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Howard J. Weintraub

Attorney of the Month

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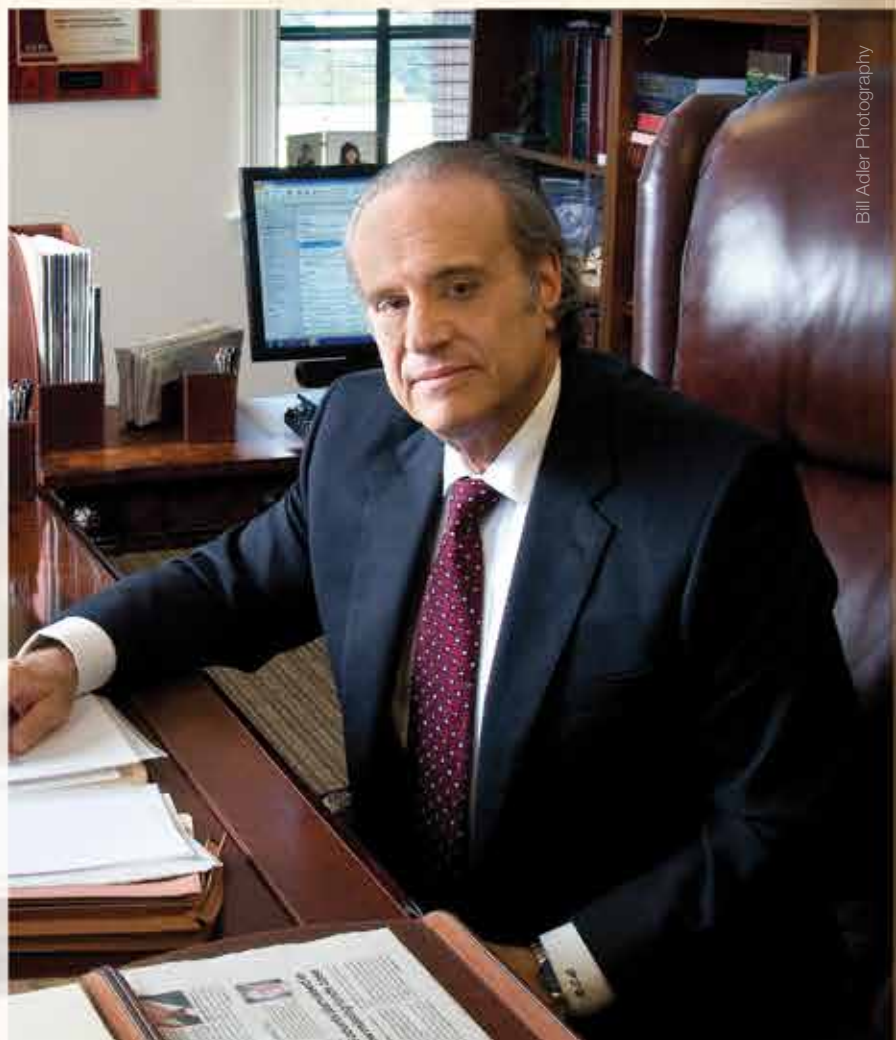
Howard C. Weintraub

Compassionate, Driven & Meticulous By Jan Jaben-Eilon

At 18 years of age, and just a few months into his freshman year of college, Howard Jarrett Weintraub alerted his parents that his then girlfriend had threatened to accuse him of rape if he broke off their relationship. "This false accusation certainly could have destroyed my life," says Weintraub. Although the relationship did terminate, the threat never materialized. That event had a dramatic affect on Weintraub leading him to consider a career as a criminal defense attorney.

Weintraub emphasizes how his parents, who were both born in Poland, valued education above everything else and also instilled a tremendous work ethic in him and his sister. He fondly remembers how his parents taught him through example and by living the benefits derived from hard work, perseverance and integrity. His father's story of being a new immigrant in America, who began working as a janitor in a factory in Bayonne, New Jersey, while educating himself in night school, and eventually rising to own that factory employing over 200 people, depicts a story reminiscent of Horatio Alger. When he told his parents that he wanted to be a criminal defense lawyer, Weintraub recalls his father telling him that it is a noble profession and to serve his clients well. He cautioned Weintraub that his clients would be entrusting their lives with him and to always remember the responsibility this carried. Weintraub recalled that conversation as if it happened yesterday. It occurred, however, a year before his father died, when Weintraub was one month short of turning 20.

That conversation clearly made an impression on Weintraub. The obligation of representing people is



one he takes on with honor and complete commitment to each of his clients.

