



# Andrew Tomback

## Partner

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Andrew Tomback is a partner in the Global Commercial Litigation Group and is based in the New York office. He focuses his practice on litigations and investigations involving federal securities laws, complex litigation and the Foreign Corrupt Practices Act. Andrew has over 25 years of experience drawn from business, private practice and government service. He handles a full range of civil and criminal litigation before the courts, US Securities and Exchange Commission and various other regulators.

Before entering private practice, Andrew was deputy general counsel of the Resolution Trust Corporation, where he managed several hundred attorneys handling federal savings and loan resolutions. He also served as senior advisor to the Under Secretary for Enforcement at the US Department of the Treasury. Earlier in his career, he served as an Assistant US Attorney in the criminal division of the US Attorney's Office for the Southern District of New York, where he conducted grand jury investigations and prosecuted criminal cases, concentrating on complex securities frauds, including stock manipulations, insider trading, international tax evasion enterprises and penny stock schemes. He tried 12 cases, all to conviction, and successfully argued over a dozen appeals. Andrew also clerked for the Honorable Stanley Sporkin of the US District Court for the District of Columbia.

Prior to joining McLaughlin & Stern, Andrew was senior vice president and general counsel at Scientific Games Corporation. Andrew also practiced litigation at another global law firm.

# Education

- Yale Law School (J.D., 1986)
- Yale University (B.A., Phi Beta Kappa, summa cum laude, 1982)

# Bar Admissions

- New York State Bar
- US Court of Appeals for the Second Circuit
- US District Court for the Southern District of New York
- District of Columbia Bar
- England and Wales (Registered Foreign Lawyer)

# Select Representations:

- Defended Richard Usher, former foreign exchange trader for JP Morgan Chase and Royal Bank of Scotland, after he was indicted by the DoJ for allegedly violating the Sherman Antitrust Act by rigging bids and fixing prices. He was acquitted after a three week trial before the Honorable Richard Berman (Southern District of New York)
- Conducting internal investigation of global medical device company's operations in India, South Korea, Japan, and other countries for alleged violations of the Foreign Corrupt Practices Act ("FCPA") and alleged accounting misconduct.
- Represented a ride-sharing company in the SEC's investigation of its securities offerings to drivers. The SEC ended its investigation without imposing any penalty.
- Investigated target of merger for violations of the FCPA and revenue-related accounting issues.
- Represented two senior executives of a global telecommunications firm under investigation by the FCC and Department of Justice of alleged false claims in the Lifeline program. No charges were brought against clients.
- Advised the South American Confederation of Football ("CONMEBOL") in multiple government investigations, civil disputes, and commercial contract negotiations arising from the EDNY's FIFA investigation.\*
- Represented the board of directors of an international metals fabrication company in parallel criminal and civil investigations of alleged false claims by the Department of Justice.\*

- Advised numerous AIG employees in Department of Justice and SEC investigations as well as class action lawsuits arising from (i) the departure of CEO Hank Greenberg and (ii) the credit default swap crisis and the downfall of AIG Financial Products (AIGFP) (including the principal modeler of the CDSs, the principal CDS salesman, the person responsible for the model to value the CDS portfolio for key disclosures and the chief risk officer of AIG FP). No clients were charged or lost any civil suit.\*
- Advised Skandia Insurance Ltd., the largest Swedish insurance company, in market timing and late trading investigations by the SEC and the New York Attorney General's Office, an investigation of variable annuities by the Connecticut Department of Insurance and indemnification litigation with another large insurance company.\*
- Represented a national pharmacy in multiple civil and criminal matters, including the New York Attorney General's claim that the pharmacy fraudulently violated Medicaid rules by accepting heavily discounted diverted drugs. The case was resolved without any charges against the pharmacy.\*
- Represented a leading PIPES investor before the SEC regarding claims he committed insider trading, violated short sale rules and manipulated securities.\*
- Represented a specialist of the NYSE in an enforcement investigation and successful arbitration regarding a security that ceased trading for an extended period during a secondary offering (In the Matter of X, Exchange Hearing Panel Decision 04-94).\*
- Represented a leading Liechtenstein bank and trust company in an Audit Committee investigation to evaluate compliance with US income tax and money laundering laws.\*
- Represented a senior executive in US Department of Justice Antitrust safety parts investigation.\*
- Advised a Trustee of, and major donor to, the Getty Museum in an Italian investigation of the alleged illegal export from Italy of antiquities by the museum and its curator.\*
- Advised a former Omega Advisors hedge fund employee in overcoming allegations he violated the FCPA and anti-money laundering laws by bribing the Azerbaijan President to gain an improperly large share of privatized oil industry.\*
- Represented a Bristol Myers-Squibb top executive in a criminal antitrust investigation in a case brought by Main Justice regarding alleged false statements to the FTC to delay a generic drug from competing with BMS' highly profitable Plavix.\*
- Advised the Audit Committee of a German manufacturing firm in which a major US bank had a substantial private investment in an internal investigation and a FCPA inquiry regarding improper payments to Turkey officials.\*
- Advised the Audit Committee of Safety Components, Inc. in an investigation relating to its restatement of its financial statements and FCPA issues.\*
- Represented a registered options trader in an SEC investigation of alleged insider trading – matter settled for nominal amount and no sanctions for client.\*
- Represented a stockbroker in an insider trading conspiracy involving trading based on not-yet released issues of Business Week—no charges were brought by SEC or DoJ.\*
- Represented a Controller at center of Bankers Trust's unlawful taking of escheatable funds not belonging to the bank. Client was not charged—he was a key (defense) witness at trial.\*
- Represented four targets of a Federal Reserve/SEC probe of Bankers Trust derivatives sales to Procter & Gamble and other corporations. None were charged or sanctioned.\*

