

HSBC to Pay \$765 Million in Settlement Over Pre-Crisis Mortgage Bonds



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[Ha°kan
Dahlstro¨m
Photography](#)

Housing Wire is [reporting](#) that HSBC will pay \$765 million to the federal government as part of a settlement that covers the bank's mortgage bond activities in the run-up to the housing crisis.

An announcement from the U.S. Department of Justice outlines the resolution of an investigation into the bank's mortgage origination and securitization activities from 2005 to 2007, according to editor [Ben Lane](#).

While previous HSBC statements on the case didn't disclose the conduct in question, the DOJ's announcement alleged the bank allegedly knew it was putting toxic loans into residential mortgage-backed securities and sold the bonds anyway, Lane explains.

[Read the HousingWire article.](#)

Contract Roulette: The Top Five Agreements That Get Businesspeople into Trouble



You can do a lot of damage with a signature, warns Jack Garson of Garson Law LLC in Bethesda, Maryland. You can go broke.

In [an article](#) on the website of *Forbes*, he discusses five types of contracts that have caused the most disasters.

First, he warns of the dangers of assuming that leases are standard, so there's no reason to read every clause.

On the subject of loan agreements, Garson's advice is to negotiate, consult advisors, and bargain. Most of all, he adds, get the right to prepay the loan.

He also covers construction contracts, partnership agreements, and personal guarantees.

[Read the article.](#)

Elon Musk's SEC Settlement Could Have Gone So Much Worse



Legal experts say the penalties that the SEC doled out to Elon Musk for “false and misleading” statements made on Twitter could have been much, much worse for Musk and his car company, [reports *Wired*](#).

Reporter [Aarian Marshall](#) writes that “Musk and Tesla will have to each write \$20 million checks for the misadventure, which will be disbursed to investors harmed during the wild market swings that occurred after Musk’s tweets.” Musk had tweeted that he planned to take Tesla private and funding had been secured.

“Not settling with the SEC could have led to a more dire outcome,” Marshall explains. “The SEC’s initial suit sought to bar the CEO from becoming an officer or director for any public company, perhaps for life.”

[Read the *Wired* article.](#)

Three Charged in \$364M Scheme That Paid for Splurges on Diamonds, Bugattis and Mansions

A federal grand jury has indicted three men for what officials describe as a \$364 million Ponzi scheme to defraud investors, reports [The Dallas Morning News](#).

Jay B. Ledford and Cameron R. Jezierski of Texas, along with Kevin B. Merrill of Maryland, raised money from investors who thought they were buying into cheap portfolios of consumer debt on credit cards and student and auto loans, investigators from the Federal Bureau of Investigation and Securities and Exchange Commission said.

“The defendants lured investors through an elaborate web of lies, duping them into paying millions of dollars into this Ponzi scheme,” said U.S. Attorney Robert K. Hur in a statement.

The report by [Lison Joseph](#) says the trio spent more than \$73 million of investors’ money at casinos and to buy diamond jewelry and luxury cars including Lamborghinis, Ferraris, Bentleys and Bugattis.

[Read the Dallas News article.](#)

Former Locke Lord Partner Indicted on Charges Related to Alleged Cryptocurrency Ponzi Scheme



Above the Law [reports](#) that a former partner at Locke Lord and founder/CEO of MSS International Consultants Ltd., a private equity fund headquartered in the British Virgin Islands, was arrested on a charge of conspiracy to commit money laundering.

According to the indictment, Mark S. Scott was part of a conspiracy to conceal the source of \$400 million in process from an alleged pyramid scheme involving a purported cryptocurrency, OneCoin. Prosecutors allege he transferred money in and out of the country in order to hide the origins of the money, reports Above the Law editor [Kathryn Rubino](#).

A judge set Scott's bail at \$1 million, secured by \$200,000 cash, and placed Scott on home detention with an electronic monitoring device.

[Read the Above the Law article.](#)

Citigroup Pays \$12 Million to Settle Dark Pool Probe



Image by [Mike Mozart](#)

Reuters [is reporting](#) that Citigroup Inc. on Friday was ordered to pay more than \$12 million by U.S. regulators after it was found that the bank's investment banking and financial advisory unit misled users of a "dark pool" operated by one of its affiliates.

