KESSLERTOPAZ MELTZERCHECK LLP

# NATHAN A. HASIUK

## PARTNER

**D** 484.270.1498
**F** 610.667.7056

nhasiuk@ktmc.com

### FOCUS AREAS

Securities Fraud

### EDUCATION

Temple University
B.A. 2008, summa cum laude

Temple University Beasley School of Law
J.D. 2012

Georgetown University Law Center
LLM – Securities & Financial Regulation, 2023

### ADMISSIONS

Pennsylvania

New Jersey

USDC, Eastern District of Pennsylvania

USDC, District of New Jersey

Nathan A. Hasiuk, a partner of the Firm, concentrates his practice on securities fraud matters. Nathan is an experienced litigator and trial lawyer who represents institutional and individual investors in both class actions and direct actions brought under the federal securities laws. Nathan's experience includes prosecuting cases from the investigation and complaint drafting stages through all phases of litigation, including motions to dismiss, document, deposition and expert discovery, class certification, summary judgment, pre-trial motions, and appeal.

Nathan's cases have resulted in hundreds of millions of dollars in recoveries for clients. These matters include *In re Ocwen Fin. Corp. Securities Litigation* (S.D. Fla) ($49 million settlement); *In re Snap Inc. Securities Litigation,* (C.D. Cal.) ($187.5 million settlement); *In re Luckin Coffee Inc. Securities Litigation* (S.D.N.Y.) ($175 million settlement); and *In re Kraft Heinz Securities Litigation* (N.D. Ill.) ($450 million settlement).

Nathan is currently representing shareholders in multiple high-profile securities fraud actions, including *In re Celgene Corp. Securities Litigation* (D.N.J.) and *Sjunde AP-Fonden v. The Goldman Sachs Group* (S.D.N.Y.).

Prior to joining the Firm, Nathan served as an Assistant Public Defender in Philadelphia, where he successfully represented hundreds of clients in both bench and jury trials.

Nathan is a Phi Beta Kappa honors graduate of Temple University. He received his law degree from the Temple University Beasley School of Law and Master of Laws in Securities & Financial

Regulation from the Georgetown University Law Center.

## Current Cases

- Celgene Corp, Inc.

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| **CASE CAPTION** | *In re Celgene Corporation Securities Litigation* |
| **COURT** | United States District Court for the District of New Jersey |
| **CASE NUMBER** | 2:18-cv-04772-JMV-JBC |
| **JUDGE** | Honorable Judge Michael E. Farbiarz |
| **PLAINTIFF** | AMF Pensionsförsäkring AB ("AMF") |
| **DEFENDANTS** | Celgene Corporation ("Celgene"), Scott A. Smith, Terrie Curran, and Philippe Martin |
| **CLASS PERIOD** | April 27, 2017 through April 27, 2018, inclusive |

This securities fraud case involves Celgene's misrepresentations and omissions about two billion dollar drugs, Otezla and Ozanimod, that Celgene touted as products that would make up for the anticipated revenue drop following the patent expiration of Celgene's most profitable drug, Revlimid.

Celgene launched Otezla, a drug treating psoriasis and psoriatic arthritis, in 2014. Celgene primed the market that Otezla sales were poised to sky-rocket, representing that Otezla net product sales would reach $1.5 billion to $2 billion by 2017. Throughout 2015 and 2016, Defendants represented that Celgene was on-track to meet the 2017 sales projection. As early as mid-2016, however, Defendants received explicit internal warnings that the 2017 projection was unattainable, but continued to reaffirm the 2017 target to investors. By October 2017, however, Celgene announced that the Company had slashed the 2017 guidance by more than $250 million and lowered the 2020 Inflammatory & Immunology ("I&I") guidance by over $1 billion. Celgene's stock price plummeted on the news.

Ozanimod, a drug treating multiple sclerosis, is another product in Celgene's I&I pipeline, and was initially developed by a different company, Receptos. In July 2015, Celgene purchased Receptos for $7.2 billion and projected annual Ozanimod sales of up to $6 billion despite the fact that Ozanimod was not yet approved by the U.S. Food and Drug Administration ("FDA").

