

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Haywood Stirling Gilliam, Jr.

2. **Position:** State the position for which you have been nominated.

United States District Judge for the Northern District of California

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Covington & Burling LLP  
One Front Street  
San Francisco, CA 94111

Residence: Oakland, California

4. **Birthplace:** State year and place of birth.

1969; Marlborough, Massachusetts

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1991 – 1994, Stanford Law School; J.D., 1994  
1987 – 1991, Yale University; B.A. (*magna cum laude*), 1991

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2009 – present  
Covington & Burling LLP  
One Front Street

San Francisco, CA 94111  
Partner

2006 – 2009, 1995 – 1998; Summer 1993  
Bingham McCutchen LLP  
(formerly McCutchen, Doyle, Brown & Enersen)  
Three Embarcadero Center  
San Francisco, CA 94111  
Partner (2006 – 2009)  
Associate (1995 – 1998)  
Summer Associate (Summer 1993)

1999 – 2006  
United States Attorney's Office  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Assistant United States Attorney (1999 – 2006)  
Chief, Securities Fraud Section (2005 – 2006)

1994 – 1995  
United States District Court for the Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Law Clerk to the Honorable Thelton E. Henderson

Summer 1992  
Farella, Braun & Martel  
235 Montgomery Street  
San Francisco, CA 94104  
Summer Associate

Summer 1991  
Winthrop, Stimson, Putnam & Roberts  
One Battery Park Plaza  
New York, NY 10004  
Intern

Other affiliations (uncompensated):

2013 – present  
Vincent Academy/Partners in Oakland Education  
1911 Union Street  
Oakland, CA 94607  
Board Member  
Governance Committee Member

2012 – present  
East Bay Community Law Center  
2921 Adeline Street  
Berkeley, CA 94703  
Advisory Board Member

2011 – present  
Plymouth United Church of Christ  
424 Monte Vista Avenue  
Oakland, CA 94610  
Vice-Moderator

1999 – present  
Wiley Manuel Law Foundation  
4107 Sequoyah Road  
Oakland, CA 94605  
Board Member (1999 – present)  
President (2009 – 2012)

2010 – 2012  
Stanford Law School Board of Visitors  
Crown Quadrangle  
559 Nathan Abbott Way  
Stanford, CA 94305  
Member

2009 – 2012  
Bar Association of San Francisco  
301 Battery Street  
San Francisco, CA 94111  
Board Member

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I timely registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

*Best Lawyers in America*, Criminal Defense: White Collar (2013 – 2014)

*Benchmark Litigation*, Future Star (2013 – 2014)

*Northern California Super Lawyers* (2008 – 2013)

San Francisco NAACP 1998 Thomas I. Atkins Civil Rights Award (1998)

Article Editor, *Stanford Law Review* (1993 – 1994)

Member, *Stanford Law Review* (1992 – 1994)

United States Law Week award for outstanding service and unfailing commitment to the *Stanford Law Review* (1994)

Hilmer Oehlmann Jr. Prize for outstanding work in first-year Legal Research and Writing, Stanford Law School (1992)

Thatcher Memorial Prize for encouragement of extemporaneous debate among undergraduates, Yale University (1991)

Master's Cup for service to Timothy Dwight College, Yale University (1991)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association

Co-Editor, Section of Litigation Minority Trial Lawyer Committee Newsletter (2005 – 2008)

Bar Association of San Francisco

Board Member (2009 – 2012)

Judiciary Committee (2007 – 2009)

Independence of the Judiciary Committee (2009 – present)

Nominating Committee (2010, 2012)

California Minority Counsel Program (2010 – present) (by virtue of Covington's membership)

23rd Annual Business Conference Organizing Committee (2012)

Charles Houston Bar Association

East Bay Community Law Center

Advisory Board Member (2012 – present)

Edward J. McFetridge American Inn of Court

Associate Member (1996 – 1998)



Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Northern District of California Lawyer Representative to the Ninth Circuit Judicial Conference

Lawyer Representative (2006 – 2009)

Lawyer Representative Co-Chair (2008 – 2009)

Northern District of California Magistrate Judge Merit Selection Panel

Chair (2013)

Panel Member (2006)

Stanford Associates (honorary organization recognizing exceptional and sustained volunteer service to Stanford University) (2012 – present)

Stanford Law School Board of Visitors

Member (2010 – 2012)

Stanford Law School San Francisco Alumni Chapter

Co-Chair (2012 – present)

Wiley Manuel Law Foundation

Board Member (1999 – present)

President (2009 – 2012)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California, 1994

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Ninth Circuit, 1998

United States District Court for the Northern District of California, 1995

United States District Court for Eastern District of California, 2009

United States District Court for Central District of California, 2011

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Plymouth United Church of Christ (2011 – present)  
Vice-Moderator (2011 – present)

Sequoyah Country Club (2011 – present)  
Membership Development Committee (2013 – present)

Vincent Academy/Partners in Oakland Education (2013 – present)  
Board Member  
Governance Committee Member

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

With Christopher Miller, *Some Practical Considerations When Concluding an Investigation*, prepared for Practising Law Institute program “Internal Investigations 2014” (June 2014). Copy supplied.

*Knock and Talks: What to Do if the Feds Show Up on Your Doorstep*, Chief Executive.net (January 5, 2014). Copy supplied.

Since joining Covington & Burling, I have been listed on a number of the firm's client advisories as a person to contact if the recipient of the advisory has questions about its content. I have been so listed in my capacity as a partner in the firm's White Collar Defense and Investigations and Global Anti-Corruption practice groups, and the firm's practice is to list a number of senior lawyers in these groups without regard to whether we played any role in drafting the advisory. My involvement in the preparation of these advisories has varied, from actively preparing or editing drafts, to receiving a copy of the finished advisory to circulate to my contacts who may find it of interest. To the best of my recollection after reviewing my records, I was involved in drafting the following client advisories: *The Ralph Lauren Case: Inadequate Rewards for Exemplary Cooperation*, *Final SEC Whistleblower Rules: What Will They Mean in Practice?*, and *Honest Services Fraud*. For the remaining advisories listed below, I was listed as a person to contact based on my membership in the relevant practice group.

Covington & Burling Client Advisory, *Trends and Developments in Anti-Corruption Enforcement 2014* (January 2014). Copy supplied.

