

## Greenberg Traurig Shareholder Helps Beat Back Securities Fraud Charges

BY ROBERT STORAGE

ACCUSED of commodities fraud and lying to investors, defendants in two separate cases before federal judges in Connecticut brought in Big Law—the white collar defense and special investigation unit at Greenberg Traurig—to fight those charges.

And it worked.

Greenberg Traurig had 1,884 attorneys and nearly \$1.5 billion in gross revenue in 2017, placing it 14th on The American Lawyer's 2018 Am Law 200 ranking. Its white-collar defense team and a power player in New York, helped clients in the Connecticut cases avoid convictions on 16 of the government's counts.

The cases involved residential mortgage-backed securities, or RMBS, and allegations of spoofing, or manipulating futures markets by creating artificial stock activity. The two cases were distinct, but they had one thing in common:

Greenberg Traurig shareholder Marc Mukasey, who's based in New York City and co-chairs the firm's investigation unit.

"The government brought two misguided cases," said Mukasey, a former SEC enforcement lawyer and ex-chief in the US Attorney's Office for the Southern District of New York, who now defends high-profile executives and corporations in finance, energy, media and sports industry litigation. "The only way to defend misguided cases is to take it to them. In these two cases, we took it to them and we prevailed."

Greenberg Traurig represented Andre Flotron, a former precious metals trader at UBS Group AG, charged with one count of conspiracy to engage in commodities fraud. Its other client, former Nomura Securities International Inc. bond trader Michael Gramins, faced multiple fraud charges for allegedly conspiring to lie to clients about mortgage-bond prices.



Marc Mukasey

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Among other allegations, prosecutors claimed Gramins and co-conspirators overstated the price of securities to charge additional commission to unwitting clients. The heavily litigated case started out with a sealed indictment in September 2015, and has since generated more than 500 docket entries.

In Flotron's indictment, prosecutors alleged the trader made bids on securities, knowing he would cancel the offers without fulfilling the orders. The allegations centered on precious metals futures contracts on COMEX,

the Commodity Exchange Inc. trading platform.

But Mukasey and a team of 10 attorneys cinched victories in both cases within the past two months.

“How many times is the government going to get beaten back by courts and juries before they drop these woefully misguided RMBS cases?” he asked.

In late April, Mukasey’s team won an acquittal for Flotron. The jury found Flotron not guilty of conspiring to commit commodities fraud by manipulating prices of future contracts for gold, silver and metals using trick orders. Two months earlier, U.S. District Court Judge Jeffrey Meyer had thrown out three spoofing and three commodities fraud counts against Flotron, leaving just the conspiracy count trial. Flotron faced up to 25 years if convicted.

“We called the government’s bluff,” Mukasey said. “We said if you have a case, bring it and we will defend it. They were not ready and we beat them. The jury, I believe, thought the case was not worthy for prosecution.”

During closing arguments, Mukasey argued the government’s case was “a prosecution by statistics.” He argued there was no collaboration, as needed to prove a conspiracy charge,

and maintained the government failed to present a single document showing Flotron’s alleged wrongdoing.

As for the case against Gramins, Mukasey and his team received good news for their client Tuesday: U.S. District Judge Robert Chatigny tossed a conspiracy conviction and ordered a new trial, scheduled for July.

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About a year ago, in June 2017, a jury found Gramins guilty of one count of conspiracy to commit securities and wire fraud. It also found him not guilty of six fraud counts, but remained deadlocked on two counts. The court threw out that conviction this week.

“The government alleged that certain tactics that were widely accepted and commonly understood were all of a sudden criminal negotiating tactics,” Mukasey said. “We argued that making somewhat immaterial statements in the course of negotiating is not a crime.”

Avi Perry, of the U.S. Attorney’s Office in Connecticut prosecuted

the Flotron case. Prosecutors David Novick and Heather Cherry handled the Gramins case. Tom Carson, spokesman for the U.S. Attorney’s Office in Connecticut, said the agency would offer no comment on either case.

Mukasey said the cases in Connecticut, and similar ones elsewhere, “should be the subject of regulatory investigations, and not criminal prosecutions.”

The firm’s special investigations unit has more than 70 attorneys and more than 200 former government officials. Among other things, the unit handles cases involving embezzlement, securities fraud, insider trading and business crimes.

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