VEDDER PRICE®

Chicago ■ New York ■ Washington, DC ■ London

October 2012

Securities Litigation and Enforcement Trends

In this issue…

SEC v. Apuzzo

On August 8, 2012, the U.S. Circuit Court for the Second Circuit issued an important decision that clarified the pleading threshold for aiding and abetting liability and potentially eased the burden on the Securities and Exchange Commission (the SEC) to bring aiding-and-abetting claims against individuals who substantially assist in securities fraud.

In *SEC v. Apuzzo,* 2012 WL 3194303 (2d Cir. Aug. 8, 2012), the Second Circuit reversed the district court's dismissal of a complaint filed by the SEC against Joseph Apuzzo (Apuzzo), the former Chief Financial Officer of Terex Corporation (Terex), an equipment manufacturer.

The SEC alleged that, between December 2000 and December 2001, United Rentals, Inc. (URI), one of the world's largest equipment rental companies, and Michael J. Nolan (Nolan), its Chief Financial Officer, carried out two fraudulent "sale-leaseback" transactions with the assistance of Apuzzo. According to the SEC, Apuzzo assisted URI and Nolan in conducting a scheme designed to permit URI to recognize revenue prematurely and to inflate profits generated from URI's sales.

The alleged scheme worked as follows: URI would sell used equipment to a financing company, and lease the equipment back from that financing company for a short period of time. To obtain the financing company's agreement to participate in these sale-leaseback transactions, URI convinced Terex to agree to resell the equipment for the financing company at the end of the lease periods. Terex and URI also allegedly agreed that Terex would provide a residual-value guarantee to the financing company which provided that, after the equipment was resold, the financing company would receive no less than 96% of the purchase price that the financing company had paid URI for the equipment. In order to secure Terex's participation in these transactions, URI secretly agreed with Terex to indemnify Terex for any losses incurred by Terex under the residual-value guarantee. URI also agreed to make substantial purchases of new equipment from Terex in order to improve Terex's year-end sales.

Under applicable accounting guidance, URI could immediately recognize the revenue generated by the sale of equipment if (i) the "risks and rewards of ownership" were fully transferred to the buyer and (ii) the sale price was "fixed and determinable." According to the SEC, because of URI's secret indemnification agreement with Terex, URI did not fully transfer the risks and rewards of ownership to the financing company and was thus prohibited from recording the revenue from the sales. The SEC alleged that Apuzzo know that if the full extent of these transactions was transparent, URI would be prohibited from claiming the increased revenue. The Complaint alleged that Apuzzo executed various agreements and approved inflated invoices that were designed to conceal the indemnification payments from URI to Terex.

Apuzzo moved to dismiss the Complaint, arguing that the Complaint failed to adequately allege the second and third elements of aiding and abetting securities fraud—namely, that Apuzzo had actual knowledge of URI's fraud and that Apuzzo rendered substantial assistance to URI. The district court found that the SEC had adequately alleged actual knowledge of the violation. See *SEC v. Apuzzo,* 758 F. Supp. 2d 136, 148 (D. Conn. 2010). The court further found, however, that the SEC failed to sufficiently allege the "substantial assistance" element of the claim. Specifically, the district court found that "the [C]omplaint contains factual allegations which taken as true support a conclusion that there was a 'but for' causal relationship between Apuzzo's conduct and the primary violation, but do not support a conclusion that Apuzzo's conduct proximately caused the primary violation."[1] at 152. The court thus dismissed the Complaint with prejudice, concluding that proximate causation was required to satisfy the "substantial assistance" element of aiding and abetting liability.[2]

1 *Id.*
2 *Id.*

SEC vs Apuzzo
continued from page 2

Under Section 20(e) of the Securities Exchange Act of 1934, the SEC is permitted to bring civil actions against aiders and abettors of securities fraud. 15 U.S.C. § 78t(e) (the SEC may bring a claim for aiding and abetting securities fraud against "any person that knowingly provides substantial assistance" to a primary violator of the securities laws). In *SEC v. DiBella*, 587 F.3d 553, 566 (2d Cir. 2009), the Second Circuit articulated that, in order to state a claim for aiding and abetting liability, the SEC must allege: "(1) the existence of a securities law violation by the primary (as opposed to the aiding and abetting) party; (2) 'knowledge' of this violation on the part of the aider and abettor; and (3) 'substantial assistance' by the aider and abettor in the achievement of the primary violation."

