

THE
AMERICAN LAWYER

No Playbook for What They Do: Sullivan & Cromwell is the Financial Services Litigation Department of the Year Winner

By Patrick Smith

December 7, 2023

Having Sullivan & Cromwell in your corner during a high-profile investigation or bankruptcy proceeding is a bit like having a shutdown pitcher who is going to start in Game 7 of the World Series. The stakes are high and you expect to be put in a position to win.

And that is the way the firm likes it. Basically since its inception, the firm has been a go-to for complicated litigation matters in the financial services space, often handling the work that is deemed overly complex or involves so many disparate players it is hard to know where to start.

“One of the bread-and-butter practices here for decades has been financial services litigation,” Robert Giuffra Jr., co-chair of S&C and partner in its litigation group, says. “If you go back to the financial crisis, we were at the forefront of the hardest cases.”

And they still are. Giuffra credits the firm’s generalist approach and in-house talent development for creating an environment that fosters cross-practice collaboration and allows the firm to work as a true, singular team on complex matters that require input from multiple subject-



From left to right: Steven Peikin, Sharon Nelles, Robert Giuffra Jr., Nicolas Bourtin and Stephanie Wheeler. Partners at Sullivan & Cromwell.

matter experts in areas such as bank regulation and tax.

That singular team approach also allows the firm to work at speed, which Giuffra said is paramount for many of the matters they work on, including the spectacle that is the FTX bankruptcy.

In what has been described as one of the most complex bankruptcies and financial investigations ever, S&C has been working to investigate

the conditions that led to the company's collapse, as well as working with government authorities in their various probes to recover assets for defrauded shareholders.

"They have worked tirelessly and nonstop ... to take control over what can only be described as a dumpster fire in order to stop assets from being depleted," John Ray III, the new CEO of FTX, said in a statement. "Having immediate access to the entire S&C team has been critical to bringing order to what was quite literally an out-of-control, chaotic situation."

Thus far, the firm has recovered \$7.3 billion in assets for FTX.

Giuffra personally worked on another high-profile matter involving Allianz Global Investors for the firm that required speed and, in this case, "multidimensional chess." The U.S. subsidiary of Allianz SE was caught up in a larger corporate criminal case that involved the loss of \$7 billion from a structured investment fund. More than 100 institutional investors and 100,000 individuals were affected.

Giuffra says the firm saw the position its client was in and made the decision to work quickly and try and bundle the various stakeholders to try and mitigate the exposure for the client.

"This is a good example of the multidimensional chess problem," Giuffra explains. "How we

handle the civil litigation will impact the government investigations. And while we sometimes have different lawyers handling different aspects of a large case, we all need to be dancing to the same tune."

By bundling the payouts and working with the entities involved, S&C was able to settle claims by public pension funds and other investors in a matter of months for more than \$5 billion. This strategy proved paramount as the Department of Justice and the U.S. Securities and Exchange Commission gave AGI nearly full credit for these settlements, substantially offsetting the out-of-pocket cost of the government settlements.

The settlements allowed AGI to avoid billions of dollars more for alternative investment losses reflecting the gain that investors could have received with a different investment.

A full 40% of the firm's revenue comes from litigation (it does not break that down by litigation type), and Giuffra says the firm will continue to lean into its generalist mindset to create solutions for clients.

"We are a crisis management firm with a track record of handling the most difficult financial issues and getting to the bottom of them so clients can move on," Giuffra says. "With that, there is no playbook."