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Ex-NJ AG Spared Prison Based On Reputation, Attys Say

By **Bill Wichert**

Law360, Newark (March 8, 2017, 8:57 PM EST) -- A now-infamous United Airlines Inc. bribery scheme may have tarnished the legacy of onetime New Jersey Attorney General and former Port Authority Chairman David Samson, but his long career in government and the private sector still carried enough weight to help him avoid prison, attorneys say.

That dynamic played out Monday when U.S. District Judge Jose L. Linares sentenced the 77-year-old co-founder of law firm Wolff & Samson PC — now Chiesa Shahinian & Giantomasi PC — to **a year of home confinement and four years' probation**, finding Samson's reputation has been damaged but that he also deserved "some credit for a lifetime of good work."

While Samson's reputation has been destroyed, "it played in the other end by keeping him out of 'Club Fed,'" Dennis T. Kearney, a partner with Day Pitney LLP, told Law360.

"I think it did come into play on both sides," said Kearney, a former assistant prosecutor in Essex County, New Jersey, referring to Samson's "reputation being destroyed on the back end, but on the front end helping keeping him out of prison."

Eli J. Richardson of Bass Berry & Sims PLC, a former federal prosecutor, agreed that Samson's reputation benefited him in the sentencing.

"That likely helped him here, that he can point to 77 years without a criminal history, a series of good works over the years and many supporters who would claim that, despite this incident, you're not dealing with some monster," Richardson said.

Just as it would be appropriate for the judge to consider another defendant's criminal past, attorneys said it was proper for Judge Linares to take into account Samson's positive track record over several decades.

William F. Maderer, managing member of Saiber LLC, noted that Samson "achieved such a high degree of success and respect in his life," including as co-founder of his law firm and as attorney general, and argued that such accomplishments had to play a role in his sentencing.

"It's appropriate to look at an entire person's life, good and bad, when rendering sentence," said Maderer, a former federal prosecutor.

After working in public service on behalf of both Democratic and Republican governors, Samson properly received credit for his career in his sentence, Kearney said. "The guy's got a long, stellar career of really serving not only both parties, but the public," he said.

"That's worth something."

Samson **pled guilty** in July to a federal bribery charge for using his Port Authority of New York and New Jersey position to pressure United into reinstating a flight from Newark to the area near his South Carolina house. He faced up to two years in prison under a plea deal.

Samson admitted he delayed approval of a Port Authority agreement in 2011 to coerce the airline into restoring what he referred to as the "chairman's flight," and he flew on the route more than two dozen times between 2012 and 2014.

According to federal prosecutors, Samson and Jamie Fox, then a lobbyist for the airline's parent company and a former commissioner of the New Jersey Department of Transportation, conspired to pressure the airline into reinstating the nonstop flight route in exchange for Port Authority approval of a wide-body aircraft maintenance hangar at Newark Liberty International Airport.

Fox, who was charged in July in a separate criminal complaint with conspiring to commit bribery, died on Feb. 20.

Judge Linares also ordered Samson to perform 3,600 hours of community service and pay a \$100,000 fine. The judge said Samson must wear a location-monitoring device and must not leave his house during the confinement period except for community service, religious service and medical care.

In seeking a sentence of probation and community service, Samson's lawyers argued that his conduct was an **aberration in an otherwise extraordinary life** and they provided the court with numerous letters supporting him, including those from three former state attorneys general.

Former Attorney General Peter C. Harvey wrote in his letter: "I trust that the court will take into account the totality of his life. I am certain the court will realize that David has accumulated many credits for his years of good works, and the actions for which he now stands before the court should not exhaust his balance."

Robert A. Mintz, a partner with McCarter & English LLP, told Law360 that "the reputational argument is always something of a double-edged sword."

"The defense can argue, as Samson's lawyers did here, that the misconduct was an aberrant act that should be viewed in context with an otherwise long and distinguished career in both private and public service," said Mintz, a former federal prosecutor and head of the firm's white collar and internal investigations practice.

"The other side of that argument is that the defendant would have never been in the position to commit this crime in the first place without having cultivated the very political connections that now support his plea for leniency. In the end, it is up to the judge to balance those competing interests," Mintz said.

Among other factors cited during Monday's hearing — such as Samson's age and health issues — Judge Linares determined that Samson deserved credit for his public service and helping others in need. The judge also indicated that correspondence from public figures factored into his sentence, saying that letters from such individuals willing to publicly share their experiences about someone convicted of a crime carried a level of veracity.

Kearney suggested that the letters played a huge factor in the judge's decision, saying they likely supported his feel for the case and "obviously his feel for the case was based on all the factors ... this guy does not belong in prison."

The sentence of home confinement and probation ultimately was “probably a just result,” Kearney said.

“I think when you consider the nature of the offense, the seriousness of it, the impact if any on the public ... whether there's a financial loss, all those factors, and you balance that against ... a 40-plus-year history of public service, it feels right,” Kearney said.

Considering Samson's age and apparent poor health, Richardson said the sentence was “justifiably lenient under the circumstances.”

But Richardson said one could argue that, for public corruption crimes similar to Samson's, the deterrent value of the sentence for other would-be offenders is not high enough.

“An argument can be made it does not send a strong enough message to other officials who may abuse the public trust,” he said.

--Editing by Philip Shea and Brian Baresch.