

White Collar MVP: Covington's Alan Vinegrad

By Ian Thoms

Law360, New York (November 28, 2011, 5:10 PM ET) -- Earlier this year, Covington & Burling LLP partner Alan Vinegrad convinced the Second Circuit to overturn a high-profile conviction of a General Re Corp. executive accused of participating in a \$500 million accounting scandal, freeing his client from a looming 366-day prison sentence and earning him a spot on Law360's list of White Collar MVPs.

Vinegrad represented Robert Graham, an ex-senior vice president and assistant general counsel of Gen Re, during one of the most-watched securities fraud prosecutions in recent history.

In 2008, a federal jury in Connecticut convicted Graham and three other Gen Re officers of engineering two bogus reinsurance deals that boosted American International Group Inc.'s depleted loss reserves by \$500 million.

AIG allegedly ordered the transactions in 2000 to placate analysts who were worried by a reduction in the insurer's loss reserves — an insurer's liabilities on its balance sheet that reflect expected claims on insurance contracts.

On appeal, Vinegrad and other defense attorneys argued that the lower court had allowed misleading stock-price evidence and improperly instructed the jury on loss causation.

"The jury was left without any guidance on loss causation," Vinegrad said. "That was a key point at trial, and it became an important aspect of the appeal."

In trying to accommodate competing descriptions of loss causation proffered by the defendants and prosecutors, U.S. District Judge Christopher F. Droney had mistakenly submitted jury instructions that lacked either definition.



Alan Vinegrad

“The court fashioned a compromise from the parties' submissions, but neglected to include either side's causation instruction,” a three-judge panel for the Second Circuit ruled. “Vacatur is thus warranted because it is improbable, let alone 'absolutely certain,' that the jury based its verdict on a properly instructed ground.”

The mistake helped lead to the Second Circuit's August decision overturning the convictions of Graham and the others.

During the case, Vinegrad demonstrated his unparalleled attention to detail and hands-on approach to litigating, according to colleagues. Whereas some senior attorneys rely on more junior counselors to handle a case's legwork, Vinegrad throws himself into the minutiae of a case, they say.

"I think what really distinguishes Alan from other great lawyers, particularly among other great senior lawyers, is he's someone who really immerses himself in the facts of a case," said Jason P. Criss of Covington & Burling.

Criss and Vinegrad have worked together for nearly 10 years, and earlier this year, they won another high-profile case for an in-house attorney. Vinegrad says he doesn't set out to represent fellow attorneys, but they make for good clients, given their attention to detail and knowledge of the process.

Criss and Vinegrad defended Chevron attorney Ricardo Reis Veiga from charges that he misled the Ecuadorean government about environmental remediation in the Amazon rainforest.

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.

Veiga defended Texaco against various multibillion-dollar lawsuits over the contamination. As a result, he was targeted by plaintiffs who persuaded the government to bring criminal charges against the attorney in hopes of pressuring Chevron into settling the civil cases, according to Covington & Burling.

"There was compelling evidence showing that the plaintiffs had basically engineered the prosecution of Mr. Veiga by exerting pressure on the Ecuadorian government," Vinegrad said. "The prosecution was really a sham."

To battle the allegedly trumped-up charges, Vinegrad and Criss conducted discovery proceedings in the U.S. and defended Veiga during court proceedings in Ecuador, which required the New York attorneys to take a crash course in the country's legal process.

"It was an interesting experience. We went down there, and the hearing was in this hot, crowded room, and you sat there all day long on a folding chair. The judge was flanked by armed military soldiers," Vinegrad said. "It's a very different legal system, but we were fortunate to have some great local counsel to help us."

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.

--Editing by Lindsay Naylor.

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