



The Navigator

Issue 1 | Summer 2013

Presented by the BakerHostetler White Collar Defense and Corporate Investigations Team

Highlights:

- *Chambers USA* Ranks BakerHostetler
- Interview with PwC's Mark J. Gerber
- Recent Alerts and News to Watch

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Welcome

Welcome to the inaugural edition of BakerHostetler's *The Navigator*, your source for news, trends, research and reliable commentary on white collar defense, corporate investigations, monitorships, examinerships and receiverships. In each bi-annual newsletter, our award-winning national team of contributing attorneys will offer insights and perspectives on how to best "navigate" this growing legal sphere.

In recent years, federal, state and local government agencies have become increasingly proactive in their enforcement approach, conducting complex investigations, as well as routinely appointing monitors, examiners and receivers to oversee major corporations and public works projects in nearly every industry. When confronting intense government scrutiny, particularly in the face of fraud allegations, compliance issues or settlement agreements, our affected clients, whether individuals or companies, come to BakerHostetler filled with questions. We created *The Navigator* to keep our clients and friends informed and aware. With case studies, best practices, articles and informative updates from our seasoned attorneys, many of whom have led high-stakes, prominent investigations and served as monitors, examiners and receivers, our goal is to steer you through.

***Chambers USA* Ranks BakerHostetler's "White-Collar Crime and Government Investigations" Practice**

Chambers and Partners ranked 84 BakerHostetler attorneys—an increase of 24 percent from 2012—in the 2013 edition of the prestigious *Chambers USA Guide: America's Leading Lawyers for Business*. BakerHostetler was ranked for its "White-Collar Crime and Government Investigations" practice, along with *The Navigator* contributing attorneys and co-leaders of the Firm's national White Collar Defense and Corporate Investigations Practice Team, [George A. Stamboulidis](#) and [John J. Carney](#).

Chambers USA Guide is an independent and objective directory based on interviews with thousands of in-house and outside counsel across the country. The qualities on which rankings are assessed include technical ability, client service, commercial astuteness, diligence, value for money, prompt delivery and other qualities most valued by the client. To read more about our *Chambers USA* ranked team, click [here](#).



George A. Stamboulidis



John J. Carney



Anyone Can Whistle

By: [Lauren J. Resnick](#), [Tracy Cole](#), and [Essence Liburd](#)

The Dodd-Frank Act and similar federal legislation have provided major monetary incentives and greater protections for whistleblowers who report corporate misconduct to law enforcement. In this new world of whistleblowers, the best defense is a good offense. Employees are the eyes and ears of the company and should be viewed as the first line of defense. Most whistleblowers attempt to sound the alarm internally before they resort to blowing the whistle externally. By adopting a few best practices, such as creating a culture of compliance, providing whistleblower training, incentivizing internal reporting and investing in a robust internal audit program, companies can identify issues before they become expensive problems. Once a concern has been raised, immediate steps should be taken to thoroughly investigate, implement and document any corrective action. Based on the size and scope of the issue, the general counsel should take the lead on any investigation and outside counsel should be retained when appropriate. Finally, reporting back to the whistleblower and creating comprehensive tracking mechanisms will signal that the company is responsive and equipped to spot any systemic or recurring issues.

To read the full article, "Anyone Can Whistle," as it appeared in **National Law Journal Online** on May 2, 2013, please click [here](#).

Lauren J. Resnick is a partner in BakerHostetler's New York office, focusing her practice on white collar and commercial litigation. A former Assistant U.S. Attorney for the Eastern District of New York, Computer Crimes and Intellectual Property Section Chief, and two-time recipient of the Department of Justice Director's Award for Superior Performance, Ms. Resnick is regularly retained by executive management and audit committees of FORTUNE 500 corporations to conduct internal investigations on FCPA, AML, trade sanctions and OFAC, securities fraud, accounting and employment matters, and to advise on cyber-crime issues.

Tracy Cole is a partner in BakerHostetler's New York office and serves as the Employment Practice Team Coordinator for the office. She is also a co-leader of the national Employment Group's Whistleblower and Compliance Practice Team. She is a former Assistant District Attorney in the New York County District Attorney's Office and experienced trial lawyer who focuses her practice on employment litigation and complex commercial matters, as well as criminal, antitrust and RICO cases.

Essence Liburd is an associate in BakerHostetler's New York office and focuses her practice in the areas of white collar defense and corporate investigations, as well as general commercial litigation, in both federal and state courts.