Covington & Burling Client Advisory, *Dodd-Frank Anti-Retaliation Provisions: Fifth Circuit Narrows Scope, Rejects SEC and District Court Interpretations* (July 29, 2013). Copy supplied.

Covington & Burling Client Advisory, *The Ralph Lauren Case: Inadequate Rewards for Exemplary Corporate Cooperation* (April 16, 2013). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Year in Review: 2012* (February 2013). Copy supplied.

Covington & Burling Client Advisory, *An Analysis of the FCPA Resource Guide* (November 2012). Copy supplied.

Covington & Burling Client Advisory, *Dodd-Frank Anti-Retaliation Provisions: Three Federal Courts Weigh In* (July 12, 2012). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Mid-Year Review* (July 2012). Copy supplied.

Covington & Burling Client Advisory, *Trends and Developments in Anti-Corruption Enforcement* (February 2012). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Mid-Year Review* (July 2011). Copy supplied.



Covington & Burling Client Advisory, *Final SEC Whistleblower Rules: What Will They Mean in Practice?* (June 2, 2011). Copy supplied.

Covington & Burling Client Advisory, *Honest Services Fraud* (June 2010). Copy supplied.

With Tammy Albarran, Jessica Chan and David Kornblau, *Ralph Lauren: Inadequate Rewards for Exemplary Cooperation*, Law360 (May 1, 2013). Copy supplied.

With Jessica Chan, *The Voluntary Disclosure Dilemma: Does the FCPA Resource Guide Change the Calculus?*, prepared for Practising Law Institute program "Internal Investigations 2013" (April 23, 2013). Copy supplied.

*Be Quick – But Don't Hurry: Commencing an Internal Investigation in an Era of Aggressive Enforcement*, prepared for Practising Law Institute programs "Internal Investigations 2012: How to Protect Your Clients or Companies in the Global, Post-Dodd-Frank World" (June 2012) and "Internal Investigations 2011: Investigations in the Aftermath of Dodd-Frank" (with Joshua Hurwit) (June 2011). Copies supplied.

*New Safe Harbor for Corporate Transgressions: Revised Sentencing Guidelines Let Companies Mitigate Violations with an Effective Ethics and Compliance Program*, The Recorder (January 17, 2011) (The Recorder editor drafted this title, which is not the one I submitted). Copy supplied.

With Kelly Finley, *Strategic Considerations in Cases Involving Joint Criminal Investigations by the Antitrust Division of the U.S. Department of Justice and Other U.S. Law Enforcement Agencies*, Bloomberg Antitrust & Trade Law Report (June 28, 2010). Copy supplied.

In my capacity as co-editor of the ABA Minority Trial Counsel Newsletter, I edited the following articles:

Krystal Bowen, *The Long Arm of the Law: The DOJ's Efforts to Reach Beyond U.S. Borders*, American Bar Association Minority Trial Lawyer Newsletter and Litigation News (October 14, 2008). Copy supplied.

Jerry Gardner and Mary L. Smith, *The Rule of Law for Native Americans: Why Increased Funding for Tribal Justice Systems is Needed*, American Bar Association Minority Trial Lawyer Newsletter (Summer 2008). Copy supplied.



Raymond B. Kim and Caren Drapeau, *Juror Persuasion in a Diverse and Fast-Paced World*, American Bar Association Minority Trial Lawyer Newsletter (Fall 2007). Copy supplied.

Ismail Ramsey, *Giving Back: CJA Panel Service Enriches Communities*, American Bar Association Minority Trial Lawyer Newsletter (Spring/Summer 2007). Copy supplied.

*Overseeing Internal Investigations: Practical Considerations for Board Members*, Corporate Board Member (August 11, 2008). Copy supplied.

With Denver Edwards, Bingham Client Alert, *U.S. v. Stringer: Ninth Circuit Grants Government Wide Latitude in Parallel Proceedings* (April 2008). Copy supplied.

With Joy Sherrod, Bingham Client Alert, *U.S. Department of Justice Revises Corporate Prosecution Policy* (December 2006). Copy supplied.

*U.S. Attorney's Office Has All Brains Intact*, San Francisco Daily Journal (September 26, 2005) (I did not submit the title added by the Daily Journal to my letter to the editor). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In several instances during my service on the Bar Association of San Francisco ("BASF") Board of Directors, BASF staff signed letters regarding various topics. These letters were written on BASF letterhead, which lists all officers, members of the Board of Directors, officers of the Barristers Club and the Executive Director. Although I do not recall being involved in drafting or discussing the following letters, they are publicly available, and I am listed on the letterhead in my capacity as a member of the Board of Directors.

2011 letter (exact date unknown) from Yolanda Jackson, BASF Deputy Executive Director, to Bay Area Minority Law Student Scholarship Applicants, regarding scholarships. Copy supplied.

August 5, 2010, letter from Jayne Salinger, BASF Diversity Pipeline Programs Director, to Patty Sokolecki, Western Messenger, thanking Western Messenger for support of holiday gift drive. Copy supplied.

April 6, 2009, letter from Daisy Hung, BASF Diversity Pipeline Programs

Manager, to undergraduate and law school representatives, regarding scholarships. Copy supplied.

2009 letter (exact date unknown) from Yolanda Jackson, BASF Deputy Executive Director, to Bay Area Minority Law Student Scholarship Applicants, regarding scholarships. Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Since July 2013, I have served on the Board of Directors of Vincent Academy/Partners in Oakland Education, a public charter elementary school in Oakland, California. The board's meetings are open to the public, and the minutes of the board's meetings are made publicly available on the Vincent Academy website. Minutes are available at <http://www.vincentacademy.org/governance-2/>.

September 15, 2010, letter to President Barack Obama, signed by me and over 200 other members of the California legal community, regarding the nominations of the Honorable Edward M. Chen and Goodwin Liu for federal judgeships. Copy supplied.

September 8, 2010, letter to Senator Dianne Feinstein, signed by me and 53 other members of the California legal community, regarding the nominations of the Honorable Edward M. Chen and Goodwin Liu for federal judgeships. Copy supplied.

