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About the Editor

DAVID M. STUART is a Partner in Cravath’s Litigation Department. He focuses on government and internal investigations, regulatory enforcement and compliance, and securities and derivative litigation. In the past several years, his engagements have involved issues related to financial reporting and disclosure, accounting restatements, improper payments and foreign corruption, insider trading, market manipulation, and whistleblower claims. He has appeared before the SEC, DOJ, U.S. Attorneys’ offices, state Attorneys General offices, PCAOB, CFTC, FINRA, and the New York Mercantile Exchange. Mr. Stuart has also conducted comprehensive reviews of corporate compliance programs and advised organizations on implementation of best practices in regulatory compliance.

From 2000 to 2006, Mr. Stuart served in the Division of Enforcement at the U.S. Securities and Exchange Commission in Washington, D.C. While at the SEC, he was Branch Chief for the SEC’s Financial Fraud Task Force and regularly coordinated multinational investigations with the FBI, DOJ, and multiple international regulators and law enforcement agencies. For this work, Mr. Stuart twice received the Director’s Award for outstanding contribution to the enforcement of the federal securities laws. After leaving the SEC, Mr. Stuart served as Senior Counsel of Investigations and Regulatory Affairs for the General Electric Company. Mr. Stuart returned to Cravath in 2008.

Mr. Stuart was recognized for his work in securities regulatory enforcement by Chambers USA: America’s Leading Lawyers for Business in 2015 and 2016, The Legal 500 United States in 2015 and 2016 and Benchmark Litigation in 2015, 2016 and 2017. Benchmark Litigation named him a “Local Litigation Star” in the New York area in its 2016 and 2017 editions. He was named one of Ethisphere Institute’s “Attorneys Who Matter” and was recognized for his white-collar criminal defense work in the 2016 edition of The Legal 500 United States. Mr. Stuart and his partners also earned Cravath recognition in the Corporate Crime & Investigations category of Chambers USA: America’s Leading Lawyers for Business in 2015 and 2016.
Mr. Stuart is a frequent speaker, expert columnist, and author on the subjects of regulatory compliance and corporate investigations.

Mr. Stuart was born in Dearborn, Michigan. He received his B.A. with high honors in 1990 from Wesleyan University, where he was elected to Phi Beta Kappa, and his J.D. in 1995 from New York University School of Law, where he was Senior Staff Editor of the Environmental Law Journal. After graduating from law school, Mr. Stuart clerked for the Hon. John Gleeson in the Eastern District of New York.

Mr. Stuart is a member of the American Bar Association, the International Bar Association, the Association of SEC Alumni, and the SEC Historical Society.
LINDI BEAUDREAUT, a Shareholder at Murphy & McGonigle, P.C., defends clients in SEC, FINRA, and DOJ investigations and proceedings and advises hedge funds, broker-dealers, registered investment advisers, and proprietary trading firms on regulatory matters, compliance, and best practices. She is particularly interested and expert in representations related to insider trading. From 1998 to 2003, Ms. Beaudreault served as a staff attorney and senior counsel in the SEC’s Division of Enforcement, where she conducted numerous securities investigations and prosecuted several high-profile cases. After her tenure at the SEC, and prior to joining Murphy & McGonigle, Ms. Beaudreault was a partner at a major law firm in Washington, D.C., counsel at Shearman & Sterling in New York, and in-house counsel for regulatory matters at Bank of America and Merrill Lynch.

GREGORY S. BRUCH represents public companies, audit committees and special committees, broker-dealers, hedge funds and asset managers, accountants and lawyers, and other institutions and individuals in connection with civil and criminal securities law enforcement, compliance, and litigation.

Mr. Bruch has served as lead counsel for securities enforcement and related matters for many leading companies and financial services firms. He is widely recognized as a leading attorney in the area of securities law regulation and white collar defense by Chambers USA (2006–2015), The Best Lawyers in America (2007–2015), and several other publications. Mr. Bruch served as an Assistant Director at the SEC’s Division of Enforcement for twelve years, where he was responsible for a number of the agency’s significant enforcement actions concerning complex financial fraud, market manipulation, insider trading, and FCPA matters. Prior to co-founding Bruch Hanna LLP, Mr. Bruch was a partner at Willkie Farr & Gallagher LLP, where he served on the Washington Management Committee and at Foley & Lardner LLP, where he chaired the Securities Litigation, Enforcement & Regulation Practice.
Mr. Bruch is a frequent speaker and panelist on securities enforcement matters, and has been quoted in numerous media publications. He graduated from Stanford University (A.B. History, 1982), and from the University of Iowa College of Law (J.D. with High Distinction, 1985), where he served as the Editor in Chief of the *Iowa Law Review* and received the Legal Scholarship Award from the law faculty. Following law school graduation, Mr. Bruch was a law clerk to the Hon. George E. MacKinnon of the United States Court of Appeals for the D.C. Circuit.

**Wayne M. Carlin** is a Litigation Partner with Wachtell, Lipton, Rosen & Katz. His practice is concentrated in the defense of regulatory, enforcement, white collar criminal, and complex civil litigation matters, as well as the conduct of internal investigations. Mr. Carlin was previously Regional Director of the New York Regional Office of the United States Securities and Exchange Commission from 2000 to 2004. He earlier served in a variety of positions on the SEC’s enforcement staff from 1993 to 1997 and from 1999 to 2000. From 1997 to 1999, Mr. Carlin was Head of Regulatory Affairs at Lazard Frères & Co. Mr. Carlin was a member of the Task Force on the Role of Lawyers in Corporate Governance of the Association of the Bar of the City of New York, and previously served on the Securities Regulation Committee and the Financial Reporting Committee. Mr. Carlin is a member of the Board of Directors of the Association of SEC Alumni, and of the Board of Advisors of the SEC Historical Society.

