

Forbes Highlights Pivotal Role of Private Shareholder Litigation in Checking Corporate Misconduct

June 29, 2018



On June 28, 2018, *Forbes* published Christopher Skroupa's article, "Teddy Roosevelt: The German Way," which focuses on the role of private shareholder litigation in helping monitor the capital markets for – and in some cases forcibly correct – instances of corporate misconduct before they take root as normal practice market-wide.

The article features an extensive interview with Dr. Andreas Zubrod, an executive Board Member at Union Asset Management, who explains why one of Germany's largest asset managers (with nearly \$400 billion AUM) engages in private litigation as a means of keeping "managers of capital in line." BLB&G represents Union Asset Management in several high-profile securities cases, including against Wells Fargo in the case arising from its fake accounts scandal, Equifax for its data-heist fiasco, and Allergan's price-fixing scheme. BLB&G helped obtain \$480 million for investors in *Wells Fargo*. The litigations against Allergan and Equifax are ongoing.

Dr. Zubrod asserts that shareholder rights litigation is "essential to sending a message to portfolio companies that we can and will hold wrongdoers accountable, and push for improved corporate governance across all industries." Otherwise, the danger lies in that "misconduct not only becomes embedded into that company's culture, but corrupt practices can become embedded into the culture of the market as whole." According to Dr. Zubrod, strategic use of shareholder litigation is critical: "If we are in a position where we recognize we were now beyond the borders of reasonable business practice or judgment, then we will consider suing the company...Getting them to clean up their mess is of primary importance, but equally on our mind is seeking to prevent others from doing the same thing."

BLB&G partner and head of the firm's Corporate Governance practice, Mark Lebovitch, was also featured in the article. He praised Dr. Zubrod's approach, calling it "his form of 'Teddy Roosevelt activism.' Speak-softly-but-carry-a-big-stick, if you will." Mr. Lebovitch credits Dr. Zubrod for recognizing that "thoughtful and impactful litigation is a useful tool, and that the knowledge that Union will take action when managers cross the line has a deterrent power all its own." Mr. Lebovitch underscored: "what we want in all of our cases is a significant result that forces the entire market to think about the broader implications of the case. If the outcome is sufficient and grabs the market's attention, the conclusion will be that risk is not worth the price."

Attorney

- Mark Lebovitch