The most challenging aspect of his work, he adds, is knowing that many of his clients face harsh sentences which not only affect them but drastically impact their families. To exemplify the harsh reality of criminal defense work, Weintraub points to his defense several years ago of a North Fulton County high school guidance counselor indicted for the statutory rape and child molestation of one of his students. Weintraub had uncovered many defects in the state's case resulting in the prosecutors offering his client probation in exchange for a guilty plea. In a pretrial conference, the judge advised the client about the benefits of taking a plea offer, stating that should the jury find him guilty the court would sentence him to a minimum of 20 years. Weintraub's client rejected the plea offer, knowing he faced at least 20 years if convicted. After a lengthy trial, the jury acquitted Weintraub's client of all the charges.

answer and opined that anyone with that kind of moxie when a job offer was hanging on the line would be a tough and effective litigator. Weintraub described working at Main Justice as a very fulfilling job where he gained extensive experience writing appellate briefs in several United States Courts of Appeals and memoranda in opposition to petitions for writs of certiorari before the United States Supreme Court.

A New Yorker by birth, Weintraub has lived in Atlanta since 1972, except for his three years with the government in Washington, D.C. He has become a bit of a Southern-style storyteller. Weintraub recounts an ironic twist of fate regarding the only brief on the merits that he wrote before the United States Supreme Court during his tenure with DOJ in Washington. While in law school, Weintraub was assigned the task of writing a brief in a case concerning an illegal search of a flower shop, which led to the discovery of the identity of an individual

habeas corpus collateral attack by William A. H. Williams who had been convicted of kidnapping Reginald Murphy, an editor of the Atlanta Constitution. Among several other interesting cases, Weintraub prosecuted an international advance fee loan swindle case that involved an extradition proceeding before the British House of Lords and a jury trial in Atlanta. The case consumed almost 11 weeks, making it the longest trial at that time in the history of the Northern District of Georgia. He also prosecuted 52 air traffic controllers during the PATCO strike in 1981, more so than any other prosecutor had done in the country, taking to heart the words of President Reagan "They are in violation of the law and if they do not report for work within 48 hours they have forfeited their jobs and will be terminated." Another case clearly recalled by Weintraub was his prosecution in 1983 of a North Georgia cattleman for attempting to buy off an IRS revenue agent with cash and negotiable

“You have to learn the rules of the game. And then you have to play better than anyone else.” - *Albert Einstein*

While attending Emory University School of Law, Weintraub knew he wanted to be a prosecutor before defending people. "I wanted to get experience as quickly as I could and learn from the prosecutorial perspective prior to having the responsibility of defending people," Weintraub says. During his second year of law school, the United States Department of Justice was interviewing students for possible employment in its honors program. Weintraub wanted that job but as the last candidate to be interviewed by virtue of alphabetical order, he knew he had to make a memorable impression with the interviewer in order to rise above the others.

When he was asked the usual question of why he wanted to be an attorney, he stated, "I am Jewish and I can't stand the sight of blood, so what else can I be to make my mother proud of me if not a doctor or dentist? I only thought of that answer at that moment," he smiles, noting that a year or so later he ran into the interviewer in the Great Hall of the United States Department of Justice building in Washington, D.C. shortly after he began working in the Appellate Section of the Criminal Division. The interviewer said that even though some time had passed since the interview he remembered Weintraub and his

who then became a witness against the owner of the flower shop business in a case of perjury brought against the store owner. Weintraub had assumed that it was a hypothetical case crafted by his law school professor. Little did he know that this hypothetical was an actual case (*United States v. Ceccolini*, 435 U.S. 268 (1978)) that had made its way up to the United States Supreme Court. Shortly after beginning to work in the Department of Justice, Weintraub ironically was assigned the task of writing the government's brief, in conjunction with the Justice Department's Solicitor General's Office, in *United States v. Ceccolini*. Weintraub does not remember his law school paper's position, but he notes how the government's position, in the real world case prevailed before the Supreme Court in a 6-2 decision, with the majority opinion written by Chief Justice Rhenquist. Justices Marshall and Brennan dissented and Justice Blackmon did not participate in the consideration or decision of the case.

After his stint in Washington, D.C., Weintraub became an Assistant United States Attorney in Atlanta. He vividly recalls his eight years of federal prosecution for the Northern District of Georgia. One of his first assignments was to oppose the Section 2255

notes worth approximately \$500,000, which then IRS Commissioner Rosco Egger, Jr. called the largest bribe attempt in IRS history.

In 1985, Weintraub left the government and formed his own criminal defense firm. Over the years, he has represented clients in federal cases in 20 states, as well as clients throughout the state courts of Georgia, in matters such as complex frauds, money laundering, securities fraud, income tax fraud, public corruption, RICO, Medicaid fraud, murder, child molestation, rape, armed robbery and DUI.

