

Banking Group Of The Year: Cahill Gordon

By **Andrea Keckley**

Law360 (January 23, 2024, 2:02 PM EST) -- Cahill Gordon & Reindel LLP helped leading financial institutions like Credit Suisse secure major wins in the face of significant exposure, even triumphing in an antitrust class action after all of its clients' co-defendants settled, earning the firm a spot among Law360's 2023 Banking Groups of the Year.

Cahill Gordon Chair Herb Washer, a New York litigator with a history of advising top financial companies, estimates that the firm has around 100 lawyers who litigate on behalf of banking industry players in the Empire State alone. The banking practice has guided clients through criminal, regulatory and civil matters, as well as internal investigations, for decades now.

"And that continues to be true," Washer told Law360 Pulse. "I do think that that practice has grown over time to the point where now a significant number of our litigators will do litigation work for financial institutions."

That work recently included leading Credit Suisse to an October 2022 jury trial victory in an antitrust class action that 15 other banks settled, collectively paying \$2.3 billion. It's a victory they managed to guard through 2023.

Not only did all the other banks settle their allegations of rigging exchange rates in a conspiracy coordinated on Bloomberg and Reuters chats, but many also pled guilty in connection with parallel government actions.

"I think the client was comforted in the sense that even if we lost the trial, there would be a lot of process after that, a lot of opportunities not just to appeal the trial decision, but to fight and potentially win these individual damages cases that would necessarily have followed," said Washer, who was part of the team representing Credit Suisse in this matter.

On top of dealing with the optics of the other defendants settling, taking the lawsuit to trial meant confronting years' worth of crass chats showing Credit Suisse traders joking with counterparts at other banks about exchange rates and collusion.

"It was important for us, with respect to each of those difficult Bloomberg chats, to give the jury context to show them the lines before and the lines after the one line that plaintiffs wanted them to focus on,"



Washer said. "And sometimes, it's difficult to get a jury to pay attention to all of that. But we seem to have been able to do that here."

Hoping to communicate with the jury in a more accessible way, the Cahill Gordon team looked for analogies to make.

"So, say if there are four people in one car, and they're speeding, and there are three people and another car also speeding — say, on the Long Island Expressway — are those seven people actually in a conspiracy together?" Washer said. "They're in separate conspiracies to speed. All seven people didn't get together and say, 'Hey, let's speed.'"

Credit Suisse emerged victorious after a nine-day trial. The court went on to turn down the plaintiffs' request for a new trial in February 2023, and the parties agreed to end the dispute in April 2023.

Cahill Gordon also represented Credit Suisse in a shareholder class action the firm says set a precedent for larger cases connected to UBS' takeover of Credit Suisse. The New York court dismissed the lawsuit in its entirety last April after agreeing it should be heard in a different venue.

"When you just look at the overall docket of our litigation department, I would say a substantial majority of the matters we handle are class action matters," Washer said. "That's what we do all day, every day. And the same is true of antitrust class actions."

Cahill Gordon served as the sole outside counsel to Credit Suisse in both this lawsuit and the antitrust class action. Doing so effectively, Washer said, meant putting oneself in the shoes of the in-house team.

"A lot of outside lawyers just think about the case," he noted, "and just think from a pure legal perspective, what do I need to do to win this case? But they don't give as much thought to the question of, what do the in-house lawyers need in order to succeed internally?"

Credit Suisse is just one of several finance sector clients Cahill Gordon has recently guided through complex litigation. For instance, the firm represented Deutsche Bank when, in January 2023, it managed to get a lawsuit alleging violations of the Anti-Terrorism Act dismissed. That decision is being appealed, with the Second Circuit scheduled to hear arguments in March.

Now, Washer said, the firm is working on moving into the financial technology space.

"In the last couple of years, we've also tried to add what we consider an adjacent practice, which is fintech litigation," he said. "The traditional banks, but obviously, some banking businesses have been going now to fintech, like the PayPals of the world, or Binance or whomever. And so we have a growing market share in the fintech space, for example, and are working on a lot of interesting criminal regulatory and civil matters for those fintech companies now as well."

--Additional reporting by Emily Lever and Frank G. Runyeon. Editing by Kristen Becker.