**Craig Carpenito** is a Partner at Alston & Bird, co-leader of the firm’s Government & Internal Investigations Group and co-chair of the firm’s Litigation and Trial Practice Group. His practice is focused on governmental and corporate investigations, securities regulatory and enforcement matters, white collar criminal defense, health care investigations and complex civil litigation. Craig has extensive experience in counseling both public and private companies, as well as highly regulated entities in the financial services and health care industries, through critical situations. He routinely represents both corporate and individual clients in investigations by the DOJ, SEC, CFTC, OFAC, IRS, HHS, FINRA, CME, and various state attorneys general offices. Craig is also a trial lawyer with substantial experience in all phases of litigation, including the successful trial of numerous complex matters to verdict.
Prior to joining Alston & Bird, Craig served as both an Assistant U.S. Attorney in the Securities and Health Care Fraud Unit of the U.S. Attorney’s Office for the District of New Jersey and senior counsel with the Securities and Exchange Commission’s New York Regional Office. He has been named a Rising Star as one of the top white collar defense and government/internal investigations attorneys under the age of forty in the industry by both Law360 and Super Lawyers.

DOUGLAS J. DAVISON is a Partner in WilmerHale’s Securities Department. His practice consists of representing individuals and entities in a broad range of governmental and internal investigations, including matters involving the SEC, the DOJ, the Federal Reserve Board, the Office of the Comptroller of the Currency, the CFTC, securities self-regulatory organizations, and foreign regulatory agencies. He also advises clients about regulatory compliance, corporate governance, and disclosure issues.

Mr. Davison was selected as a leading attorney in the 2013–2016 editions of Chambers USA: America’s Leading Lawyers for Business, and he was named to Securities Docket’s inaugural “Enforcement 40”—a list of the forty best and brightest individuals in the securities enforcement field.

Mr. Davison joined WilmerHale in 2001 after serving as Counsel to former SEC Chairman Arthur Levitt. Prior to his role as Counsel to the Chairman, Mr. Davison served as Branch Chief of the SEC’s Division of Enforcement and, previously, as Senior Counsel and Staff Attorney. While at the SEC, Mr. Davison supervised and conducted investigations to evaluate and enforce compliance with the federal securities laws. He also participated in the prosecution of civil, criminal, and administrative actions. Before his work with the SEC, Mr. Davison was a litigation associate for a Pennsylvania-based law firm.

JOSEPH DEVER is a Partner in Cozen O’Connor’s New York office where he heads the firm’s Securities Litigation & Enforcement practice. Joe regularly defends and advises individuals and entities in SEC, FINRA, and other government and SRO investigations, examinations, and regulatory matters. He litigates cases in state and federal court and has extensive experience defending broker-dealers and registered
representatives in customer arbitration disputes. Joe represents public and private companies, officers and directors, broker-dealers, investment advisers, hedge funds, private equity and venture capital funds, and municipal securities issuers, underwriters, and advisors.

Joe spent nine years (2003–2012) as an enforcement attorney with the SEC’s New York Regional Office where he held a number of senior positions in the Division of Enforcement including Senior Counsel, Branch Chief, and Assistant Regional Director. During his tenure at the SEC, Joe oversaw dozens of investigations into a wide range of market conduct including accounting fraud, insider trading, market manipulation, Ponzi schemes, Foreign Corrupt Practices Act (FCPA) violations, and unregistered securities offerings.

Joe earned his undergraduate degree from Georgetown University, with Honors in History, in 1990. He earned his law degree from Temple Law School, cum laude, in 1995 where he was an Articles Editor on the Temple Law Review. Following law school, Joe served a two-year federal clerkship with Senior Judge Raymond J. Broderick, U.S. District Court for the Eastern District of Pennsylvania.

**Michael J. Diver** is the head of Katten Muchin Rosenman LLP’s Chicago Securities Litigation and Enforcement practice. He represents public companies, financial services firms, and other regulated entities, as well as their individual officers and directors, in matters before the SEC and other regulatory bodies. A former Branch Chief in the Division of Enforcement of the SEC’s Chicago Regional Office, Mr. Diver’s experience covers virtually all areas of capital markets regulatory enforcement, including matters related to securitization and other structured products transactions, investment adviser and hedge fund activities, broker-dealer regulation, insider trading, municipal securities transactions, and public company accounting and disclosure. He also regularly advises clients in connection with corporate governance matters, internal investigations, financial restatements, special accounting reviews, SEC regulatory examinations, and FINRA and stock exchange inquiries.

Michael writes and lectures regularly on various topics relating to regulatory enforcement, including current enforcement trends and
priorities, corporate and individual cooperation criteria, whistleblower complaints, insider trading, and best practices in defending against regulatory inquiries.

**Larry P. Ellsworth** is a Partner at Jenner & Block, focusing on SEC enforcement matters, and white collar defense. He has defended General Motors Corporation and others among the largest companies in the United States in confidential securities investigations, as well as in private class actions and derivative actions. Mr. Ellsworth also defends officers, which have included Directors, the President, Vice President, CEO, CFO, Treasurer, Controller, Chief Accounting Officer, and General Counsel of large companies, some involving grand jury investigations. He additionally advises boards of directors, audit committees, and others with regard to internal investigations involving allegations of accounting, financial reporting, options backdating, insider trading, and Foreign Corrupt Practices Act violations.

