

## 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:**

- **The former CEO of a major technology company**, in connection with his prosecution by the U.S. Attorney's Office for the Northern District of California on charges of wire fraud, securities fraud, and conspiracy to commit offenses, including obstruction of justice, against the United States. Selendy Gay helped procure and prepare trial experts. The client was acquitted on all 15 charges.

- **A former senior partner at a leading private equity firm**, in an appeal before the Second Circuit of a district court judgment that found him liable for violations of the Investment Advisers Act. Selendy Gay was engaged for the client's appeal, and after a nine-day bench trial, obtained a reversal of the district court's ruling.
- **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.
- **Daniel Yarur Elsaca**, former Superintendent of the Chilean equivalent of the Securities & Exchange Commission, in active litigation in the Southern District of New York involving RICO and quantum meruit claims and counseling the client in connection with litigation in Chile and the British Virgin Islands.
- **A global financial services company** regarding an internal investigation of a cryptocurrency bank as part of an ongoing SEC and DOJ investigation.
- **A whistleblower** in an investigation by the Commodity Futures Trading Commission (CFTC) regarding the manipulation of oil prices.
- **A major consulting firm** in a federal grand jury investigation involving bankruptcy fraud, fraud on the court, and racketeering allegations.
- **Two of the largest unions in the U.S.** in successfully resolving without charges allegations of campaign violations in connection with various political races.
- **Cyrus Vance**, the Manhattan District Attorney, as co-counsel in securing a landmark Supreme Court decision which reaffirmed the centuries-old principle that "no citizen, not even the President, is categorically above the common duty to produce evidence when called upon in a criminal proceeding."
- **A former-executive-turned whistleblower** in an ongoing joint investigation by the U.S. Department of Justice, U.S. Attorney's Office for the Eastern District of New York, and the U.S. Securities and Exchange Commission.
- **A pharmaceutical company** in a price fixing investigation on allegations of collusion with competitors.
- **A major academic institution** in a comprehensive compliance and security probe that ensured our client met their corporate insurance and security requirements in light of an alleged hate crime and breach of campus protocols.
- **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.
- **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.