



40 UNDER 40

Global Investigations Review presents
40 of the world's leading investigations
lawyers under the age of 40.

At the beginning of 2014, we asked ourselves a question: Who are the next generation that will lead the global investigations bar?

It's a difficult one. For a start, it's not clear there's even a current generation of global investigations luminaries – at least not in the same way as there is in, say, M&A or arbitration. Today, few people introduce themselves as an investigations lawyer. In the US they're typically a litigator, a white-collar lawyer, or a financial services expert. But with the explosion of investigations work in the post-Enron, Sarbanes-Oxley era, a new species is emerging.

Across the pond, the idea is taking hold too. In 2010, Freshfields Bruckhaus Deringer launched its global investigations practice – the world's first, at least by name – recognising that by realigning its various practices under one roof, the firm could more effectively handle multilateral investigations of all types. Other firms have also adopted similar approaches in recent times – particularly those from the English-speaking world, but there's change afoot in other countries too.

With all this in mind, we asked firms across the world to nominate their best investigations partners under the age of 40. And we're going to stick our necks out and say that what we have here is the best of the first generation of global investigations lawyers.

The 40 were self-selecting to some degree. We asked firms to nominate no more than three of their best partners or counsel under the age of 40 at the end of 2013.

To help us make an informed judgement, we required each nomination to be accompanied by three references explaining why the nominee is a cut above the rest: one from

another partner, or a senior colleague at the same firm; one from a client; and a third from another source of the nominee's choosing. Importantly, we also asked each nominee to detail the five best matters they've worked on.

The volume and calibre of the nominations we received was outstanding. These truly are the world's best young investigations specialists: one look at the significance of the cases they're working on, the praise from their clients and, indeed, the quality of the firms they're working for will confirm this. We would love to have published the submissions we received from our candidates, but ultimately the sensitivity of the information precluded us from doing so.

The margin between those who made it into the final 40 and those who didn't was for the most part extremely slim. We're unashamed to say that where the difference between two candidates was negligible, we erred on the side of diversity.

So among our 40 we have 13 women and 27 men from 33 different firms, based in 11 different cities: Beijing, Calgary, Dublin, Düsseldorf, Hong Kong, London, Moscow, New York, San Francisco, São Paulo, and Washington, DC.

After deciding our final 40, we asked each of them a series of questions about themselves and their practice. From adventures down Bolivian mines and corruption in Afghanistan, to eating McDonald's on a Saturday morning and fine dining in Hong Kong, the results, we think you'll agree, make compelling reading.

The full versions of all 40 profiles can be read online at globalinvestigationsreview.com



Brian Markley

Cahill Gordon & Reindel
New York
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Why investigations?

I've been working on internal investigations for most of my career at Cahill. The interest developed in college (Rutgers University) where I was a journalism major and dreamt of becoming an investigative reporter. From day one at Cahill, I worked alongside the legendary First Amendment lawyer Floyd Abrams defending libel suits, fighting subpoenas for confidential sources and challenging laws that infringed on free speech and rights of the press. I also handled securities cases and arbitrations, then before long, became heavily involved in Cahill's internal investigations practice, which has been growing by leaps and bounds.

Career highlight

Most recently, I've had the opportunity to represent the audit committee of Walmart in its Mexico-related FCPA investigation. I've also represented the audit committee of Qualcomm and worked on a monitorship related to the medical device company, Biomet. All these matters – and others that are confidential and can't be mentioned – have given me a great breadth of experience.

Influences

From the moment I walked in the door as a first year associate, Floyd Abrams has been an incredible mentor. He's taught me so much about being a litigator, formulating arguments and conducting myself with clients, adversaries and judges. More recently I've had incredible mentors in the investigations arena, including my partner Bart Friedman who has shared decades of invaluable boardroom experience, as well as David Kelley – the former US attorney for the Southern District of New York – who first showed me how to conduct a hostile witness interview and later taught me how to run a thorough, independent investigation from start to finish that can withstand the greatest scrutiny.

If you hadn't been a lawyer...

A journalist.

Advice to young lawyers

My advice to a young investigations lawyer would be to get in the room for interviews, client meetings and government presentations as often as you can. Even if you won't have a substantive role – or are not allowed to speak or bill your time – there's no substitute for observing these meetings first hand. Also, become a master of all the facts – or at least one discrete area or work stream – so more senior lawyers will look to you as the expert.

A pivotal decision you've made

During a bribery investigation in Asia, a colleague and I had prepared for weeks to conduct a series of interviews there, the most important of which was the CFO of our client's local subsidiary. Although we had given him plenty of notice, when the time came for the interview we were told that this witness was travelling and wouldn't be available. It became obvious that he was avoiding us. We made the most of the situation and interviewed a couple dozen less important witnesses during our stay. Just prior to our departure, while walking through the airport to catch our flight, I thought I spotted the missing CFO. My colleague reminded me that I'd only met this gentleman once before in a brief encounter. What were the chances that we spotted him in the airport in this city of more than 10 million people? After following the man for a while, I decided to just walk up and ask if he was our guy. His expression when he said "yes" was priceless. We conducted our interview two days later in New York, since it turned out he was on our flight.

What's everyone talking about?

Increased regulator focus on areas concerning diligence, audit rights and training for third-party intermediaries.

What's next in investigations?

We think the government will continue to interpret the FCPA broadly and take aggressive positions. Companies and boards should be thinking proactively now about how to protect against potential corruption and put themselves in the best possible position to respond to government inquiries in the event issues arise. That includes measures like installing strong, independent compliance leadership, ensuring clear messaging and tone at the top from senior executives, conducting regular and interactive training to relevant employees, linking compensation to the achievement of compliance objectives for key executives, and utilising a risk-based approach to third-party intermediary diligence and training.

The most interesting place your job has taken you

I've had so many opportunities to travel to interesting foreign cities that it's hard to say. Our investigations have taken me to more than a dozen foreign cities – Bangalore, Beijing, Budapest, Hong Kong, Jakarta, Mumbai, São Paulo, Singapore, and others. Though it's difficult to pick a favourite, I'd have to say the Indian cities are most interesting. They also have the best food, though I think the greatest Indian food in the world is served at Tamarind in London.