

# Accountants' Liability Claims

## Forensic & Litigation Consulting

FTI Consulting professionals have extensive experience providing consulting and litigation support in matters related to claims against accountants. Our professionals include former officials with the Public Company Accounting Oversight Board (PCAOB), the Securities and Exchange Commission (SEC), the Financial Accounting Standards Board (FASB) and former partners and managers with audit firms including the Big Four and their predecessor firms.



### Accountants' Liability Overview

An audit enhances the credibility of financial information, and as a result, reduces the information risk to financial statement users. Financial statement users may be misled and suffer financial losses if the financial statements are misstated despite a “clean” audit opinion. When users believe they have been misled, the independent accountants are often singled out as one of the responsible parties with perceived “deep pockets” and sued to recoup financial losses. In addition, tax accountants face potential liability for alleged violations of IRS Circular 230 or AICPA Statements on Standards for Tax Services.

Litigation may be brought against accountants as a result of many events including the discovery of fraud, bankruptcy, restatements of financial statements, audit committee investigations, IRS inquiries, regulatory investigations, whistleblower allegations or failed business combinations. We have the technical accounting, auditing and tax knowledge to thoroughly understand and analyze the issues at hand and the expertise to provide high-quality consulting and expert testimony.

## Service Highlights

- Former SEC and PCAOB staff members provide regulatory focus and assist firms and their counsel in responding to regulators.
- Experienced expert witnesses testify regarding accountants' and firms' compliance with professional standards during civil litigation, regulatory enforcement hearings and state board disciplinary proceedings.
- Former Big Four audit partners, managers and staff members serve as experts and facilitate proper staffing of work paper review and analysis.
- Accounting experts from the FASB and various industries opine on application of relevant GAAP and SEC accounting and disclosure guidance.
- Experienced professionals assist firms and their clients in resolving auditor independence issues through correspondence and meetings with SEC and/or PCAOB officials.
- Experienced expert witnesses testify regarding damages, including alleged harm to public investors.
- Tax professionals with experience in compliance, planning and research who routinely assess liability, develop defenses, and testify regarding all aspects of IRS and AICPA standards for tax services..
- Tax professionals assess standard of care related to tax shelters, prohibited transactions, foreign transactions, offshore trusts, conservation easements and other tax planning matters.

## Communications with Regulators

With our first-hand experience as former staff with the PCAOB and SEC, we regularly assist accountants and their counsel with understanding and responding to regulatory inquiries. We bring valuable insight into regulatory staff members' current "hot button" issues. Our experienced professionals are well-suited to review audit firms' proposed responses to PCAOB inspection comments with the goal of minimizing or avoiding enforcement action. If an issue has progressed to an enforcement matter, we can anticipate areas of focus and develop potential defense strategies.

## Vast Experience Across Industries and Jurisdictions

Accounting and auditing practices can vary among industries and jurisdictions. As a result, unique expertise is often required to effectively and efficiently address the specific issues of an accountants' liability matter. FTI Consulting professionals have extensive experience across many industries and jurisdictions around the world, enabling us to provide the necessary expertise to bear on virtually any accounting and auditing matter.

## Extensive Multilingual Skills Foster Effective Review of Foreign Workpapers

Many of FTI Consulting's professionals, including those with accounting and auditing experience, are fluent in English and one or more of a variety of foreign languages. With professionals in 31 countries and every major financial center in the world, we are also well versed in the local customs and unique challenges that may be associated with matters involving foreign audit professionals. We have experience assembling teams of professionals with multilingual capabilities and audit expertise to: a) identify key workpapers and documents drafted in a foreign language and b) summarize the salient points in English via topical memoranda. These memoranda can then be used by counsel and the testifying expert when developing case theory and drafting the expert report.

## Credibility Among Regulators, Judges and Juries

FTI Consulting professionals have the credentials and background that enhances credibility with regulators, judges and juries. Our senior professionals have regulatory experience as well as technical accounting and auditing skills gained from service at the FASB, SEC, PCAOB and major accounting firms, allowing FTI Consulting to quickly and effectively respond to private civil litigation, disciplinary investigations and enforcement actions. FTI Consulting's experienced professionals can provide accounting firms and their counsel with on-going consulting and expert services during all phases of accountants' liability matters— from claim assessment through expert testimony as well as a wide range of compliance verification services following a judgment or settlement.

## Representative Matters

- Assessed a Big Four foreign affiliate's compliance with PCAOB standards. Assembled a multilingual team to identify and interpret relevant work papers, which were drafted in a foreign language. Provided expert testimony in civil litigation.
- Provided comprehensive audit analysis and expert testimony in defense of a Big Four audit partner in an SEC administrative proceeding.
- Assessed an international accounting firm's compliance with AICPA standards during an audit of a bank. Submitted expert report and participated in a presentation to FDIC Staff.
- Provided comprehensive audit analysis for a Big Four firm's A-133 audits. Provided summary assessment of findings, which was used in discussions with the DOJ.
- Assessed a Big Four foreign affiliate's compliance with PCAOB standards. Assembled a multilingual team to identify and interpret relevant work papers, which were drafted in a foreign language. Participated in a meeting with PCAOB Staff and assisted counsel in preparing a written submission.
- Provided comprehensive audit analysis to a partner of a small firm in connection with a PCAOB enforcement investigation.



## Firm Monitoring/Consulting Services

Regulatory enforcement actions or deferred prosecution agreements may require an accounting firm to engage an independent monitor. Because of FTI Consulting's credibility and deep experience with regulators, we are well-suited to serve as monitors in these situations. Since many of our professionals previously worked for large accounting firms, we understand the profession and can serve the role of monitor with a realistic and practical perspective.

FTI Consulting also consults with firms to minimize the risk of future regulatory action or litigation. We help audit firms develop or update the internal quality control programs aimed at ensuring audit quality and effectiveness. FTI Consulting regularly consults with firms regarding current regulatory initiatives and how regulators may view or react to a particular accounting treatment or auditing approach.

## Tax Litigation Support

FTI Consulting's experienced tax professionals assess standard of care claims, develop defenses, determine damages (if any), and testify regarding planning, compliance and research dynamics. These professionals have deep expertise working with the IRS and DOJ in various tax areas and provide assessments during all phases of the engagement. In addition, our tax professionals routinely assist with foreign tax matters.

## Damage Assessment

Assuming liability, FTI Consulting can assess damages attributable to any breach of the standard of care by an accounting or tax firm. Our experienced damage professionals can determine if there were other factors attributable to the failure of the Company, such as mismanagement, significant economic losses, insolvent financial condition, deteriorating industry conditions and other reasons for the company's failure. We are also well equipped to evaluate insolvency issues, and the effect of alleged misrepresentation to determine the possible consequences on investors, and the testifying expert when developing case theory and drafting the expert report.

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