Previously, Mr. Ellsworth was for twelve years a trial attorney at the SEC, where he never lost a case and was given the Stanley Sporkin Award, recognizing him as one of the best trial counsel ever to represent the SEC. Before that, Mr. Ellsworth was head of regulatory litigation for the U.S. Department of Energy, where he won the largest litigated judgment ever for the United States, over $2 billion, against Exxon Corporation. He also was Vice President and Director of Litigation for a Fortune 50 company.

Mr. Ellsworth, a Harvard Law graduate, has chaired both the Corporations, Finance, and Securities and the Administrative Law Sections of the D.C. Bar and was chair of the SEC Enforcement Committee. He is a coauthor of *Practicing Under the U.S. Anti-Corruption Laws* and of *Inside Information: Preventions of Abuse*.

**Marc J. Fagel** is a Partner in Gibson, Dunn & Crutcher’s San Francisco office and co-chair of the firm’s Securities Enforcement Practice Group. Mr. Fagel’s practice focuses on the representation of public companies and their officers and directors, as well as financial institutions, hedge funds and private equity firms, accounting firms, and others in investigations conducted by the SEC, DOJ, FINRA, and other regulatory bodies. Mr. Fagel also conducts internal investigations and represents clients in related civil actions.
Prior to joining Gibson, Dunn & Crutcher, Mr. Fagel spent over fifteen years with the SEC’s San Francisco Regional Office, most recently serving as Regional Director from 2008 to 2013. In his role as Regional Director, he was responsible for administering the SEC’s enforcement and examination programs for Northern California, Washington, Oregon, Alaska, Montana, and Idaho, managing a staff of more than 100 lawyers, accountants, and other professionals. Before his appointment as Regional Director, Mr. Fagel served as the office’s Associate Regional Director in charge of enforcement. While at the SEC, Mr. Fagel conducted and supervised investigations in nearly every subject area of the SEC’s enforcement program, including public company disclosure and reporting; the FCPA; insider trading; and matters involving major financial institutions, investment advisors, mutual funds, hedge funds, and broker-dealers.

Before joining the SEC, Mr. Fagel spent six years as an associate in the San Francisco office of a large international law firm, where he specialized in representing technology companies and their officers and directors in securities fraud class action litigation. Mr. Fagel received his undergraduate degree from Princeton University and graduated in 1991 with honors from the University of Chicago Law School, Order of the Coif.

**Fredric D. (Rick) Firestone** is a Partner in the law firm McDermott Will & Emery LLP and is the head of the firm’s SEC Defense Group. He represents corporations, financial institutions, and individuals in investigations and enforcement proceedings by the SEC Division of Enforcement, federal criminal authorities, FINRA, PCAOB, and state securities regulators. He also conducts internal investigations on behalf of management and boards of directors and counsels on corporate governance and compliance matters. In addition, Rick advises U.S.-based companies doing business in international markets on anticorruption and compliance issues. He co-chairs the firm’s Foreign Corrupt Practices Act (FCPA) and International Anticorruption Group.

Prior to joining the firm, Rick was an Associate Director of the SEC Division of Enforcement, where he worked for twelve years. As a senior officer of the Division of Enforcement, he was responsible for the supervision of numerous complex investigations and enforcement
actions. Rick oversaw some of the SEC’s most important and highest-profile matters. He spearheaded the SEC’s investigation and settlements with multiple firms in connection with the collapse of the auction rate securities (ARS) market. The ARS settlements resulted in the return of more than $50 billion to investors, the largest financial remedy in the history of the SEC. Rick was responsible for significant enforcement actions in the WorldCom and Enron matters. He also oversaw investigations and enforcement actions in all of the SEC’s major program areas, including accounting, investment adviser, and municipal securities fraud, violations of the FCPA, insider trading, and misconduct by securities professionals.

Rick was awarded with the Stanley Sporkin Award, the Division of Enforcement’s highest honor, which recognizes those who have made “exceptionally tenacious and insightful contributions” to the enforcement of the federal securities laws.

**Jonny J. Frank** leads StoneTurn’s New York office and its Compliance Controls & Monitoring practice.

Jonny currently serves as the DOJ Fraud Section–appointed Independent Compliance and Business Ethics Monitor of a top-five global investment bank and as Advisory Partner to a DOJ Fraud Section–appointed Independent Compliance Monitor to an asset management firm with over $30 billion in assets under management. Previously, Jonny served as the New York State Department of Financial Services–appointed Compliance Monitor of the largest U.S. non-bank mortgage servicer with over $500 billion in unpaid principal balances; the DOJ Civil Division–appointed Independent Consultant to a top-five global financial services firm; forensic adviser to a DOJ Fraud Section–appointed Monitor of a $250 billion European oil and gas company; and forensic adviser to the NHTSA-appointed Independent Compliance Monitor to a tier one automotive supplier. Earlier in his career, Jonny served as the U.S. partner on a compliance monitorship of a top-five Canadian bank and as a Monitor of a broker-dealer and a supermarket chain.