The article explains:

The bank will pay a penalty of \$6.5 million and disgorgement and prejudgment interest totaling \$5.4 million, while its affiliate, Citi Order Routing and Execution (CORE), will pay a penalty of \$1 million, the U.S. Securities and Exchange Commission (SEC) said in a statement.

[Read the Reuters article.](#)

SEC Says Biotech Billionaire CEO Took Part in Pump-and-Dump Schemes



A biotechnology billionaire faces charges from the Securities and Exchange Commission of being part of pump-and-dump schemes that netted \$27 million and left retail investors holding the bag, reports [MedCity News](#).

In a lawsuit filed in federal court in New York, the SEC alleged OPKO Health chairman and CEO Phillip Frost took part in three pump-and-dump schemes between 2013 and 2018.

Reporter [Alaric Dearment](#) explains that the complaint alleges that Frost was involved in schemes to promote the stock of some companies on the crowd-sourced investment content site Seeking Alpha, on which articles would appear promoting their shares and touting Frost's involvement in the companies. After the stock prices were pumped up, the defendants would sell it off, the SEC alleges.

[Read the MedCity article.](#)

JPMorgan Chase Will Pay \$24 Million to End Lawsuit From Black Advisers



Image by Ben Sutherland

JPMorgan Chase has reached a settlement with financial advisers who say they were treated poorly because they're black, reports Bloomberg News via the [Chicago Tribune](#).

Reporter Max Abelson explains: "Six current and former employees at the largest U.S. bank filed what they asked to be a class action, alleging discrimination that's 'uniform and national in scope.' Instead of fighting it in court, the bank agreed to pay \$19.5 million to the members of the class, according to Friday filings. It will also put \$4.5 million into a fund that will back recruitment, bias training, a review of branch assignments and a coaching program for black advisers."

In the settlement, the bank denied any "wrongdoing of any kind whatsoever."

[Read the Bloomberg article.](#)

Judge Rejects Ex-Bank Executives' Bids for Acquittals, New Trials

A federal judge on Thursday refused to overturn the fraud and conspiracy convictions of four former executives for the only financial institution to be criminally charged in connection with the federal bank bailout program, the Associated Press [reports](#).

Judge Richard Andrews refused to enter judgments of acquittal or set new trials for the former Wilmington Trust executives.

“Former bank president Robert Harra Jr., former chief credit officer William North, former chief financial officer David Gibson and former controller Kevyn Rakowski were convicted in May on charges of fraud, conspiracy and making false statements to federal regulators,” writes reporter Randall Chase

[Read the AP article.](#)

Ex-Biglaw Partner Gets 18 Months in Prison for Role in Shkreli Fraud

The New York Post [reports](#) that the former lawyer who helped “Pharma Bro” Martin Shkreli defraud investors landed just one and a half years in prison Friday – but will have to fork over more than \$10 million in restitution and forfeitures.

Brooklyn federal court Judge Kiyo Matsumoto said Evan Greebel’s conduct was “egregious” and he played a “crucial role” in Shkreli’s scheme to defraud his hedge-fund investors after he lost all their money in a bad trade.

In addition to the prison time, the disbarred attorney will have to pay \$10,447,979 in restitution to Retrophin and forfeit \$116,464.03 in ill-gotten gains to the government, writes reporter [Emily Saul](#).

Greebel is a former partner at Kaye Scholer and Katten Muchin Rosenman.

[Read the NY Post article.](#)

Circuit Split – Allowing

Receiverships by Contract

There is a circuit split on the weight courts should give contractual provisions allowing the appointment of a receiver in loan documents, points out [William Easley](#) in [a post](#) for Bryan Cave Leighton Paisner. While some courts treat the provision as granting a contractual right to a receiver, others treat it merely as a factor to be considered.

He writes that “many district courts recognize that allowing the appointment of a receiver upon a contractual provision is imperative to give the creditor the benefit of its bargain.”

“A creditor’s contractual right to appoint a receiver under the loan documents will differ drastically between the circuits. Potential creditors need to consider the likelihood of succeeding on a motion to appoint a receiver to determine whether these provisions should be included in their loan,” he adds.