The High Price of Underestimating Risk: The FCPA & Subsidiary Liability

By [John J. Carney](#), [Francesca M. Harker](#) and [Kaitlyn A. Ferguson](#)

The Foreign Corrupt Practices Act (FCPA) holds individuals and companies liable for failing to maintain adequate accounting and financial data about their international transactions (books and records provisions) and for the bribery of foreign officials undertaken by themselves, their subsidiaries and agents thereof (anti-bribery provisions). Penalties for violating the statute range from fines and disgorgement to jail time for executives. And with increasing enforcement of the FCPA by both the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC), companies and organizations lacking adequate compliance programs are at more risk for prosecution than ever before. Additionally, the DOJ has said that it will vigorously prosecute not only companies directly violating the statute, but will continue to hold parent companies liable for the actions of their subsidiaries and agents. This intent is also born out in the 2012 resource

guide put out jointly by the DOJ and SEC.

Companies may be held liable for the acts of their subsidiaries for anti-bribery violations where either (1) the parent directed the subsidiary's illicit activities, or (2) under "traditional agency principles." Though highly fact intensive, an agency relationship will likely be found where the parent and subsidiary agreed for the subsidiary to act on the parent's behalf, and the parent accepted the benefit of those actions. Additionally, parent companies may be held liable for the books and records violations of their subsidiaries where they are majority stakeholders in the entity.

Within the past 18 months, two prominent cases based in large part upon subsidiary liability are those of Smith & Nephew plc and of Tyco International Ltd. Smith & Nephew, the parent company ended up...(see page 3)



'The High Price,' continued.

paying \$5.4 million for improper bribes paid by its subsidiary to Greek officials. Tyco International, which faced charges for both books and records violations and for bribery ultimately settled with the SEC and DOJ for \$26 million. In particular, the bribery charges concerned improper payments made by a subsidiary to Turkish officials. As these cases illustrate, ignoring the FCPA can have long term consequences and high costs – both financial and reputational. To avoid such issues, companies are encouraged to design and implement robust compliance programs, to self-disclose issues when they are discovered, to cooperate with subsequent government investigations and to quickly remediate any issues.

The full article was originally published on March 31, 2013 through Thomson Reuters in Practical International Corporate Finance Strategies.

John J. Carney is a partner in BakerHostetler's New York office. He is a former Securities Fraud Chief, Assistant United States Attorney, SEC Senior Counsel and is a practicing CPA. He focuses his practice on securities regulatory enforcement and litigation defense, FCPA, white collar corporate investigations, monitorships, receiverships, healthcare enforcement and defense and complex litigation.

Francesca M. Harker is an associate in BakerHostetler's New York office and is responsible for handling litigation matters and focuses her practice in the areas of general commercial litigation and white collar and corporate criminal matters. She represents individuals and corporations in complex commercial litigation matters as well as in formal and informal investigations by the DOJ and the SEC.

Kaitlyn A. Ferguson is an associate in BakerHostetler's New York office. She works on a variety of litigation matters, including work related to the firm's role as court-appointed counsel to the SIPA Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC.

BakerHostetler's FCPA Update

An in-depth look at FCPA developments and trends

In November 2012, the DOJ and SEC released the long-anticipated Resource Guide to the FCPA ("FCPA Guide"), offering clarity on certain positions taken by the SEC and DOJ. Similarly, BakerHostetler created its very own FCPA Update, circulated bi-annually, offering a summary of FCPA investigations, recent enforcement actions, completed criminal trials, ongoing FCPA litigation and new FCPA-related rules and guidance. The FCPA Updates are meant to serve as useful tools to keep you informed.

The 2012 Year-End FCPA Update was circulated in March 2013 and can be found [here](#). The piece was compiled and authored by: [Jonathan R. Barr](#), [John J. Carney](#), [Jimmy Fokas](#), [Francesca M. Harker](#), [Jonathan B. New](#), [Timothy Scott Pfeifer](#), [Lauren J. Resnick](#) and [George A. Stamboulidis](#).

We encourage you to stay tuned for our team's release of the **2013 Mid-Year FCPA Update**, which will include an in-depth look at FCPA concerns unique to companies doing business in Russia. This is the first installment of a four-part series focusing on the FCPA in the BRIC countries. The 2013 Mid-Year FCPA Update will be released in the coming weeks.

More information on BakerHostetler's FCPA Practice and FCPA Team can be found [here](#).

The Insider's Corner: Mark J. Gerber

Mark J. Gerber, a partner in the Forensic Services Practice with PricewaterhouseCoopers (PwC), sat down with Associate Patrick T. Campbell to discuss his career spanning the FBI to PwC, the role of forensic accounting in large-scale investigations and best practices to keep out of the crosshairs of the government.

Patrick T. Campbell (PC): Thank you for agreeing to be our very first "Insider" for *The Navigator*. Just to get things underway, can you briefly describe how you got started in forensic accounting at the FBI? What division did you join and what types of cases did you work on?

