

Alexander H. Southwell



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Alexander H. Southwell is a partner in Gibson, Dunn & Crutcher's New York office. His practice focuses on white collar criminal and regulatory enforcement defense, internal investigations and compliance monitoring, complex civil litigation, and information technology-related investigations, counseling and litigation. Prior to joining the firm, Mr. Southwell served as an Assistant United States Attorney in the United States Attorney's Office for the Southern District of New York.

Mr. Southwell is an experienced trial and appellate attorney and regularly represents corporate executives and individuals in connection with white collar criminal investigations and prosecutions by federal and state prosecutors, as well as related civil investigations by a wide range of regulators. Mr. Southwell also regularly represents companies and boards in these types of matters and has significant experience in conducting internal corporate investigations and compliance monitoring. Substantively, his areas of expertise include securities and accounting fraud, tax fraud, health care fraud and compliance, Foreign Corrupt Practices Act, and public corruption, among others. Additionally, Mr. Southwell counsels a variety of technology-focused clients on privacy, information technology and network security issues.

Recent significant engagements include:

- Represents a major retailer in an internal investigation and defense of grand jury investigation and OSHA investigation related to workplace incident.
- Represents a public reinsurance company in an internal investigation related to allegations of collusion and price-fixing.
- Represents a major educational non-profit institution in a significant investigation by the New York Attorney General's Office concerning the institution's governance.

- Assisted Gibson Dunn partner who served as Independent Monitor for a medical device company pursuant to a Deferred Prosecution Agreement with the United States Attorney's Office in New Jersey, including revising health care compliance policies and training and ensuring compliance with the Anti-Kickback Statute and other relevant health care laws, regulations, and corporate policies.
- Represents a major energy company in matters related to a fraud committed upon the company through civil litigation.
- Represented a private equity principal and fund in the public corruption "pay to play" investigation being conducted by the New York Attorney General's Office and the Securities and Exchange Commission.
- Represents an investment bank in a securities fraud investigation by the New York Attorney General's Office, the Securities and Exchange Commission and Department of Justice.
- Represents a high-level bank executive in an investigation concerning the bank's compliance with economic sanctions requirements being conducted by the Department of Justice, New York County District Attorney's Office, and the Board of Governors of the Federal Reserve System.
- Represents a dermatologist who is the target of a criminal health care fraud investigation being conducted by the Federal Bureau of Investigation and the Southern District of New York United States Attorney's Office.
- Represented a former executive at an accounting firm in connection with a tax shelter-related investigation by the Southern District of New York United States Attorney's Office.
- Represented a home health aide provider who was under criminal indictment on health care-related larceny charges brought by the New York Attorney General's Office.
- Represented the leading publisher and distributor of consumer guides in an tax-related internal investigation.
- Represents a prominent U.S.-based online company in its interactions with the New Jersey United States Attorney's Office related to automated attacks on the company's website.
- Represented Facebook in an investigation into its privacy and safety policies and procedures by the New York Attorney General's Office, which resulted in a groundbreaking settlement that has been hailed as a model of compliance.
- Represented a company related to a criminal referral of two former employees who illegally accessed the company's computer systems and stole trade secrets. As a result

of the representation, the Southern District of New York United States Attorney's Office brought criminal charges against the two former employees.

- Represents Facebook and Mark Zuckerberg in a breach of contract action brought by an individual in Federal Court in Buffalo, New York alleging an ownership interest in Facebook.
- Represents a finance executive at a project management and construction company in a government contracting and fraud investigations being conducted by the Department of Justice and New York County District Attorney's Office.

Government Experience

Prior to joining the firm, Mr. Southwell served as an Assistant United States Attorney in the United States Attorney's Office for the Southern District of New York from 2001 through 2007. As a member of that office's Securities and Commodities Fraud Task Force for three years, Mr. Southwell investigated and prosecuted a wide range of cases under the federal securities laws, including accounting fraud, insider trading, fraudulent offering of securities, market manipulation and hedge fund improprieties. Mr. Southwell also focused on investigating and prosecuting computer hacking and intrusion cases and intellectual property offenses, as well as other high-technology offenses. Additionally, Mr. Southwell prosecuted a range of cases including wire and mail frauds, insurance fraud, public corruption, Foreign Corrupt Practices Act violations, Bank Secrecy Act violations, identity theft, firearms crimes, tax offenses, child exploitation and immigration crimes. As a federal prosecutor, Mr. Southwell tried a dozen felony cases and handled over a dozen appeals before the Second Circuit Court of Appeals.

