

## Richard J. Zack

Partner

Philadelphia

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Rich is a seasoned former federal prosecutor who represents financial institutions and range of other businesses and individuals facing investigation by federal and state law enforcement and regulatory authorities. He also represents business and individual victims of crime.

### OVERVIEW

A partner in the firm's White Collar + Government Investigations practice, Rich has extensive experience in representing businesses, individuals, and particularly financial services firms, before federal and state prosecutors and regulators. He regularly advises businesses regarding the prevention of corruption and compliance with anti-bribery laws. Rich also is a seasoned trial attorney who has tried more than 35 civil and criminal cases to verdict in jurisdictions around the U.S. He regularly provides advice regarding dealing with money transmission licensure and related issues, as well as government sanctions against foreign countries, in addition to compliance with regulations of the Office of Foreign Asset Control, (OFAC), and the Financial Crimes Enforcement Network (FinCEN).

Rich also leads the firm's Sanctions + Trade Controls team and regularly handles matters across the globe, often involving multiple jurisdictions. In that capacity, he routinely represents clients before OFAC, DOJ, the FBI, the Department of Commerce, and other government agencies. He advises clients regarding sanctions compliance programs, seeking permission from OFAC to unblock assets, and seeking relief from OFAC's Specially Designated Nationals and Blocked Persons (SDN) list.

Before joining the firm, Rich served as a federal prosecutor in the U.S. Attorney's Office in Philadelphia for 11 years and was chief of the Fraud Section and deputy chief of the Criminal Division. While an assistant U.S. attorney, Rich prosecuted dozens of public corruption, tax, and commercial fraud cases. Earlier in his career, Rich was a law clerk for the Hon. Max Rosenn, U.S. Circuit Court Judge, and the Hon J. William Ditter, Jr., U.S. District Judge.

### REPRESENTATIVE MATTERS

- Represented a high-risk payment processor in a federal class action involving a long-running multilevel marketing and Ponzi scheme in which estimated losses to consumers exceeded \$200 million. Brought into the case late after nearly 10 years of litigation. Other similarly situated defendants agreed to settlements of up to \$95 million. Negotiated a settlement that resulted in the client being dismissed from the matter and without any financial penalty.

- Represented an auto title lender in litigation against a state attorney general. Brought in after prosecutors had obtained an \$8.5 million judgment against one of the lender's partners and when the other partner was facing a judgment in the same amount. Convinced prosecutors to agree to vacate the judgment, then negotiated a favorable settlement for his clients for less than 10% of the exposure.
- Represented the owners of a manufacturing business who were the targets of a federal tax investigation. Despite his clients facing significant prison time, convinced the government to decline prosecution of one of the owners and the judge to reject the government's recommendation for a prison term for the other owner. The judge agreed with Rich's request and imposed a brief term of probation.
- Represented a large drug testing lab in a federal False Claims Act investigation. The government asserted that the lab's exposure was approximately \$30 million. Led a team that negotiated a settlement with no finding of wrongdoing and requiring only a small payment over time. As a result of the favorable settlement, the client was able to successfully grow its business.
- Represented a consumer lender in a sprawling federal investigation conducted by the DOJ, the IRS, and other federal agencies involving allegations of millions of dollars in fraud and tax evasion spanning almost a decade. The government had identified Rich's client and numerous current and former executives of his client as targets of the investigation. Rich led a team that successfully convinced the government to decline all charges against the lender and its executives, and the government closed the matter without filing charges.
- Represented a consumer lender in a state attorney general investigation involving millions of dollars in loans. The attorney general had informed us that our client would be the subject of an enforcement action and that the company should settle the matter. We convinced the attorney general to decline to pursue the matter, resulting in no action taken against the client. We also negotiated a release in a private civil action that involved no monetary payment from the client.
- Representing several businesses and individuals who are or may become subject to government sanctions programs. These matters include seeking removal from sanctions lists, negotiating divestiture from sanctioned entities, and assisting in dealing with sanctioned entities.
- Obtained a complete dismissal of a federal lawsuit filed by the Consumer Financial Protection Bureau (CFPB), alleging that a payment processor engaged in unfair practices and seeking more than \$20 million in penalties. Following oral argument and extensive briefing, Rich obtained dismissal of all claims on the grounds that the CFPB failed to allege a violation of law.
- Convinced the CFPB to voluntarily dismiss a complaint filed against his client, a consumer lender. The complaint alleged that the client had engaged in unfair and deceptive lending practices. The dismissal by the CFPB came after extensive briefing on a motion to dismiss, but before the federal court ruled on the motion.
- Convinced the government not to prosecute a nursing home owner subject to a federal investigation and whistleblower complaint alleging violations of the False Claims Act. Following the government's declination, the relator in the qui tam lawsuit elected not to pursue the matter.
- Represented a high-ranking member of the Catholic clergy in several lawsuits alleging that he failed to properly address sexual abuse by clergy in his diocese. Following briefing, obtained a complete dismissal of all of the lawsuits against his client.
- Represents a former Prime Minister of a European Union nation involving allegations of misconduct.
- Represented a retail chain accused by a state attorney general of price gouging in the sale of personal protective equipment during the Coronavirus pandemic. The attorney general had notified Rich's client that he would be filing charges and urged Rich's client to settle the matter. Instead, Rich made a presentation to the government demonstrating that his client was innocent. Following the presentation, the government agreed and declined to pursue the matter and took no action against Rich's client.
- Represents a payment processor and its principals in an action brought by a court-appointed monitor in a Federal Trade Commission enforcement action, seeking to recover \$30 million. Before discovery even began, Rich successfully obtained a dismissal of nearly all of the case on a motion. Even before discovery began, Rich was then able to convince the monitor to agree to a stay pending Supreme Court review of a dispositive issue.
- Represented a financial advisor in an extensive and high-profile federal prosecution of corruption in college basketball. Rich negotiated a favorable plea agreement for his client. While virtually all of the defendants in the criminal case were sentenced to prison, Rich's client was ordered to pay only a small financial penalty and