Previously, in *Bloor v. Carro, Spanbock, Londin, Rodman & Fass*, 754 F.2d 57, 62 (2d Cir. 1985),[3] the Second Circuit stated that the complaint "must allege that the acts of the aider and abettor proximately caused the harm to the corporation on which the primary liability is predicated." Thus, Apuzzo argued that "substantial assistance" should be defined as proximate cause. In rejecting this argument, the Second Circuit stated that:

> Proximate cause is the language of private tort actions; it derives from the need of private plaintiff, seeking compensation, to show that his injury was proximately caused by the defendants' actions. But, in an enforcement action, civil or criminal, there is no requirement that the government prove injury, because the purpose of such actions is deterrence, not compensation.

Indeed, the court found no reason to carry the proximate-cause requirement set out in *Bloor* over to the context of an SEC enforcement action. Rather, the court looked to the well-developed body of law on criminal aiding and abetting. Drawing from Judge Learned Hand in a case decided nearly 75 years ago, the Second Circuit noted that, in order for a criminal defendant to be liable for aiding and abetting, the government must prove "that he in some sort associate[d] himself with the venture, that [defendant] participate[d] in it as something that he wishe[d] to bring about, [and] that he [sought] by his action to make it succeed." *U.S. v. Peoni*, 100 F.2d 401, 401 (2d Cir. 1938). The court further noted that Judge Hand's standard has "survived the test of time, is clear, concise, and workable, and governs the determination of aider and abettor liability in securities fraud cases."

Applying Judge Hand's standard to the SEC's Complaint against Apuzzo, the Second Circuit found that the Complaint plausibly alleged that Apuzzo provided substantial assistance to URI in carrying out the securities fraud. Specifically, the court held that the Complaint alleged that Apuzzo associated himself with the venture by agreeing to participate in the sale-leaseback transactions, participated in it as something he wished to bring about by negotiating the details and approving and signing agreements that he knew were designed to conceal URI's continuing risks and financial obligations in furtherance of the fraud, and sought by his actions to make it succeed by approving the issuance of Terex's inflated invoices.

Further, the court held that, in evaluating whether Apuzzo substantially assisted the fraud, it must consider his high degree of actual knowledge of the primary violation. Thus, where the SEC plausibly alleges a high degree of actual knowledge, it lessens the burden the SEC must meet in alleging substantial assistance. In this case, the district court found that the Complaint alleged, in detail, a very high degree of knowledge of the fraud on the part of Apuzzo. In light of those detailed allegations, the allegations of substantial assistance could be viewed only as an effort by Apuzzo to intentionally assist the fraud and help it succeed, and dismissal of the Complaint was inappropriate.

It remains to be seen whether federal courts in other circuits will adopt the pleading standard for aiding and abetting liability in the securities fraud context set forth in the *Apuzzo* case. As noted by the Second Circuit, however, other circuits, such as the Seventh Circuit, have recognized Judge

3 *Bloor* was a private securities fraud action alleging aiding and abetting liability that was decided prior to the U.S. Supreme Court's limitations on private claims for aiding and abetting securities fraud in Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164 (1994).