Significant government investigations and prosecutions included:

- Investigated and successfully prosecuted former CEO and Chairman of Board of Directors, President and COO, CFO, and other executives in \$260 million accounting fraud at Impath, Inc., a medical diagnostics company formerly traded on NASDAQ, including three-week trial.
- Investigated and successfully prosecuted chairman and administrator, as well as other executives, of the Badische Banque et Internationale Trust, a fraudulent \$65 billion European financial institution, including three-week trial.
- Investigated and successfully prosecuted securities attorney and others in "pump-and-dump" scheme involving small cap stocks traded on the Over-the-Counter Bulletin Board, including two-week trial.
- Investigated hedge fund managers and executives for \$36 million diversion of assets and undisclosed self-dealing.

- Investigated an investment bank and its foreign affiliates related to alleged Foreign Corrupt Practice Act violations.
- Investigated and successfully prosecuted former CEO, CFO, and others involved with airline dealer in \$4 million fraud involving purported partnership interests in private aircraft.
- Investigated and successfully prosecuted former renowned market forecaster and commodities trader for “Ponzi” scheme resulting in over \$700 million in losses from commodities transactions.
- Investigated a number of top corporate executives of NYSE-listed banks and bank holding companies for accounting fraud concerning mortgage-related securities.
- Investigated an investment bank and its employees related to the pricing of certain Collateralized Debt Obligations, Collateralized Mortgage Obligations, and similar securities.
- Investigated and prosecuted individual who ran a sophisticated Internet image distribution system dedicated to the dissemination of child pornography, including successfully trying the nation’s first jury trial of a child pornography “F-Server” case and successfully petitioning for mandamus during trial.
- Investigated and successfully prosecuted tax protestor city employee on tax evasion charges.
- Investigated and successfully prosecuted owner of medical clinic on health care fraud and conspiracy charges for his role in complex insurance billing scheme.
- Investigated and successfully prosecuted a number of individuals involved in the fraudulent issuance of over 900 driver’s licenses from Washington, D.C., for illegal aliens by bribing a city employee.
- Investigated and successfully prosecuted a number of individuals involved in \$5 million fraud related to bogus Lloyd’s of London insurance policies.
- Investigated financial institution and individuals related to alleged bank secrecy act violations.

Mr. Southwell is also an Adjunct Professor of Law at Fordham University School of Law, where he teaches a seminar on cybercrimes, covering computer misuse crimes, intellectual property offenses, the Fourth Amendment in cyberspace, computer evidence at trial, data breach and privacy issues, and information security, among other areas.

Mr. Southwell earned his undergraduate degree, *magna cum laude*, from Princeton University and his Juris Doctor, *magna cum laude*, from New York University School of

Law. Following law school, Mr. Southwell was a law clerk for the Honorable Naomi Reice Buchwald of the United States District Court for the Southern District of New York.

Mr. Southwell is a member of the firm's White-Collar Defense and Investigations, Crisis Management, Securities Enforcement, Electronic Discovery and Information Law, Intellectual Property and Appellate and Constitutional Law Practice Groups. Mr. Southwell also serves on the Firmwide Diversity Committee and is active with the Federal Bar Council and the Association of the Bar of the City of New York, serving on the Association's Professional Responsibility Committee and previously serving on the Committee on Information Technology Law and the Government Ethics Committee.

Mr. Southwell is a nationally recognized expert on white collar crime issues, as well as data and information security, digital privacy, and related areas. He regularly publishes articles and is asked to speak on the areas of his expertise. He is also regularly sought out for comment by national and international media on these areas.

