THE LOOMING THREAT POSED TO STUDENT LOAN LENDERS AND SERVICERS BY STATE-LEVEL ACTORS IN AN ERA OF FEDERAL REGULATORY REMISSION

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With debts rising faster than new graduates' starting salaries, a student debt crisis has the potential to haunt the nation much in the way the mortgage crisis did 10 years ago. In general, the roots of this problem lie, in part, in the private student loan (PSL) market created by and in response to the Higher Education Act of 1965 (HEA). The federal government's commitment to funding post-secondary education spawned new lenders, borrowers, and servicers, all operating within a rickety regulatory regime administered by the U.S. Department of Education (DOE) for more than 50 years. In the last decade, as borrowers assumed more unsustainable debts, federal actors, from the DOE to the Consumer Financial Protection Bureau (CFPB), turned their attention to the behavior of private lenders and servicers of both federal and private loans. In this pursuit, federal authorities relied upon numerous consumer protection statutes and aligned themselves with many state-level agencies, including state attorneys general (AGs) across the country.

Beginning in 2016, a new mood dampened the federal bureaucracy's regulatory pace. The DOE, led by Secretary Elisabeth Dee DeVos, well-known for her support for school choice, school voucher programs, and charter schools, disavowed the enthusiasm for regulation and litigation characteristic of the Obama administration. Once John Michael "Mick" Mulvaney arrived at the CFPB, he brought a similar wariness for administrative and legal activism.

As the federal government's involvement waned in parts, many states increased their roles. Scores launched suits and investigations, and many prepared to fight not just servicers and lenders but also the DOE. Consequently, servicers and lenders of PSLs now confront an amorphous environment policed by a diverse cast of state-level characters able to wield powerful legal tools on behalf of indebted constituents. And with student loan defaults rising, state enforcement activities may not be the only increase in litigation the industry sees. As the financial industry learned from the mortgage crisis, when the bubble bursts, significant consumer litigation soon follows.

Lay of the Land

The Players

Regardless of their source, many students rely on loans for post-secondary education—borrowers constituted nearly 60 percent of the class of 2016. In the form of loans, grants, and tax credits, financial aid from the federal government makes up over two-thirds of direct aid to all post-secondary students. Since 2010, these direct loans have come from the William D. Ford Federal Direct Loan Program, which offers Direct Subsidized, Direct Unsubsidized, Direct PLUS, and Direct Consolidation Loans, as well as the Federal Perkins Loan Program. In theory, these individual outlays, along with any other available nonfederal aid, cover all but each applicant's Expected Family Contribution (EFC), the dollar sum that each student and his or her family must pay from their own resources. To help students in this effort, the DOE has long offered three products: the PLUS Loan, the Grad PLUS Loan, and the unsubsidized Stafford Loan. Through these products, the federal government annually funds roughly 90 percent of student loan borrowing.

Originally, PSLs formed a small segment of the student loan market. In that more innocent time, they were viewed as a last resort for borrowers seeking to meet their EFC. Now PSL lenders vigorously compete with the federal government. Three types of lenders dominate this market: depository and non-depository financial institutions; nonprofit lenders, many of them affiliated with certain states and state agencies; and schools that elect to fund or effectively guarantee their enrollees' debts. At present, six corporations—Navient Solutions; Citizens Bank; Discover Bank; PNC Bank; SLM Corp., better known as Sallie Mae; and Wells Fargo Bank—comprise roughly two-thirds of PSL activity.

Beginning in 1972, for-profit institutions (FPIs) became key participants in this market. Owned mostly by companies traded on a major stock exchange or by private equity firms, these entities consistently return steady profits to their owners. In 2009, for example, publicly traded companies that owned one or more FPIs boasted an average profit margin of 19.7 percent and generated pre-tax profits of $3.2 billion. Notably, these profits mostly reflect government funds channeled as student loans since FPIs are eligible to receive "up to 90 percent of their revenue from taxpayer dollars." The rest often comes from institutional or private loans made directly by the institution to the student. The number of students enrolled in FPIs jumped from 766,000 to 2.4 million from 2001 to 2010 and remained above 2.8 million through 2014-2015.

