

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Kenneth Allen Polite, Jr.

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

United States Attorney for the Eastern District of Louisiana

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.

Liskow & Lewis
New Orleans, Louisiana 70139

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

1976, New Orleans, Louisiana

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.

- Georgetown University Law Center
August 1997 – May 2000
Degree: J.D.
Graduation: May 2000
- Harvard University
September 1993 – May 1997
Degree: A.B. (Government)
Graduation: May 1997

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.

- New Orleans Public Belt Railroad Commission
4822 Tchoupitoulas Street
New Orleans, Louisiana 70115
Position: Commissioner
Term: July 2012 – Present
- Louisiana Civil Service Commission
1201 North Third Street, Suite 3-280
Baton Rouge, Louisiana 70802
Position: Commissioner
Term: February 2011 – Present
Appointed By Governor Bobby Jindal
- Liskow & Lewis
One Shell Square
701 Poydras, Suite 5000
New Orleans, Louisiana 70139
Position: Shareholder
Term: March 2010 - Present
- U.S. Attorney's Office, Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Position: Assistant U.S. Attorney, Criminal Division
Term: January 2007 – March 2010
- Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Position: Associate, White Collar Criminal Defense Group
Term: September 2002 – December 2006
- U.S. Court of Appeals for the Third Circuit
Honorable Thomas L. Ambro, Circuit Judge
5122 Federal Building, Lockbox 32
844 N. King Street
Wilmington, Delaware 19801
Position: Law Clerk
Term: September 2001 – August 2002
- Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square, P.O. Box 636
Wilmington, Delaware 19899
Position: Associate, Corporate Litigation Group
Term: August 2000 – August 2001

- Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square, P.O. Box 636
Wilmington, Delaware 19899
Position: Summer Associate
Term: May 1999 – July 1999
- Phelps Dunbar
Canal Place
365 Canal Street, Suite 2000
New Orleans, Louisiana 70130-6534
Position: Summer Associate
Term: July 1998 – August 1998
- McDermott, Will & Emery
600 13th Street, N.W.
Washington, D.C. 20005-3096
Position: Summer Associate
Term: May 1998 – July 1998
- Phelps Dunbar
Canal Place
365 Canal Street, Suite 2000
New Orleans, Louisiana 70130-6534
Position: Trial Clerk
Term: May 1997 – August 1997

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 United States 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.
- America's Leading Lawyers, White Collar Crime and Government Investigations, Chambers USA (2011 - 2013)
 - Editor-In-Chief, Fifteenth Survey of White Collar Crime, American Criminal Law Review, Vol. 37-2 (1999 - 2000)
 - Law Fellow, Legal Research and Writing Department, Georgetown University Law Center (1998 – 1999)

- Yingling Honor Scholar, Georgetown University Law Center (1998 – 2000)
 - Stride Rite Scholar for Community Service, Harvard University (1995 – 1997)
 - Coca-Cola National Scholar, De La Salle High School (1993)
 - National Achievement Scholar, De La Salle High School (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.

- American Bar Association
- National Bar Association
- Delaware State Bar Association
- New York State Bar Association
- Louisiana State Bar Association
- New Orleans Bar Association
- National Association Of Criminal Defense Lawyers

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.

- Louisiana, October 2010
- New York, March 2004
- Delaware, December 2000

No membership lapses.

- 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.

- U.S. Court of Appeals, Second Circuit

- U.S. Court of Appeals, Fifth Circuit
- U.S. District Court, District of Delaware
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of Louisiana

No membership lapses.

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.

- Ortique Leadership Institute
Position: Fellow
Term: September 2012 – January 2013
- The Pro Bono Project
Positions: Chair, Law Firm Outreach Committee
Member, Board of Directors
Term: January 2012 - Present
- Breakthrough New Orleans (formerly Summerbridge)
Positions: Board Chair
Member, Board of Directors
Term: July 2011 – Present
- Young Leadership Council
Positions: Secretary/General Counsel
Member, Board of Directors
Term: November 2010 – December 2012
- New Orleans College Prep Charter School
Positions: Board Chair
Board Vice-Chair
Member, Board of Directors
Term: September 2010 – June 2013

- De La Salle High School Alumni Association
Positions: Secretary
Member, Board of Directors
Term: September 2010 – March 2012
- Loyola University Institute Of Politics
Positions: Fellow
Term: September 2010 – March 2011
- Riverbridge Court Condominium Owners Association (New York, NY)
Term: July 2007 – Present
- Thomas Edison Charter School (Wilmington, DE)
Positions: Board Vice-Chair
Member, Board of Directors
Term: September 2000 – August 2002
- Kappa Alpha Psi Fraternity, Philadelphia Alumni
Term: September 2001 – August 2002

- 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.

