



CURRICULUM VITA

R. WAYNE KLEIN
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Professional Experience

Principal, Klein & Associates, October 2009 to present.

Principal, Lewis B. Freeman & Partners, Inc., April 2008 to September 2009.

Director, Utah Division of Securities, October 2005 to February 2008.

Chief, Commercial Enforcement Division, Utah Attorney General's Office, 2001-2005.

Special Assistant to the U.S. Attorney General, Philadelphia, PA, 2004-2005 (on a criminal antitrust investigation conducted jointly with the U.S. Department of Justice).

Assistant Attorney General, Utah Attorney General's Office, 1996-2001 (securities and antitrust cases).

Securities Bureau Chief, Idaho Department of Finance, 1986-1995.

Adjunct Professor, Management Department, Boise State University, 1989-1995.

Deputy Attorney General, Idaho Attorney General's Office, 1983-1986.

Attorney, Corporate Trust Department, First Security Bank, Salt Lake City, 1982-1983.

Education

Law Degree (J.D.), The National Law Center, George Washington University, Washington, D.C., 1982.

B.A. Degree, Political Science, The University of Utah, Salt Lake City, 1979.

Certificate, International Relations, The University of Utah, Salt Lake City, 1979.

Professional Activities

Chair, Litigation Section, Utah State Bar, 2009-2010 (Executive Committee since 2001).

Task Force, Int'l Ass'n for Asset Recovery (IAAR): Development of Certification Exam.

Arbitrator: FINRA arbitrator qualified: 2006.

National Futures Association, 1990-1995.

Chair, Business Law Section, Idaho State Bar, 1988-1989.

North American Securities Administrators Association (NASAA)

Vice Chair, Broker-Dealer Section, 2007-2008.

Board of Directors, 1992-1995.

Chair, Enforcement Section, 1991-1992.

Chair, Regulatory Liaison Section, 1989-1990.

Chair, Internationalization Committee, 1987-1991.

Delegate, Int'l Org. of Securities Commissions (IOSCO), 1987, 1989-1992.

Bar Memberships: Utah, 1982; Idaho, 1984. Admitted to the U.S. Supreme Court, the Tenth, Ninth, and Fourth Circuit Courts of Appeal, and federal district courts of Utah and Idaho.

Congressional Testimony

Marketing Practices: *Contact Lens Sales: Is Market Regulation the Prescription?* U.S. House Subcommittee on Commerce, Trade, and Consumer Protection, Sept. 15, 2006.

Interstate Enforcement: *Enforcement of State Laws Relating to Interstate Transportation of Intoxicating Liquor.* U.S. Senate Committee on the Judiciary, Mar. 9, 1999.

Commodities: *Application of the Commodity Exchange Act's Anti-Fraud and Anti-Manipulation Protections.* U.S. House Subcommittee on Environment, Credit, and Rural Development, June 30, 1993.

Law Review Publications

The Prudential Solution – National Securities Regulatory Settlements (co-author), 51 *The Business Lawyer* 223, 256-82 (1995).

The Idaho Securities Act: An Analysis of Idaho Securities Opinions, 29 *Idaho Law Review* 95 (1992-93).

CDs as Securities: State Law Considerations, 1986 Boston University, *Annual Review of Banking Law*.

Administrative Law Judge Experience

Nevada: Appointed as administrative law judge by Nevada Secretary of State for complex securities disciplinary case (RFCFA Financial Services). Las Vegas, NV (1996-1997). Appeals court ruling can be found at 22 P.3d 1134 (Nev. 2001).

Utah: As director of securities, served as presiding officer and administrative law judge for scores of hearings in administrative proceedings.

Receivership Experience

SEC v. Trigon Group, Inc. and Daren Palmer; CFTC v. Trigon Group, Inc. and Daren Palmer, CV-09-75 and CV-09-76 (D. Idaho, Feb. 26, 2009) (appointed receiver for Trigon Group, Inc. in \$60 million suspected Ponzi scheme).

Barnes v. FFCF Investors, Civ. No. 080922273 (Third Dist. Utah, Mar. 18, 2009) (appointed receiver for three companies in suspected Ponzi scheme).

US Capital, Inc. v. Legacy Media Corp, Civ. No. 090500982 (Fifth Dist. Utah, Sept. 25, 2009) (appointed receiver for five radio stations that defaulted on loan obligations).