[Read the article.](#)

Special Receiver Appointed in Federal Lawsuit Against Wells Fargo in Texas Case

Micah Dortch, managing partner of the Dallas office of the Potts Law Firm, has been appointed a special receiver in

litigation originally brought by the Securities and Exchange Commission against a group of Texas businessmen, the firm announced. That lawsuit seeks to recover funds from what was characterized as a fraudulent investment scheme directed by Thurman P. Bryant III of Frisco and Arthur E. Wammel of Pearland, along with affiliated companies and individuals.

The firm says that evidence in the case revealed that, in less than three years, the defendants were able to withdraw or transfer more than \$20 million in cash from Wells Fargo Bank accounts in violation of industry standards and the bank's own policies. Despite numerous five-figure and six-figure cash withdrawals, Wells Fargo management never verified, questioned or restricted any of the activities, according to allegations.

According to the SEC complaint, originally filed in 2017, the defendants raised more than \$22 million from more than 100 investors to purportedly fund short-term mortgage loans for later sale to long-term lenders. The SEC says that no such program existed, and that Bryant and Wammel were operating a Ponzi scheme, with limited returns paid to investors from monies raised from other investors.

Dortch has been appointed by the court to investigate the role of Wells Fargo in the matter and to seek financial compensation on behalf of the defrauded investors, filing a complaint alleging that Wells Fargo failed to follow its fiduciary role.

"As stated in the complaint, Wells Fargo either knew about the scheme or willfully ignored the questionable actions being made in violation of its own internal rules," said Dortch. "I'm honored to take on this role and gain a just resolution for these innocent victims."

The case is *Ecklund v. Wells Fargo Bank, N.A.*, No. 4:18-cv-00452-ALM, filed in U.S. District Court for the Eastern District of Texas in Sherman.

Automatic Renewals of Consumer Contracts: Everything You Ever Wanted to Know But Were Afraid to Ask

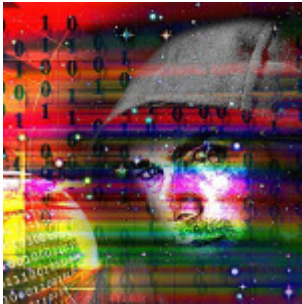
Automatic renewals of consumer contracts should be used with care, particularly in light of recent changes to state automatic renewal laws and increased scrutiny from government officials and class action lawyers, warns a [recent post](#) on the website of Drinker Biddle & Reath.

The post consists of questions and answers discussed by members of Drinker Biddle's Class Actions Team and Consumer Contracts Team provide an overview of the laws governing automatic renewals, with a particular focus on California's ARL.

The questions include such topics as FTC Act requirements, state requirements, how to comply with every ARL, consents, cancellation rights, and more.

[Read the article.](#)

Recovering Data Breach Losses from Non-Contractual Parties



A post on Dykema's [The Firewall](#) blog considers the question: Who bears the loss from a breach perpetrated by a data breach fraudster: the consumer whose data was compromised, the financial institution where the data was used, or the business that failed to protect the data?

The author, [David B. West](#), writes that the answer depends on which law applies.

“While statutes require banks and their vendors to protect customers’ Personally Identifiable Information (“PII”), the obligation of other businesses to do so is not as well defined,” West explains. “Regulatory obligations to protect data vary by industry and geography.”

He also discusses relying on common law for data breach losses, recovering damages, and the need for consistent ability to recover losses.

[Read the article.](#)

Securities Lawyers Shocked By Elon Musk's Tweet, Point to Potential Legal Minefield



Image by [Steve Jurvetson](#)

[CNBC reports](#) that some securities lawyers said they were shocked by a tweet from Elon Musk that said Musk was mulling a take-private transaction for Tesla, his electric car company. The tweet even named a target price, \$420 a share, and said financing was lined up.

Reporter [Liz Moyer](#) quotes Charles Elson, director of the John L. Weinberg Center for Corporate Governance at the University of Delaware, who told her, "I do not believe this is the appropriate way to suggest going private."

If the content of the tweet wasn't true, lawyers said, it could set up Musk and the company for regulatory action and private lawsuits.

