

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Breon Stacey Peace

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

United States Attorney, Eastern District of New York, U.S. Department of Justice

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:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, New York 10006

Residence:

Short Hills, New Jersey

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

1971; Philadelphia, Pennsylvania

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.

New York University School of Law, 1993 – 1996
Juris Doctor - May 1996

University of California, Berkeley, 1989 – 1993
Bachelor of Arts, Political Economy of Industrial Societies – May 1993

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.

January 2007 – Present

Partner

Cleary Gottlieb Steen & Hamilton LLP

One Liberty Plaza, New York, New York 10006

Paid

October 2019 – Present

Trustee, Foundation Board of Trustees

New York University School of Law

40 Washington Square South, New York, New York 10012

Unpaid

July 2018 – Present

Board Director

The Office of the Appellate Defender

11 Park Place, Suite 1601, New York, New York 10007

Unpaid

March 2012 – August 2015

Special Master (U.S. and The Vulcan Society, Inc., et al. v. City of New York)

United States District Court, Eastern District of New York

225 Cadman Plaza East, Brooklyn, New York 11201

Paid

December 2004 – May 2015

Board Director

The Bronx Defenders

360 E. 161 Street, Bronx, New York 10451

Unpaid

September 2003 – December 2006

Associate

Cleary Gottlieb Steen & Hamilton LLP

One Liberty Plaza, New York, New York 10006

Paid

August 2002 – July 2003

Acting Assistant Professor of Clinical Law (Prosecution Clinic)

New York University School of Law

40 Washington Square South, New York, New York 10012

Paid

January 2000 – July 2002

Assistant United States Attorney

United States Attorney's Office, Eastern District of New York
271 Cadman Plaza East, Brooklyn, New York 11201
Paid

November 1998 – December 1999
Associate
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, New York 10006
Paid

September 1997 – October 1998
Law Clerk
The Honorable Sterling Johnson, Jr.
United States District Court, Eastern District of New York
225 Cadman Plaza East, Brooklyn, New York 11201
Paid

September 1996 – September 1997
Associate
May 1995 – August 1995
Summer Associate
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, New York 10006
Paid

May 1994 – August 1994
Intern
The Honorable Sterling Johnson, Jr.
United States District Court, Eastern District of New York
225 Cadman Plaza East, Brooklyn, New York 11201
Unpaid (received grant from New York University School of Law for the summer)

May 1993 – August 1996
Sponsors for Educational Opportunity Intern
Davis Polk & Wardwell LLP
450 Lexington Avenue, New York, New York 10017
Paid

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 U.S. military. I have 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.

Distinguished Alumni Award, Law Alumni of Color Association (LACA), New York University School of Law (2021)

Chambers Rankings:

New York, Litigation: White-Collar Crime – Band 3 Leading Individual (2020 - 2021)

Global, Latin America-wide: Corporate Investigations - Band 3 Leading Individual (2020 - 2021)

Latin America - Latin America-wide: Corporate Crime & Investigations - Band 3 Leading Individual (2020 - 2021)

New York, Litigation: White-Collar Crime – Band 4 Leading Individual (2018 - 2019)

New York, Litigation: White-Collar Crime - Up & Coming Individual (2015 - 2017)

Benchmark Litigation - New York: White Collar Crime - Local Litigation Star (2020 - 2021)

Who's Who Legal:

Global Investigations - Recommended Global Leader (2021)

Global GIR – Investigations - Thought Leader (2020)

Global Business Crime Defence – Corporates - Recommended Global Leader (2020)

New York Super Lawyers: Top Rated White-Collar Crimes Attorney (2013 - 2021)

Private Practitioner of the Year, Metropolitan Black Bar Association (2020)

Most Influential Black Lawyers List, *Savoy Magazine* (2018)

Legend Award, New York University Black Law Students Association (2014)

Commendation, Federal Bureau of Investigation (2001)

Commendation, Detectives Endowment Association, Police Department, City of New York (2001)

Myron J. Greene Memorial Award for Preeminent Achievement in Advocacy, New York University School of Law (1996)

Associate Editor, *New York University Law Review* (1994 - 1996)

Earl Warren Legal Training Scholarship, NAACP Legal Defense Fund (1993)

Student Life Achievement Award, University of California, Berkeley (1993)

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.

The Criminal Justice Act Advisory Committee for the U.S. Court of Appeals for the Second Circuit (2015 – Present)

Federal Bar Council (2005 – Present) - Trustee (2010 - 2014); Vice President (2014 - 2017); Nominating Committee (2017 – present)

New York City Bar Association (2000 – Present)

New York Council of Defense Lawyers (2008 – Present) – Eastern District Liaison Committee

National Bar Association (2020 – Present)

Metropolitan Black Bar Association (2019 – Present)

American Bar Association (1997 - 2018)

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.

New York, April 1997

There have been no lapses 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 Second Circuit (February 2001)

United States Court of Appeals for the Fourth Circuit (September 2018)

United States Court of Appeals for the Ninth Circuit (March 2021)

United States Court of Appeals for the Eleventh Circuit (May 2007 – June 2018)
Reason for lapse: I did not renew admission because I was no longer practicing in the circuit.

United States District Court, Southern District of New York (August 1997)

United States District Court, Eastern District of New York (September 1997)

United States District Court, Eastern District of Michigan (June 2020)

Except as noted above, 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.

Lawyers Committee for The Innocence Project (2018 – Present)

Eastern District Association (2004 – Present)

New York University School of Law, Law Alumni of Color Association (LACA) (formerly Black, Latino, Asian Pacific American Law Alumni Association) (May 1996 – Present)

Kappa Alpha Psi Fraternity, Inc. (May 1990 – Present)

- b. 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 these organizations discriminates or formerly discriminated based on race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

Kappa Alpha Psi Fraternity, Inc. does not discriminate based on race, sex, religion or national origin, but its membership predominately consists of African-

American men.

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.

I have done my best to identify all published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

The Changing Landscape in Brazilian Investigations Since Lava Jato, Breon S. Peace, Jonathan Kolodner, and Lisa Vicens, *The Guide to Corporate Crisis Management*, published by *Latin Lawyer*, February 2021. Copy supplied.