Recent articles, lectures, and presentations include:

- Speaker, "Annual Review of Key Legal Developments: Trademarks, Copyright, and Trade Secrets," ABA's Fourth Annual National Institute on Criminal Enforcement of Intellectual Property Rights, November 2010.
- Speaker, "Legal Responses to Current Cyber Security Threats," International Conference on Cyber Security hosted by the FBI and Fordham University, August 2010.
- Panelist, "Incident Response," Cyber and Intellectual Property Crime Symposium, hosted by the U.S. Attorney's Office for the District of New Jersey and Rutgers School of Law-Newark, June 2010.
- Panelist, "Hot Topics in Cybercrime: Investigating and Responding To Source Code Thefts and Anonymous Attacks," ABA's 24th Annual National Institute on White Collar Crime, February 2010.
- Speaker, "Litigation Issues Under the Economic Espionage Act," ABA's Third Annual National Institute on Criminal Enforcement of Intellectual Property Rights, October 2009.
- Panelist, "Cyberspace—The Black Hole Where Ethics, Strategy, and Technology Collide," NACDL & Fordham Law School's 2009 White Collar Seminar on Defending the White Collar Case, October 2009.
- "Roles of Prosecutors and Defense Counsel," Speaker at Criminal Justice seminar at Fordham University School of Law, July 2009.
- Speaker, "Privacy in Litigation," PLI's Tenth Annual Institute on Privacy and Data

Security, June 2009.

- Author, “A Sword or a Shield? The New Administration’s Approach to Cybercrime and Cybercrime Fighting,” *The Champion*, May 2009.
- Contributing Author, “Practice Under the Federal Sentencing Guidelines.”
- Speaker, “Data Security 101: An Ounce of Prevention is Worth a Pound of Cure,” *LegalTech New York*, February 2009.
- Panelist, “Legal and Technical Policy Issues in Cyber Security,” International Conference on Cyber Security hosted by the FBI and Fordham University’s Department of Computer and Information Services, January 2009.
- Author, “Second Circuit Leaves Door Open for Foreign Plaintiffs’ Securities Actions Against Foreign Issuers,” *Insights: The Corporate and Securities Law Advisor*, December 2008.
- “The FCPA: An Overview and Recent Enforcement Trends” presentation to client, October 2008.
- “Health Care Compliance Overview and Recent Enforcement Trends” presentation to client, October 2008.
- “Data Security Breaches: Preparing for and Addressing the Enterprise-Threatening Risks” presentation to client, September 2008.
- Author, “Recent Decision Reiterates DOJ and SEC Broad Freedom to Conduct Parallel Investigations,” *Insights: The Corporate and Securities Law Advisor*, May 2008.
- Author, “Data Breaches: Expect A Rise in Litigation,” *New York Law Journal: Investigations & Computer Forensics*, May 2008.
- “The FCPA: An Overview and Recent Enforcement Trends” presentation to client, February 2008.
- “Update on Federal and State Data Privacy Laws” presentation to Gibson, Dunn & Crutcher LLP Intellectual Property Institute, December 2007.
- “Trends in Cyber-crime and Information Security Enforcement” presentation to John Jay College of Criminal Justice Center for Cybercrime Studies, December 2007.
- Speaker at New York University Journal of Legislation and Public Policy Symposium, “Leviathan’s Network: Municipal Wireless and Civil Liberties,” November 2007.
- Author, “Swift Prosecutions of Corporations and Executives,” *Business Crimes Bulletin*,

September 2007.

- Speaker, “Trends in Cyber-crime and Information Security Enforcement,” John Jay College of Criminal Justice Center for Cyber-crime Studies, Fall 2007.
- “Internal Investigations: The Role of In-House Counsel” presentation to client, July 2007.
- Speaker, “Increasing Regulatory Scrutiny In The Digital Age,” Fordham Law School Summer Program in U.S. Law, July 2007.
- Panelist, “Protecting Borders in the Information Age – Balancing Data, Privacy, and National Security in North America,” Fordham Law School Center on Law and Information Policy/The Americas Society/North American Consortium on Legal Education Workshop, April 2007.
- Sentencing and Restitution issues presentation to Securities/Corporate Fraud Seminar, U.S. Department of Justice, National Advocacy Center, December 2006.
- Speaker, International Data Protection and Binding Corporate Rules Invitational Workshop, Fordham Law School Center on Law and Information Policy, November 2006.