



(PRACTICE AREA)
Litigation

Defense of Bay Area City in Federal Court Action Involving Securities Fraud Claims

SITUATION

The City of Alameda (“City”) decided to expand its electrical system to include cable TV and internet, Alameda Power & Telecom (“Alameda Power”), a division of the City, borrowed money to construct the telecommunications system. In 2004, Alameda Power issued \$33,000,000 in Revenue Bond Anticipation Notes (“Notes”) to complete construction and refinance its debt.

CHALLENGES

Nuveen Municipal High Income Opportunity Fund, the Nuveen Municipal Trust for the Nuveen High Yield Municipal Bond Fund, and Pacific Specialty Insurance Company (collectively, “Nuveen”) purchased \$20,550,000 in Notes and received \$6,516,003, in interest payments over the life of the Notes. The Notes were set to mature on June 1, 2009. However, the telecom system performed poorly. Alameda determined in June 2008 that refinancing the Notes was not an option and sold the telecom system to Comcast for \$15,000,000. The City paid all of the net proceeds from the sale to the Noteholders, including \$10,105,110 to Nuveen, which left Nuveen with a shortfall of approximately \$10,000,000.

PROCESS

Nuveen brought a lawsuit against the City alleging violations of the federal Securities Exchange Act of 1934 and California Corporate Securities Act.