

## **Investigations, Government Enforcement and White Collar Criminal Defense Practice**

### **II. NOTABLE REPRESENTATIONS**

#### **A. BRIBERY AND CORRUPTION**

- *FIFA-Related Matters:*
  - We are lead counsel to FIFA, in what the *New York Times* aptly described as “one of the most complicated international white collar cases in recent memory.” Specifically, we represent FIFA in the global criminal investigations involving allegations that international media companies bribed FIFA officials to obtain sponsorship and broadcasting contracts.
  - We represent Julius Baer in connection with parallel investigations by the DOJ and Swiss authorities involving allegations that FIFA officials and sports media and marketing officials engaged in money laundering, racketeering and wire fraud in connection with the awarding of global and regional soccer tournament media and marketing rights. Specifically, the investigation is focused on (1) whether FIFA officials and sports media and marketing executives – as alleged in the DOJ’s May 2015 indictment and December 2015 superseding indictment – maintained accounts at the bank that were used to facilitate bribery payments in connection with soccer media and marketing rights contracts, and (2) whether bank executives and employees knew or should have known about such payments. Julius Baer and its employees are cooperating with DOJ and we are representing them in discussions with U.S. authorities.
  - We represent the CONMEBOL in connection with U.S. criminal investigations and prosecutions into allegations of bribery and corruption in the international soccer world. Specifically, we are advising CONMEBOL on the investigations and conducting an internal investigation on behalf of the organization. On May 27, 2015, the U.S. unsealed a 47-count criminal indictment in the Eastern District of New York, charging 14 defendants with racketeering, wire fraud and money laundering conspiracies, among other offenses, in connection with the defendants’ alleged participation in a long running scheme to enrich themselves through the corruption of international soccer. The criminal indictment alleges that high-level soccer officials abused their positions to solicit bribes from sports marketing companies. The DOJ announced a superseding indictment on December 3, 2015, which charged 16 additional defendants, including several past and current CONMEBOL officials. Among the additional charges in the superseding indictment are a bribery scheme implicating many top CONMEBOL officials relating to the sale of broadcasting rights to the CONMEBOL Copa Libertadores and a scheme by an Argentinian sports marketing company to obtain

various rights properties by paying bribes to three Central American soccer officials to cause them to exert their influence in favor of the company.

- *McDonnell Corruption Trial.* We represented former First Lady of Virginia Maureen McDonnell in connection with federal bribery and obstruction charges brought against her and her husband, former Governor of Virginia Bob McDonnell. Mrs. McDonnell was convicted of obstruction of justice and certain corruption charges after a six-week trial in 2014. After convincing the trial court to vacate the obstruction conviction because it was unsupported by the evidence, we pursued on appeal our arguments that the court incorrectly defined bribery and effectively directed the jury to convict. The Supreme Court of the United States agreed with our position in the Governor's appeal and vacated the convictions in a unanimous opinion that resoundingly rejected the government's and lower courts' conception of federal bribery laws. Following the Supreme Court's decision, which gave the government the option to attempt to re-try the case under the new standard, we met with the government to advocate that the charges instead be dismissed with prejudice. In early September 2016, the government abandoned the case against our client and the Governor.
- *Sigelman FCPA Trial.* We convinced the Department of Justice to drop a high profile FCPA prosecution mid-trial, resulting in the client receiving a sentence of probation and no jail time. In one of only a few FCPA cases ever to be tried, the Government dropped five-and-a-half of six charges against Mr. Sigelman after an admission by the Government's star witness that he made false statements to the jury on direct examination. The judge referred to the firm's cross examination of the Government's star witness as "bloodletting." Mr. Sigelman had been facing a possible sentence of 20 years in prison. Instead, the Government agreed to a plea deal in which he received a sentence of probation with no incarceration. These types of plea offers in the middle of trial rarely occur.
- *Odebrecht Global Resolution.* We represent the Odebrecht Group in connection with civil and criminal investigations flowing from the Lava Jato scandal, the largest corruption scandal in the history of Latin America and what the DOJ has described as "the largest-ever global foreign bribery resolution". We helped secure a global resolution of Odebrecht's criminal liability in the United States, Brazil, and Switzerland which allowed the company to continue operating despite allegations which constituted an existential threat.
- We successfully defended a major sports-governing body in a criminal investigation in Germany that centered on corruption and other criminal allegations in connection with a sports event. In this context, the prosecutors considered imposing a penalty payment on our client for the alleged misconduct of a former executive but we convinced the authority to close the case at the pre-trial stage.
- We represent ENRC, a global mining conglomerate, and its successor, ERG, in connection with a UK SFO investigation into alleged bribery involving the company's Kazakh and African operations. ENRC was listed on the London Stock Exchange but de-listed in part as a result of the SFO's investigation. We previously represented the two former executives at the heart of the investigation, the former CEO of ENRC's African operations and the former Global General Counsel, both of whom have been identified as "suspects" by the SFO. We have now replaced Deveboise & Plimpton as counsel for the Company.