Celgene told investors that it would file a New Drug Application

("NDA") for Ozanimod with the FDA in 2017. Unbeknownst to investors, however, Celgene discovered a metabolite named CC112273 (the "Metabolite") through Phase I testing that Celgene started in October 2016, which triggered the need for extensive testing that was required before the FDA would approve the drug. Despite the need for this additional Metabolite testing that would extend beyond 2017, Defendants continued to represent that Celgene was on track to submit the NDA before the end of 2017 and concealed all information about the Metabolite. In December 2017, without obtaining the required Metabolite study results, Celgene submitted the Ozanimod NDA to the FDA. Two months later, the FDA rejected the NDA by issuing a rare "refuse to file," indicating that the FDA "identifie[d] clear and obvious deficiencies" in the NDA. When the relevant truth was revealed concerning Ozanimod, Celgene's stock price fell precipitously, damaging investors.

On February 27, 2019, AMF filed a 207-page Second Amended Consolidated Class Action Complaint against Celgene and its executives under Section 10(b) of the Securities Exchange Act. On December 19, 2019, U.S. District Judge John Michael Vasquez issued a 49-page opinion sustaining AMF's claims as to (1) Celgene's and Curran's misstatements regarding Otezla being on track to meet Celgene's 2017 sales projections, and (2) Celgene's, Martin's, and Smith's misstatements about the state of Ozanimod's testing and prospects for regulatory approval.

On November 29, 2020, Judge Vasquez certified a class of "All persons and entities who purchased the common stock of Celgene Corp. between April 27, 2017 through and April 27, 2018, and were damaged thereby" and appointed Kessler Topaz Meltzer & Check as Class Counsel.

On July 9, 2021, Plaintiff moved to amend the Second Amended Complaint and file the Third Amended Complaint, which alleged a new statement regarding Otezla, and added new allegations based on evidence obtained in discovery regarding Ozanimod. On February 24, 2022, Magistrate Judge James B. Clark granted the motion to amend, which Defendants appealed.

Fact and expert discovery is completed. On September 8, 2023, Judge Vazquez issued an order denying in large part Defendants' motion for summary judgment, sending the case to trial.

Specifically, following oral argument, Judge Vazquez found that genuine disputes of material fact exist with regard to the Otezla statements, denying Defendants' motion in its entirety with respect to these statements. The Court also found genuine disputes of material fact with regard to Defendant Philippe Martin's October 28, 2017 statement related to the Ozanimod NDA, and denied Defendants' motion with respect claims based on this statement. On October 27, 2023, Defendants moved for summary judgment on one remaining issue - Defendant Celgene Corporation's scienter for corporate statements related to Ozanimod. Plaintiff opposed this motion on November 17, 2023.

Briefing on that motion concluded in December 2023 and is pending before the Court.
**Read Second Amended Consolidated Class Action Complaint Here**
**Read Opinion Granting and Denying in Part Motion to Dismiss Here**
**Read Opinion Granting Class Certification Here**
**Click Here to Read the Class Notice**

- First Republic Bank

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| **CASE CAPTION** | *In re Alecta Tjänstepension Ömsesidigt, et al. v. Herbert, et al.* |
| **COURT** | United States District Court for the Northern District of California |
| **CASE NUMBER** | 3:23-cv-02940-AMO |
| **JUDGE** | Honorable Araceli Martínez-Olguín |
| **PLAINTIFF** | Alecta Tjänstepension Ömsesidigt; Neil Fairman |
| **DEFENDANTS** | James Herbert II; Hafize Erkan; Michael Roffler; Olga Tsokova; Michael Selfridge; Neal Holland; and KPMG LLP |
| **CLASS PERIOD** | October 21, 2021 to April 28, 2023, inclusive |

This securities fraud class action arises out of misrepresentations and omissions made by former executives of First Republic Bank ("FRB" or the "Bank") and FRB's auditor, KPMG LLP, about significant risks faced by FRB that led to its dramatic collapse in May 2023, the second largest bank collapse in U.S. history.

FRB was a California-based bank that catered to high-net worth individuals and businesses in coastal U.S. cities. Leading into and during the Class Period, FRB rapidly grew in size: in 2021 alone, FRB grew total deposits by 36% and total assets by 27%. In 2022, FRB grew by another 17%, exceeding $200 billion in total assets. During this period, Defendants assured investors that the Bank's deposits were well-diversified and stable. Defendants also assured investors that they were actively and effectively mitigating the Bank's liquidity and interest rate risks.

