

## Securities Group Of The Year: Paul Weiss

By **Adam Rhodes**

*Law360, New York (January 23, 2017, 12:17 PM EST)* -- Paul Weiss Rifkind Wharton & Garrison LLP's year defending electronics security company ADT Corp. in litigation over a \$450 million buyback and Citigroup from cases over losses due to the 2008 financial crisis and over subprime-related asset exposure has won the firm a spot as one of Law360's Securities Groups of the Year for the third consecutive year.

The practice, managed by three New York-based co-chairs has 113 attorneys and 34 partners, including firm-wide chairman Brad S. Karp.

In 2016, the firm's decades-old representation of Citigroup — beginning with Citigroup predecessor Smith Barney & Co. — helped the financial services giant dodge pension plan participants' allegations that it failed to properly invest its stock before the 2008 financial crisis. Paul Weiss' work also helped the company escape an \$800 million suit by investment trusts controlled by an insurance executive.

This long history with Citigroup, securities practice co-chair Andrew Ehrlich said, has helped develop the firm's securities litigators.

"My co-chairs, Audra Soloway and Susanna Buerger, and I, under Brad's leadership, over the last 15 or so years, gained invaluable experience as securities litigators, from our very first days at the firm, by litigating many of the most cutting-edge securities cases out there, on behalf of Citi," Ehrlich said.

To secure the victory over the pension plan holders, Paul Weiss' team had to work around the Supreme Court's 2014 Dudenhoeffler ruling. That opinion struck down the "presumption of prudence" hurdle that employees were previously tasked with besting when alleging that their employer's stock was too risky of an investment for their retirement plan.

"We had to overcome a potentially challenging Supreme Court ruling and persuade the district judge that Citigroup acted reasonably and prudently in connection with its investment of company stock," Karp said.

In May, the Second Circuit decision refused to resurrect the suit. In December, the Supreme Court



denied a bid to review the decision, which finally freed the company from the five-year-old litigation.

In addition to its pension plan victory, the firm also won an appeals court ruling that holder claims cannot proceed under New York law. In August, the firm helped Citigroup win a victory before the Second Circuit in an \$800 million case that alleged that Citigroup failed to make adequate disclosure of its exposure to subprime-related assets. Had the company made the disclosures, the suit alleged, the trusts would have sold their stocks at much higher prices.

The Second Circuit, however, ruled that New York law barred these types of claims, known as holder claims, because they were too hypothetical. This ruling, Ehrlich said, resolved a split between states and even between New York federal judges over the validity of the claims.

“The fact that we got a definitive ruling from the Second Circuit as to New York law is of particular importance given the wide applicability of New York law to securities litigation,” Ehrlich said.

The companies the firm’s securities litigators defend go beyond the financial sector.

In 2016, Paul Weiss helped electronics security company ADT Corp. defeat two lawsuits before discovery over a stock buyback that its investors alleged was part of a stock pump-and-dump scheme. The public nature of the central issue in the case made it especially high-stakes, Soloway said.

“Any time a public company experiences a negative announcement and a stock price drop, it can be facing an incredibly large exposure in terms of damages,” Soloway said. “For this reason, achieving a dismissal at the motion to dismiss stage is incredibly valuable.”

Shareholders sued in Delaware state and Florida federal court but the Delaware Supreme Court and Eleventh Circuit tossed the suits. The Securities and Exchange Commission eventually also concluded its own investigation into the allegations without taking any action against the company.

The lack of centralized case against ADT, Soloway said, was a significant hurdle to overcome.

“The common challenge in these cases is that our clients are fielding risks on so many fronts, but ultimately looking for a resolution that obtains global peace. To succeed on one front but still have, for example, a pending SEC investigation does not fully resolve the matter and allow our clients to put it behind them and of course, that is ultimately the goal,” Soloway said.

What makes Paul Weiss’ securities team so successful, Karp said, is the depth of talent that it has brought the firm.

“We’ve had a front row seat to many of the novel issues in federal securities law over the past decade and we’ve been fortunate to have been able to achieve a number of successful outcomes and establish favorable precedent,” Karp said.

— Editing by Ben Guilfooy.