

CLIENT ALERT

Little Dab of Fraud Will Do Ya (In)

Sep.19.2007

In an unusual remand from the en banc court back to the panel for a "do over," the Federal Circuit in *Long Island Savings Bank, FSB v. U.S.* (Sept. 13, 2007) reversed a \$435 million verdict for the bank in this Winstar-type case because the bank, in its application materials, did not disclose that its CEO was violating federal banking regulations by having an interest in the law firm to which the bank sent all its mortgage business, with this common-law fraud making the contract void ab initio. Still unexplained, however, is why the panel felt obliged then to discuss whether the fraud was a prior material breach to the government's when the contract was void and its passing reference that there might be "other theories of recovery."

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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