Securities Law Handbook Series

Liability of Attorneys and Accountants for Securities Transactions

2005–2006 Edition

by Robert J. Haft

and Michele H. Hudson

- Auditors' Required Opinions on Internal Controls: Liability Implications of Auditing Standard No. 2 (§ 6:34)
- SEC's Enforcement Division Targets In-House and Outside Counsel: Preparing or "Signing Off" on Disclosures; Conduct of Internal Corporate Investigations by Attorneys (§ 8:4)
- Sarbanes' Oxley Criminal Liability for Attorney's Misleading Responses to Auditors' Requests for Information (§ 6:20)
- Recent SEC Enforcement Results Under New Approach Targeting Audit Firm Itself (§ 8:3)
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Preface

The role of attorneys in securities transactions usually involves providing disclosure advice to clients, preparing or assisting in the preparation of disclosure documents, preparing contracts (such as the underwriting agreements), closing documents and handling the closing itself, and, at times, the preparation and issuance of formal legal opinions. The role of accountants in securities transactions may, at times, involve assisting in the preparation (or limited review) of projections or of unaudited financial statements, but their principal role is to certify the financial statements. Significant and substantial liabilities may arise in connection with these various tasks. Although this book might have been organized around each of these different roles, the vast majority of decided cases do not turn on distinctions between the overall role of attorneys and that of independent public accountants; organizing the book around these profound differences did not, in the end, seem superior to the organizational principle ultimately adopted. As is obvious from a quick perusal of the chapter headings, the book is principally organized around the different provisions of substantive law. The authors believe (about which persons may reasonably disagree) that clarity and understanding is best promoted thereby.

Table of Abbreviations

ADR	American Depositary Receipt
Board	Federal Reserve Board
CEA	Commodity Exchange Act
CFTC	Commodity Futures Trading Commission
COD	cash on delivery
Commission	Securities and Exchange Commission
DK	don't know
DTC	Depository Trust Company
DVP	delivery versus payment
ESOP	employee stock ownership plan
FRB	Federal Reserve Board
FRRS	Federal Reserve Regulatory Service
NASD	National Association of Securities Dealers, Inc.
NMS	National Market System
NSMIA	National Securities Markets Improvement Act
NSRO	nationally recognized statistical rating organization
NYSE	New York Stock Exchange
OCC	Options Clearing Corporation
OTC	over the counter
SEC	Securities and Exchange Commission
SMA	special memorandum account
SRO	self-regulatory organization

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