SEC vs Apuzzo
continued from page 3

Hand's standard as "[t]he classic formula for aider and abettor liability." *U.S. v. Irwin*, 149 F.3d 565, 569 (7th Cir. 1998). Thus, the SEC will likely rely on the *Apuzzo* case as the applicable standard when faced with motions to dismiss an aiding-and-abetting claim based on failure to sufficiently allege proximate cause. ■

SEC v. Bartek: Fifth Circuit Court of Appeals Rejects Discovery Rule in Options Backdating Case

On June 30, 2008, the SEC filed a complaint against Microtune, Douglas Bartek (Microtune's CEO) and Nancy Richardson (Microtune's CFO) (collectively, the Defendants). The Complaint alleged that the Defendants engaged in, and aided and abetted, fraudulent behavior pursuant to an options backdating scheme by which "from 2000 to 2003, the Defendant improperly backdated stock options that [Microtune] granted to newly hired and existing employees and executives." Specifically, the SEC alleged that Microtune did not properly expense the stock options and Bartek retrospectively selected the option grant dates by reviewing preceding two-week periods to locate the point at which Microtune's stock price was at its lowest. Bartek and Richardson contended that the alleged backdating was never hidden, was the result of vague accounting rules and was approved by outside counsel and accountants.

The SEC sought the following relief: (1) civil monetary penalties; (2) injunctive relief permanently barring the defendants from violating securities laws; and (3) a bar against Bartek and Richardson serving as officers or directors of any public company. Shortly after the Complaint was filed, Microtune settled with the SEC. Bartek and Richardson and the SEC then filed cross-motions for summary judgment. The U.S. District Court for the Northern District of Texas granted Bartek's and Richardson's motion on the basis that the statute of limitations had expired before the Complaint was filed. The SEC appealed the ruling to the Fifth Circuit.

The two main issues on appeal were: (1) whether the discovery rule applied to the SEC's claims, thereby tolling the limitations period until the SEC discovered the alleged scheme, and (2) whether the remedies of permanent injunctive relief and a bar against serving as directors and officers were equitable in nature and, therefore, not subject to the statute establishing the disputed limitations period.

The relevant statute setting forth the applicable limitations period provides, in pertinent part:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, *shall not be entertained unless commenced within five years from the date when the claim first accrued . . . .*

28 U.S.C. § 2462 ("Section 2462") (emphasis added). Because the SEC alleged that the backdating scheme commenced in 2000, the limitations period appeared to have expired.

The SEC, however, contended that the limitations period did not begin running until the alleged scheme was discovered in 2003. Thus, the main issue to be decided was the point at which the SEC's causes of action accrued. The Fifth Circuit affirmed the district court's determination that the causes of action accrued at the time that the alleged violations occurred, not at the time the alleged violations were discovered by the SEC. In reaching this conclusion, the Fifth Circuit relied on four main factors. First, the court looked to the plain language of Section 2462, noting that the statute itself "reveals no discovery rule exception." Second, the court noted that non-SEC case law interpreting Section 2462 supported the notion that the five-year limitations period began to run as of the date of the underlying violation. Third, the court found that Bartek and Richardson had not actively concealed the alleged fraud. Fourth, the court held that the alleged backdating scheme was not inherently self-concealing. Thus, because the SEC's causes of action accrued in 2000 at the time of the first alleged violation, the limitations period had expired before the Complaint was filed, and

SEC v. Bartek: Fifth Circuit Court of Appeals
Rejects Discovery Rule in Options Backdating
Case continued from page 4

the district court's granting of summary judgment in favor of Bartek and Richardson was affirmed.

In an attempt to salvage its claims, the SEC also contended on appeal that two of its remedies—a permanent injunction against future violations of securities laws and a bar on Bartek and Richardson serving as officers or directors of public companies—were equitable in nature and therefore "would not be subject to § 2462's time limitations." Specifically, the Fifth Circuit was tasked with determining whether the two disputed remedies constituted "penalties" under Section 2462. The court rejected the SEC's contention that the term "penalty" was "strictly used for monetary or property sanctions" and that the two disputed remedies were thus remedial—not penal—in nature. In reaching its conclusion, the court applied an objective analysis of "the nature of the remedies sought by the SEC." Here, the two disputed remedies constituted penalties because they (1) would have a stigmatizing effect and long-lasting repercussions; (2) would not address past harm allegedly caused by Bartek and Richardson; (3) would not address the prevention of future harm "in light of the minimal likelihood of similar conduct in the future"; and (4) were sufficiently long-term to be considered punitive. In sum, the Fifth Circuit affirmed the district court's determination that the two disputed remedies were punitive "[b]ased on the severity and permanent nature of the sought-after remedies."

