



David N. Kelley

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Practices:

Corporate Governance & Investigations
Crisis Advisory Group
Litigation

Education:

The College of William and Mary, A.B., 1981
New York Law School, J.D., 1986

Clerkships/Government Service:

Honorable T.F. Gilroy Daly, United States
District Court, District of Connecticut ,
1986-1988
United States Attorney, Southern District of
New York, 2003-2005

Bar Admissions:

New York
Connecticut

David Kelley is a senior advisor to public companies, boards of directors, audit committees, and officers and directors in significant matters involving business crime and investigations by government prosecutors and regulators such as the Securities and Exchange Commission, Department of Justice and State Attorneys General. David also represents companies and their officers and directors in federal securities and commercial litigation as well as Grand Jury investigations, prosecutions and Congressional inquiries.

Prior to joining Cahill in September 2005, David served as the U.S. Attorney for the Southern District of New York, overseeing the 255 lawyer Office and supervising some of the nation's most significant investigations and prosecutions involving white collar crime, securities fraud, international terrorism and national security issues as well as the Foreign Corrupt Practices Act and matters involving the Office of Foreign Assets Control. During his tenure, he served on the President's Corporate Fraud Task Force and the Attorney General's Advisory Committee for White Collar Crime.

David has experience practicing in a variety of industries, including insurance and financial services, healthcare, home building, retail, defense and oil and gas. He regularly advises Cahill's banking clients in connection with the criminal and regulatory exposure of entities in which they are interested, and he served as the government appointed monitor of Biomet, Inc. in overseeing governance reforms in connection with its deferred prosecution agreement with the U.S. Attorney's Office in New Jersey. David was appointed by New York City Police Commissioner Raymond W. Kelly to the newly established Crime Reporting Review Committee, which was created to investigate claims concerning the filing and reporting of crime complaints in New York City. Other significant recent work includes:

SELECTED MATTERS:

- Representation of one of the largest multinational banks in a federal Grand Jury investigation concerning various issues, including the bank's dollar clearing services and Bank Secrecy Act compliance.
- On behalf of three other large global banks, representation of a Supervisory Chairman of the Board, a Chief Operating Officer and the Treasurer, respectively, in connection with various federal, criminal and regulatory investigations.
- Special Counsel to the Audit Committee of Pride International in connection with one of the largest reported FCPA settlements.
- Representation of Beazer Homes in investigations by and

settlement with the SEC, DOJ and other authorities concerning accounting irregularities and mortgage practices.

- Representation of Standard & Poor's in connection with the investigation by and settlement with the Attorney General of New York relating to its ratings of securities backed by subprime mortgages.
- Advised Wellcare Health Care Plan Inc.'s new senior management in connection with matters relating to the consequences of alleged conduct by prior management, including investigations by the FBI, SEC and U.S. Attorney's Office.
- Representation of the independent directors of Freddie Mac in connection with civil litigation and various matters arising from the Treasury's formal rescue plan to take control of Fannie Mae and Freddie Mac and to replace the companies' chief executives.
- Representation of former members of senior management of one of the world's largest pharmaceutical companies in a federal criminal investigation.
- Led internal investigations of: a leading insurer and reinsurer in connection with various environmental and insurance-related matters; allegations of a Fortune 500's commission of FCPA violations globally; a member of the oil & gas industry in alleged FCPA and OFAC violations; and insider trading at a large, publicly traded company.
- Representation of the Compensation Committee of Cablevision Systems Corporation in shareholder litigation in New York state and federal courts arising from allegations of option-backdating and in investigations by the SEC and DOJ.
- Representation of a leading insurer in an antitrust investigation by DOJ.
- Representation of the Federal Reserve Bank of New York.
- Representation of journalists in connection with various Federal criminal investigations and related litigation.
- Special counsel to former Governor Pataki to investigate corruption allegations against former New York State Comptroller Alan Hevesi.

Prior to his appointment as U.S. Attorney, David served from 2002-2003 as Deputy United States Attorney, and was named on September 11, 2001 as co-chair of the Justice Department's nationwide investigation into the 9/11 attacks.

On behalf of the U.S. Attorney's Office, David led some 25 jury trials and argued 20 cases before the U.S. Court of Appeals for the Second Circuit. He personally prosecuted or supervised cases involving white collar crime, securities fraud, terrorism, organized crime, and narcotics, including:

- *Corporate Fraud*: Under David's direction, the SDNY obtained convictions of Bernie Ebbers and members of the Rigas family for their respective roles in the Worldcom and Adelphia Communications accounting frauds, and conviction of Martha

Stewart arising out of her trades of Imclone stock. He negotiated the deferred prosecution agreement with KPMG for fraudulent tax shelters. He supervised the indictments of KPMG employees and executives for tax fraud, of former executives of Royal Ahold's U.S. Foodservice subsidiary for accounting fraud and insider trading, and of the former CEO and COO of Impath for accounting and securities fraud.

- *International Issues and Foreign Corrupt Practices Act:* Under David's supervision, the SDNY obtained indictments of an oil executive and his companies and foreign associates in connection with the Iraq Oil for Food Investigation as well as participants in a kickback scheme in Kazakhstan.
- *Organized Crime and Violent Gangs:* As first a member and then the chief of the Organized Crime Unit, David personally investigated and prosecuted large murder and racketeering cases involving each of the five families of La Cosa Nostra, Asian gangs, and other organized crime groups. He led the investigation of the Mafia's largest infiltration of Wall Street through various fraudulent securities schemes that resulted in the prosecution of a score of Mafia members and associates. He was a member of the Attorney General's Advisory Subcommittee that rewrote and revised the Attorney General's guidelines for the handling of confidential informants, and was a member of the DOJ/FBI Confidential Informant Review Committee.
- *Terrorism:* David led the investigations of the Millennium bombing plot and the October 2000 attack on the USS Cole in Yemen, and participated in the investigation of the 1998 bombings of the United States embassies in Kenya and Tanzania. He prosecuted Ramzi Yousef for his role in the 1993 bombing of the World Trade Center, and served as a Special Assistant U.S. Attorney in the Eastern District of Virginia acting as co-lead prosecutor of "American Taliban" John Walker Lindh.
- *Congressional Investigation:* While U.S. Attorney, DOJ assigned David to investigate the unauthorized computer access by Congressional staffers of confidential documents of members of the Senate Judiciary Committee. In this capacity, he was named the Acting U.S. Attorney for the District of Columbia.

Before joining the U.S. Attorney's Office, David clerked for the Honorable T.F. Gilroy Daly of the United States District Court for the District of Connecticut. He earned his J.D. in 1986 from New York Law School, and his undergraduate degree in 1981 from the College of William & Mary. While attending law school, David served as a police officer and fireman in his home township of East Hampton, New York.

David has been an adjunct professor at New York Law School, and has taught trial advocacy clinics at Harvard and Hofstra Law Schools.