

A relação promíscua entre a indústria do compliance e os procuradores nos EUA, por Luis Nassif

Não se irá entender a articulação de procuradores e juizes punitivistas se não incluir na análise a milionária indústria do compliance

Por **Luis Nassif** - Jornal GGN - 28 de abril de 2019

People news

Sandra Moser leaves DOJ for Quinn Emanuel

By James Thomas and Kelly Swanson



Sandra Moser

The acting chief of the US Department of Justice (DOJ) criminal division's fraud section has left the authority to join Quinn Emanuel Urquhart & Sullivan.

Sandra Moser announced the news internally on 13 December 2018 and left on 11 January. She joined Quinn Emanuel as partner and co-head of the firm's investigations, crisis and white-collar criminal defence practice.

"Quinn Emanuel's reputation as the leading firm in litigation and white-collar criminal defence, coupled with the firm's unique culture, made this an easy decision for me," Moser said according to a Quinn

Emanuel press release. "I am enthusiastic about starting this new phase in my career; there is no place I would rather be."

Moser has served as acting chief of the fraud section for almost two years. She was appointed to the position in May 2017 when the then-fraud section chief Andrew Weissmann left to join special counsel Robert Mueller's Trump-Russia investigation. Before that, Moser served as principal deputy chief of the fraud section under Weissmann for over two years.

As acting chief, Moser has overseen the DOJ's recent high-profile cases, including the Justice Department's crackdown on spoofing, which it announced with much fanfare at the start of the year.

Spoofing, which is illegal under US federal law, is the practice of placing large orders in commodities markets and then quickly cancelling them to create a false sense of demand for financial gain.

In November, two former traders pleaded guilty in a New York federal court to participating in a \$60 million commodities fraud and spoofing conspiracy. Meanwhile, a former precious metals trader, John Edmonds, pleaded guilty to spoofing at a federal court in Connecticut.

However, the DOJ's spoofing case against Andre Flotron collapsed in April 2018 when the former UBS trader was acquitted on one count of wire fraud conspiracy. Moser told an audience in New York in May that the loss would not deter the DOJ from bringing future spoofing cases, despite the difficulties in prosecuting them.

Moser has worked in various roles since joining the DOJ in 2006. In 2013, she became assistant chief of the securities and financial fraud unit, during which time she managed the investigations into Libor and forex manipulation. She later served as acting senior deputy chief of the fraud section until July 2016. She previously worked at the US Attorney's Office for the District of New Jersey.

Prior to her career at the DOJ, Moser was a litigation associate at Morgan Lewis & Bockius in Philadelphia.

"I have spent 14 of my 16 years as a practising lawyer working as a US federal employee," Moser told GIR as part of its Women in Investigations special in June. "Each of those years was its own journey marked by highs and lows too numerous to list, but the one constant has been the absolute luxury of engaging with my attorney and agent colleagues on the challenging and consequential issues that we confront daily."

Since Moser's departure, Robert Zink has taken over as acting chief of the fraud section according to DOJ court filings.

Zink previously served as acting principal deputy chief under Moser. He began his career as an associate at Covington & Burling and then joined the fraud section in 2010. He has also previously served as an assistant chief in the health care fraud and financial fraud units.

In May 2017, Zink and Moser took temporary charge of the fraud section after then chief Andrew Weissmann joined special counsel Robert Mueller's Trump-Russia investigation on secondment. Weissmann's move to the special counsel's office has created bureaucratic hurdles for hitting a permanent replacement, former department officials say.

As well as Moser, Quinn Emanuel has also recently rehired Tomislav Joksimovic, the former head of investigations at Zurich-based EFG International, who returned to the firm's Washington, DC office.

Quinn Emanuel's managing partner, John Quinn, said in a 19 December press release that the firm recruited the German national, who joined on 1 December, because it needed a lawyer "who has his finger on the heartbeat of enforcement actions in both the US and Europe".

Before joining EFG International, Joksimovic acted for the bank while at Quinn Emanuel alongside partner William Burck in a DOJ tax offences investigation under the Swiss bank programme. In 2015, the bank agreed a US\$29 million non-prosecution agreement.

Não se irá entender a articulação de procuradores e juízes punitivistas ao redor do mundo, unidos em torno da bandeira anticorrupção, se não incluir na análise a milionária indústria do *compliance* – a tecnologia dos modelos de governabilidade destinados a vacinar uma empresa contra a corrupção e que tem nos grandes escritórios de advocacia e empresas de auditoria os maiores beneficiados.

Em quase todos os países, o jogo é padrão. No início, uma campanha sem quartel dos procuradores contra empresas suspeitas, infundindo terror nos empresários direta ou indiretamente ameaçados pelas investigações. Depois, a campanha pela implementação de sistemas de *compliance* nas empresas por grandes escritórios de advocacia, abrindo um mercado de trabalho para os procuradores.

O jogo é esse. Em um primeiro momento, a cooperação internacional – com procuradores sendo alimentados preferencialmente pelo DHS e Departamento de Justiça dos Estados Unidos – confere enorme poder aos ministérios públicos nacionais destruírem sistemas políticos e outras entidades contaminadas pelo financiamento de campanhas.

Depois, abre um expressivo mercado de trabalho na área de *compliance*.

É significativo o caso Marcelo Miller – o procurador da Lava Jato contratado pela Trench, Rossi, Watanabe, representando um grande escritório americano, depois de ter sido a parte brasileira nas negociações da Embraer nos EUA. E também da filha de Rodrigo Janot, jovem advogada iniciante contratada por um grande escritório de advocacia para atuar em defesa da OAS, em um julgamento por formação de cartel pelo CADE (Conselho Administrativo de Direito Econômico). E os honorários serão tão maiores quanto maior for o terror infundido pelas ações anticorrupção.

