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All or Nothing

San Diego's Shustak Reynolds & Partners insists on offering each client their best work.

By Melanie Brisbon
Daily Journal Staff Writer

SAN DIEGO — The rock band U2, a Native American tribe, financial services professionals and everyday people make up the clientele of Shustak Reynolds & Partners PC, a boutique firm specializing in securities, business and financial services law. Other clients include many publicly traded and privately held companies.

The San Diego-based firm's roots date back nearly 40 years to when founding partner Erwin J. Shustak left a large firm to hang out his own shingle in New York City. At the time, he wasn't quite sure what area of law he wanted to focus on.

"I took an office on Park Avenue that I couldn't afford," Shustak said. "In those days, I would take on almost any case for \$500."

"I knew I wanted to be a lawyer, I wanted to help people and I wanted to be the captain of my own ship," he added.

Securities litigation and arbitration are two focus areas for Shustak Reynolds & Partners, which also helps broker-dealers and investment advisers in regulatory investigations and enforcement proceedings by the Securities and Exchange Commission and the Financial Industry Regulatory Authority.

Corporate transactions, fraud, trade secrets and complex business disputes are some of the firm's other core practice areas. The 14-lawyer outfit does plaintiff and defense work in state and federal courts along with arbitration forums across the country.

"We are very careful to vet out any conflicts of interest because when you are operating on both sides, you have to be very mindful of who you are representing and who you are adverse to," said Jonah A. Toleno, a partner who joined the firm in 2006. "We have a strict conflicts check protocol in place at all times."

Name partner Paul A. Reynolds reunited with Shustak about three years ago. Reynolds had been a partner at the firm in years prior, but he left to develop his own practice.



Tom Kurtz / Special to the Daily Journal

From left, Jonah Toleno, George Miller, Erwin Shustak, Paul Reynolds and Richard Weintraub of Shustak Reynolds & Partners PC

"My firm was doing very well, but I really like doing the legal work more than I like running the business, and Erwin's very good at running the business," Reynolds said. "We ultimately thought we were perfect complements to each other."

This year, the firm represented the president and CEO of CannaVest Corp. in a class action brought by investors who purchased the company's stock. The court dismissed Shustak Reynolds & Partners' client from the lawsuit. *In re Cannavest Corp. Sec. Litig.*, 307 F. Supp. 3d (S.D. N.Y. 2018).

Securities class action defense is a specialty for Reynolds, who handles cases in the federal and appellate courts.

"I don't think there's one set of checklists that you do for every case," Reynolds said. "You have to look at every case and analyze where you want to wind up and what's the most efficient way to get there — that includes not fighting every issue and looking at what

actually advances the client's interests to get them where they're trying to go."

Shustak Reynolds & Partners gave its strategic litigation guidance to a Native American tribe in a multi-million-dollar auction rate securities fraud claim against Lehman Brothers and its management. Lehman Brothers filed for bankruptcy while the case was pending, but Shustak and his team amended the complaint, adding Richard "Dick" Fuld Jr., the company's CEO, and other senior executives as defendants.

The case resulted in a seven-figure settlement for the tribe and its council, which Lehman Brothers paid as part of its bankruptcy debt settlement.

"There might not be a physical harm, and we might not necessarily operate in the emotional distress aspect of litigation, but it's certainly there, especially in cases where people have lost their life savings," Toleno said. "Even on the flip side, where we're de-

fending, it can be very emotional for the client when you're dealing with money and issues of trust."

Paul Weiss Rifkind Wharton & Garrison LLP was opposing counsel to the firm in a legal malpractice action brought by Mitchell Barack. Shustak Reynolds & Partners' client, Barack, is a business owner who alleged the law firm Seward & Kissel LLP negligently advised him on the sale of his company.

U.S. District Judge William H. Pauley III denied Seward & Kissel's motion to dismiss the lawsuit. The case ended with a confidential settlement last December after discovery closed. *Barack v. Seward & Kissel LLP*, 16- CV09664 (S.D. N.Y., filed Dec. 14, 2016).

In another matter, an elderly Holocaust survivor relied on Shustak Reynolds & Partners' counsel in claims she was defrauded by a broker in an investment scheme. Attorneys were able to help recover a large portion of what she lost.

Every client deserves the firm's best work, Shustak said.

"It's good to have big clients, but it's also important to stay true to what I started this firm about, which was helping people and helping them be protected against other people and larger institutions that might take advantage of them," Shustak said. "Whether it's doing a large refinancing for an international rock star or helping a 95-year-old widow who was

defrauded, we're going to do the same job for both people."

The firm grew because Shustak was able to overcome the early difficulties he faced when starting in 1979.

A few years after he became a sole practitioner, he was joined by a former colleague he knew from his days in big law at Kaye Scholer Fierman & Handler LLP. This colleague had a seat on the American Stock Exchange, and the pair started to get more securities cases. The firm grew, and its clientele became more sophisticated.

"I think it's important that a firm has a vision and a commitment to excellence, which we have," said Shustak, also the managing partner of the eponymous firm. "Somebody has to set the stage as people come and go, and there has to be a persona to the firm. We all spent weeks defining our mission statement, and we stay true to what that mission is."

Securities, financial services and complex business law became the firm's focus in the 1980s while it was based in New York, the hub for those industries at the time.

Shustak moved to San Diego in 1998, and the firm was primarily based there within a few years. The firm still maintains an office in New York as well as in Irvine, Los Angeles and San Francisco. The firm kept its specialized legal focus throughout the transition.

"It's a firm that has what I view as a very sophisticated, intellectually challenging practice area,"

said George C. Miller, a partner. "We enjoy taking complicated concepts and legal issues and breaking them down in not only a way that's easy to understand but that's practical to apply in litigation."

Miller joined the firm in 2007 as a law clerk. He moved up the ranks, rising to associate and eventually to partner in 2015. Miller also has a leadership role in the firm.

"I have stayed here, first of all, because I value my relationships with my colleagues and partners," Miller said. "In terms of a mid-sized or boutique firm, I think that we perform a very high-caliber of work while still maintaining very close personal relationships with our clients."

Counsel Richard A. Weintraub leads the firm's transactional practice, handling mergers and acquisitions, public and private securities offerings along with other types of deals.

"Right now, we're doing a reorganization for one of the largest independently owned investment banks in the country," Weintraub said. "We're representing another registered investment adviser whose main business over the last 30 years was life insurance, and they've gone over to wealth management and wealth planning, and they're building their business there."

Weintraub also advises clients on blockchain and cryptocurrencies, a developing area of the law.

"I think the law is reacting to the industry, much like it has done throughout the decades," Weintraub said. "With cryptocurrencies, there's a difference between U.S. securities laws and other countries' securities laws."

"I think it's all going to ferret out in the next year or two or about how it's going to be regulated," he added.

The goal for Shustak Reynolds & Partners is not growth by attorney headcount but rather a continued focus on high-caliber legal work for clients, Shustak said.

"When I had a firm with 30 lawyers, it became a huge headache and diverted me from our primary focus — our clients," he said. "The size we have is very comfortable. We can take on significant cases, but we don't have to take on cases we don't want to take on."

"We really are at the point where we have no one client that represents more than 3 or 4 percent of our revenues, which allows us to be very independent, stay true to our mission, and be very particular of what clients and cases we take on," Shustak added.

Gerald A. Klein, a partner at Klein & Wilson, has tried cases with Shustak and Reynolds.

They are "very knowledgeable about securities law," Klein said.

"Shustak shook down an insurance company for about a quarter of a million dollars in a ... libel case," Klein said. "I almost fell out of my chair when I saw what Erwin achieved for his client."