- We served as counsel to the Special Committee of the Board of Directors of one of Europe's largest engineering and construction firms concerning alleged violations of the Foreign Corrupt Practices Act relating to government procurement contracts in Africa and elsewhere.
- We represented the Special Committee of Independent Directors of a major clothing manufacturer in response to allegations of customs violations, kickbacks and commercial bribery in its Hong Kong and Singapore operations.
- One of our partners represented one of Africa's largest telecommunications companies in an investigation by U.S. and African authorities of allegations of corruption and bribery relating to the award of a mobile license in Iran.
- We represented a member of the board of directors of Net1, a South African company listed in the United States, in a FCPA investigation of Net1 and the board. The U.S. Securities and Exchange Commission formally dropped its investigation, bringing no charges against our client or Net1.
- We represented the Vice President of a foreign country in connection with foreign corruption allegations by U.S. Department of Justice and successfully resolved the matter with no criminal charges and a favorable civil settlement.
- *BTG Internal Investigation.* We represent a special committee formed by the Boards of Directors of Banco BTG Pactual S.A. ("BTG Pactual"), the largest investment bank in Latin America, and BTG Pactual Participations, Ltd. ("BTG Participations"), in an internal investigation regarding money laundering and bribery allegations against its former CEO André dos Santos Esteves. We found no basis to support the allegations against the Bank and its employees.

## **B. MONEY LAUNDERING AND FRAUD**

- *FBME Preliminary Injunction.* We obtained an unprecedented preliminary injunction that prevents the U.S. Treasury Department and its Financial Crimes Enforcement Network, or "FinCEN," bureau from enforcing a final rule that otherwise would have cut our client bank, FBME, off from U.S. dollars (and thus from the global financial system) to devastating effect. This is the first successful stand a bank has made against FinCEN's implementation of this deadly sanction, which reflects a determination by FinCEN under Section 311 of the USA PATRIOT Act that a foreign bank is an institution of "primary money laundering concern" and should be cut off from the U.S. financial system. We persuaded the U.S. District Court for the District of Columbia that our client faced irreparable harm from implementation of the rule and was likely to prevail on the merits on the grounds that FinCEN's ruling was procedurally defective and arbitrary and capricious. We succeeded despite being up against classified evidence submitted *ex parte* and *in camera* that allegedly established FBME's involvement in money laundering and terrorist financing, as well as the heightened deference that courts accord Executive agencies whenever concerns about national security and foreign policy are invoked, as they were here.
- We represent BSI, a Switzerland-based, international private bank, in connection with the global criminal investigations involving 1MDB, Malaysia's sovereign wealth fund. This is one of the most important, high-visibility criminal money laundering investigations in the world. The Swiss

authorities have ordered the bank to be liquidated and have launched the first ever criminal money laundering investigation against a bank. The U.S. authorities are also conducting a wide-ranging investigation.

- We represented Actelion Pharmaceuticals in a three-year U.S. Department of Justice investigation into marketing practices related to the drug Tracleer. The investigation concluded without any criminal charges being filed and with the dismissal of a related civil action.
- We represented the Board of Supreme Audit in Iraq in investigating fraud in the Oil for Food program.
- One of our partners was lead investigations counsel for Triple Canopy/Constellis, the private security company, in a global investigation concerning allegations of False Claims Act violations in Uganda.
- We represented the Special Committee of the Board of Directors of Idealab to investigate claims by venture capital investors alleging various improper stock transactions and self-dealing on the part of the company's management.
- We represented Tier Technologies in a six-month Audit Committee investigation following an accounting restatement and in related shareholder and U.S. Securities and Exchange Commission proceedings.
- We represented Terayon Communications Systems in a year-long Audit Committee investigation arising out of an accounting restatement and in related U.S. Securities and Exchange Commission and shareholder actions over operations in Canada, Israel, and Brazil.
- One of our partners represented Teledyne for allegedly overcharging the federal government in connection with defense contracts.
- One of our partners represented General Re, a subsidiary of Berkshire Hathaway, in investigations by federal and state agencies into financial reinsurance arrangements and obtained a non-prosecution agreement with the U.S. Department of Justice.
- One of our partners represented HCA, Inc. for alleged Medicare and Medicaid overbilling.
- One of our partners represented BlackRock in investigations by the U.S. Department of Justice, Securities and Exchange Commission, and New York Attorney General, in investigations concerning market timing, late trading and revenue sharing.
- One of our partners represented the former public company IDB Communications in U.S. Department of Justice and Securities and Exchange Commission investigations for alleged financial accounting fraud and insider trading by senior officers.