This case seeks to clarify that the five-year statute of limitations established in Section 2462 is not susceptible to tolling based on the discovery rule and that the SEC must more appropriately tailor its remedies to the facts of the specific case if it wishes to seek equitable relief beyond the five-year limitations period. However, it will take some time to empirically assess its impact—if any—on the SEC's investigation practices. ■

SEC Announces First Award in Dodd-Frank Whistleblower Program

On August 21, 2012, the Securities and Exchange Commission announced the first payout from its whistleblower program that was instituted last year under the Dodd-Frank Act. The SEC awarded the whistleblower approximately $50,000 for providing documents and other significant information that allowed the SEC's investigation to move quickly and prevent the fraud from ensnaring additional victims.

The award represents 30% of the $150,000 collected to date by the SEC out of the total court-ordered sanctions of more than $1 million. The whistleblower is entitled to up to $300,000 once the total amount of the sanctions has been collected and may receive more should the SEC seek further claims in connection with this matter.

Whistleblower Program Requirements

The whistleblower rules prescribed under new Section 21F of the Securities Exchange Act of 1934 require the SEC to pay awards to whistleblowers—those individuals who voluntarily provide original information to the SEC relating to securities law violations leading to the successful enforcement of a judicial, administrative or related action involving sanctions exceeding $1 million.[1] A whistleblower must voluntarily submit the information to the SEC before a request or demand is made from the federal government, state attorney general or securities regulator, the Public Company Accounting Oversight Board or any self-regulatory organization. The SEC has the discretion to determine the amount of the award paid to the whistleblower, but the amount will be at least 10%, but no more than 30%, of the monetary sanctions that the SEC or other authorities are able to collect. Certain information, including information subject to attorney-client privilege, and individuals, including employees of the SEC, Department of Justice and other regulatory agencies, are not eligible for consideration.

1 SEC Release No. 34-64545 (Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934).

SEC Announces First Award in
Dodd-Frank Whistleblower Program
continued from page 5

Details of the Circumstances Leading to the Award Are Limited

Few details about the claim, such as whether the individual was an employee or the type of information this individual provided to the SEC, are publicly available. The SEC merely noted that the claim helped stop a multi-million-dollar fraud, which could imply that the case involved a Ponzi scheme or other investment fraud as compared to a situation involving a corporate issuer.

The limited release of information is likely due to the program's mandate to protect the identity of the whistleblower and to prevent retaliation. The SEC noted in its press release that the "law specifies that the SEC cannot disclose any information, including information the whistleblower provided to the SEC, which could reasonably be expected to directly or indirectly reveal a whistleblower's identity."[2] The law also includes a provision that prohibits any employer from retaliating against the whistleblower. For the purposes of this antiretaliation provision, a whistleblower includes a person who reasonably believes that the information he or she is providing relates to a possible securities law violation, whether or not the conditions, requirements or procedures are satisfied to qualify for any award.

Information Provided to the SEC Must Be Original and Voluntarily Provided

We do know that a second claim in connection with this case was rejected because the information provided did not rise to the level necessary to qualify for the award. A whistleblower must voluntarily provide original information that leads to a successful judicial or administrative action. In order for a whistleblower submission to be considered original information, it must be

- derived from the whistleblower's independent knowledge;
- not already known to the SEC; and
- not exclusively derived from an allegation made in a judicial or administrative hearing, in a government report, audit or investigation, or from the news media.

