



## KATHY BAZOIAN PHELPS

### Partner

(310) 651-2997

kphelps@diamondmccarthy.com

Kathy Bazoian Phelps has 25 years of experience as a lawyer in bankruptcy law and fraud litigation. Kathy's practice includes representing trustees and receivers, debtors, and secured and unsecured creditors in bankruptcy cases and other insolvency proceedings. She has served as Chapter 11 trustee and frequently represents operating and liquidating trustees and receivers in the United States District Court, the United States Bankruptcy Court, and the Superior Court of the State of California. She also represents defendants in bankruptcy litigation, including fraudulent transfer defendants in Ponzi scheme cases, and has extensive litigation experience in a variety of bankruptcy litigation matters.

Kathy has lectured widely and written on bankruptcy and receivership matters, with a focus on Ponzi schemes. Her new book entitled *The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes*, co-authored with Hon. Steven Rhodes, has garnered national and international attention as the authoritative work on Ponzi scheme law.

In addition to her roles as lawyer, speaker and author, Kathy also serves as a mediator and is currently on the Bankruptcy Mediation Panel for the Central District of California.

### Awards / Honors

Kathy was selected by Who's Who Legal's independent research with clients and peers for recognition in the 2017 edition of ***Who's Who: Asset Recovery*** - a guide to the world's leading asset recovery lawyers and forensic experts.

Selected to Super Lawyers: 2007, 209-2010, 2013-2017.

### Memberships

- Board of Directors, American Bankruptcy Institute, 2017 to present
- Editor in Chief of *Receivership News*, 2012 to present
- Board of Directors, Los Angeles/Orange County Chapter, California Receivers Forum, 2010 to present
- American Bankruptcy Institute, Co-Chair of Commercial Fraud Committee, April 2015 to April 2017
- Co-Chair, Conference Committee, National Association of Federal Equity

### Location

Los Angeles, CA

### Education

Pomona College (B.A., 1988)

University of California at Los Angeles (J.D., 1991)

### Areas of Practice:

Business Insolvency & Restructuring

Complex & High-Stakes Litigation

- Professional Liability (including corporate director and officer, audit / accounting, and legal)
- Bankruptcy, Third Party & Professional Liability
- Class Actions
- Financial Institution Litigation
- Internal Investigations and Claims Management
- Probate, Trust, and

## Fiduciary Litigation

- Securities & Regulatory

## Fiduciary Representation

### Admitted to Practice:

California, 1991

U.S. District Court,  
Central District of  
California, 1991

U.S. District Court,  
Eastern District of  
California, 2011

U.S. District Court,  
Southern District of  
California, 2011

U.S. District Court,  
Northern District of  
California, 2012

United States District  
Court, Western District of  
Michigan, 2010

Receivers, 2012 to present

- American Bankruptcy Institute, Special Task Chair of Commercial Fraud Committee, 2013-2015
- Member, International Chamber of Commerce FraudNet global network, 2012-2015, [www.icc-fraudnet.org](http://www.icc-fraudnet.org)
- American Bar Association, White Collar Crime, Asset Forfeiture and Business Bankruptcy Subcommittee focused on cooperation between trustees and the government relating to parallel insolvency and criminal proceedings 2012-2015
- National Association of Federal Equity Receivers
- National Association of Bankruptcy Trustees, Member
- Financial Lawyers Conference, Member
- Armenian Bar Association, Member
- Los Angeles Bankruptcy Forum, Member
- Los Angeles County Bar Association, Member
- Beverly Hills Bar Association, Member

