

FTC Assistant Director Leaves For Crowell & Moring

By **Matthew Perlman**

Law360, New York (September 13, 2017, 1:50 PM EDT) --

An assistant director in the Federal Trade Commission's competition bureau, who worked on some of the agency's highest-profile and most important merger challenges in the past few years, is returning to private practice as a partner with Crowell & Moring LLP, the firm confirmed Wednesday.

Alexis Gilman left his position as assistant director for the Mergers IV division in the FTC's competition bureau on Sept. 1 and will join Crowell & Moring's Washington, D.C., office as a partner in the antitrust practice group on Sept. 25, a representative for the firm said.



Alexis Gilman

The FTC's Mergers IV division handles deals involving hospitals, consumer goods, supermarkets, funeral homes and retail outlets. Gilman served as assistant director of the group for three years, overseeing a team of more than 30 attorneys responsible for investigating and litigating potentially anti-competitive mergers in those sectors.

His time as assistant director included work on the FTC's successful challenge of Sysco Corp.'s proposed \$3.5 billion deal with US Foods Inc., the scrapped merger between daily fantasy sports operators DraftKings Inc. and FanDuel Inc., and the abandoned \$6.3 billion tie-up of Staples and Office Depot, among others.

"Alexis' government leadership and insight into the Federal Trade Commission's merger review process will be a great asset to our clients," Crowell & Moring chairwoman Angela B. Styles said in a statement. "We are excited to welcome Alexis aboard. His experience will further strengthen the firm's already deep antitrust group bench."

Gilman spent seven years in the FTC's competition bureau altogether, starting off as a staff attorney in 2010. He told Law360 on Wednesday that the big takeaway from his public service is that the commission does an extremely thorough job of collecting evidence before challenging a deal and that it brings cases only when all of that evidence points in the same direction. In addition, he said, the FTC's recent successes in court make going up against it even more "formidable" than it was before.

"The lesson is, the agency is very well-prepared to go into court to stop deals that it thinks violate the Clayton Act, and it's going to be ready with a lot of evidence," Gilman said. "And now, with a string of

litigations, it actually has some pretty strong case law behind it, especially in the D.C. Circuit, when it goes to court.”

He said his work with the commission can help shed light on the outcomes his future clients can expect. His experience has given him a deep understanding of the agency’s processes, the types of arguments it finds persuasive and its overall approach to merger reviews, in addition to a familiarity with the people at the competition bureau.

“That kind of experience and knowledge will be helpful to advise clients better on what to expect and hopefully resolve any antitrust issues they might come across,” he said.

While at Crowell & Moring, Gilman will have a focus on the health care industry, which he said makes up roughly half of the Merger IV division’s workload at a given time.

The FTC’s work in that area during Gilman’s tenure included the challenge of a planned merger between Advocate Health Care and NorthShore University HealthSystem that resulted in the deal being scrapped after a preliminary injunction was issued in district court following a Seventh Circuit appeal. It also challenged a tie-up between Cabell Huntington Hospital and St. Mary’s Medical Center, a pair of West Virginia hospitals, but dropped its case after the state stepped in.

Gilman said his experience in the sector pairs well with a strong health care practice at Crowell & Moring, which is why he’ll have a particular focus there, but said he’ll work on matters in other industries as well, including retail.

“They have a great health care platform and a retail platform that I think will be a nice fit with my experience,” he said.

He also said that the names of Crowell & Moring antitrust attorneys “echo through the halls of the FTC” as good antitrust practitioners and that the firm has recent litigation experience, including work on the proposed \$37 billion merger between health insurance giants Aetna Inc. and Humana Inc.

“But at the end of the day, I just got a good feel for the people there,” Gilman said. “It seems like a really collegial and great environment to step into.”

Prior to joining the FTC, Gilman spent eight years with Morgan Lewis & Bockius LLP in the firm’s antitrust practice. He received his bachelor’s degree in political economy from Williams College and his law degree from George Washington University Law School.

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