Beware Atty Ethics Rules When Reporting COVID-19 Fraud, Breon S. Peace and Jennifer Kennedy Park, *Law360*, November 19, 2020. Copy supplied.

CFTC Division of Enforcement Releases Guidance on Evaluating Compliance Programs, Breon S. Peace, Joon H. Kim, Colin D. Lloyd, Jennifer Kennedy Park, Rachel Lerner, Robin M. Bergen, and Nowell D. Bamberger, *New York University School of Law Compliance & Enforcement Blog*, September 17, 2020. Copy supplied.

The CARES Act and Mitigating False Claims Act Risk, Breon S. Peace, Jennifer Kennedy Park, Jonathan S. Kolodner, Lisa Vicens, and Charity E. Lee, *Pratt's Government Contracting Law Report*, July 2020. Copy supplied.

Supreme Court Upholds, with Limits, the SEC's Authority to Seek Disgorgement, Breon S. Peace, Alexander Janghorbani, Robin M. Bergen, and Matthew C. Solomon, *Cleary Gottlieb Alert Memorandum*, June 25, 2020. Copy supplied.

SEC and CFTC Chairs Sign Enhanced Multilateral Memorandum of Understanding Expanding Cross-Border Enforcement Cooperation, Breon S. Peace, Nowell D. Bamberger, Alex Janghorbani, Martine B. Forneret, and Alison Bitterly, *Cleary Enforcement Watch blog post*, June 3, 2019. Copy supplied.

CFTC Division of Enforcement Releases First Public Enforcement Manual, Breon S. Peace, Robin M. Bergen, and Nowell D. Bamberger, *Cleary Gottlieb Alert Memorandum*, May 13, 2019. Copy supplied.

DOJ Issues Guidance on Cooperation in False Claims Act Investigations, Breon S. Peace, Jennifer Kennedy Park, and Lisa Vicens, *New York University School of Law Compliance & Enforcement Blog*, May 20, 2019. Copy supplied.

SDNY Judge Finds Government “Outsourcing” of Investigation to External Counsel Runs Afoul of Fifth Amendment, Breon S. Peace, Victor Hou, Jennifer Kennedy Park, Rahul Mukhi, and Nowell D. Bamberger, *Cleary Gottlieb Alert Memorandum*, May 7, 2019. Copy supplied.

General Statements of Regulatory Compliance and Securities Fraud Claims, Breon S. Peace, Alexis Collins, Roger A. Cooper, Jared Gerber, Matthew D. Slater, and Lisa Vicens, *Harvard Law School Forum on Corporate Governance and Financial Regulation*, March 23, 2019. Copy supplied.

Roundtable: Lava Jato and Its Impact on Investigations in Latin America, The Guide to Corporate Crisis Management - First Edition, published by *Latin Lawyer*, January 2019. Copy supplied.

CFTC Approves Amendments to Whistleblower Rules Including Significant Enhancements of its Anti-Retaliation Protections, Breon S. Peace, Jennifer Kennedy Park, Robin M. Bergen, and Nowell D. Bamberger, *Cleary Gottlieb Alert Memorandum*, May 25, 2017. Copy supplied.

Cleary Gottlieb Reviews CFTC’s New Cooperation Guidelines for Enforcement Actions, Breon S. Peace, Jennifer Kennedy Park, Robin M. Bergen, and Nowell D. Bamberger, *Columbia Law School’s Blog on Corporations and the Capital Markets*, February 6, 2017. Copy supplied.

The Future of SEC Administrative Proceedings, Breon S. Peace, Lisa Vicens, and Darryl Stein, *Law360*, January 4, 2017. Copy supplied.

Fighting the SEC on its Home Turf, Breon S. Peace and Elizabeth Vicens, *Law360*, October 28, 2016 republished in *Harvard Law School Forum on Corporate Governance and Financial Regulation*, November 12, 2016. Copy supplied.

Ethical Considerations When Outside Counsel Conduct Internal Investigations, Breon S. Peace, Elizabeth Vicens, and Sue S. Guan, *Westlaw Journal White-Collar Crime*, February 2015, pp. 3-6. Copy supplied.

Ex-Duane Reade CEO Case A Model for VWPA Restitution, Lewis J. Liman and Breon S. Peace, *Law 360*, October 8, 2014. Copy supplied.

Why Financial Statements Matter: Enforcement and Litigation Implications, Breon S. Peace, Jonathan S. Kolodner, and Tamara J. Britt, *The Banking Law Journal*, October 2013, pp. 794-812. Copy supplied.

A Timely Update on Recovering Legal Fees and Costs Through Criminal Restitution, Lewis J. Liman, Breon S. Peace, and Benjamin J.A. Sauter, *The White Collar Crime Report*, Vol. 08, No. 08, April 19, 2013, pp. 1-5.

The New FCPA Guidance: Key Points for CCOs, Breon S. Peace and Jonathan Kolodner, *Compliance Reporter*, December 3, 2012, pp. 10-11. Copy supplied.

The FCPA Statute of Limitations—a Way Out for Wal-Mart?, Breon S. Peace, Ryan T. Becker, and Elizabeth M. Hanly, *The United States Law Week: Case Alert and Legal News*, September 25, 2012, pp. 433-441. Copy supplied.

Foreign Corrupt Practices Act: Law, Compliance & Recent Developments, 1973 PLI/Corp 565, 574 (September 2012), Breon S. Peace and James Corsiglia. Copy supplied.

Unanswered Questions: The SEC v. Urban Case Creates Significant Uncertainty Around In-House Counsel's Liability as Supervisors, Giovanni Prezioso, Breon S. Peace, and Steven A. Haidar, *International Financial Law Review*, April 2012. Copy supplied.

Recovering Legal Fees and Costs Through Criminal Restitution, Lewis J. Liman, Breon S. Peace, and Benjamin J.A. Sauter, *The White Collar Crime Report*, Vol. 04, No. 02, January 16, 2009, pp. 47-52. Copy supplied.

The Impact of EU Data Protection Laws on U.S. Government Enforcement Investigations, Breon S. Peace and Jennifer Kennedy, *The International Adviser and The Lawyer's Brief*, June 2008, republished in the *International HR Journal*, January 2009. 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.