In Re Hess Kennedy, Coral Springs, FL (assist receiver in structuring 2008 claims process for credit repair firm).

EXPERT WITNESS EXPERIENCE

Consulting Expert

Javier Alatorre Tapia v. Salomon Smith Barney, Case No. 20084220 (Ariz. Superior Court in Pima County) (duties owed to brokerage client).

Dr. P. S. v. Confidential Broker-Dealer, FINRA Arbitration Case No. 08-009XX, Miami, FL (2009) (sale of auction rate securities – settled).

Alunni et al. v. Development Resources Group, Case No. 6:08-cv-1349 (M.D. Fla.) (ongoing civil case involving sales of condominium hotel units).

Ward v. Associated Securities, FINRA Arbitration Case No. 07-02944, Los Angeles, CA, 2008 (broker-dealer sale of hedge fund – settled).

Source Direct Holdings v. Integritas, Civ. No. 050921794 (Third Dist. Utah, Complaint filed Dec. 9, 2005).

Smith v. Belsen Getty, Private Securities Arbitration, Salt Lake City (2008).

State of Nevada, Secretary of State, Securities Division. Consulting expert on several administrative, civil, and criminal cases, 1996-2000.

Tracey Pride Stoneman, Esq. Consulting expert on arbitration claim, circa 2000.

Testifying Expert

Capital Funding and Consulting, LLC. v. David Bernhardt, Esq., Richmond (VA) Circuit Court (Sept. 14, 2010 expert report for mediation session on application of securities laws to promissory notes issued by real estate lending company).

U.S. Bank, N.A. v. Lake Hazelwood Property Partners, Case No. 08-10268, Third District Court of Idaho (Sept. 1, 2010 expert report on application of securities laws to promissory notes issued by real estate developer).

Confidential Private Arbitration, Las Vegas, NV (involving sales of condominium hotel units)

Ward v. Associated Securities, FINRA Arbitration Case No. 07-02944, Los Angeles, CA, Feb. 10, 2009. Testified via telephone on procedures of Utah Division of Securities.

State v. Jensen, No. 051905391 (3rd Dist. Utah). Witness for State of Utah in criminal prosecution alleging fraud in sale of securities. Testified at preliminary hearing (Dec. 13, 2006).

State v. Tenney, Civ. No. 94901 (4th Dist. Idaho, Aug 29, 1991). Witness for State of Idaho in civil enforcement action in state court.

Postal Inspection Service. Witness before federal grand jury in Spokane investigating boiler room selling securities, circa 1990.

Mutual Fund Case. Witness testifying in private civil action in Idaho state court in an action claiming unsuitable sales by small mutual fund, circa 1988.

Legal Education Presentations on Securities Topics

Securities Laws: A Powerful Tool in Financial Investigations, International Association of Financial Crimes Investigators, Las Vegas, NV (Sept. 9, 2010).

Making Third Parties Pay When Fraudsters Hide the Money, IAAR Online “Live Chat” (Aug. 26, 2010).

“Extraordinary Delusions and the Madness of Crowds”, Utah Bar Annual Securities Conference (Aug. 20, 2010).

Using Receivers in Enforcement Actions, NASAA Winter Enforcement Conference (Jan. 11, 2010).

1) Using Bank Records to Find Hidden Assets; 2) Gatekeepers and Intermediaries; 3) Failed Banks: Ten Sources of Asset Recoveries, International Association for Asset Recovery, Las Vegas, NV (Nov. 9-10, 2009).

Ponzi Scheme Receivers: Why Everyone is Unhappy, Utah Bar Annual Securities Conference, Jackson, WY (Aug. 15, 2009).

Working with State Attorneys General in Complex Commercial Litigation, Miami/Dade County Bar Association (May 15, 2009).

Ethics for Securities Enforcers, NASAA Winter Enforcement Conference (Jan. 10, 2009).

Receivers: The Consummate Problem Solvers, Utah State Bar CLE (December 9, 2008).

Five Distortions in the Securities Markets, Board of Wasatch Mutual Funds (Oct. 17, 2008); Presentation at Annual Conference of the Utah Bar Securities Section (Aug. 22, 2008).