None to my knowledge, except it should be noted that Kappa Alpha Psi is a historically African-American college fraternity, with membership limited to only males. I have not taken action to change the organization's policy in this regard.

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 items called for in this question, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

- “Potential Increase in Criminal Liability for Clean Water Act Violations”
(copy supplied)

- "Fifteenth Survey of White Collar Crime," *American Criminal Law Review*, Editor-In-Chief, Vol. 37-2 (I have supplied a copy of the Foreword which is the only portion of the publication that I authored.)
- "Mail & Wire Fraud," Co-Author, "Fourteenth Survey of White Collar Crime," *American Criminal Law Review*, Volume 36-3 (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.

None.

- 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 done my best to identify any testimony, official statements or other communications related, in whole or part, to matters of public policy or legal interpretation, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

Minutes (and corresponding agendas) for all meetings since I became a member of the Louisiana Civil Service Commission, the Public Belt Railroad Commission, and the board Of New Orleans College Prep Charter School.

- 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 all items called for in this question, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

- “A Rising Tide: Criminal Investigation Of Offshore Activities,” Liskow & Lewis MOI Seminar, November 8, 2012 (copy supplied)
 - "Professionalism: Why Should I Bother When Winning Is The Only Thing?" New Orleans Bar Association, November 21, 2011 (copy supplied)
 - "International Anti-Corruption Compliance," Liskow & Lewis Energy Law Seminar, October 20, 2011 (copy supplied)
 - “Pleading The Fifth Amendment In Civil Litigation,” New Orleans Bar Association Bench Bar Conference, April 15, 2011 (copy supplied)
 - “The Anatomy Of A Fraud Investigation,” Association of Certified Fraud Examiners, New Orleans Chapter, February 23, 2011 (copy supplied)
 - “What To Do When The Feds Come Knocking: In-House Responsibilities For Criminal Enforcement Matters,” Liskow & Lewis MOI Seminar, October 28, 2010, and Association Of Corporate Counsel, Houston Chapter, June 8, 2010 (copy supplied)
- 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 items called for in this question, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have identified the following:

- Radio interview with Garland Robinette regarding the Young Leadership Council’s support of the Forward New Orleans candidate platform, on or about March 19, 2012 (transcript not available)
- Television interview with Councilwoman Cynthia Hedge-Morrell regarding the Young Leadership Council’s Operation Playground Rebound, on or about October 31, 2011 (transcript not available)

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.

- New Orleans Public Belt Railroad Commission
July 2012 – Present
Appointed By Mayor Mitch Landrieu
- Louisiana Civil Service Commission
February 2011 – Present
Appointed By Governor Bobby Jindal

- 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.

None.

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;

Yes, I did serve as a law clerk to the Honorable Thomas L. Ambro, U.S. Court of Appeals for the Third Circuit. I served in that position from September 2001 through August 2002.

- 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.

- Liskow & Lewis
One Shell Square
701 Poydras, Suite 5000
New Orleans, Louisiana 70139
Position: Shareholder
Term: March 2010 - Present
- U.S. Attorney's Office, Southern District of New York

One St. Andrew's Plaza
New York, New York 10007
Position: Assistant U.S. Attorney, Criminal Division
Term: January 2007 – March 2010

- Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Position: Associate, White Collar Criminal Defense Group
Term: September 2002 – December 2006
- U.S. Court of Appeals for the Third Circuit
Honorable Thomas L. Ambro, Circuit Judge
5122 Federal Building, Lockbox 32
844 N. King Street
Wilmington, Delaware 19801
Position: Law Clerk
Term: September 2001 – August 2002
- Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square, P.O. Box 636
Wilmington, Delaware 19899
Position: Associate, Corporate Litigation Group
Term: August 2000 – August 2001

- 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 never 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.

While with Liskow (March 2010 – present) and Skadden's New York office (September 2002 – December 2006), my primary practice has been in the area of white collar criminal defense and government investigations. My matters have involved representing individuals and corporate entities in criminal (or related civil) proceedings before various federal and state agencies and conducting internal investigations of criminal conduct.