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases and have not located any. Despite my searches, there may be materials that I have been unable to identify, find, or remember. I have located the following:

I participated in a conference on “New York City’s Criminal Courts: Are We Achieving Justice?” sponsored by the New York County Lawyers’ Association and the Fordham University School of Law’s Louis Stein Center in Law and

Ethics on October 18, 2003. I participated in Working Group 4 on “Post-Arrest Adjudication”. The conference report was published in the Fordham Urban Law Journal on May 1, 2004.

- 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.

I have not testified before or provided official statements or other communications to public bodies or public officials relating to matters of public policy or legal interpretation.

- 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.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline or slides. I did not retain the majority of the handwritten outlines. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I made the following presentations:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
October 14, 2020

I participated on a panel on “*Success Stories in Crisis Management: Turning Experience into Opportunity*” at Cleary Gottlieb’s Alumni CLE program. Copy supplied.

New York City Bar Association
42 West 44th Street, New York, NY
September 16, 2020

I participated on a panel on “*Ethical Considerations for Corporate Investigations in the World of COVID-19.*” Copy supplied.

Pennsylvania Association of Criminal Defense Lawyers (PACDL)
115 State St., Harrisburg, PA

(held at the Ritz Carlton, 10 Avenue of the Arts, Philadelphia, PA)
November 22, 2019

I participated on a panel on “*Internal Investigations: Protecting Your Client While Placating the Government*” at the PACDL 2019 White-Collar Practice event.
Copy supplied.

ACI Institute Brasil
KPMG Assessores Ltda.
Rua Arquiteto Olavo Redig de Campos, 105, São Paulo, Brazil
May 4, 2018

I participated on a panel on “*A responsabilização dos conselheiros em casos de corrupção (The Accountability of Directors in Corruption Cases)*.” Copy supplied.

New York City Bar Association
42 West 44th Street, New York, NY
September 27, 2017

I participated on a panel on “*Ethical Considerations for Corporate Investigations*.” Copy supplied.

Association of Corporate Counsel
1001 G Street NW, Suite 300W, Washington, DC
(held at Kaufleuten Festsaal, Pelikanpl. 18, 8001, Zurich, Switzerland)
June 13, 2017

I participated on a panel on “*Cross-Border Investigations: Navigating an Increasingly Challenging Landscape*.” I have not located any copy, transcript, press reports, outline or notes. I spoke about issues that arise in concurrent investigations by authorities in Europe and the United States, including cooperation with multiple authorities, data privacy, and the attorney-client privilege.

New York City Bar Association
42 West 44th Street, New York, NY
May 11, 2017

I participated on a panel on “*Whistleblower Psychology*” at the New York City Bar Association’s 6th Annual White Collar Crime Institute. I have not located any copy, transcript, press reports, outline or notes. I spoke about whistleblower programs, whistleblower protections, and risks to companies from retaliating against whistleblowers.

Latin Lawyer
87 Lancaster Road, London, England
(held at Sofitel Rio de Janeiro Copacabana, Avenida Atlantica, 4240, Rio de Janeiro, Brazil)
December 3, 2016

I participated on a panel on “*Compliance and Corruption Concerns: how to keep them from killing your M&A deal*” at Latin Lawyer’s 7th Annual M&A Conference. I have not located any copy, transcript, press reports, outline or notes. I spoke about the risk to companies from corruption, the attention paid to corruption issues during due diligence in transactions, and the importance of companies having effective compliance programs to address corruption risks.

New York City Bar Association
42 West 44th Street, New York, NY
September 21, 2016

I participated on a panel on “*Ethical Considerations for Corporate Investigations.*” I have not located any copy, transcript, press reports, outline or notes. I spoke about issues that arise in the context of internal investigations and investigations by authorities, including dealing with witnesses, cooperating with authorities, and ethical considerations.

Sponsors for Educational Opportunity (SEO)
55 Exchange Place, 6th Floor, New York, NY
May 25, 2016

I was the alumni keynote speaker at the Sponsors for Educational Opportunity (SEO) intern orientation. Copy supplied.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
May 19, 2016

I participated on a panel on “*A Recent Wave of Investigations into Corruption in Latin America – What to Expect and How to Prepare*” at Cleary Gottlieb’s LatAm Seminar. Copy supplied.

Latin Lawyer
87 Lancaster Road, London, England
(held at Sofitel Rio de Janeiro Copacabana, Avenida Atlantica, 4240, Rio de Janeiro, Brazil)
December 4, 2015

I participated on a panel on “*Dealing with Compliance, Corruption Issues*” at Latin Lawyer’s 6th Annual M&A Conference. I have not located any copy, transcript, press reports, outline or notes. I spoke about the risk to companies from corruption, the attention paid to corruption issues during due diligence in transactions, and the importance of companies having effective compliance programs to address corruption risks.

New York City Bar Association
42 West 44th Street, New York, NY
September 10, 2015

I participated on a panel on “*Ethical Considerations for Corporate Investigations.*” I have not located any copy, transcript, press reports, outline or

notes. I spoke about issues that arise in the context of internal investigations and investigations by authorities, including dealing with witnesses, cooperating with authorities, and ethical considerations.

Practising Law Institute
685 Market Street, San Francisco, CA
April 22, 2015

I presented on “*Financial Statements in Litigation and Enforcement Proceedings*” as part of Practising Law Institute’s How to Read Financial Statements CLE program. Copy supplied.

Barbosa, Mussnich & Aragao, Advogados
Av. Presidente Juscelino Kubitschek, 1455, São Paulo, Brazil,
November 5, 2014

I participated on a panel on “*The Anticorruption Law’s first year: lessons, regulatory trends, and preventive strategies.*” Copy supplied.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
October 23, 2014

I participated on a panel on “*The DOJ – Focus on Financial Institutions*” at Cleary Gottlieb’s Alumni CLE - Post-Crisis Deal Making. Copy supplied.

Latin Lawyer
87 Lancaster Road, London, England
(held at Hotel Unique, Av. Brigadeiro Luis Antonio, 4700, São Paulo, Brazil)
March 27, 2014

I participated on a panel on “*Assessing the Regulators: Enforcement*” at Latin Lawyer’s 3rd Annual Corporate Finance Conference in São Paulo, Brazil. I have not located any copy, transcript, press reports, outline or notes. I spoke about applicable anti-corruption laws, investigative approaches by authorities, and cooperation between authorities in Brazil and the United States on corruption investigations.

