

## Securities Group of the Year: Cravath

By **Richard Vanderford**

*Law360, New York (January 13, 2014, 9:10 PM ET)* -- Cravath Swaine & Moore LLP in 2013 represented Credit Suisse Group AG in a host of lawsuits stemming from mortgage-backed securities and shepherded PricewaterhouseCoopers LLP to a precedent-setting win in litigation over its role as American International Group Inc.'s accountant, earning the firm a place among Law360's Securities Groups of the Year.

Cravath successfully represented PricewaterhouseCoopers in a multibillion-dollar class action brought after insurer AIG, its client, lost nearly 90 percent of its value in the wake of the 2008 financial crisis. The firm also represents Credit Suisse in nationwide litigation over RMBS, and this year won the dismissal of two claims relating to about \$470 million in securities.

Daniel Slifkin, a Cravath litigation partner, says the firm maintains a client-centric approach in which it adapts its focus to match the legal landscape. When securities cases blew up in the wake of the financial crisis, the firm was ready to represent clients caught in the crossfire, he said.

"We've tried to foster significant relations with our significant clients, and in particular we want to be able to do what's most important to our clients at any point in time. It might be intellectual property, it might be antitrust, it might be securities," he said in a recent interview. "Our clients tend to trust us with their most important matters."

Cravath divides its team between litigators and corporate lawyers, and keeps its litigation talent adaptable so that it can meet changing client needs, Slifkin said. That said, the firm has about 17 partners and 50 associates who regularly work on securities cases, all out of New York.

That group has had notable success in a number of the massive securities cases it has taken on in the wake of the financial crisis.

In April, for example, it won a judgment vindicating accounting firm Pricewaterhouse in its representation of AIG ahead of the crash.

Plaintiffs in the securities class action had argued that PricewaterhouseCoopers had signed off on AIG audits that did not reveal problems with the insurer's risk exposure. The claims related to about \$13 billion in stock and another \$13 billion in bonds the insurance company had issued before its value cratered in late 2008.

To get the win, Cravath applied a new legal doctrine established in *Fait v. Regions Financial Corp.*, in which the Second Circuit held that accounting statements, like the AIG ones Pricewaterhouse had published, are statements of opinion and are actionable only if the accounting firm thought they were untrue when it authored them.

A New York federal judge dismissed the claims against PricewaterhouseCoopers in April, the first time an independent auditor had beat a case stemming from disclosures allegedly required under generally accepted accounting principles, according to the firm.

“It set a hugely important precedent, not just for Pricewaterhouse but for the entire accounting industry,” Slifkin said. “They were facing such massive liability that they said, ‘I understand this is going to be a long slog, but I need you to fight this for me.’”

The firm has also had prominent roles representing big banks hit with crisis-related litigation. Credit Suisse tapped Cravath as nationwide coordinating counsel for its RMBS litigation, and the firm has represented the bank as lead courtroom counsel in more than three dozen actions.

In March and April, it won dismissals of Credit Suisse actions in New York and Kansas federal courts stemming from the about \$470 million in securities it had sold.

The firm has also represented JPMorgan Chase & Co. in some notable actions. In April, its lawyers won dismissal of about \$770 million in MBS-related claims against JPMorgan in New York federal court. Though the dismissal was vacated when the case was moved to state court, the arguments Cravath had advanced remain available in that venue, according to the firm.

Cravath has been involved in these and other big securities cases not by growth-seeking design, but by responding to where clients’ needs took it, according to Bob Baron, managing partner of litigation. That has meant that Cravath tends to be a lifetime firm for lawyers, rather than a shop that brings in a lot of lateral hires to chase growth, he said.

“We certainly don’t have a model where we say we think antitrust is a boom area, so we’re going to go out in the market and hire five antitrust partners,” he said. “That’s not what Cravath does. That’s not what Cravath is going to do.”

Nonetheless, Cravath has a history of taking on high-stakes cases where clients face significant repercussions from a loss, including bet-the-company actions.

“As in any industry, there are the day-in, day-out cases that people file. The cases that we do at Cravath do not fit in that pattern,” Slifkin said.

--Editing by Kat Laskowski.

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