

## **Blank Rome and Laurent Cohen-Tanugi Avocats Obtain Significant Victory for French Executive under Collateral Order and Fugitive Disentitlement Doctrines in the Second Circuit**

On August 5, 2021, a Blank Rome/Laurent Cohen-Tanugi Avocats (LCTA) team obtained a major win on behalf of a French executive when the U.S. Court of Appeals for the Second Circuit accepted jurisdiction under the collateral order doctrine and then reversed the lower court's ruling that our client, a French citizen living in France, is a "fugitive."

Our client was indicted in the Eastern District of New York on charges of manipulating LIBOR submissions on behalf of her employer Société Générale. In the district court, the Blank Rome/LCTA team sought dismissal of the indictment based on principles of extraterritoriality, due process, the statute of limitations, and selective prosecution. The district court, however, determined that our client, who is not extraditable, is not alleged to have engaged in any conduct in the United States and remains in her home country, is nonetheless a "fugitive" and, therefore, barred from challenging the indictment under the Fugitive Disentitlement Doctrine.

The Blank Rome/LCTA team filed an interlocutory appeal with the Second Circuit to challenge this ruling. The government initially moved to dismiss the appeal due to lack of jurisdiction, relying on decisions by the Sixth and Eleventh Circuits, but a three-judge motions panel of the Second Circuit denied that motion in April 2020. The appeal was then argued in August 2020 before the merits panel and, in a 2-1 decision, the Second Circuit held in the team's favor, becoming the first federal appellate court decision ever to hold that the collateral order doctrine permits an interlocutory appeal challenging the application of the Fugitive Disentitlement Doctrine (and thereby creating a circuit split on this issue). The Second Circuit's decision then reversed the district court and held that our client is not a "fugitive" and may challenge the indictment without having to travel to the United States to face charges. The Second Circuit remanded the case to the district court for further proceedings on our substantive motions to dismiss.

The U.S. government may seek *en banc* review and/or file a cert petition to the U.S. Supreme Court.

To be continued.

The Blank Rome team was comprised of **Laurence Shtasel** and **Bridget Briggs**, working in collaboration with **Laurent Cohen-Tanugi**.