

MALAYSIA

Goldman's top execs off scot-free at 1MDB trial

Lawyers insist ex-Goldman banker Roger Ng is a 'fall guy' for higher level complicity in the multi-billion dollar scandal

By NILE BOWIE

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US investment bank Goldman Sachs has claimed the 1MDB scandal did not involve top-level executives. Photo: Twitter

SINGAPORE – Often described as one of the largest financial heists in history, the now-infamous money laundering and bribery scandal involving state investment fund 1Malaysia Development Berhad, or 1MDB, saw billions looted from public coffers. The only Malaysian to be tried overseas over the scandal, meanwhile, adamantly insists he is a “fall guy.”

Since the February 14 opening of his trial at the US Eastern District Court of New York, lawyers for 49-year-old Roger Ng, the former head of investment banking at Goldman Sachs Malaysia, have described their client as a scapegoat for companywide failures at the Wall Street bank that enabled massive fraud.

Ng, or his birth name Ng Chong Hwa, has pleaded not guilty and denies accusations of bribing foreign officials, circumventing Goldman's internal compliance rules, laundering portions of the US\$6.5 billion raised by the bank for 1MDB through three bond issuances in 2012 and 2013, and allegedly pocketing about \$35 million in the process.

Legal experts and close observers of 1MDB proceedings say Ng faces an uphill battle in proving his innocence since prosecutors will likely show the jury incriminating emails, online chats and financial records showing he benefited from the scheme. But much still hinges on the question of Goldman's institutional culpability in 1MDB's fraudulent dealings.

"Ng's only chance is to make the jury take its eye off the ball and convince them that Goldman Sachs and maybe ministers in the government of Malaysia are the far bigger culprits here, and he's just being used as a scapegoat," said Kevin J O'Brien, a former assistant US attorney and seasoned trial lawyer specializing in white-collar criminal defense.

The 1MDB scandal led to the conviction on corruption charges of former Malaysian prime minister Najib Razak after stolen funds linked to the bond offerings arranged by Goldman were discovered in his personal bank account. Najib, who is appealing a 12-year prison sentence handed down in July 2020, remains free on bail. He has consistently denied wrongdoing.



Former Malaysian Prime Minister Najib Razak talks to media at Kuala Lumpur's High Court after a hearing in the 1MDB financial fraud case on October 25, 2018. Photo: AFP via Andalou Agency / Adli Ghazali

Prosecutors say that the money raised for 1MDB was intended to finance infrastructure projects in Malaysia, but was instead diverted through offshore bank accounts and shell companies linked to a proxy of the then-premier, fugitive Malaysian financier Low Taek Jho, or Jho Low, and used to finance huge bribes and lavish spending.

Though Low held no official position at 1MDB, he was a key intermediary for Goldman executives, to whom he provided insider feedback that helped the bank secure the bond deals. Accused of being the mastermind behind the theft of billions from 1MDB, Low allegedly helped Malaysia's then-premier Najib set up a massive political slush fund.

US prosecutors indicted Low alongside Ng and his former boss Tim Leissner, then chairman of Goldman Sachs' Southeast Asia operation, in 2018. The flamboyant Malaysian tycoon has since managed to continually evade arrest and remains a fugitive. Malaysian authorities say Low is living in Macau, which Beijing adamantly denies.

Leissner, 50, has already pleaded guilty to violating anti-bribery laws and forfeited \$47.3 million in ill-gotten gains. He is now cooperating with the prosecution as its star witness in the trial against Ng. Leissner's testimony has thus far shone new light on the intricate backroom dealings behind the multibillion-dollar theft from 1MDB.

After media reports revealed a \$681 million deposit in Najib's bank account in 2015, the Malaysian leader claimed the funds were a "donation" from the Saudi royal family. Investigators have long established that the funds, received by the then-premier in 2013, had been diverted from 1MDB's third bond issuance.

Leissner's testimony further disproved Najib's claim. The former Goldman executive said two of Najib's former private secretaries were involved in issuing the bond, and that Low had informed him that the third round of bonds raised for 1MDB – worth \$3 billion – were to be utilized to fund the ruling Barisan Nasional's 2013 re-election campaign.