Mark J. Gerber (MG): I was fortunate enough to be assigned to the Newark, NJ office, which is dynamic in terms of being right there in the shadow of New York City and having virtually every violation you could possibly want to work on if you're an agent. Given my strong accounting and finance background, it made sense that the Bureau directed me to the white collar crime program, so I started my career in that program and remained there for the rest of my tenure with the FBI.

PC: How would you define forensic accounting and what a forensic accountant does?

MG: A forensic accountant is engaged when there's an allegation of financial wrongdoing at a significant level. Our clients, whether they are law firms or corporations, need someone with expertise to take a deep dive into a particular area, get their hands around it, dissect it, cull through all the data, and make the data understandable for any reasonably intelligent person to follow along. It is our job to determine how the alleged fraud was perpetrated, who was involved, where the breakdown in controls took place, and ultimately to provide guidance to the client on how to prevent the alleged fraud from recurring. That's what I think a quality forensic accountant brings to the table. Additionally, forensic accounting and the related investigative work has to be conducted in a disciplined manner and with sufficient quality so as to be admissible in a court of law.

PC: Is there any confusion as to what forensic accounting is and what forensic accountants do?

MG: I think there's a general misconception of what forensic accountants do. When I tell someone I am a forensic accountant, the person usually looks at me with puzzlement. The term "forensic accounting" has only been around for 20-25 years, at most, so people generally aren't familiar with it. We don't conduct audits. An audit is a type of third party assurance accompanied by an opinion with distribution to anybody who looks at the financial statements of a company. Our forensic reports are typically for our client's use only. When we're retained, we usually have a narrow focus on an allegation and we drill down on that matter. We will go a mile deep, but maybe only a football field wide, whereas an audit may go a mile wide and only a few feet deep....(see page 5)



Mark J. Gerber
CPA, CFF
Partner, Forensic Services at
PwC

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The Insider's Corner, continued.

PC: Did you work on any particularly interesting or insightful cases at the FBI where forensic accounting played a crucial role?

MG: All my cases were rewarding and beneficial to the public, but if there was one case in particular it would have to be the Cendant case that I began in 1998. I worked that case for nearly seven and a half years, including a nine month jury trial. Cendant shareholders lost approximately \$14 billion of shareholder value in a two day period when the scandal became known to the public.

PC: How did your expertise as a forensic accountant help you in this particular case?

MG: You really had to have a strong background in accounting to understand the sophisticated schemes Cendant executed. For example, one of the instruments Cendant used to manipulate earnings was the misuse of merger reserves. Merger reserves are governed by arcane accounting literature and you really have to get in and understand in great detail to show how the company used that instrument to manipulate earnings and ultimately to manipulate the stock price.

PC: After your tenure at the FBI, did you move onto PwC?

MG: Yes, I became accustomed to big cases (I also worked on a securities fraud case involving Bristol-Myers Squibb at the Bureau), so I wanted to go to a place where I could work on big cases. From my perspective, PwC had the crème de la crème of forensic accounting practices, the necessary talent in computer forensics, and the staff to do large scale, global cases. Plus the people I met at PwC were exceptional. The past eight years have proven my initial assessment to be correct.

PC: What does the Forensic Services division of PwC do?

MG: PwC's Forensic Services Practice falls within the larger umbrella of Advisory Services for clients, and it covers a lot of ground. Among other things, we conduct financial investigations that may concern financial statement fraud, earnings manipulations, embezzlement, money laundering, anti-bribery, anti-corruption, and anti-trust. We also help clients build out compliance programs to mitigate their risks in these areas. We also have a robust Forensic Technology Solutions Practice that does electronic discovery, data mining, data analytics, cyber-crime investigations, and assists clients in developing systems to prevent and/or detect cyber

attacks. In addition, we have an impressive Corporate Intelligence Practice that can provide critical knowledge about individuals or companies to our clients as part of investigations, due diligence or as part of litigation support. Finally, we provide expert witness and litigation support services.

PC: What do you do in particular?

MG: I spend my time conducting financial fraud investigations, including anti-bribery and anti-corruption. I also assist clients with their compliance programs, advising them on taking the necessary preventative steps so that they don't have to use me for investigative purposes.

PC: Who retains your services?

MG: It depends. If it's a sensitive matter that's an investigation, very commonly we'll be engaged by the company's outside legal counsel. However, companies retain us directly as well. For other matters that tend to be more of the preventative nature or where we are conducting due diligence, we sometimes are engaged by the audit committee of public companies, general counsel, the CFO, or by directors of internal audit in large companies.

“We’ve done [FCPA cases]...You name the country and I’ve probably been there or supervised a team performing forensic services there.”

