

**PUBLICATIONS**

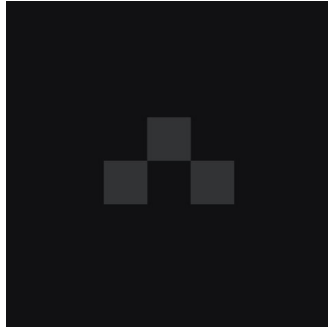
## **Court of Appeals Reverses First Department, Holding Bear Stearns' Disgorgement Payments Are Not Excluded From Coverage**

**February 2022**

In November 2021, the Court of Appeals weighed in for the second time on the dispute between Bear Stearns and its insurers over coverage for \$140 million in disgorgement paid in connection with an SEC settlement. The Court of Appeals again reversed in favor of Bear Stearns, rejecting the First Department's view that disgorgement by definition constitutes an uninsurable penalty. In this article, of counsel Howard B. Epstein and special counsel Theodore A. Keyes discuss the importance of this ruling, as it provides that disgorgement may be covered in certain circumstances and what those circumstances are will likely be the subject of additional insurer-insured disputes and litigation.

---

## Related People



**Howard  
Epstein**

Of Counsel  
New York



**Theodore  
Keyes**

Partner  
New York

---

## Practices

**INSURANCE**