The Complaint alleges that Defendants failed to disclose material risks associated with the Bank's deposit base and with respect to Defendants' management of liquidity and interest rate risk. In contrast to Defendants' representations regarding the safety and stability of FRB, the Complaint alleges that Defendants relied on undisclosed sales practices to inflate the Bank's deposit and loan growth, including, for example, by offering abnormally low interest rates on long-duration, fixed-rate mortgages in exchange for clients making checking deposits. And contrary to Defendants' representations that they actively and responsibly managed the Bank's interest rate risk, the Complaint details how Defendants continually violated the Bank's interest rate risk management policies by concentrating the Bank's assets in long-duration, fixed rate mortgages. In 2022, when the Federal Reserve began rapidly raising interest rates, the Bank's low-interest, long-duration loans began to decline in value, creating a mismatch between the Bank's assets and liabilities. Internally, FRB's interest rate models showed severe breaches of the Bank's risk limits in higher rate scenarios, and Defendants discussed potential corrective actions at risk management meetings. However, Defendants took no corrective action, continued to mislead investors about the Bank's interest rate risk, and only amplified the Bank's risk profile by deepening the Bank's concentration in long-duration loans.

On October 14, 2022, investors began to learn the truth when FRB announced financial results for the third quarter of 2022, which showed that rising interest rates had begun to impact the Bank's key financial metrics and that the Bank had lost $8 billion in checking deposits. Despite these trends, Defendants continued to reassure investors that Bank's deposits were well-diversified and stable, that FRB had ample liquidity, and that rising interest rates would not limit the growth in FRB's residential mortgage loan business. In FRB's 2022 annual report (released in February 2023, and audited by KPMG), Defendants further claimed that, despite the Bank's increasing interest rate risks, the Bank possessed the ability to hold its concentrated portfolio of long-duration loans and

securities to maturity. The undisclosed risks materialized further on March 10, 2023, when peer bank Silicon Valley Bank failed and FRB experienced massive deposit withdrawals of up to $65 billion over two business days, constituting over 40% of the Bank's total deposits. Defendants did not reveal these catastrophic deposit outflows to the market and instead reassured investors regarding the Bank's liquidity position. In the ensuing weeks, FRB's financial position unraveled further, resulting in multiple downgrades by rating agencies, and additional disclosures regarding the magnitude of FRB's deposit outflows and the Bank's worsening liquidity position. On May 1, 2023, FRB was seized by regulators and placed into receivership. These disclosures virtually eliminated the value of FRB's common stock and preferred stock.
On February 13, 2024, Plaintiffs filed a 203-page complaint on behalf of a putative class of investors who purchased FRB common stock and preferred stock, alleging violations of Sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934. The parties are currently engaged in briefing on Defendants' motions to dismiss.

- Goldman Sachs Group, Inc.

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| **CASE CAPTION** | *Sjunde AP-Fonden v. The Goldman Sachs Group, Inc. et al.* |
| **COURT** | United States District Court for the Southern District of New York |
| **CASE NUMBER** | 1:18-cv-12084-VSB |
| **JUDGE** | Honorable Vernon S. Broderick |
| **PLAINTIFF** | Sjunde AP-Fonden ("AP7") |
| **DEFENDANTS** | The Goldman Sachs Group ("Goldman Sachs" or the "Company"), Lloyd C. Blankfein, Gary D. Cohn, and Harvey M. Schwartz |
| **CLASS PERIOD** | February 28, 2014 to December 20, 2018, inclusive |

This securities fraud class action case arises out of Goldman Sachs' role in the 1Malaysia Development Berhad ("1MDB") money laundering scandal, one of the largest financial frauds in recent memory.

In 2012 and 2013, Goldman served as the underwriter for 1MDB, the Malaysia state investment fund masterminded by financier Jho Low, in connection with three state-guaranteed bond offerings that raised over $6.5 billion. Goldman netted $600 million in fees for the three bond offerings—over 100 times the customary fee for comparable deals.

