



.. Berman

## FOCUS AREAS

Securities Fraud

Global

Shareholder

Litigation

Direct & Opt-Out

Fiduciary

Arbitration

SecuritiesTracker™

Corporate

Governance &

M+A

Healthcare Impact

& Consumer

Protection

Whistleblower

Stuart L. Berman has opened doors for victims of securities fraud to pursue recoveries around the world. In his litigation practice, Stu actively counsels institutional investors on filing lawsuits in jurisdictions outside the United States for investors worldwide.

The Firm's global litigation focus first began around 2009 through Stu's role in representing European investors in a class settlement with Royal Dutch Shell in the Netherlands—the first class settlement approved under Dutch law. Stu has also represented institutional investors in shareholder actions against companies in the Netherlands (Fortis), Germany (VW and Porsche), France (Alstom), Australia (BHP Billiton), Portugal (BES) and the United Kingdom (Royal Bank of Scotland).

A well-known authority on global litigation and portfolio monitoring, Stu actively engages with institutional investors on investments made in the United States and abroad. Through Kessler Topaz's proprietary Securities Tracker, the firm's institutional clients are able to quickly review and analyze potential claims anywhere in the world. Stu helps his clients determine their fiduciary responsibilities and guide them on how best to pursue and recover assets lost to fraud. He is instrumental in determining when there is the right combination of facts, law and source of recovery to warrant a class action.

In actions brought in the United States, Stu has been instrumental in representing numerous institutional investors in the class certification process in high-profile class actions. He also has represented institutional clients in actions against companies such as Petrobras, Merck and Vivendi.

Stu is a frequent speaker and panelist at investor meetings and conferences around the world on topics such as shareholder rights, and the importance of monitoring portfolios and analyzing shareholder claims on a regular basis. He is a member of the Kessler Topaz Meltzer & Check, LLP.

## EDUCATION

Brandeis

University

B.A. with honors

The George

Washington

University Law

## Current Cases

- Banco Espirito Santo (Portugal)

The Firm is representing and funding a group of institutional investors who hold senior Banco Espirito Santo bonds of Portugal. The action is an administrative challenge against the Bank of Portugal's December 29, 2011 decision to restructure Novo Banco S.A. back to the now defunct Banco Espirito Santo. When Banco Espirito Santo collapsed, it was replaced by Novo Banco, and transferred all assets and some bonds to Novo Banco. On December 29, 2011, the Bank of Portugal decided to restructure Novo Banco S.A. back to the now defunct Banco Espirito Santo.

School  
J.D.

## ADMISSIONS

Pennsylvania

New Jersey

USDC, District of  
New Jersey

USDC, Eastern  
District of  
Pennsylvania

USDC, Eastern  
District of  
Wisconsin

USCA, Second  
Circuit

USCA, Ninth  
Circuit

USCA, Tenth  
Circuit

worth of bonds from Novo Banco (which has assets) back to Banco Espírito Santo (which has no assets). The result is that bondholders lost at least 90% of the value of their bonds. This case is ongoing.

- BHP Billiton Limited (Australia)

The Firm is representing and funding a number of institutional investors in securities litigation in Australia against its executives. BHP is an Australian-headquartered, multi-national company that serves as the world's largest iron ore company. The case against BHP alleges that BHP knew or should have known as early as 2013 that a dam at the Germano iron ore mine in Brazil would collapse (which it ultimately did on November 5, 2019, killing 19 people, and caused permanent environmental damage). The Firm, its partners and its counsel, after entertaining carriage motions, the Australian court ultimately ordered the Firm's group to serve as co-counsel.

- Deutsche Postbank (Germany)

The Firm is representing and funding a number of institutional investors in securities litigation in Germany. In September 2008, Deutsche Bank entered into an agreement with Deutsche Post to acquire Deutsche Postbank (100% of shares) of Deutsche Postbank, one of Germany's largest banks and financial service providers. The acquisition violated German law (which requires that a mandatory tender offer be made once an acquirer crosses a certain threshold) because it did not issue a public tender offer for shares of Deutsche Postbank upon seeking to acquire) because it did not issue a public tender offer for shares of Deutsche Postbank upon the purchase price to Deutsche Post. By delaying the tender offer, Deutsche Bank benefitted from market prices significantly lower than the price would have been had it made a timely tender offer. The facts leading to the acquisition of separate appraisal action proceedings brought by the German investor Effecten-Spiegel AG against Deutsche Bank's counsel filed two waves of complaints on behalf of institutional investors: one on April 3, 2017, and another on April 3, 2018.