Jonny spent the first twelve years of his career in the U.S. Attorney’s Office for the Eastern District of New York, where he served as Executive Assistant United States Attorney under Mary Jo White,
then Acting U.S. Attorney. Jonny subsequently spent fourteen years as a PricewaterhouseCoopers partner, where he established and led the firm’s global Fraud Risks & Controls (FR&C) practice of fifty full-time and 350 part-time professionals focused on enhancing the detection of fraud in financial statement and controls audits. In that role, he pioneered a framework—drawn from the COSO Integrated Internal Control Framework—for conducting compliance risk assessments and assessing ethics and compliance programs. Simultaneous to his public sector and consulting experience, Jonny has served on the faculties of the Yale School of Management, Fordham University Law School and Brooklyn Law School, and has authored over fifty articles and book chapters relating to the prevention, detection and remediation of misconduct.


Mr. Grime’s practice focuses on representing companies and individuals in corruption, accounting fraud, and securities enforcement matters before the Securities and Exchange Commission and the Department of Justice. Mr. Grime also conducts internal investigations and counsels clients on compliance and corporate governance matters with a particular focus on corruption investigations.

Mr. Grime spent over nine years in the Division of Enforcement at the Securities and Exchange Commission in Washington, D.C. as an Assistant Director. Mr. Grime is ranked as a nationwide “FCPA Expert” by *Chambers USA* 2011–2014 and *Chambers Global* 2012–2015.

**MARY P. HANSEN** is a Partner in Drinker Biddle & Reath LLP’s White Collar Criminal Defense & Corporate Investigations practice group, where she focuses on defending clients involved in SEC and other regulatory investigations as well as white collar criminal proceedings. She also assists clients with internal investigations and compliance and prevention strategies. Prior to joining Drinker Biddle, Mary was an Assistant Director in the SEC’s Division of Enforcement. During her eight-year tenure at the SEC, Mary conducted and supervised complex
investigations involving a range of violations, including insider trading, broker-dealer fraud, investment adviser fraud, offering fraud, Ponzi schemes, market manipulation, municipal securities fraud, and FCPA violations. Many of her cases were conducted in parallel with other federal and state law enforcement agencies, including the FBI, the DOJ, the CFTC, the IRS, and several state attorneys general.

Prior to joining the SEC in 2004, Mary worked as a litigation associate at New York and Philadelphia law firms where she represented corporate and individual clients in connection with regulatory and criminal investigations as well as civil commercial disputes. After law school, she clerked for the Honorable Raymond J. Dearie, U.S. District Court for the Eastern District of New York. Prior to law school, Mary worked at a large, multinational broker-dealer in various audit and compliance roles. As a securities industry professional, Mary passed the FINRA Series 3, 5, 7, 8, 15, and 65 Examinations. She earned her law degree, magna cum laude, from St. John’s University School of Law and her bachelor’s degree from the University at Albany, State University of New York. Mary is also a Certified Fraud Examiner.

DOROTHY HEYL received her J.D. from the University of Virginia in 1983. She was a summer associate at Rosenman, Colin, Freund, Lewis & Cohen, and became an associate in Rosenman’s Litigation Department after graduating. In 1987, Ms. Heyl became a staff attorney at the SEC’s New York Regional Office in the Enforcement Division. During her seventeen-plus years at the SEC, Ms. Heyl investigated and brought a number of significant cases, involving accounting, Ponzi schemes, and insider trading, among other things. At the SEC, she received Arthur Levitt’s “Plain English Award,” and the Irving Pollack Award in recognition of her excellent legal skills, zeal for the public interest, and high ethical standards. She was also recognized by then-U.S. Attorney Mary Jo White for her work on the parallel investigation of Towers Financial Corporation. From 2004 to April 2017, Ms. Heyl was Of Counsel at Milbank, Tweed, Hadley & McCloy in the Litigation Department, focusing on Financial Regulatory work and White Collar Defense. She is currently General Counsel and Chief Compliance Officer of Prima Capital Advisors. She has written on SEC procedural issues for the New York Law Journal.
HENRY KLEHM III is a Partner at Jones Day. His practice focuses on regulatory and criminal investigations, enforcement actions, and other proceedings with United States and foreign authorities and on related corporate governance matters. He regularly represents financial institutions, corporate boards, public companies, and senior corporate officers.

Prior to Jones Day, Henry was the global head of compliance for Deutsche Bank, AG. From 1999 until 2002, he was the deputy general counsel and the senior regulatory lawyer for Prudential Financial. He served with the Enforcement Division of the SEC for ten years, including five years as head of the Enforcement Division for the northeastern United States.

Henry is a graduate of the University of Pennsylvania (J.D., cum laude, 1988) and Villanova University (B.S., Business [Finance], cum laude, 1980).

ALEX LIPMAN is a Partner in the White Collar Defense & Government Investigations practice at Brown Rudnick LLP. He has over twenty years of experience in both private practice and government with a focus on SEC enforcement, white collar, securities litigation, regulatory, and corporate governance matters. His practice focuses primarily on defending individuals and organizations in SEC enforcement and criminal matters relating to insider trading, corporate financial irregularities, and securities sales practices.

Alex's government experience includes serving as a Special Assistant U.S. Attorney on the Securities and Commodities Fraud Task Force at the U.S. Attorney’s Office for the Southern District of New York. In that position, he prosecuted and tried cases involving accounting fraud, mail and wire fraud, and insider trading. Alex also served as a Branch Chief in the SEC’s Enforcement Division, where he conducted numerous high-profile investigations into securities law violations, including cases stemming from the collapse of Enron.

Alex earned his J.D. from New York University School of Law. He is a native Russian speaker.