As a member of the Bar Association of San Francisco ("BASF") Independence of the Judiciary Committee since 2009, I helped to prepare the drafts of two letters to the editor that were published under the signature of the BASF President and one other letter (which also included my name on the letterhead in my capacity as a member of the Board of Directors):

February 10, 2010, letter to the editor from Arturo J. Gonzalez, BASF President, regarding the inappropriateness of recusal in the Proposition 8 case, published in the San Francisco Chronicle. Copy supplied.

January 27, 2010, letter from Arturo Gonzalez, BASF President, to the Honorable Harry Reid, supporting confirmation of the Honorable Edward M. Chen. Copy supplied.

April 24, 2009, letter to the editor from Russell S. Roeca, BASF President, regarding the newspaper's cartoon depicting a San Francisco Superior Court Judge, published in The Recorder. Copy supplied.

November 4, 2009, letter to Senators Leahy and Sessions, signed by me and ten other former Northern District of California federal prosecutors, supporting Magistrate Judge Edward M. Chen's confirmation to the United States District Court for the Northern District of California. Copy supplied.

In addition, in several instances during my service on the Bar Association of San Francisco ("BASF") Board of Directors, BASF officers signed letters regarding various topics. These letters were written on BASF letterhead, which lists all officers, members of the Board of Directors, officers of the Barristers Club and the Executive Director. Generally, drafts of such letters were circulated in advance for review and included on the agenda for discussion at Board meetings. Although I do not recall being involved in drafting or discussing the following letters, they are publicly available, and I am listed on the letterhead in my capacity as a member of the Board of Directors.

September 12, 2011, letter from Priya Sanger, BASF President, to the Honorable Tani Cantil-Sakauye, Chief Justice, California Supreme Court, and Members of the California Judicial Council regarding Emergency Court Funding Solution. Copy supplied.

June 27, 2011, letter from Priya Sanger, BASF President, to the Honorable Mike Feuer, Chair, California Assembly Judiciary Committee, regarding Senate Bill 163. Copy supplied.

June 27, 2011, letter from Priya Sanger, BASF President, to the Honorable Edmund G. Brown, Governor of the State of California, regarding court funding issues. Copy supplied.

January 22, 2010, letter from Arturo Gonzalez, BASF President, to Senator Tom Harkin and others regarding appointment of Sharon Browne to Legal Services Corporation Board. Copy supplied.

July 17, 2009, letter from Russell Roeca, BASF President, to the Honorable Jonathan Liebowitz, Chairman, Federal Trade Commission, regarding exemption for Red Flags Rule in Fair and Accurate Credit Transactions Act. Copy supplied.

April 29, 2009, letter from Russell Roeca, BASF President, to the Honorable Leland Yee, California State Senator, regarding support for Senate Bill 399. Copy supplied.

March 19, 2009, letter from Russell Roeca, BASF President, to Holly Fujie, President, State Bar of California, regarding boycott of venue for State Bar annual meetings in 2009 and 2011. Copy supplied.

February 9, 2009, letter from Russell Roeca, BASF President, to Senators



Barbara Boxer and Dianne Feinstein regarding Northern District of California judicial appointments. Copy supplied.

January 29, 2009, letter from Russell Roeca, BASF President, to Holly Fujie, President, State Bar of California, expressing disappointment regarding venue for State Bar annual meeting. Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following list reflects my best effort to identify the speeches and talks that I have delivered. I reviewed my own files as well as publicly-available information in compiling this list. There may, however, be other speeches or talks that I have been unable to locate or do not recall having made.

June 10, 2014: Panelist, *Internal Investigations 2014: Concluding the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

April 30, 2014: Co-Presenter, *Lunch & Learn program: FCPA: Risks of Doing Business Beyond your Borders*, BayBio, South San Francisco, California. PowerPoint supplied.

December 31, 2013: Speaker, Plymouth United Church of Christ Christmas Eve service, Oakland, California. Notes supplied.

November 14, 2013: Co-Presenter, *EU Spotlight: Strategies for Tackling Third Party Risk Across Business Units & Geographies*, NAVEX Global Virtual Conference (Webinar). PowerPoint supplied.

June 11, 2013: Panelist, *Internal Investigations 2013: Concluding the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

February 2013: Speaker, Plymouth United Church of Christ African-American History Month Celebration, Oakland, California. I spoke about my grandfather John Bryant's life. I have no notes, transcript or recording. The address for

Plymouth UCC is 424 Monte Vista Avenue, Oakland, California 94611.

October 24, 2012: I introduced Stanford Law School Dean M. Elizabeth Magill at a law school alumni event in San Francisco, California. My remarks consisted of a brief welcome to the Dean. I have no notes, transcript or recording. The address for the Stanford Law School Office of External Relations is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

October 10, 2012: Panel Moderator, *The Media Loves a Crisis: Will How You React Make it Worse?*, California Minority Counsel Program 23rd Annual Business Conference, San Francisco, California. Notes supplied.

July 10, 2012: Panelist, *The Hiring Partner's Perspective*, San Francisco, California. I was one of a panel of law firm partners who discussed what law firms look for in candidates for summer associate positions with a group of Sponsors for Educational Opportunity interns. I have no notes, transcript or recording. The address for Sponsors for Educational Opportunity is 55 Exchange Place, Suite 601, New York, New York 10005.

June 12, 2012: Panelist, *Internal Investigations 2012: How to Protect Your Clients or Companies in the Global, Post Dodd-Frank World: Commencing the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

March 29, 2012: Mock Trial Participant, *2012 ABA Section of Antitrust Law Spring Meeting*, Washington, D.C. I participated in a mock trial before audience of conference attendees. Notes supplied.

March 22, 2012: Co-Presenter, *Global Corruption Enforcement Heats Up: Actions HR & Legal Professionals Should Take Today*, ELT, Inc. (Webinar). PowerPoint supplied.

January 10, 2012: Panelist, *Investigations in the Whistleblower Age: Strategies and Ethical Pitfalls*, Silicon Valley Innovation & Law Conference (sponsored by Covington & Burling), Palo Alto, California. PowerPoint supplied.

October 5, 2011: Panelist, *Voluntary Disclosure and Cooperation in the Dodd-Frank Whistleblower Age*, Covington & Burling Anticorruption Summit, Washington, D.C. Notes supplied.

July 14, 2011: Co-Presenter, *Global Corruption Enforcement Heats Up: Actions HR & Legal Professionals Should Take Today*, ELT, Inc. (Webinar). PowerPoint supplied.