- Represented victims in two international Ponzi (commodities fraud) cases as Receiver (at the recommendation of the SEC) for Judge Milton Pollack.\*
- Represented Ignacio Guerrero, Executive Director of Mexico's BITAL, in defense of SEC charges of insider trading—obtained summary judgment.\*
- Represented a national healthcare corporation before New York State Inspector General – no charges were brought.\*

## Civil

- Represented American Century Investment Management, Inc. in the US District Court for the Western District of Missouri in its pathbreaking defense of '40 Act excessive fee claims; derivative plaintiffs voluntarily dismissed the complaint and recovered nothing.\*
- Represented the Canadian government in successfully resolving a dispute against E-BEAM Services in New Jersey federal court regarding the performance of an electron beam accelerator.\*
- Represented Citibank as bondholders against Temple University for the Medical School's and affiliated entities' mismanagement that caused the failure of a nursing home backed by the bonds.\*
- Represented a major Swiss bank against charge by pharmaceutical fortune heir that the bank fraudulently self-dealed when it made hundreds of millions of Euros of failed private equity investments.\*
- Represented a gaming company in a US\$500 million civil dispute relating to alleged bid interference in a major New York State video lottery terminal bidding.\*
- Represented Prudential Insurance Company of America in its defense of substantial ERISA claims.\*
- Represented a pharmaceutical company in a substantial patent royalty dispute.\*
- Represented David Rockefeller in his recovery of the funds he paid a prominent gallery owner to purchase a painting that purportedly was a Bierstadt but in actuality was not.\*
- Represented the co-owner of AriZona Iced Tea in a multibillion-dollar dispute with the other co-owner regarding disagreements about the transferability of shares and other control issues.\*
- Represented an individual with substantial claims against an intermediary fund that failed to disclose its investment with Bernie Madoff's firm and other Madoff-related matters.\*
- Represented the Estate of Josephine Thompson in a successful US Tax Court trial against the IRS regarding the valuation of a substantial publishing business.\*
- Represented South American investor in a successful AAA arbitration involving substantial alleged losses against a private Swiss bank. The arbitrator awarded our client 100 percent of his claim, attorneys' fees and substantial punitive damages.\*
- Represented the Receiver for Suisse Security Bank & Trust, Ltd., a Bahamian bank, in litigation to recover substantial estate assets; prevailed in the First Department, twice in the Second Circuit, and multiple times in federal district court.\*
- Represented a member of the Board in the New York Stock Exchange's lawsuit against Richard Grasso.\*
- Represented a Special Committee of Nuveen's investigation of boards' of closed-end funds redemption at

par of preferred shares after auction markets froze.\*

- Represented Robert DeNiro in a successful child custody and divorce litigation.\*
- Represented pro bono, a class of homeless persons to obtain the minimum wages wrongfully denied by their employers, New York City Business Improvement Districts; received 2001 Pro Bono Service Award from the New York State Bar Association.\*

*\* Matters prior to joining McLaughlin & Stern.*

## Practice Areas

- Business Litigation
- Litigation
- Corporate Law
- Corporate and Securities