RICHARD D. MARSHALL is a Partner in Katten Muchin Rosenman LLP’s New York office. Rick focuses his practice on the representation of
financial institutions and their employees who are the subject of investigations by the SEC, U.S. Attorneys, FINRA, and state securities regulators. Rick also counsels broker-dealers, investment companies, and investment advisers on regulatory issues, particularly relating to SEC and FINRA regulation. Rick also frequently counsels clients on compliance and risk management issues and handling of SEC inspections. Prior to entering private practice, Rick worked for several years for the SEC as both a branch chief in the Division of Enforcement in Washington, D.C. and Senior Associate Regional Administrator in the SEC’s New York office, where he supervised a staff of seventy that conducted inspections of investment companies and investment advisers and instituted enforcement actions against those entities.

Joan E. McKown focuses on investigations, enforcement actions, and other proceedings with U.S. and foreign regulators. She also counsels financial institutions, boards, corporations, and individuals on issues related to the U.S. Securities and Exchange Commission, as well as on corporate governance and compliance.

Joan represents corporations, private equity entities, and corporate and advisory officers in SEC investigations involving disclosure, books and records, internal controls, insider trading, and the FCPA.

Prior to joining Jones Day, Joan was the longtime chief counsel of the Division of Enforcement at the SEC. During her twenty-four-year career at the SEC, she played a key role in establishing enforcement policies at the agency and worked closely with the Commission and senior SEC staff. Her substantive experience extends across the full range of Enforcement matters including corporate disclosure, insider trading, investment companies and investment advisors, broker-dealers, and the FCPA. She oversaw the drafting of the Enforcement Division Manual. Joan also served as a key liaison between the Division of Enforcement and other regulatory authorities including the Department of Justice, Commodities Futures Trading Commission, federal banking regulators, and state securities regulators. She led Wells meetings and settlement negotiations of thousands of SEC Enforcement matters.

Joan frequently lectures on SEC topics related to Enforcement, financial institutions, disclosure, FCPA, and insider trading. She is a co-chair of the D.C. Bar Corporate, Securities and Finance Section
Steering Committee. Joan also is a member of the executive committee of the board of trustees of the Legal Aid Society of the District of Columbia.

**Thomas C. Newkirk** is a Senior Partner and Co-Chair of Jenner & Block’s Securities Litigation and Enforcement Practice. Drawing on his nineteen years of experience with the SEC, he represents companies and their leaders in confidential investigations related to such issues as accounting, disclosure, insider trading, and the Foreign Corrupt Practices Act. He also counsels corporate boards and board committees with respect to corporate governance and compliance-related issues and defends private class and derivative securities actions.

Since 2010, *Chambers USA* has consistently recognized Mr. Newkirk as one of the country’s leading lawyers in Securities/Regulation/Enforcement Law, and he has been named one of the top securities lawyers in Washington by *Washington DC Super Lawyers* and *Washingtonian* magazine every year since 2009. He is AV Peer Review Rated, Martindale-Hubbell’s highest peer recognition for ethical standards and legal ability.

Before joining Jenner & Block in 2004, Mr. Newkirk spent nineteen years as a senior official with the SEC. For the last eleven of those years, he was Associate Director of the Division of Enforcement, and led the investigations for many of the SEC’s most significant cases. For his efforts and government service, Mr. Newkirk received numerous accolades, including two Presidential Meritorious Executive Awards, the SEC Chairman’s Award for Excellence, the SEC’s Law and Policy Award, and the SEC’s Distinguished Service Award, among others. He currently serves on the Executive Council of the Federal Bar Association’s Securities Law Committee. Mr. Newkirk writes and lectures frequently on SEC enforcement matters.

**Fiona Philip** is a Partner at Sidley Austin LLP with over eighteen years of experience representing corporations and individuals in investigations and enforcement actions brought by government agencies and other regulators including the SEC, the DOJ, and FINRA. Ms. Philip is a member of Sidley’s Securities & Derivatives Enforcement and Regulatory, White Collar: Government Litigation and Investigations practice.
groups. Ms. Philip also has led a number of internal investigations involving, among others, accounting irregularities and corporate governance issues, the FCPA, and insider trading.

Prior to private practice, Ms. Philip spent approximately five years at the SEC in the Division of Enforcement and in the Chairman’s Office as Enforcement Counsel to the Chairman. As Enforcement Counsel to the Chairman of the SEC, Ms. Philip worked closely with the Division of Enforcement and Office of the General Counsel to craft policy and guidance for SEC Enforcement staff and to ensure consistency in Commission policy. She also advised the Chairman on various rulemakings under the Sarbanes-Oxley Act, the Investment Advisers Act, the Securities Act and the Exchange Act. Prior to her work with the Chairman’s Office, Ms. Philip spent three years as Counsel in the SEC’s Division of Enforcement, where she was one of the original members of the Division’s Financial Fraud Task Force investigating allegations of accounting fraud at public companies.

Ms. Philip graduated from Georgetown University and Georgetown University Law Center.

Gerald J. Russell is a Partner in Sidley Austin LLP’s New York office, where he is a member of the firm’s Securities & Derivatives Enforcement and Regulatory practice group. He regularly advises broker-dealers, hedge funds, private equity funds, and accounting firms in matters being investigated by the SEC, FINRA, state securities regulators, and the PCAOB. He has defended clients in a wide range of subjects, including market manipulation, insider trading, portfolio valuation, excessive or unsuitable trading, churning, accounting fraud, document integrity, auditing standards, supervision and internal controls, regulatory compliance, and anti-money laundering (AML) programs, and he speaks and writes regularly on enforcement topics.

