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'Respectful and Measured,' NBA Head Is His Father's Son

Tania Karas, New York Law Journal

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When it comes to holding firm on tough calls, the National Basketball Association's new commissioner, Adam Silver, made a name for himself long before he stood up to Donald Sterling, the controversial co-owner of the Los Angeles Clippers.

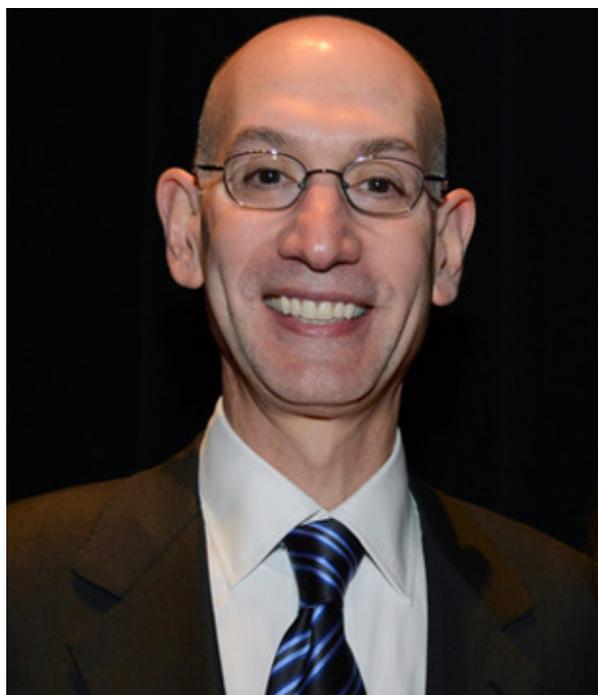
Those who have worked with Silver and knew his late father, Edward Silver, a respected New York labor attorney, say the 52-year-old sports executive is a tough, effective negotiator like his father, and developed that reputation from the earliest days of his career.

Silver, who worked as an attorney for Cravath, Swaine & Moore and clerked for Southern District Judge Kimba Wood before joining the NBA in 1992, was thrust into the spotlight in April—two months after accepting the commissioner's job—after Sterling's racist remarks on a secretly-taped recording were made public.

Citing "personal outrage" at the comments, Silver banned Sterling from the NBA for life, fined him \$2.5 million—the maximum allowed under the NBA constitution—and urged the NBA board of governors to approve a forced sale of the team. Sterling responded with a \$1 billion lawsuit on May 30.

It was the first time many had heard of Silver, who stayed mostly under the radar during his 22 years at the NBA. Silver worked his way up from former commissioner David Stern's special assistant to chief of staff to president and chief operating officer of NBA Entertainment, the production company that manages the league's television, Internet and marketing partnerships. He became deputy commissioner in 2006, which led him to ascend to the top job on Feb. 1.

In his prior NBA roles, Silver negotiated deals to expand the league's \$5.5 billion business empire, including major television agreements, a digital rights partnership with



Adam Silver, NBA Commissioner

Turner Broadcasting System and collective bargaining agreements with the players' union, the National Basketball Players Association. He helped launch NBA China. And as deputy commissioner, Silver was instrumental in working out a deal that ended a 161-day lockout for the 2011-12 season.

"I've been negotiating opposite Adam for more than 20 years, and I have found him to be a strong and effective advocate for the team owners," said Jeffrey Kessler, a partner at Winston & Strawn who co-chairs the firm's sports law practice and represented the union during the 2011 lockout.

"In a number of those situations, it was Adam who was able to restart negotiations," Kessler said. "He was the one who'd pull someone in the room aside and focus more on finding solutions."

Silver's style is "respectful and measured," in sharp contrast to Stern, who tended to be "emotional and over the top," Kessler said.

Stern, who has a reputation for brashness, agreed. "[Adam's] was a more calming persona than mine, and in some cases by design," he said.

Stern, an attorney, practiced at Proskauer Rose with Edward Silver before starting at the NBA as general counsel in 1978. He described the younger Silver as his father's son.

"[Edward Silver] was a builder of consensus, and somebody who tried to understand the validity of his opponent's arguments," Stern recalled. "That didn't mean he gave in easily. He just didn't find it necessary to have adversarial relationships, and Adam is very much the same."

