

# ROBERT L. PLOTZ

565 Fifth Avenue, 7<sup>th</sup> Floor · New York, New York 10017

law@plotz.com

www.plotzlaw.com

646.543.1812

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## - GOVERNMENT EMPLOYMENT -

### **ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK** *Jan. 1984-March 1989*

Served in the Criminal Division under U.S. Attorney Rudolph W. Giuliani, investigating and trying criminal cases and arguing appeals in the Second Circuit. Spent over two years in the Securities and Commodities Fraud Unit. Investigated and successfully prosecuted *U.S. v. Chestman*, the first criminal prosecution in the United States under SEC Rule 14e-3, the tender offer insider trading rule. Prosecuted the so-called Wall Street whiz kid, David Bloom, who orchestrated a Ponzi scheme that lasted for two years. Spent two years in the Narcotics Unit. Successfully prosecuted *U.S. v. Cabral*, involving seizure of 47 kilos of cocaine as well as large amounts of cash, firearms and narcotics paraphernalia.

### **U.S. DISTRICT JUDGE EDWARD WEINFELD (S.D.N.Y)** *August 1980-August 1981*

Law clerk to pre-eminent federal district judge.

## - PRIVATE EMPLOYMENT -

### **LAW OFFICE OF ROBERT L. PLOTZ** *November 2010-Present*

Solo litigation practice with an emphasis on complex commercial litigation, securities litigation and regulatory defense, government investigations, white-collar criminal defense, trusts and estates litigation, employment disputes and health care litigation.

### **ORANS, ELSEN, LUPERT & BROWN LLP** *April 1989-November 2010* *Partner 1991-2010; Counsel 1989-1990*

Litigation practice at prominent New York City litigation boutique, focusing on complex commercial litigation, securities litigation and regulatory defense, trusts and estates litigation, health care litigation, employment disputes and white-collar criminal defense. Appeared in state and federal courts throughout the United States and argued numerous appeals, including appeals in the New York Court of Appeals. Left firm to open solo practice.

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**DEBEVOISE & PLIMPTON LLP**

*October 1981-December 1983*

As a litigation associate, worked on securities cases, hospital employment cases, commercial disputes as well as negotiation of new collective bargaining agreement for the National Basketball Association. Worked closely with both Mary Jo White and Judge John Koeltl. Left firm to go to U.S. Attorney's Office.

**- EDUCATION -**

**UNIVERSITY OF PENNSYLVANIA LAW SCHOOL**, Philadelphia, Pennsylvania *May 1980*

J.D., *magna cum laude*

Order of the Coif

Executive Editor, *University of Pennsylvania Law Review*

**YALE COLLEGE**, New Haven, Connecticut

*May 1977*

B.A., *cum laude*

Varsity squash team

**BAR ADMISSIONS**

New York State

*May 1981*

U.S. District Courts, Southern and Eastern Districts of New York

*May 1982*

U.S. Court of Appeals for the Second Circuit

*August 1984*

## • **Representative Cases in Private Practice (1989-2013)**

### ***Securities Litigation:***

- Represented chief executive officer of public company in arbitration against major broker-dealer for giving incorrect information relating to options, leading to multi-million dollar loss.
- Represented First Union Real Estate Equity and Mortgage Investments (now Winthrop Realty Trust), a New York Stock Exchange-listed REIT, in lawsuit brought by group of preferred shareholders seeking to enjoin proposed acquisition by Gotham Golf Partners. After New York Supreme Court preliminarily enjoined the transaction, the Appellate Division reversed. *Kimeldorf v. First Union*, 309 A.D.2d 151, 764 N.Y.S.2d 73 (1<sup>st</sup> Dep't 2003).
- Represented Israeli corporation in arbitration against major broker-dealer relating to marketing of auction rate securities as equivalent of cash.
- Represented wealthy foreign national in arbitration against major broker-dealer relating to options trading and structured securities.
- Represented former consultant to startup company seeking to enforce agreement to lift restrictions on trading of stock. Case was favorably settled after oral argument on cross-motions for summary judgment in Delaware Chancery Court.
- Represented founder and chief executive officer of upstate New York health maintenance organization in private securities action and SEC investigation relating to accounting issues.

### ***Commercial Litigation, Including Health Care Litigation and Employment Disputes:***

- Represent managing general partner of series of oil and gas investment partnerships in a number of suits brought by investors. Obtained dismissal in one case for lack of personal jurisdiction. Favorably settled another case. Motions to dismiss are pending in the remainder. *Millennium Drilling Co., Inc. v. House-Myers*, No. 2:12-cv-00462-MMD-CWH (D. Nev.); *Hamrick v. Schain Leifer & Guralnick*, No. 650802/2014 (N.Y. Sup. Ct. N.Y. Cty.); *Prochaska v. Feldman*, Cause No. 2013-35800 (Tex. Harris Cty.); *Witman v. Feldman*, No. 120905237 (Utah Salt Lake Cty.).
- Represent XPO Logistics, Inc., a fast-growing public company in the freight-forwarding and third-party logistics industry, in litigation brought by industry's largest company, C.H. Robinson Worldwide, Inc., related to hiring of former Robinson employees. XPO Logistics has asserted counterclaims based on restraint of trade. *C.H. Robinson Worldwide, Inc. v. XPO Logistics, Inc.*, No. 27-CV-12-16003 (Minn. Hennepin Cty.).
- Represent large public company in matters relating to enforcement of restrictive covenants and similar employment issues

