

## MVP: Cahill Gordon's Bradley J. Bondi

By Jack Queen

*Law360 (September 10, 2021, 4:45 PM EDT)* -- Bradley J. Bondi of Cahill Gordon & Reindel LLP secured a sentence with no prison time for a former KPMG partner who was tipped off ahead of regulatory inspections and won a last-minute pardon for a client at high risk of dying in prison from COVID-19, earning him a spot as one of Law360's 2021 White Collar MVPs.

### ***HIS PROUDEST MOMENT IN THE PAST YEAR:***

Bondi represented former KPMG executive Thomas Whittle, who pled guilty to wire fraud and conspiracy for scheming to obtain secret information about upcoming inspections by the Public Company Accounting Oversight Board.

U.S. District Judge J. Paul Oetken departed downward from guidelines contemplating a two-and-a-half-year prison sentence last December to a sentence of probation, citing Whittle's "exceptional credibility" while testifying against two of his co-defendants, who were convicted of conspiring to steal secret PCAOB schedules to help KPMG perform better on inspections.

"Mr. Whittle was yet another client we were able to keep out of prison, and I'm very proud of that result," Bondi told Law360. "He accepted responsibility and realized he couldn't change what he did, and he acted appropriately by accepting responsibility and cooperating with the government. That's how the system is supposed to work."

Bondi also helped Whittle resolve a parallel enforcement action by the U.S. Securities and Exchange Commission, which agreed to settle its civil suit without a financial penalty.

### ***HIS BIGGEST CHALLENGE IN THE PAST YEAR:***

Like most attorneys, Bondi said the pandemic posed enormous challenges, especially in a practice area that relies heavily on in-person interaction. But one of his clients faced far greater peril: a prison term that could have amounted to a death sentence in light of his age and preexisting conditions.



Faustino Bernadett was sentenced to 15 months in prison in 2020 for failing to timely report a \$30 million kickback scheme at a hospital he acquired. Bernadett, represented by a different firm at the time, was convicted of misprision of a felony for failing to report or stop the scheme, which he was not directly involved in.

Bernadett was sentenced before the pandemic, placing him in an unlucky position: his age and comorbidities were not considered at his sentencing, and since he had not yet reported for prison, he was ineligible for compassionate release. Bondi and his team sought a commutation from the Trump administration, but got a full pardon instead.

"This was not political — it was purely on the merits," Bondi said. "We were able to take a very challenging situation with COVID and get the right result, which quite frankly saved his life. I think if he had reported to prison, it could've spelled death."

In Bernadett's petition, Bondi and his team pointed to his humanitarian work during the pandemic, including donating his time and money to help fight COVID-19 in vulnerable Latin-American communities.

Bernadett was pardoned just hours before the end of Trump's presidency. In a statement at the time, the White House noted that the conviction was the "only major blemish on Dr. Bernadett's record" and that he was not part of the underlying scheme.

#### ***WHY HE'S A WHITE COLLAR ATTORNEY:***

The federal government has "extraordinary power," Bondi said, and to him there is no greater courtroom adversary.

"I believe there are few more noble professions than protecting the rights of innocent businesses and individuals against government overreach," he said. "The government doesn't always get it right, and that's important to recognize."

The stakes are often highest in criminal cases, when a person's freedom is often on the line. The Constitution thus provides ample protections for criminal defendants. To Bondi, the role of a criminal defense lawyer is ensuring those are protected. Motivation comes easily to him.

"The stakes for all of our clients are extraordinarily high, whether they're facing potential incarceration or loss of livelihood ... You have to be motivated, otherwise you don't belong in this line of work."

#### ***ANOTHER NOTABLE CASE HE'S WORKING ON:***

Bondi and his team at Cahill are representing Nikola Corp. founder Trevor Milton, who is charged with unlawfully raising billions of dollars for his electric truck startup by lying to investors about his company's ability to produce them.

The charges came after a report by short seller Hindenburg Research, which alleged Nikola's product demonstrations and other claims about its progress were mostly smoke and mirrors. Hindenburg has bet against the company's stock and stands to reap windfall profits on its decline.

"Mr. Milton has entered a not-guilty plea, and intends to fight," Bondi said. "This should be a fascinating case."

— As told to Jack Queen

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.*

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