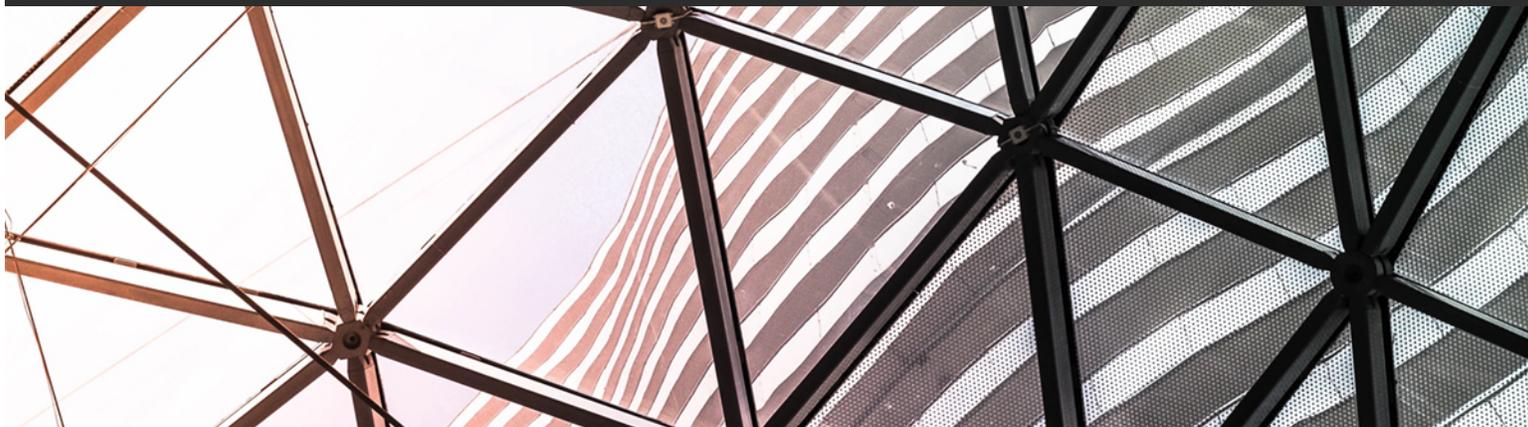


**Alert | White Collar Defense & Special Investigations**



June 2018

## GT Secures New Trial in Closely Watched Securities Fraud Case

On June 5, 2018, a team of attorneys from the [White Collar Defense & Special Investigations Practice](#) at Greenberg Traurig, LLP, obtained a new trial for their client, Michael Gramins, in a criminal conspiracy case in the District of Connecticut. Gramins, a former mortgage-backed securities trader at a large bank, was charged with nine counts of securities fraud, wire fraud, and conspiracy. At trial last year, the same team secured a not guilty verdict or a hung jury on eight of the nine counts; the lone count of conviction has now been vacated. The trial team was led by [Marc L. Mukasey](#), co-chair of the White Collar Defense & Special Investigations Practice, as well as Shareholders [Jeffrey B. Sklaroff](#), [Robert F. Frenchman](#), and [Daniel P. Filor](#).

The case, *United States v. Shapiro et al.*, 15-cr-155, was tried before The Honorable Robert N. Chatigny in 2017. After a six-week trial, the jury found Gramins not guilty on six counts, reached no verdict on two counts, and found Gramins guilty on the one count of conspiracy. The team of attorneys from Greenberg Traurig promptly filed post-trial motions challenging the lone count of conviction, and filed a supplemental brief in May 2018.

In his ruling vacating the conviction, Judge Chatigny largely adopted the arguments that Greenberg Traurig attorneys advanced in their supplemental brief. The defense had argued that the U.S. Court of Appeals for the Second Circuit's recent decision in *United States v. Litvak*, 889 F.3d 56 (2d Cir. 2018), required a new trial. In *Litvak*, the Second Circuit held that the district court in that case erred by admitting testimony from certain witnesses about their personal but mistaken beliefs that the defendant was working on their behalf. In fact, the defendant and the witnesses were engaged in arm's-length, principal-to-principal negotiations in which neither side was acting as an agent of the other. Accordingly,

the Second Circuit found that these witnesses' personal beliefs about their relationship with the defendant were irrelevant, risked confusing the jury, and should have been precluded.

In Gramins' case, the defense argued that the *Litvak* ruling required vacating the lone count of conviction against Gramins in favor of a new trial.

Less than a month after the defense filed its supplemental briefs, the trial judge issued an order agreeing that the Second Circuit's decision in *Litvak* required Gramins' conviction to be vacated and granting a new trial. In a twenty-page opinion, Judge Chatigny held that the government should not have been allowed to elicit testimony from a witness who believed Gramins and his co-workers were acting as mere "brokers" who were "facilitating" trades. The witness added that he believed Gramins and his co-workers were "doing what [the witness was] telling them to do," despite the fact that they were sophisticated counterparties negotiating against one-another.

The trial judge held that this testimony – which contradicted the government's admission that this was a principal-to-principal market – was "likely" relied upon by the jury in reaching its verdict on the lone count of conviction against Gramins. Accordingly, the judge vacated the jury's verdict and granted Gramins a new trial on that count.

This is the second major win for Greenberg Traurig's White Collar Defense and Special Investigations practice in the last two months. In a separate criminal matter, the Mukasey-led team got six counts dismissed before trial and secured an acquittal on the remaining conspiracy count after a week-long trial, also in the District of Connecticut. *United States v. Flotron*, 17-cr-220.

Between the two Connecticut cases in the last 12 months, Mukasey and team have avoided conviction on all 16 of the government's counts. Read more about both cases in the *New York Law Journal* article titled, "[Greenberg Traurig Shareholder Helps Beat Back Securities Fraud Charges.](#)"

In addition to Mukasey, Sklaroff, Frenchman, and Filor, the trial team included Greenberg Traurig Associates Daniel E. Clarkson, Kate E. Olivieri, and Kedar S. Bhatia.

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