

Cartel - Government Investigations & Litigation

Miller & Chevalier's Criminal Antitrust Investigations Group defends companies and executives in criminal cartel investigations and related litigation. The team, which includes a former federal U.S. prosecutor, has extensive experience in antitrust criminal enforcement in the United States. We are forceful and persuasive advocates. Our goal in each case is to convince government investigators – both in the United States and abroad – not to take action against our clients. A vigorous, fact-based defense is at the heart of every case we handle. Recent experience includes the defense of companies and executives in the multi-jurisdictional investigations of the air cargo and freight forwarding industries, the auto parts industry and the generic drug industry.

Our team has extensive experience handling cases involving allegations of both domestic and global conspiracies to fix prices, rig bids and divide markets. We are adept at handling the unique challenges of global investigations, including accessing documents and evidence abroad, interviewing individuals and navigating privilege and data privacy laws. In particular, we are sensitive to cultural and language differences that are often involved in conduct that is investigated by regulators in multiple countries.

The vast majority of criminal cartel cases are resolved through plea agreement rather than going to trial. Our team has successfully resolved cartel cases on behalf of companies and executives to their benefit without the burden and expense of going to trial. We have convinced the DOJ to drop charges against our clients, negotiated fines far below those imposed in similar cases, and mitigated any collateral consequences to our clients, including tax liability. In addition, we have developed strong relationships with select local counsel in the other countries that are investigating the allegations and work seamlessly with them to craft a unified defense across the globe.

Representative Engagements

Corporations

- Defending a client in Brazil's investigation of cartel activity in the freight-forwarding industry. As part of the investigation in Brazil, members of the Cartel practice oversee a team of local lawyers and direct the company's defense in order to ensure the company is taking a consistent approach around the world.
- Obtained a *nolo contendere* (no contest) plea for a client involved in the DOJ's cartel investigation in the air cargo industry. A *nolo* plea -- under which the company would not contest the facts of the indictment, but also would not plead guilty to the underlying offense -- is rare and had not been allowed in an antitrust case for almost 20 years.
- Secured a declination to prosecute for a corporate client involved in the DOJ's cartel investigation into the freight-forwarding industry. The investigation required the team to handle the cross-border collection of documents and data in response to subpoenas and document requests from around the globe.
- Successfully defended a client against alleged freight-forwarding cartel activity in South Africa, Canada, New Zealand and other jurisdictions where competition authorities have declined to bring charges.
- Represented a company in one of the European Union's largest investigations into cartel conduct. The team presented evidence and argument in the client's defense through submission of legal briefs, and appeared before the European Commission in Brussels for a four-day hearing. The case is now on appeal, where the team vigorously contests liability and the fine amount.

Individuals

- Successfully represented a mid-level executive in a DOJ investigation into price-fixing, bid-rigging and market allocation in the polyester staple industry. The client was a target of the investigation which yielded guilty pleas from other individual and corporate defendants, but after a coordinated defense declination presentation, DOJ decided not to indict the client, his employer, or other individuals employed by the company.
- Preparing a vigorous defense of a Japanese executive who has been carved out for possible prosecution in the DOJ's auto parts cartel investigation. The client was previously represented by another firm but recently retained Miller & Chevalier. After analyzing evidence provided by the government and company counsel, and after collecting additional documents and information, the team has developed several strong defenses that previously were overlooked.
- Representing an individual carved out by the DOJ in the ongoing auto parts cartel investigation in an effort to convince the government not to prosecute the individual.
- Defending an executive against prosecution in a new auto parts cartel investigation conducted by the DOJ. The executive's company recommended the team after it successfully defended another of the company's executives against prosecution in a prior auto parts investigation.
- Successfully defended three Japanese executives involved in the DOJ's ongoing cartel investigation into the auto parts industry. Members of the Cartel practice coordinated with company and individual counsel to fully develop the factual records to ensure that all relevant documents had been collected and provided for analysis, and to discuss all possible approaches to the defenses. The team developed factual narratives and creative legal arguments in defense of clients and presented them to the government. As a result of this work, in each case, Miller & Chevalier obtained the executives' inclusion into the immunity protections of the

company plea agreements, thus protecting them from criminal prosecution.

- Successfully defended a high-ranking executive in a DOJ investigation into price-fixing and bid-rigging in the lithium ion battery industry. The client was on the government's carve-out list, but the Miller & Chevalier team convinced the DOJ not to charge the executive in connection with the investigation.
- Convinced the DOJ not to charge a high-ranking executive allegedly involved in price-fixing, bid-rigging and market allocation in the Atlantic Ocean shipping trade.
- Represented numerous individuals in U.S. criminal investigations and civil suits arising out of an alleged antitrust conspiracy in the foam industry.
- Represented several former executives with respect to criminal and administrative actions in the United States and abroad relating to an alleged antitrust conspiracy in the power cable industry.

Government Experience

- Assistant to the Solicitor General, U.S. Department of Justice
- Assistant United States Attorney, District of Columbia
- Assistant United States Attorney, Civil Division of the U.S. Attorney's Office for the District of Columbia
- Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Trial Chief, Public Defender Service for the District of Columbia
- Senior Investigative Counsel, Special Committee on Investigations, U.S. Senate
- Chief, Special Litigation Division, Public Defender Service for the District of Columbia
- Senior Adviser for International Issues to SEC Chairman Arthur Levitt, U.S. Securities and Exchange Commission
- Deputy Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Assistant Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Assistant Chief Litigation Counsel, Division of Enforcement, U.S. Securities and Exchange Commission
- Assistant Federal Public Defender, Las Vegas, Nevada
- Appellate Deputy Public Defender, Nevada State Public Defender's Office
- Tax Assistant to the Solicitor General, U.S. Department of Justice
- Trial Attorney and Director of Training, Public Defender Service for the District of Columbia
- Supervising Attorney, Trial Division, Public Defender Service for the District of Columbia
- Staff Attorney, Appellate and Trial Divisions, Public Defender Service for the District of Columbia
- Legislative Assistant, U.S. House of Representatives

Rankings and Recognition

- *Chambers Global*: Corporate Crime & Investigations (USA), 2016 - 2022
- *Chambers Global*: Corporate Investigations/Anti-Corruption (Global-wide), 2017 - 2022
- *Chambers Global*: Corporate Investigations (Latin America-International Counsel), 2015 - 2022
- *Chambers Global*: Investigations & Enforcement (International & Cross-Border) (USA), 2020 - 2022
- *Chambers USA*: Corporate Crime & Investigations (Nationwide), 2015 - 2022
- *Chambers USA*: Litigation: White-Collar Crime & Government Investigations (District of Columbia), 2011 - 2022
- *Chambers Latin America*: Corporate Crime & Investigations (International Counsel), 2015 - 2022
- *Legal 500*: Antitrust: Cartel (U.S.), 2015 - 2022
- *Legal 500*: Dispute Resolution: White-Collar Criminal Defense – Advice to Individuals (U.S.), 2011 - 2022
- *Legal 500*: Dispute Resolution: White-Collar Criminal Defense – Advice to Corporates (U.S.), 2011 - 2022
- *Legal 500 Latin America*: International Firms: Compliance and Investigations, 2021 - 2022
- *Global Investigations Review*: GIR 30 Top Global Investigations Practice, 2015 - 2020
- *Global Investigations Review*: Boutique or Regional Practice of the Year, 2016
- *U.S. News - Best Lawyers*[®] "Best Law Firms": Criminal Defense: White-Collar (National), 2019 - 2022
- *U.S. News - Best Lawyers*[®] "Best Law Firms": Criminal Defense: White-Collar (District of Columbia), 2010 - 2022