### Representative Cases

- Counsel for federal equity receiver requested by the Securities and Exchange Commission in Capital Cove Bancorp, LLC, in which Kathy is lead counsel in unraveling the fraudulent scheme and liquidating the assets of the company and its affiliates.
- Counsel for federal equity receiver requested by the Securities and Exchange Commission in Secured Capital Investments, in which Kathy is lead counsel in advising the receiver on operational issues and assisting with the administration of assets, the sale of properties nationwide, and the claims process for the defrauded victims.
- Chapter 11 Trustee of Sonya D. International, Inc., Hazlaha LLC and Sonya Dakar, where Kathy ran the operations of a skin care clinic, investigated the business operations and inter-company transfers, and facilitated a complex settlement which will result in payment in full to creditors.
- Counsel for federal equity receiver in Diversified Lending Group, Inc. an SEC action in a \$250 million Ponzi scheme case, where Kathy supervised the winding down of the business, the reconstruction of missing and incomplete records, the analysis and tracing of investor funds, the liquidation and recovery on various investments made by the debtor, and the prosecution of litigation to recovery funds for the benefit of the investors and creditors.
- Counsel for group of defrauded investors in bankruptcy case of Vincent Singh and Perfect Financial Corp, defending them against the chapter 7 trustee's fraudulent transfer, preference and usury claims.
- Counsel for state court appointed receiver in Unicorp, Inc., a fraud litigation matter, reconstructing missing records and tracing over \$9 million of funds removed by the defendant prior to the receiver's appointment.
- Counsel for chapter 11 trustee, and thereafter successor chapter 7 trustee, in the bankruptcy case of Persistence Capital, LLC, involving the unwinding of a Ponzi scheme, where the debtor sold a fictitious investment product related to pools of life insurance policies. Kathy assisted the trustee in establishing the nature of fraud, unwinding a series of complex financial transactions, tracing the funds, and pursuing litigation to recover funds in the case. The principals of this debtor were

both ultimately convicted and sentenced.

- Counsel for Chapter 11 trustee and thereafter the successor chapter 7 trustee, in the bankruptcy case of Eonxchange, LLC, where she investigated the fraudulent Ponzi-like activity of the debtor related to an emission credit trading program through the SCAQMD where over \$90 million was misappropriated from customers and investors. Substantial funds were recovered for the benefit of the creditors and the principal of the debtor was ultimately convicted.
- Counsel for chapter 11 and chapter 7 trustees in a multitude of bankruptcy cases, handling:
  - operating going concern businesses
  - winding down various types of businesses
  - tracing funds
  - selling real estate
  - prosecuting fraudulent conveyance and preference litigation
  - address countless administrative issues arising in those cases
- Counsel for various insolvent corporate and high net worth debtors, assisting them in out-of-court workouts, preparing for an assignment for benefit of creditors, and guiding them into a chapter 11 reorganization bankruptcy.

### **Speeches and Events**

*The Administration of a Mega Ponzi Scheme Case: Receivership vs. Bankruptcy*, a webinar to be co-hosted by the American Bankruptcy Institute and the National Association of Federal Equity Receivers on November 8, 2016.

*The Dissection of a Ponzi Scheme*, to be hosted by the International Women's Insolvency & Restructuring Confederation in San Francisco, CA on October 25, 2016.

*Receiver Training Camp: Scores of Tips from the Federal Equity Receiver Playbook*, hosted by National Association of Federal Equity Receivers in Washington, D.C., on October 13-15, 2016.

*Direct and Cross Examination of Expert Witness in Ponzi Scheme: A Mock Demonstration*, hosted by National Association of Federal Equity Receivers in Washington, D.C., on October 13-15, 2016.

*The Anatomy of a Ponzi Scheme*, hosted by the National Association of Attorneys General in Santa Fe, NM, on September 26-29, 2016.

*Fraudulent Transfer Avoidance Actions*, hosted by the National Association of Attorneys General in Santa Fe, NM, on September 26-29, 2016.

*Investors Versus Creditors in Receivership Actions: Rules & Equities*, hosted by the National Association of Federal Equity Receivers in Chicago, IL, on August 24, 2016.

*How to Spot the Red Flags of a Ponzi Scheme*, a webinar hosted by the National Association of Certified Valuators and Analysts, entitled, on April 27, 2016.

*People and Assets on the Move Overseas: What You Need to Know to Hold Everything Still and Seize the Assets*, hosted by the American Bankruptcy Institute in Washington D.C. on April 14, 2016.

*Handling Electronically Stored Information (ESI) in a Commercial Fraud Case*,

webinar presented for Online Compliance on April 5, 2016.

*Ponzi Clawback Litigation: Trends and Strategies in 2016 LIVE Webcast*, presented for The Knowledge Group on March 23, 2016.

*Fraud and Forensics: Lawyers and Forensic Accountants Working Together to Win Cases*, webinar hosted by the Commercial Fraud Committee of the American Bankruptcy Institute on February 25, 2016.

*Blawgs and List Serv's: Legal Publications in the Digital Age*, hosted by the American Bar Association Mid-Year Conference in San Diego California, on February 5, 2016.