Practising Law Institute
1177 6th Avenue, New York, NY
March 19, 2014

I presented on “*Financial Statements in Litigation and Enforcement Proceedings*” as part of Practising Law Institute’s How to Read Financial Statements CLE program. Copy supplied.

New York City Bar Association
42 West 44th Street, New York, NY
November 14, 2013

I participated on a panel on direct examination skills at the “*Anatomy of a Trial: Tips & Strategies to Win Your Cases*” program. I have not located any copy,

transcript, press reports, outline or notes. I spoke about the preparation and execution of effective direct examinations of witnesses at trial.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
November 13, 2013

I participated on a panel focused on SEC enforcement activity at Cleary Gottlieb's 12th Annual Corporate Governance and Disclosure Seminar. Copy supplied.

Metropolitan Black Bar Association (MBBA)
1001 6th Avenue, New York, NY
(held at Cleary Gottlieb Steen & Hamilton
One Liberty Plaza, New York, NY)
April 13, 2013

I participated on a panel discussion on direct examinations at the Honorable Theodore T. Jones, Jr. Trial Advocacy Workshop. I have not located any copy, transcript, press reports, outline or notes. I spoke about the preparation and execution of effective direct examinations of witnesses at trial.

New York University School of Law
40 Washington Square South, New York, NY
April 11, 2013

I participated on a panel on "*Pro Bono: Personal Commitment or Professional Obligation?*" sponsored by the *New York University Law Review*. Copy supplied.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
December 5, 2012

Participated on a panel entitled "*FCPA 2012 and Beyond: Where do we go From Here?*" at Cleary Gottlieb's 11th Annual Corporate Governance and Disclosure Seminar. Copy supplied.

Practising Law Institute
1177 6th Avenue, New York, NY
September 12, 2012

I participated on the "*Enforcement and Compliance*" panel at Practising Law Institute's Tenth Annual Directors' Institute on Corporate Governance. I have not located any copy, transcript, press reports, outline or notes. I spoke about developments concerning corporate investigations by authorities and components of effective compliance programs.

New York City Bar Association
42 West 44th Street, New York, NY
September 15, 2011

I participated on a panel on "*Ethical Considerations for Corporate Investigations.*" I have not located any copy, transcript, press reports, outline or

notes. I spoke about ethical issues that arise in the context of internal investigations and investigations by authorities.

The Conference Board
845 3rd Avenue, New York, NY
June 9, 2011

I participated in The Conference Board's Corporate Governance and Compliance Crash Course and presented on the *Foreign Corrupt Practices Act and U.K. Bribery Act: "What Do They Mean for Board Oversight?"* Copy supplied.

New York City Bar Association
42 West 44th Street, New York, NY
June 9, 2011

I participated on panel on "*Securities Enforcement Update: Department of Justice Investigations and Prosecutions.*" I have not located any copy, transcript, press reports, outline or notes. I spoke about recent developments in investigations and prosecutions by the Department of Justice.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
November 17, 2010

I participated on a panel on "*Managing Compliance Risk: Persistent Issues and Recent Developments*" at Cleary Gottlieb's 9th Annual Corporate Governance and Disclosure Seminar. Copy supplied.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
November 18, 2009

I participated on a panel on "*Current Trends in International Securities Enforcement*" at Cleary Gottlieb's 8th Annual Corporate Governance and Disclosure Seminar. Copy supplied.

New York City Bar Association
42 West 44th Street, New York, NY
June 23, 2009

I participated on a panel on "*Standards for Prosecuting Corporate Fraud by Federal & State Agencies – The Impact of the Revised Justice Department Charging Guidelines.*" I have not located any copy, transcript, press reports, outline or notes. I spoke about the Department of Justice charging guidelines and how the revisions may influence corporate investigations and prosecutions.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
November 6, 2008

I participated on a panel on "*The Enforcement Actions and Litigation – The Coming Flood*" at Cleary Gottlieb's Alumni CLE. Copy supplied.

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, NY
November 28, 2007

I participated on a panel on “*Correcting Errors and Living Through a Restatement*” at Cleary Gottlieb’s 6th Annual Corporate Governance and Disclosure Seminar. Copy supplied.

New York University School of Law
40 Washington Square South, New York, NY
Spring 2006; Spring 2007

I served as a guest speaker in the Criminal Litigation course taught by Professor Randy Hertz during the spring semester each year. The course focused on criminal defense practices and procedures from indictment through trial using a simulated case and mock exercises (including witness examinations and oral arguments). I have not located any copy, transcript, press reports, outline or notes. I discussed the prosecutor’s role and actions in criminal cases.

American Law Institute-American Bar Association Committee on Continuing Professional Education (ALI-ABA) (ALI and ABA separated in 2012)
(held at Renaissance Washington, DC hotel, 999 9th Street, Washington, D.C.)
October 7, 2005

I presented on “*Document Retention and Destruction Under Sarbanes-Oxley*” at the ALI-ABA Sarbanes-Oxley Institute. Copy supplied.

New York University School of Law
40 Washington Square South, New York, NY
Spring 2004; Spring 2005

I served as a guest speaker in the Criminal Litigation course taught by Professor Randy Hertz during the spring semesters. The course focused on criminal defense practices and procedures from indictment through trial using a simulated case and mock exercises (including witness examinations and oral arguments). I have not located any copy, transcript, press reports, outline or notes. I discussed the prosecutor’s role and actions in criminal cases.

- 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.

I have done my best to identify all interviews given, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Interviewed by Metropolitan Black Bar Association in connection with 2020 MBBA Private Practitioner of the Year award, October 29, 2020. No transcript is available, but the video is available at (<https://youtu.be/iQczoKFtA14>).

NYU Law School Magazine, September 4, 2019, *Deep Roots*. Copy supplied.

New York Law Journal, September 16, 2016, *Firm's 8 years of Pro Bono Work Pay Off for Murder Defendant*. Copy supplied.

El Nuevo Día, January 21, 2012, "*Infundado*" *el reclamo federal*. Copy supplied.

