

Credit Crisis Litigation Team Representative Matters

As subprime borrowers continue to default at an alarming rate and delinquencies and defaults begin to materially rise on Alt-A and prime loans, the prospects for litigation and regulatory enforcement action have risen sharply for a host of businesses, including rating agencies, banks, hedge funds, investment bankers and broker-dealers. The first wave of shareholder lawsuits has already arrived. Many of these entities are being subjected to increased scrutiny by regulators, who have launched investigations into the valuation of mortgage-backed securities and whether subprime lenders engaged in predatory lending practices or violated securities laws. Additionally, decreased availability of financing and financial stresses have led to a rise in commercial bankruptcies and commercial real estate foreclosures.

Some of the matters Katten's Credit Crisis Litigation Team has successfully concluded or is currently handling include the following:

- Represent major financial institution in connection with governmental inquiry regarding subprime instruments and valuations.
- Represent originator of subprime mortgages in consumer fraud class actions and suits by municipalities alleging common law nuisance.
- Represent underwriter in shareholder class action alleging misrepresentations and omissions by corporate issuer regarding issuer's exposure to subprime and Alt-A mortgage-backed securities.
- Represented financial institution in consumer fraud class action lawsuits filed in numerous states which alleged that the terms of home mortgages violated consumer protection laws, deceptive trade practices and breach of contract and fraud.
- Represented financial institution's mortgage services company and its predecessor in dozens of lawsuits against originators and sellers of subprime loans seeking to enforce their contractual obligation to repurchase deficient subprime loans that they sold to our client.
- Represent defendants in a securities fraud action brought by investors in a hedge fund that invested in subprime automobile finance loans. The defendants allege that the hedge fund and its affiliates misrepresented the extent to which there was a secondary market into which the subprime loans could be resold if necessary to provide liquidity to fund redemptions by the investors.
- Represented a multibillion-dollar hedge fund during an internal investigation and in response to investigations by various regulators. Katten conducted an extensive investigation into transactions involving the complete range of mortgage-backed investment vehicles, which involved a detailed analysis of the structure of the products, the marketplace for those products and the methodology for pricing mortgage-backed instruments. All investigations were closed without any action taken against the client.
- Represented a director in connection with civil and governmental actions brought in connection with improper accounting and lending practices by the institution. This case involved allegations of improper and abusive lending practices in connection with large commercial real estate transactions. In the end, no action was taken against the director.



Contact Us

Credit Crisis Litigation Team Co-Chairs

David C. Bohan

312.902.5566
david.bohan@kattenlaw.com

Christian T. Kemnitz

312.902.5379
christian.kemnitz@kattenlaw.com

- Represented a senior officer of a financial institution in connection with governmental and private civil litigation. This case involved allegations of improper and abusive lending practices in connection with large commercial real estate transactions. No criminal charges were brought against the director and no individual settlement was required.
- Represented lenders in connection with commercial real estate bankruptcies, including bankruptcies in which we represented the lender in obtaining stay relief to allow foreclosure.
- Represented secured lenders in litigation concerning (i) a debtor's attempt to enjoin the secured lender from exercising its right of sale (non-judicial foreclosure) under the applicable deed of trust; and (ii) a guarantor's liability for the borrower's violation of non-recourse covenants.
- Represented major mortgage originator in investigation of fraudulent mortgage elimination scheme and related litigation to establish lien priority, and in the investigation and prosecution of other fraud-based claims against brokers, closing agents and other settlement service providers.
- Represented mezzanine lenders in commercial bankruptcies.
- Represented lenders in state court-contested receiverships of distressed real estate with respect to (i) a hotel; (ii) a chain of fast food restaurants, resulting in the sale of the chain and related realty, including leasehold interests, as a going concern; and (iii) a manufacturing facility that had significant environmental (CERCLA) problems, resulting in foreclosure.
- Represented issuer of proprietary credit card securitizations in connection with bankruptcy-related claims by creditors committees.
- Represented insolvent manufacturing companies and companies that owned land where manufacturing was conducted in connection with Environmental Protection Agency claims and Superfund claims.
- Represented fiduciaries of a large pension plan in negotiating the repurchase of subprime securities by an investment manager which allegedly purchased the securities for the plan in violation of its investment policy statement.

About the Firm

Founded in 1974, Katten Muchin Rosenman LLP is a full-service law firm with more than 650 attorneys in locations across the United States and an affiliate in London. The firm's business-savvy professionals provide clients in numerous industries with sophisticated, high-value legal services, with a focus on corporate, financial services, litigation, real estate, commercial finance, intellectual property and trusts and estates. Among our clients are a wide range of public and private companies, including nearly a third of the Fortune 100, as well as a number of government and nonprofit organizations and individuals. For additional information, visit www.kattenlaw.com.

Published for clients as a source of information. The material contained herein is not to be construed as legal advice or opinion.

CIRCULAR 230 DISCLOSURE: Pursuant to regulations governing practice before the Internal Revenue Service, any tax advice contained herein is not intended or written to be used and cannot be used by a taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

©2008 Katten Muchin Rosenman LLP. All rights reserved.

Katten

KattenMuchinRosenman LLP

www.kattenlaw.com

CHARLOTTE

CHICAGO

IRVING

LONDON

LOS ANGELES

NEW YORK

PALO ALTO

WASHINGTON, DC