received no prison time or court supervision.

- Represented a former high-ranking executive in a high-profile and extensive federal investigation of corruption in the auto industry and auto workers' union. Rich's client was notified that she was a target of prosecutors and would be indicted on corruption charges. Rich immediately contacted the prosecutor's office and, after extensive discussions, convinced prosecutors to reverse course and decline to file charges. The government took no action against Rich's client.
- Rich oversaw a Suspicious Activity Report look back on behalf of a regional bank required by federal banking regulators. The look back involved tens of thousands of transactions over more than four years. Rich successfully convinced prosecutors to decline prosecution and negotiated a favorable resolution of with the bank's regulators.
- Rich oversaw a review of the lending portfolio of a regional bank that involved thousands of transactions some of which were subject to SARs. Following the review, Rich and his colleagues successfully negotiated a resolution with the bank's regulators. Although prosecutors brought criminal charges against some individuals, the government took no action against the bank.
- Represented a well-known government contractor in a federal antitrust investigation. Rich's client was notified that it would be charged with criminal antitrust violations. Rich convinced the government to reverse its decision and to forgo criminal charges. Instead, Rich was able to convince the government to enter into a deferred prosecution agreement.
- Representing consumer lenders in actions against state attorneys general and departments of banking involving claims of unfair lending practices.
- Representing a nonprofit and the members of its board of trustees before the New York Attorney General.
- Settled several matters with a state attorney general alleging that clients and several payment processors engaged in unfair practices. The attorney general sought hundreds of thousands of dollars in civil money penalties. Rich settled the matters for less than 10 percent of the attorney general's initial demand, with his clients denying all wrongdoing. Following assertion and settlement of indemnification claims, his clients had no out-of-pocket costs in the matter.
- Represented a bank in a Department of Justice investigation in which his client was named as a subject and was advised it would be charged in a civil complaint. Rich convinced prosecutors to reverse themselves and decline the matter, and then negotiated a favorable resolution with the bank's regulator.
- Represented several corporate entities following entry of summary judgment against the entities totaling approximately \$25 million. Rich convinced the trial court to immediately and indefinitely stay all collection activities against his client and negotiated a favorable settlement resolving all claims.
- Represented several payment processors before state departments of banking regarding claims that his clients were required to be licensed under state law as money transmitters. Rich convinced one regulator that his client was not required to be licensed despite the department initially concluding that licensure was appropriate. He convinced another state department of banking to reverse itself after concluding in a formal written opinion that licensure was required.
- Obtained a defense verdict for a financial services firm following a week-long trial in which the plaintiffs asserted breach of contract claims, and obtained a multimillion-dollar judgment for his client on counterclaims.
- Represented a government entity at trial on breach of contract claims related to a multimillion-dollar municipal water project. On post-trial motions, Rich convinced the trial court to enter a \$0 judgment against his client.
- Representing numerous payment processors, banks and other financial services firms in matters before the U.S. Department of Justice, state departments of banking and state attorneys general.
- Representing an institution of higher education in investigations by the Department of Justice and the Securities and Exchange Commission involving allegations of improper conduct by the institution's president and vice president.
- Representing wholesale distributors of pharmaceuticals before state boards of pharmacy alleging violation of licensing and distribution rules.
- Represented a company and a chief executive in an investigation by the Departments of Justice and Commerce of suspected transactions with Iran.

- Represented a company and an executive in an investigation involving allegations of illegal trade with businesses in China and Korea.
- Represented a U.S. bank and its board in an investigation by the Department of Justice involving issues of compliance with OFAC regulations.
- Trained executives and officers of several financial institutions, including a domestic bank, in OFAC and BSA and AML compliance.
- Represented foreign lenders before U.S. regulators and law enforcement involving allegations of violations of U.S. law.
- Conducted internal investigations for and defended financial services firms regarding the conduct of merchant banking business and other issues.
- Represented hospitals/doctors in drug diversion investigations.
- Represented colleges/universities in state/federal investigations and compliance issues.
- Conducted internal investigations for companies regarding alleged fraudulent billings and embezzlements.