The Record, March 27, 2001, *Ex-Detective Gets 1Month in Prison for Role in Scam*. Copy supplied.

The Record, March 23, 2001, *Ex-cop Gets New Charge of Theft*. Copy supplied.

13. **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 not run for public 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 am a member of the Democratic Party but have not held a position or played a formal role in a political campaign.

14. **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;

The Honorable Sterling Johnson, Jr.
United States District Court, Eastern District of New York
September 1997 – October 1998

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

I have not practiced 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.

Various from September 1996 – Present
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York, New York 10006
Associate – September 1996 – September 1997, November 1998 -
December 1999, September 2003 – December 2006
Partner - January 2007 - Present

March 2012 – August 2015
Special Master (U.S. and The Vulcan Society, Inc., et al. v. City of New York)
United States District Court, Eastern District of New York
225 Cadman Plaza East, Brooklyn, New York 11201

August 2002 – July 2003
Acting Assistant Professor of Clinical Law (Prosecution Clinic)
New York University School of Law
40 Washington Square South, New York, New York 10012

January 2000 – July 2002
Assistant United States Attorney
United States Attorney's Office, Eastern District of New York
271 Cadman Plaza East, Brooklyn, New York 11201

- 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.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.
- 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 Cleary Gottlieb, I participated in all phases of commercial litigation, involving securities, bankruptcy, contracts, and torts, as well as white-collar criminal defense and regulatory enforcement matters, for corporate clients and individuals.

While at the U.S. Attorney's Office, I served as lead trial counsel in the prosecution of federal criminal cases, including those involving fraud, organized crime, robbery, gun crimes, international narcotics trafficking, and other misconduct. I was responsible for all phases of prosecutions, including investigations, plea negotiations, evidentiary hearings, trials, and sentencing proceedings. I also argued criminal appeals before the U.S. Court of Appeals for the Second Circuit. My client during this time was the United States.

As a litigation partner at Cleary Gottlieb, my practice focuses on white-collar criminal defense, regulatory enforcement matters, crisis management, and complex commercial litigation. I also conduct sensitive internal investigations on behalf of boards of directors and management of corporations. I have conducted investigations on behalf of companies and financial institutions. I have represented domestic and multinational corporations and business executives in regulatory and criminal investigations involving, among other things allegations of fraud, insider trading, money laundering, and violations of the Foreign Corrupt Practices Act. I also advise boards of directors and audit committees on corporate governance issues and compliance programs. I frequently handle matters involving various United States Attorney's Offices, the Department of Justice, the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission, banking regulators, and state attorneys general. In addition, I represent corporations, officers, and directors in complex commercial litigation matters, including securities class actions, bankruptcy litigation, contractual disputes and other issues.

- 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.

My practice is entirely litigation-related. While at the U.S. Attorney's Office, I appeared in court frequently. In my practice at Cleary Gottlieb, I appear in court occasionally.

- i. Indicate the percentage of your practice in:
 - 1. federal courts; 90%
 - 2. state courts of record; 9%
 - 3. other courts; 1%
 - 4. administrative agencies

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings; 50%
 - 2. criminal proceedings. 50%
- 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 tried three cases to verdict while at the U.S. Attorney's Office. In two of the cases, I had co-counsel. In my first trial, a supervisor served as a second-seat, but I handled all aspects of the trial.

- i. What percentage of these trials were:
 - 1. jury; 100%
 - 2. non-jury.
- 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 not practiced or argued orally before the Supreme Court.

15. **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:

- a. the date of representation;
 - b. 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.
- 1. Picard v. Equity Trading Portfolio Ltd., et al., 10-4457;
Picard v. BNP Paribas Arbitrage SNC, 11-2796; and
Picard v. BNP Paribas S.A., BNP Paribas (Suisse) S.A., et al., 12-1576
U.S. Bankruptcy Court, Southern District of New York
Judge Cecilia Morris (recently took over cases from Judge Stuart Bernstein who retired)
(2009 – Present)

I am the lead lawyer representing BNP Paribas in significant cases in U.S. Bankruptcy Court and other courts in the Second Circuit in connection with the Madoff Ponzi scheme and the bankruptcy of Bernard L. Madoff Investment Securities. The Trustee for the Madoff estate is seeking to claw back over a billion dollars that were transferred to BNP Paribas entities as a result of investments with Madoff. The cases have raised novel issues concerning the extraterritorial application of the U.S. bankruptcy laws, comity, and the pleading standards for the good faith and value defense under the U.S. Bankruptcy Code. I have handled all aspects of the cases including motion practice, response to subpoenas, oral argument and negotiations with opposing counsel.

These actions and hundreds of other cases are consolidated on the docket SIPC v. Bernard L. Madoff Investment Securities LLC, 08-01789. The cases have been litigated before the U.S. Bankruptcy Court, U.S. District Court for the Southern District of New York (Judge Rakoff), and the U.S. Court of Appeals for the Second Circuit.

Co-counsel:

Ari MacKinnon
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2243

Opposing counsel:

David Sheehan
Oren Warshovsky
Torello Calvani
Baker & Hostetler LLP
45 Rockefeller Plaza
New York, New York 10111-0100
(212) 589-4200

2. U.S. v. Floyd Arthur, 00 CR 448
United States District Court, Eastern District of New York
Judge Frederic Block
(2000 - 2002)

I prosecuted Floyd Arthur, who was the principal of an insurance brokerage firm. Mr. Arthur employed a scheme to defraud the Port Authority of NY/NJ by adding inflated fees or mark-ups to insurance premiums reimbursed by the Port Authority in connection with airport construction projects. In September 2000, he was convicted, after a jury trial, of mail fraud and sentenced to a term of imprisonment of one year and a day. I participated in the investigation, all phases of the trial, including by

examining witnesses and addressing the jury, as well as the sentencing. In November 2005, the U.S. Court of Appeals for the Second Circuit affirmed the conviction, U.S. v. Floyd Arthur, 01-1424.