Increased Focus on Corporate Compliance

The scarcity of details from the SEC regarding this case does not necessarily provide corporate compliance managers with new guidance on improving a company's internal compliance procedures or provide whistleblowers with help navigating the requirements of the program or assessing the level of information required to receive an award. However, companies should continue to augment their securities law compliance and financial-related ethics programs with information about the bounty program. Whistleblowers may still receive an award even if they report to the company before going to the SEC. In some cases, if a person first reports the information internally before disclosing it to the SEC's Office of the Whistleblower, and the company conducts an investigation and reports the results to the SEC, the person will benefit from all the information the company's investigation turns up when the SEC is considering issuing an award.

Moreover, companies should consider establishing a predetermined response team for handling claims and managing risks associated with such claims. Current employee training programs should remind managers about the prohibitions on retaliation towards SEC whistleblowers. Employees should be further educated on their confidentiality obligations and the risks of false reporting. In advance, companies should determine what role the internal audit group and the Audit Committee of the Board of Directors will have in responding to complaints. ■

2 SEC Press Release dated August 21, 2012 (SEC Issues First Whistleblower Program Award).

United States v. Esquenazi Foreign Corrupt Practices Act (FCPA)

The Foreign Corrupt Practices Act (FCPA) was adopted in 1977 in an effort to prohibit the bribing of foreign officials for the purpose of retaining or obtaining business. It also requires that public companies file proper financial statements and maintain a system of internal controls.

In the *Esquenazi* case, Judge Martinez of the Southern District of Florida sentenced the former president of Terra Telecommunications Corporation (Terra), Joel Esquenazi, to 15 years in prison for his involvement in a scheme to pay bribes to Haitian government officials at Telecommunications D'Haiti S.A.M. (Haiti Teleco), a state-owned telecommunications company. The former vice president, Carlos Rodriguez, was sentenced to seven years' imprisonment. Esquenazi's sentence of 15 years was two times greater than the longest sentence previously imposed for substantive violations of the FCPA. Rodriguez's sentence of seven years is one of the three longest sentences imposed for FCPA violations. As part of the sentence, the defendants were also ordered to forfeit \$3.09 million. The defendants were convicted of one count of conspiracy to violate the FCPA and wire fraud; seven counts of FCPA violations; one count of money laundering conspiracy; and 12 counts of money laundering.

Terra was headquartered in Miami-Dade County, Florida. Haiti Teleco was the sole provider of land line telephone service in Haiti. Terra and Haiti Teleco contracted to allow Terra's customers to place telephone calls to Haiti. Esquenazi was the president and 75% owner of Terra. Esquenazi and Rodriguez orchestrated a bribery scheme from November 2001 through March 2005 to pay \$890,000 to shell companies to be used for bribes to Haiti Teleco officials. Esquenazi and Rodriguez authorized the bribe payments to officials in order to obtain various business advantages from the Haitian officials for Terra, including the issuance of preferred telecommunication rates, reductions in the number of minutes for which payment was owed, and the continuance of Terra's telecommunications connection with Haiti. In order to conceal these bribe payments, the defendants used various shell companies to receive and forward payments. The defendants also created false records claiming that payments were made as "consulting services." These services were never intended to be performed or actually performed.

Esquenazi's sentence was determined under the U.S. sentencing guidelines. The determination included a 16-level enhancement due to the \$2.2 million loss to the treasury of Haiti; a four-level enhancement for being an organizer and leader of the criminal activity; a four-level enhancement for the sophisticated money laundering operation; and a two-level enhancement for obstruction of justice resulting from his perjury on the witness stand. The primary contributor to the length of Esquenazi's sentence was the term issued for the money laundering counts, rather than the FCPA counts. He received a level of 40 and a recommended guideline sentence of 292-365 months, yet he received an actual sentence of 180 months. Both Esquenazi and Rodriguez benefited from Judge Martinez's significant downward departure from the guideline range, which suggests that the lengthy sentence may not be as harsh as it appears. The judge imposed a 60-month sentence on Esquenazi for each of the eight FCPA counts to be served concurrently, and a 120-month sentence for each money laundering count.

