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JANUARY/FEBRUARY 2013

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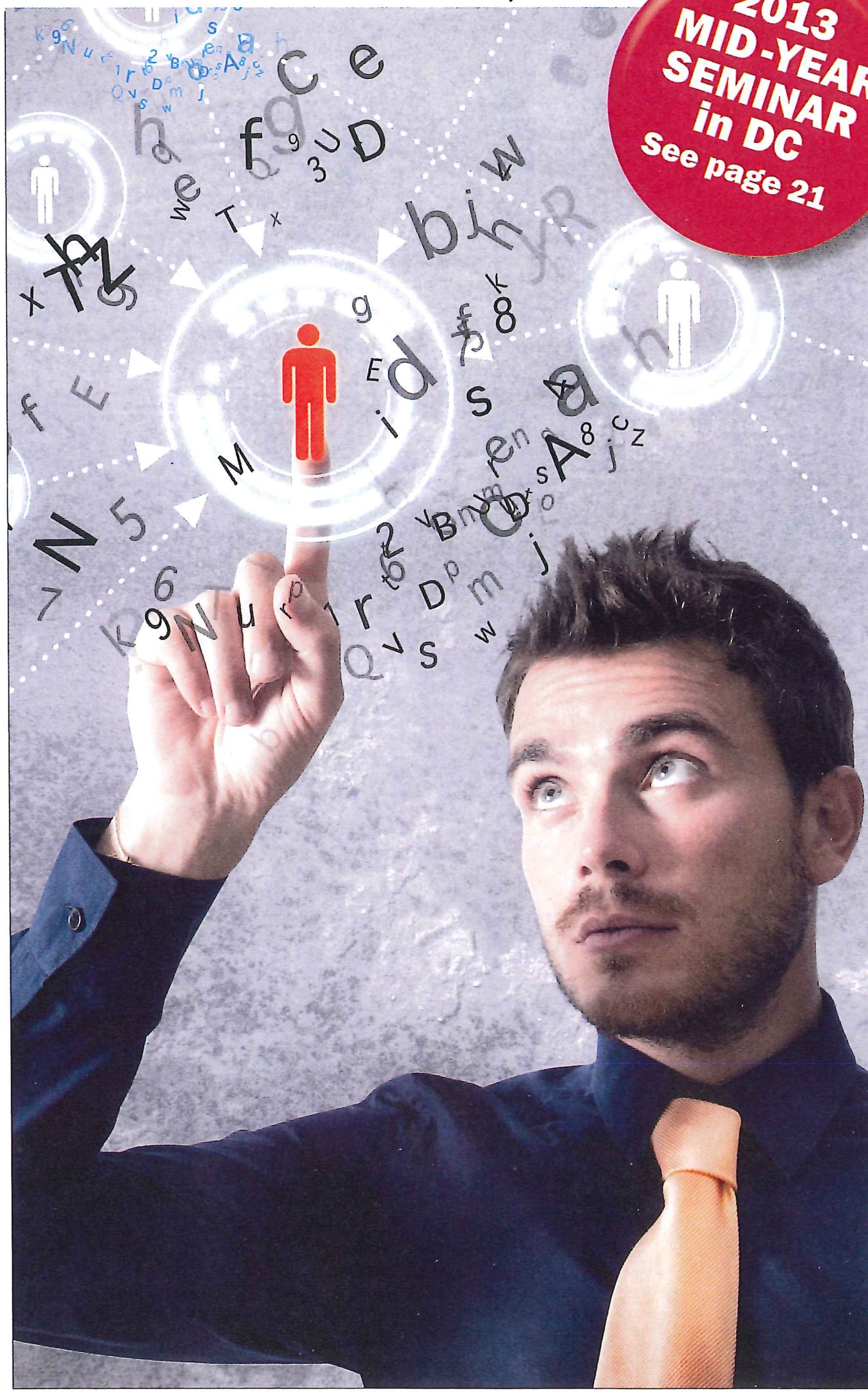

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The Fall-Out from the Financial Crisis: LIBOR, Bid-Rigging, and Securities Lending

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Recent scandals in the financial markets have made global headlines over the last year, and some of the biggest victims are likely U.S. cities, towns, and other municipal agencies. In particular, banks have been accused of manipulating the LIBOR rate, rigging bids on municipal investment agreements, and taking inappropriate risks on their clients' behalf in securities lending programs. As a result, municipalities and other local governmental entities may have suffered significant investment losses from the financial crisis, sometimes without even realizing it.