The Credit Crisis: Trouble Coming to the Courts, Miami Inn of Court (Apr. 24, 2008).

Why Securities Enforcers Have no Fan Clubs, NASAA Winter Enforcement Conference (Jan. 5, 2008).

Developments in the Financial Services Industry, Utah Valley Estate Planning Council (Dec. 5, 2007).

Opening and Closing Statements in Enforcement Cases, NASAA Attorney Training Seminar (Dec. 1, 2007).

Trial Organization Strategies, NASAA Attorney Training Seminar (Nov. 30, 2007).

Partnering with Regulators, Cache County Estate Planning Council (Oct. 9, 2007), Presentation to Cache Valley Chapter of CPAs (Sept. 20, 2007); Southern Utah Estate Planning Council (May 3, 2007); Utah Chapter of Certified Fraud Examiners (Oct. 3, 2006); Utah Society of Financial Services (Sept. 12, 2006).

Top Ten Predictions: The Future of State Securities Regulation, NASAA Broker-Dealer Training Seminar (June 16, 2007).

Short Selling Abuses, NASAA Broker-Dealer Training Seminar (June 15, 2007); Public Investors Arbitration Bar Association (PIABA) Seminar (Oct. 25, 2006); NASAA Corporation Finance Training Seminar (July 28, 2006).

Why Investment Scams Target Seniors, Utah Adult Protective Services Training Seminar (June 6, 2007); Utah Gerontological Society Spring Conference (Mar. 13, 2007).

What Practices Most Worry State Regulators in the DPP Industry, Investment Program Association Annual Meeting (Apr. 21, 2007).

Forensic Accounting and Fraud, University of Utah Accounting Department (Jan. 25, 2007).

Ten Habits of Highly Effective Securities Enforcement Agencies, NASAA Winter Enforcement Meeting (Jan. 6, 2007).

Drafting Securities Enforcement Pleadings, NASAA Attorney Training Seminar (Dec. 7, 2009; Dec. 2, 2006; Dec. 4, 2005; Dec. 3, 2004; Dec. 13, 2003; Aug. 17, 2002; Dec. 2, 2000; Nov. 5, 1999).

Motions Practice for Securities Enforcement Agencies, NASAA Attorney Training Seminar (Dec. 8, 2009; Dec. 1, 2006; Dec. 4, 2005).

Unauthorized Practice of Law in Arbitration, PIABA (Oct. 27, 2006).

Investment Fraud Trends, PIABA (Oct. 25, 2006)

Investment Fraud in Utah, Utah Chapter of Association of Certified Fraud Examiners (Oct. 25, 2006).

Developments at the Utah Division of Securities, Annual Meeting of Utah Bar Securities Section (Aug. 25, 2006).

Compliance Expectations in the Tenant-in-Common Industry, Tenant In Common Association Conference (Aug. 15, 2006).

Who is Trying to Steal Your Clients' Money, Utah State Bar CLE (May 19, 2006).

Ethics Scenarios for Securities Litigators, PIABA (Sept. 30, 2005).

Variable Annuity Update, PIABA (Sept. 28, 2005).

Scams, Schemes, and Swindles, PIABA (Sept. 28, 2005; Oct. 20, 2004; Oct. 22, 2003; Oct. 2, 2002; Oct. 17, 2001).

Demonstrating Professionalism in Securities Litigation; A Step Above Ethics, Practicing Law Institute Seminar (Aug. 17, 2005); PIABA (Oct. 22, 2004).

Trial Advocacy Training for Securities Enforcement Lawyers, Instructor at NITA Training (Mar. 20-22, 2005).

Negotiation Skills for Securities Enforcers, NASAA Attorney Training (Dec. 4, 2004; Dec. 12, 2003; Aug. 17, 2002).

Abuses in Sales of Variable Annuities, PIABA (Oct. 20, 2005).

Overview of the Securities Industry and Securities Regulation, Joint Training Seminar of NASAA and NAIC (May 6, 2004).

Ethics for Securities Regulators, NASAA Winter Enforcement Conference (Jan. 11, 2004).

Ethics Standards in Arbitration, PIABA (Oct. 22, 2003).

Review of New Federal Legislation Governing Securities Litigation, PIABA (Oct. 22, 2003).