*Unraveling Ponzi Schemes to Protect Your Clients and Yourselves*, hosted by the California Society of CPAs' Hollywood/Beverly Hills Discussion Group on December 11, 2015 in West Los Angeles, California.

*Fraud and Forensics: The Expert Witness in a Commercial Fraud Case*, hosted by the Commercial Fraud Committee of the American Bankruptcy Institute on December 9, 2015.

*Fraud and Forensics: The Investigation Phase of a Commercial Fraud Case* hosted by the Commercial Fraud Committee of the American Bankruptcy Institute on October 8, 2015.

*Ethical Considerations for Receivers*, at the Annual Conference of the National Association of Federal Equity Receivers on October 15-17, 2015, in San Diego, California.

*Regulatory Receiverships: How to Get Along with the Judge, Class Counsel, Defrauded Investors, the Regulators and the Press*, at the California Receivers Forum Loyola VI Conference, January 23-24, 2015, in Irvine, California.

*Alfred Peacock v. The Squab Family: Can Mediation Save the Golden Goose?* at the American Bankruptcy Institute Winter Leadership Conference, December 4-6, 2014, La Quinta, California.

*Ponzi Schemes and Good Faith Investing*, at the IIA-ACFE Joint Fraud Conference on November 12, 2014, in Los Angeles, California.

*The DNA of a Ponzi Scheme*, at the CalCPA FSS All Forensic Services Sections Joint Meeting on October 29, 2014, in Oakland, California.

*Case Law Update*, at the Annual Convention of the National Association of Federal Equity Receivers on October 23-25, 2014, in Washington, D.C.

*Ponzi Proof Your Investments*, at the Retirement Industry Trust Association's Alternative Asset Training Camp on October 20-21, 2014, in San Diego, California.

*Reconstructing the Fraud: E-Discovery Issues for Trustees and Their Professionals*, at the Annual Convention of the National Association of Bankruptcy Trustees, September 11-14, 2014 at the Grand American Hotel, Salt Lake City, Utah.

*Trends in Good Faith Findings in Fraudulent Transfer Litigation*, at the Annual Convention of the National Association of Bankruptcy Trustees, September 11-14, 2014 at the Grand American Hotel, Salt Lake City, Utah.

*The DNA of Ponzi Schemes*, for Bruin Professionals, August 21, 2014, Long Beach, California.

*Tough & Duped v. Bigbank: A Mock Ponzi Scheme Trial*, for the American Bankruptcy Institute Central States Bankruptcy Workshop, June 12-15, 2014, Lake Geneva, Wisconsin.

*Dancing with the Devil: Aiding and Abetting Liability for Lawyers*, for the American Bar Association Standing Committee on Lawyers' Professional Liability, Spring 2014 National Legal Malpractice Conference, May 1, 2014, Boston, Massachusetts.

*Complex Bankruptcy Litigation: Ponzi Schemes & Other Fraudulent Conveyances*, for the Commercial Law League of America on October 31, 2013, at the NCBJ Conference in Atlanta, Georgia.

*Mock Trial: Receiver and Investor Class v. Big Bank*, for the National Association of Federal Equity Receivers (NAFER), September 27-28, 2013, in Chicago, Illinois.

*E-Discovery Seminar for Federal Judges*, for the Federal Judicial Center, September 10-22, 2013, in Philadelphia, Pennsylvania.

*Ponzi Schemes & Fraudulent Transfers*, and the conference keynote address, entitled *Check Your Wallet! The Dynamics and Psychology of a Ponzi Scheme*, Federal Bar Association, Western District of Michigan, on July 24-26, 2013, in Traverse City, Michigan.

*Uncovering Fraud in a Turnaround Engagement*, 5th Annual TMA Western Regional Conference, July 17-19, 2013, in Laguna Beach, California.

*A Spoonful of Sugar: Receivers in Restructurings, Liquidations, and Regulatory Actions*, Los Angeles County Bar Association, Remedies Section, June 18, 2013, in Los Angeles, California.

*Ponzi Schemes: A Fraud Examiner's Role*, Association of Certified Fraud Examiners, Los Angeles Area Chapter, on May 29, 2013, in Los Angeles, California.

*Beverly Hills Cop - Issues in Parallel Criminal, Bankruptcy, Forfeiture Proceedings*, the California Bankruptcy Forum on May 17-19, 2013 in Paradise Resort, San Diego, California.

*Ponzi Schemes Explained*, an interview by Stephanie Cohen on *The Not So Legal Show*.