- One of our partners represented Tyco in connection with U.S. Securities and Exchange Commission investigations stemming from the conduct of its former officers Dennis Kozlowski, Mark Belnick, and Mark Swartz.
- One of our partners represented ICGS, the joint Northrop Grumman Lockheed Martin entity formed to rebuild the U.S. Coast Guard through the Deepwater program, involving a \$25 billion series of contracts. This involved various government investigations, fraud and False Claims Act subpoenas, and qui tam investigations. Our partner successfully defended after foreign whistleblower initiated action.

### **C. ECONOMIC ESPIONAGE AND TRADE SECRETS**

- *Chen Espionage Investigation.* We represented Dr. Qun Chen, a senior executive of Shanghai United Imaging Healthcare Co. Ltd., a leading Chinese medical imaging company, in a criminal economic espionage investigation by the U.S. Attorney’s Office for the Southern District of New York that resulted in the indictment of three NYU scientists. We successfully extricated Dr. Chen from the Southern District’s investigation.
- *Dismissal of Trade Secret Misappropriation Claim.* In *Koninklijke Philips N.V. et al. v. Elec-Tech International Co., Ltd. et al.* (N.D. Cal.), we successfully obtained a dismissal of a high-stakes trade secret misappropriation claim brought in federal court by one of the world’s largest producers of light-emitting diodes and related products against Chinese competitor Elec-Tech International Co., Ltd. (ETT), several of its subsidiaries, and three of its officers.
- *Motion to Quash Granted in Espionage Case.* We represent the Pangang Group and three of its subsidiaries. These Chinese companies—large metal manufacturers—were indicted in a closely watched criminal case brought under the Economic Espionage Act. The government attempted to serve the indictment on our clients by delivery and mailing of a summons on an uncharged U.S. corporation that it alleged acted as an “agent” of the defendants. Our motion to quash the government’s attempted service was granted.

### **D. TAX EVASION**

- We obtained a significant initial victory for a high net worth UK businessman and his associates in a tax investigation (known in the UK as COP9) brought by Her Majesty’s Revenue & Customs (“HMRC”) in which HMRC suspected them of having committed tax fraud. Our clients faced criminal prosecution and we were able to reach an agreement with HMRC not to pursue any criminal action against our clients.
- We represented Bank Julius Baer & Co. Ltd. (“Julius Baer”), the largest pure private bank in the world, in connection with resolving criminal liability related to its historical U.S. private banking business. In 2016, Julius Baer entered into a deferred prosecution agreement with the U.S. Attorney’s Office for the Southern District of New York, becoming one of the first Swiss banks to reach a resolution with U.S. authorities outside of the Swiss Bank Program. Julius Baer reached this relatively early result despite being considerably larger than any of the other Category 1 banks simultaneously vying for resolutions. In addition, the penalty component of Julius Baer’s settlement amount represented a departure of approximately 85% below the

bottom end of the recommended sentence range under the U.S. Sentencing Guidelines Manual (i.e., a lower boundary of approximately \$541 million). Julius Baer's resolution stands as the largest percentage downward departure DOJ has publicly reported in any context.

- We are representing several major Swiss Banks in the unprecedented and high visibility DOJ Swiss Bank Program which allowed Swiss Banks' to resolve potential criminal liability for helping Americans evade taxes, if they satisfied certain requirements. We have obtained non-prosecution agreements and other favorable outcomes for several Swiss banks in this Program.
  - For example, we represented BSI SA ("BSI"), one of the world's largest private banks, in the DOJ Swiss Bank Program. BSI was the first, out of approximately 100 banks participating in the Swiss Bank Program, to obtain a non-prosecution agreement.

