

Identifying **7** Leading Securities Attorneys

When the Securities and Exchange Commission starts sniffing around and the company may not be clearly in the right, smart general counsel try to get ahead of the trouble. They order up an internal investigation, directed by a very credible outside lawyer. Frequently, they look to Washington's elite bar of corporate governance experts. Among the many D.C. attorneys who can read the SEC, these seven lawyers have a particular specialty: They run the kind



of internal investigations that earn regulators' goodwill. And they are profiled here by Anna Palmer and Peter Geier, alumni of ALM publications.

Leading LAWYERS

Seven of the D.C. Area's Top Securities Attorneys

Brian Lane

Gibson, Dunn & Crutcher

If there is one thing that companies look for when the Securities and Exchange Commission comes knocking on their door, it's someone who operates with a steady hand. That's where Brian Lane comes in.

"People appreciate that he is not an alarmist," says Judith Reinsdorf, general counsel of Tyco International.

During his eight years in the D.C. office of Gibson, Dunn & Crutcher, Lane has advised major corporations such as Eastman Kodak Co., Intel Corp., Marsh & McLennan Cos., Pitney Bowes Inc., and Tyco.

The last was probably his highest-profile case. Lane counseled Tyco on its financial restatement after CEO Dennis Kozlowski and CFO Mark Schwartz were sentenced to jail. If the infamous \$6,000 shower curtain hadn't been enough to pique the SEC's interest, the 2,200 subsidiaries that Kozlowski created during his tenure certainly heightened interest in the company's financial reporting.

Lane spent three months during the fall of 2002 consulting with the company's accounting and legal team in New York. "One-day meetings in New York often turned into week-long stays, necessitating my patronage of the nearby Brooks Brothers," Lane recalls of that intense period. Then-General Counsel William Lytton "would often joke, 'Are you charging me for those new shirts?'"

But Lane's diligence paid off for Tyco. Failure to file the financial restatement in time would have caused Tyco to breach its loan covenants, which would have sent the company into bankruptcy. With Lane's help, Tyco filed the restatement with 20 minutes to spare.

Reinsdorf, who replaced Lytton as Tyco's general counsel in 2007, says, "Brian manages through issues in a pragmatic and thoughtful way. He is a 'go to' person because he has the right mix of experience, contacts, and judgment to help his clients."

Lane has also counseled clients through the stock options backdating scandals. First American Corp. hired Lane to conduct an internal investigation when it found itself the focus of one of the SEC's early backdating inquiries. With millions of dollars on the line, Lane consulted with the company's independent audit counsel and concluded that the financial information services giant should restate its earnings. The good

news was that last summer the SEC informed First American that no enforcement action would be taken against the company or its executives. Lane is now advising the company and its board in a multibillion-dollar transaction.

In 2004, Qwest Communications International turned to Lane and Gibson, Dunn to help resolve certain accounting and disclosure issues that were part of a larger SEC investigation. While the larger investigation would find Qwest had fraudulently recognized more than \$3.8 billion in revenue and excluded \$231 million in expenses, Lane helped mitigate the damage. The agency pointed to numerous false and misleading financial reports over a period of years. Lane persuaded the SEC that the company should be required to file only one restatement, which ended up saving Qwest millions of dollars.

Lane understands SEC thinking because he used to be on that side of the table. He joined the agency straight out of law school and spent the next 16 years working his way up, first as legal counsel to the commissioners and then as counsel to then-Chairman Arthur Levitt. In the latter job, Lane spearheaded a task force on utility regulations that eliminated almost 100 regulations and forms and helped lead to the repeal of the Public Utility Holding Company Act a decade later.

Lane eventually rose to director of the SEC's Division of Corporation Finance, overseeing almost 300 accountants and attorneys. Yet as the millennium approached, he realized he needed a change, too. "As Groucho Marx said, 'I started with nothing and moved myself up to a state of extreme poverty,'" jokes Lane about his years in public service. He decided to head to the private sector, where Gibson, Dunn offered him the chance to work alongside John Olson, one of the deans of the securities bar.

Now Lane has established his own place among the top guns.

"He's got the big-picture view and he's able to explain that in very easy-to-understand language," says Joyce Hoag, general counsel at Eastman Kodak, who has known Lane since he worked at the SEC.

She notes that Lane's history with SEC staff goes a long way. "He has the respect of all the people he has worked with in the past," says Hoag. "It's a tremendous advantage when a government official knows that your lawyer is honest and straightforward."



—By Anna Palmer