I. The LIBOR Rate-Fixing Scandal

On June 27, 2012, Barclays Bank PLC made international headlines when it announced that it had entered into a $450 million settlement with government regulators for its role in manipulating the London Interbank Offered Rate (LIBOR)

LIBOR is the interest rate banks charge each other to borrow overnight funds. This rate is used as a benchmark for all types of fixed-income investments, including tax-exempt municipal bonds. LIBOR is set and overseen by the British Bankers' Association (BBA), an industry group in London.[1] Each weekday, leading banks around the world submit a figure to the BBA based on the rate at which they estimate they could borrow funds from other banks. The BBA throws out the high and low submissions and averages the remaining submissions into one rate – this is LIBOR.[2] Then, LIBOR is calculated for 10 different currencies and 15 borrowing periods (maturity dates). After LIBOR is calculated, it is published on a daily basis by Thomson Reuters.

The magnitude of the LIBOR rate-fixing scandal is enormous, as more than $350 trillion in financial transactions, ranging from complex derivative swaps to simple consumer home loans, were tied to LIBOR during 2011.[3] In the last year, government investigations have commenced and a frenzy of private antitrust lawsuits have been filed on behalf of various institutional investors. To date, governmental investigators and private litigants have accused at least 12 international banks of colluding to manipulate LIBOR.

LIBOR is an important number because it is used by the financial industry to set interest rates in trillions of dollars worth of loans and investments. LIBOR is often used to price financial instruments such as interest rate swap transactions and futures contracts. As a consequence, if banks kept LIBOR artificially low during the financial crisis and its immediate aftermath, investors would have been robbed of billions of dollars in returns on investments.

U.S. cities and other local governmental entities are likely to be some of the biggest victims of the LIBOR rate-fixing scandal.[4] This is because the municipal bond market relies heavily on LIBOR. In addition, state and local governments are significantly exposed to investment losses through the purchase of interest rate swaps, which are oftentimes also tied to LIBOR. State and local governments use swaps when they want to issue a bond at a floating interest rate but protect themselves from future swings in rates. In a standard swap, the investor exchanges the floating interest rate promised to bond investors for a fixed rate, making future budgets more predictable. The problem for many municipalities is that while they paid fixed rates to their banks, the floating rates they received in return were tied to LIBOR. Thus, if LIBOR was suppressed by the banks, investment returns for these swap transactions would be diminished. Various institutional investors, including state and local governments, are still calculating the losses they suffered as a result of investments tied to LIBOR, which in many cases will be significant. For example, the North Carolina Department of State Treasurer, which oversees the state's public pension plans, reportedly made two major swaps tied to $1.3 billion of bonds at a time LIBOR was suspected of being manipulated.[5] By one calculation, that could have meant losses for North Carolina of around $10 million on those two swaps.[6]

Currently, antitrust class actions arising out of various investment losses are the leading type of lawsuit in LIBOR litigation. According to the complaints filed in these actions, the banks participating in the LIBOR manipulation conspired together to suppress the LIBOR interest rate.[7] They did this by collectively submitting low rates to the BBA when they knew their own borrowing costs were higher during the financial crisis and immediate aftermath. For investors whose investments were based on LIBOR, the return on their investment was lower than it would have been if the banks had not suppressed the LIBOR rate. A host of municipalities, pension funds, and other institutional investors have filed lawsuits for these losses, which have been consolidated for multi-district litigation in the United

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States District Court, Southern District of New York.[8] Charles Schwab and related entities have filed a separate complaint, alleging losses to their money market and ultra-short term bond mutual funds, which has also been consolidated.[9] A number of community banks have also filed similar suits, claiming they have been harmed by the BBA-member banks that conspired to suppress LIBOR; these cases were recently consolidated.[10]