- Mitsubishi Motors Corporation (Japan)

The Firm is representing and funding a number of institutional investors in a securities case in Tokyo against Mitsubishi arises from Mitsubishi's April 20, 2016 revelation that it had falsely reported the full value of its Japanese regulators since 2013. In late June of 2017, Kessler Topaz, its partners, and Japanese counsel filed a lawsuit on behalf of institutional investors. The case is ongoing.

- Nissan Motors Corporation (Japan)

The Firm is representing and funding over 100 institutional investors in securities litigation in Japan. On November 19, 2018, Nissan's former Chairman and CEO, Carlos Ghosn, was arrested in Japan over allegations of fraud. An internal investigation at Nissan found not only the financial wrongdoings of Ghosn and other executives but also a lack of adequate internal measures also resulted in the Company violating Japanese securities and tort laws, leading to significant harm to investors. On June 22, 2020, the Firm and its local Japanese lawyers filed the first wave complaint and the second wave complaint on behalf of investors.

- Petrobras (Petróleo Brasileiro S.A.) (Brazil)

Kessler Topaz and its partners are representing and funding nearly 100 institutional investors in an arbitration case before the Arbitration Chamber of Brazil. The arbitration stems from the largest corruption scandal in Brazilian history ("Car Wash") revealed that former executives of Petrobras, the Brazilian state-run energy company, had used their position for their own profit and to pay bribes and kickbacks to politicians. The arbitration is ongoing.

- Toshiba Corporation (Japan)

The Firm is representing and funding a number of institutional investors in securities litigation in Tokyo against Toshiba arises from a series of disclosures Toshiba made beginning on April 3, 2015 regarding its accounting practices that led to a ¥38 billion net loss for FY 2014/2015 and a revision of its pre-tax profit figures dating back to 2011. The Firm filed a complaint on behalf of a large group of investors in late March of 2017. The case is ongoing.

- Vivendi Universal, S.A. (France)

The Firm is representing and funding a number of institutional investors in a direct action in Paris, France, against Messier (Vivendi's former CEO) arising from the facts tried in the securities class action *In re Vivendi U.S. Securities Litigation* in New York. We represent investors who purchased Vivendi's securities on the Paris Bourse and whose claims were affected by the Supreme Court's decision in *Morrison*. A trial has recently concluded and we await a ruling from the court.

- Volkswagen AG (Germany)

Kessler Topaz is currently representing and funding a group of over 500 institutional investors in securities litigation against Porsche concerning Volkswagen's "dieselgate" emissions scandal that caused substantial monetary damages. The Firm, its partners, and German counsel filed three separate group complaints between March 2016 and April 2017, seeking damages. Altogether the Firm's group is the largest group of investors pursuing action against Volkswagen in Germany. The total claims filed in Germany against Volkswagen. The proceedings in Germany are being adjudicated under the "KapMuG" and the court appointed Deka Investments, one of the plaintiffs in our group of over 500 investors, to utilize the KapMuG model case proceedings in order to make a determination on common issues of fact and law against Volkswagen. The parties are currently exchanging briefing and oral hearings are ongoing.

