

MVP: Steptoe & Johnson's Alan Cohn

By Philip Rosenstein

Law360 (December 13, 2019, 4:11 PM EST) -- Steptoe & Johnson LLP partner Alan Cohn has effectively steered clients through the choppy waters of federal regulations around digital currency and blockchain, including representing SimplyVital Health in its successful remediation of SEC violations that concluded with no assessed penalty, making him one of Law360's 2019 Fintech MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Following almost a decade working for the U.S. Department of Homeland Security — most recently serving as assistant secretary for strategy planning, analysis and risk — Cohn joined Steptoe & Johnson about 4½ years ago and helped co-found its blockchain and cryptocurrency practice, which he now co-chairs.

Cohn told Law360 that he is particularly proud of the growth of the practice over the past year.

"The biggest thing I'm proud of is the continued growth of our practice here at the firm," he said, as well as "bringing in more people, increasing our capabilities, increasing our skill sets, broadening the breadth and scope of the practice, training new people and serving a wider variety of clients."

On the external-facing front, Cohn pointed to the firm's representation of SimplyVital, where the health care company consented to the entry of an SEC order in August without admitting or denying allegations that its late 2017 presale of digital tokens — known as Health Cash — violated registration requirements.

Because SimplyVital had already returned "substantially all" of the \$6.3 million it raised in the presale, the SEC agreed to order only that SimplyVital refrain from further securities violations.

HIS BIGGEST CHALLENGE THIS YEAR:

The nascent nature of blockchain and digital currency makes navigating legal frameworks that apply to digital tokens a demanding task, and Cohn said a lack of comprehensive guidance has been particularly challenging.

The MVP logo features the letters 'MVP' in a blue, serif font. The letter 'V' is partially enclosed by a red circle with an upward-pointing arrow on its right side.

Alan Cohn
Steptoe & Johnson

"This question of how do you most effectively advise clients in this space, particularly as it relates to tokens of a variety of types, what they are, what are their regulatory risks and requirements," is central to the legal work in fintech, he said.

These questions are not specific to the U.S. Securities and Exchange Commission either, which has brought actions against token issuers, Cohn said. They also apply, for example, to how the Financial Crimes Enforcement Network's regulations intersect with guidance coming from the SEC or the U.S. Commodity Futures Trading Commission, he said.

"There is a range of other considerations that a company needs to take into account for which there isn't comprehensive guidance," Cohn added. "How do you synthesize those requirements in a way that allows companies to understand their obligations to judge their risks?"

WHY HE IS A FINTECH ATTORNEY:

During his nearly 10 years in government, Cohn was tasked with overseeing the policy strategy around cybersecurity and cybercrime at DHS, which inevitably brought him into the world of cryptocurrency.

"While I was in government, it really became clear to me that government and industry were both struggling with what is the proper regulatory approach to emerging technology," he said. "And it seemed that, among emerging technologies, cryptocurrency was going to pose a particular challenge from a regulatory perspective."

Cohn saw a particular appeal to being able to help companies navigate the regulatory environment around cryptocurrency and blockchain as he planned his return to private law practice. His homeland security and government background also helps differentiate his approach to the budding fintech industry, whereas other firms' fintech groups often come to blockchain and cryptocurrency from banking or securities perspectives.

"That's our somewhat unique approach to the space," Cohn said. "It's a different perspective and I think one that's helpful in serving client needs."

HIS ADVICE TO JUNIOR ATTORNEYS:

Cohn doesn't believe there is such a thing as a "fintech" or "blockchain" attorney — at least not yet — and junior attorneys hoping to effectively represent clients in the industry need to build an area of expertise that touches those areas.

"Whether that's payments, whether that's bank regulation, whether that's litigation, public policy, tax, or another kind of regulatory issue," Cohn said, having such expertise will create value for an attorney within fintech or blockchain law firm practices.

"Start there, because you'll need that specialty as you go," he said. "Then as you do that, come up to speed on how the technology intersects with that area of law, you will start to be valuable to a team or to a senior practitioner because you will bring a particular subject area expertise."

Cohn suggests that as aspiring fintech attorneys begin to build that expertise, they should work with their peers who have experience in other subject matter areas that address "other parts of the fintech puzzle."

"Then you grow into a role where you can begin to synthesize all of those insights into an overall approach," he concluded.

--As told to Philip Rosenstein

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 2019 MVP winners after reviewing nearly 900 submissions.