



DEPARTMENT OF ENFORCEMENT v. INVEMED ASSOCIATES, LLC (DISCIPLINARY PROCEEDING NO. CAF030014, 2006)

Best offense? Great defense.

THE CLIENT: WACHTELL, LIPTON, ROSEN & KATZ

THE CASE: Wachtell, Lipton, Rosen & Katz, counsel for Invemed Associates, LLC, successfully defended the company against profit-sharing charges brought by the National Association of Securities Dealers. The NASD Department of Enforcement (DOE) hearing panel exonerated Invemed of all charges that it illegally shared in the profits of its customers in a 94-page decision after an extensive 17-day hearing.

THE TRIAL: DOAR provided strategic guidance on persuasion and communications approaches as well as graphics consultation to the trial attorneys; assistance with opening and closing arguments, expert reports and testimony; and other support at the hearing. Analytical graphics experts designed and displayed pre-hearing and hearing graphic materials that outlined the key facts in Invemed's defense of the charges, using DOAR-provided technology support and equipment for both Wachtell Lipton's war room and the NASD hearing room.

SPECIFIC CONTRIBUTIONS INCLUDED:

- Analysis of unique dynamics of a SRO hearing panel leading to persuasion strategy incorporated into opening and closing arguments.
- Assistance with witness testimony preparation
- Animated graphics that explained complex expert testimony, financial analyses and historical information.
- Technology and support linking the war room to the hearing room, offering real-time, seamless communication and flow of information.

THE OUTCOME: According to the April 2003 NASD complaint, Invemed was accused of illegally sharing in the profit of its customers in connection with IPO allocations made in 1999 and 2000. In response to the NASD complaint, Invemed requested the disciplinary panel hearing. At the time of the filing, several large investment banks had settled cases

"Along with database and presentation solutions, DOAR provided a secure wireless network which linked Invemed's war room to the hearing room at the NASD. This configuration allowed our consultants immediate access to any exhibit in the case. This advantage enabled the lead attorneys to present their case in a remarkably efficient and enhanced manner."

Justin Kelly
Senior Trial Technologist

brought against them so they could avoid admitting any wrongdoing. Invemed presented expert and documentary evidence as well as superb cross-examination of DOE witness to prove prosecution was a novel application of the Profit Sharing Rule and therefore inappropriate. The hearing panel, a unanimous decision, accepted Invemed's arguments.