



GOODWIN Q+A

WITH RICHARD STRASSBERG

Richard Strassberg is head of Goodwin's White Collar Defense and Government Investigations practice where he specializes in white collar criminal defense, SEC enforcement proceedings, FCPA compliance and investigations, corporate internal investigations, and complex business and financial litigation. Before joining Goodwin, Strassberg served as the Chief of the Major Crimes Unit in the U.S. Attorney's Office for the Southern District of New York, overseeing approximately 25 Assistant U.S. Attorneys in the prosecution of white collar criminal cases.

He recently sat down to discuss some of the trends he's seeing in the enforcement space, the effect of the current political climate, some of his most memorable cases and the joys and perils of bringing a new puppy into his household.

What do you think will be drawing you to trial the most in the white collar space?

While the recent Varsity Blues scandal is dominating many dinner conversations, the things that are keeping me on a trial-track are the bigger, more classical white collar investigations, be they accounting fraud-type cases, tax fraud investigations or financial disclosures cases. Those have been around for a long time and are occupying quite a bit of my time now. I think everyone in my practice is waiting for what will be the next new subject to spawn a wave of government enforcement.

Do you foresee an increase or decrease in regulation moving forward within this space?

I think the regulators have been influenced by the turmoil that exists in the capital. The more independent they are, the less they are influenced by what happens in Washington, but after two and a half years, there has been an effect on the volume of enforcement activity. And so, for example, I think you see with the SEC a noticeable downturn in activity. It doesn't mean they're

not bringing enforcement investigations – they are. But the volume and the breadth are smaller than they were. That's somewhat cyclical, but I would say we haven't seen this downturn in a long time.

You've been doing defense side work for a while now. Are we in uncharted territory? Is this a different environment than what you've seen in your career?

I wouldn't say that. I would say we've had periods of time when the focus is more on promoting business interests than it is on trying to contain the risks associated with those interests. Other times there's more of a focus on reducing risk and making sure we have systems in place to try to mitigate those risks. One of the things about the investigations practice is that significant matters in the pipeline tend to take long periods of time, as complicated financial investigations often last for years, and so once they get started they tend to continue until they're resolved, regardless of what is happening in Washington.

If there is this pullback in enforcement, does that influence some business practices of your clients and how does that inform how you advise them?

It doesn't change the advice that we give and it doesn't really help the individual client. So, if the number of enforcement actions goes down by a significant percentage in a year, that is influential in the practice as a whole for practitioners like me. But for the individual client, the only thing that matters is whether they're one of the ones that are scooped up in some investigatory net. If they become the subject of an investigation, it doesn't matter whether there's 200 more or 200 less investigations occurring that year – the only investigation that matters is the one targeting them! Because the cost of being caught up in an investigation can be so high, our advice remains to put all the protective steps in place that are practicable, regardless of the trend of the moment, to enable the client to be in the best position to weather any investigatory storm that might come to their doorstep.

How has your previous experience as a prosecutor helped to shape your role at Goodwin?

Being a federal prosecutor and a senior supervisor in a U.S. Attorney's office has been very helpful in understanding how the process works, and has given me a deep knowledge of the kind of defense advocacy that is persuasive to prosecutors who are investigating a case. I draw upon that experience all the time to help advise clients on how to stay out of the line of fire of an investigation, how best to position themselves to lessen the chance that charges are pursued, or how to fight any charges that are filed against them. Having the experience and perspective of a supervisor is also very useful for those times when I have to go and make a pitch up the line about a case I really feel should not be moving forward, perhaps because the line prosecutors are a little too close to it to see that justice would not be served by filing charges.

What's your most memorable case?

I've had the good fortune of having been involved in some incredible cases, and many of them have terrific memories that stand out, so it is hard to choose just one. As a prosecutor, I tried a slavery case (the first one tried in NY in decades) that involved a couple that kept two little girls as servants to take care of their own family. At trial I got to cross examine not just the defendants, but also a witness claiming to be a

Nigerian chief who appeared in full tribal attire on the witness stand. The case had many crazy twists and turns, including testimony from one of the best fire marshals NYC has ever had, who deduced, based on the suspicious nature of a small fire set by one of the 10 year old girls in the case, that the girl was likely being abused and hand delivered a referral to the child welfare office, only to see the matter assigned to a case worker who also happened to be the very same female defendant keeping the girl as her servant! It was an incredible case, garnering substantial press at the time, and ultimately resulting in convictions at trial of the defendants.

On the defense side, one of my favorite memories occurred in the KPMG tax shelter case. At the time, it was the biggest tax case the government had ever brought, and it resulted in a fundamental change in practice, restricting the government's ability to pressure a company not to fund the defense of its employees. We represented a former KPMG partner at trial, and during my cross of the main government cooperator, I had a moment usually reserved only for the movies – catching the cooperator in a bold-faced lie, and then continually exposing his attempts to lie his way out of being caught in front of the jury. The government had been so confident of their case (no one had given us any chance of winning) that they had failed to vet their key witness's background, and we exploited that failure to change the whole complexion of the case. Rather than the government's narrative of bad accountants helping tech billionaires cheat the system, the case switched to our narrative that the jury could not rely on such a lying witness, and must doubt the government's case against our client, since they had failed to do the basic due diligence on their own cooperator that the jury should demand before voting to convict someone in a criminal case. In closing, the prosecution admitted that the cooperator "got destroyed on cross examination" and that he personally "wanted to crawl under the table" while I was examining the witness. Trial stories don't get much better than that. And it was incredibly gratifying, after we won at trial, to get a heartfelt note from the client, thanking me on behalf of his family for giving him his life back.

What makes Goodwin different from other firms?

I think Goodwin has a culture that emphasizes hard work and success, but not at the expense of having a little fun and enjoying life. In my practice area, what separates us from many of the other big firms is that we

have a well-balanced mix of representing big corporate clients and senior corporate executives. Within that mix, we have had the good fortune to be successfully involved in more trials than most of our peers, including trials involving corporate clients that are very rare, and a continual stream of trials for individuals in highly watched criminal and regulatory matters. We are trial lawyers, so I feel very lucky that we have had as many opportunities as have come our way, especially given how few cases go to trial.

How do you spend your time when not at work?

I love spending time with my four kids and my family, which sucks up most any available minute I have, and I have now have added in playing with our brand-new puppy. We resisted the puppy for a couple of years, but our 11-year-old finally broke us down earlier this year. The puppy adds to the chaos of our house, for sure, but it's also wonderful to have this puppy that everyone loves in our life; it is also amazing for me, who never had a dog growing up, to see how perfect it is for my 11-year-old daughter to finally have the puppy she has always wanted. Whenever I do get some free time, I love playing softball, and you can catch me playing on the left side of the infield in Central Park on most Sunday morning.

Favorite vacation spots?

We travel a lot, but my favorite trip was one where we – the whole family – took three months off and traveled around much of the world, through China, Mongolia, Russia (from Siberia to St Petersburg), Finland, Estonia and Norway, ending at the beach in Greece. It was truly a once in a lifetime type experience, and I am now a big fan of the Gobi Desert! This year we're staying a little closer to home, going on a whitewater rafting trip down the Salmon River in Idaho.

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