

MVP: Willkie's Michael Schachter

Law360, New York (December 20, 2017, 3:18 PM EST) --Michael Schachter of Willkie Farr & Gallagher LLP has scored a series of wins this year, including the rare reversal of a conviction in a case involving former Rabobank employees accused of manipulating the London Interbank Offered Rate, landing him among Law360's 2017 White Collar MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Schachter's biggest success this year was persuading the Second Circuit to reverse the conviction of his client Anthony Allen, a British former trader at Rabobank whom a federal jury in New York had convicted in 2015 on charges including wire fraud conspiracy and bank fraud. Allen had been convicted in the trial alongside Anthony Conti, a British man who was a senior trader at the bank. U.S. District Judge Jed Rakoff, who oversaw the trial, had even sentenced Allen the following year to two years in prison.

But at the start of oral arguments before a three-judge Second Circuit panel in January, U.S. Circuit Judge José Alberto Cabranes began with a question that was a perfect setup for Schachter's argument. Why, the judge asked, had the U.S. Department of Justice set its sights on what he said were "young and relatively low-level employees" of a Dutch bank in London not well-known in the U.S.? Schachter said the question got to what he saw as the central problem with the case — the U.S. government's pursuit of two men he said had already been under investigation in their home country.

"This is a topic which I am very pleased to begin with," Schachter had responded to Judge Cabranes. "And the answer to your Honor's question is I have not the slightest idea."

The Second Circuit overturned the convictions in July of this year.

The logo consists of the letters 'MVP' in a blue, serif font. The letter 'V' is partially enclosed by a red circle with an arrow pointing upwards and to the right, suggesting a 'winner' or 'top performer'.

**Michael
Schachter**
Willkie

The greatest reward of his work on behalf of Allen, whom he had represented since 2012 in the investigation by authorities in the U.K., was the ability to put his client's mind at ease, he said.

"There is really, I think, for any white collar lawyer, or any lawyer really, no greater thrill than the opportunity to call a client and deliver the news that this long and unbelievably stressful experience for him and his family is behind him," Schachter said.

HIS BIGGEST CHALLENGE THIS YEAR:

Schachter said the year posed no challenge greater than the hurdle of getting Allen's conviction reversed. He said he continued to believe, even after the trial, that he and his team had shown that the government had not proven its case that Allen had violated any wire fraud or conspiracy laws.

The government had accused the two men of rigging the London Interbank Offered Rate in favor of their other banker friends. Allen had made the rare decision to testify at his trial, a move that highlighted his difficulty explaining messages he had sent to friends. A couple of other Rabobank traders had pled guilty to their role in the alleged scheme, and Rabobank itself had agreed to pay \$325 million as part of a deferred prosecution agreement with the DOJ.

Although he believed his client had done no wrong, the path to a successful appeal is always steep, Schachter said.

"While we always believed firmly in the strength of many of our arguments on appeal, the reality is that getting a criminal conviction reversed is always a difficult challenge," he said. "But I believed there were many significant legal issues that we'd presented on appeal that we thought had a very strong chance of persuading the court of appeals that the conviction should be reversed."

OTHER NOTABLE CASES:

Schachter had also represented the hedge fund Deerfield Management Co. in reaching a \$4.6 million settlement in August with the SEC in the agency's insider trading case against the company.

The SEC's charges that the company lacked proper tools to prevent insider trading carried high stakes for the company, especially since prosecutors in New York's Southern District had also filed criminal charges against two of its analysts. The alleged scheme, which prosecutors said spanned two years, involved trades at Deerfield made with alleged tips from an employee at the Centers for Medicare and Medicaid Service.

Schachter declined to comment on that case, citing the settlement, but said broadly, "If all goes well, usually the representations I have remain confidential, because we're able to convince the government not to pursue charges."

"I've had successes this past year that I'm extremely happy about," he said.

WHY HE IS A WHITE COLLAR ATTORNEY:

Before his defense career, Schachter had been an assistant U.S. attorney in the Southern District of New York, prosecuting high-profile white collar cases and even winning the conviction of lifestyle entrepreneur Martha Stewart for illicit stock trading. But the end result of even successful prosecutions could be complicated. On one hand, it was a pursuit driven by a worthy quest for truth, he said; on the other, it pushed convicts into prison.

“There is tremendous satisfaction as a prosecutor in helping the truth be revealed in the courtroom,” he said. “But there is not great joy in the conviction or sentencing of the people I was prosecuting. I think for most prosecutors who take their jobs seriously, that’s not a joyful moment.”

White collar defense, on the other hand, enabled him to stay within the same system but occupy a different place, one that advocated hard for the freedom of accused defendants or at least the mitigation of punishment. He believes his clients are generally deserving of that advocacy and compassion even regardless of guilt.

“In white collar matters, even where someone has crossed a line, it does not define them as people,” he said. “It is often tied to an error in judgment, but it does not define them and doesn’t change that they may be good people, good members of their community.”

“I still welcome the opportunity to help them,” he said.

— *As told to Sindhu Sundar*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2017 MVP winners after reviewing more than 1,000 submissions.