

OCEAN TOMO

# ACCOUNTING & AUDITING STANDARDS LITIGATION



When assertions of error in financial statements are made or when the conduct of professionals is challenged, it is imperative that those assertions and challenges be evaluated by competent professionals who will call it as they see it. That competency and integrity define Ocean Tomo professionals and the support services we provide to law firms, public corporations, and federal agencies that are engaged in accounting and auditing standards litigation.

The professionals at Ocean Tomo are uniquely qualified to provide with financial reporting guidance, litigation consulting, and expert witness testimony. When consulting with clients, our advice comes from having been actively involved in the accounting standard-setting process by serving on committees of the American Institute of CPAs (AICPA) such as the Financial Reporting Executive Committee (FinREC), and its predecessor, the Accounting Standards Executive Committee (AcSEC), the committee which determines the Institute's technical policies regarding financial reporting standards.

Our engagements have involved highly publicized accounting and financial reporting scandals, including allegations of accounting and auditor malpractice. We have provided expert opinions regarding the interpretation, application, and conformity with Generally Accepted Accounting Principles (GAAP) on matters such as fair value accounting for complex financial instruments, revenue recognition, related party transactions and disclosures, business combinations, internal controls, auditor liability, accounting for special purpose entities and accounting for and disclosures related to loss contingencies and asset impairments.

Our team of CPAs, Certified Fraud Examiners (CFE) and Certified in Financial Forensics (CFF) professionals have given expert testimony in defense of the presentation of financial statements, including financial statement disclosures, and in defense of auditor compliance with Generally Accepted Auditing Standards (GAAS). In other circumstances, we have provided expert analysis and testimony that previously issued financial statements had been materially misstated and that auditors had failed to comply with the relevant professional standards.

It is imperative that we maintain a rigorous, careful study and evaluation of the facts, circumstances and merits of each case and a dedication to uncompromising integrity.

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**WE WILL REMAIN TRUE TO OUR COMMITMENT TO CALL IT AS WE SEE IT.**

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# Featured Engagements

Our track record of results spans over numerous different industry segments. Because our past success provides the best indication of our capabilities, we are proud to feature a few representative engagements and encourage potential clients to seek references from past clients.

## Auditor Conduct and Financial Statement Misstatements

Retained in connection with assertions regarding conduct of auditors and financial statement misstatements including:

- » loss reserving
- » internal control adequacy
- » asset valuation
- » complex derivatives
- » finite reinsurance
- » related party transactions
- » loan losses
- » liquidity disclosures
- » disclosures of risks and uncertainties
- » revenue recognition
- » loss contingencies
- » real estate valuations
- » mortgage loan valuations
- » solvency measurements
- » business combinations
- » goodwill accounting
- » use of specialists
- » substance over form determinations
- » fair value measurements
- » impairment of intangible assets

## Revenue Recognition

- » Engaged to assist in evaluation of issues of aiding and abetting as it relates to revenue recognition and related party transactions.

## Post-Purchase Price Disputes

- » Engaged in multiple post-purchase price disputes in which Stock Purchase Agreements ("SPA") outlined the terms of the sale and included price adjustment mechanisms. Ocean Tomo was involved in assisting with both calculating those post-purchase price adjustments as well as evaluating whether the financial statements on which the purchase price was based were free from material misstatement.

## Accounting for Special Purpose Entities, Accounting for Derivatives

- » Engaged on one of the most high-profile accounting scandals in history to evaluate the use of and accounting for special purpose entities, as well as the accounting for derivatives and "true sale" transactions.

## Financial Statement Disclosures

- » Engaged in a litigation involving the auditor of a finance company that issued and securitized loans to sub-prime borrowers. The engagement involved examination of the accounting for and auditing of financial statement disclosures related to forbearance, provisions for credit losses and reserves and various aspects of the company's loan securitization activity, including the fair value of certain complex investment securities.

## Auditor Malpractice Claims

- » Engaged to evaluate malpractice claims against the auditor of several large bankrupt publicly-traded companies that had been engaged in banking, brokerage, insurance and lending services. Ocean Tomo evaluated accounting and auditing practices, particularly related to franchise fee revenue recognition and the allowances for uncollectible loans. Ocean Tomo was subsequently engaged by counsel for the bankruptcy trustee to extract and analyze millions of transactions from the company's management system to support claw-back claims against insurance carriers, franchisees, securitization trusts, banks and other financial institutions.

## Investment Company Financial Statements Review and Evaluation

- » Engaged to review and evaluate financial statements of investment companies registered with the SEC under the Investment Company Act of 1940 as well as evaluate the conduct of the auditor in connection with those audits. This review included an evaluation of the adequacy of internal controls as well as the use of portfolio managers, investment advisors and reliance on third party custodians.



### CONTACT

**Michelle J. Avery, CPA, CFF**  
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Ms. Avery provides expert witness testimony and leads major dispute resolution engagements, providing forensic accounting and expert witness services in high profile litigations. She is responsible for leading the Ocean Tomo Financial Expert services group.



### CONTACT

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Ms. Miller has significant experience leading forensic accounting and litigation support engagements for public and private sector clients.



OCEAN TOMO®



# OCEAN TOMO®

## About Ocean Tomo

Established in 2003, Ocean Tomo, LLC provides Financial Expert, Management Consulting, and Advisory services related to intellectual property (IP) and other intangible assets; corporate accounting investigations; regulatory and reporting obligations; solvency and restructuring; and contractual or competition disputes.

Practice offerings address economic damage calculations and testimony; accounting investigations and financial forensics; technology and intangible asset valuation; strategy and risk management consulting; mergers and acquisitions; debt and equity private placement; and IP brokerage.

Our services are built upon more than three decades of experience in the most rigorous venues – state, federal, and international courts. Our financial, market, and technical experts provide a unique understanding of the contributory value of proprietary innovation. This is the cornerstone of our business. This insight permeates every practice and client engagement.

Collectively, Ocean Tomo professionals have:

- Completed over 1000 engagements, including over 300 valuation and 500 financial damages expert testimony engagements;
- Consulted and provided expert testimony on some of the highest profile matters over the past decades;
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of \$1 billion; and
- Originated more successful IP monetization solutions than any other firm, including creation of the world's oldest and most successful live patent auction.

Our track record of results spans more than 150 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to serve more than 80% of the AM Law 100® and encourage potential clients to seek references from past clients.

Intangible assets comprise 90 percent of business value but are also subject to significant impairment due to enterprise and regulatory compliance risk. Ocean Tomo assists clients – corporations, law firms, governments, and institutional investors – in realizing Intellectual Capital Equity® value broadly defined.

Headquartered in Chicago, Ocean Tomo has offices in Greenwich, Houston, Jacksonville, Reston (DC Metro), San Francisco, and Shanghai. Subsidiaries of Ocean Tomo include Ocean Tomo Investment Group, LLC, a licensed broker-dealer under Federal and State securities law (brokercheck.finra.org Broker Check CRD #: 172912), OTI Data Networks, LLC and Patent Marking, LLC.