*Introduction to Fraud*, the International Chamber of Commerce FraudNet Conference on Fraud and Asset Recovery on April 26, 2013, in Oslo, Norway.

*Exploring the Depths of Deepening Insolvency*, a podcast for the American Bankruptcy Institute entitled, published on April 16, 2013.

*Working Group on White Collar, Asset Forfeiture Bankruptcy*, a meeting of the American Bar Association, Business Law Section, Committee on Bankruptcy Court Structure and Insolvency Process, on April 4, 2013, in Washington, DC.

*Ponzi Schemes - How Lawyers Can Protect Their Clients*, the Glendale Bar Association, the Burbank Bar Association, and the Glendale Estate Planning Council

on February 6, 2013, in Burbank, California.

*Ponzi Schemes*, the Loyola V Complex Case Symposium of the California Receivers Forum, January 18-19, 2013, in Irvine, California.

*Trustee and The Badoff Investor Class v. Bigbank, A Mock Trial*, the American Bankruptcy Institute Winter Leadership Conference, November 29 - December 1, 2012, in Tucson, Arizona.

*How Accountants Can Help in Receivership Situations*, the AICPA Forensic & Valuation Services Conference, November 11-13, 2012, in Orlando, Florida.

*Ponzi Scheme Architecture and Pitfalls*, on the *Money and Business Show* on Radio Shalom CJRS radio in Montreal on October 24, 2012.

*Ponzi Schemes: Are You or Your Client at Risk?* October 22, 2012 in Los Angeles, California.

*Latest Wide World of Fraud: Claims and Defenses in Actions Targeting Investors, Bankers, Accountants, and Attorneys*, the American Bankruptcy Institute Midwestern Bankruptcy Conference, October 5, 2012, in Kansas City, Missouri.

Attended the semi-annual International Chamber of Commerce FraudNet Conference in Dublin, Ireland on September 27-29, 2012, which was attended by delegates from over 50 countries. Kathy is one of the delegates from the United States.

*Forfeited Assets, Yours Mine or Ours: Competition in Parallel Civil and Criminal Proceedings*, and *Bankruptcy v Receivership: Different Strokes for Different Folks*, the National Association of Federal Equity Receivers on September 13-14, 2012, in Fort Worth, Texas.

*Protecting Your Assets and How to Avoid Madoff-Like Risk* on the *Money and Business Show* on Radio Shalom CJRS radio in Montreal on August 29, 2012.

*The Onslaught Continues: This Year's Commercial Fraud Cases You Need to Know About*, the American Bankruptcy Institute Northeast Bankruptcy Conference, July 12-15, 2012, in Bretton Woods, New Hampshire.

*Legal Issues in Ponzi Scheme Litigation*, podcast for the LexisNexis Bankruptcy Law Community on May 1, 2012. It is available [here](#).

*Ponzi Schemes - What Financial Institutions Can Do to Avoid Liability and Recover Losses*, the Association of Certified Anti-Money Laundering Specialists, Southern California Chapter, on April 25, 2012.

*How to Avoid a Ponzi Scheme*, video with Michael Martin of the Huffington Post, published on April 17, 2012, on the Huff Post Business website.

*Bankers That Bank Fraudsters Could Face Costly Liability to Victims*, podcast for the Association of Certified Financial Crime Specialists on April 8, 2012. It is available [here](#).

*The Potential Pitfalls for Attorneys and Other Professionals in Ponzi Schemes*, UCLA Law School on April 5, 2012.



*All's Well That Starts Well: Prejudgment Remedies*, the National Association of Bankruptcy Trustees, Spring Seminar, March 29-31, 2012, in Las Vegas, Nevada.

*New Law from the Madoff Case and Tips to Avoid the Next Ponzi Scheme*, the Beverly Hills Bar Association on March 26, 2012.

*The Government Seized the Assets!?! What Can We Do?*, the American Bar Association, Business Law Section, Business Bankruptcy Committee, at its Spring Meeting, March 22-24, 2012, in Las Vegas, Nevada.

*New Issues in Fraud: Causes of Action and Defenses* the American Bankruptcy Institute Bankruptcy Battleground West, March 16, 2012, in Los Angeles, California.

*The Costly Collision of Financial Institutions with Ponzi Schemes*, webinar for AML Services International on March 15, 2012.