Indeed, the elder Silver, who died in 2004, had the respect of his union adversaries. In addition to chairing Proskauer from 1981 to 1991, Edward Silver headed the firm's labor department and acted as senior outside labor counsel for four New York City mayors—John Lindsay, Abraham Beame, Edward Koch and David Dinkins—in collective bargaining negotiations with city workers' unions.

"He's tough. He won't roll over, but you can take his word to the bank," said Barry Feinstein, onetime head of Teamsters Union Local 237, of Edward Silver in a 1991 New York Law Journal story.

From Fan to Commissioner

The road to NBA commissioner began when Adam Silver was a child growing up in Rye, where he often played basketball with his friends and two brothers. Their parents divorced by the time Adam turned 10, and Edward Silver moved back to the city. Watching Knicks games at Madison Square Garden became a regular bonding activity between father and son.

"We attended many Knicks games together, and my love of the game of basketball came directly from him," Adam Silver said in an email sent to the Law Journal—coincidentally—on Father's Day.

Though he grew up loving the Knicks, these days he won't play favorites. "Now I am a fan of all 30 teams," he said.

His father also encouraged him to get his law degree. Silver attended the University of Chicago Law School, graduating in 1988.

He served as Wood's first clerk when she was appointed to the federal bench. She said Silver and

his father shared "a rare understanding of just how to bring adversaries together, and an intuitive knack for finding a solution all parties can live with, combined with gentle but strong persuasion and knowing when his sharp wit can leaven negotiations."

As a clerk, Adam Silver had a talent for turning phone calls with lawyers on scheduling into conversations about how parties could reach a middle ground. Wood said he settled at least 10 cases that way.

"While [my father] never set out to teach me those particular skills, I learned a lot about negotiating from him through the stories he told me about his work," Adam Silver said of his father's work , particularly on collective bargaining.

After his clerkship, he worked as a litigation associate at Cravath. A few years into the job, he called Stern, his father's old colleague, to seek career advice on possibly leaving the firm.

They'd met once before, briefly, in 1988, when they shook hands at the NBA All-Star game in Chicago. Soon after the phone call, Stern extended Silver an invitation to join the NBA as his special assistant.

Stern described their two-decade work relationship as collaborative. Silver was unafraid to push back, respectfully, at his boss when they disagreed.

"He and I were always lawyers first," Stern said. "When we were involved in litigation matters, we read the cases. There's so much that involved legal hair-splitting these days that it's really helpful, if not essential, to be a lawyer."

Sterling Fight Not Over

The battle to get Sterling to let go of the Clippers has proved messy so far. In a complaint filed in U.S. District Court for the Central District of California, Sterling contends the NBA breached its contract with him over a recording that was made illegally without his consent. He also called the lifetime ban a "capricious, arbitrary, unreasonable and grossly discriminatory" punishment.

Soon after filing, Sterling said he would withdraw the suit and approve a \$2 billion sale of the Clippers to former Microsoft CEO Steve Ballmer. Proskauer represents the NBA in the sale proceedings. But then Sterling backtracked, saying publicly he would oppose the sale and pursue the suit.

If his past history is any indication, Silver is unlikely to play ball.

The NBA, represented by Skadden, Arps, Slate, Meagher & Flom, has until June 23 to file its response. It has said in numerous statements that the magnitude of Sterling's remarks would hurt the business and reputation of the Clippers and the NBA. Meanwhile, a probate trial will be held next month to determine whether Sterling's estranged wife, Rochelle Sterling, properly removed her husband as an administrator of their joint family trust, which owns the team, and can sell the Clippers on her own. Her lawyers claim Sterling lacks the mental capacity to carry out his duties as trustee.

Silver's outlook was positive in a June 8 media address before Game 2 of the NBA Finals.

"I have absolute confidence it will be resolved because as part of the sale agreement with Shelly

Sterling, she agreed to indemnify the league against a lawsuit by her husband," Silver said that night. "So in essence, Donald is suing himself, and he knows that."

At the same conference, Silver pondered whether the league could have stepped in earlier to reprimand Sterling, who faced allegations of racism several times before the recent scandal.

"It's a fair point that in hindsight possibly we should have done more," he said at the time. "Certainly if I had to do it again, maybe we would have done more, but our eyes are open going forward."

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