June 14, 2011: Panelist, *Internal Investigations 2011: Investigations in the Aftermath of Dodd-Frank: Commencing the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

June 6, 2011: Co-Presenter, *The SEC Whistleblower Rules: A New Era in Fraud Investigation*, West LegalEd Center (Webinar). PowerPoint supplied.

January 12, 2011: Panelist, *Ethical Issues in Internal Investigations*, Silicon Valley Innovation & Law Conference (sponsored by Covington & Burling), Palo Alto, California. PowerPoint and notes supplied.

December 9, 2010: Panel Moderator, *In-House Counsel and the Board: Working Together to Identify and Manage the Company's Biggest Risks*, Corporate Board Member and NYSE Euronext General Counsel Forum, New York, New York. Notes supplied.

January 11, 2010: Panelist, *Securities Litigation Roundtable*, California Lawyer magazine, San Francisco, California. Transcript supplied.

December 3, 2009: Panel Moderator, *Ethical Dilemmas for Corporate Counsel – Privilege and Internal Investigations*, Northwestern Law School 48th Annual Corporate Counsel Institute, San Francisco, California. PowerPoint and notes supplied.

October 24, 2009: I introduced Professor Barbara Babcock at my law school class's 15-Year Reunion Dinner in Palo Alto, California. My remarks consisted of words of appreciation for Professor Babcock, our class's chosen honoree, before her remarks. I have no notes, transcript or recording. The address for the Stanford Law School Office of Alumni Relations is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

July 15, 2009: Co-Presenter, *Fraud Enforcement and Financial Recovery Measures*, American Conference Institute (Webinar). PowerPoints and notes supplied.

June 30, 2009: Panelist, *Internal Investigations 2009: How to Protect Your Clients or Company: Commencing the Investigation*. Practising Law Institute, San Francisco, California. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

March 27, 2008: Panelist, *Witness Preparation in the Age of Hyper-Scrutiny*, Minority Corporate Counsel Association Seventh Annual CLE Exposition, Chicago, Illinois. Notes supplied.



August 10, 2007: Panelist, *Annual Review of the Supreme Court's Term, Criminal Cases*, American Bar Association Annual Meeting, San Francisco, California. Notes supplied.

March 2007: Panelist, *Corporate Scandals 2.0: Anticipating the Regulatory Overreaction*, Minority Corporate Counsel Association Sixth Annual CLE Expo, Chicago, Illinois. Annotated PowerPoint used as speaking notes supplied.

November 7, 2006: Panelist, *Stock Options Backdating: What Your Company Should Know*, Cal Law/Association of Corporate Counsel Roundtable, San Francisco, California (rebroadcast on February 9, 2007). Transcript supplied.

November 2006: Along with other Bingham McCutchen partners, I presented as a panelist on the topic *Personal Liability for In-House Counsel* at sessions in San Francisco, Silicon Valley and Los Angeles, California. I do not remember the specific date of each presentation. Notes supplied.

October 2006: Co-Presenter, *Stock Options Backdating: FBI Investigations and White Collar Defense*, The Arthur and Toni Rembe Rock Center for Corporate Governance, Stanford University, Palo Alto, California. The presentation discussed issues in investigating and defending options backdating cases. I have no notes, transcript or recording. The address for the Rock Center is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

March 17, 2006: Panelist, *The Criminalization of Corporate Law*, Berkeley Center for Law, Business and the Economy, Boalt Hall School of Law, Symposium on Post-Enron Corporate Regulation, Berkeley, California. Notes supplied.

June 2005: Co-Presenter, *Legal Issues in Criminal Securities Fraud Cases*, Securities and Exchange Commission Pacific Region Joint Regulatory Conference, Los Angeles, California. The presentation discussed legal issues arising in criminal securities fraud prosecutions for an audience of SEC attorneys and staff. I have no notes, transcript or recording. The address for the SEC's Los Angeles Regional Office is 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036.

May 12, 2001: Presenter, Wiley Manuel Law Foundation Twentieth Annual Scholarship Awards Gala, Oakland, California. I presented awards to the winners of the foundation's high school moot court competition. I have no notes, transcript or recording. The address for the Wiley Manuel Law Foundation is 4107 Sequoyah Road, Oakland, California 94605.

2000s: Presenter, Charles Houston Bar Association Annual Gala, Oakland California. I recall presenting awards to high school moot court competition

winners, but I do not remember the exact year of that presentation. I have no notes, transcript or recording. The address for the Charles Houston Bar Association is PO Box 1474, Oakland, California 94604.

December 1997: Speaker, Castlemont High School, Oakland, California. Another attorney and I spoke with a class of tenth graders about the legal profession and our careers. I have no notes, transcript or recording. The address for Castlemont High School is 8601 MacArthur Boulevard, Oakland, California 94605.

Between 1995 and 1998: I recall speaking early in my career with high school students at Mission High School in San Francisco regarding preparing for college, but do not recall further details. I believe I gave this talk when I was an associate at McCutchen, Doyle, Brown & Enersen. I have no notes, transcript or recording. The address for Mission High School is 3750 18<sup>th</sup> Street, San Francisco, California 94114.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

*Volunteers Work With Youth Residents of Log Cabin Ranch to "Plant Futures,"* The Bar Association of San Francisco Bulletin, June 26, 2014. Copy supplied.

*Q&A With Covington's Haywood Gilliam,* Law360 White Collar Report, April 2, 2013 (quotation reprinted in multiple outlets). Copy supplied.

*Impact of New SEC Whistleblower Rule: Covington & Burling Lawyers Respond,* Business Wire, May 25, 2011. Copy supplied.

Bar Association of San Francisco Bottom Line Task Force Report, *Proven Formulas for Success: Confronting the Underrepresentation of Partners of Color in Law Firms*, November 2010. My only involvement is that I was one of 85 law firm partners, in-house counsel and managing partners who were interviewed by the Task Force for this report, on background, and on an anonymous basis. Copy supplied.

Jacob Hale Russell, *White Collar Crime*, Stanford Lawyer November 5, 2010. Copy supplied.

Erin Fuchs, *Ex-US Prosecutor Joins Covington White Collar Group*, Law360, May 26, 2009. Copy supplied.

Covington & Burling Press Release, *Former Senior Federal Prosecutor Haywood Gilliam Joins Covington*, May 26, 2009. Copy supplied.



