

FIRM NEWS

SRZ Represents Wilmington Trust in Bankrupt Downey Financial's Successful Claim to Tax Asset

October 8, 2013

SRZ represented Wilmington Trust Co. in a win over the FDIC to secure ownership of an expected \$374 million tax refund for the Downey Financial Corp. bankruptcy estate, in which Wilmington Trust is a substantial creditor as indenture trustee for hundreds of millions of dollars of Downey Financial notes. In an Oct. 8, 2013 decision, the Delaware bankruptcy court found that the tax refund is the property of the Downey Financial estate, and therefore subject to the claims of its creditors. Downey Financial filed for Chapter 7 in 2008, shortly after the failure and subsequent FDIC take-over of its bank unit, Downey Savings & Loan. The FDIC unsuccessfully argued that the tax refund should be deemed held in trust for the benefit of the bank, and immune to claims of Downey Financial creditors. The SRZ team representing Wilmington Trust was led by former Schulte lawyer Alan R. Glickman and included litigation partner William H. Gussman, Jr., business reorganization partner Adam C. Harris and tax partner Dan A. Kusnetz.

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