## AWARDS

- *Best Lawyers in America®*: Criminal Defense: White-Collar (2024-2026)
- *Chambers USA*: Litigation: White-Collar Crime & Government Investigations, Pennsylvania (2022-2025)
- *Legal 500 United States* for White Collar Criminal Defense (2018)
- Department of Homeland Security Award for Outstanding Performance (2011)
- Department of Justice Director's Award for Superior Performance as an Assistant United States Attorney (2007)
- Department of State Award for Outstanding Performance (2007)

## TOP AREAS OF FOCUS

- White Collar Litigation + Investigations

## ALL AREAS OF FOCUS

- Anti-Money Laundering
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services
- Enforcement Actions + Investigations
- False Claims Act + Other Whistleblower Actions
- Financial Services
- Financial Services Litigation
- Litigation + Trial
- Sanctions + Trade Controls
- State Attorneys General
- Tribal Lending
- White Collar Litigation + Investigations

## PROFESSIONAL EXPERIENCE

- 1999-2011 U.S. Attorney's Office for the Eastern District of Pennsylvania (Philadelphia, PA) (Assistant U.S. attorney, 1999-2008; deputy chief, Criminal Division, 2008-09; chief, Commercial and Consumer Fraud and Deputy chief, Economic Crimes, 2009-11)

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- Temple University Beasley School of Law, J.D., *magna cum laude*, 1995, managing editor, *Temple Law Review*
- The George Washington University, B.A., 1990, political science and journalism

### BAR ADMISSIONS

- Pennsylvania

### CLERKSHIPS

- Hon. Max Rosenn, U.S. Court of Appeals, Third Circuit, 1997-1998
- Hon. J. William Ditter, Jr., U.S. District Court, Eastern District of Pennsylvania, 1995-1997

## SPEAKING ENGAGEMENTS

- Speaker, TPPPA 2023 Solving the Payments Puzzle Conference, September 12-14, 2023.
- Speaker, 2022 TPPA Annual Conference. Solving the Payments Puzzle, November 16-18, 2022.
- Co-presenter, Investment Management And Private Funds: What's Happening Now?, Pepper Hamilton Event, November 27, 2018.
- Co-presenter, Investment Management Roundtable, November 2018.
- Co-presenter, "What to Do When Your Reporter Is Arrested at the Scene," Media Law Resource Center Criminal Law Committee, June 12, 2018.
- Panelist, "What DOJ Investigators Look for in Corporate Compliance Programs," Third-Party Payment Processors Association Spring Conference, May 17-19, 2017.
- Presenter, "OFAC Enforcement Actions on the Rise: Effective Ways to Strengthen Your Compliance Programs," Knowledge Group Conference, February 9, 2016.

## PUBLICATIONS

- Co-author, "Tag-Team Approach to Tackling Fraud," *Pennsylvania CPA Journal*, Winter 2024.
- Podcast, "Evaluating Government Sanctions in the Payments Industry," *Payments Pros – The Payments Law Podcast*, September 5, 2023.
- Co-author, "Model Risk Management and Its Implications Under the Bank Secrecy Act," *Troutman Pepper*, April 21, 2021.
- Co-author, "The CFPB Under New Leadership: What to Expect in 2018," *Delaware Banker*, Winter 2018.
- Co-author, "D.C. Circuit Rebukes CFPB in Civil Investigative Demand Enforcement Decision," *Client Alert*, April 25, 2017.
- Co-author, "Update on the Short-Term Lending Industry: Government Investigations and Enforcement Actions," *The Business Lawyer*, Spring 2015.
- Co-author, "Fincen Proposes Fifth BSA Pillar," *Client Alert*, August 19, 2014.

- Co-author, "One Big Misunderstanding: FDIC Clarifies That Caution on Higher-Risk Activity Is Not a Prohibition on Third-Party Payment Processor Relationships," *Client Alert*, August 5, 2014.
- Co-author, "Will New U.S. Court of Appeals Decision on 'Recess Appointments' Stay Dodd-Frank Powers Granted to CFPB and Vacate Certain Actions?," *Financial Services Alert*, March 4, 2013.
- Co-author, "Residential Mortgage Brokers and Originators: You Have Until Aug. 13 to Set Up Your AML Program," *Financial Services Alert*, July 17, 2012.
- Co-author, "Convergence: Government and Class Actions Target Payment Processing Relationships," *Client Alert*, April 10, 2012.
- Co-author, "FDIC Focuses on Payment Processing Programs at Community Banks: Is Your Compliance Sufficiently Robust?," *Financial Services Alert*, February 8, 2012.
- Author, "Proprietary Educational Institutions Should Look at Compensation and Recruiting Policies to Avoid Actions by Prosecutors and Private Plaintiffs," *White Collar and Corporate Investigations Alert*, November 8, 2011.
- Co-author, "Government Announces Multi-Agency Task Force to Investigate Alleged Payments Abuses by Banks and Payment Processors," *Client Alert*, November 3, 2011.
- Author, "Increased Government Scrutiny of Third-Party Payment Processors Requires Enhanced Compliance," *The Banking Law Journal*, September 16, 2011.

## **MEDIA COMMENTARY**

- Quoted, "No Prison for 'Crucial Witness' in NCAA Hoops Bribery Trials," *Law360*, September 16, 2019.