In concert with Goldman, Low and other conspirators including government officials from Malaysia, Saudi Arabia, and the United Arab Emirates ran an expansive bribery ring, siphoning $4.5 billion from the bond deals that Goldman peddled as investments for Malaysian state energy projects. In actuality, the deals were shell transactions used to facilitate the historic money laundering scheme. Nearly $700 million of the diverted funds ended up in the private bank account of Najib Razak, Malaysia's now-disgraced prime minister who was convicted for abuse of power in 2020. Other funds were funneled to Low and his associates and were used to buy luxury real estate in New York and Paris, super yachts, and even help finance the 2013 film "The Wolf of Wall Street."

AP7 filed a 200-page complaint in October 2019 on behalf of a putative class of investors alleging that Goldman and its former executives, including former CEO Lloyd Blankfein and former President Gary Cohn, violated Section 10(b) of the Securities Exchange Act by making false and misleading statements about Goldman's role in the 1MDB fraud. As alleged, when media reports began to surface about the collapse of 1MDB, Goldman denied any involvement in the criminal scheme. Simultaneously, Goldman misrepresented its risk controls and continued to falsely tout the robustness of its compliance measures. Following a series of revelations about investigations into allegations of money laundering and corruption at 1MDB, Goldman's stock price fell precipitously, causing significant losses and damages to the Company's investors.

In October 2020, the U.S. Department of Justice announced that Goldman's Malaysia subsidiary had pled guilty to violating the Foreign Corrupt Practices Act ("FCPA") which criminalizes the payment of bribes to foreign officials, and that Goldman had agreed to pay $2.9 billion pursuant to a deferred prosecution agreement. This amount includes the largest ever penalty under the FCPA.

On June 28, 2021, The Honorable Vernon S. Broderick of the U.S. District Court for the Southern District of New York sustained Plaintiff's complaint in a 44-page published opinion. On July 31, 2023, the Court granted Plaintiff's motion to amend the complaint to conform the pleadings to the evidence adduced during discovery, which is now complete.

Plaintiff first moved for class certification in November 2021. While that motion was pending, the Court granted Plaintiff's motion to amend the complaint and subsequently ordered that Plaintiff's motion for class certification be newly briefed in light of the amended pleading. On September 29, 2023, Plaintiff renewed its

motion for class certification. On April 5, 2024, Magistrate Judge Katharine H. Parker of the U.S. District Court for the Southern District of New York issued a 59-page Report and Recommendation recommending that the District Court grant Lead Plaintiff AP7's motion to certify the class. Meanwhile, expert discovery is ongoing.

**Read Third Amended Class Action Complaint Here**

**Read Opinion and Order Granting and Denying in Part Motion to Dismiss Here**

**Read the Report and Recommendation on Motion for Class Certification Here**

- NVIDIA Corporation

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| **CASE CAPTION** | *In Re NVIDIA Corporation Securities Litigation* |
| **COURT** | United States District Court for the Northern District of California, Oakland Division |
| **CASE NUMBER** | 4:18-cv-07669 |
| **JUDGE** | Honorable Haywood S. Gilliam, Jr. |
| **PLAINTIFFS** | E. Öhman J:or Fonder AB; Stichting Pensioenfonds PGB |
| **DEFENDANT** | NVIDIA Corporation; CEO Jensen Huang |
| **CLASS PERIOD** | August 10, 2017 to November 14, 2018, inclusive |

This securities fraud class action brings claims against NVIDIA, the world's largest maker of graphic processing units (GPUs), and its Chief Executive Officer Jensen Huang. The case arises out of Defendants' efforts to fraudulently conceal the extent of NVIDIA's reliance on GPU sales to cryptocurrency miners. Led by Öhman Fonder, one of Sweden's largest institutional investors, the suit alleges that in 2017 and 2018, NVIDIA's revenues skyrocketed when it sold a record number of GPUs to crypto miners. Plaintiffs allege that during this period, NVIDIA's sales to crypto miners outpaced its sales to the company's traditional customer base of video gamers. Yet Defendants misrepresented the true extent of NVIDIA's cryptocurrency-related sales, enabling the company to disguise the degree to which its growth was dependent on the notoriously volatile demand for crypto.

Following the price collapse of Etherium, a leading digital token, in late 2018, investors began to learn of NVIDIA's true dependence on sales to crypto miners. This culminated on November 15, 2018, when NVIDIA announced it was only expecting $2.7 billion in fourth quarter revenues (a 7% decline year-over-year) which it attributed to a "sharp falloff in crypto demand." Market commentators expressed shock at the company's about-face, and NVIDIA's stock price fell precipitously, damaging investors by billions of dollars in market losses.

