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Securities Group Of The Year: Williams & Connolly

By **Martin O'Sullivan**

Law360, New York (January 26, 2017, 2:09 PM EST) -- Williams & Connolly LLP scored defining victories in 2016 surrounding the financial crisis eight years earlier, such as the Second Circuit's reversal of a roughly $1.3 billion penalty against Bank of America Corp. regarding a mortgage program, securing a spot as one of Law360's Securities Groups of the Year.

Williams & Connolly's busy year saw the Second Circuit reverse a $1.3 billion judgment against BofA in the government's most prominent case surrounding the financial crisis, by defining the circumstances in which alleged contract breaches can support federal fraud claims. According to Bob Van Kirk, who co-chairs the Washington, D.C.-based firm's securities litigation and enforcement practice, the success of the firm rests on its record of trial litigation and its work at the appellate level.

"When you combine our trial reputation and record with a stable of appellate superstars, it's a fairly potent combination," Van Kirk said. "Clients are looking to hire somebody with an ability to take complex matters and explain them to judges and juries, and also the ability to pursue those cases successfully on appeal if necessary."

A New York federal judge had issued the $1.3 billion fine against BofA in July 2014, after a jury found subsidiary Countrywide Financial Corp. and former executive Rebecca Mairone liable under the Financial Institutions Reform, Recovery and Enforcement Act for defrauding Fannie Mae and Freddie Mac by using a program designed to speed up mortgage issuing to push through large numbers of toxic loans.

Williams & Connolly, representing BofA on appeal, successfully convinced the Second Circuit to reverse the judgment in May. An appellate panel found that the prosecutors failed to show that Countrywide intended its mortgages to be shoddy at the time contracts were inked, as required under FIRREA.

Another notable financial crisis-related victory for the firm came in December 2015 while representing Jessie Litvak in the same circuit. He was a trader convicted of securities fraud in 2014 for allegedly defrauding a federal bailout program designed to aid the mortgage-backed securities market.

The appellate panel concluded that a federal jury was not shown enough evidence at trial to find that Litvak's alleged misstatements were material to the U.S. Department of Treasury, which ran the program. The case was the only criminal prosecution to arise out of the bailout effort, which was called the Troubled Asset Relief Program.

According to Van Kirk, partners in Williams & Connolly's securities litigation and enforcement group can be members of multiple practices. There are about 60 partners in the group with substantial and active experience in securities law, he said.

"We have lawyers that can take complicated financial issues and, while they have a deep reservoir of experience in securities law, they also have trial experience in other areas that allows them to translate these complex concepts into information that is understandable to judges and juries," Van Kirk said.

He said the firm is one of the most selective in the country in terms of hiring, allowing Williams & Connolly to keep a roster of "the best and brightest" associates.

"That is extremely important in securities law because so many cases are resolved at the motion to dismiss stage and the class certification stage," Van Kirk said. "The quality of the people we hire consistently across our relatively small group is what permits to have the kind of success we've enjoyed in getting early resolutions."

Another highlight from the past year includes the firm's co-representation of HSBC Holdings PLC in preparation for a second trial in a 14-year-old shareholder securities class action over alleged fraudulent lending practices.

HSBC, which previously secured a reversal of a $2.4 billion judgment in the case at the Seventh Circuit, hired Williams & Connolly along with Skadden Arps Slate Meagher & Flom LLP to defend against claims that an HSBC subsidiary and three former executives lied about the company's lending practices, financial accounting and loan quality.

On the first day of trial in June, investors and HSBC settled for $1.575 billion. The deal received court approval in October.

According to Van Kirk, securities law is an area traditionally dominated by New York firms since companies would turn to the corporate firms handling underlying transactions. Many companies have since realized the need for an outsider perspective and the benefit of bringing in attorneys with both securities expertise and litigation experience, he said.

"We've demonstrated the ability to handle the most-complex financial matters and to litigate them successfully at a non-New York rate structure," Van Kirk said.

--Additional reporting by Kat Greene, Ed Beeson and Dani Kass. Editing by Edrienne Su.