Co-counsel:

Eric Tirschwell (former Assistant U.S. Attorney)
Managing Director of Litigation and National Enforcement Policy
Everytown Law
PO Box 3886
New York, New York 10163
(646) 324-8222

Defense counsel:

Anthony Ricco
20 Vesey Street,
New York, New York 10007
(212) 791-3919

3. In re Doral Financial Corp. Securities Litigation, MDL-1706
United States District Court, Southern District of New York
Judge Richard Owen
(2005 - 2007)

I represented Doral Financial Corporation and certain officers and directors in connection with numerous securities class actions and derivative actions filed in federal court in New York and Puerto Rico, arising from Doral's restatement of its financial statements. The securities class actions brought on behalf of shareholders of Doral alleged that Doral and certain of its officers and directors and/or former officers and directors engaged in fraud by improperly valuing its portfolio of interest-only strips and misleading investors as to Doral's vulnerability to interest rate increases, in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Sections 11 and 15 of the Securities Act of 1933. The derivative actions asserted various claims, including breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and contribution. The derivative plaintiffs alleged that Doral's officers and directors allowed Doral to use inadequate procedures and financial controls and made misstatements to the public concerning Doral's financial statements and financial results. The purported class actions and derivative actions were settled in April 2007. The court approved the settlement in July 2007. I participated in all phases of the matters, including motion practice, negotiations with plaintiffs' counsel, and mediation. The resolution of the array of class action and derivative lawsuits against Doral allowed it to carry out a successful turnaround after more than two years of litigation and regulatory enforcement proceedings.

Co-counsel:

Matthew Slater
Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037
(202) 974-1930

Opposing counsel:

Class plaintiffs:

Samuel Rudman
Robbins Geller Rudman & Dowd LLP
58 South Service Road, Suite 200
Melville, New York 11747
(631) 367-7100

Derivative plaintiffs:

William Federman
Federman & Sherwood
10205 North Pennsylvania Avenue
Oklahoma City, Oklahoma 73120
(405) 235-1560

I also represented Doral in federal criminal and regulatory investigations into the accounting issues arising from the same subject matter at issue in the class actions.

SEC v. Doral Financial Corporation, 06 Civ. 7158
United States District Court, Southern District of New York
Judge John Sprizzo (deceased)
(2005 – 2006)

I participated in all phases of the investigation and resolution. The investigation by the Securities and Exchange Commission was settled in September 2006 and a final judgment was signed by Judge Sprizzo, on November 30, 2006.

Co-counsel:

David Brodsky
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2910

Opposing counsel:

Jason Anthony

U.S. Securities and Exchange Commission
Division of Enforcement
100 F Street, NE
Washington, DC 20549
(202) 551-4500

4. U.S. v. Franklin J. McNair and Diana Marva McNair, 00 CR 748
Judge David Trager (deceased)
United States District Court, Eastern District of New York
(2000 - 2002)

I prosecuted Franklin and Diana McNair. In June 2001, Franklin and Diana McNair were convicted, after a jury trial, of conspiracy to make false statements on loan applications to FDIC insured banks, making false statements on loan applications to FDIC insured banks, and mail fraud in connection with a mortgage fraud scheme concerning homes of elderly homeowners in Brooklyn, New York. Both Franklin and Diana McNair were sentenced to 51 months imprisonment. I participated in all phases of the trial, including arguing motions, examining witnesses, and addressing the jury, as well as the sentencing. In September 2002, the U.S. Court of Appeals for the Second Circuit affirmed the convictions. U.S. v. Franklin J. McNair and Diana Marva McNair, 46 Fed. Appx. 658 *; 2002 U.S. App. LEXIS 19207 (2d Cir. Sept. 17, 2002)

Co-Counsel:

Carolyn Pokorny (former Assistant U.S. Attorney)
Inspector General
Metropolitan Transportation Authority
1 Pennsylvania Plaza, 11th Floor
New York, New York 10119
(212) 878-0000

Defense counsel:

Diana McNair:

Susan Kellman
25 8th Avenue
Brooklyn, New York 11217
(718) 783-8200

Franklin McNair:

Peter Fabricant
36 W 44th Street, Suite 701
New York, New York 10036
(212) 997-7776

5. People of the State of New York v. Clifford Jones, Index No. 109575/2009
New York Supreme Court
Justice Edwina Richardson-Mendelson (took over on remand since original trial
court judge retired)
(2008 – 2016)

I represented Clifford Jones, pro bono, in connection with his motion to vacate his murder, robbery, and rape convictions. In 1981, Mr. Jones was convicted of a rape, murder, and robbery based solely upon the testimony of a single eyewitness, who was impaired by heroin at the time she picked Mr. Jones out of a line-up nearly four months after the crimes were committed. There was no physical evidence presented at trial that pointed to Mr. Jones as the perpetrator of these crimes, and the heart of Mr. Jones' defense at trial was misidentification. Nonetheless, he was convicted and served over 25 years in prison for these crimes. Mr. Jones maintained his innocence.

I became involved in Mr. Jones case in 2008 and we moved for an order for DNA testing of any physical evidence that had not been destroyed. As a result of this motion, hair from the hat worn by the perpetrator of the crimes during the crimes and fingernail scrapings from the homicide victim were located, which we then had tested. A mitochondrial DNA expert determined that three successive hairs gathered from the inside of the hat worn by the perpetrator of the crimes excluded Mr. Jones as the contributor of the hairs. In addition, testing of the fingernail scrapings from the homicide victim identified foreign DNA that did not match Mr. Jones. Mr. Jones moved to vacate his convictions based on this newly discovered evidence. Despite this evidence, the N.Y. Supreme Court summarily denied Mr. Jones's motion without holding an evidentiary hearing, and the Appellate Division, First Department affirmed in a split 3-2 decision. Mr. Jones was then granted leave to appeal to the New York Court of Appeals.

In December 2014, we won a significant ruling in the New York Court of Appeals for Mr. Jones. The Court unanimously reversed the Appellate Division's summary denial of Mr. Jones' motion to vacate his criminal convictions and remanded the case to the N.Y. Supreme Court for a hearing. In so doing, the Court overruled forty year old-precedent prohibiting the Court of Appeals from reviewing the lower courts' summary denial of a defendant's motion to vacate based on newly discovered evidence. People of the State of New York v. Clifford Jones, 2014 N.Y. Slip Op 8760, 24 N.Y.3d 623.

After remand, the New York County District Attorney's Office agreed to dismiss the indictment of Mr. Jones in 2016.