All of these lawsuits allege that the BBA banks responsible for setting LIBOR engaged in a price-fixing conspiracy under Section 1 of the Sherman Act.[11] Some complaints also assert claims for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO).[12] The defendant banks are some of the largest financial institutions in the world, including Bank of America Corporation; Barclays Bank PLC; Citibank, N.A.; JPMorgan Chase & Co.; HSBC Holdings PLC; UBS AG; and various other international banks that contribute to set the LIBOR rates. The putative classes include investors that (a) purchased financial instruments from defendants that were indexed to U.S. LIBOR, including but not limited to interest rate swaps, or (b) owned a U.S. dollar-denominated debt security on which interest was payable based on the U.S. LIBOR rate.[13] The complaints allege a claim under Section 1 of the Sherman Act by asserting that the bank defendants joined in a conspiracy to restrain competition in the marketplace by fixing the LIBOR rate at below-market levels. As a result, the investor-plaintiffs allege that they suffered a direct antitrust injury by receiving diminished returns on LIBOR-based financial instruments purchased, held, or traded from bank defendants.

The bank defendants have filed motions to dismiss the antitrust claims, contending that: (a) there is no evidence of joint, as opposed to independent action; (b) there is no restraint on trade because the U.S. LIBOR is an index rate, not a price or product, and member banks remained free to negotiate interest rates and other pricing for their financial instruments; (c) plaintiffs lack antitrust standing because many investors benefitted equally, or more, from lowered interest rates; and (d) to the extent that the class includes indirect purchasers, the claims are barred by the *Illinois Brick* doctrine. This latter point is noteworthy because the *Illinois Brick* doctrine says that indirect purchasers of goods or services cannot assert antitrust claims.[14] Many claimants may have purchased financial instruments from banks not associated with the LIBOR manipulation. Consequently, such claimants have no direct commercial relationship with the banks that were involved in the LIBOR manipulation and may, therefore, find it difficult to prevail on antitrust claims against them.

LIBOR-related antitrust litigation is rapidly evolving and presents significant risk to the accused banks as governmental investigations progress and continue to expose the scandal. In order to prevail, however, the putative class will need to overcome several significant obstacles. Most importantly, damages will be extremely difficult to prove and will make class certification difficult. Whether investors lost money on certain investments depends on whether they were on the winning or losing side of the specific transaction. For example, most investor-plaintiffs both paid interest and collected interest at rates determined by LIBOR. To further complicate matters, each investor likely has a unique, individualized loss, depending on how LIBOR manipulation might have affected various

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cision see *Allen*, *supra* note 1; *Wallace v. Fresno*, 42 Cal. 2d 180 (1954); *Packer*, *supra* note 1; *Brooks v. Pension Board*, 30 Cal. App. 2d 118 (1938) (indicating that, prior to happening of last contingency, amount of pension may be increased or decreased, as circumstances demand).
10. *Allen*, *supra* note 1.
11. *Id.*
12. *Olson v. Cory*, 27 Cal. 2d 352 (1980).
13. *Legislature v. Eu*, 54 Cal. 32 492 (1991).
14. *Id.*
15. *City of Downey v. Board of Administration*, 47 Cal. App. 3d 621 (1975).
16. *Maffei v. Sacramento County Employees' Retirement System*, 127 Cal. Rptr. 2d 279 (App. 3d Dist. 2002).
17. *Abbott v. City of San Diego*, 165 Cal. App. 2d 511, 518 (1958).
18. *Id.*
19. *Id.* at 520.
20. *Id.*
21. *Houghton v. City of Long Beach*, 164 Cal. App. 2d 298, 304, 306 (1958).
22. *Bellus v. City of Eureka*, 69 Cal. 2d 336, 348-352 (1968); *Carman v. Alvord*, 31 Cal. 3d 318, 332-333 (1982).
23. *Allen*, *supra* note 1, at 133; *Abbott v. City of Los Angeles*, 50 Cal. 2d 438, 455 (1958); *Wisley v. City of San Diego*, 188 Cal. App. 2d 482, 487 (1961); *Frank v. Board of Administration*, 56 Cal. App. 3d 236, 246 (1976).
24. *Allen*, *supra* note 1, at 131.
25. *Abbott v. City of Los Angeles*, *supra* note 22, at 449-453; *Frank*, *supra* note 23, at 245; *Abbott v. City of San Diego*, *supra* note 17, at 518.
26. *Frank*, *supra* note 23, at 244; see also *Stork v. State of California*, 62 Cal. App. 3d 465, 471 (1976).
27. *Frank*, *supra* note 23, at 244.
28. *Id.*
29. *Id.*
30. *See generally*, *Abbott v. City of Los Angeles*, *supra* note 22; *and Abbott v. City of San Diego*, *supra* note 17.
31. *Cochran v. City of Long Beach*, 293 P.2d 839 (1956).
32. *Betts. v. Board of Administration*, 21 Cal. 3d 859 (1978).
33. *See Int'l Assoc. of Firefighters, Local 145 v. City of San Diego*, 34 Cal. 3d 292 (1983); *Walsh v. Board of Administration of the Public Employees' Retirement System*, 4 Cal. App. 4th 682, 700 (1992) (affirming the holding in *Int'l Assoc. of Firefighters*); *United Firefighters of Los Angeles City v. City of Los Angeles*, 210 Cal. App. 3d 1095, 1105 (1989) (same); *Pasadena Police Officers Assoc. v. City of Pasadena*, 147 Cal. App. 3d 695, 703 (1983); *see also* Opinion of the Attorney General, 80 Cal. Op. Att'y Gen. 119, pg. 9 (1987).
34. *Int'l Assoc. of Firefighters*, *supra* note 39, at 302.
35. *Id.*
36. *Id.* at 303.
37. *Kern*, *supra* note 1, at 853.
38. *Pennie v. Reis*, 80 Cal. 266 (1889).
39. *Kern*, *supra* note 1, at 854.
40. *Vielehr v. California*, 104 Cal. App. 3d 392 (1980).
41. *Kern*, *supra* note 1, at 853.
42. *San Diego*, *supra*, note 5.
43. *Miller v. State of California*, 18 Cal. 3d. 859 (1977).
44. *San Diego*, *supra* note 5.

