in a collection of securities suits filed by our firm in Germany against **Volkswagen** related to the scandal arising out of VW's manipulation of the emissions systems in its vehicles.

- We are Court-appointed co-lead counsel for a class of investors including asset managers related to alleged manipulation of the benchmark price for gold known as the "**London Gold Fix**." This massive class action pending in the Southern District of New York is brought against a group of banks for their involvement in manipulating the gold market. Defendant Deutsche Bank has already settled; the remaining defendants include The Bank of Nova Scotia, Barclays Bank plc, HSBC Bank plc, Société Générale SA, and UBS.

- We represent a **consortium of investment funds, a major international bank and shipping companies** from over a dozen countries in the U.S., Europe, Latin America and the Middle East in the largest financial fraud in Latin American history. Specifically, Oceanografia, S.A. de C.V. ("Oceanografia"), the largest oil services firm in Latin American and the largest vendor of Petroleos Mexicanos S.A. ("Pemex") in conjunction with Citigroup, Inc. ("Citigroup"), falsified invoices purportedly representing services Oceanografia did not provide to obtain hundreds of millions of dollars in cash advances from Citigroup. When Pemex learned of the fraud, Oceanografia collapsed, resulting in over $1 billion in losses to the funds, bank and shipping companies that purchased Oceanografia's bonds, lent it money and leased it ships. We represent this consortium before the SEC and in a large civil lawsuit in federal court against Citigroup. We conducted a wide ranging two-year investigation in over a dozen countries to develop the facts and evidence to represent the consortium before the SEC as victims of the fraud and as plaintiffs in the civil action.

- We successfully represented **Axis Capital Management**, one of the largest Mexican asset management firms, and its owners in connection with a billion-dollar dispute with its U.S. and Singaporean partners in Oro Negro S.A.P.I. de C.V. ("Oro Negro"), a Mexican oil services company. This dispute involved companies and potential litigation in at least three different jurisdictions raising novel claims and theories and complex legal issues involving the intersection of U.S., Singaporean, and Mexican law. The matter settled prior to litigation.

- We represented **Kallpa Securities S.A.B.** ("Kallpa"), one of the largest Peruvian asset management and financial advisory services firms, and one of Kallpa's partners in SEC and DOJ insider trading investigations in connection with the largest insider trading case in Peruvian history. Neither the SEC nor the DOJ pursued Kallpa and Kallpa's partner reached a settlement with the SEC.

- We have been appointed co-lead counsel in a class action alleging that five of the world's largest financial institutions conspired to manipulate the multi-trillion dollar market for supranational, sub-sovereign and agency ("**SSA**") **bonds**. The complaint alleges the banks conspired in private chat rooms to rig prices and bid-ask spreads. Our allegations are

supported by economic analysis demonstrating multiple historical patterns in SSA spreads and prices that are indicative of a price-fixing conspiracy from 2010 to 2014. The case is pending before Judge Ramos in the Southern District of New York.

- We were retained by **Vanguard** to represent several of its funds shortly before trial in a securities action against Citigroup and its affiliates arising from the Enron fraud. Vanguard was pursuing claims under the Pennsylvania securities laws against Citigroup for its role in creating and selling Enron credit-linked notes issued by Yosemite Securities Trust I. We were able to settle the case successfully prior to trial, shortly after Vanguard hired us to replace its former counsel.

- We defeated a derivative action filed against **Schwab**'s YieldPlus Fund alleging breach of fiduciary duty against the Fund officers and trustees and the Fund's Manager arising out of the change in investment objectives, which the Fund manager used to increase purchases of mortgage-backed securities. Although the Fund ultimately lost $900 million in value, we successfully defended the claims on the ground that a special committee had reasonably determined the derivative action was not in the best interest of shareholders. (The shareholders had already received $235 million in a class action defended by another law firm.)

- We represented **MHR Fund Management** and its affiliated funds relating to Carl Icahn's 2010 hostile bid for Lions Gate Entertainment Corp. MHR is a longstanding significant investor in Lions Gate, and its founder is a member of Lions Gate's board. Following a four day trial, the Supreme Court of British Columbia rejected Icahn's bid to rescind the transactions or sterilize MHR's votes. Two months later, the New York Supreme Court denied Icahn's request for a preliminary injunction. Following these rulings, Icahn did not close his then-outstanding tender offer, and his slate of directors was defeated.

- One of our partners represented the **New York State Common Retirement Fund (NYSCR)** and a class of similarly situated investors in the securities lawsuit arising out of the massive fraud at WorldCom. The case went to trial and resulted in a recovery for investors of more than **$6.1 billion**.

- We represented **BlackRock** in a California state court proceeding in which Impac was attempting to revise several pooling and servicing agreements to reallocate trust distributions to BlackRock's disadvantage. We prevailed in a bench trial and avoided any revision of the governing agreements.

- We represented a **major investment management firm** when it was threatened with claims by investors in a fund that sought to take advantage of the spreads between municipal bonds and treasury bonds and that lost nearly 80% of its value during the financial crisis. After extensive discussions and a mediation with plaintiffs' counsel, we were able to resolve all claims on favorable terms without any litigation claim being filed by any investor.

- Our partners have successfully represented multiple asset managers in **FINRA arbitrations** against claims that they improperly managed investment accounts; we have

won multiple defense victories, including victories assessing fees and costs against claimants.