

Ex-Trump Ally, Deputy Acquitted In Illegal Lobbying Trial

By Rachel Scharf and Stewart Bishop

Law360, New York (November 4, 2022, 12:10 PM EDT) -- A Brooklyn federal jury on Friday delivered a knockout blow to prosecutors' case against onetime Donald Trump adviser Thomas Barrack and his former protégé, which alleged the pair secretly acted as agents of a foreign government, acquitting both men of all charges.

Jurors deliberated for approximately 13 hours over the course of three days before finding Barrack, 75, and former Colony Capital analyst Matthew Grimes, 29, not guilty of acting as agents of the United Arab Emirates in the U.S. without notifying the Attorney General, and conspiring to do the same.



Colony Capital founder Thomas Barrack, center, exits Brooklyn federal court Friday with his attorneys Randall Jackson, left, and Michael Schachter, right, of Willkie Farr & Gallagher LLP, after the private equity mogul was acquitted on all charges in his illicit lobbying trial. (Stewart Bishop | Law360)

As U.S. District Judge Brian Cogan read the jury's verdict aloud just before noon on Friday, Barrack broke down in tears and held his head in his hands, as the judge repeated the words "not guilty" again and again, to audible gasps from the gallery.

Barrack was also acquitted of obstruction of justice and six false statements counts, stemming from a 2019 interview with federal investigators that the government claims was riddled with lies from the Colony Capital founder about his dealings with UAE officials.

As the jury exited the courtroom following the verdict, one juror looked to Barrack's defense table, raised his arm and waved on his way out the door.

Outside the courthouse after the trial, Barrack praised the U.S. justice system as well as the jurors, who had "such complex and unbelievable facts in front of them," who nevertheless were able to "fight through ... the quagmire to find lady justice with a touch burning."

"I'm humbled, the system is amazing, the people are amazing," Barrack told reporters. "I have no hostility. I'm just proud to be an American."

An attorney for Grimes, Abbe Lowell of Winston & Strawn LLP, remarked to reporters after being asked about the media scrutiny of the case and of Barrack in particular, that while Grimes may have been less of a topic in the press, still "he faced serious charges that changed the course of his life," and the important thing was that the jury paid close attention to his plight.



Former Colony Capital analyst Matthew Grimes leaves Brooklyn federal court on Friday after he was found not guilty of secretly acting as an agent of a foreign government, following a six-week-long trial. (Stewart Bishop | Law360)

A spokesman for the U.S. Attorney's office for the Eastern District of New York declined to comment on the verdict.

Prosecutors claimed that Barrack — with Grimes at his side — used his access to Trump and his inner circle during his 2016 presidential campaign and subsequent administration to clandestinely advance the UAE's foreign policy goals in the U.S., in exchange for what turned out to be \$374 million in capital

commitments to Colony Capital, now known as DigitalBridge Group Inc., from UAE sovereign wealth funds.

Barrack and Grimes were charged under Section 951 of the U.S. Code, a so-called "espionage lite" law that is more narrowly tailored than the Foreign Agents Registration Act.

A third defendant, Emirati entrepreneur Rashid Sultan Rashid al Malik Alshahhi, was the middleman between his American co-conspirators and leaders in the UAE. According to the government, al Malik fled the U.S. in 2018, days after being interviewed by the FBI.

Prosecutors say al Malik passed down directives from the Middle East and funneled intelligence about the campaign and later the Trump White House back to the UAE government, including to powerful UAE officials such as Emirati national security adviser Sheikh Tahnoun bin Zayed Al Nahyan and the then-crown prince and de facto UAE ruler Mohamed bin Zayed Al Nahyan, better known as MBZ.

Among other things, Barrack and others worked at the UAE's behest to insert pro-UAE language into a Trump stump speech, prosecutors argued, and scuttle a proposed Camp David summit to resolve a blockade of UAE rival Qatar.

Barrack, an informal adviser to Trump on economic and foreign policy who chaired his inaugural committee, also used his appearances on television during and after the campaign to champion the UAE's foreign policy interests, according to the government. Jurors were shown several news clips, in which the private equity mogul promotes the idea of a closer U.S. relationship with the UAE, Saudi Arabia and Qatar.

Trump also weighed in on the verdict Friday, saying, among other unrelated things, that Barrack "should have never been charged or tried."

"My great respect goes out to the jurors for their courage and understanding in coming to an absolutely correct decision," Trump said in a statement. "This could be the beginning of our breakaway from communism, and other very deep and dark places where the United States should never be."