[Read the CNBC article.](#)

Probate Judge Largely Wipes Out Widow's Big Verdict Against JPMorgan



Image by Ben Sutherland

JPMorgan Chase & Co. was ordered to pay \$7.1 million to the widow of a deceased American Airlines executive in a ruling that largely wiped out her portion of a Dallas jury's \$8 billion verdict against the bank for mismanaging the family estate, [Bloomberg reports](#).

The September jury award that was the highest in the U.S. for 2017, according to reporter [Tom Korosec](#).

"Judge Brenda Thompson concluded a final judgment was proper under the circumstances and ordered the bank to pay \$781,432 in actual damages; more than \$5 million in lawyers' fees; almost \$1 million in exemplary damages; and more than \$255,000 prejudgment interest on the actual damages," Korosec writes.

[Read the Bloomberg article.](#)

Requiring Buyers to Buy Service Contracts? Read This.

[Thomas B. Hudson](#) of Hudson Cook writes on the firm's [website](#) that a frequent question he encountered when speaking at industry conferences concerns whether a credit buyer can be required to buy a service contract.

In the context of auto sales, he explains, requiring a service contract in connection with the credit sale of a vehicle does not violate the federal Truth in Lending Act and Regulation Z.

“But the fact that federal disclosure laws don’t prohibit the practice doesn’t mean that the practice is not affected by them. In this case, the key to the application of federal law is the word ‘require.’ When a dealer requires a service contract in financing transactions, but not in similar cash transactions, the charge for the service contract must be treated as a finance charge, added to other finance charges and included in the APR calculation. That’s pretty basic,” Hudson writes.

[Read the article.](#)

Bitcoin Exchange Operator Faces 40 Years in Jail for Lying to SEC



Bloomberg Law is [reporting](#) that a virtual currency operator accused of running off with investor funds after a 2013 hack and lying to investigators has accepted a plea deal with federal prosecutors in New York.

Reporter [Lydia Beyoud](#) writes that Jon E. Montroll of Saginaw, Texas, faces up to 40 years in prison.

Manhattan U.S. Attorney Geoffrey S. Berman said in a July 23 statement accompanying the plea agreement that Montroll “repeatedly lied during sworn testimony and misled SEC staff to avoid taking responsibility for the loss of thousands of his customers’ bitcoins,” in 2013, Berman said.

[Read the Bloomberg Law article.](#)

Biglaw Tries to Persuade Judge Not to Send One of

Their Own to Prison

Some former colleagues of the lawyer who was convicted of conspiracy to commit securities fraud and conspiracy to commit wire fraud in connection with the “Pharma Bro” case are asking the judge in his case for leniency.

Evan Greebel, formerly of Katten Muchin and Kaye Scholer, could face up to 20 years in prison for his role as outside counsel for Martin Shkreli’s pharmaceutical company Retrophin, according to [Above the Law](#). Prosecutors alleged Greebel assisted Shkreli in using Retrophin’s assets to pay investors in unrelated hedge funds run by Shkreli through the use of phony settlement and consulting agreements and fraudulently backdating agreements.

“But his lawyers – he’s repped by Gibson Dunn – have submitted a sentencing memo asking Judge Kiyoko Matsumoto for no jail time,” writes editor [Kathryn Rubino](#). “Attached to the memo are some 180 letters asking for leniency, and quite a few from Greebel’s former Biglaw partners.”

[Read the Above the Law article.](#)

ITT’s Former Top Executives

Settle Fraud Charges With SEC

The Washington Post [reports](#) that former top executives at ITT Educational Services, the parent company of defunct ITT Technical Institute, have settled fraud cases with the Securities and Exchange Commission, avoiding a trial slated to begin Monday.

ITT chief executive Kevin Modany and former chief financial officer Daniel Fitzpatrick were charged with civil fraud in 2015 for allegedly deceiving investors about high rates of late payments and defaults on student loans backed by the company, writes [Danielle Douglas-Gabriel](#).

Although they didn't admit or deny any wrongdoing, they agreed to pay penalties of \$200,000 and \$100,000, respectively. The agreement bars them from serving as officers and directors of public companies for five years.

[Read the *Washington Post* article.](#)