PC: Let's talk about one of the more frequent focuses of government actions, FCPA. Do you assist companies in FCPA compliance and internal investigations?

MG: Yes, absolutely. We've done them and, quite frankly, they have been fascinating. In fact, I've had to get the extra-big passport. You name the country and I've probably been there or supervised a team performing forensic services there.

PC: How do you determine the high risk areas and sort through the data intelligently?

MG: The computer technology services that we offer are critical to almost everything I do. Like my American Express card, I don't go anywhere without our forensic technologists. They are the key to allowing you to extract the data and use data analytics to quickly find the high risk areas and transactions that you need to focus...(see page 6)



The Insider's Corner, continued.

on. This is more efficient and really brings value to the client, as opposed to trying to mine the data in a more manual way. For example, in one global case I worked on, we visited six high profile, high risk countries. We literally would fly in with our data analysts and computer technologists a week or two in advance of the arrival of the core team, so that the data was already organized by the time the forensic accountants arrived.

PC: In large global investigations, such as the one you just mentioned, do you work closely with the company's legal team?

MG: Absolutely. The company's legal team is either embedded with us, or we update them frequently to make sure we're all in agreement as to where we're going and how we are analyzing the findings that we've generated.

PC: Any lessons learned that you can share with our readers from your experience conducting large scale FCPA investigations?

MG: Look at the DOJ/SEC FCPA manual that was published in November 2012. When you read how the DOJ and SEC lay out the parameters of a good compliance program, it brings to mind the old saying that "an ounce of prevention is worth a pound of cure." It's all about having an effective compliance program, starting at the top of an organization to include practical policies and the procedures emphasizing how to conduct business the right way, rolling out the training, and then really empowering the compliance team so that the compliance program gets out to the operating units so as to avoid having a paper tiger sitting in a nice binder in someone's corporate headquarters office. You want to have a diligent program where you really know your customers and the third parties you're dealing with and make sure they are reputable and agree to work within your compliance culture. You then have to have an effective plan to monitor and audit the implementation and continued application of your compliance program including conducting field tests of transactions. You also have to pay the requisite attention to knowing how to do business in certain global environments and understanding the cultural differences. This way you eliminate your chances of creating a big mess that could land you on front page of *The Wall Street Journal* for all the wrong reasons.

"an ounce of prevention is worth a pound of cure.' It's all about having an effective compliance program....This way you really eliminate your chances of creating a big mess that could land you on front page of *The Wall Street Journal* for all the wrong reasons."

Mr. Gerber is a former FBI Special Agent who served in the Newark, NJ office's white collar crime program for eight and a half years. While at the Bureau, Mr. Gerber worked on large financial fraud investigations, including securities fraud cases against Cendant Corporation and Bristol-Meyers Squibb. Mr. Gerber is currently a partner with PwC, where he works in the company's Forensic Services Division and continues to work on large financial fraud and anti-bribery matters.

Mr. Gerber graduated from St. Joseph's University in Philadelphia with a BS in Accounting. He also has experience as a financial auditor with one of the Big Four accounting firms and as a CFO for a private company.

For more information on PwC's Forensics Services practice, click [here](#).