IN 2009, FOR EXAMPLE, PUBLICLY TRADED COMPANIES THAT OWNED ONE OR MORE FPIS BOASTED AN AVERAGE PROFIT MARGIN OF 19.7 PERCENT AND GENERATED PRE-TAX PROFITS OF $3.2 BILLION. NOTABLY, THESE PROFITS MOSTLY REFLECT GOVERNMENT FUNDS CHANNELED AS STUDENT LOANS SINCE FPIS ARE ELIGIBLE TO RECEIVE "UP TO 90 PERCENT OF THEIR REVENUE FROM TAXPAYER DOLLARS."

As intermediaries between borrowers and lenders, servicers play a critical and visible role. These entities maintain account records regarding borrowers, send periodic statements advising borrowers about amounts due and outstanding balances, receive payments from borrowers, allocate those payments among various loans and loan holders, answer borrowers' questions, report to creditors and investors, and strive to prevent default by delinquent borrowers. As soon as a federal loan issues, the DOE picks a specific servicer for each borrower. Thereafter, the DOE authorizes a change only upon the occurrence of specified events, such as consolidation.

Currently, the DOE contracts with eight private servicers. Its three Title IV Additional Servicers are: Navient, following its purchase of Great Lakes Educational Loans Services on Jan. 1, 2018; FedLoan Servicing; and Nelnet Inc. The DOE's five for-profit servicers are: the Missouri Higher Education Loan Authority; Granite State Management & Resources; the Oklahoma Student Loan Authority; the Higher Education Servicing Corp.; EdFinancial, on behalf of the North Texas Higher Education Authority; and CornerStone Education Loan Services.

Market Snapshot

Rise of PSLs

Overhauled in 1994, the modern student loan market took shape in the decade afterward. At first, financial institutions funded most Stafford Loans, which state or nonprofit entities guaranteed and the federal government, under the now-defunct Federal Family Education Loan (FFEL) program, insured. Because Stafford Loans were awarded as part of a school's financial aid package, post-secondary schools served as gatekeepers for students and lenders; they even amassed lists of preferred lenders. Prior to the lending boom of 2005-2007, banks used the school financial aid award as their most direct method of marketing through the so-called "school channel." The typical PSL lender would look to a school to review approved loans and "certify" the borrowers' enrollment and the loan's consistency with the EFC. In some cases, PSL lenders used the same platforms to communicate with schools about FFEL loans. Thus, today's PSL market came into existence as an adjunct to the federal student loan program, grew through FFEL marketing channels, and shared processing and control systems with FFEL loan programs.

In the late 2000s, partly in response to the financial crisis of 2007-2008, two laws took aim at the alliance between certain lenders and dozens of schools. Passed in 2008, the Higher Education Opportunity Act largely ended the preferential treatment certain lenders received from financial aid offices. The Health Care and Education Reconciliation Act of 2010 subsequently left the Federal Direct Loan Program as the sole source of federal student loans and limited private participation in the Stafford program to servicers alone. In response to these laws, PSL lenders rebranded and started to market products labeled "student loans," trumpeting benefits like "competitive interest rates," "choice of repayment options," and rewards programs in advertisements and commercials. These efforts proved successful, as a single statistic revealed: By August 2012, more than 54 percent of PSL borrowers had not exhausted their Stafford eligibility or applied for a single direct federal loan.

Comparison of PSL and Federal Loans

From a consumer perspective, Stafford Loans and the new PSLs have substantial similarities. The most popular PSL products and all Stafford Loans do not require borrowers to repay during their schooling, still tack on interest during that span, offer a six-month (or more) grace period post-graduation, and authorize additional deferments in certain well-defined situations. Whether private or not, the vast majority of student loans are long-term and low-interest and impose nearly ironclad repayment obligations.

Still, there are significant distinctions. Nearly all Americans may claim some form of federal student loans regardless of traditional standards of creditworthiness, while most PSLs require at least one borrower to be "creditworthy." Today, a fixed rate applies to all federal loans; the majority of PSLs carry variable rates and risk-based pricing dependent on a borrower's creditworthiness. All Stafford borrowers are entitled to a single fixed rate that may be reduced based on financial need; the rates for PSL borrowers, often tied to an index like the London Interbank Offered Rate, vary significantly. Stafford Loans can be modified by borrowers who have difficulty making payments, from forbearance to income-based and income-contingent repayment plans. With the exception of short-term forbearance, the more common PSLs lack similar mitigating features. And perhaps most significantly, no government payment guarantee attaches to a PSL, partly explaining their greater costs.