One of Weintraub's early cases was also one of his most memorable. Four Californians and two Libyan nationals were charged in a \$50 million scheme to illegally sell two Lockheed Martin L-100-30 transport planes to Libya. Also named in the indictment as an unindicted co-conspirator was the chief of staff of the Libyan armed forces under Libyan Dictator Muammar Gaddafi. The case involved the purchase of the two aircraft on the pretext that they would be used for oil exploration in the tiny West African nation of Benin. It was the government's contention that the planes thereafter were diverted to Libya to be converted to aerial refueling aircraft that could be used to extend the range of Libyan fighter jets. Weintraub's client was

a former oil company executive who had resided in Tripoli, Libya, and the government contended that Weintraub's client "was the Libyan connection who had brokered the deal." At the time the case was indicted, the United States Customs Service described the scheme as "the largest diversion of military equipment to Libya ever uncovered."

If convicted, Weintraub's client was facing over 30 years in prison. He went to trial before a jury in the United States District Court in Atlanta and after a two-week long trial, the jury found the defendant not guilty on all charges.

In discussing many of his other cases as a defense attorney, one stands out because of recent changes in the federal sentencing scheme for cocaine prosecutions. In 1992, Weintraub was one of the first defense lawyers to challenge the constitutionality of the enhanced federal penalties for the possession and distribution of crack cocaine when compared to the penalties associated with powder cocaine. Pulling documents out of his archival cabinet, Weintraub read from his briefs in that case where he argued that the enhanced penalties for crack cocaine "are constitutionally depriving young black people of a fair and equal disposition [as compared to] more wealthy white people who use the

the United States Military Academy at West Point and Washington University in St. Louis, Missouri, and then obtained his law degree from Emory. Although Alper graduated law school just five years ago, he comes from a family of lawyers where his mother was the Dean of Pace Law School in New York, his father had a thriving intellectual property law practice in New York City and his wife Erin is a patent law litigator in Atlanta. Alper's legal acumen and superb courtroom skills and talents have been recognized and lauded by numerous federal court and state court judges. Alper fully shares the strong work ethic, compassion and dedication to clients that is exhibited by Weintraub. "We truly complement one another," says Weintraub. "I am so blessed and honored to have Ben as a partner."

Alper feels equally blessed. "Working with Howard has been a truly invaluable learning experience and thoroughly rewarding. I am constantly amazed at the energy and drive that Howard puts forth toward each and every case that we have. A young lawyer could not ask for a better teacher."

One of the firm's most recent successes came in April 2014, when Weintraub and Alper convinced a North Georgia Superior Court Judge to dismiss a 116 count indictment

need not fear the result of a hundred battles," says Weintraub. He also recites one of his favorite mantras, which is a quote from Albert Einstein, "You have to learn the rules of the game. And then you have to play better than anyone else."

According to his 107 client reviews on Avvo, Weintraub apparently has learned to play the game very well. "To me, it is so much more rewarding what my clients think of me then for me to name the high-profile cases that I have done," says Weintraub. He then proudly points to his latest client review posted on Avvo on the very day he was being interviewed for this story.

Clients, however, are not the only people who appreciate the quality of work Weintraub has done. While he was in the government sector, Weintraub was awarded commendations from United States Attorney General William French Smith, the Federal Bureau of Investigation, the Internal Revenue Service, the Secret Service, the Federal Aviation Administration and the Small Business Administration.

In looking back at his career, Weintraub says, "I hope to retire someday and be able to take long daily walks with my beautiful partner Judy on the beaches in Martha's Vineyard and Nantucket, without needing any prior approval



different form of powder cocaine." He went on to argue that the crack "sentencing scheme was not passed by a well-informed Congress, but rather was the product of 'helter-skelter in [the] halls of Congress' and the product of surviving political suicide if a congressman voted against the tougher penalties in drug cases." Although his oratorical skills did not prevail in his 1992 case, Weintraub nonetheless feels somewhat vindicated in that some two decades later Congress now has reduced the ratio discrepancy in the sentencing scheme for crack and powder cocaine.

Weintraub practices with his law partner Benjamin Black Alper in the Midtown-Atlanta firm of Weintraub & Alper, P.C. Alper attended

for theft brought against a former assistant magistrate judge. Weintraub and Alper prevailed with their argument that the prosecution was barred by the expiration of the running of the four-year statute of limitations and that the tolling exception urged by the state was without any merit. "It clearly would have been a miscarriage of justice for the case to have been permitted to proceed to trial," says Alper.

"Ben and I diligently and meticulously prepare each and every one of our cases and we do not take any prosecutor for granted," says Weintraub. "We subscribe to the teaching of Sun Tzu's 'The Art of War' where he writes 'If you know the enemy and know yourself, you

from a judge. There will be no regrets as I know that I have invested all of my energy and skills for each and every client with whom I have been privileged to represent. Even though I lost my father before I was 20, I know that he along with my mother, who also has passed away, would be proud of the man that I have become."

As this interview was coming to a close, Weintraub looked around his inner office and smiled at the many photographs he had taken over the years of his two beautiful daughters, Ashley-Rose and Brooke-Elise, saying, "After all of my years of being a lawyer and when all is said and done what really matters most to me is that I have been a great dad for my two girls."