*Ponzi Schemes, Securities Fraud and Other Fraudulent Enterprises: From "A" (Asset forfeiture and avoiding powers) to "B" (Bankruptcy) to "C" (Coordinating multiple court proceedings)*, webinar for the Business Bankruptcy Committee of the American Bar Association Business Section on March 8, 2012.

*Financial Institution, Meet Ponzi Scheme*, the Special Assets Management Association on February 7, 2012, in Los Angeles, California.

*How Receivers, Trustees and Monitors Use Their Special Powers and Tools to Trace and Recover Assets Worldwide and How to Follow the Fruitful Path of Recovering Assets from (Deep-Pocketed) Third Parties*, the International Association for Asset Recovery on November 17, 2011, in Las Vegas, Nevada.

*The More We Get Together, The Greater Value We'll Preserve: Recognizing and Creating Complementary Processes and Distribution and Priority in the Bankruptcy and Forfeiture Context: The Basics at White Collar Crime & Business Bankruptcy: A Cross Disciplinary Dialog*, a conference on Ponzi schemes presented jointly by American Bar Association and Golden Gate University School of Law on November 4-5, 2011 in San Francisco, California.

*Bringing Third Parties In: Claims for Relief Against Third Parties and the Defenses of Lack of Standing and In Pari Delicto*, the National Association of Attorneys General, October 25, 2011.

*Non-Traditional Assets*, the National Association of Bankruptcy Trustees on September 22, 2011, in Amelia Island, Florida.

*Fraud Issues Arising in Ponzi Scheme Cases of Concern to Financial Institutions*, the Commercial Finance Corporation of California on September 13, 2011, in Costa Mesa, California.

*The Liability of Attorneys, Accountants and Other Professionals in Ponzi Schemes: I Wish I Had Become a Doctor!*, the Beverly Hills Bar Association and the Association of Certified Fraud Examiners on August 3, 2011.

*What Did You Know and When Did You Know It? The Liability of Professionals and Insiders in Ponzi Cases*, the Los Angeles County Bar Association on March 16, 2011.

*Fraudulent Transfer Claims and Defenses in Ponzi Schemes Cases*, the National Association of Bankruptcy Trustees on September 29, 2010, in San Francisco, California.

*Fraudulent Transfer Claims and Defenses in Ponzi Schemes, Standing and In Pari Delicto Issues Arising in Ponzi Scheme Cases, and Deepening Insolvency as a Cause of Action and as a Theory of Damages*, the Association of Insolvency and Restructuring Advisors on June 9-12, 2010, in San Diego, California.

### **Publications**

Ponzi-Proof Your Investments: An Investor's Guide to Avoiding the Ponzi Schemes and Other Fraudulent Scams (IRR Publishers 2013) ([www.ponzi-proof.com](http://www.ponzi-proof.com))

The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes (LexisNexis® 2012), co-authored with Hon. Steven Rhodes, United States Bankruptcy Judge for the Eastern District of Michigan ([www.theponzibook.com](http://www.theponzibook.com))

The Depths Of Deepening Insolvency: Damage Exposure For Officers, Directors and Others (American Bankruptcy Institute 2013), co-authored with Prof. Jack F. Williams

FraudNet Compendium, contributing author of chapter on Ponzi Schemes (to be published in 2013)

Author of The Ponzi Scheme Blog at [www.theponziscHEMEblog.com](http://www.theponziscHEMEblog.com)

Handling Claims in Ponzi Scheme Bankruptcy and Receivership Cases, 42 Golden Gate U. L. Rev. 567 (2012)

What Do You Do When the Feds Come For Your Assets? Third-Party Claims in Forfeiture Proceedings, American Bar Association Business Law Section's Online Resource, Business Law Today (June 21, 2012)

Supplementing the Tools in the Trustee's Toolbox, NABTalk, The Journal of the National Conference of Bankruptcy Trustees (Spring 2012)

Liability of Professionals and Insiders in Ponzi Schemes, 27 CEB Cal. Bus. L. Prac. 22 (Winter 2012)

Emergence of Mareva by Letter: Banks' Liability to Non-Customer Victims of Fraud, Business Law International, Vol. 12 No. 2 (May 2011)

In Pari Delicto and The Blame Game: Should Receivers Get Caught in the Fray?, Receivership News (January 2011)

Opportunities for Trustees in Ponzi Scheme Cases, NABTalk, The Journal of the National Association of Bankruptcy Trustees (Summer 2010)