We also represented EFG Bank ("EFG"), one of the largest banks in Switzerland, in connection with the DOJ Swiss Bank Program. We obtained a non-prosecution agreement for EFG, which was one of the largest banks in the Program. In contrast to other banks in the Program, this penalty is 1.9% of the Bank's peak U.S. assets under management. This is less than half the penalty that other banks in the Program have had to pay.

#### **E. ECONOMIC SANCTIONS**

- Our Firm represented Reza Zarrab, a Turkish gold trader charged in the Southern District of New York with engaging in hundred of millions of dollars worth of transactions that constituted money laundering, Iran Trade sanctions violations, and bank fraud. Because Mr. Zarrab acted entirely from overseas, and the only connection alleged by the government between his conduct and the United States was the transferring of funds from one foreign country to another in U.S. dollars, the case raised jurisdictional issues of first impression. Our partners William Burck and Christine Chung were featured with other New York and Washington lawyers as members of a legal "dream team" assembled by Mr. Zarrab.
- We are representing Yani Benjamin Rosenthal Hidalgo, a prominent Honduran businessman and former candidate for president in that country, in defending against a criminal charge, brought in the Southern District of New York, that he and businesses in which his family has interests engaged in laundering funds that were the proceeds of international drug trafficking and bribery. Mr. Rosenthal is also contesting OFAC's determination to designate him under the so-called Drug Kingpin Act as a Specially Designated Narcotics Trafficker.
- One of our partners represented Mahmoud Reza Banki in obtaining reversal in the Second Circuit Court of Appeals of criminal convictions on charges of violating the Iran Trade Regulations and operating an illegal money transmitting business. The government maintained that Mr. Banki was violating the law by receiving funds from his family in Iran, through a "hawala" money transfer service. The reversal resulted in the vacating of a sentence of 30 months' imprisonment.
- We are defending a multinational commodities trading company in investigations by the U.S. Department of Justice, the U.S. Attorney's Office for the Southern District of New York, and the Manhattan District Attorney's Office of alleged violations of U.S. trade sanctions on doing business in Iran, Sudan and Cuba.

- A partner defended an Iranian-American client in a trade sanctions case. The client received Presidential Pardon in the so-called Iranian "prisoner exchange" in 2016.
- We provided Iran sanctions compliance advice to one of the largest bulk material supply companies in the Middle East.
- One of our partners represented a U.S. manufacturer of refrigerators, washing machines, and other "white goods" in an investigation and voluntary disclosure to government investigators regarding potential sanctions violations in connection with shipment of restaurant equipment to Cuba.
- Quinn Emanuel represented a Dubai-based company in connection with a DOJ criminal investigation into its relationships with sanctioned companies operating in the Middle East and Africa, ultimately obtaining a non-target letter from DOJ on behalf of our client.
- Our partners advised an international trading company on various compliance issues related to transactions involving Russian counterparties.
- We advised a sovereign wealth fund on issues related to U.S. trade sanctions.
- On behalf of a multinational corporation, we conducted an internal investigation in the Middle East of alleged FCPA violations, money laundering, trade sanctions violations, and fraud.
- Our Firm advised a global shipbuilding company on compliance issues related to their business with sanctioned countries, including Cuba and Sudan.
- We assisted a Swiss chemical company in applying to OFAC for the release of funds that had been blocked pursuant to the Russian sanctions regime.

## **F. FRAUD**

- *Securities Fraud Acquittal.* We represented David Demos, a former trader and managing director at Cantor Fitzgerald & Co., who was indicted on five counts of securities fraud. Demos was acquitted of all charges.
- *Complete Dismissal in AIG matter.* We obtained a complete dismissal, with prejudice, of a major False Claims Act case against AIG that alleged AIG defrauded the Federal Reserve Bank of New York by hundreds of millions of dollars during the financial crisis. The case, brought by a former AIG human resources executive-turned-whistleblower, alleged that two insurance subsidiaries that AIG sold to the Federal Reserve in exchange for \$25 billion in debt reduction had, for decades, engaged in unlicensed insurance business in New York. The plaintiff alleged that AIG was complicit in the illegal insurance activity, concealed it from regulators, and deliberately misled the Fed during the negotiations in order to consummate the transaction. This case posed a potential \$2.5 billion liability for AIG under the False Claims Act's treble damages provision. We previously convinced the Justice Department to decline to intervene in the suit, and after a three-hour long oral argument on our motion to dismiss, we have now obtained a complete dismissal, with prejudice, in an opinion that adopted nearly every one of

our arguments and found that any attempt by the plaintiff to supplement his complaint would be futile.