Statutes of Limitations in Securities Litigation, PIABA (Oct. 2, 2002).

Trends in State Securities Enforcement Proceedings, PIABA (Oct. 20, 2001).

Attorney Fee Recovery in Securities Cases, PIABA (Oct. 17, 2001).

Who's Liable: Extended Liability Under Blue Sky Law, PIABA (Oct. 11, 2000).

New Products: Are They Securities?, PIABA (Oct. 11, 2000).

Expert Witnesses and Evidence in Mining Fraud Cases, Nevada securities fraud prosecutors (Oct. 6, 2000).

Enforcement: Where to From Here?, NASAA Winter Enforcement Conference (Jan. 4, 1998).

Protocols for Multi-Jurisdictional Task Forces, NASAA Winter Enforcement Conference (Jan. 6, 1997).

Recognizing an Investment Contract, NASAA Winter Enforcement Conference (Jan. 5, 1997).

Resolving Securities Customer Complaints, NASAA Broker-Dealer Training Program (June 21, 1996); NASAA Winter Enforcement Meeting (Jan. 6, 1996).

Current and Future Trends in Securities Regulation, Idaho Business Law Symposium (Apr. 21, 1995).

State and Provincial Developments in Securities Law, Northwest Securities Institute (Feb. 25, 1995).

Sales Abuses in Limited Partnerships, Investment Program Association Spring Conference (Mar. 17, 1994).

Settlements 101: How to Maximize the Effects of Task Forces, NASAA Winter Enforcement Meeting (Jan. 1994).

Raising the Enforcement Profile of Securities Agencies, NASAA Winter Enforcement Meeting (Jan. 1994).

Fraud and Abuse in Insurance and Securities, Idaho Bar CLE (Dec. 3, 1993).

Interaction of State and Federal Securities Laws, PIABA (Oct. 24, 1993).

Private Financing Options, Energy and Waste Conference (June 13, 1992).

Idaho Blue Sky Laws, Northwest Securities Institute (Feb. 28, 1992).

Securities and Investment Fraud Enforcement Actions, Corporate and Securities Law Section Meeting, Idaho State Bar (May 9, 1991).

State Participation in International Securities Developments, Wisconsin Fifth Annual SEC Update Nov. 28, 1990).

State Banking Regulation Contrasted with State Securities Regulation, Financial Institutions Training Program for SEC Attorneys (June 19, 1990).

Securities Enforcement in the U.S., International Association of Young Lawyers Conference (1989).

Idaho Blue Sky Laws, Idaho State Bar CLE (Sept. 1988).

Legal and Regulatory Climate in Idaho, Conference on Financial Planning (Oct. 3, 1986).

Enforcement of the Idaho Securities Act, Idaho State Bar CLE (Jan. 1985).

Manuals, News Articles, Bar Journal Articles, and Working Papers

Lawyers are needed to Clean up Wall Street's Mess and Rebuild the Economy, Utah Bar Journal, Jan/Feb 2009 at 25.

Investors: Take Steps to Minimize Fraud, Maximize Trust, *Daily Business Review (Miami)*, January 27, 2009 (also available at www.kleinutah.com).

Receivership Manual for the Utah Judiciary (co-authored with Lewis B. Freeman and Annette W. Jarvis), December 9, 2008 (distributed at December 2008 Utah Bar CLE event).

Profiteers, the New Privateers, *Securities Law 360*, December 30, 2008.

Internal Investigations: Why Two Are Better Than One, December 19, 2008.

What is an Investor to Do? How to Respond to the Market Meltdown (co-authored with Harley Tropin), *The Enterprise*, Oct. 27, 2008 at p. 9 (also available at www.kleinutah.com).

Distressed Real Estate, September 12, 2008, available at www.lbfglobal.com.

Auction-Rate Securities: Investors Bear Brunt of Crisis, July 7, 2008, available at www.kleinutah.com.

Don't Be a Victim of Real-Estate Fraud, *Miami Herald*, May 12, 2008 at G7 (also available at www.kleinutah.com).

Condo-Hotels: What Next for Owners, Apr. 28, 2008, available at www.kleinutah.com.

A Professionalism Quiz: How Does Your Conduct Measure Up?, Utah Bar Journal, Nov/Dec 2006 at 24.

Current as of August 30, 2010