Gerald served as attorney and branch chief with the SEC’s Enforcement Division, where he led a team of attorneys and other investigators. Public matters with which he was involved include In re CIHC, Inc., et al.; In re MBIA, Inc.; SEC v. Cobalt Multifamily Investors I, LLC, et al.; and Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the Nasdaq Stock Market, Inc., as Overseen by Its Parent, The National Association of Securities
Dealers, Inc. Gerald also served as a managing director in the legal department of Bear, Stearns & Co. Inc., where he managed significant litigation and regulatory matters.

Gerald received his J.D. from New York University School of Law. After law school, he clerked for Justice Daniel J. O’Hern of the New Jersey Supreme Court and Judge Leonard I. Garth of the United States Court of Appeals for the Third Circuit.

Paul W. Ryan is an experienced civil litigator and counselor. He represents companies and individuals in all types of business disputes, government enforcement matters, and internal investigations. He has broad experience with federal and state securities laws, complex commercial disputes, and corporate governance statutes, including the FCPA and the Sarbanes-Oxley Act.

From 2003 to 2010, Paul was Senior Counsel in the Enforcement Division of the SEC, where he prosecuted securities fraud actions. Before co-founding Serpe Ryan LLP, he served as in-house counsel at Pfizer. Paul also worked in the litigation departments of two of New York’s top law firms, and served as a law clerk for the Honorable I. Leo Glasser in the United States District Court for the Eastern District of New York.

At the SEC, Paul conducted dozens of investigations, including numerous parallel investigations with the United States Attorney’s Offices for the Southern and Eastern Districts of New York. He served as the lead attorney in a wide array of matters involving complex securities fraud, accounting fraud, insider trading, fraudulent securities offerings, mutual fund market-timing and late trading, and non-compliance with disclosure rules. He gained extensive knowledge of complex financial instruments such as collateralized loan obligations (CLO), credit default swaps (CDS), residential mortgage-backed securities (RMBS), collateral debt obligations (CDO), and other asset-backed securities (ABS). Paul twice received the Director’s Award for Outstanding Contribution to Enforcement. His accomplishments included the following:

- Directed an investigation that uncovered evidence of fraudulent over-valuation of subprime, asset-backed securities
(ABS) at a major investment bank, contributing to charges being filed by the SEC and the Department of Justice.

- Obtained a temporary restraining order and preliminary injunction in a Ponzi scheme fraud action in the Southern District of New York.
- Secured a $21 million settlement in a complex accounting fraud action against a leading financial services provider.
- Uncovered market-timing and late trading at a mutual fund and at a broker-dealer.

At Pfizer, Paul served as legal and compliance counsel to the marketing teams for global commercial products. He reviewed and negotiated contracts, and advised the company with respect to corporate governance and regulatory issues. Paul also coordinated with outside counsel in internal investigations, and provided training and guidance regarding FCPA compliance.

**Russell G. Ryan** was formerly a Partner in the Washington, D.C. office of King & Spalding LLP, where he represented companies, accounting firms, law firms, and individual executives in a wide range of SEC enforcement matters. Earlier in his career, Mr. Ryan served as a Staff Attorney, Branch Chief, and Assistant Director in the SEC’s Division of Enforcement, and before that was a law clerk to the Honorable Henry Bramwell of the United States District Court for the Eastern District of New York and a litigation associate at Willkie Farr & Gallagher. He received his undergraduate degree from Boston College and his law degree from St. John’s University School of Law. Mr. Ryan is currently Senior Vice President and Deputy Chief of Enforcement at FINRA.

**Michael A. Ungar** is a Partner in the law firm of McDermott Will & Emery LLP and is based in the firm’s Washington, D.C. office. His practice focuses on investigations and enforcement proceedings by the Division of Enforcement of the SEC, federal criminal authorities, FINRA, PCAOB, and state securities regulators and accounting boards. Michael also conducts internal investigations and provides guidance on securities compliance matters.
Michael joined McDermott after eleven years in the Division of Enforcement of the SEC, including eight years as a Branch Chief. During his tenure at the SEC, Michael was responsible for a wide variety of enforcement matters, including the first auditor independence action brought against a foreign audit firm, the first enforcement action under Sarbanes-Oxley's loan prohibition, and the first enforcement action brought under Regulation G. In recognition of his accomplishments in the Division of Enforcement, Michael received four Director's Awards.

Michael has experience with enforcement matters involving investment advisers, broker-dealers, conduct by securities professionals (such as portfolio managers, traders, and chief compliance officers), financial fraud, accounting issues, corporate disclosure, the FCPA, insider trading, market manipulation, short selling, ownership reporting, Section 5, and conduct by accountants and independent auditors.

Samuel J. Winer, Partner and litigation lawyer with Foley & Lardner LLP, represents audit firms, their partners, public companies, their officers and directors, and law firms and their partners in SEC investigations. He has represented a number of these clients in related SEC or private litigation. In addition, he represents auditors in investigations conducted by the PCAOB. Mr. Winer has assisted various special committees and audit committees of boards of public companies in investigations of financial reporting and related conduct. He also counsels securities broker-dealers and other clients on compliance with the federal and state securities laws and rules of the various self-regulatory organizations (SROs) and represents those clients in SEC enforcement proceedings and SRO disciplinary and other proceedings, litigation, and grand jury investigations. Mr. Winer is a member of the firm's Securities Litigation, Enforcement & Regulation and Transactional & Securities Practices. He previously served on the firm's Management Committee.