Pamela A. MacLean, *Backdating Probes Lead to Changes*, National Law Journal, June 9, 2008. Copy supplied.

Pamela A. MacLean, *Companies Weigh the Risk of Exposure*, National Law Journal, May 14, 2007. Copy supplied.

Julie Triedman, *Big Paydays for Prosecutors May Have Passed*, National Law Journal, March 2007. Copy supplied.

Edward Iwata, *Justice, SEC Questioned on Pace of Probes*, USA Today, March 9, 2007. Copy supplied.

Edward Iwata, *Lawyer to Pay \$3.1M Over Comverse Stock Options*, USA Today, January 10, 2007. Copy supplied.

Jessica Guynn, *Feds Reduce Pressure in White-Collar Probes: Now Companies Will Often be Able to Offer Counsel*, San Francisco Chronicle, December 13, 2006. Copy supplied.

Jessica Guynn, *U.S. Senator Takes on So-Called "Thompson Memo,"* San Francisco Chronicle, December 7, 2006 (quotation reprinted in multiple outlets). Copy supplied.

Zusha Elinson, *Bingham Grabs Backdating Prosecutor*, The Recorder, October 24, 2006. Copy supplied.

William-Arthur Haynes, *U.S. Lawyer Reunites With Bingham Crew*, San Francisco Daily Journal, October 6, 2006. Copy supplied.

Bingham McCutchen Press Release, *Outgoing Northern California Securities Fraud Chief Joins Bingham McCutchen*, October 5, 2006. Copy supplied.

June Bell, *Winning*, National Law Journal, June 5, 2006. Copy supplied.

Classmates Notes, Stanford Lawyer, Fall 2005. Copy supplied.

Bob Egelko, *Reluctant Court Upholds Race Quotas in S.F. Schools*, Contra Costa Times, June 5, 1998 (quotation reprinted in multiple outlets). Copy supplied.

Jennifer Warren, *Judge is No Stranger to Controversy*, Los Angeles Times, December 16, 1996. Copy supplied.

Edward Iwata, *Modern Mentoring*, San Francisco Examiner, June 18, 1995. Copy supplied.



13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? \_\_\_\_\_
  - i. Of these, approximately what percent were:
    - jury trials: \_\_\_\_\_%
    - bench trials: \_\_\_\_\_% [total 100%]
    - civil proceedings: \_\_\_\_\_%
    - criminal proceedings: \_\_\_\_\_% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not been a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have never held any public office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I believe that I was listed as a co-sponsor of a fundraiser for California Attorney General Kamala Harris on June 20, 2013, at the Kecker & Van Nest law firm, but I am unable to find a copy of the invitation or any other materials for this event.

In 2012, I endorsed Barbara Parker in her race for Oakland City Attorney, by allowing Ms. Parker to list my name on her website along with a number of other attorneys.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1994 to 1995, I served as a law clerk to the Honorable Thelton E. Henderson, then the Chief Judge of the United States District Court for the Northern District of California.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1995 – 1998  
McCutchen, Doyle, Brown & Enersen  
Three Embarcadero Center  
San Francisco, CA 94111  
Associate

1999 – 2006  
United States Attorney's Office  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Assistant United States Attorney (1999 – 2006)  
Chief, Securities Fraud Section (2005 – 2006)

2006 – 2009  
Bingham McCutchen LLP  
Three Embarcadero Center  
San Francisco, CA 94111  
Partner



2009 – present  
Covington & Burling LLP  
One Front Street  
San Francisco, CA 94111  
Partner

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

From 1995 to 1998, I was an associate at McCutchen, Doyle, Brown & Enersen in San Francisco. My practice focused on civil litigation in securities, telecommunications, antitrust, construction and breach of contract matters.

From 1999 to 2006, I served as an Assistant United States Attorney for the Northern District of California. During that time, I investigated and prosecuted cases involving a range of federal offenses, including securities fraud, mail and wire fraud, bank fraud, insurance fraud, narcotics trafficking, firearms offenses, violent crimes and immigration crimes. From 2005 to 2006, I served as Chief of the Securities Fraud Section. In that role, I supervised a team of attorneys dedicated to prosecuting securities and corporate fraud matters. During my time in the Office, I also was the Corporate Fraud Coordinator for two years, served as one of the Professional Responsibility Officers for two years, and served as a member of the Department of Justice's nationwide Securities and Commodities Fraud Working Group.

From 2006 to 2009 as a partner at Bingham McCutchen LLP, I counseled clients in criminal and regulatory enforcement matters and internal investigations, including securities, antitrust, healthcare, anti-corruption, export controls, trade secret, environmental and other white collar matters, as well as in complex commercial cases. Since May 2009, I have engaged in a similar practice at Covington & Burling in San Francisco as the Vice-Chair of the firm's White Collar Defense and Investigations practice group.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As an associate at McCutchen Doyle from 1995 to 1998, I represented corporate clients in various industries, including a professional sports league, a telecommunications company, a real estate company and a manufacturer of medical equipment. During this period, I handled general commercial litigation. During my time at the U.S. Attorney's Office between 1999 and 2006, I represented the United States in criminal proceedings. Since returning to private practice in 2006, I have represented organizational and individual clients in internal and government investigations in a number of industry sectors, including pharmaceuticals, financial services, transportation and logistics, memory chip manufacturing, real estate and mining. My organizational clients have included corporations of various sizes, a collegiate athletics organization, a state agency, and small closely-held partnerships. My individual clients have included executives and employees of corporations of varying sizes, as well as small business owners and employees.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

As an associate at McCutchen, Doyle, Brown & Enersen from 1995 to 1998, I appeared in court infrequently. During this period, 100% of my practice was in litigation.

As an Assistant United States Attorney (AUSA) for the Northern District of California from 1999 to 2006, I appeared in federal district and magistrate courts frequently and argued several appeals before the Ninth Circuit in criminal cases during that time. During my first year as an AUSA, I generally appeared in court many times per month. As I moved into specialized sections focusing on larger investigations (narcotics, then white collar, then securities fraud), I appeared in court less frequently, but I still generally appeared at least a few times per month. During this period, essentially 100% of my practice was in litigation, although some investigative matters did not ultimately result in a decision to prosecute.