New Patterns Emerge

Spreading Debt

For decades, the general public and government officials saw post-secondary education as the surest means for any person to build a personally and professionally fulfilling life. Historically, however, the federal government had a limited real-world role, and most students relied on loans from private parties, charitable organizations, and private trusts during America's first two centuries. In 1965, via the sweeping HEA, the federal government committed itself to providing accessible financial support for post-secondary education. In doing so, it constructed a sprawling system of loans, grants, and aid and preparatory programs designed to keep the college door open to all students of ability regardless of socioeconomic background. In Lyndon Johnson's words, the HEA meant "that a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 states and not be turned away because his family is poor." Fulfilling Johnson's dream, the number of people seeking post-secondary educations skyrocketed in the HEA's wake.

With this exponential growth, new problems emerged. Part of the blame could be placed at the feet of Congress, which increasingly allowed the federal loan maximum to stagnate, only grudgingly approving meager raises, and rarely increased the budgetary allocation for educational grants. Meanwhile, because few schools possessed the resources to meet all their enrollees' financial needs, students and their families faced the daunting task of assembling funds far greater than the mechanistically determined EFC. The schools, however, did something more: Both private and public institutions steadily raised tuition. As the states curbed their funding for public colleges, larger and larger bills confronted enrollees at these traditionally more affordable establishments. As a result, Americans turned to PSLs to bridge the gap between their personal resources and the surging cost of post-secondary education. And so, year by year, costs and debts grew.

Securitization's Spread and Effect

As the nation's number and value of outstanding student loans thusly swelled, issuers of asset-backed securities decided to construct and market securities backed by this rising educational debt, known as student loan asset-backed securities (SLABS). These debts boasted several advantages over other securities: (1) the federal government guarantees most, albeit not all, of these student loans' principals; (2) bankruptcy law does not allow for the easy eradication of any "educational loan," including PSLs; and (3) many bear interest rates that provide a significant stream of payments. This dynamic prompted PSL lenders and SLABS issuers to originate and securitize greater and greater amounts of PSLs. Through these and other factors, the size of the PSL market doubled by the eve of the Great Recession.

What the Numbers Reveal

By 2017, student loan data shows patterns that are similar to what occurred prior to the subprime mortgage crisis.

From 2008 through 2012, nearly every form of consumer debt declined—but student debt rose. From the academic year 2001-2002 to 2011-2012, the average total borrowing per student increased by 55 percent. In 2011, 66 percent of post-secondary graduates had student loan debt. For the alumni of 2016, the average debt totaled $37,172, up 70 percent from 2006 and up 6 percent from 2016.

Today, the specter of student debt touches nearly 10 percent of the American population. The sum of outstanding federal student loans totaled less than $600 billion in 2008—but ballooned to $1.1 trillion at the end of 2012; topped $1.31 trillion in 2016; and passed $1.48 trillion, spread over 44.2 million borrowers, by late 2017. In 2014, roughly 5 million borrowers, equivalent to 17 percent of student borrowers who left college or graduated that year, carried a loan balance of at least $50,000 and collectively held 58 percent of the nation's $1.4 trillion in outstanding student debt. In 2001, the PSL market stood at less than $5 billion. While private loan volume peaked at $18.1 billion in 2007-2008 before contracting to $5.2 billion in 2010-2011, it stood at $7.8 billion as of 2014-2015. By 2017, student loan debt trailed only mortgages in terms of cumulative debt, having already outpaced both credit cards and automobile loans.

Although private student loans with serious delinquencies, defined as payments late by 90 days or more, peaked in 2008-2009, the cumulative lifetime default rate officially hovers around 11 percent. However, the cumulative lifetime default rate was 15.8 percent in 2007, 18.5 percent in 2008, and, though it dipped to 10.2 percent in 2011, soared past 13 percent in 2013 and 2014. It then jumped to 17 percent from 2015 to 2016. As the New York Federal Reserve Bank warned, the percentage of student debtors under the age of 30 who were at least 90 days late on their student loan payments increased from 21 percent in 2004 to 35 percent in 2012. In fact, per one of the most exhaustive recent studies, almost 40 percent of student loan borrowers were either in default or more than 90 days past-due on their payments as of October 2017. The DOE, for its part, has reported that more than 8 million federal student loan borrowers are in default and have not made a payment in at least a year and another 3 million direct loan borrowers—those with debt from the largest federal student loan program—are delinquent on their loans and have not made a payment in more than 30 days in 2017.