The clean sweep of acquittals was a surprise end to a drawn-out trial that itself was full of unexpected twists and turns, such as Barrack's decision to testify in his own defense and the government's document-focused case.

Prosecutors relied heavily on emails, text messages and WhatsApp exchanges among Barrack, Grimes, al Malik and others — perhaps especially on communications between Grimes and al Malik.

That strategy, using a summary FBI witness and prosecutors to read those messages into the record, without an insider or cooperating witness to tell the story from within the alleged scheme was odd, according to Michael Atkinson of Crowell & Moring LLP, a former Inspector General of the Intelligence Community and veteran of the Department of Justice's National Security Division, who is not involved in the case.

"You ended up really having dueling interpretations by the lawyers over what the emails and text messages said," Atkinson told Law360. "I do think the government going forward when it comes to these cases, is likely to understand how important it is to have a real cooperating witness who can tell the inside story."

That being said, non-traditional espionage cases like this one can be difficult to prosecute, according to Atkinson, because the relationship between the alleged agent and the foreign official can be murky, and both sides may be trying to manipulate the other, a situation not unlike some of the events portrayed in this trial.

"[Such] cases have been proven to be especially difficult with the Trump administration, because the Trump administration had a non-traditional approach to foreign relations, and using these sort of backdoor channels," Atkinson said. "So it was sort of a doubly complicated case."

Barrack's team of lawyers, led by Michael Schachter and Randall Jackson of Willkie Farr & Gallagher LLP, also put on an unusually sizable defense case.

Testimony from former Treasury secretary and private equity firm head Steven Mnuchin contradicted the government's narrative about Barrack's role in the U.S. response to the blockade of Qatar by the UAE, Saudi Arabia and others. Mnuchin said at the time, Barrack spoke of his opposition to the Saudi-led bloc's position and in support of Qatar. The ex-Treasury chief was the second Trump cabinet official to testify, following former Secretary of State Rex Tillerson, who told jurors he was unaware of Barrack's off-the-books diplomacy.

An associate for Paul Hastings LLP — onetime counsel for Barrack — who was present at the 2019 FBI interview of Barrack, was called as a defense witness, and his notes of the meeting presented an encounter that was different in some respects than the account given to the jury by one of the FBI agents who questioned Barrack at the time.

To top it all off was the testimony from Barrack, in which he cast himself as his own man and not a tool of a foreign power, who believed closer ties with Arab gulf nations like the UAE, Saudi Arabia and Qatar was in the best interests of the U.S.

As for Grimes, Lowell — his lead attorney — was consistent in his defense throughout the case. He repeatedly tried to drive home the point that Grimes was just Barrack's lackey, who fetched his boss' coffee and kept track of his luggage, and any actions he took with respect to the UAE were at Barrack's direction.

Barrack, who is footing the bill for Grimes' defense, reinforced that notion during his testimony, describing Grimes as "a puppy," whom he had taken under his wing.

The acquittal of Barrack is another feather in the cap of Jackson, Schachter and Casey Donnelly, Barrack's Willkie trial lawyers whose last major case in the Eastern District also resulted in a not-guilty verdict, that time for shipbuilding executive Jean Boustani, who was charged over an alleged \$2 billion fraud and kickback scheme.

Like Barrack's trial, there was a robust defense case and Boustani himself took the stand. Jurors later told Law360 they acquitted him on venue grounds.

Jackson told reporters after Barrack's acquittal they were appreciative of the fact that the jury took a close look at the evidence and rendered a fair verdict.

"It feels fantastic," Jackson said. "We had total faith in the jury."

The government is represented by Ryan Harris, Samuel Nitze, Hiral Mehta and Craig Heeren of the U.S. Attorney's Office for the Eastern District of New York and Matthew McKenzie of the U.S. Department of Justice's National Security Division.

Barrack is represented by Michael Schachter, Randall Jackson, Steven Ballew, Casey Donnelly and Jordan Reisch of Willkie Farr & Gallagher LLP and James Bowman and Daniel Petrocelli of O'Melveny & Myers LLP.

Grimes is represented by Abbe Lowell, Christopher Man, Andrew Tauber, Sofia Arguello, Johanna Hudgens and David Kolansky of Winston & Strawn LLP.

The case is U.S. v. Al Malik Alshahhi et al., case number 1:21-cr-00371, in the U.S. District Court for the Eastern District of New York.

--Editing by Alex Hubbard and Emily Kokoll.