Recent Alerts and News to Watch

The cases, decisions and industry news we're monitoring now

- ◆ [SEC Creates New Task Forces and Analytical Hub to Crack Down on Financial Reporting and Microcap Fraud](#)—7/11/2013—On July 2, 2013, the SEC announced three initiatives together with a promise to employ an increasingly proactive approach to discover fraudulent accounting and securities practices. The SEC unveiled two new task forces and a center focused on analytical risk assessment, which will likely result in more investigations and enforcement actions relating to financial statement and microcap securities fraud. *Authorship credit: [John J. Carney](#), [Francesca M. Harker](#) and 2013 Summer Associate Justin Sommerkamp.*
- ◆ [Silence Isn't Always Golden in Government Investigations: Bracing for The Impact of the Supreme Court's Decision in *Salinas v Texas*](#)—7/8/2013—On June 17, 2013, the Supreme Court of the United States issued an opinion with important implications for anybody who wishes to remain silent when interviewed in connection with a criminal investigation whether they know it matters or not. The Supreme Court's decision significantly affects how law enforcement practices will be executed in the future, including, but not limited to, how police question individuals and how and whether they advise people of their Miranda rights. Furthermore, the court's decision will affect the way prosecutors introduce evidence and attempt to imply a person's guilt based upon their silence. *Authorship credit: [John W. Moscow](#) and [Kendall E. Wangsgard](#).*
- ◆ [Regulators Shining a Light on "Shadow Insurance"](#)—6/20/2013—A highly critical report issued by the New York State Department of Financial Services (DFS) on June 11, 2013, found that almost a quarter of New York life insurers were diverting a total of \$48 billion of their policies to subsidiaries in a process the report referred to as "shadow insurance." The scrutinized practice involves "reinsurance" of some of an insurer's existing policies through a wholly owned subsidiary, characterized by the report as "shell companies," rather than through a third party. *Authorship credit: [Jonathan B. New](#) and [Kaitlyn A. Ferguson](#).*
- ◆ ["The Floodgates are Open: Second Whistleblower Award Sparks Speculation Over What's Next"](#)—6/18/2013—The SEC issued an order awarding three whistleblower awards to tipsters who helped the SEC with its enforcement action against Locust Offshore Management, LLC and its CEO Andrey C. Hicks. The SEC has not collected against its \$7.5 million default judgment against the defendants, so the whistleblowers will have to wait to receive their award. With each whistleblower positioned to receive five percent of what the SEC ultimately recovers, the whistleblowers could each receive a maximum of \$375,000. *Authorship credit: [John J. Carney](#) and [Francesca M. Harker](#).*
- ◆ ["Federal Government Expands AML Cybercrime Enforcement"](#)—6/3/2013—On May 28, 2013, the DOJ announced the unsealing of an indictment against Liberty Reserve, S.A. in the Southern District of New York for operating a \$6 billion money laundering scheme. Liberty Reserve and seven of its employees are alleged to have laundered the funds in nearly 55 million transactions since 2006. Based out of Costa Rica, the company, which has been shut down, was a large internet-based payment processor and money transfer system. Any customers who were engaged in legitimate business activities have also been unable to access the funds in their Liberty Reserve accounts as a result of the indictment. *Authorship credit: [Lauren J. Resnick](#) and [Kaitlyn A. Ferguson](#).*
- ◆ ["Total S.A. to Pay \\$398.2M to Settle Alleged FCPA Violations"](#)—5/31/2013—On May 29, 2013, the DOJ and the SEC announced agreements with Total S.A. to settle alleged FCPA violations for a combined sum of more than \$398 million. The DOJ filed a three-count information and deferred prosecution agreement in the Eastern District of Virginia, whereby Total agreed to pay a \$242.2 million penalty and to implement an improved compliance program. *Authorship credit: [John J. Carney](#), [Francesca M. Harker](#) and [Kaitlyn A. Ferguson](#).*
- ◆ ["CFPB Criminal Referral"](#)—5/9/2013—In what he called "a harbinger of an especially potent partnership," Preet Bharara, U.S. Attorney for the Southern District of New York, announced Tuesday the filing of criminal charges against a New York debt settlement firm and associated individuals based on the first-ever referral from the Consumer Finance Protection Bureau (CFPB). *Authorship credit: [Dennis O. Cohen](#) and [Brian F. Allen](#).*



Recent Alerts and News to Watch, continued.

- ◆ **“SEC Releases National Examination Program Priorities for 2013”**—4/1/2013—On February 21, 2013, the National Examination Program (NEP), which is administered by the SEC’s Office of Compliance Inspections and Examinations (OCIE), published its examination priorities for 2013, highlighting the NEP’s primary areas of focus for the coming year. The NEP addresses market-wide priorities, as well as priorities for each of the NEP’s four distinct program areas: (i) investment advisers and investment companies; (ii) broker-dealers; (iii) clearing and transfer agents; and (iv) market oversight. In publishing its examination priorities, the NEP staff is alerting investors and registrants to specific regulatory issues that the staff perceives to have heightened risk. *Authorship credit: Richard B. Levin, Brian W. Song and Darren M. Donahue.*
- ◆ **“Consumer Debt Collectors Join the Federally Supervised Community”**—3/27/2013—For the consumer debt collection industry, the federal regulators have arrived. In February 2013, the CFPB began supervising roughly 175 large consumer debt collectors, defined as those averaging more than \$10 million in annual debt collection receipts. CFPB’s regulations and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) not only require supervision of roughly 60 percent of the collection market, but also allow CFPB to investigate service providers, as well as any covered collector the CFPB determines is risky. *Authorship credit: Dennis O. Cohen and Joshua L. Farnsworth.*

BakerHostetler’s Navigators at Work

A look into some of BakerHostetler’s White Collar Defense and Corporate Investigations Team’s most recent public engagements. Given the sensitive nature of our work, many of our matters and clients must remain confidential; therefore, they are not listed below.