Another study released by the Brookings Institution found that most borrowers who left school owing at least $50,000 in student loans in 2010 had failed to pay down any of their debt four years later. Instead, their balance had risen by an average of 5 percent due to accruing interest. This problem of large balances appears most acute among graduate school borrowers, who now constitute 50 percent of big-balance borrowers. Borrowers at FPIs presently default at twice the rate of public two-year borrowers (52 percent versus 26 percent after 12 years), and the rate of default among all FPI entrants is nearly four times that of public two-year entrants (47 percent versus 13 percent).

As expected, borrowers from every state have responded with a flood of complaints regarding communication, payment allocation and processing, credit reporting, billing, and other purported misdeeds by lenders, debt collectors, and servicers. By July 2012, the National Consumer Law Center had compiled thousands of angry testimonials. More than five years later, the collection maintained by the CFPB included more than 50,000 and over 10,000 complaints about student loans and debt collection, respectively.

the rate of gainful employment obtained by FPIs' graduates in 2010 and 2011. During these years, the DOE also joined forces with the CFPB.

Armed with the DOE's data, and with increasing fervor, the CFPB soon came after PSL lenders and servicers. In September 2014, it sued Corinthian Colleges Inc. for allegedly inducing thousands of students to take out private loans, known as "Genesis loans," to cover tuition costs by advertising allegedly inflated job prospects and career services. This lawsuit further claimed that Corinthian used questionable debt collection tactics to convince students to pay back those loans while still in school. On Feb. 3, 2015, the CFPB and DOE announced more than $480 million in forgiveness for borrowers who took out certain Corinthian private student loans. Per a settlement agreement, Corinthian agreed to a series of new consumer protections.

FEDERAL SOURCES OF PROTECTION INCLUDE THE TRUTH-IN-LENDING ACT, DODD-FRANK WALL STREET REFORM AND CONSUMER FINANCIAL PROTECTION ACT, EQUAL CREDIT OPPORTUNITY ACT, FAIR CREDIT REPORTING ACT (FCRA), FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), AND FEDERAL TRADE COMMISSION ACT.

State of the Law

The securitization of less-than-ideal mortgages was a significant factor in the financial meltdown of 2008. As defaults spiked, the income stream of these mortgages slowed, and the securities built upon them collapsed. With this collapse came increasing attention from federal and state regulators. Though neither the level of securitization nor the default rate of student loans closely match those in the subprime mortgage market, the similarities leap from the financial pages. In fact, the legal world's attention has already intensified. Beginning in 2008, spooked by borrowers' unpayable debt loads and the parallels between the PSL and subprime mortgage booms, a patchwork of state and federal authorities took aim at the practices of lenders, FPIs, and servicers, with PSL borrowers' own attorneys following close behind.

Overview of Relevant Laws

In bringing offensive claims, borrowers and government agencies have leveraged several potentially applicable consumer protection statutes. Federal sources of protection include the Truth-in-Lending Act, Dodd-Frank Wall Street Reform and Consumer Financial Protection Act, Equal Credit Opportunity Act, Fair Credit Reporting Act (FCRA), Fair Debt Collection Practices Act (FDCPA), and Federal Trade Commission Act. Many states' laws mirror these statutes and provide a second source of potential liability for lenders and servicers.

Federal Level

Obama Administration's Flurry

For the most part, the DOE traditionally sought to change its contractors' behavior by asking them to halt certain practices, rather than taking them to court. It also tended to protect these servicers from undue interference by state-level actors. On Oct. 1, 1990, for example, it advanced the view that its regulations of the FFEL program pre-empted state law regarding the conduct of these loan collection activities. In 2009, the United States made the same claim in *Chae v. SLM Corporation*,[1] one subsequently endorsed by a unanimous panel and more than one district court.

Yet, in the Obama years, the DOE still engaged in feverish activity. Thus, in 2009, the DOE adopted new regulations under Title IV of HEA designed to improve program integrity and graduate-employment placement. It followed that burst with new protocols regarding the rate of gainful employment obtained by FPIs' graduates in 2010 and 2011.