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transactions or securities held at different times over different periods of time. In sum, calculating a loss on one transaction for one plaintiff will be complex. Calculating a loss for a class on a universe of transactions will be even more challenging.

Due to the difficulties associated with antitrust class actions, LIBOR-related litigation is likely to grow as institutional investors with potentially large claims decide to opt out of the classes and file individual claims. Those types of lawsuits may have a greater chance of success as compared to the class action antitrust litigation because it is easier to calculate damages arising from one or two large transactions for a single plaintiff, such as an interest rate swap. Institutional investors who choose to opt out of the class actions and bring individual claims may also find it easier to allege claims for fraud and unfair and deceptive trade practices based on representations that the defendant banks may have made to the plaintiff as its client.

Given the size of the market for investments tied to LIBOR, the LIBOR scandal could prove to be the most significant type of litigation arising out of the financial crisis. Many investors, however, may not even recognize the damages they have suffered as a result.

II. The Municipal Bond Big-Rigging Scandal

Municipalities and other local governmental entities may have also lost money as a result of an alleged bid-rigging scandal in the municipal bond market. Municipalities often raise capital to finance long-term projects through the issuance of tax-exempt bonds. When a city issues these tax-exempt bonds, the bond proceeds are typically invested in various investment products sold by major financial institutions until the bond proceeds are needed to complete the project. These products, which are referred to generally as municipal derivatives, are tailored to meet the bond issuers' specific collateral and spend-down needs, and include products such as guaranteed investment agreements (GICs), repurchase agreements (repos), and forward purchase agreements (FPAs). To ensure bond proceeds are invested at fair market value, most issuers submit their bond issuances to a competitive auction of at least three banks that compete to sell these investment products. It appears, however, that some of the banks may have been rigging the public bid process in order to pay municipalities a lower rate on these investments.

In these cases, banks allegedly bribed the auctioneers/brokers who arranged the auction.[15] In return, the middleman broker would tell the prearranged winner what the other bids were, allowing the bank to lower its offer and come in with an interest rate just high enough to "beat" the supposed competitors. The winning bank then provided the middleman broker with a reward disguised as a fee. This process has been termed the "last look." Similarly, in other cases, banks conspired to deliberately submit non-winning bids in order to allow other banks to win the bid. This practice is known as a "set-up." By shaving even fractions of a percent off the winning bid, banks have allegedly pocketed large sums of money over the lives of multimillion-dollar bond deals.[16] Meanwhile, bond issuers have incurred significant losses as a result of receiving lower returns on these municipal derivative investments than they would have received in a free market.