Esquenazi's severe sentence appears to be the product of his role in the scheme. He was found to be the driving force in devising and carrying out the bribe payments as president and majority owner. Esquenazi's co-defendant, Rodriguez, was faced with the same 21-count indictment, but Esquenazi's sentence was enhanced by four levels because of his leadership role in the illegal conduct.

Additionally, other members of Terra's bribery scheme with less involvement pleaded guilty and cooperated with the government, but they also received significant sentences. The matter has involved the largest number of individual FCPA violations to date. A former controller at Terra entered a guilty plea and was sentenced to 24 months, and two persons who forwarded bribes as middlemen of Haitian officials received sentences of 57 months and six months, respectively. The *Esquenazi* case serves as a reminder of the increasingly serious penalties for individuals found to have violated the FCPA. ■

SEC Enters into Deferred Prosecution Agreement with Amish Helping Fund

The Securities and Exchange Commission (SEC) recently entered into a Deferred Prosecution Agreement (DPA) with the Amish Helping Fund (the AHF or the Fund), an Ohio non-profit, religious-based corporation that sold securities to fund mortgage and construction loans for Amish families. The SEC's investigation into the AHF started in June 2010, and the SEC's DPA with the AHF was only its second DPA since the Enforcement Division announced its Cooperative Initiative in January 2010.

The AHF had been formed in 1995 by a group of Amish elders in order to raise funds to make loans to Amish families. From 1995 to June 2010, the AHF had 3,500 investors in the Amish community. The Fund currently has more than 1,200 borrowers and around $125 million in mortgage receivables.

The SEC alleged that the AHF's offering memorandum, which was drafted in 1995, had not been updated for 15 years, and accordingly, it contained material misrepresentations about the Fund and the securities being offered by the Fund. Specifically, the AHF's offering memorandum failed to contain updated information concerning the history of operations of the Fund, the Fund's cash reserves, the use of investor monies, and investors' ability to redeem money. Based on the AHF's failure to revise its offering memorandum since 1995, the SEC contended that the Fund violated Section 17(a) of the Securities Act of 1934, along with Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. Notably, no investor suffered any realized losses in connection with the AHF's stale offering memorandum.

Upon being informed of its possible securities violations, the AHF immediately cooperated with the SEC by revising the Fund's offering memorandum and by quickly taking other remedial steps. For example, the AHF provided existing investors with corrected copies of the offering memorandum, offered existing investors the right of rescission, retained an independent certified public accountant to perform ongoing audits, registered its securities offerings with the Ohio Division of Securities, and consented to a cease-and-desist order with the Ohio Division of Securities.

Under the terms of the AHF's DPA with the SEC, the prosecution of any related action against the Fund is delayed for two years, through July 17, 2014.[1] Provided that the AHF complies with the terms of the DPA, the SEC has agreed that it will not file any further enforcement actions stemming from the Fund's current alleged securities violations. Further, per the DPA, the AHF accepted responsibility for the violations alleged by the SEC and agreed to other remedial conduct, including cooperating with the SEC's investigation by supplying non-privileged documents and any other requested information.

While the SEC's use of DPAs remains infrequent, the DPA with the AHF highlights the benefits of cooperating with the SEC during investigations. Moreover, the underlying alleged securities violations at issue with the AHF underscore the need for companies to regularly review and update their offering memoranda. ■

1 A copy of the AHF's DPA with the SEC is available on the SEC's website at: http://www.sec.gov/news/press/2012/2012-138-dpa.pdf.

