

White Collar Group Of The Year: Steptoe

By **Natalie Rodriguez**

Law360, New York (January 24, 2012, 6:55 PM ET) -- With high-profile trial wins, such as the acquittal of GlaxoSmithKline PLC's counsel Lauren Stevens in a federal obstruction case, and successful closed-door negotiations, including the one secured for indicted tax attorney Evan H. Snapper, Steptoe & Johnson LLP continued to bolster its industry reputation last year, earning it a spot on Law360's White Collar Groups of 2011.

The Washington-based practice group is a relatively small part of the international firm, with five core partners and about a dozen other lawyers spread throughout the firm's national offices. But having carved out a reputation for representing individuals in headline-grabbing cases, it litigates an average of one to three major trials a year, which is rare for the white collar industry, the firm says.

"We're known for taking hard cases to trial and achieving success," Brian Heberlig, head of Steptoe's white collar criminal defense group, said. "That allows us to have a lot of credibility when dealing with prosecutors and, when appropriate, to negotiate a favorable deal for a client."

The group has grown considerably over the past decade from being a one-man practice of partner Reid H. Weingarten, Heberlig said.

"Reid is a very well-known outward leader, but people know when they hire Reid, they're hiring more than just him. Our practice group has grown in size and depth," Heberlig said.

The group boasts a strong bench of lawyers who have served on the other side of the courtroom.

"In our New York office alone, we have several former federal prosecutors, two former state prosecutors and two former U.S. Supreme Court clerks, so there's a lot of folks who have done time in the government," said partner Evan Barr, who spent a decade in the U.S. attorney's office in between his two stints with Steptoe.

Often, the firm is called in before there's even been an indictment to defend a client who is involved in a grand jury investigation.

"It's the less glorified part of our practice because the best successes are never known, but it's very gratifying if you resolve the matter with no charges," Heberlig said. "A grand jury indictment can have a huge impact on a client's life."

And in many of these instances, the firm's standing with federal prosecutors is a beneficial factor.

"If they bring it and indict it, they know they're going to have a real fight on their hands," Heberlig said.

One of the firm's most significant cases that was fought in the courtroom last year involved representing Lauren Stevens, who was associate general counsel for GSK. Indicted on six criminal counts of federal obstruction and making false statements, Stevens was accused of trying to hide evidence that doctors were paid by the pharmaceutical company to promote Wellbutrin SR's use for unauthorized conditions, including obesity.

Partner Bill Hassler, who co-led the case's team with Weingarten, called the case one of the biggest events of his career.

"We took complicated scientific facts in off-label regulations and medical uses of approved drugs and explained why our client's labeling was truthful and honest to a lay jury and to the judge," Hassler said.

It was also a tough one for Hassler, as he believed Stevens was not guilty.

"Representing someone you think is innocent puts extra pressure. You feel the blame if you don't get the desired outcome. But thanks to hard work and good facts we managed to get the acquittal," Hassler said.

The group's defense team objected 200 times during the case, none of which was overruled, before filing a Rule 29 motion arguing that the prosecutors hadn't come close to proving any of its charges, the firm said.

The dismissal on May 10 marked the first time in 7 1/2 years on the federal bench that U.S. District Judge Roger W. Titus granted an acquittal before the defense had called its first witness, Steptoe said.

Such high-profile trials have made Steptoe enough of a household name that it was called out by the mainstream media covering the Penn State University scandal last year as potential counsel for embroiled football coach, the late Joseph Paterno.

But the firm maintains that its success is due to having a well-rounded group, not just one that relies on its litigation skills.

"We achieve a lot of great results behind the scenes through negotiations," Barr said.

Such work was vital in representing Evan Snapper, a former partner with New York-based wealth management firm Anchin Block & Anchin, over allegations of campaign finance violations, according to Barr, who served as lead counsel. Snapper was accused of helping novelist Patricia Cromwell, make about \$48,000 in illegal contributions to Hillary Clinton's 2008 presidential campaign.

"We came in as replacement counsel, as we often do, and we were able to get him a cooperation agreement from the Department of Justice," Barr said.

Snapper had been facing up to 16 months in prison and a potential fine of \$30,000, but Barr's team negotiated prosecutors down to 3-years probation, 90 days of home confinement and a \$3,000 fine.

In a similar case, Steptoe's white collar group managed to get Anthony Cuti, the former CEO for Duane Reade Inc. who was accused of securities fraud, a sentence that was less than a quarter of the maximum he was facing. Instead of serving 17 to 21 years in prison over the losses suffered by the private equity firm that bought the retailer in 2004, a federal judge sentenced Cuti to 3 years in prison and fined him \$5 million. An appeal is pending.

Coming in as replacement counsel, as it did with Snapper, is a common scenario for Steptoe's white collar practice.

"Clients get wise to the fact that they're going to need a specialist in the area with ties to the U.S. attorney's office and government. We're often brought in to clean up tough situations. You can't just go ahead and use the lawyer you used in a matrimonial or real estate dispute," Barr said.

The firm is also regularly called in to handle public corruption cases, partially due to Weingarten's private practice background and extensive client list.

"We bring a deep knowledge of public corruption statutes and know how to handle both the legal and political side of the case," Heberlig said.

One such case currently on the group's plate is representing former U.S. Rep. Rick Renzi, R-Ariz., over charges of extortion and honest services fraud, among others. It has spent the last two years arguing that the case should not proceed because of the speech or debate clause in the U.S. Constitution, which protects "legislative acts."

But Steptoe was denied its petition to have the Supreme Court hear its argument last week. In June, the Ninth Circuit ruled that allegations that Renzi coerced a mining company into buying land from a former business partner who owed him money fell outside the clause's protections.

Also on tap for the firm next month is representing Ofer Paz, an Israeli national who consults with U.S.-based defense industry firms, over charges of violating the Foreign Corrupt Practices Act. Paz and 21 other executives were charged in the aftermath of an undercover sting operation.

It's the type of case the firm expects to see more of this coming year.

"FCPA enforcement is not going anywhere, and there's a greater emphasis on individual prosecution, which plays to our strengths," Heberlig said.

Hassler agreed, adding that a "new area growing for every white collar practice probably has to do with whistleblowers." Historically common in pharmaceutical and U.S. Department of Defense cases, the Justice Department and U.S. Securities and Exchange Commission have also recently been increasing its number of suits involving whistleblowers, he said.

The white collar group's success in the last year has come while it was recovering from the passing of former head Mark Hulkower in February from colon cancer. The loss of Hulkower was "a huge blow personally and professionally," Heberlig said, but the group has refused to slow down.

The firm's New York offices recently moved to a larger space in the W.R. Grace building with views of Bryant Park and its white collar group hopes to possibly pick up one more person this year, Barr said.

"If the right superstar prosecutor or senior defense practitioner came along, we would certainly consider it," Heberlig said. "But we have historically been cautious about those types of moves because we want to protect the brand of the practice."

And that practice's brand will undoubtedly continue to include taking on some of the toughest white collar cases in the industry.

“Reid likes to say that if it was up to him to choose his clients, he would choose the ones in the most trouble. That's where people get the most value from us,” Hassler said.

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 Lisa Uhlman. Editing by Andrew Park.

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