Several bank executives have already been convicted on fraud and conspiracy counts for their involvement in the bid-rigging scandal. For example, on May 11, 2012 three former GE Capital executives were found guilty on charges of participating in several rigged bids

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on municipal investment contracts.[17] Further, on August 31, 2012 three former UBS AG executives were found guilty on charges arising from similar conduct.[18] Former executives from other major banks, including Bank of America and Wachovia, have also been implicated in the bid-rigging scandal.[19]

The SEC (along with the Attorneys General of 25 states) has been prosecuting these types of cases against financial institutions, which have now paid in excess of $673 million in settlements resulting from the ongoing investigations. For example, J.P. Morgan Securities LLC settled for $228 million on July 7, 2011; UBS Financial Services Inc. settled for $160 million on May 4, 2011; Banc of America Securities LLC settled for $137 million on December 7, 2010; and Wachovia Bank N.A. (now Wells Fargo), settled for $148 million on December 8, 2011. Proceeds from these settlements are being returned to affected municipalities.

In addition, several state and local governmental entities, including the State of Mississippi and Fairfax County, Virginia, have filed a nationwide class action lawsuit against more than 40 leading banks, insurance companies, and brokers allegedly involved in the bid-rigging of municipal derivatives. Among other things, the lawsuits allege that all the defendants conspired to rig bids, limit competition, and fix prices in the municipal derivatives market in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.[20] The lawsuits have been consolidated for multi-district litigation in the United States District Court, Southern District of New York. While certain bank defendants have agreed to settle (JPMorgan Chase & Co. has settled for $44.6 million), the multidistrict litigation is currently pending against the remaining defendants.

In the last year, municipalities in the multi-district litigation have faced a difficult choice of opting to receive proceeds from the above-mentioned regulatory settlements, pursuing their claims in the multi-district litigation, or bringing an individual lawsuit. As a condition of opting to receive the regulatory settlement funds, plaintiffs are required to waive and relinquish their claims in both the multi-district litigation and any individual lawsuit.

For municipalities with significant and identifiable losses tied to the bid-rigging scandal, it may be beneficial to opt out of both the multi-district litigation and the regulatory settlements and instead pursue individual claims. The statute of limitations on these types of claims may be an issue because this scandal was exposed in national media around 2008 and 2009. Institutions with potentially large losses as a result of tax-exempt bond issuances, however, should consult with counsel before deciding whether to opt out of the multi-district litigation or any regulatory settlement.

III. Securities Lending Litigation

Securities lending is a service that is offered by financial institutions to their large custodial clients, which oftentimes includes municipalities and other local governmental entities and their pension funds. In a securities lending program, the financial institution lends its client's securities (i.e., stocks, bonds, and other investments) to broker/dealers (such as hedge funds) in order to cover short sales and other trading activities. In exchange, the borrower of the security provides collateral, usually in the form of cash. The financial institution then invests the cash collateral on its client's behalf. When the borrower returns the security, the financial institution sells the investment, returns the cash collateral to the borrower, and any return on the investment is split between the financial institution and its client.

In the past, securities lending programs were typically sold as "low-risk" programs where the client could make a small amount of additional return on investments that were otherwise simply being held in a custodial account in order to offset the bank's custodial fees. The primary objectives for most securities lending programs were safety of principal and liquidity. During the financial crisis of 2008, though, it became apparent that many financial institutions had made risky investments in highly complex and risky financial products such as "structured investment vehicles." When investors attempted to get out of their securities lending programs, they were unable to do so because these investments were illiquid. Ultimately, many clients lost millions of dollars.

Since the financial crisis of 2008, at least a dozen lawsuits have been filed on behalf of local governmental entities, hospitals, pension plans, and other institutional investors against their custodial banks arising out of losses suffered in their securities lending programs. The banks that have been sued include some of the largest financial institutions in the world, such as Wells Fargo, Wachovia, JPMorgan Chase, BNY Mellon, and Northern Trust.