- ◆ **Local 14-14B of the International Union of Operating Engineers**—On November 24, 2009, George A. Stamboulidis was appointed by Judge Sterling Johnson, Jr., United States District Court Judge for the Eastern District of New York, to a five-year term as Ethical Practices Attorney (EPA) of Local 14-14B of the International Union of Operating Engineers (Local 14). As EPA, Mr. Stamboulidis monitors various components of this New York City labor union, including job referrals, elections, appointments and union governance and practices, in order to eradicate corruption and organized crime’s influence from the union’s ranks and business activities. Mr. Stamboulidis investigates allegations of corruption and commences disciplinary proceedings against corrupt union members where appropriate. As of the publication of this newsletter, Mr. Stamboulidis’s efforts have led to the expulsion of 28 corrupt union members. In addition to rooting out corruption, Mr. Stamboulidis oversaw Local 14’s July 13, 2013 officers election, the first election of Local 14 officers in almost 12 years. In this role, Mr. Stamboulidis was responsible for ensuring that a fair and free election was held, untainted by any corrupt influences. To this end, Mr. Stamboulidis, among other things, issued election rules, trained candidates and members on election protocols, investigated allegations of improper campaigning and retaliation by the current administration, and monitored the conduct of the election on election day.

Local 14 members operate heavy machinery, including cranes and excavators, and other machines such as hoists and forklifts, in New York City. You can read more about the Local 14 EPAship at www.local14epa.org. Mr. Stamboulidis is assisted in this matter by Lauren J. Resnick, who leads his legal team, and BakerHostetler associates Patrick T. Campbell, Essence Liburd, Denise D. Vassel, Christy Nixon, Elizabeth M. Stamoulis and Kaitlyn A. Ferguson.

- ◆ **Michael Kenwood Capital Management, LLC. Receivership**—In early 2011, John J. Carney was selected by the SEC and appointed by the U.S. District Court in Connecticut to serve as the Receiver of Michael Kenwood Capital Management, LLC—an international investment advisor located in Stamford, Connecticut—and related offshore hedge funds. On March 1, 2011, the court expanded the scope of the Receivership to include other affiliated entities, all of which were organized under the name of a Connecticut holding company, The Michael Kenwood Group, LLC. The team is responsible for the recovery of illegally misappropriated investor assets, as well as the management and liquidation of the assets of the Receivership Estate (the Estate), including... (see page 9)



BakerHostetler's Navigators at Work, continued.

investments in more than a dozen private equity enterprises. In 2012, the Receiver filed asset recovery actions seeking more than \$250 million. The team has succeeded in settling several of the actions pre-litigation for a maximum recovery. The Receiver also filed a Motion to Expand the Receivership again seeking to include certain hedge funds involved in the fraud. Following substantial dispute resolution and negotiation, the Receiver reached a settlement with the funds and recovered \$223 million for the benefit of the Estate. The Receiver has recovered assets exceeding \$100 million. Mr. Carney is assisted in this matter by a strong base of attorneys, including: Jonathan B. New, Jonathan R. Barr, Jimmy Fokas, Patrick Hannon, and Ona T. Wang.

- ◆ **Pfizer Securities Class Action**—George A. Stamboulidis was recently retained to represent senior company officials in a securities fraud class action matter brought by stockholders of Pfizer in the Southern District of New York (*In Re Pfizer Inc Securities Litigation*, 04- cv-9866, 05-MD-1688). The plaintiffs allege that Pfizer, including BakerHostetler's client and a number of other individual defendants, gave false and misleading statements regarding the drugs Bextra and Celebrex, which artificially inflated the price of Pfizer stock. Mr. Stamboulidis, with the assistance of BakerHostetler Partner Eric R. Fish and Associate Kathryn M. Zunno, has been retained after the close of fact discovery to represent the client at trial. At this time, there is no firm trial date.
- ◆ **SOCA v. Namli**—John J. Carney, with the assistance of Francesca M. Harker, was called upon as an expert in the *SOCA v. Namli* case, in the High Court of Justice, Queen's Bench Division in the United Kingdom. While not called to testify, Mr. Carney and Ms. Harker prepared an expert report for the prosecution that addressed the defendants potential liability under United States law. Mr. Carney was asked to assume the facts alleged in the Bill of Particulars were true and opine on the criminal liability, potential defenses and other legal ramifications raised by the facts. Mr. Carney's report was well received by the High Court, which agreed that the defendant would face potential liability in the United States for wire fraud and violations of the Travel Act.

