

People



Michael D. Napoli

Partner, Fraud and Recovery

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vCard

As a court-appointed receiver and counsel to receivers and trustees, Michael Napoli works to maximize the value of insolvent entities in order to make a fair and equitable distribution to creditors. His experience covers a variety of industries with an emphasis on life settlements. Outside of the insolvency arena, Michael protects individuals and companies facing lawsuits. He works closely with his clients to create practical, business solutions to litigation problems. Representing both plaintiffs and defendants, Michael works on a wide variety of cases including securities, commercial, and products liability matters.

Michael maintains an active pro bono practice involving, among other things, assisting parents in obtaining the return of their children under the Hague Convention on the Civil Aspects of International Child Abduction.

Notable Work

Insolvency: Representing the receiver for USA Now, LLC in a multi-million dollar securities enforcement action brought by the SEC involving securities promoted by an EB-5 Regional Center.

Insolvency: Representing the trustee of the Life Partners Position Holder Trust, which was created by the plan of re-organization of Life Partners, Inc. As of the confirmation date, LPI had a portfolio of 3,000+ life insurance policies in which it had sold more than 100,000 interests to 22,000 investors. The Position Holder Trust holds all of the policies and is responsible for maintaining them for the benefit of the investors. The investors hold a variety of interests including interests in the Trust itself, interests in specific policies held by the Trust and notes issued by the Trust.

Insolvency: Representing the receiver for Retirement Value, LLC - a \$77 million securities enforcement action brought by the Texas State Securities Board involving the sale of derivative investments based on life settlement policies. www.rvllcreceivership.com

Areas of Experience

Fraud and Recovery
SEC Receiverships and Ponzi Schemes
Bankruptcy and Reorganization
Insurance Fraud

Education

J.D., The University of Texas School of Law, 1991, with high honors; Member, Texas Law Review; Member, Order of the Coif; Member, Chancellors (Grand Chancellor, 1990-1991)
B.A., Baylor University, 1988, with honors

Admissions

Bars

Texas

Courts

U.S. Court of Appeals, Fifth Circuit
U.S. Court of Appeals, Sixth Circuit
U.S. Court of Appeals, Ninth Circuit
United States Court of Federal Claims
U.S. Bankruptcy Court, Eastern District of Texas
U.S. Bankruptcy Court, Northern District of Texas
U.S. Bankruptcy Court, Southern District of Texas
U.S. Bankruptcy Court, Western District of Texas
U.S. District Court, Eastern District of Texas
U.S. District Court, Northern District of Texas
U.S. District Court, Southern District of Texas
U.S. District Court, Western District of Texas

Related Content

Eyal Berger and Michael Napoli to Speak at the ABI Annual Spring Meeting
April 19, 2024

Eduardo Espinosa and Michael Napoli to Speak on the Role of Receivers in Recovering Assets for

Insolvency: Acting as the receiver for the Ticket Reserve, Inc. and its subsidiaries – a multi-million dollar securities enforcement action brought by the SEC involving securities sold by a SaaS provider operating markets for future options on college football games

Investors
March 06, 2024

Michael Napoli to Speak on Fiduciary Duties and
Equity Receivers at NAFER Annual Conference
September 08, 2023

Insolvency: Representing the advisor of a foreign exchange fund in defending against securities fraud allegations and a receivership action brought by the Texas State Securities Board. As a result of settlement with the TSSB, the client was allowed to resume operations through a new fund by making a corrective offer to the existing investors

Insolvency: Representing investors prosecuting claims in a Ponzi scheme arising out of fictitious loan transactions. Secured a substantial recovery before a receiver was appointed.

Insolvency: Represented significant investors with disputed claims in SEC v. Essex Capital Corp. (C.D. Cal.), SEC v. Direct Lending Investments, LLC (C.D. Cal.) and SEC v. Amerifirst Financing (N.D. Tex.)

Insolvency: Represented large secured creditor in SEC v. EquityBuild, Inc. (N.D. Ill.)

Securities Litigation: Represented a broker in defending against an enforcement action by the Texas State Securities Board.

Securities Litigation: Represented a marketing company defending against market manipulation allegations brought by the SEC.

Commercial Litigation: Representing founders of a midstream pipeline company in claims against co-founders for breach of fiduciary duty and oppression. Structured settlement providing for the division of existing assets, sale of shares and grant of options to clients allowing them to participate in company's on-going business opportunities on favorable terms.

Market Timing: Representing a mutual fund advisor in defending against an SEC investigation and suit regarding allegations of market timing.

Broker/Dealer: Representing a broker/dealer in defending FINRA arbitrations against numerous claims by customers alleging that an employee had defrauded them in a Ponzi scheme involving fictional investments. FINRA arbitration panels found in favor of broker/dealer on all issues related to the Ponzi scheme.

Hedge Fund: Represented a hedge fund in defending suits by portfolio companies alleging violations of the securities laws.