To date, two of these cases have tried. In *Workers' Compensation Reinsurance Association v. Wells Fargo Bank, N.A.*, four nonprofit institutions in Minnesota obtained a $41 million verdict against Wells Fargo for securities lending losses suffered in investments in Lehman Brothers and in structured investment vehicles Cheyne Finance and Stanfield Victoria, which was upheld by the Minnesota Court of Appeals.[21] Similarly, on April 3, 2012, a jury awarded the City of St. Petersburg, Florida approximately $10.4 million for losses it suffered in its securities lending portfolio as a result of an investment that Wachovia made on its behalf in Lehman Brothers.[22] The case is currently on appeal. Finally, several of these cases have been settled. In particular, Sarasota County recently settled its claims against Wachovia arising out of losses in Lehman Brothers and an investment vehicle called Altius for $24 million.[23]

The securities lending lawsuits generally assert claims for breach of contract, breach of fiduciary duty, and other various securities law violations. Because these claims arise out of the relationship between banks and their institutional customers, the viability of each potential claim is highly fact-specific. Most securities lending programs are governed by a set of investment guidelines that set out the obligations of the bank and the client. Municipalities and other governmental entities that participated in securities lending programs should review these investment guidelines to determine whether the investments made on their behalf were appropriate.

Conclusion

In the aftermath of the financial crisis of 2008, all municipalities and other local governmental entities should make an independent assessment to determine the cause of their investment losses. In light of the LIBOR rate-fixing scandal, the municipal bond bid-rigging scandal, and the numerous securities lending lawsuits, it seems apparent that more than just a decline in the market may be responsible for some of these losses.

Notes

1. *See* BBALIBOR – The Basics, http://www.

bbalibor.com/bbalibor-explained (last visited Nov. 12, 2012).
2. *Id.*
3. John Waggoner, *Libor Scandal Explained and What Rate-Rigging Means To You*, USA Today, July 18, 2012, http://usatoday30.usatoday.com/money/perfi/credit/story/2012-07-18/libor-interest-rate-scandal/56322230/1.
4. Stephen Gandel, *Wall Street's Latest Sucker: Your Hometown*, CNNMoney, July 11, 2012, http://finance.fortune.cnn.com/2012/07/11/libor-sucker-hometowns/.
5. Nathaniel Popper, *Banks Face Suits as States Weigh Libor Losses*, N.Y. Times, Sept. 4, 2012, http://www.nytimes.com/2012/09/05/business/banks-facing-suits-as-states-weigh-their-libor-losses.html.
6. *Id.*
7. *See In re LIBOR-Based Financial Instruments Litigation*, No. 1:11-md-2262 (S.D.N.Y., Consolidated Amended Complaint filed Apr. 30, 2012).
8. *Id.*
9. *See In re LIBOR-Based Financial Instruments Litigation*, No. 1:11-md-2262 (S.D.N.Y., Charles Schwab Amended Complaint filed Apr. 30, 2012).
10. *See Berkshire Bank v. Bank of America Corp.*, No. 12-cv-5723 (S.D.N.Y., filed July 25, 2012); *Community Bank & Trust v. Bank of America Corp.*, No. 12-cv-4205 (S.D.N.Y., filed May 25, 2012).
11. 15 U.S.C. § 1.
12. 18 U.S.C. § 1961.
13. *See, e.g., In re LIBOR-Based Financial Instruments Litigation*, No. 1:11-md-2262 (S.D.N.Y., Consolidated Amended Complaint filed Apr. 30, 2012).
14. *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 730-31 (1977).
15. Matt Taibbi, *The Scam Wall Street Learned From the Mafia: How America's Biggest Banks Took Part in a Nationwide Bid-Rigging Conspiracy – Until They Were Caught on Tape*, Rolling Stone, July 5, 2012.
16. *Id.*
17. *United States v. Carollo et al.*, No. 10-cr-654 (S.D.N.Y.).
18. *United States v. Ghavami et al.*, No. 10-cr-1217 (S.D.N.Y.).
19. *See* Max Stendahl, *Former BofA Exec Testifies He Bribed UBS For Rigged Bid*, Law360, Aug. 14, 2012, http://www.law360.com/whitecollar/articles/369478/former-bofa-exec-testifies-he-bribed-ubs-for-rigged-bid; Keith Goldberg, *Ex-BofA Exec Indited In Municipal Bond Bid-Rigging Scheme*, Law360, July 23, 2012, http://www.law360.com/banking/articles/362499/ex-bofa-exec-indicted-in-municipal-bond-bid-rigging-scheme; Press Release, U.S. Securities and Exchange Commission, "SEC Charges Wachovia With Fraudulent Bid Rigging in Municipal Bond Proceeds," Dec. 11, 2011.
20. *In re Municipal Derivatives Antitrust Litigation*, No. 1:08-md-1950 (S.D.N.Y.).
21. *Workers' Comp. Reinsurance Ass'n v. Wells Fargo Bank, N.A.*, No. A11-1260, 2012 WL 1253094 (Minn. Ct. App. Apr. 16, 2012).
22. Michael Van Sickler, *City of St. Petersburg Wins $10.4 Million Verdict Against Big Bank*, Tampa Bay Times, Apr. 4, 2012, http://www.tampabay.com/news/localgovernment/city-of-st-petersburg-wins-104-million-verdict-against-big-bank/1223271.
23. Zac Anderson, Wells Fargo to Pay $24 Million in Sarasota County Settlement, Herald Tribune, Dec. 5, 2012, http://www.heraldtribune.com/article/20121205/ARCHIVES/212051062/-1/opinion09?p=1&tc=pg. **ML**

