

Corporate Defense and Investigations



Selendy Gay's partners have defended litigations, investigations, and appeals brought by the Department of Justice (DOJ), the Securities and Exchange Commission (SEC), the Commodities Futures Trading Commission (CFTC), the U.S. Department of the Treasury and its Office of Foreign Assets Control (OFAC), the Internal Revenue Service (IRS), the Financial Industry Regulatory Authority (FINRA), and a number of state attorneys general. We interact frequently with the DOJ, the U.S. Attorney's Offices in New York, the New York State Attorney General's Office, the New York Department of Financial Services, and the Manhattan District Attorney's Office, among other prosecutors and agencies.

As defense counsel, we have had dramatic courtroom and negotiation successes that have helped Fortune 500 companies fend off criminal and regulatory actions that threatened the viability of their businesses or business lines. We have counseled and represented boards and special committees on thorny governance and compliance matters. We have successfully represented individuals in high-profile cases in which prosecutors have aggressively interpreted their mandate or the statutes they enforce.

Today's prosecutions and regulatory actions are often hydras that force clients to face simultaneous scrutiny from more than one source. A criminal matter may have criminal and civil aspects, multiple agencies may investigate at once, or cross-border conduct may attract the attention of prosecutors and regulators in more than one jurisdiction. We are proficient in all these scenarios and have the skills they demand: rapid response, crisis management within the company and in the public eye, and the ability to strategize in multiple dimensions. We also well understand our clients' strong view that a cure worse than the ailment is no cure at all. Our objective is an effective, efficient, and credible defense that does not itself disable our client or our client's operations.

Central to our success in the white-collar area is our willingness to take cases to trial, if necessary. Prosecutors and regulators, no less than other adversaries, take into account courtroom risk when they approach their cases and potential resolutions. We have defended actions and investigations brought under the securities fraud and insider trading laws, the Foreign Corrupt Practices Act, the False Claims Act and Anti-Kickback Statute, anti-money laundering statutes, trade regulations and sanctions (including the Iranian Transactions and Sanctions Regulations), health care fraud and tax laws—and more.

We have handled a wide range of white-collar litigations and investigations including:

- **Fortune 500 companies** in securities fraud investigations and larger, privately held concerns, including in matters adverse to the SEC and in cross-border investigations.
- **A pharmaceutical company** in a price fixing investigation on allegations of collusion with competitors.

- A **financial services company** in an SEC investigation regarding corporate governance and adequate controls in a cyber hacking case that exposed customer data. The case also involved possible investor disclosure violations.
- A **former senior partner at a leading private equity firm** in obtaining a reversal, in an appeal before the Second Circuit, of a district court judgment finding him liable for violations of the Investment Advisers Act after a nine-day bench trial.
- A **medical device company** subject to a U.S. Department of Justice investigation related to insurance reimbursement claims it submitted on behalf of customers covered by federal employee health plans.
- **Two of the largest unions in the U.S.** in successfully resolving without charges allegations of campaign violations in connection with various political races.
- A **major consulting firm** in a federal grand jury investigation involving bankruptcy fraud, fraud on the court, and racketeering allegations.
- The **boards of a prominent New York City synagogue and Jewish school** in the investigation of Ezra Merkin and the Gabriel feeder fund, resulting in a revamp of the school board's corporate governance. Merkin was head of the school's investment committee and failed to disclose Gabriel as a feeder fund to Madoff.
- The **Alexander Dawson Foundation**, an educational charity for young children, in a suit against North Hills Management alleging the creation of a Ponzi scheme. The DOJ and CFTC subsequently asserted parallel actions, and the principal was incarcerated and defaulted in the civil suit.
- A **major academic institution** in an internal investigation of a high-profile apparent hate crime on the school's campus. We were hired to analyze the schools' overall security systems and safety compliance protocols, and to recommend changes to those systems and protocols.