

White Collar Group Of The Year: Willkie Farr

By **Hayley Fowler**

Law360 (February 6, 2018, 3:20 PM EST) -- Willkie Farr & Gallagher LLP won a rare Second Circuit reversal of a former Rabobank employee's conviction for Libor manipulation and secured a nearly \$4.8 million settlement on behalf of an investment firm facing a Securities and Exchange Commission investigation, landing it among Law360's 2017 White Collar Groups of the Year.

The firm's white collar defense practice has just 12 partners across offices in New York, Washington, D.C., London and Paris. But Peter Burrell, who leads the practice area in London, said those attorneys possess tremendous dedication when compared with practice groups at larger firms.

"I think it is that degree of specialism and focus in this area that sets us aside," he said.

Despite the firm's size, partners in Willkie's New York and London offices worked together to exonerate Rabobank's former global head of liquidity and finance Anthony Allen from Libor manipulation charges, underscoring the type of cross-border teamwork the practice is known for, said Bill Stellmach, the Washington, D.C.-based practice co-chair.

"I think it's truly one law firm," he said. "We're not a franchise that has opened offices around the world. It's not a firm in which the sun never sets, by choice. I mean we want to have the best lawyers in the places we operate in."

Willkie attorneys said the team's landmark victory at the Second Circuit is indicative of that approach.

In July, a Second Circuit panel vacated Allen's conviction after finding federal prosecutors relied on inadmissible testimony obtained by authorities in the United Kingdom.

"It's about the greatest thrill that any lawyer can have," said Michael Schachter, Willkie's white collar defense co-chair in New York. "To be able to deliver the news that the stresses that an individual faced through years of government investigation are finally behind them and they can move forward with their lives."

Willkie won because of compelled testimony collected by the U.K.'s Financial Conduct Authority during



its own investigation, which the Second Circuit said could not be used in U.S. criminal cases even when legally compelled by foreign authorities.

Burrell said his office helped explain U.K. financial law related to compelled testimony — which authorities there used to force Allen's testimony by threat of imprisonment — for Schachter's arguments before the Second Circuit. Using that framework, Schachter convinced the appeals court that the testimony was involuntary and self-incriminating, which is not allowed under the Fifth Amendment.

The Department of Justice could still appeal Allen's case to the U.S. Supreme Court, but Schachter said he hopes the Second Circuit decision will encourage U.S. authorities to think twice about pursuing foreign citizens who are already under investigation in their home countries.

"Here, these people were already under investigation in the U.K. — they're U.K. citizens," he said. "Unless we've run out of crime here in the United States, there's really no need for the Justice Department to stretch to bring those kinds of cases."

Burrell said the impact has already been tangible.

"We have seen the jurisdictional aspects of that matter come to the fore in other cases where the DOJ has declined to pursue the matter," he said. "We've also seen more careful coordination between the authorities to ensure that similar sorts of issues don't arise again."

In addition to its victory for Allen, Willkie's white collar defense practice also obtained a favorable settlement for a hedge fund client.

In August, the firm represented hedge fund Deerfield Management Co. in a settlement with the DOJ over claims its former analysts profited from Medicare-related inside information.

Deerfield agreed to pay nearly \$4.8 million without admitting or denying the allegations. Schachter declined to comment as a related criminal matter is still ongoing.

Willkie attorneys are also representing Adidas employee James Gatto, who was accused in November of paying college basketball players to play for certain schools in a widespread bribery scheme. The case is ongoing.

But sometimes the firm's biggest victories never see the public eye.

"So often in white collar matters, the greatest successes never are revealed publicly," Schachter said. "The greatest thing that can happen in any white collar defense is that you represent somebody or some entity through an investigation and you successfully persuade the government that no charges are warranted, in which case the matter remains forever confidential."

--Additional reporting by Jody Godoy. Editing by Jeremy Barker.

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