I was the lead lawyer on the case and participated in all phases of the case, including motion practice, court appearances, engaging with the New York County District Attorney's Office, oral advocacy and supervision of the case team.

Opposing counsel:

Assistant District Attorney Nicole Blumberg
Assistant District Attorney Charles King
Assistant District Attorney William Darrow
New York County District Attorney's Office
One Hogan Place
New York, New York 10013
(212) 335-9000

6. In the Matter of Paradigm Capital Management, Inc. and Candace King Weir,
Administrative Proceeding, File No. 3-15930
Securities and Exchange Commission
(2013 – 2014)

I represented Paradigm Capital Management, Inc. (“Paradigm”) and Candace King Weir, in an investigation by the SEC into principal transactions between an affiliated broker-dealer owned by Ms. Weir and a hedge fund client advised by Paradigm, and potential retaliation against a purported whistleblower. The investigation was resolved in June 2014 and included the first-ever charge of whistleblower retaliation by the SEC. The SEC found that engaging in principal transactions without providing sufficient disclosure to, and obtaining effective consent from, the hedge fund client, resulted in violations of Section 206(3) of the Investment Advisers Act. Also, the SEC found that Paradigm engaged in retaliatory actions against a whistleblower after it learned that the whistleblower reported potential violations to the SEC. I participated in all phases of the investigation and resolution.

Co-Counsel:

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Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037
(202) 974-1530

Boaz Morag
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2894

Opposing counsel:

Michael L. Riedlinger
Alex McCabe
Anthony Kelly
U.S. Securities and Exchange Commission
Division of Enforcement
100 F Street, NE

Washington, DC 20549
(202) 551-4500

7. The County of Cook, et. al. v. McLane Midwest, Inc. (OT 190025)
Cook County Department of Administrative Hearings, Cook County, Illinois
Denis Guest, Administrative Law Judge
(2019 – 2020)

I represented McLane in a tax dispute with the Department of Revenue in Cook County, Illinois. In 2019, after a tax audit, the Department of Revenue issued a Notice of Tax Determination and Assessment to McLane for the period of January 1, 2009 through August 31, 2017 (the “Assessment”), asserting that McLane was liable for unpaid tobacco taxes owed for the period from January 1, 2009 through February 29, 2012 with interests and penalties, totaling \$171,307,318.39. McLane filed a Protest and Petition for Hearing related to the Assessment with the Cook County Department of Administrative Hearings. After several months of litigation, the dispute was settled in August 2020. I led all aspects of the matter, including handling court appearances, preparing written submissions, and negotiating the settlement with opposing counsel.

Co-Counsel:

Jennifer Kennedy Park
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2357

Stanley R. Kaminski
Duane Morris LLP
190 South LaSalle Street, Suite 3700
Chicago, Illinois 60603-3433
(312) 499-0105

Opposing counsel:

Kenneth Ulrich
Goldberg Kohn Ltd.
55 East Monroe, Suite 3300,
Chicago, Illinois 60603
(312) 201-3934

Paul L. Fangman
Daniel H. Brennan, Jr.
Assistant State’s Attorneys, Cook County State’s Attorney's Office
500 Richard J. Daley Center
Chicago, Illinois 60602

(312) 603-5922

8. United States v. Veolia Environnement North America Operations, Inc., 13-mc-03
United States District Court, District of Delaware
Judge Leonard P. Stark
(2013 – 2014)

I represented Veolia Environnement North America Operations, Inc. (“VENAO”) in an action filed by the Department of Justice to enforce certain summonses issued to VENAO by the IRS,. The Department of Justice and IRS challenged VENAO’s withholding of documents under the attorney-client privilege, tax practitioner privilege, and work product doctrine in connection with an audit of a \$4.5 billion worthless stock deduction. I negotiated with the Department attorneys, participated in the drafting of the court filings, and argued the case before Judge Stark. In October and November 2014, the court ruled in VENAO’s favor finding that most of the documents were properly withheld. United States v. Veolia Environnement N. Am. Operations, 2014 U.S. Dist. LEXIS 154717 (D. Del. Oct. 31, 2014); 2014 U.S. Dist. LEXIS 163142 (D. Del. Nov. 17, 2014).

Co-counsel:

Jonathan Gifford
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2279

Yaron Reich (retired Cleary Gottlieb partner)
Blackstone
345 Park Avenue
New York, NY 10154

Philip Rovner
Potter Anderson & Caroon LLP
1313 North Market Street
Wilmington, Delaware 19801
(302) 984-6140.

Opposing counsel:

Nathan Strup
Christopher Williamson
Ward Benson
U.S. Department of Justice, Tax Division
P.O. Box 227, Ben Franklin Station
Washington, DC 20044

(202) 307-2250

9. U.S. v. Gaylord Davis, 99 CR 0830
United States District Court, Eastern District of New York
Judge I. Leo Glasser
(2000 – 2002)

I prosecuted Gaylord Davis for a gun crime in 2000. Mr. Davis, who had a prior felony conviction, threatened multiple people at a club in Brooklyn, New York. In February 2000, he was convicted, after a jury trial, of being a felon in possession of a firearm in violation of federal law. Mr. Davis was sentenced to 63 months imprisonment. I handled all aspects of the trial, including examining witnesses, motion practice, and addressing the jury, as well as the sentencing. I also handled Mr. Davis' appeal to the U.S. Court of Appeals for the Second Circuit, which contended that his counsel was ineffective. I drafted the brief in response and argued the appeal. In June 2002, the U.S. Court of Appeals for the Second Circuit affirmed the conviction. U.S. v. Gaylord Davis, 36 Fed. Appx. 463 *; 2002 U.S. App. LEXIS 11394 (2d Cir. June 11, 2002).

Defense counsel:

Anthony Ricco
20 Vesey Street,
New York, New York 10007
(212) 791-3919

Barry Deonarine
225 Broadway
New York, New York 10007
(212) 608-2000

10. U.S. v. John Nicosia, 00 CR 225
United States District Court, Eastern District of New York
Judge Edward Korman
(2000 – 2001)

I prosecuted John Nicosia, a former North Haledon, NJ police detective. Mr. Nicosia engaged in an insurance fraud scam. He falsely reported his car stolen and collected the insurance money, when he in fact took the vehicle to an illegal chop shop in Queens, New York. The chop shop was part of an FBI sting operation. The case was part of a broader investigation into an illegal insurance fraud scheme, which resulted in the arrest of 89 people and \$3 million in losses. Nicosia pled guilty to wire fraud and was given a 4 month sentence on March 23, 2001. I handled all aspects of the prosecution, resolution, and sentencing.