In a bid to secure the lucrative business opportunities and promised kickbacks Low had offered, Leissner testified that he sought to secure a job for Najib's daughter, Nooryana Najwa Najib, at Goldman after the then-premier directly lobbied the investment bank's then-chief Lloyd Blankfein in 2009 for help in getting positions for his three children.



Nooryana Najwa Najib was looking for a job in 2009. Image: Facebook

Leissner said he worried that the job placements might be perceived as “a bribe in kind” but feared that rejecting Najib’s request could impact the bank’s Malaysian business. The ex-Goldman executive said he pulled strings to get Nooryana a position with TPG, an American private equity firm in Hong Kong, instead to avoid a possible conflict of interest.

During his testimony, German-born Leissner said that he was directly informed by Ng that a bribe had been paid to Tawfiq Ayman, the husband of then-central bank governor Zeti Akhtar Aziz, to ensure its approval for a US\$1 billion transfer from 1MDB to an overseas account controlled by Low, which was subsequently misappropriated.

That claim forced a denial by Bank Negara Malaysia (BNM), which said it had complied with procedures in approving the transfer. Tawfiq, meanwhile, denied receiving the bribe. Malaysian police say their probe into Tawfiq has been on hold due to Covid-19 travel restrictions that have prevented officers from traveling to neighboring Singapore.

Leissner testified that he and Ng played a key role in the scheme and that he personally transferred \$35 million in kickbacks to Ng, whose lawyers acknowledge that he introduced Low to Leissner in 2018. The defense claims the financial inflows that Ng received were actually derived from a legitimate business venture between the two men’s wives.

But according to Leissner, the two former bankers used their wives to disguise kickbacks from the 1MDB deals. He testified that Ng and his wife, Hwee Bin Lim, concocted a “cover story” to justify the \$35 million in funds as being owed to Lim and by Leissner’s then-wife, Judy Chan, who owns a large vineyard and successful winery business in China.

Ng’s lawyers say he had no further role in the scheme beyond introducing Low and later warned his superiors at Goldman that the Malaysian financier was “not to be trusted.” Marc Agnifilo, a lawyer for Ng, said there was a lack of evidence incriminating his client and described the proceedings as “a trial of an innocent man.”



Roger Ng's lawyers say he's innocent. Image: Facebook

Should Ng be convicted on two charges of violating the Foreign Corrupt Practices Act (FCPA), which makes it illegal to bribe foreign officials, and of conspiring to commit money laundering using funds derived from FCPA violations, the former Malaysian banker could face a maximum sentence of 30 years behind bars in the US.

Ng's defense has challenged Leissner's credibility by casting him as a habitual liar who is now testifying against his former junior partner in a desperate bid to spare himself prison time. Prosecutors have acknowledged that Leissner, who is expected to be sentenced this summer, will receive a lighter punishment as a result of his cooperation.

For his part, Leissner admitted under cross-examination that he had "lied a lot" in his life, and in doing "whatever it takes" to clinch lucrative 1MDB deals for Goldman, his "greed and ambition took over." Bringing in an exorbitant \$600 million in profits for Goldman from the three bond issuances "instantaneously made us heroes," he testified.

Leissner also claimed that Low had the "decision-making authority" in a bond transaction considered "the biggest in Goldman Sachs history," and that he was informed by the Malaysian fugitive in 2012 that both he and Ng would receive kickbacks as per the deal, which he agreed to because he felt Goldman had been under-compensating him.

Sordid details of Leissner's marital infidelity have also come to light as Agnifilo has sought to call his character into question. Leissner admitted in court to having affairs with the daughter of a Malaysian ambassador to the US, the niece of a former chief minister of Sarawak state and the former chief executive of Malaysian media giant Astro, Rohana Rozhan.

Leissner claimed that Rohana, with whom he had a decade-long affair beginning in 2003, had blackmailed him into financing a \$10 million home purchase in London using her knowledge of his involvement in the 1MDB

scheme. Malaysian anti-corruption authorities earlier this month announced an investigation into Rohana over the claims.

