

Rising Star: Cahill Gordon's Sean Tonolli

By **McCord Pagan**

Law360 (September 24, 2019, 3:00 PM EDT) -- Cahill Gordon & Reindel LLP partner Sean Tonolli takes on clients facing serious legal jeopardy, including a former KPMG accounting partner caught up in a major fraud scheme, earning him a spot as one of five white collar law practitioners under age 40 honored by Law360.

WHY HE PRACTICES WHITE COLLAR LAW:

Whether as a federal prosecutor or a white collar defense and investigations attorney, Tonolli said he's always been passionate about the core of his work: thoroughly understanding the facts of a case and advocating vigorously for his side.

Tonolli said he developed his interest in criminal law thanks to two mentors: George Fisher, a Stanford law professor and former Massachusetts state prosecutor, and J. Frederick Motz, a U.S. district judge for the District of Maryland, whose career also included a stint as U.S. attorney in that district.

Learning from the two men led Tonolli to become a federal prosecutor, first in the District of Columbia and later in the Eastern District of Virginia. His transition to white collar defense in 2014 was a natural one, he said, given his experience conducting criminal investigations and prosecutions for the government.

Tonolli is currently representing Thomas Whittle, a former KPMG partner who pled guilty to fraud and conspiracy charges for his role in a scheme to funnel confidential information from the Public Company Accounting Oversight Board to help prepare his firm for inspections by the regulator.

Whittle's October 2018 plea deal led to him testifying at a February trial against his former boss and other alleged co-conspirators, and he's set to take the stand again in October.

Tonolli largely declined to talk about the case, but speaking more

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STAR**



Sean Tonolli
Cahill Gordon

Age: 38

Home base: Washington, D.C.

Position: Partner

Law school: Stanford Law School

First job after law school: Clerk for U.S. District Judge J. Frederick Motz in the District of Maryland

generally, he said his role as a lawyer also includes being emotionally available for clients during a particularly challenging time in their lives.

“Really you have to have that bedside manner to appreciate the pressures and the concerns and all the emotions that go about being on the other end of the government, either the DOJ or SEC, in a high-stakes matter,” Tonolli said.

“That's something that I did not appreciate enough when I was a prosecutor, but certainly I've come to appreciate strongly now that I'm at Cahill in private practice,” he said.

A NOTABLE CASE HE'S WORKED ON:

Much of the work of Tonolli and his colleagues involves taking on clients who are already facing serious challenges and figuring out how best to serve them.

“Our white collar clients often face intense government scrutiny with potentially significant legal consequences,” Tonolli said. “Our job is to find the best possible route forward, given the circumstances and the government's case.”

Last year, Tonolli and others on his team helped represent Tesla Inc. as it paid \$20 million in a settlement with the government over CEO Elon Musk's tweet saying he had secured funding to take the company private. Tonolli declined to get into specifics about the U.S. Securities and Exchange Commission investigation other than to say the probe and resolution with the government and Tesla moved forward at an unusually fast pace.

Typically, he said, an investigation by the SEC could take at least a year, while this one was over in a matter of months due to pressure from the government. Tonolli also declined to say why the SEC accelerated this particular investigation.

“It was a very expedited, very high-stakes matter, and very important to the company and its leadership,” he said.

While the fast clip of the Tesla investigation was unique, the work was typical of the kind of work Tonolli does for his clients, he said. Having worked in the Eastern District of Virginia, known as the home of the “rocket docket” for being one of the fastest district courts in the country, Tonolli said he's been involved in accelerated cases before and the intense nature of the inquiry is part of why his firm was hired.

“Working at that pace and at that level of complexity is something that we do quite often,” he said.

HIS PROUDEST MOMENT AS AN ATTORNEY:

Tonolli said his proudest moment as an attorney was in 2010 when he and some of his fellow federal prosecutors received an award from then-Attorney General Eric Holder for a D.C. murder trial they won the previous year.

Winning the John Marshall Award for Trial of Litigation was a high honor, Tonolli said, and he felt a particular accomplishment for helping put away six members of the 22nd Street drug trafficking gang who helped murder five people, including a witness for the government who had previously testified against the gang.

The trial against the 22nd Street members lasted nine months and involved 70 witnesses and about 500

exhibits. In November 2009, the gang members were sentenced to between 18 and 144 years in prison.

“The stakes of the case could not have been higher,” Tonolli said. “We worked tirelessly to bring justice to the victims and their families.”

Tonolli’s approach to that trial was the same as he takes in each case: to know not just his own arguments backward and forward, but to learn the opponent’s case better than they do, he said.

“That requires a lot of hours of meticulous preparation and game planning for every possible scenario,” Tonolli said. “But that’s vital to have an edge and ensure we never get caught flat-footed.”

HOW HE THINKS HIS PRACTICE AREA WILL CHANGE IN THE NEXT 10 YEARS:

As many companies operate in more than one country, Tonolli said he expects government investigations to continue to evolve by including more cross-border enforcement and cooperation between foreign and domestic regulators. This trend particularly can come up in the context of the Foreign Corrupt Practices Act, he said.

Last year, Tonolli and his team helped represent Credit Suisse as it paid out a total of nearly \$77 million in two different settlements with the SEC and the DOJ over the bank’s hiring practices in Asia.

The resolutions didn’t include criminal charges but ended an investigation into whether Credit Suisse hired friends and family of foreign government officials to win investment banking business in the Asia-Pacific region in violation of the FCPA.

Tonolli declined to specifically say whether the Credit Suisse investigation involved other law enforcement entities in addition to the U.S. government, but said in general he and his colleagues regularly represent the Swiss bank and other clients in enforcement actions involving foreign regulators.

“It’s only natural that more and more of these regulators are coordinating with each other,” Tonolli said.

— *As told to McCord Pagan*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2019 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 years old as of April 30, 2019, in order to be considered for this year's award. This interview has been edited and condensed.