A small percentage of my Liskow practice and my practice with Skadden's Delaware office (August 2000 – August 2001) has consisted of business litigation defense.

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

While with Liskow (March 2010 – present) and Skadden’s New York office (September 2002 – December 2006), my primary practice has been in the area of white collar criminal defense and government investigations. My matters have involved representing individuals and corporate entities in criminal (or related civil) proceedings before various federal and state agencies and conducting internal investigations of criminal conduct.

- 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.

While with Liskow, my court appearances are occasional, with an average of two to three per month.

While with the U.S. Attorney’s Office, my court appearances were frequent, with an average of two to three per day.

- i. Indicate the percentage of your practice in:

1. federal courts;
2. state courts of record;
3. other courts;
4. administrative agencies

While with Liskow, approximately 65% of my practice is in federal criminal proceedings. These matters typically involve representing clients under investigation by the Department of Justice, Federal Bureau of Investigation, and/or the Internal Revenue Service, among others.

Approximately 10% of my Liskow practice is in state criminal proceedings, including matters involving the Louisiana Attorney General’s Office or the Orleans Parish District Attorney’s Office.

Approximately 25% of my Liskow practice is in business litigation defense in various Louisiana state courts.

While with the U.S. Attorney’s Office, 100% of my matters involved federal criminal proceedings.

- ii. Indicate the percentage of your practice in:

1. civil proceedings;
2. criminal proceedings.

While with Liskow, approximately 75% of my practice is in criminal proceedings, with 25% involving civil proceedings.

While with the U.S. Attorney's Office, 100% of my matters involved criminal proceedings.

- 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. What percentage of these trials were:
1. jury;
 2. non-jury.

While an Assistant U.S. Attorney in the Southern District of New York, 100% of my trials were before a jury. During my term of service, I tried six jury cases (five convictions, one hung jury with conviction on retrial). I have not tried any cases to verdict while in private practice.

- 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.

On behalf of the National Association Of Criminal Defense Attorneys, I filed an amicus brief to the Supreme Court in the matter of *Sell v. United States*, 539 U.S. 166 (2003) (copy supplied).

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.

- United States v. Real Property Located at 1297 Marion Airport Road, Marion, Iowa

Docket Number: 12-Cv-261 (E.D. La.)

Presiding Judges: Honorable Kurt D. Engelhardt (District Judge)
Honorable Joseph C. Wilkinson, Jr. (Magistrate Judge)

Court: U.S. District Court for the Eastern District of Louisiana

Term of Representation: January 2012 – January 2013

Co-Counsel: John Wilson
Liskow & Lewis
701 Poydras, Suite 5000
New Orleans, Louisiana 70139
504-556-7979

Opposing Counsel: Andre Lagarde
Assistant U.S. Attorney
Eastern District of Louisiana
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130
504-680-3000

Description: Served as lead counsel to defendants challenging civil forfeiture of real property in connection with criminal matter. The parties resolved the matter through settlement.

- United States v. Hank Ton

Docket Number: 12-Cr-272 (E.D. La.)

Presiding Judge: Honorable Jane Triche Milazzo

Court: U.S. District Court for the Eastern District of Louisiana

Term of Representation: Approximately May 2012 – May 2013

Co-Counsel: Francis J. Lobrano
147 Keating Drive
Belle Chasse, Louisiana 70037
504-433-3100

Opposing Counsel: Peter M. Koski
U.S. Department of Justice

10th & Constitution Avenue, N.W.
Washington, D.C. 20530
202-307-3589

Brian A. Lichter
U.S. Department of Justice
10th & Constitution Avenue, N.W.
Washington, D.C. 20530
202-514-1412

Description: Served as lead counsel in defense of boat company owner in connection with criminal income tax fraud allegations. The case concluded following the defendant's plea and sentencing.

- United States v. Dan Joachim

Docket Number: 10-Cr-223 (E.D. La.)

Presiding Judge: Honorable Martin L.C. Feldman

Court: U.S. District Court for the Eastern District of Louisiana

Term of Representation: Approximately August 2010 – April 2012

Co-Counsel: John Wilson Reed
Glass & Reed
530 Natchez Street
New Orleans, Louisiana 70130
504-581-9083

Opposing Counsel: Patrice Sullivan, Jordan Ginsburg, and Andre Lagarde
Assistant U.S. Attorneys
Eastern District of Louisiana
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130
504-680-3000

Description: Served as counsel to physician in connection with health care fraud and child pornography allegations. The case concluded following the defendant's plea and sentencing.

