



## PROFESSIONAL LIABILITY (INCLUDING CORPORATE DIRECTOR AND OFFICER, AUDIT / ACCOUNTING, AND LEGAL)

Diamond McCarthy represents creditors' committees, shareholders, trustees, secured and unsecured creditors, court-appointed trustees and others in bankruptcy litigation as well as parties involved in disputes arising from business dissolutions or restructurings. Our premier practice is known for its ability to handle virtually every type of litigation arising from financially distressed and insolvency situations.

We handle disputes between partners, business entities and the holders of their equity and debt securities, as well as conflicts between business entities and their own officers, directors and professional advisors.

We identify what factors are at the heart of a company's failure, including misappropriation of corporate assets and opportunities, and intentional, reckless or negligent breaches of fiduciary, contractual or other duties. Our well-regarded forensics area includes investigations into RICO, the Lanham Act and other statutory torts, fraud and misrepresentation, securities fraud, fraudulent transfers and other bankruptcy court causes of action. Many of our lawyers also have backgrounds as accountants, certified fraud examiners and MBA's, which provides our clients with a broad spectrum and depth of experience in tackling these issues.

Diamond McCarthy trial lawyers are known for cases with important and long-ranging legal repercussions, often involving issues of first impression before the courts. One example includes the Firm's representation of the Chapter 11 bankruptcy Trustee for Dreier, LLP, in a bankruptcy proceeding in the Southern District of New York. This prominent case involved the Ponzi scheme perpetrated by lawyer Marc Dreier and was one of the largest Ponzi/fraud scheme case(s) involving the legal profession in U.S. history. The fraudulent scheme involved losses to hedge fund investors and others of more than \$750 million. Diamond McCarthy's representation of the Trustee included the prosecution of many high profile lawsuits against the recipients of fraudulent transfers and preferences, often involving legal issues of first impression before the federal court, including two appeals argued before the U.S. Court of Appeals for the Second Circuit. Other litigation arising out of the Dreier case involved complex financial, banking, insurance and bankruptcy issues. Diamond McCarthy was successful in reaching settlements in the tens of millions of dollars in these matters. Our representation in this case pioneered new roads challenging the complex issues facing the intersection of criminal and civil government forfeiture proceedings, SEC Receivership and bankruptcy proceedings. The firm's work in the Dreier case resulted in one of the largest and most successful coordination agreements between a bankruptcy estate trustee and the United States government involving asset seizure and forfeitures in U.S. history.

The Firm also currently represents the Chapter 11 Trustee for Howrey, LLP, in its bankruptcy proceedings pending in the Northern District of California (the Trustee appointed by the U.S. Department of Justice was Allan Diamond, a Diamond McCarthy, LLP partner in its Houston and New York offices). This prominent case involves the bankruptcy of one of the largest, if not the largest, law firm bankruptcies in U.S. history in which the debtor, Howrey, LLP, had offices in more than eight countries and many cities across the United States.

While early in the bankruptcy proceedings, the case already has had to address issues of first impression involving a law firm's operations while insolvent and is expected to involve a plethora of third party and contingency fee litigation issues.

In addition, the Firm has been on the cutting edge of constitutional issues in the bankruptcy courts implicating the U.S. Supreme Court's 2011 decision in *Stern v. Marshall*. Most recently, in January, 2012, the Firm filed, as co-counsel, an *Amicus Curiae* brief on behalf of Concerned Chapter 7 and 11 Trustees and Plan Administrators in the Ninth Circuit U.S. Court of Appeals in the Bellingham Insurance Agency, Inc. case in support of the Plaintiff-Appellee arguing that the bankruptcy courts have the constitutional authority to issue final decisions (or alternatively to issue report and recommendations) with respect to Bankruptcy Code section 548 fraudulent transfers.