The year 2017 also opened with significant activity. On Jan. 18, 2017, the CFPB sued Navient, the nation's largest servicer of both federal and private student loans, for its alleged practices related to repayment. It claimed that Navient violated Dodd-Frank, the FCRA, and the FDCPA. In September 2017, the CFPB instituted an action against the National Collegiate student loan trusts and their debt collector, Transworld Systems, for allegedly illegal student loan debt collection lawsuits. The judgment to which both defendants consented required an independent audit of all 800,000 student loans in the National Collegiate student loan trusts' portfolio, assessed payments of $19.1 million from the National Collegiate student loan trusts and $2.5 million from Transworld Systems Inc., and required practice changes. Overall, according to the CFPB, "complaints by student loan borrowers have driven actions that have produced more than $750 million in relief for student loan borrowers and strengthened the student loan repayment process for millions more" by Oct. 1, 2017.

President Barack Obama celebrated this approach to servicers, lenders, and for-profit institutions. On March 10, 2015, he personally trumpeted the release of the DOE's Student Aid Bill of Rights. More hortatory than anything else, this document affirmed every borrower's "right to an affordable repayment plan" and "right to quality customer service, reliable information, and fair treatment, even if they struggle to repay their loans."

Trump Administration's Policy Shift

The Trump administration has taken a different approach to student lending. The transformation began on April 11, 2017, when DeVos undid several Obama administration policy memos. In the months afterward, the DOE terminated its alliance with CFPB and reversed the Obama administration's promise of completely erasing loans taken out by students of the Corinthian Colleges chain. When state authorities threatened to move into the void, the DOE argued for pre-emption of state regulatory efforts by the HEA.

In the budget plan the Trump administration sent to Congress, the DOE proposed eliminating subsidized student loans and the Public Service Loan Forgiveness program. It even took tentative steps toward the repeal of the "gainful employment rule," which requires that all programs preparing students directly for careers should prove that a decent share of their graduates are gainfully employed or risk losing access to federal financial aid. The DOE made clear its intent to ally with servicers against state-level regulators on March 12, 2018, when it insisted that it alone possessed the power to regulate servicers.

While the CFPB became the only federal regulatory actor directly tasked with watching the student loan servicer industry, its zeal has also tapered. Within weeks of Mulvaney's appointment, the former congressman reversed the agency's course on a variety of issues, focusing less on student loans.

In an unexpected twist, the Federal Trade Commission (FTC), however, continued to act. In February 2018, it announced a lawsuit against American Financial Benefits Center, Financial Education Benefits Center, AmeriTech Financial, and Brandon Demond Frere as part of its crackdown against allegedly unlawful student loan debt relief practices. Dubbed "Operation Game of Loans," the FTC crackdown alleged that these companies charged illegal, upfront fees and failed to deliver on their promises to enroll people into a government program that they claimed would permanently lower monthly loan payments or result in total loan forgiveness. The overall Operation Game of Loans actually encompasses seven FTC actions and involves coordinated actions by AGs in Colorado, Florida, Illinois, Kansas, Maryland, North Carolina, North Dakota, Oregon, Pennsylvania, Texas, Washington, and the District of Columbia.

State Level

Alliance With the Obama Administration

From 2008 through 2016, state-level actors, often aided by the CFPB, DOE, or FTC, enjoyed some success in investigating alleged wrongdoing in higher education. Several states won $103 million in loan forgiveness as part of a Justice Department settlement with Education Management Corporation over the school's allegedly misleading statements to students. DeVry University issued $100 million in refunds and debt forgiveness following a similar probe by a coalition of states and the FTC. Corinthian, in fact, had been snared by an investigation conducted by the DOE and California's AG, the resulting multi-state settlement providing $183 million in student loan relief for 41,000 students nationwide. As another example, the Navient suit started as a joint effort between the CFPB and the AGs of Illinois and Washington. During the Obama administration, the agendas of state and federal regulators appeared to align across multiple jurisdictions.

Legislatively, the states also acted. In 2013, Oklahoma passed the Private Student Loan Transparency and Improvement Act, which requires private or alternative student loan providers to release clearer disclosures prior to issuing a loan. In 2015, Connecticut became the first state to pass a borrower's bill of rights. The bill established a student loan ombudsman in the Connecticut Department of Banking, as well as an educational financial literacy course for college students. Other jurisdictions, including the District of Columbia, Illinois, and Washington, followed suit.