- *Diaz DOJ and SEC Investigation.* Martin Diaz-Alvarez is one of Mexico's most prominent bankers. In 2014, the Mexican government falsely accused Mr. Diaz of a \$500 million fraud involving the collapse of Oceanografia S.A. de C.V. ("Oceanografia"), Mexico's largest oil services company. This is the largest financial fraud case in the history of Latin America. We successfully extricated Mr. Diaz from parallel DOJ and SEC investigations.
- *Time-Served Sentence.* We obtained a sentence of "time served" (only 4 months) for Isidoro Garbarino, who had been indicted for defrauding customs out of millions of dollars of duties for Russian and Iranian caviar and then fled the U.S. for more than 20 years.
- *SEC Declines to Bring Charges Against Apple.* We were selected by Vice President Al Gore to represent a special committee of the board of Apple in connection with an investigation into Steve Jobs' approval and personal receipt of backdated stock options. The U.S. Securities and Exchange Commission specifically cited the quality of our investigation as a factor in declining to bring charges against the company.

#### **F. ASSET FORFEITURE**

- *Favorable Resolution of Asset-Forfeiture Case.* We successfully represented the Vice President of Equatorial Guinea in a precedent-setting civil forfeiture proceeding brought by the DOJ that raised novel issues regarding the role of foreign law under the U.S. money laundering statutes. We successfully resolved the case.
- *Criminal Copyright Case.* We represented Megaupload Limited in the largest copyright case in U.S. history in connection with criminal charges brought by the DOJ and successfully set aside a restraint order that had frozen the client's assets located in Hong Kong.

#### **G. EMPLOYMENT/IMMIGRATION**

- *Dismissal of All Felony Charges.* We represented IFCO executives charged with immigration violations after the government detected undocumented workers at the company's factories. We won dismissal of all felony charges, and the case settled for a misdemeanor fine of less than \$10,000.

#### **H. CAMPAIGN FINANCE LAW VIOLATIONS**

- We represented Steve Bonner, the former CEO of Cancer Treatment Centers of America, in an internal investigation regarding serious campaign finance law violations that had occurred at the company over the last decade. We secured a favorable conciliation agreement for our client with the Federal Election Commission for our client, which declined a referral of the matter to the DOJ.

#### **I. ENVIRONMENTAL**



- *Pre-Trial Dismissal and Jury Acquittal in BP Deepwater Horizon matter.* We obtained pre-trial dismissal of the most serious charges related to the BP Deepwater Horizon Explosion & Oil Spill, and subsequently obtained an acquittal at trial on all remaining charges. We represented an individual facing 23 federal criminal counts arising out of the BP Oil Spill. He was accused of causing oil pollution and manslaughter. Over a three-year period, we first obtained dismissal of all the manslaughter counts before trial on the grounds that the statutes the government was prosecuting under did not apply to off-shore activities at that point in the ocean. As to the remaining counts, a jury unanimously acquitted our client, finding that he did not cause the disaster. The acquittal was covered extensively by *The Wall Street Journal*, *New York Times*, *Houston Chronicle*, and *Texas Monthly*.

## **J. CRIMINAL ANTI-TRUST**

- *Not Guilty Verdict.* One of our partners represented Manuli Rubber Industries of Italy executive Francesco Scaglia in the “Marine Hose Price Fixing Cartel” trial in West Palm Beach, Florida. The case was one of the largest international criminal antitrust cases ever prosecuted by the Department of Justice. The jury returned its “not guilty” verdict within hours after a month-long trial.
- We represent a pharmaceutical client in a criminal investigation launched by the U.S. Department of Justice’s Criminal Antitrust Division in Washington, D.C. concerning price increases for generic drugs. The Grand Jury subpoena was served by the Department of Justice in an ongoing investigation into alleged price fixing by key players in the generic drug industry that was commenced in late-2014. The recent rise in the prices of generic drugs in the United States also has been the subject of a congressional inquiry.
- One of our partners represented a broker-dealer in connection with a criminal antitrust investigation by the Department of Justice arising out of alleged bid-rigging in the municipal derivatives market.
- We obtained a grant of leniency from the Department of Justice for a company whose employees had engaged in an international price-fixing scheme related to the internet marketplace for consumer goods.