Mr. Winer has been Peer Review Rated as AV Preeminent, the highest performance rating in Martindale-Hubbell's peer review rating system and has also been named a “Leading Lawyer” in Securities and Corporate Governance by the Legal Times. He was recently named to the BTI Client Service All-Star Team, who Corporate Counsel identified as providing outstanding client service. Mr. Winer has also been
selected by his peers to be included in the *Best Lawyers in America* since 2006 and was named the Washington, D.C. Securities/Capital Markets Law Lawyer of the Year by *Best Lawyers* in 2015. He was rated to be one of the top securities regulation attorneys in the nation by *Chambers USA* for 2009 through 2014, and one of the top regionally in the District of Columbia for 2007, 2008, and 2009. Mr. Winer was selected for inclusion in the *Washington, D.C. Super Lawyers* lists from 2008 to 2014.

Mr. Winer is a member of both the CCH Securities Regulation Advisory Board and Executive Council of the Federal Bar Association Securities Law Section. Mr. Winer’s professional affiliations include membership in the American Bar Association (Broker-Dealer Subcommittee of the Securities Litigation Committee, Market Regulation Subcommittee of the Committee on Federal Regulation of Securities) and the Securities Industries and Financial Markets Association (Legal and Compliance Section). He is admitted to practice in the District of Columbia. Mr. Winer graduated from Wesleyan University (B.S., economics, with honors, 1971) and Boston University School of Law (J.D., 1974), where he was an editor of the *Law Review*. Mr. Winer was a law clerk to Chief Justice Thomas H. Roberts of the Supreme Court of Rhode Island from 1974 to 1975.
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*Russell G. Ryan*

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Acknowledgments

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Finally, without the daily support of my assistant of nine years, Denise Lucario, this project would never have been possible.
Introduction

At the time we published the first edition of this book in 2015, I wrote that the SEC’s Division of Enforcement had just announced that it had initiated a record number of enforcement actions, collecting more in financial sanctions than it ever had previously. The SEC’s Enforcement program remained strong at the time of the second edition and has not slowed down since. The SEC reported that, in 2016, it brought a record number of enforcement actions (nearly 900) and collected more than $4 billion in penalties and disgorgement.

These enforcement actions reflected the priorities of outgoing Chair Mary Jo White and former Enforcement Directors Andrew Ceresney and Robert Khuzami, including using emerging technology and data analytics to identify market manipulation, insider trading, and accounting improprieties; holding “gatekeepers” accountable for the misconduct of their organizations; scrutinizing the municipal and microcap securities markets; collaborating with international counterparts in the battle against corruption; and encouraging “whistleblowers” to provide reliable information to the Enforcement Staff by paying more than $57 million in bounties in the last year alone.

At the same time, the last year has seen serious questions raised about aspects of the Enforcement program, some of which remain unsettled as of the publication of this edition. For example:

- The Supreme Court will consider whether to resolve a circuit split that developed in *Lucia v. SEC* (D.C. Cir.) and *Bandimere v. SEC* (10th Cir.), over the constitutionality of the method by which SEC administrative law judges are hired.

- In *Kokesh v. SEC*, the Supreme Court will consider the SEC’s long-held view (taken for granted by most practitioners) that the five-year statute of limitations under 28 U.S.C. § 2462 does not apply to claims for disgorgement.
• In *Salman v. United States*, the Supreme Court considered whether a “gift” of material non-public information from an insider to a trading relative or friend without an expectation of a tangible benefit in return can constitute a breach of fiduciary duty.

While the SEC has a long history of strong enforcement of the federal securities laws, over the last decade its resources have increased, talent has improved, and innovation has accelerated, making it a formidable regulator. As a result of these changes, today the SEC is one of the preeminent regulatory agencies in the world, ensuring that the U.S. capital markets operate with greatest efficiency and integrity.

Many of these changes are attributable to significant SEC Enforcement developments since the Sarbanes-Oxley Act of 2002 was passed in response to the devastating corporate financial accounting frauds at Enron and Worldcom and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was adopted in the wake of the American financial market crisis of 2007 to 2010. Developments include:

• Increasing the SEC’s budget almost four-fold, allowing the agency to hire more Enforcement staff and improve technology used in Enforcement investigations.

• Establishing specialized Enforcement units with expertise in areas such as foreign corruption, municipal securities, market manipulation, and complex financial instruments.

• Initiating the Financial Reporting and Audit Task Force and the Center for Risk and Quantitative Analytics, which employs quantitative data and analysis to profile high-risk behaviors and transactions and supports initiatives to detect financial reporting fraud.

• Creating the Whistleblower Program to systematically process complaints and tips received by the Enforcement Division and give monetary awards to eligible individuals who provide original information that leads to successful Enforcement action.
Introduction

- Enabling the Enforcement Division to obtain a wider range of sanctions in SEC administrative proceedings against non-regulated persons and entities.
- Focusing investigative efforts on “gate-keepers,” such as auditors, board members, and attorneys.
- Implementing the “Cooperation Initiative” giving the Enforcement Division the ability to enter cooperation agreements, deferred prosecution agreements, and non-prosecution agreements.
- Requiring admission of wrongdoing in certain egregious cases rather than allowing all defendants to settle without admitting or denying wrongdoing.
- Broadening Enforcement’s international reach through agreements with foreign authorities and coordinated investigations of foreign corruption.

As a result of these developments, counsel advising participants in the securities industry, such as broker-dealers and investment advisers or companies that register their securities with the SEC and issue them in U.S. markets, require sophistication and expertise in this area of practice, including not only knowledge of a complex and extensive body of regulations, but also the nuances of unique SEC Enforcement procedure.