In the Market—Events and News

Events, news, recent publications and quotes—highlights from our team's presence "In the Market"

- ◆ 9/10/13—Lauren J. Resnick will provide a CLE on FCPA at BakerHostetler's New York office.
- ◆ 8/4/13 and 8/18/2013—George A. Stamboulidis will appear in two episodes of the National Geographic Channel's new series, "Inside the American Mob." The series (airing at 9p.m. eastern) looks into the true-life stories of the Mob. Mr. Stamboulidis is the former Chief of the Long Island Division of the US Attorney's Office for the Eastern District of New York and successfully prosecuted the case leading to the conviction of Genovese crime family boss, Vincent "the Chin" Gigante, as well as the boss of the Colombo crime family and the underboss of the Lucchese crime family.
- ◆ 7/16/13—Lauren J. Resnick, Mark A. Kornfeld and Marc Powers along with NRS Senior Consultant, Drew Ahrens, gave a webinar with NRS Education titled, "Defensible Due Diligence for Investment Advisors including Private Fund Advisers."
- ◆ 5/15/13—BakerHostetler hosted a New York State Bar Association's Global Law Week Panel and CLE entitled, "Navigating the Changing International Legal Landscape to Build Your Case, Collect Evidence and Enforce Judgments." Timothy S. Pfeifer and Regina L. Griffin were speakers and David J. Sheehan served as the moderator.
- ◆ 5/10/13—Timothy S. Susanin was a featured speaker during the American Conference Institute's Third Annual Advanced Forum on Managed Care Disputes and Litigation. The session was titled, "Structuring Internal Investigations for Medicare Managed Care Plans: Information Gathering and Analytical Strategies to Assess Fraud, Abuse and Waste Allegations."
- ◆ 5/3/13—George A. Stamboulidis was invited to speak at the Corporate Crime Conference in Washington, DC. The event was titled, ["Neither Admit Nor Deny: Corporate Crime in the Age of Deferred Prosecutions, Consent Decrees, Whistleblowers & Monitors"](#) and he spoke on corporate monitors.



In the Market—Events and News, continued.

- ◆ 5/2/13—John J. Carney joined senior DOJ, FBI and SEC officials in a two-hour AICPA webcast focusing on the history and future of FCPA titled, “Sorting Through the FCPA – A Guide for Financial Professionals.”
- ◆ 5/2/13—Lauren J. Resnick was a panelist at the 2013 IACC Annual Spring Conference in Dallas. The panel was titled, “But That’s the Way THEY Do Business – What You Need to Know about FCPA.”
- ◆ 4/25/13—George A. Stamboulidis moderated a panel at the ABA’s Criminal Justice, Business Law and Health Law Sections’ Fifth Annual National Institute on Internal Corporate Investigations and Forum for In-House Counsel. The panel was titled, “Handling Press and Media in Internal Investigations.”
- ◆ 4/25/13—Jonathan R. Barr, John J. Carney, Jimmy Fokas, Lisa M. Ghannoum, Jonathan B. New and Edmund “Ned” W. Searby participated in the BakerHostetler sponsored [ABA Criminal Justice Section White Collar Crime Midwest Ohio Subcommittee’s Spring Conference](#). Mr. Searby moderated a panel titled, “Crisis Response: Search Warrants, Criminal Investigations and the Media,” and Mr. Barr was a speaker. Mr. Carney moderated a panel titled, “Recent DOJ and SEC Enforcement Trends,” and Mr. Fokas was a speaker. Ms. Ghannoum moderated a panel titled, “Protecting the Company: Cybercrime and Data Privacy,” and Mr. New was a speaker. Senator Michael G. Oxley gave the keynote address.
- ◆ 3/21/13—Sammi Malek co-hosted the [Federal Bar Council annual judges’ reception](#), honoring judges appointed to the Second Circuit since 2009.
- ◆ 3/7/13—BakerHostetler named Lauren J. Resnick Firmwide Business Development Partner.
- ◆ 2/13/13—John J. Carney addressed best practices in Corporate Investigations in a national webcast titled, [“Preparing an Internal Investigation for Effective Prosecution.”](#) hosted by Stroz Friedberg.
- ◆ 1/7/13—Gregory S. Saikin spoke on a Strafford webinar titled, [“Healthcare Fraud and Abuse.”](#)
- ◆ 1/15/13—Jay R. Nanavati and James N. Mastracchio commented on the disclosure of NRI accounts to the IRS in the article, [“New Jersey Businessman With NRI Account Pleads Guilty to Using Offshore Bank Accounts to Defraud the U.S. and Pays \\$2.37 Million FBAR Penalty”](#) on MarketWatch.com.