Broker/Dealer: Represented broker/dealers in defending FINRA arbitrations asserting claims by customers alleging mishandling of their accounts.

Shareholder Dispute: Representing majority shareholder in health clinic in resolving claims brought by minority shareholder leading to buyout of minority on terms favorable to majority

Shareholder Dispute: Representing majority shareholders of entertainment start-up in claims against some of the founders and early investors resulting in elimination of their interests on favorable terms.

Breach of Contract: Representing a financial institution in breach of contract suit against servicer of portfolio of subprime automobile loans. Significant recovery for client as a result of settlement during trial.

Breach of Fiduciary Duty: Represented the CFO of a bankrupt public corporation in defending against claims for breach of fiduciary duty brought by the bankruptcy trustee.

Complex Litigation: Represented former CEO and director of public real estate trust and his consulting company in defending against claims for breach of fiduciary duty and breach of contract. Judgment after trial in favor of defendants affirmed on appeal.

Jury Trial: Represented the former member of an LLC defending against claims that he was the alter ego of the company. Jury verdict and judgment in favor of client

Ethanol Venture: Represented investors in prosecuting claim on behalf of ethanol venture against controlling members of Delaware LLC alleging breach of fiduciary duty and breach of company agreement arising out of sale of controlling interest. Significant recovery for clients as a result of settlement.

Insurance Coverage: Represented offshore drilling company in prosecuting suits against insurers seeking to recover on claims related to hurricane damage.

Trade Secrets: Represented manufacturer of biometric time clocks in prosecuting claims for theft of trade secrets and participation in breach of fiduciary duty against former customer which had assisted client's employees in creating a competitor. Cases in Connecticut and Texas settled on terms favorable to client.

Life Insurance: Represented life insurance companies in defending against claims for improper practices in the sale of insurance products and settlement of claims in Texas, Oklahoma, New York, and Massachusetts.

Insurance Fraud: Represented life insurer in prosecuting claim seeking to rescind life settlement policy based on misrepresentations by the insured when purchasing the policy.

Products Liability: Represented manufacturer of pelvic mesh in defending numerous products liability lawsuits in state and federal court.

Wrongful Death/Personal Injury: Represented engineering companies in defending serious personal injury and wrongful death claims arising out of refinery accidents.

Affiliations

- American Bankruptcy Institute (ABI), Commercial Fraud Committee Newsletter, Editor
- Dallas Bar Association
- National Association of Federal Equity Receivers

Published Work and Lectures

- North American Securities Administrators Association, 2024 Enforcement Training, Speaker, "Understanding the Role of Receivers in Recovering Assets for Investors," March 6, 2024

- American Bankruptcy Institute, Panelist, “COVID-19: Fraud Schemes, Relief Act Forgiveness Fraud, and International Commercial Fraud Issues,” August 27th, 2020
- ABA Section of Litigation Professional Liability Litigation Committee, Panelist, “Receiver Litigation: Through the Looking Glass, Smoke Filled Rooms, or Wild West?,” April 23, 2020
- The State Bar of Texas, Contract Drafting, Review and Negotiation Course, Presenter, “Contracts in the Courthouse: Post-Closing Adjustments, Sandbagging and More,” December 5, 2017
- 36th Annual J. Westbrook Bankruptcy Conference, Presenter, “Formulating, Confirming and Implementing Complex Plans: Lessons From Life Partners,” November 17, 2017
- *Pratt’s Journal of Bankruptcy Law*, Co-Author, “Fraudulent Transfers in the Ponzi Era,” September 2016
- 15th Annual Advanced In-House Counsel Conference, Presenter, “Preventative Contract Drafting,” August 11, 2016
- *Pratt’s Journal of Bankruptcy Law*, Co-Author, “Through The Looking Glass: The Mechanical Misapplication of In Pari Delicto in Bankruptcy,” January 2016
- *Metropolitan Corporate Counsel*, Author, “Letting the Genie out of the Bottle: Has Texas reverted to the common law ‘open and obvious danger’ rule?” September 3, 2015
- *The Receiver*, Author, “Finn v. Alliance Bank and the Ponzi Presumption: Much Ado About Something?” Summer 2015
- Advanced In-House Counsel Course 2015, Presenter, “Reducing Outside Counsel Costs,” August 14, 2015
- Advanced In-House Counsel Course 2015, Moderator, “General Counsel Panel: Survival Skills for the 21st Century In-House Lawyer,” August 13, 2015
- *Rx for the Defense*, DRI Newsletter, Co-Author, “Medical Devices and Comment K: A Defense Worth Fighting For,” July 24, 2014
- *Corporate Integrity*, DRI Newsletter, Author, “Whistleblower Retaliation Claims: Limiting Dodd-Frank to its Plain Language,” July 1, 2014

Honors and Distinctions

- *The Best Lawyers in America*, 2022-2024, Listed in Texas for Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- *Super Lawyers Magazine*, 2018-2019, Listed in Texas for Securities Litigation