Defense counsel:

Joseph Afflito, Jr.
Afflito Law Offices LLC
500 Valley Road
Wayne, New Jersey 07470
(973) 633-8700

16. **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.)

While at Cleary Gottlieb, I have conducted internal investigations for clients and represented numerous clients in regulatory and criminal matters involving, among other things, securities and accounting fraud, bribery, and money laundering. The following are examples of recent significant investigations that are public:

- I conducted an investigation, on behalf of BHP, Vale, and Samarco, into the cause of the collapse of the Fundão tailings dam in Brazil.
- I conducted an internal investigation for the Brazil National Development Bank (BNDES) into allegations of corruption relating to transactions with subsidiaries of J&F Investimentos S.A. (J&F). J&F resolved the DOJ investigation into its activities, including concerning financing received from BNDES, by pleading guilty and paying a fine. BNDES was not the subject of the DOJ investigation.

In addition, I have represented the following clients in matters that were settled with criminal and regulatory authorities:

- Deerfield Capital Corp. in an investigation by the SEC into accounting treatment for certain trades. The matter was settled with the SEC in February 2011; and
- HSBC in parallel investigations conducted by, among others, the Department of Justice, the CFTC, and the UK Financial Conduct Authority (“FCA”), relating to potential manipulation in the foreign exchange market. In November 2014, the bank was among five financial institutions, which settled with the CFTC and FCA.

Because of the nature of my practice, many of my matters are confidential and have not resulted in public charges.

I have not performed lobbying activities for any organization.

17. **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.

From August 2002 to July 2003, I served as an Acting Assistant Professor at the New York University School of Law, where I taught the Prosecution Clinic. The Prosecution Clinic seminar combined simulations on litigation skills (including direct and cross examinations, oral argument, opening statements, and summation) and discussions about substantive, ethical, and systemic issues involving prosecutors (including the role of the prosecutor, prosecutorial discretion, bias, plea bargaining, jury selection, and sentencing issues). In the fieldwork component of the clinic, the students prosecuted misdemeanors in the Criminal Court for the City of New York through the New York County District Attorney's Office. Syllabus not available.

18. **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.

None

19. **Outside Commitments During 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.

None

20. **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).

Please see my SF-278 as provided by the Office of Government Ethics.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

During the nomination process, I consulted with the Department of Justice's ethics office and Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

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

If I am confirmed, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official. If confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I maintain an active pro bono caseload focusing on criminal, immigration, and other issues. In addition to the *Clifford Jones* case discussed above, I have led other representations including the following:

- I participated in the preparation and filing of an *amicus curiae* brief in the U.S. Court of Appeals for the Fourth Circuit (the "Fourth Circuit") on behalf of The Innocence Project, Inc. in support of Ronnie Wallace Long's appeal to reverse a district court's denial of his habeas corpus petition. The *amicus curiae* brief focused on issues concerning the reliability of eyewitness identifications, and the significance of those when considered with major *Brady* violations. In particular, the victim's identification in this case was especially unreliable. In addition, the procedure the police officers used to obtain the identification of Mr. Long was unusual and highly suggestive. On January 8, 2020, a Fourth Circuit panel affirmed the district court, but on August 24, 2020, an *en banc* panel reversed and remanded the case back to the district court for consideration of Mr. Long's actual innocence (*Long v. Hooks*, 972 F.3d 442, 445 (4th Cir. 2020), as amended (Aug. 26, 2020)). On August 27, 2020, the State of North Carolina vacated Mr. Long's conviction and he was freed from prison after serving 44 years.
- I represented Ms. I in her asylum petition. The matter was referred to Cleary Gottlieb by Sanctuary for Families in 2010.

Ms. I entered the United States with her family at age 13, and her father subsequently filed an asylum application on her behalf. After suffering a lifetime of severe abuse, Ms. I ran away from home in 2010, moved into a domestic violence shelter, and retained us as pro bono counsel. At the time, Ms. I's asylum application was consolidated with those of her abusive family members and pending before the Immigration Court. In 2011, we successfully moved to sever Ms. I's case and to transfer the venue of her proceedings to New York City.

In 2012, Ms. I's family located her in New York City and forced her to travel against her will to Pakistan. There, the family sedated Ms. I, locked her in a small room, repeatedly beat her, threatened her with honor killing, and forced her engagement to a man who was 15 years her senior. With the assistance of an elderly cleaning woman, Ms. I called Cleary Gottlieb who helped coordinate her escape. After Ms. I reached a safe place in Pakistan, we helped her secure humanitarian parole, which authorized her legal re-entry into the United States. We then prepared a new asylum application for Ms. I and successfully represented her at an asylum interview.

On October 7, 2014, we secured asylum for Ms. I.

- In 2010, I supervised a Cleary Gottlieb team in successfully obtaining a pardon from New York Governor David Paterson for a citizen of Antigua, who was facing deportation because of a decade-old conviction for a minor offense. Out of more than 1,100 applications, only 30 pardons were issued by the Governor.

I currently serve as a member of the Board of Directors of the Office of the Appellate Defender ("OAD"). I joined the board in 2018. OAD provides appellate and post-conviction representation that includes social work and re-entry services to its clients. In addition, I serve as a member of the Lawyers Committee for The Innocence Project. The committee is an advisory committee for the organization. From 2004 to 2015, I served as a member of the Board of Directors of The Bronx Defenders, a holistic community defender representing low-income residents and their families in the South Bronx. The organization provides criminal defense representation and free civil legal service representation, social service intervention, and support for its clients in immigration, housing, and family defense matters.

Since 2015, I have served on the Criminal Justice Act Advisory Committee for the United States Court of Appeals for the Second Circuit. That committee vets applicants for the Second Circuit Criminal Justice Act panel, members of which handle criminal appeals for indigent defendants.