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By C. Ryan Barber

## THE REGULATOR WHISPERERS

Covington uses its knowledge of—and respect for—the DOJ to win big for clients.

FROM LEFT Eric Holder Jr., Steven Fagell, Lanny Breuer, Nancy Kestenbaum, Mythili Raman

## LITIGATION

WHITE COLLAR/REGULATORY

**I****N THE JUDGE'S ROBIN ROOM, COVINGTON & BURLING PARTNER** Nancy Kestenbaum could sense they had made an impression.

It was March 2017 at a federal courthouse in New Jersey and Kestenbaum and her co-counsel, former Secretary of Homeland Security Secretary Michael Chertoff, were trying to keep David Samson out of jail. Samson had resigned as chairman of the Port Authority of New York and New Jersey after getting caught up in the criminal investigation into the politically motivated move by Gov. Chris Christie's aides to close lanes on the George Washington Bridge. He avoided charges directly related to the so-called Bridgewater scandal.

But when the investigation morphed into a bribery probe centering on the "chairman's flight"—his name for a United flight between Newark and South Carolina that accommodated Samson's weekend trips to a vacation home—damning email evidence prompted Samson to plead guilty in 2016 to using his influence to force the airline to reinstate his cherished flight. As part of the plea deal negotiated by Covington, Samson faced a government push for him to serve two years.

Making the case for a lighter sentence, Chertoff pointed to Samson's long career of public service, which he argued was blemished by a single lapse.

"I realized that we were able to paint the picture," Kestenbaum says, "and bring to life the actual human that was Mr. Samson, not the villain that had been portrayed in the press." Samson was sentenced to a year of house arrest at his South Carolina home and four years of probation.

Samson's sentencing was just one of the many high-profile cases in which Covington secured favorable outcomes for clients, often in an emotionally charged climate. For instance, when Uber Technologies Inc. was faced with allegations of a toxic

corporate culture, it hired former U.S. Attorney General Eric Holder Jr., a partner at the firm, for help. Holder's report was transformative for the company, recommending closer board oversight, better training and "a robust and effective complaint process."

Covington's understanding of the workings of the Justice Department was put to work to score favorable resolutions for clients. When confronted with criminal charges over its airbag scandal, Takata Corp. turned to Covington to negotiate a plea deal that reflected its position in the market and would allow it to continue operating.

"In Takata, it was a complicated and stressful situation," says Covington partner Lanny Breuer, a former assistant attorney general for the criminal division. "It was important that the Department came to rely upon us, to believe—accurately—we were in fact digging deep, revealing the facts and being understandable." When the deal was finalized, prosecutors praised Covington's full cooperation on behalf of Takata.

Behind the scenes, the firm's white-collar specialists scored declinations from the Justice Department, namely in a years-long foreign bribery investigation into the beverage giant AB InBev's efforts in India. The company, represented by Covington's Breuer and Steven Fagell, reached a settlement with the Securities and Exchange Commission, but without admitting or denying allegations that it violated the accounting provisions of the Foreign Corrupt Practices Act.

Covington is poised to stay in the spotlight into 2018. On Dec. 1, President Donald Trump's former national security adviser Michael Flynn pleaded guilty to one count of lying to the FBI about calls with the Russian ambassador during the transition, in a plea deal negotiated by Covington partners Robert Kelner and Stephen Anthony.

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