Os Estados Unidos forneceram o modelo. Não é por outro motivo que os maiores beneficiários têm sido grandes escritórios de advocacia e de auditoria norte-americanos (mais à frente, quando o fator Lava Jato se tornar irrelevante, não haverá como o Congresso deixar de abrir uma CPI para analisar os contratos fechados Ellen Gracie com Petrobras e Eletrobras para implantação de sistemas de compliance – consumindo mais recursos do que as suspeitas de propina em cada estatal.

O caso Andre Weisman

Andrew Weismann era o procurador implacável do Departamento Anticorrupção do Departamento de Justiça, responsável pela apuração de propinas políticas. Deu início às grandes ações contra empresas brasileiras. Firmou fama de implacável, recorrendo a métodos abusivos que levaram um senador ao suicídio.

Sua atuação mereceu dois livros completos, narrando todos os abusos que cometia usando as prerrogativas de procurador.

Depois, se afastou para tocar o caso do Russiagate – as suspeitas de interferência russa na eleição de Donald Trump – e seu lugar foi ocupado por Sandra Moser. Sandra supervisionou os processos e acordos com a Petrobras, Odebrecht e Brasken. Em setembro de 2018, assinou, pelo DoJ, o escandaloso *class action* da Petrobras – pelo qual a empresa se comprometeu a pagar US\$ 3 bilhões em indenizações para acionistas que entraram com ações contra a empresa.

Sobre esse tema, voltaremos mais vezes, especialmente para apontar os pontos centrais do maior saque ocorrido contra a Petrobras, maior que todas as propinas recebidas pelas empreiteiras, e praticado por quem deveria defendê-la.

Dois meses depois, Sandra deixou o Departamento de Justiça e foi trabalhar no escritório Quinn Emanuel, para cuidar justamente da conta da Odebrecht.

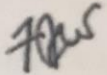
Aqui, sua assinatura no acordo firmado com o Departamento de Justiça.

reserves the right to assert this argument in any future prosecution or civil action by the United States.

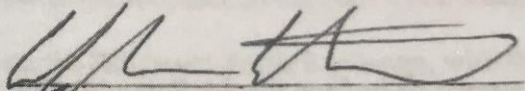
This Agreement is binding on the Company and the Fraud Section and the Office but specifically does not bind any other component of the Department of Justice, other federal agencies, or any state, local or foreign law enforcement or regulatory agencies, or any other authorities, although the Fraud Section and the Office will bring the cooperation of the Company and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by the Company.

It is further understood that the Company and the Fraud Section and the Office may disclose this Agreement to the public.

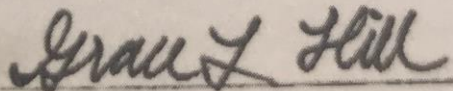
This Agreement sets forth all the terms of the agreement between the Company and the Fraud Section and the Office. No amendments, modifications or additions to this Agreement shall be valid unless they are in writing and signed by the Fraud Section and the Office, the attorneys for the Company, and a duly authorized representative of the Company.

Sincerely, 

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

Date: September 26, 2018 BY: 
Christopher Cestaro
Lorinda Laryea
Assistant Chiefs, FCPA Unit
Derek Ettinger
Trial Attorney

G. ZACHARY TERWILLIGER
United States Attorney
Eastern District of Virginia

Date: September 26, 2018 BY: 
Grace L. Hill
Assistant United States Attorney

E aqui, o escritório de advocacia vendendo seus serviços.

The screenshot shows the profile page for Sandra Moser on the Quinn Emanuel Urquhart & Sullivan LLP website. The header includes the firm's name and navigation links: Attorneys, Practice Areas, The Firm & News, Careers, and Locations. A search icon is also present. Below the header, there is a 'Return to Search' link. The profile is divided into two main sections: 'BIOGRAPHY' and 'NOTABLE REPRESENTATIONS'. The 'BIOGRAPHY' section features a portrait of Sandra Moser, her name, title 'Partner *', and contact information for the Washington, D.C. Office: Direct Tel: +1 202-538-8333, Direct Fax: +1 202-538-8100, and email: sandramoser@quinnemanuel.com. It also includes a note: '*Admitted in New Jersey; not admitted in the District of Columbia' and icons for vCard, Share, and Print. The 'NOTABLE REPRESENTATIONS' section is currently empty. To the right, there is a 'Practice Areas' sidebar with a list of specialties: Brazil Practice, Crisis Law & Strategy G, Cyber Security & Data Protection, Health Care Litigation, Hedge Fund Litigation, Investigations, Governn Enforcement & White C Criminal Defense Pract, Investment Fund Litigat, Latin America Practice, Life Sciences Litigation, and Media & Entertainment Litigation.

" A prática da Sra. Moser se concentra na representação de empresas, conselhos de administração e altos executivos em investigações, assuntos delicados, crises corporativas, litígios e outras disputas envolvendo os governos federal e estadual dos Estados Unidos (incluindo o Departamento de Justiça, a Securities and Exchange Commission (SEC), a Commodity Futures Trading Commission (CFTC), Procuradorias Distritais, Procuradores-Gerais do Estado, outras agências de aplicação da lei e reguladoras, e o Congresso dos Estados Unidos), bem como agências de aplicação internacional. Especialista em questões transfronteiriças, Moser foi nomeada como uma das "100 mulheres em investigações" do mundo em 2018 pela Global Investigations Review".

No alto da página, uma de suas especialidades é o Brasil.

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