- United States v. Hector Paulino, et al.

Docket Number: 08-Cr-553 (S.D.N.Y)

Presiding Judge: Honorable Sidney H. Stein
Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately June 2008 – March 2010

Co-Counsel: Michael D. Maimin
U.S. Attorney's Office, Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
212-637-2238

Opposing Counsel: Telesforo Del Valle, Jr. (Lead Counsel)
Del Valle & Associates
445 Park Avenue, 14th Floor
New York, New York 10022
212-481-1900

Description: Served as lead prosecutor of Bronx-based heroin and cocaine operation. The case concluded with guilty pleas of all 12 defendants.

- United States v. Joseph Vasilevsky and Alexandr Spitsyn

Docket Number: 08-Cr-903 (S.D.N.Y.)

Presiding Judge: Honorable Shira A. Scheindlin

Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately July 2008 – March 2010

Co-Counsel: Antonia M. Apps
U.S. Attorney's Office, Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
212-637-2198

Opposing Counsel: Gary A. Farrell
305 Broadway, Suite 1400
New York, New York 10007
212-822-1434

Martin J. Siegel
150 Broadway

New York, New York 10038
212-349-9190

Description: Served as lead prosecutor of Russian mafia targets involved in identity theft and health care fraud. The first trial resulted in a hung jury, while the second resulted in guilty verdicts as to both defendants.

- United States v. Marc Munson and Paul Karkenny

Docket Number: 06-Cr-143 (S.D.N.Y.)

Presiding Judge: Honorable John G. Koeltl

Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately March 2008 – December 2008

Co-Counsel: Jason P.W. Halperin
U.S. Attorney's Office, Southern District of New York
300 Quarropas Street, 3rd Floor
White Plains, New York 10601
914-993-1933

Opposing Counsel: Bernard V. Kleinman
2 Gannett Drive, Suite 102
White Plains, New York 10604-3536
914-644-6600

Mathew J. Mari
225 Broadway
New York, New York 10007
212-227-5335

Description: Served as trial counsel in prosecution of the leaders of an international marijuana smuggling operation. A jury convicted both defendants as charged.

- United States v. Milton Smith

Docket Number: 08-Cr-390 (S.D.N.Y.)

Presiding Judge: Honorable Barbara S. Jones

Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately February 2009 – March 2010

Co-Counsel: Elie Honig (Formerly With USAO, SDNY)
Director
New Jersey Office of the Attorney General
Division of Criminal Justice
Richard J. Hughes Justice Complex
25 Market Street, P.O. Box 080
Trenton, New Jersey 08625-0080
609-984-6500

Opposing Counsel: Michael S. Kim and Matthew I. Menchel
Kobre & Kim LLP
800 Third Avenue, 6th Floor
New York, New York 10022
212-586-9151

Description: Served as trial counsel in prosecution of public corruption/organized crime operation within Manhattan bus inspectors. Smith was convicted following a jury trial, while the other five defendants pled guilty.

- United States v. Marvin Anderson

Docket Number: 07-Cr-265 (S.D.N.Y.)

Presiding Judge: Honorable George B. Daniels

Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately March 2007 – May 2008

Opposing Counsel: Philip L. Weinstein
Federal Defenders of New York, Inc.
52 Duane Street, 10th Floor
New York, New York 10007
212-571-0392

Carlos A. Martir, Jr.
Martir & Associates
305 Broadway, Suite 200
New York, New York 10007
212-227-0267

Description: Served as lead prosecutor of felon-in-possession defendant. A jury convicted the defendant as charged. Following briefing and argument, the U.S. Court of Appeals for the Second Circuit affirmed the conviction and sentence.

- United States v. Russell Harrington

Docket Number: 06-Cr-396 (S.D.N.Y.)

Presiding Judge: Honorable Lewis A. Kaplan (sentencing)
Honorable John E. Sprizzo (trial)

Court: U.S. District Court for the Southern District of New York

Term of Representation: Approximately May 2007 – March 2010

Co-Counsel: Laurie A. Korenbaum
U.S. Attorney's Office, Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
212-637-2266

Opposing Counsel: Sam A. Schmidt
111 Broadway, Suite 1305
New York, New York 10006
212-346-4666

Description: Served as lead prosecutor of three-time felon-in-possession defendant. A jury convicted the defendant as charged. Following briefing and argument, the U.S. Court of Appeals for the Second Circuit affirmed the conviction and sentence.