### Settled

- Fortis Bank  
In a case arising out of the subprime mortgage crisis, Kessler Topaz, on behalf of a number of large institutional investors and its successor companies BNP Paribas and Ageas NL for fraud in connection with the company's acquisition of ABN Amro Holding NV (ABN Amro). Our lawsuit alleged that Fortis misrepresented the value of its collateralized mortgage-backed securities, and the extent to which the decision to acquire ABN Amro justified the price paid. Fortis encountered financial difficulties and broke up in the fall of 2008. Its investors lost as much as 100% of their investment. Survivors survived rigorous jurisdictional challenges in the Netherlands Court of Appeals, and proceedings were eventually successfully negotiate a \$1. billion multiparty settlement (including other plaintiff groups in the Netherlands). The largest settlement in Europe to date. Because of the Dutch procedural mechanism for collective proceedings, including also those who had not participated in lawsuits against the company, were eligible to file claims. However, Kessler Topaz's clients and other investors who had directly pursued litigation against the company received settlement payouts more than a year before other eligible Fortis investors.
- Kraft Heinz Company  
**Case Caption:** *In re Kraft Heinz Sec. Litig.*  
**Case Number:** 1:19-cv-01339  
**Court:** Northern District of Illinois  
**Judge:** Honorable Jorge L. Alonso  
**Plaintiffs:** Sjunde AP-Fonden, Union Asset Management Holding AG, Booker Enterprises Pty Ltd.  
**Defendants:** The Kraft Heinz Company, Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Benoit, 3G Capital, Inc., 3G Global Food Holdings, L.P., 3G Global Food Holdings GP LP, 3G Capital Partners Ltd

**Overview:** In January 2023, the parties agreed to resolve this securities fraud class action in its entirety. The case arose out of Defendants' misstatements regarding the Company's financial position, including its sustainability of the Company's margins, and the success of recent cost-cutting strategies by Kraft Heinz. Kraft Heinz is one of the world's largest food and beverage manufacturer and produces well-known brands like Maxwell House, and Velveeta. The Company was formed as the result of the 2015 merger between Kraft Foods Corporation. That merger was orchestrated by the private equity firm 3G Capital ("3G") and Berkshire Hathaway. 3G Capital's costs from the legacy companies. 3G is particularly well-known for its strategy of buying mature companies at low costs using "zero-based budgeting," in which the budget for every expenditure begins at \$0 with incremental increases. Plaintiffs alleged that Kraft misrepresented the carrying value of its assets, sustainability of its margins, and its strategy in the wake of the 2015 merger. During the time that Kraft was making these misrepresentations, private equity sponsor, 3G Capital, sold \$1.2 billion worth of Kraft stock. On February 21, 2019, Kraft announced that it was forced to take a goodwill charge of \$15.4 billion to its balance sheet.

brands—one of the largest goodwill impairment charges taken by any company since the financial crisis. Kraft announced that it would cut its dividend by 36% and incur a \$12.6 billion loss for the fourth quarter of 2009, not only by plunging margins and lower pricing throughout Kraft's core business. In response, Kraft concealed and "push[ing] forward" the "bad news" and characterized the Company's industry-leading brands as "highly resilient." Heightening investor concerns, Kraft also revealed that it received a subpoena from the U.S. Securities and Exchange Commission to determine whether Kraft determined to take this write-down and was conducting an internal investigation relating to the Company's procurement division. Because of this subpoena and internal investigation, Kraft was also forced to re-examine its accounting practices. Plaintiffs alleged that because of the Company's misrepresentations, the price of Kraft's stock declined during the Class Period.

- **Olympus Corporation**  
Obtained an 11 billion yen (\$92 million) settlement in an action filed in Japan over an accounting scandal that was the largest ever in that country, if not the largest.  
In 2011, former Olympus CEO and whistleblower Michael Woodford revealed that Olympus had engaged in a series of sham transactions, many of which involved "paying" exorbitant fees for financial advice. Olympus eventually admitted that some of its executives pled guilty to the fraud. We represented defrauded shareholders in proceedings against Olympus. Olympus violated their duties under Japanese Company Law. Following a two-day mediation, we reached a settlement.
- **Royal Bank of Scotland**  
Recovered £267 million on behalf of a group of institutional investors who participated in the Greenback 2008 Rights Offering of Royal Bank of Scotland (RBS). The entire GLO settled for approximately £900 million. At the time it was the largest securities settlement in UK history.  
Working with UK counsel, we represented a group of institutional investors in a UK case alleging that RBS misrepresented subprime-related assets, collateralized debt obligations, and the inflated value of its assets in connection with the Greenback 2008 Rights Offering completed in June 2008. Just months later, in September 2008, RBS failed and had to be bailed out by the UK government. Shares in the Rights Offering lost nearly 90 percent of the value of that investment. Our clients, along with others with which we worked closely, lost billions in connection with the Rights Offering purchases and sales. RBS reported full-year net loss for 2008, represented the largest loss ever for a UK-based company and a significant loss for the UK government. After the initial September 2008 bailout, the UK government bailed out RBS on two subsequent occasions.
- **Royal Dutch Shell**  
On behalf of investors in European-based shares of Royal Dutch Shell, recovered more than \$350 million in connection with the company's announced re-categorizations and/or restatement of certain oil and gas reserves.  
The settlement was the first of its kind under Dutch law and arguably began the trend of bringing similar cases around the globe.
- **Theodoros Adamakopoulos and Others v. Republic of Cyprus, International Centre for the ICSID**