Ordinances *Cont'd from page 16*

groups. But this is often not the case. Many state oil and gas oversight entities are seen as overly accommodating to industry. In some cases, the regulatory groups subsist in large part on fees and other income derived from the very companies they are charged with overseeing. Their mission becomes the "regulation" of drilling but almost never its limitation or prohibition.

In Colorado, the responsible entity is the Colorado Oil and Gas Conservation Commission (COGCC). In a textbook example of the regulatory vacuum which angers local residents, COGCC requires only a 350-foot setback for fracking activities. In other words, the state's own watchdog agency has thus far deemed it acceptable to site hydraulic fracturing operations, with their attendant air pollution, water-chemical flowback remediation, truck traffic, noise and other externalities—only one football field away from homes, schools and parks.[8] It was this inadequate setback that most energized the Longmont voters to override the state's regulatory agency.

A similar revolt has emerged in California, where new fracking regulations are being proposed by the State's Division of Oil, Gas and Geothermal Resources. Eco-activists argue that the proposed rules allow a "trade secret" loophole, meaning that the industry need not disclose which chemicals and additives it is pumping into the earth. They also assert that the new regulations do little to protect water and air quality and actually eliminate fracking from existing statutory restrictions.[9]

Guerilla tactics by local property owners and politicians is a problem for the oil and gas producers. Given that industry would often prefer to woo (or coerce) a single entity in the state house rather than confronting dozens of energized individual citizens' groups around a state, this can result in odd bedfellows.

The Longmont situation is a case in point. When the Longmont City Council passed initial restrictions on oil and gas activity early in 2012, Colorado Governor John Hickenlooper directed state attorneys to sue the city, challenging its authority. In November 2012, as Longmont voters adopted the outright ban on fracking, Hickenlooper said the State of Colorado would not sue Longmont—but would support any lawsuit brought by the oil and gas industry. That has occurred, as the Colorado Oil and Gas Association promptly sued Longmont. The suit not only alleges an unconstitutional taking of property but the illegal expansion of municipal power into an area which is already superseded by state statutes.

It is unclear how the Colorado court battle will end, but it is certain to proliferate: Other cities in Colorado, including Greeley and Colorado Springs have now passed Longmont-like bans. Litigation in two states, New York and Pennsylvania, which abut the massive Marcellus shale field in the Eastern United States, may provide some insights. In New York, a home rule jurisdiction with more than 150 fracking bans already in effect, a pair of 2012 cases have held in favor of the municipalities, finding that the state's oil and gas regulatory scheme does not foreclose reasonable local zoning limitations.[10]

Admittedly, these suits are in their infancy and await several layers of appellate battle. Other New York suits are already underway: in November, natural gas developer Lenape Resources sued the Town of Avon, challenging its moratorium against expansion of fracking. [11] Lenape also sued the New York Department of Environmental Conservation (DEC), requiring DEC to invalidate the local moratorium and assert state dominance of the political landscape. But for the moment, the Empire State is hospitable to local restric-

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