- United States v. Stephen Richards

Docket Number: 04-Cr-846 (E.D.N.Y.)

Presiding Judge: Honorable I. Leo Glasser

Court: U.S. District Court for the Eastern District of New York

Term of Representation: Approximately June 2004 – December 2006

Co-Counsel: David Zornow and Chris Gunther
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square

New York, New York 10036
212-735-2890

Robert B. Fiske, Jr.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
212-450-4090

Opposing Counsel: Eric R. Komitee and Jason A. Jones
U.S. Attorney's Office, Eastern District of New York
147 Pierrepont Street
Brooklyn, New York 11201
718-254-7553

Description: Served as lead associate in defense of Computer Associates sales executive in connection with accounting fraud allegations. The case concluded following the client's guilty plea and sentencing.

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.)

- United States v. Fred Schiff, 05-Cr-474 (D.N.J.) (defense of Bristol-Myers Chief Financial Officer in connection with accounting fraud allegations) (resolved through deferred prosecution agreement) (lead associate managing document review and witness preparation).
- Briefed and argued seven matters before the Second Circuit Court of Appeals on behalf of the United States. Noteworthy legal questions included the validity of a defendant's verbal waiver of his right to a jury trial and whether a state court misdemeanor conviction for sale of marijuana qualified as an "aggravated felony" for sentencing in violation of the illegal reentry statute.
- Representation of various employees of Entergy's Riverbend nuclear facility in connection with an FBI/grand jury investigation (lead counsel to several employees in connection with company and government interviews and testimony).
- Representation of Chalmette Refining Company in connection with internal investigation (lead counsel to company, responsible for conducting witness

interviews, reviewing documents and relevant material, and providing conclusions and remedial recommendations).

- Representation of Anadarko Petroleum Corporation in connection with grand jury investigation (lead counsel to company, responsible for supervising document production, interviewing witnesses, and representing employees in connection with government interviews and grand jury testimony).
- Representation of Lowe's Companies, Inc. in connection with grand jury investigation (lead counsel to company, responsible for supervising document production, interviewing witnesses, and representing employees in connection with government interviews and grand jury testimony).

I have not engaged in lobbying activities on behalf of any client.

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.

During my second year at Georgetown University Law Center (*i.e.*, the 1998 – 99 school year), I served as a Law Fellow for the Legal Research and Writing Department. In that role, my responsibilities included leading weekly classroom instruction for 25 students, grading tests and writing samples, and conducting one-on-one meetings with students regarding their writing instruction and development. (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.

If confirmed, I will withdraw from my position as a shareholder and partner from the professional law corporation of Liskow & Lewis. Pursuant to the firm's policy and severance agreement, I will divest my shareholder interest in the firm and will receive a lump sum payout of my outstanding shareholder interest in the firm at the time of my resignation. The firm will make this lump sum payment before I assume the duties of United States Attorney. Also pursuant to the firm's policy and my severance agreement, I will receive a termination bonus. Liskow & Lewis will use an objective formula to calculate this bonus, and it will be paid over a 36-month period beginning in January 2014. Until I receive these payments, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Liskow & Lewis to pay this termination bonus, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which a former client of

mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

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).

See attached SF-278.

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.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. 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.

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

In the event of a potential conflict of interest, I will consult with the ethics officials in the Executive Office for United States Attorneys, Department of Justice.

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 currently serve on the board of directors for the New Orleans Pro Bono Project, a non-profit organization that provides free legal assistance to indigent citizens of the New Orleans community. In that capacity, I have served as chair of the law firm outreach committee. I have also provided free legal advice as part of the Help Project and the pro bono initiative of the Young Lawyers Committee of the New Orleans Bar Association. Lastly, I have served as appointed pro bono criminal counsel for various indigent defendants in both the federal and state courts in the New Orleans area.

In addition to my pro bono activities, I have been active in a variety of community service/volunteer efforts, including New Orleans College Preparatory Charter Schools (Board Chair), Breakthrough New Orleans (Board Chair), and Young Leadership Council (Secretary/General Counsel).

AFFIDAVIT

I, Kenneth Allen Polite, Jr., do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

7/5/13
(DATE)

K.A.P.
(NAME)

[Signature]
(NOTARY)



MATTHEW D. SIMONE
Notary Public
Notary ID No. 90182
Orleans Parish, Louisiana