Clare Rewcastle-Brown, editor of Sarawak Report, the whistle-blower website widely recognized for its role in uncovering the byzantine money trail and political machinations behind the 1MDB scandal, told Asia Times that salacious details about Leissner's personal life distract from the critical question at the core of the scandal.

“What’s of interest shouldn’t be Leissner’s party habits or choice of spouses, but how he got his bosses at Goldman Sachs to agree to a plainly stinking deal that made them all huge amounts of money,” said Rewcastle-Brown, who said she was waiting for more information from the trial about “the involvement of Goldman’s hierarchy in this monstrous heist.”



Tim Leissner and Kimora Lee Simmons attend The Weinstein Company and Netflix's 2014 Golden Globes After Party presented by Bombardier, FIJI Water, Lexus, Laura Mercier, Marie Claire and Yucaipa Films at The Beverly Hilton Hotel on January 12, 2014, in Beverly Hills, California. Photo: AFP / Araya Dia / Getty Images for The Weinstein Company

Goldman Sachs has consistently denied any institutional wrongdoing and has argued that 1MDB-related misconduct was limited to a small number of “rogue employees.” It has never been established whether top Goldman executives knew of the hefty kickbacks that were paid to obtain 1MDB-related deals or of Low’s involvement as an intermediary.

Low was twice rejected as a client by Goldman’s compliance team because it was unclear how he had amassed his wealth. According to US prosecutors, Ng and Leissner continued to deal with Low in a private capacity using personal email accounts to conduct business with him outside company channels and employee bank accounts.

But the \$600 million fees Goldman controversially collected for its work, about 10% of the bond sales’ value, was several times higher than prevailing industry norms that would ordinarily see banks receive a 1% to 2% fee for such transactions. Those outsized earnings raised red flags at the bank and were a warning sign that something was amiss.

Goldman's investment banking group, led at the time by the bank's current chief executive David Solomon, collected the bond sale profits despite documented compliance concerns among the bank's own regulators over 1MDB's largely negligible business track record and the unusual no-bid arrangement of the bank's contract with the Malaysian state fund.

"You can't deny the imprint of Goldman Sachs in this scheme," said lawyer O'Brien. "They were the immediate beneficiaries. They were forced to plead guilty, but no one outside of the Asian bank suffered any consequences in the criminal system. Only good lawyers who are well paid can produce results like that."

In October 2020, Goldman Sachs agreed to a \$2.9 billion settlement with US federal prosecutors and the Department of Justice (DoJ) over its role in the 1MDB scandal. Goldman's subsidiary in Malaysia agreed to plead guilty to a charge of breaching the FCPA, shielding the bank from the consequences of a more onerous parent-level guilty plea.

Goldman previously defended itself by saying its 1MDB deals were vetted by internal committees and had claimed it was paid appropriately for the risks it took. The bank also accused members of the former Malaysian government, including Najib, of concealing Low's involvement as an intermediary and lying about how bond proceeds would be used.

"One should not pre-empt the jury on Ng's personal guilt," said Rewcastle-Brown.



1MDB logo pictured on a bus window in Kuala Lumpur, February 17, 2017. Photo: AFP via NurPhoto / Chris Jung

"But one thing is certain – this deal was not decided at his level and, particularly as it was Goldman's biggest ever deal and they had decided to do it in-house, every piece of it should have been scrutinized by those above him. Guilty or not, Ng is the fall guy in every meaning of the word," she told Asia Times.

A number of Goldman employees, mainly from its compliance division, are soon expected to be called as witnesses in Ng's trial, which could last up to six weeks. Legal experts say that after its settlement and subsidiary-level guilty plea in 2020, Goldman itself is unlikely to face any further material damage as a result of the court proceedings.

"I don't expect there to be future consequences for Goldman," said O'Brien. "Whatever results from this scandal, and it is a pretty substantial scandal, they've suffered it already. They've paid a price and they're moving on. Goldman has walked away, as the largest institutions often do, with a financial slap on the wrist."

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