- Represented Sahn Eagle LLC, owner of two buildings in Wall Street area formerly owned by AIG, and a former employee in litigation brought by developer that had worked on project in connection with disputes over alleged misuse of allegedly confidential information. *Young Woo & Assoc. LLC v. Andrew Kim*, No. 652208/2010 (N.Y. Sup. Ct. N.Y. Cty.).
- Represented Kumho Investment Bank, a Korean bank, and Sahn Eagle in separate suit brought by former developer relating to disputes over the AIG buildings. *Young Woo & Assoc. LLC v. Kumho Investment Bank*, No. 652270/2011 (N.Y. Sup. Ct. N.Y. Cty.).
- Represented one brother in longstanding series of lawsuits with another brother over ownership of various companies owning leasehold interests in New York property.
- Represented on appeal dental student denied his degree by New York University. The primary issue was whether the school's denial was based on academics or on the late payment of tuition. Successfully obtained reversal of trial court's grant of summary judgment to the school in Appellate Division, which also granted student's cross-motion for summary judgment. On further appeal by NYU to the Court of Appeals, the matter was remanded for trial. *Eidlisz v. New York University*, 61 A.D.3d 473 (1<sup>st</sup> Dep't 2009) (Appellate Division); 2010 NY Slip Op 05602 (June 24, 2010) (Court of Appeals).
- Represented franchisee of Hardee's in connection with lender's suit to foreclose. Successfully persuaded federal judge that lender could not avoid compliance with differing requirements of various relevant state foreclosure statutes, leading lender to settle rather than proceed in multiple state courts.
- Represented principal of former franchisee of Burger King in dispute with lender over whether personal guaranty was triggered.
- Represented 50% owner of group of radiology corporations in dissolution actions brought by co-owner.
- Represented large group of midwives employed by hospital in U.S. Attorney investigation of hospital and medical school for Medicaid billing violations. No charges were brought against any midwives.
- Represented privately held biotechnology company in lawsuit brought by former executive against company and other officers relating to his termination.
- Represented partnership against claims by partner for compensation for services supposedly rendered to partnership.
- Represented investor in claims against an Italian bank relating to mishandled order to sell stock.
- Represented financial advisor terminated by employer for alleged noncompliance with firm rules.

- Represented financial advisor accused by his former employer of impermissibly taking client information and contacting former clients.
- Represented Bradley Jacobs, chairman and chief executive officer of United Rentals, Inc., in dispute with former associate over options granted in connection with work for United Waste Systems, Inc. Although court granted associate's motion for summary judgment as to liability, court found no damage after trial on damages. *Mathias v. Jacobs*, 238 F. Supp.2d 556 (S.D.N.Y. 2002).
- Represented Gordon and Breach Science Publishers S.A. in unfair-competition dispute with American Physics Society over the society's publication of so-called cost-effectiveness surveys comparing its own journals with those of private publishers like Gordon and Breach.
- Represented Best Products, Inc. in a lawsuit it brought in bankruptcy court against most of the lenders and other interested parties involved in the leveraged buyout of the company, alleging that the LBO was a fraudulent conveyance.
- Represented Agripost, Inc., builder of a facility that converted municipal waste to compost, in long-running dispute with Miami-Dade County over the county's decision to close down the facility while it was still in the startup phase but after about \$30 million was invested, resulting in a complete loss. The case touched on novel issues on the law of inverse condemnation and the relationship of federal and state courts in takings cases.

***Trusts and Estates Litigation:***

- Represented a major charitable organization in challenge to purported will signed by decedent while in hospice care and just days before she died of fast-moving cancer. The new will excluded charity, which was the beneficiary of prior wills and with whom decedent had a longstanding relationship. The charity did not learn of the death until after the new will was admitted to probate. The case went to the New York Court of Appeals, which decided in a split decision that the charity had to prove undue influence or lack of competence simply to be permitted to reopen probate. 10 N.Y. 3d 82 (2008).
- Represented charitable organizations in numerous will and trust cases involving issues of due execution, application of the prudent person rule, mental competence and objections to accountings.
- Represented executor of will in connection with claims against estate.
- Represented residuary beneficiary of very large trust against claims that trustee violated the prudent investor rule by investing in high-quality municipal bonds over a thirty-year period.

### ***Criminal and Government Investigations:***

- Represented employees and agents of entities involved in oil and gas drilling in Trinidad in connection with grand-jury investigation in Southern District of New York relating to alleged misstatements to investors.
- Represented employee of proxy solicitor relating to grand-jury and SEC investigations relating to alleged disclosure of confidential information about shareholders' votes.
- Represented group of manufacturers and distributors of tampico fiber located in Mexico and Holland in grand jury investigation conducted by Antitrust Division of the Department of Justice in Philadelphia. Negotiated corporate plea and fine and avoided charges against any individuals.
- Represented lawyer in solo corporate practice in investigation by U.S. Attorney in New Jersey into securities fraud by attorney's client.
- Represented executive of small company in investigation by U.S. Attorney in Manhattan of penny-stock promoters.
- Represented chairman and chief executive officer of public company in enforcement action brought by SEC relating to insider trading. The case was settled after the court denied cross motions for summary judgment.
- Represented participant in parallel grand jury and SEC investigations of soft-dollar insider-trading scheme involving corporate executive and mutual fund advisor.
- Represented position trader at major broker-dealer in SEC investigation of proprietary trading activities. No charges were brought against trader.
- Represented trader in connection with SEC investigation of front-running.