The action was filed in June 2019 on behalf of a putative class of investors alleging that Defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. After the District Court dismissed the complaint, Plaintiffs successfully appealed the dismissal to the U.S. Court of Appeals for the Ninth Circuit. On August 25, 2023, in a published decision, the Ninth Circuit reversed, holding that Plaintiffs had sufficiently alleged that Defendants "made materially false or misleading statements about the company's exposure to crypto, leading investors and analysts to believe that NVIDIA's crypto-related revenues were much smaller than they actually were." The case will now proceed to discovery.

- Organogenesis Holdings Inc.,

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| **CASE CAPTION** | *Meyer, et al. v. Organogenesis Holdings Inc., Gary S. Gillheeney, Sr., and David C. Francisco* |
| **COURT** | United States District Court for the Eastern District of New York |

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| **CASE NUMBER** | 1:21-cv-06845 |
| **JUDGE** | Honorable Diane Gujarati |
| **PLAINTIFFS** | Donald Martin Meyer, Manishkumar H. Bhagat, and Dustin L. Lineweber |
| **DEFENDANTS** | Organogenesis Holdings Inc. ("Organogenesis"), Gary S. Gillheeney, Sr., and David C. Francisco |
| **CLASS PERIOD** | August 10, 2020 through August 9, 2022 |

This securities fraud class action case arises out of Defendants' false or misleading statements and omissions of material fact regarding Organogenesis's revenue growth between August 10, 2020 and August 9, 2022. Organogenesis primarily manufacturers and sells skin substitute products used in the treatment of chronic and acute wounds. During the Class Period, Plaintiffs allege that Organogenesis and Defendants Gillheeney and Francisco, the Company's Chief Executive Office and Chief Financial Officer, respectively, engaged in a scheme to game the Medicare reimbursement system for two of Organogenesis's skin substitute products—Affinity and PuraPly XT—to boost revenues and inflate the Company's stock price. Defendants' scheme centered on illegal marketing efforts that sought to induce physicians to purchase Affinity and PuraPly XT over competing products by marketing the difference, or "spread" between the amount Organogenesis charged physicians for these products and the amount physicians were reimbursed by certain Medicare Administrative Contractors ("MAC"). Plaintiffs further allege that Defendant Gillheeney personally profited from Defendants' scheme by selling $16.8 million of Organogenesis common stock during the Class Period while the Company's stock price was inflated as a result of Defendants' misstatements and omissions.

Defendants' scheme gradually unraveled beginning on October 12, 2021, when a market analyst issued a report alleging that

Organogenesis's rapid growth was the result of Defendants' undisclosed marketing of the Medicare reimbursement "spread" for Affinity and PuraPly XT–i.e., the difference between the price paid by a physician and the amount reimbursed by Medicare. This disclosure caused Organogenesis's stock price to decline approximately 14%. Defendants, however, continued to mislead the market and reassure investors that Organogenesis's revenue growth was genuine and sustainable.

Defendants' scheme was thwarted when Medicare set a national Average Selling Price ("ASP") for Affinity that was significantly lower than the amount physicians were reimbursed by the MACs, leading to a rapid decline in Affinity sales. On August 9, 2022, Organogenesis announced its second quarter 2022 financial results, which disclosed that Affinity sales had declined substantially as a result of the recently established ASP. Following this revelation, Organogenesis's stock price declined 20%.

Following an intensive investigation by Kessler Topaz, which included interviews with former Organogenesis employees and obtaining Medicare reimbursement data through the Freedom of Information Act, on October 24, 2022, Plaintiffs filed an Amended Complaint on behalf of a putative class of investors alleging that Defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. On March 13, 2023, Defendants filed a motion to dismiss the Amended Complaint. Briefing on that motion is complete and pending before the Court.
**Read Amended Class Action Complaint Here**

## News

- April 9, 2024 - Kessler Topaz Achieves Class Certification Win in 1MDB Fraud Suit Against Goldman Sachs
- September 13, 2023 - New Jersey Federal Court Hands Kessler Topaz Significant Summary Judgment Win, Sends Celgene Investors' Claims to Trial