Since returning to private practice in 2006 (first at Bingham McCutchen from 2006 to 2009, then at Covington from 2009 to the present), I have appeared in court occasionally because my practice focuses largely on government and internal investigations that do not result in criminal or civil litigation. Over the last eight years, I estimate that 10% of my practice has been in litigation, with that percentage being higher for stretches when large matters have been particularly active.



i. Indicate the percentage of your practice in:

- |                             |      |
|-----------------------------|------|
| 1. federal courts:          | >99% |
| 2. state courts of record:  | <1%  |
| 3. other courts:            | 0%   |
| 4. administrative agencies: | 0%   |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 10% |
| 2. criminal proceedings: | 90% |

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried seven felony criminal cases to verdict. These trials included a six-week long securities fraud bench trial, a three-week long securities fraud jury trial, a jury trial of a cocaine conspiracy case involving multiple wiretaps, and a jury trial of two former officials of a Northern California tribe on charges of fraud and theft of tribal assets. I was lead counsel in five of these trials, and co-lead counsel in the other two.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 85% |
| 2. non-jury: | 15% |

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and



- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Since I have returned to private practice, the great majority of my cases have involved representing clients in confidential, non-public grand jury and other governmental investigations, and conducting legally-privileged internal investigations regarding potential legal violations. Very few of these matters have resulted in publicly-filed litigation. The ten matters listed below include publicly-filed cases I handled while a federal prosecutor, as well as cases I have handled in private practice.

1. *White et al. v. National Collegiate Athletic Association*, CV 06-0999 VBF, Central District of California, Judge Valerie Baker Fairbank, 2007 – 2008.

I represented the NCAA in a federal class action antitrust lawsuit brought by former college football and basketball players alleging that the rules governing financial aid awards to student athletes constituted an unlawful restraint on competition in violation of the Sherman Act. I joined the defense team when the case approached trial. I took and defended depositions and briefed and argued motions before the magistrate judge (the Hon. Margaret A. Nagle). The case settled before trial.

Opposing Counsel:	Steven Sklaver Susman Godfrey LLP 1901 Avenue of the Stars, Suite 950 Los Angeles, CA 90067 (310) 789-3123
-------------------	--

Co-Counsel:	Frank Hinman Bingham McCutchen LLP Three Embarcadero Center San Francisco, CA 94111 (415) 393-2462
-------------	--

2. *United States v. Power Company, Inc. et al.*, CR 06-0186 PMP, District of Nevada, Judge Philip M. Pro, 2007 – 2008.

I represented Security Pacific Bank, which was a third-party petitioner in a federal criminal forfeiture proceeding. Following the criminal defendant's conviction on racketeering charges, the government forfeited a property purchased by the defendant with financing from Security Pacific. I prepared a petition to establish the validity of the bank's security interest in the forfeited property. Following substantial briefing and a series of hearings, the district court recognized the validity of Security Pacific's security interest in the forfeited property, finding that the bank made the

loan used to purchase the property in good faith. I was lead counsel for Security Pacific Bank on the case.

Opposing Counsel: Daniel Hollingsworth  
U.S. Attorney's Office for the  
District of Nevada  
333 South Las Vegas Boulevard  
Suite 5000  
Las Vegas, NV 89101  
(702) 388-6336

3. *United States v. Reliant Energy Services et al.*, CR 04-0125 VRW,  
Northern District of California, Judge Vaughn R. Walker, 2005 – 2006.

This was a federal prosecution of a corporation and four of its employees for commodity price manipulation, fraud, and conspiracy, based on alleged fraudulent conduct which inflated the price of electricity in the California spot market in 2000. I stepped in as lead trial counsel in 2005, a few months before trial was set to begin. I led the team's trial preparation effort, including preparing fact and expert witnesses, preparing an extensive brief explaining the basis for admission of co-conspirator statements, and arguing pretrial motions. The district court denied defendants' motion to dismiss the indictment, and the cases were resolved in 2007 after I left the U.S. Attorney's Office when the United States and the defendants entered into deferred prosecution agreements. Reliant paid a fine of \$22 million under the deferred prosecution agreement. I was lead counsel for the United States from the time the case was assigned to me.

Opposing Counsel: William Goodman  
Kasowitz Benson Torres & Friedman LLP  
101 California Street  
Suite 2300  
San Francisco, CA 94111  
(415) 421-6140  
(Reliant Energy Services)

Nanci Clarence  
Clarence Dyer & Cohen LLP  
899 Ellis Street  
San Francisco, CA 94109  
(415) 749-1800  
(Ms. Flowers)

Mary McNamara  
Swanson McNamara & Haller LLP  
300 Montgomery Street

San Francisco, CA 94104  
(415) 477-3800  
(Mr. Howard)

George Cotsirilos  
Cotsirilos & Campisano  
250 Montgomery Street  
San Francisco, CA 94104  
(415) 397-2373  
(Mr. Thomas)

Co-Counsel: Michael Li-Ming Wong (formerly with the  
U.S. Attorney's Office for the Northern  
District of California)  
Gibson, Dunn & Crutcher  
555 Mission Street  
Suite 3000  
San Francisco, CA 94105  
(415) 393-8333

4. *United States v. Hawkins*, CR 04-0106 MJJ, Northern District of California, Judge Martin J. Jenkins, 2004 – 2005.

This was a federal prosecution of the former Chief Financial Officer of a corporation for securities fraud, conspiracy to commit securities fraud and false statements to auditors. The indictment alleged that the defendant participated in an accounting fraud intended to inflate the company's quarterly revenue numbers by recognizing revenue from a fraudulent \$20 million transaction. I joined the trial team in this case shortly before trial was scheduled to begin. I handled portions of the pretrial briefing, including briefs regarding the required mental state for securities fraud. I conducted the direct and cross-examination of a number of witnesses at trial, and delivered the government's rebuttal closing argument. After an approximately six-week bench trial, Mr. Hawkins was acquitted. I was co-lead counsel from the time the case was assigned to me.

Opposing Counsel: Walter Brown  
Orrick, Herrington & Sutcliffe LLP  
405 Howard Street  
San Francisco, CA 94105  
(415) 773-5995

Melinda Haag (formerly with Orrick,  
Herrington & Sutcliffe LLP)  
United States Attorney  
Northern District of California



450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7200

Co-Counsel: Timothy Crudo (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Coblentz Patch Duffy & Bass LLP  
One Ferry Building, Suite 200  
San Francisco, CA 94111  
(415) 677-5219

5. *United States v. Hyde*, CR 02-0016 PJH, Northern District of California,  
Judge Phyllis J. Hamilton, 2003 – 2004.

