

White Collar Group Of The Year: Covington

By **Evan Weinberger**

Law360, New York (January 18, 2012, 7:25 PM ET) -- The previous year saw Covington & Burling LLP's white collar defense and investigations group defend high-profile companies and individuals in jurisdictions stretching from Washington to Kiev, and in cases ranging from pharmaceutical and securities enforcement to high-stakes political persecutions, earning the group a spot on Law360's list of White Collar Groups of 2011.

The breadth and scope of the work Covington's white collar group completed during 2011 was evidence of the quality that the group, and the entire firm, have to offer, said Bruce Baird, a co-chair of the practice.

"If all we had was pharmaceutical investigations, we'd have the premier practice in that," he said. "If all we had was securities litigation, we'd have a nationally rated practice in that."

Part of the strength that Covington has is the large number of its attorneys who have worked both for the government and the firm, said Nancy Kestenbaum, a co-chair of the white collar group.

"We really can combine both the regulatory expertise and white collar experience to get the best results in these cases," she said.

The list of Covington partners who have come to the firm after filling key governmental positions includes Michael Chertoff, the former Secretary of Homeland Security, while firm alumni currently serving in government include Attorney General Eric Holder.

"Given that experience, we're well-equipped to predict how regulators will react to our clients' issues," Kestenbaum said.

Perhaps the largest matter that Covington's white collar group handled during 2011 was a \$40.75 million June settlement between GlaxoSmithKline LLC and the District of Columbia and 37 states over allegations of substandard manufacturing processes at a Cidra, Puerto Rico, factory.

The agreement followed a \$750 million October 2010 settlement that GSK reached to resolve criminal and civil complaints over events at the now-shuttered factory, where the company manufactured the popular antidepressant Paxil, diabetes medication Avandamet and other drugs.

The allegedly faulty manufacturing occurred at the Cidra facility, which was owned by SB Pharmco Puerto Rico Inc., a subsidiary of GSK's parent company, according to authorities.

Covington's white collar team also represented Wells Fargo & Co. and its subsidiary Wells Fargo Financial Inc. in an \$85 million settlement with the Federal Reserve Board of mortgage-related claims.

Regulators at the Fed alleged that Wells Fargo Financial pushed borrowers who were eligible for lower interest prime mortgages into subprime loans at higher interest rates. The Fed also alleged Wells Fargo Financial employees pumped up income statements in order to make it look like borrowers qualified for mortgages they could not afford.

As part of the settlement, Wells Fargo neither confirmed nor denied guilt. Wells Fargo also agreed to pay restitution to affected customers.

Covington's white collar group was involved in a number of other major defenses, including convincing the Second Circuit in August to overturn the high-profile conviction of Robert Graham, an ex-senior vice president and assistant general counsel of Gen Re, who was accused of participating in a \$500 million accounting scandal. The Second Circuit's ruling freed Graham, who was represented by Covington's Alan Vinegrad, from a looming 366-day prison term.

Vinegrad and Jason P. Criss also defended Chevron Corp. attorney Ricardo Reis Veiga from charges that he misled the Ecuadorean government about environmental remediation in the Amazon rain forest.

Veiga allegedly told the government that Texaco, now owned by Chevron, had finished remediating more than 100 mines in the Ecuadorean rainforest.

The cleanup is at the heart of an 18-year-old dispute between the oil giant and a group of about 30,000 Ecuadoreans who live near the contaminated area and say Chevron is liable for the pollution, which has allegedly caused rampant environmental and health problems for indigenous residents.

A judge in Ecuador tossed the criminal charges against Veiga in June, saying prosecutors had failed to show the defendant had misled the government. In August, an appeals court upheld the decision.

Another high-profile international case that the Covington group was involved with in 2011 was the defense of former Ukrainian Prime Minister Yulia Tymoshenko, the victim of alleged political persecution by the country's current president, Viktor Yanukovich, a longtime foe.

Authorities in Ukraine charged Tymoshenko with abuse of power and improper use of budgetary funds related to the handling of revenues received in 2009 from the exchange of carbon emission credits under the Kyoto Protocol. Tymoshenko was also charged with abuse of power related to Ukraine's purchase of 1000 Opel Combo vehicles and other medical equipment under a contract with Austrian company Vamed Engineering GmbH & Co KG.

A team of Covington attorneys, including Baird, investigated the charges and found there was no basis for them. They were eventually tossed.

"It wasn't too hard to conclude that what they were doing was utterly political," Baird said.

Tymoshenko, a key figure in the 2004 Orange Revolution that toppled Yanukovich and Ukraine's authoritarian government, was eventually convicted on other charges that international observers have called political, and sentenced in October to seven years in prison.

“They rammed the trial through before any work could get done on the other side,” Baird said.

While Covington is proud of its international work, it is also focusing on its domestic practice. And with the ever-increasing number of potential criminal violations, that practice is sure to grow in the near future.

Baird noted that as of a few years ago, there were few, if any, criminal environmental, pharmaceutical or Foreign Corrupt Practices Act cases.

“These are areas that really didn't exist a few years ago, as criminal areas,” he said.

Covington has taken the lead in those types of cases, and will continue to do so with any future novel criminal prosecutions that arise.

Methodology: In November, Law360 solicited submissions from over 500 law firms for its practice group of the year series. The more than 550 submissions received were reviewed by a committee of Law360 editors. Winners were selected based on the significance of the litigation wins or deals worked on; the size and complexity of the litigation wins or deals worked on; and the number of significant, large or complex deals the firms worked on or lawsuits the firm had wins in. Only accomplishments from Dec. 1, 2010, to Dec. 1, 2011, were considered.

--Additional reporting by Martin Bricketto and Ian Thoms. Editing by Andrew Park.

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