

Rising Star: Cohen Milstein's Michael B. Eisenkraft

Law360 (August 22, 2018) -- Cohen Milstein Sellers & Toll PLLC partner Michael B. Eisenkraft recently helped secure preliminary approval of a \$165 million settlement that would end long-running litigation over mortgage-backed securities and persuaded the Second Circuit to revive a lawsuit concerning Korean futures contracts, earning him a spot as one of six securities law practitioners under age 40 honored by Law360 as Rising Stars.

STANDOUT CASES:

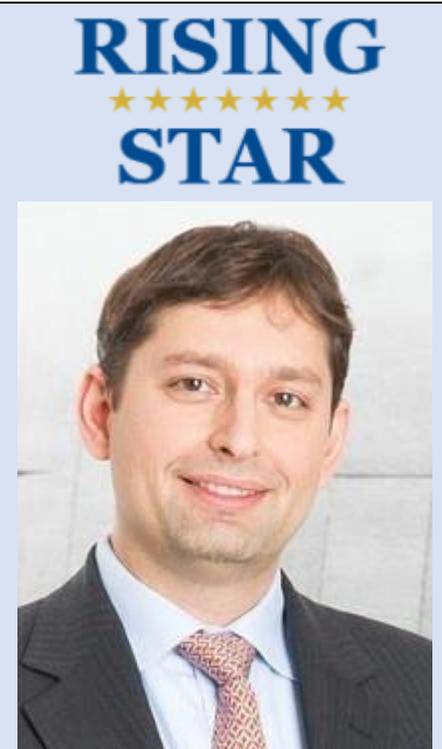
Eisenkraft helped convince the Second Circuit to revive investors' allegations that New York-based Tower Research Capital LLC manipulated the prices of Korean futures contracts on the Korea Exchange during its off hours. A lower court had determined the Commodity Exchange Act doesn't apply to alleged misconduct that occurred outside of the U.S., and dismissed the case, which Eisenkraft said was challenging.

But Eisenkraft and his co-counsel successfully argued on appeal that the trades should be considered domestic transactions in part because the buy and sell orders are matched electronically on the Illinois-based CME Globex.

The March decision essentially refined the definition of a domestic trade under the Commodity Exchange Act, and will have implications for investors nationwide, Eisenkraft said.

"It made it clear that if a commodity future was traded in the United States that United States laws would apply no matter what the forum," Eisenkraft said. "So this has wide-ranging implications and really provides significant protections to investors."

Eisenkraft also helped secure a \$165 million settlement from Wells Fargo, Deutsche Bank and the Royal Bank of Scotland that received preliminary approval last year. The agreement would end allegations that the banks and bankrupt subprime lender NovaStar Mortgage Inc. misrepresented underwriting standards for certain mortgage-backed securities.



**Michael B.
Eisenkraft**
Cohen Milstein

Age: 38

Home base: New York

Position: Partner

Law school: Harvard Law School

First job after law school: Associate at Milberg Weiss

WHAT MOTIVATES HIM:

Eisenkraft went to law school because he wanted to “push the envelope” and make a difference, he said. He’s motivated by the challenges he faces in his career, and said he’s not as excited by work that he considers easy.

“If it’s an easy case — if it’s something very well-established — then being a good lawyer isn’t that important,” he said. “It’s when it’s on the margin.”

WHY HE’S A SECURITIES ATTORNEY:

Eisenkraft likes working in a high-stakes industry, and said the high stakes often justify allocating resources such as research to the issues. He was drawn to an industry with so many talented “adversaries” as well, he said.

“I like being in an area where the quality of lawyering on both sides is high, where the stakes are high,” he said.

Eisenkraft said the fact that he grew up in New York, which he called the center of the financial universe, was another plus.

HOW HE EXPECTS THE PRACTICE AREA TO CHANGE:

Eisenkraft said it’s hard to predict the future of the securities industry because the people who manipulate markets or otherwise engage in financial fraud tend to be very creative.

“So the new scandal, the new way to make money that takes advantage of investors is always different than the last scandal and the last kind of scheme,” he said.

He does expect that issues will become more complicated as financial markets become more complicated. When the markets do get inevitably more complex, Eisenkraft wants to help ensure that the rules still exist and are still enforced.

“I want to make sure that novelty and innovation do not overwhelm the principles of fairness and trust and rules,” he said.

— As told to Rachel Graf

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.

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