

## White Collar Group Of The Year: Cleary Gottlieb

By Jack Queen

*Law360 (January 21, 2022, 2:02 PM EST)* -- Cleary Gottlieb Steen & Hamilton LLP investigated sexual harassment claims against former New York Gov. Andrew Cuomo and convinced Manhattan federal prosecutors to drop their fraud case against a Wall Street executive, earning the firm a spot as one of Law360's 2021 White Collar Groups of the Year.

The New York-based firm also added the CEO of cryptocurrency pioneer Ripple as a client in an ongoing case that could remake the digital currency industry and helped Marble Ridge Capital founder Daniel Kamensky escape a potentially lengthy prison sentence in a fraud case related to the Neiman Marcus bankruptcy.

Partner Matt Solomon told Law360 that Cleary's credibility before the government and its strength in litigation are what make it a go-to firm at any stage of a crisis, from internal investigations to indictment and trial. Its lawyers are always ready to face the government in court, but that doesn't mean they always come in guns blazing, according to Solomon.

"You can't always be a bull in a china shop with the government," he said. "They don't respond well to that."

Cleary has an impressive roster of former government attorneys, but no special priority is given to lawyers who brought in the client in a particular case. Clients belong to the whole firm, Solomon said, and while Cleary is mindful of the need to manage costs, it also prides itself on maximizing partner time for clients.

"Our model is designed to encourage collaboration and teamwork to make sure that each client that hires us gets a holistic approach," Solomon said. "Our mindset isn't, 'What's the best way to maximize revenue?' It's, 'What's the best way to do this?'"

That cooperative mentality allows Cleary to get maximum use out of the broad range of specialists and subject-matter experts at the firm, according to partner Lisa Vicens.

"When a client comes to us with a crisis management situation, we're very interdisciplinary and collaborative with our response. ... It's not a surprise that we're often called upon to handle multilateral



crises that require us to employ people in our offices across the world," she told Law360.

That depth of expertise was on display when New York Attorney General Letitia James tapped Cleary to investigate sexual harassment claims against Cuomo last summer. Cleary partner and former acting Manhattan U.S. Attorney Joon H. Kim led the charge in the probe, which was perhaps one of the most closely watched and politically consequential investigations of 2021.

Cuomo stepped down soon after the damning, 168-page report was released in August. In October, Cuomo was criminally charged for allegedly groping an aide, but prosecutors ultimately dropped the case, saying they couldn't prove the allegations in court.

Cleary's methodical approach also paid off in the case of former Brixmor Property Group CEO Michael Carroll, whom Manhattan federal prosecutors had accused of "smoothing" over the real estate investment trust's numbers to make its finances appear more stable.

In a bold move, Carroll's attorneys made an innocence proffer to the feds, laying out their defense in the hopes the government would see that there was nothing improper about the accounting adjustments, which were fully disclosed to investors.

"This was a complex claim regarding very technical accounting arguments that required a lot of unpacking," Vicens said. "We joined this case late in the game, but that was something we could bring to the table."

The move risked giving away Carroll's trial defense, but it paid off in March when prosecutors took the rare step of asking the court to dismiss the indictment. The U.S. Securities and Exchange Commission dropped its parallel enforcement action in July.

Cleary is also taking on the SEC in a closely watched suit against the CEO of Ripple, who stands accused of selling his company's digital asset XRP as an unregistered security. The landmark suit could expand the SEC's regulatory power over cryptocurrency, a persistent question mark looming over the booming industry.

"The guidance the SEC has provided in this space was and is simply not clear, frankly," said Solomon, who has previously served as the agency's chief litigation counsel. "We will see how the court will handle that and how this litigation will impact the crypto industry writ large, but at a minimum, we hope it will provide a sorely needed measure of clarity."

Cleary partners' experience and credibility with criminal and civil investigations have helped make it a go-to firm for crypto and digital asset companies as they navigate this uncertain regulatory landscape.

"With crypto, you have to understand which agencies are involved, and to how litigate against them, if needed," Solomon said.

In a case involving both the SEC and the U.S. Department of Justice, Cleary helped Marble Ridge Capital founder Daniel Kamensky escape a potentially lengthy prison term for what Manhattan federal prosecutors described as a scheme to extort a rival bidder for bankrupt Neiman Marcus' assets in order to get a lower price.

Kamensky was charged in a four-count indictment with securities fraud, wire fraud, bankruptcy fraud

and obstruction of justice, but he ultimately pled guilty to a single count of bankruptcy fraud. He was sentenced in May to six months in prison followed by six months of home confinement, and a judge later dismissed the SEC's parallel civil action after the parties settled.

Once again, Cleary's interdisciplinary approach delivered on both the criminal and civil fronts, Solomon said.

"It's not just about teamwork. It's about seamlessly working between litigators and capital markets, M&A, regulatory and enforcement lawyers in a way that leads to the best possible outcomes for our clients," he said.

--Editing by Steven Edelstone.