In the Market—Publications, Articles and Quotes

- ◆ 6/18/13—George A. Stamboulidis, Lauren J. Resnick and Essence Liburd were mentioned as the attorneys for Martin Weisberg, Esq. in an escrow fraud matter in the Law360.com piece titled, [“Ex-Baker Att’y Asks For Probation In \\$55M Stock Fraud Case.”](#)
- ◆ 6/1/13—George A. Stamboulidis was highlighted as Local 14’s Ethical Practices Attorney in the article titled, [“Local 14, a thorn in developers’ sides, may finally be yielding some ground.”](#) on therealdeal.com.
- ◆ 5/30/2013—Lauren J. Resnick’s and Marco Molina’s recent article, [“In the Crossfire: Why Private Equity Firms, Investment Funds & Their Managers Should Beware of the Foreign Corrupt Practices Act,”](#) was published in the *Wall Street Lawyer*.
- ◆ 5/8/13—George A. Stamboulidis was quoted in the piece, [“Is a Corporate Monitor Necessary”](#) on the Corporate-CrimeReporter.com discussing monitorships.
- ◆ 5/3/13—George A. Stamboulidis discussed economic damages associated with the U.S. Postal Service and Lance Armstrong in the Law360 article titled, [“DOJ’s False Claims Suit Against Armstrong Faces Uphill Climb.”](#)
- ◆ 3/25/13—Jonathan B. New and Christy Nixon published the two-part article, [“Defending Against Asset Forfeiture”](#) in *Business Crimes Bulletin*.



In the Market—Publications, Articles and Quotes, continued.

- ◆ 3/12/13—George A. Stamboulidis was quoted in *The National Law Journal*'s piece titled, ["Senators question White about time at firm,"](#) discussing Mary Jo White's confirmation hearing to lead the SEC.
- ◆ 2/27/13—John J. Carney, Francesca M. Harker and Hannah C. Choate published an article titled, ["CFO: Most Dangerous Job in Corporate America,"](#) on CFO.com.
- ◆ 2/22/13—George A. Stamboulidis commented on the lawsuit filed against the Local 14-14B of the International Union of Operating Engineers in the *New York Daily News*'s article titled, ["Worker sues union for employment bias because of roots to mobster who inspired 'Goodfellas' role."](#)
- ◆ 2/13/13—John W. Moscow commented on the SAC Probe in Bloomberg.com's article titled, ["SAC Probe Said to Be Hampered by Auto-Deleted E-Mails."](#)
- ◆ 1/15/13—Jay R. Nanavati and James N. Mastracchio commented on the disclosure of NRI accounts to the IRS in the article, ["New Jersey Businessman With NRI Account Pleads Guilty to Using Offshore Bank Accounts to Defraud the U.S. and Pays \\$2.37 Million FBAR Penalty"](#) on MarketWatch.com.
- ◆ 1/15/13—Gregory S. Saikin commented on the Texas Medicaid program and the new Texas Health and Human Services Commission Regulations on themonitor.com. The article is titled, ["New Medicaid rule geared to protect kids, fight fraud."](#)
- ◆ 1/3/13—Jay R. Nanavati and James N. Mastracchio discussed Wegelin & Co., Switzerland's oldest private bank's guilty plea in Bloomberg BNA *Tax Notes Today* in a piece titled, ["Swiss Bank Wegelin Pleads Guilty to Conspiracy to Evade Tax."](#)

Our Background

Our attorneys have more than a century of combined experience, many coming to BakerHostetler after distinguished careers in the government. The team includes former top prosecutors of the United States DOJ (four of whom received the Attorney General's Distinguished Services Award), the former top white collar prosecutor in the Manhattan District Attorney's office, veteran defense attorneys and enforcement officials from various federal agencies (including the SEC's Division of Enforcement). This depth has proven invaluable in representing clients in dealings with the DOJ, SEC, HHS, IRS, FTC and other federal and state regulatory agencies. We have extensive experience in conducting complex investigations of suspected civil and criminal misconduct. On multiple occasions over the past several years, BakerHostetler has been selected by the DOJ and other regulatory entities to serve as an independent Monitor or Examiner of compliance with the terms of non-prosecution and settlement agreements between the government and private entities.

Having prosecuted some of the most publicized and complex business crime cases of the past decade, we are proven investigators, negotiators and advocates who work diligently to protect the reputations of our clients, keeping them out of the headlines and in compliance with today's complex regulatory and statutory requirements. BakerHostetler's lawyers can claim the rare distinction of being seasoned trial counsel, having successfully tried dozens of complex cases to verdict before juries in federal and state court around the country. We bring to our investigations, receivership and monitorship representations additional knowledge derived from this litigation experience.

A Wide Reach

Our team of experienced White Collar Defense and Corporate Investigations attorneys can be found coast to coast. From the epicenter of the northeast corridor in New York to the nation's capital of Washington, DC to some of the largest cities in the Midwest and South, our national scope allows us to handle matters in a variety of jurisdictions and markets. The team is supported by the full resources and experience of attorneys nationwide, in practices from securities and antitrust to tax and bankruptcy. To view the full list of White Collar Defense and Corporate Investigations lawyers along with corresponding biographies, visit our Practice Team page [here](#).

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