Under the Trump Administration, we will undoubtedly witness significant change at the SEC and in the U.S. regulatory landscape generally. If Jay Clayton is confirmed by the U.S. Senate as the next Chair of the SEC, he will bring the perspective of a corporate lawyer, which will be markedly different from that of his predecessor, who was most well-known for her law enforcement background. Given what has transpired in the first few months of President Trump’s term, it is apparent that he intends to effect substantial changes to the regulation of U.S. businesses, financial institutions, and capital markets and the priorities of the SEC’s Enforcement Division. One hopes, with cautious optimism, that any such changes will not impair the SEC’s sophistication, resources, and structure that have been carefully built over more than a decade.
This book compiles the perspectives of leading practitioners from around the country who have previously served in the SEC Enforcement Division, many of whom were in some of the most senior positions in the Division, such as Chief Counsel and regional office directors. Other authors were in supervisory positions overseeing the teams of Enforcement attorneys that defense counsel encounter routinely when representing a client in an Enforcement investigation or litigation. Accordingly, this book is a unique resource for those who require insight from both inside and outside the agency.

This book begins with a discussion of how to conduct an effective investigation internally while the SEC is simultaneously investigating. It then turns to the nuts and bolts of responding to SEC requests and subpoenas for documents, interviews, and testimony and how to cooperate effectively with the SEC Staff. It includes chapters on the complexities that arise when criminal and international law enforcement authorities become involved in an SEC investigation. For situations when the SEC Staff decides that its investigative findings warrant charges and sanctions against an individual or entity, this book provides perspectives on the Wells process, negotiating resolutions, and litigating with the SEC. Given the increasing prominence of corporate monitors as a remedy sought by the SEC Staff, this edition also includes a new chapter on monitorships written by a former federal prosecutor who currently serves as a monitor for several large corporations. Finally, it addresses the substantive issues that arise in investigations into insider trading, accounting and securities offering fraud, market manipulation and foreign corruption, and the special issues related to investigations of attorneys and accountants and those prompted by whistleblowers.

DAVID M. STUART
Managing Editor
SEC Organizational Chart
# Table of Abbreviations

Selected acronyms, initialisms, and abbreviations used in this book.

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<td>American Depositary Receipt</td>
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<tr>
<td>Advisers Act</td>
<td>Investment Advisers Act</td>
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<td>Administrative Law Judge</td>
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<td>Administrative Procedures Act</td>
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<td>ARS</td>
<td>Auction Rate Securities</td>
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<td>ASC</td>
<td>Accounting Standards Codification</td>
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<td>CCO</td>
<td>Chief Compliance Officer</td>
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<td>CDO</td>
<td>Collateralized Debt Obligation</td>
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<td>CEO</td>
<td>Chief Executive Officer</td>
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<td>CFA</td>
<td>Chartered Financial Analyst</td>
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<td>Commodity Futures Trading Commission</td>
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<td>CLO</td>
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<td>DFS</td>
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<td>DOJ</td>
<td>U.S. Department of Justice</td>
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<td>DPA</td>
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<td>DRC</td>
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<td>Financial Accounting Standards Board</td>
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<td>Acronym</td>
<td>Full Form</td>
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<td>FBI</td>
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<td>Financial Services Authority (U.K.)</td>
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<td>ICO</td>
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<td>IOSCO</td>
<td>International Organization of Securities Commissions</td>
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<td>IPO</td>
<td>Initial Public Offering</td>
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<td>ITSA</td>
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<td>ITSFEA</td>
<td>Insider Trading and Securities Fraud Enforcement Act</td>
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<td>LIBOR</td>
<td>London Interbank Offered Rate</td>
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<tr>
<td>MD&amp;A</td>
<td>Management’s Discussion and Analysis of Financial Condition and Results of Operations</td>
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<td>Mutual Legal Assistance Treaty</td>
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<td>MSRB</td>
<td>Municipal Securities Rulemaking Board</td>
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<td>NASAA</td>
<td>North American Securities Administrators Association</td>
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<td>NASD</td>
<td>National Association of Securities Dealers</td>
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<tr>
<td>NBBO</td>
<td>National Best Bid or Offer</td>
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<td>NPA</td>
<td>Non-Prosecution Agreement</td>
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<tr>
<td>NYAG</td>
<td>New York Attorney General</td>
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<tr>
<td>NYSE</td>
<td>New York Stock Exchange</td>
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<td>O&amp;D</td>
<td>Officer and Director</td>
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### Table of Abbreviations

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<td>OCIE</td>
<td>SEC Office of Compliance Inspections and Examinations</td>
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<td>OCR</td>
<td>Optical Character Recognition</td>
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<tr>
<td>OFAC</td>
<td>Office of Foreign Assets Control (Department of the Treasury)</td>
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<td>OFDMI</td>
<td>FINRA Office of Fraud Detection and Market Intelligence</td>
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<td>SEC Office of the General Counsel</td>
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<td>SEC Order Instituting Proceedings</td>
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<td>OMS</td>
<td>SEC Office of Market Surveillance</td>
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<td>ORAS</td>
<td>SEC Office of Risk Analysis and Surveillance</td>
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<td>OWB</td>
<td>SEC Office of the Whistleblower</td>
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<td>PCAOB</td>
<td>Public Company Accounting Oversight Board</td>
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<td>PII</td>
<td>Personally Identifiable Information</td>
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<td>SEC</td>
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