

## Securities Group Of The Year: Cleary Gottlieb

By **Stephanie Russell-Kraft**

*Law360, New York (January 10, 2014, 6:10 PM ET)* -- Cleary Gottlieb Steen & Hamilton LLP had an outstanding year representing the world's top financial institutions in class action against the Royal Bank of Scotland PLC and scoring big victories for banks in Madoff-related lawsuits, earning it a place among Law360's Securities Groups of the Year.

Cleary Gottlieb has been representing clients in securities litigations for many decades. One of its founding partners, Henry Friendly, left in 1959 to serve on the United States Court of Appeals for the Second Circuit, where he played a leading role in shaping the modern contours of federal securities laws, according to the firm.

Today, the firm's more than 100 securities litigation attorneys in New York, Washington, D.C., and London work with clients and partners around the world, tackling everything from U.S. securities law to international arbitration and local representation in the U.K., Germany, France, Belgium and Italy.

"This is the result of a focus over the last decade to have a truly global footprint," said Mitch Lowenthal, partner in the firm's New York office. "We can practice securities litigation not just where we have offices and litigators, but where we have close relationship to lawyers who are not litigators."

On September 25, Cleary Gottlieb's securities team helped win the dismissal of a class action complaint brought against its underwriter clients — which included Merrill Lynch, Morgan Stanley & Co. Inc., UBS Securities LLC, Citigroup Global Markets Inc. and Goldman Sachs & Co. — and Britain's Royal Bank of Scotland. The suit alleged RBS misled investors about its exposure to subprime mortgage-backed securities.

The firm is currently representing a group of major banks in connection with the Ponzi scheme perpetrated by Bernie Madoff. Cleary Gottlieb partner and Law360 MVP Lewis Liman said a marker of the firm's strength was how many financial institutions chose it to represent them after Madoff's investment securities firm collapsed.

On September 16, the Second Circuit affirmed the dismissal of class action lawsuits brought against Cleary Gottlieb clients HSBC Holdings PLC and The Bank of New York Mellon Corp. by investors in foreign investment funds that had placed their money in Madoff's firm, finding the claims should be brought abroad.

In a separate opinion, the appellate court also ruled that state law claims against JPMorgan Chase & Co.

and BNY Mellon, both of which provided banking services to Madoff's securities firm, were barred by the Securities Litigation Uniform Standards Act of 1998.

"The work with respect to the Bank of New York Mellon was relatively unique and challenging in that it involved investigations and litigation by a number of different parties," Liman, who represents BNY Mellon said.

Liman faced a different sort of challenge at the beginning of the year, when he argued in front of the Supreme Court on behalf of Marc Gabelli, who was accused of market timing violations that occurred more than five years before the suit was filed against him by the Securities and Exchange Commission.

In a blockbuster ruling in February, the high court unanimously ruled against the SEC and overturned an influential Second Circuit ruling, finding that the SEC's five-year window for filing civil enforcement actions seeking penalties begins not when the agency discovers an alleged fraud, but when the fraud itself occurs.

The 9-0 decision was a sharp rebuke to the SEC, as the court found that a federal agency with investigative authority did not deserve the kind of "discovery rule" used by private plaintiffs without the resources to investigate potential scams.

But the firm's successes haven't just come in the way of court victories, according to Liman. Cleary Gottlieb has also drafted more amicus briefs than any other firm for the Securities Industry and Financial Markets Association, the principal private organization representing the securities industry.

"It's a mark of the quality of our lawyers that the agency turns to us to help formulate its views toward presenting them to regulators," he said.

Cleary Gottlieb's securities practice also works closely with its mergers and acquisition team, working seamlessly with deal colleagues around the world to handle its litigation.

For example, during a recent snowstorm in the United States, the firm coordinated effortlessly with its Hong Kong office to depose a key witness who was unable to fly out of the country, according to partner Meredith Kotler.

"That's pretty standard for us," she said.

--Editing by Stephen Berg.