This was a federal prosecution for fraud and money laundering based on the defendant's sale of fraudulent health care plans to employees of small businesses. The defendant collected premiums, but failed to deposit them into trust accounts as promised and failed to purchase a promised group health insurance policy from an established U.S. insurance company. Instead, the defendant purchased a group policy from an unrated company based in Aruba and operated by a convicted felon. I took a multi-day Rule 15 deposition of a key witness to preserve his testimony for trial, and also assisted with a Rule 15 deposition and witness interviews in Australia. Mr. Hyde pled guilty in September 2004. I prepared the government's sentencing memorandum and opposition to the defendant's motion to withdraw his guilty plea, and represented the government at the sentencing hearing. Mr. Hyde was sentenced to 41 months in prison. I was co-lead counsel in the case.

Opposing Counsel: Garrick Lew  
Law Offices of Garrick S. Lew  
1000 Brannan Street, Suite 488  
San Francisco, CA 94103  
(415) 575-3588

Co-Counsel: Matthew Jacobs (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Vinson & Elkins  
525 Market Street  
Suite 2750  
San Francisco, CA 94105  
(415) 979-6990

6. *United States v. Anderson and Malicay*, CR 02-00386 WHA, Northern District of California, Judge William H. Alsup, 2002 – 2003.

This was a federal prosecution of former tribal officials for theft of tribal resources, fraud and conspiracy. The defendants engaged in a kickback scheme in which they routed tribal funds to a vendor under a fictitious consulting agreement, and then had the vendor funnel the proceeds back to them personally. They also engaged in a scheme to defraud a lender into providing a loan through the submission of false loan documents. I led the investigation of this matter and prosecuted it from indictment through trial and appeal. At the trial, I gave the government's opening statement and closing argument, and conducted the direct examination of several key witnesses. Mr. Anderson and Mr. Malicay were convicted following a jury trial in June 2003. Mr. Anderson was sentenced to 12 months and one day in prison, and Mr. Malicay was sentenced to nine months in prison. On appeal, the Ninth Circuit confirmed that the district court had jurisdiction over the charged offenses, finding that Congress did not grant exclusive criminal jurisdiction to the State of California over Indian lands within its borders (*United States v. Anderson*, 391 F.3d 1083 (9th Cir. 2004)). I was lead counsel in the investigation and trial, and handled the appeal.

Opposing Counsel:

George Boisseau  
George Boisseau Law Office  
740 4th Street  
Santa Rosa, CA 95404  
(707) 578-5636  
(Mr. Anderson)

Daniel Blank  
Office of the Federal Public Defender  
450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7700  
(Mr. Malicay)

Co-Counsel:

Ismail Ramsey (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Ramsey & Ehrlich LLP  
803 Hearst Avenue  
Berkeley, CA 94710  
(510) 548-3600

7. *United States v. Beattie et al.*, CR 00-0363 VRW, Northern District of California, Judges Vaughn R. Walker and Charles A. Legge (Judge Legge



retired while the case was pending, at which time the case was reassigned to Judge Walker), 2000 – 2003.

This was a federal prosecution for conspiracy to distribute cocaine and possession of cocaine with intent to distribute. The indictment charged Mr. Beattie and six co-defendants with participating in a conspiracy to transport large quantities of cocaine from Southern California to the San Francisco Bay Area for sale. I led the pre-charging investigation, which included a two-month wiretap on multiple telephone lines and involved the execution of numerous search warrants. I briefed and argued the government's opposition to defendants' motion to suppress the wiretap evidence, which the district court denied following an evidentiary hearing. After the remaining defendants entered guilty pleas, Mr. Beattie proceeded to a jury trial in January 2003. I conducted the direct examination of the government's key witnesses and delivered the government's opening statement and closing argument. The jury convicted Mr. Beattie on all counts. The jury found that the conspiracy involved five kilograms or more of cocaine, triggering a ten-year mandatory minimum sentence. Mr. Beattie was sentenced to 121 months in prison, and the Ninth Circuit upheld his conviction and sentence on appeal. I was lead counsel in the investigation and trial, and handled the appeal.

Opposing Counsel: Mark Rosenbush  
214 Duboce Avenue  
San Francisco, CA 94103  
(415) 861-3555

8. *United States v. Merriam*, CR 95-0245 MJJ, Northern District of California, Judge Martin J. Jenkins, 2000 – 2001.

This was a federal prosecution for securities fraud, wire fraud and conspiracy based on a stock manipulation scheme. The defendant artificially manipulated the price of his company's stock as part of a pump-and-dump scheme by falsifying documents, making cash payoffs to brokers, and omitting material information from offering documents. The scheme drove the stock price from 69 cents per share to over \$5 per share in two months. I conducted the direct examination of a number of fact and expert witnesses at trial, and cross-examined defense witnesses. I also delivered the government's closing argument. Following a three-week jury trial in January and February 2001, Mr. Merriam was convicted and sentenced to 41 months in prison. I was co-lead counsel on the case.

Opposing Counsel: William Osterhoudt  
Osterhoudt Law  
135 Belvedere Street



San Francisco, CA 94117  
(415) 664-4600

Co-Counsel: Miranda Kane (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Munger Tolles & Olson  
560 Mission Street, 27th Floor  
San Francisco, CA 94105  
(415) 512-4079

9. *United States v. Mendoza and Vasquez*, CR 99-0423 CRB, Northern District of California, Judge Charles R. Breyer, 1999 – 2000.

