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TRAILBLAZERS

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PIONEER SPIRIT When Brad Bondi worked at the Securities and Exchange Commission in the late 2000s, he found himself on a mission. The agency's enforcement division was not always consistent in how it provided due process to targets of investigations. Some companies or individuals might receive credit for cooperating with investigators, but others might not. So, Bondi — now head of the white-collar and government investigation practice at Cahill Gordon & Reindel — played a key role in writing an enforcement manual that made sure everyone accused of violating federal securities laws received the same protections. "We needed to have a level playing field where due process was observed, where a respondent had the ability to make his or her case in defense, where there was a process in place to protect somebody accused of a violation." Through the manual's adoption, "we leveled the playing field for everyone. ... We know the rules going into a matter. No matter the details of the investment product, the trading strategies, or the new and novel tools in question, the rules remain the same. It allows for that fair process where everyone is abiding by the same rules."

TRAILS BLAZED In private practice, Bondi follows those rules to obtain the most favorable outcomes possible for clients accused of securities violations. In 2018 the electric-car manufacturer Tesla hired Bondi after its founder and chief executive, Elon Musk, was accused by the SEC of making false and misleading statements when he claimed on Twitter that he had the funding in place to take the company private at \$420 per share. By cooperating with SEC investigators, Tesla was able to retain Musk as CEO — and, as a result, the company's stock price rebounded. Bondi did not represent Musk personally. For another client, the merged pharmaceutical firms Valeant and Salix, the SEC declined to levy a penalty. The commission went on to publicly praise the client for its cooperation with the investigation. "That was a big deal. I finally thought, OK, now we see some of that framework coming to the forefront." In both cases, "we went through the process, and the process worked."

FUTURE EXPLORATIONS Bondi expects securities markets to become more complicated, especially as new products — such as cryptocurrencies — continue to emerge. "But the beauty of the securities law is the law has worked, no matter how complicated the markets get." Before the enforcement manual was adopted, "the process failed, the framework failed" — but not the law. Cryptocurrency trading will be "a major, major component of the SEC going forward," but Bondi sees old issues emerging as regulators try to define what's legal and what's illegal on an ad hoc basis. "Right now, there's been quite a bit of rule-making through enforcement in this area, which is problematic. If that is the path the SEC continues to follow, all the more reason a process must be in place to deal with these cases. You don't make the rules up as you go through an enforcement process."