Securities Litigation—Team Members

Thomas P. Cimino, Jr. (*Chair and Co-Editor*)	+1 (312) 609 7784
Junaid A. Zubairi (*Co-Editor*)	+1 (312) 609 7720
David E. Bennett	+1 (312) 609 7714
Rachel T. Copenhaver	+1 (312) 609 7514
Rebecca L. Dandy	+1 (312) 609 7923
David L. Doyle	+1 (312) 609 7782
John H. Eickemeyer	+1 (212) 407 7760
Joel S. Forman	+1 (212) 407 7775
James V. Garvey	+1 (312) 609 7712
Mark S. Goldstein	+1 (212) 407 6941
Nicole J. Highland	+1 (312) 609 7914
Brian W. Ledebuhr	+1 (312) 609 7845
Randall M. Lending	+1 (312) 609 7564
James S. Montana, Jr.	+1 (312) 609 7820
Jeanah Park	+1 (312) 609 7532
Timothy M. Schank	+1 (312) 609 7585
William W. Thorsness	+1 (312) 609 7595
Michelle D. Velásquez	+1 (212) 407 7792
John W. Whittlesey	+1 (312) 609 7615
John E. Zummo	+1 (312) 609 7853

VEDDER PRICE®

222 NORTH LASALLE STREET

CHICAGO, ILLINOIS 60601

+1 (312) 609 7500 | +1 (312) 609 5005 • FAX

1633 BROADWAY, 47TH FLOOR

NEW YORK, NEW YORK 10019

+1 (212) 407 7700 | +1 (212) 407 7799 • FAX

1401 I STREET NW, SUITE 1100

WASHINGTON, D.C. 20005

+1 (202) 312 3320 | +1 (202) 312 3322 • FAX

200 ALDERSGATE

LONDON EC1A 4HD

+ 44 (0)20 3440 4680 | + 44 (0)20 3440 4681 • FAX

www.vedderprice.com

Securities Litigation and Government Enforcement Groups

The firm's Securities Litigation and Government Enforcement groups regularly represent public companies, officers and directors, board committees, executives, broker-dealers, mutual funds, investment advisors, financial institutions and accounting professionals in all aspects of securities litigation as well as in a broad range of government and regulatory investigations, internal investigations, white collar criminal investigations and litigation matters. Our litigators include former prosecutors with the Department of Justice, Securities and Exchange Commission (SEC) and self-regulating organizations and number among the most experienced in the nation in handling all aspects of securities litigation, including private securities class actions, governmental enforcement proceedings and white collar criminal defense, and proceedings before self-regulating organizations and state agencies.

If you have any questions regarding material in this issue of Securities Litigation and Enforcement Trends or suggestions for a specific topic you would like addressed in a future issue, please contact the Co-Editors, Thomas P. Cimino, Jr. or Junaid A. Zubairi.

The editors would like to acknowledge the contributions of the following attorneys in connection with this edition:
Rachel T. Copenhaver, Rebecca L. Dandy, Joshua A. Dunn, William K. Hadler, Joshua Nichols and Aruna Subramanian.

About Vedder Price

Vedder Price is a business-oriented law firm composed of more than 265 attorneys in Chicago, New York, Washington, DC and London. The firm combines broad, diversified legal experience with particular strengths in commercial finance, corporate and business law, financial institutions, labor and employment law and litigation, employee benefits and executive compensation law, occupational safety and health, general litigation, environmental law, securities, investment management, tax, real estate, intellectual property, estate planning and administration, health care, trade and professional associations and not-for-profit organizations.

Securities Litigation and Enforcement Trends is published periodically by the law firm of Vedder Price P.C. It is intended to keep our clients and interested parties generally informed about important case law. It is not a substitute for professional advice. For purposes of the New York State Bar Rules, this Newsletter may be considered ATTORNEY ADVERTISING. Prior results do not guarantee a similar outcome.

Vedder Price is an international law firm operating through various separate and distinct entities. One of those entities is Vedder Price LLP, which operates in England and Wales and is regulated by the Solicitors Regulation Authority. For further information, please refer to www.vedderprice.com.

VEDDER PRICE®

Chicago

New York

Washington, DC

London

www.vedderprice.com