This was a federal prosecution for impersonating a federal officer and conspiring to defraud undocumented aliens by selling them counterfeit immigration documents. Mr. Mendoza posed as an employee of the Immigration and Naturalization Service and directed the victims to fill out phony applications for employment authorization documents, then charged each of them \$1,000 or more in cash for counterfeit documents he had purchased for \$60 each. I led the investigation in this matter and handled the pretrial motions practice. At trial, I conducted the direct examination of several key witnesses and delivered the government's closing argument. Following a jury trial in February 2000, Mr. Mendoza and Ms. Vasquez were convicted. I prepared the government's sentencing memorandum and represented the government at the sentencing hearing. At sentencing, the court imposed a two-level enhancement based on the vulnerable victim status of the undocumented alien victims. Mr. Mendoza was sentenced to 27 months in prison, and Ms. Vasquez was sentenced to five years' probation. On appeal, the Ninth Circuit affirmed the district court's application of the vulnerable victim enhancement (*United States v. Daniel Mendoza and Sandra Vasquez*, 262 F.3d 957 (9th Cir. 2001)). I was lead counsel in the investigation and at trial, and handled the appeal.

Opposing Counsel: Daniel Blank  
Office of the Federal Public Defender  
450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7700  
(Mr. Mendoza)

Doug Young  
Farella, Braun & Martel  
235 Montgomery Street Suite 17  
San Francisco, CA 94104

(415) 954-4438  
(Ms. Vasquez)

10. *United States v. Silberberg*, CR 99-0213 MMC, Northern District of California, Judge Maxine M. Chesney, 1999 – 2000.

This was a federal prosecution for structuring financial transactions to avoid federally-mandated currency transaction reporting requirements. The indictment charged the defendant with making 41 separate bank withdrawals of less than \$10,000 over a five-month period to evade federal laws requiring transactions over that amount to be reported to the Internal Revenue Service. I was assigned to this case a few months before the trial date. I conducted the direct examination of the government's key witnesses, and delivered the government's opening statement and closing argument. Following a jury trial in December 1999, Mr. Silberberg was convicted. I represented the government in the sentencing proceedings, at which Mr. Silberberg was sentenced to a six-month term in a community confinement facility, a six-month term of home detention and a three-year term of probation. I was lead counsel from the time the case was assigned to me.

Opposing Counsel: Richard Hove  
(no longer practicing law)

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Since I have returned to private practice, the great majority of my cases have involved representing clients in confidential, non-public grand jury and other governmental investigations, and conducting legally-privileged internal investigations regarding potential legal violations. Very few of these matters have resulted in publicly-filed litigation, and I am precluded from identifying particular clients in any non-public matters. These matters have included industrywide investigations by the Antitrust Division of the Department of Justice, investigations by the Criminal Division and U.S. Attorney's Offices under the False Claims Act or federal criminal statutes, and investigations by the Securities and Exchange Commission regarding suspected securities fraud offenses. I also routinely assist corporate clients in performing internal investigations to determine whether violations of law may have occurred. I have conducted internal investigations in or concerning a number of countries, including China, Indonesia, Spain, the United Kingdom, Ghana and Suriname.



In addition to my practice, I have served the legal community through a number of bar and committee activities. For example, I have twice served at the request of the District Court for the Northern District of California on review panels charged with making recommendations regarding the reappointment of magistrate judges. In 2013, I served as the Chair of the panel.

I have not performed any lobbying activity.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

My law firm typically distributes a portion of its current year income to partners on a deferred basis. As a partner in the firm, I would be entitled to receive such deferred payments. I would expect to receive any such payments from the firm's current fiscal year, which ends on September 30, by April 2015, and any payments for the following fiscal year by April 2016. Otherwise, I have no arrangements or expectations concerning future income or compensation.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments or agreements to pursue compensated outside employment if I am appointed to the court. With regard to uncompensated civic and community activities, such as board service, I would evaluate any contemplated continued service to ensure that such activities comport with the Code of Conduct for United States Judges and any other relevant ethical canons or rules.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.



23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I have no family members likely to present potential conflicts of interest. If a matter came before me that involved a former client or one of my former law firms, or another party implicating a potential conflict, I would assess the matter and respond as required by the Code of Conduct for United States Judges and any other relevant ethical canons or rules.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I have reviewed and would follow the Code of Conduct for United States Judges, including the provisions regarding identifying conflicts of interest. I would work with court administrative staff to provide any information required for the court's conflicts procedures. I do not anticipate facing frequent or complex financial or other conflicts issues, but would remain informed about my financial interests and those of my family, and identify potential conflicts and disqualify myself where required by the Code of Conduct.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During my time in private practice, I have represented clients in a range of pro bono matters, from individual representations to class action matters. For example, in 2012 and 2013, I represented a veteran of the war in Iraq who applied for Combat-Related Special Compensation benefits based on his disabling post-traumatic stress disorder and back injuries suffered in combat. I also was appointed by the Northern District of California's Criminal Justice Act Panel to represent indigent defendants in two federal criminal cases involving alleged conspiracies to distribute narcotics between 2007 and 2010. Early in my career, I represented a young man who fled Sierra Leone in the face of political persecution and helped him obtain political asylum in the United States.

In class actions, I represented a class of African-American Section 8 public housing voucher recipients in a federal lawsuit against the City of Antioch, California. The case alleged violations of class members' civil rights by the Antioch Police Department, and it settled in April 2012. Early in my career, I was part of a team representing the San Francisco National Association for the Advancement of Colored People in defending a San Francisco school desegregation consent decree entered by a federal court in 1983 against a class action constitutional challenge. The Ninth Circuit upheld the denial of plaintiffs' motion for summary judgment (*Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854 (9th Cir. 1998)), and the case then settled (after I left the case team when I moved from private practice to the U.S. Attorney's Office).

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On January 20, 2014, I submitted an application to the chair of Senator Feinstein's Judicial Advisory Process. On March 28, 2014, I met with Senator Feinstein's bipartisan advisory committee for the Northern District of California in San Francisco, California. On April 9, 2014, I met with the chair of Senator Feinstein's Judicial Advisory Process in San Diego, California. Since June 20, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 29, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, Haywood S. Gill Jr., do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

August 18, 2014  
(DATE)

Haywood S. Gilliam, Jr.  
(NAME)

\_\_\_\_\_  
(NOTARY)



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Francisco

On August 18, 2014 before me, Elizabeth Erlich  
Date Here Insert Name and Title of the Officer

personally appeared Haywood S. Gilliam, Jr.  
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Elizabeth Erlich  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Affidavit

Document Date: August 18, 2014 Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_ ☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Individual ☐ Individual

☐ Partner — ☐ Limited ☐ General ☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact ☐ Attorney in Fact

☐ Trustee ☐ Trustee

☐ Guardian or Conservator ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_ ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here