

## Contact Us

### Crawley MacKewn Brush LLP

#### Corporate and Securities Litigation

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LAW FIRM



Securities Litigation  
Firm of the Year

#### Securities regulatory defence

Our lawyers regularly appear as counsel to respondents in investigations and enforcement proceedings brought by the Ontario Securities Commission (OSC) and other provincial securities commissions, the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA). Mandates include disclosure of material changes and material facts, misleading disclosure, registration issues for dealers and individuals, illegal distributions, insider trading, market manipulation and other trading violations, fiduciary duty, fraud, financial reporting, compliance deficiencies, suitability and leverage issues.

We have significant experience with cross-border investigations involving the Securities Exchange Commission (SEC) and other US regulators and law enforcement agencies. CMB represents clients in criminal investigations and proceedings brought by the Joint Serious Offences Team (JSOT) and the Integrated Market Enforcement Team (IMET) involving securities law matters, such as insider trading, market manipulation or fraud under both the *Criminal Code* and section 122 of the *Securities Act*.

While CMB lawyers are well known as counsel on numerous high profile contested hearings, a large amount of our defence work takes place behind the scenes. We resolve a high proportion of our cases at the investigation stage or through responses to enforcement notices. Where appropriate, we negotiate settlement agreements to manage risk and bring closure to our clients' regulatory issues.

#### Securities class action defence

We act for companies, directors, officers, securities dealers, advisors, investment funds, fund managers, traders and other capital market participants in a wide range of securities class actions brought in provinces across the country. Our class proceedings practice includes primary and secondary market liability claims, claims arising out of the restatement of a company's financial statements, claims arising out of alleged fraud, claims against investment dealers and advisors in respect of allegedly problematic investment products, strategies and tax shelters, and claims against investment funds, fund managers and traders arising out of allegedly problematic trading strategies and practices.

Securities class actions almost invariably involve parallel regulatory investigations and proceedings, and often cross national and provincial borders. Successfully resolving multi-jurisdictional disputes involving multiple regulatory agencies requires a high degree of expertise not only in

class actions but in the securities regulatory regimes involved. Our firm is uniquely qualified to provide the multi-faceted advocacy and strategic thinking needed to bring such cases to a successful resolution.

### **Securities registration and compliance, prospectus approvals and registrant change of control transactions**

A significant volume of OSC administrative proceedings take place outside of the enforcement regime. Since section 28 of the *Securities Act* gave the Director of Compliance and Registrant Regulation the power to revoke or suspend the registration of a person or Company, or to impose terms and conditions on their registration, there has been a proliferation of proceedings brought before the Director, typically arising out of compliance reviews and Deficiency Reports. We have acted for numerous dealers, advisors and other registrants to respond to and resolve such proceedings, including through an Opportunity to be Heard by the Director (“OTBH”) and ultimately through Hearing and Review proceedings before the Commission.

CMB represents issuers in cases in which the Director has refused to issue a receipt for a prospectus and registrants proposing business transactions involving a change of ownership or control or a transfer of assets, which requires the non-objection of the regulator under National Instrument 31-103. Both types of proceedings involve an OTBH and the right to a Hearing and Review before the Commission.

We also act on suitability reviews and investigations by Canadian stock exchanges including the TSX and TSX Venture Exchange.

In the SRO sphere, we represent members of IIROC and the MFDA who are dealing with issues arising out of business conduct and compliance audits by their regulator. Our extensive experience in resolving such issues, combined with our excellent working relationship with the regulators, make us uniquely qualified to assist our clients in such matters.

### **Civil Litigation/Investment Loss Litigation/Employment Disputes**

Our firm acts for plaintiffs and defendants in all manner of corporate and commercial litigation matters including tort, contract, breach of fiduciary duty arising out of contentious corporate transactions, improper business practices, fraud, defamation, and professional negligence involving accountants, auditors and lawyers.

We have particular expertise with investment loss litigation. We represent both plaintiffs and defendants in cases that range from suitability claims to more complex trading in options, commodities, derivative products and leveraged investing.

Our expertise also extends to employment disputes involving capital market participants such as investment banks and bankers, investment dealers and advisors, traders and other securities registrants, and directors and officers of public companies. In our experience, employment disputes in the capital markets often involve corporate and securities issues that require the kind of specialized expertise our firm possesses.

### **Corporate Law Remedies and Transactions**

We have extensive experience with corporate disputes and litigation brought under the *Ontario* and *Canada Business Corporations Acts*, including oppression applications and actions, derivative actions, applications for a wind-up or dissolution, applications concerning shareholder meetings and dissent/fair value applications.

CMB has represented clients in numerous contested shareholder meetings and proxy fights and is experienced with the range of issues and proceedings associated with such events.

We have excellent working relationships with leading corporate lawyers and provide litigation support for corporate transactions that require court approval through plans of arrangement or otherwise.

### **Internal and Court-Authorized Investigations**

Our firm advises clients in internal investigations relating to matters such as: alleged appropriation of corporate opportunities, trading activities, options trading practices, alleged misuse of corporate assets, related party transactions, financial reporting and disclosure issues and fraud. We also act for respondents subject to investigation by a court appointed Receiver or Inspector.