

SEC Drops Centerpiece Of Case Against WilmerHale Clients

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WilmerHale recently achieved a major victory after the US Securities and Exchange Commission (SEC) dropped the centerpiece of its lawsuit against two former mortgage executives.

The SEC stated in a motion that it would not pursue three of five remaining counts against former CEO Larry Goldstone and four of five remaining counts against former CFO Clarence Simmons, both of Thornburg Mortgage. The civil lawsuit dates back to 2012. Included among the dropped counts was the linchpin of SEC's case—the charge that the execs schemed to defraud investors in Thornburg's annual financial report (10-K) to hide a loss in the fourth quarter of 2007 as the mortgage crisis approached.

The Santa Fe, New Mexico-based Thornburg was the second-largest independent mortgage company in the United States prior to the financial crisis, but it eventually went bankrupt in 2009.

"Though it took eight long years to reach this moment, we're very pleased for our clients," said [Randall Lee](#), partner-in-charge at WilmerHale's Los Angeles office.

Earlier this summer, an Albuquerque, New Mexico jury [found in favor](#) of the executives on five counts, and deadlocked, at 11-1, on the five remaining counts after a three-week jury trial. It was the SEC's first loss in a trial in 2016. The WilmerHale defense team is led by Lee and Partner [Heather Nyong'o](#).

"The SEC's decision confirms what we have maintained for the past eight years—that our clients acted in good faith by ensuring that Thornburg's annual report fully and transparently disclosed the company's financial condition and the challenges it faced as the financial crisis mounted," Lee said.

Only lesser charges remain against the two executives. These counts relate to alleged misleading statements by Goldstone on CNBC after the financial report was filed and alleged misrepresentations and omissions to auditors by the executives. The new trial date is set for Feb. 21, 2017.

"The SEC failed to prove those counts in the first trial, and we are confident that a retrial will be no different," Lee told [The Wall Street Journal](#).