State Efforts During the Trump Administration

With federal interest in enforcement waning in 2016-2017, some states affirmed their commitment to investigating and suing lenders and servicers alike.

In the span of months, Illinois, California, and Connecticut enacted new laws governing how PSL lenders and servicers may interact with student-loan borrowers. Legislation modeled on Connecticut's borrower's bill of rights has been filed in Massachusetts, Michigan, Washington, and Rhode Island. California, Connecticut, Maine, Minnesota, North Dakota, Iowa, and Rhode Island all passed or drafted legislation that allows state residents to refinance their existing education debt at lower interest rates, often through state student loan authorities. Overall, through March 13, 2018, about a dozen states had passed or were actively considering legislation to more strictly oversee and license the federal government's collection of servicers. Meanwhile, several states had established ombudsmen offices to handle complaints, while others prepared to follow.

Various states' executive branch officials reacted just as forcefully. Many state AGs filed lawsuits against lenders and servicers for allegedly unfair and deceptive practices, particularly by FPIs. For example, AGs in Massachusetts, Illinois, Washington, and Pennsylvania filed lawsuits against the DOE's own loan contractors, alleging a laundry list of consumer abuses.

THE TRUMP ADMINISTRATION HAS TAKEN A DIFFERENT APPROACH TO STUDENT LENDING. THE TRANSFORMATION BEGAN ON APRIL 11, 2017, WHEN DEVOS UNDID SEVERAL OBAMA ADMINISTRATION POLICY MEMOS. IN THE MONTHS AFTERWARD, THE DOE TERMINATED ITS ALLIANCE WITH CFPB AND REVERSED THE OBAMA ADMINISTRATION'S PROMISE OF COMPLETELY ERASING LOANS TAKEN OUT BY STUDENTS OF THE CORINTHIAN COLLEGES CHAIN. WHEN STATE AUTHORITIES THREATENED TO MOVE INTO THE VOID, THE DOE ARGUED FOR PRE-EMPTION OF STATE REGULATORY EFFORTS BY THE HEA.

Best Methods: Comprehensive Preparation

As these events show, student loans servicers and lenders must prepare to continue their long-standing battles with state-level offices. The federal government may have relaxed its attention, and it may have ended its cooperation with regulatory-minded state agencies. But, in a federalist system whose federal courts usually view federal pre-emption of state consumer protection laws with suspicion, the potential peril posed by state-level actors remains considerable. Whatever Washington does, in other words, will not necessarily discourage California or Florida or New York. Instead, it may actually encourage these states to move against entities with little popularity to spare.

Given this reality, PSL participants should be evaluating their policies in the following ways:

- Checking for compliance with state and federal fair lending and consumer protection laws;
- Auditing their underwriting systems, both electronic and those portions implemented by personnel;
- Self-monitoring trends in borrower behavior both at loan origination and throughout the loan's performance;
- Implementing systems (or enhancing existing systems) to handle consumer complaints, including ensuring systems can identify trends or patterns in complaints, as well as policies to address correction of those patterns; and
- Checking loss mitigation options to ensure compliance with appropriate origination and fair lending laws.

Conclusion

When the mortgage bubble burst, federal and state authorities came after every entity involved in that market, from originators to servicers. Eventually, the hubbub died, but only after millions had been spent on lawyers and publicists. The same features that foretold its collapse—creeping debt, rising defaults, steady securitization, and unhappy borrowers—can now be detected within the PSL market. Whether the federal government becomes an active ally of state authorities—or their enemy—lenders and servicers will still face possible liability predicated on both long-standing state and federal consumer protection statutes and the recent spate of borrower related legislation in at least 16 ideologically diverse jurisdictions. Simply put, the time to dillydally has long since passed. ⊙

As a member of Husch Blackwell's Government Compliance, Investigations & Litigation team, Matt represents and advises clients in a wide variety of lawsuits and regulatory disputes across the United States. This practice has included defending individuals accused of securities fraud, healthcare fraud and public corruption. He has represented corporations combating allegations raised by qui tam relators, in asset forfeiture proceedings as to anti-money laundering issues, and in civil and criminal litigation.

Endnote

[1]*Chae v. SLM Corp.*, 593 F.3d 936 (9th Cir. 2010).