

 [Click to Print](#) or Select '**Print**' in your browser menu to print this document.

Page printed from: [New York Law Journal](#)

Shkreli Emails to Lawyer Are Center Stage as Trial Moves Toward Conclusion

Andrew Denney, New York Law Journal

July 25, 2017

Attorneys in the securities fraud case against former pharmaceutical executive Martin Shkreli finished questions with the prosecution's last planned witness on Tuesday and both sides expect to give their summations on Thursday.

Prosecutors from the U.S. Attorney's Office for the Eastern District of New York allege that Shkreli and his attorney, Evan Greebel, a former partner at Katten Muchin Rosenman who provided counsel to Retrophin Inc. and the hedge funds, worked together from 2011 to 2014 to hide Shkreli's majority ownership of Retrophin's shares, referred to as the "Fearnow shares."

On Monday afternoon and for most of Tuesday, the beginning of the fifth week of the trial, assistant U.S. attorney Jacquelyn Kasulis questioned FBI agent Michael Braconi about Shkreli's emails, a significant portion of which were to and from Greebel, seeming to indicate that the two defendants kept in regular contact.

"I guess Fearnow now gets 400 free shares," Shkreli said in one email to Greebel. "God bless America. Good job, Evan."

Other emails to Greebel were less congenial. "Bullshit. How long does it take to edit a consulting agreement I sent three weeks ago?"

Earlier this year, Shkreli and Greebel successfully argued for severance to their cases. Greebel's case is expected to go to trial in October.

Kasulis also presented emails between Shkreli and investors, which by contrast indicated investors' frustration about a lack of communication from Shkreli.

In one such email, Spencer Spielberg, an investor in MSMB Healthcare said that he still had not received tax forms for his investment after requesting them twice and asking for his investment back.

The other prosecutors in the case are assistant U.S. attorneys Alixandra Smith and Girish Srinivasan.

According to Retrophin's civil complaint against Shkreli, filed in the Southern District, Spielberg was one of seven investors who received settlement payments from Retrophin.

While Braconi was the prosecution's final planned witness, the government has not officially rested its case, said John Marzulli, a spokesman for the U.S. Attorney's Office for the Eastern District.

Throughout the case, Shkreli's defense team, led by Benjamin Brafman of Brafman & Associates, has stressed that Shkreli's alleged victims ended up making money while portraying their client as something of an eccentric.

"They made a lot of money?" asked defense attorney Marc Agnifilo, also of Brafman's firm, during cross examination of Braconi of the investors.

"I think that's fair, yeah," Braconi replied. Shkreli's defense team also includes Brafman & Associates attorneys Jacob Kaplan and Andrea Zellan.

Eastern District Judge Kiyo Matsumoto, who presides over the case, gave jurors the day off on Wednesday.

David Chase, a Florida-based securities lawyer and former staff counsel to the U.S. Securities and Exchange Commission who has been following the case, said of the government's strategy in the case that it appear prosecutors are painting a broad-strokes picture of Shkreli as a "prolific liar who has lied prolifically." But a challenge for prosecutors, he said, is showing that people who ultimately made money were still defrauded.

"At the end of the day, some of these alleged investor-victims made a lot of money," Chase said.

Shkreli faces eight counts for allegedly defrauding investors into MSMB Capital Management and MSMB Healthcare, two hedge funds he created, and paying them back with \$11 million in assets that he misappropriated from Retrophin, another firm that he founded.

Contact Andrew Denney at adenney@alm.com. On Twitter: [@messagetime](https://twitter.com/messagetime)

Copyright 2017. ALM Media Properties, LLC. All rights reserved.