Kessler Topaz is co-counsel in an investment treaty arbitration on behalf of nearly 1000 claimants against the Republic of Cyprus (the "ICSID" Centre for the Settlement of Investment Disputes ("ICSID").

Claimants, nationals of Greece and Luxembourg, were all depositors or bondholders of either Cyprus Bank of Cyprus (the "Bank of Cyprus") or the Bank of Cyprus, and suffered substantial losses when their bonds/deposits were converted into shares of the Bank of Cyprus ("B") to the Cypriot financial crisis. Claimants allege that Cyprus violated its obligations under two bilateral investment treaties (the "BITs") with Greece and Luxembourg (the "Greece-BIT" and the "Belgo-Luxembourg Economic Union – Cyprus BIT"). In response to the claims filed by the Claimants, Cyprus filed a motion to dismiss the claims. On February 7, 2020, in a 2-1 majority opinion, the ICSID Tribunal determined that it has proper jurisdiction over the claims. The Tribunal also determined that it involves claims by a number of claimants that is well in excess of most other mass ICSID arbitrations (e.g., the cases pursued by bondholders against Argentina following Argentina's debt crisis in the 2000s). The Tribunal also determined that the claims are not barred by the statute of limitations.

## News

- October 1, 2020 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark Litigation

## Attorneys for 2021

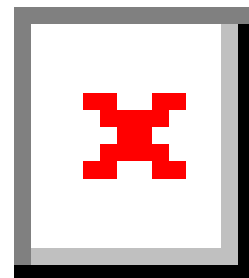
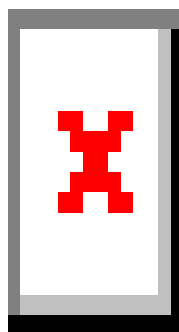
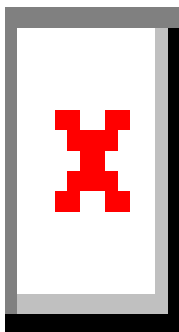
- February 12, 2020 - Groundbreaking ICSID Arbitration Decision
- September 24, 2019 - Kessler Topaz Meltzer & Check, LLP Once Again Included in the Benchmark and Attorneys for 2020
- May 8, 2017 - Kessler Topaz Again Named Class Action Litigation Department of the Year by The

**Speaking Engagements**

Stu is a frequent speaker at investor conferences and meetings in the United States and around the world, including the Florence, The European Investment Roundtable in Barcelona, The Public Funds Symposium in Washington, D.C., The Pension Benefit Plans in Orlando, The Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, PA. In addition, Stu regularly speaks at the Firm's annual conferences for institutional investor clients at the Firm's offices in New York, Amsterdam and Evolving Fiduciary Obligations of Pensions Plans in Washington, D.C.

**Awards/Rankings**

- Benchmark Litigation Star, 2019-2025
- Lawdragon 500 Leading Global Plaintiff Lawyers, 2024-2025
- Lawdragon 500 Leading Plaintiff Financial Lawyer, 2019-2025

**Memberships**

- American Bar Association

**Community Involvement**

Stu proudly supports and raises awareness and funds for the National Kidney Foundation.