

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 Gibson Dunn, 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, economic sanctions violations, money laundering and Bank Secrecy Act violations, tax fraud, the False Claims Act and contracting fraud, health care fraud and compliance, the Computer Fraud and Abuse Act, the Foreign Corrupt Practices Act, the Economic Espionage Act, and public corruption, among others. Additionally, Mr. Southwell counsels a variety of technology-focused clients on privacy, information technology, and network security issues.

Mr. Southwell was named a *Law360* "MVP" in Privacy in both 2016 and 2015 – one of five "elite attorneys" recognized – for his "successes in high-stakes litigation." He is one of four attorneys ranked nationwide in Band 2 for Privacy & Data Security Litigation by *Chambers USA: America's Leading Lawyers for Business*. He is also ranked in White Collar Litigation by *Chambers*, which notes his "keen eye for attention to detail, client service and navigating a complex legal and regulatory landscape." Mr. Southwell was also selected as a Cybersecurity and Data Privacy Trailblazer by *The National Law Journal*, and has been recognized as one of the top 30 Data Protection Lawyers in Legal Media Group's Expert Guides *Best of the Best USA*, and named as one of the 30 best and brightest data breach response lawyers in Cybersecurity Docket's "Incident Response 30." In addition, he is recognized by *The Legal 500 United States, Benchmark Litigation* as a "Litigation Star," *The Best Lawyers in America*® as a leading lawyer in the area of Criminal Defense: White Collar, and by *Who's Who Legal: Investigations* as one of the world's leading investigations lawyers.

Mr. Southwell is also an Adjunct Professor of Law at Fordham University School of Law where he teaches a seminar on cyber-crimes, covering computer misuse crimes, intellectual property offenses, the Fourth

Amendment in cyber-space, 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 Co-Chair of Gibson Dunn's Privacy, Cybersecurity, and Consumer Protection Practice Group and a member of the Firm's White Collar Defense and Investigations, Crisis Management, Securities Enforcement, Electronic Discovery and Information Law, Intellectual Property, Litigation, and Appellate and Constitutional Law Practice Groups. Mr. Southwell also serves on Gibson Dunn's Technology Committee the Firm-wide Diversity Committee, and also is active with the Federal Bar Council and the Association of the Bar of the City of New York, previously serving on the Association's Professional Responsibility Committee, Committee on Information Technology Law, and the Government Ethics Committee. Mr. Southwell was selected to serve on a special committee of the Association of the Bar of the City of New York addressing new media in the courtroom, which focuses on the effect of new media on lawyers' responsibilities in trying cases, juror behavior, and fair trial/free press issues.

Mr. Southwell is nationally recognized for his depth of experience in 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 significant engagements in the white-collar, securities enforcement and litigation areas include:

- **AIG:** Represents AIG subsidiary as one of the lead trial lawyers in a lengthy high-profile civil RICO, fraud, and breach of contract trial in the Southern District of New York against originator of life settlements.
- **Facebook and Mark Zuckerberg:** Represents Facebook and Mark Zuckerberg in a high-profile breach of contract action brought by Paul Ceglia in Federal Court in Buffalo, New York alleging an ownership interest in Facebook. Obtained expedited discovery against Plaintiff, developing evidence of spoliation of evidence and fraud concerning Plaintiff's lawsuit, including Plaintiff's doctoring the contract sued upon and manipulation of digital evidence. Successfully moved for dismissal of the case, which the Court dismissed as a fraud on the Court. Relatedly, represents Facebook and Zuckerberg as victims in the pending criminal prosecution of Plaintiff who was indicted on two felony counts for bringing the lawsuit.
- **JPMorgan Chase:** Represented JPMorgan Chase in a False Claims Act and FIREAA qui tam case brought by the Southern District of New York United States Attorney's Office related to mortgage-related government insurance program, including conducting a significant internal investigation related to these issues. Successfully resolved investigation through a settlement of over \$600 million.
- **Business executive:** Represented a business executive facing criminal securities fraud charges brought by the United States Attorney's Office for the Eastern District of New York related to executive's alleged role in a microcap pump-and-dump scheme.

- Global financial institution: Represented a leading global financial institution in investigation by New York Department of Financial Services related to economic sanctions requirements and state banking laws.
- AlixPartners: Represented AlixPartners as one of the lead trial lawyers in a high-profile theft of trade secrets and breach of contract trial against two departing executives in Delaware Chancery Court related to their wrongful taking of AlixPartners trade secrets and other highly sensitive and confidential documents.
- DraftKings: Represents DraftKings in wide-ranging and high-profile internal investigation and defense of numerous criminal and regulatory investigations, as well as civil actions related to compliance with federal and state gaming laws. In particular, defended company in enforcement action brought by New York Attorney General seeking to enjoin DraftKings from ongoing operations.
- Facebook: Represents Facebook in relation to unprecedented set of 381 search warrants from the Manhattan District Attorney's Office in negotiating compliance with search warrants and appealing the constitutionality of the warrants in the New York State Supreme Court, Appellate Division.
- Major retailer: Represented a major retailer in a high-profile defense of a grand jury investigation and OSHA investigation related to workplace fatality, including an extensive internal investigation.
- Public authority: Represents a public authority in an internal investigation related to allegations of bid-rigging and investigation by Antitrust Division of the Department of Justice and New York State Office of the Inspector General.
- American General Life Insurance Company: Defending American General, a subsidiary of AIG, in a \$5 billion lawsuit brought in the Southern District of New York by Bancorp Services and Addle Management, claiming that American General misappropriated trade secrets and breached a confidentiality agreement in connection with American General's development and marketing of a stable value protection wrap for bank-owned life insurance products.
- PayPal and eBay: Represented both PayPal and eBay in an investigation by the New York Attorney General into updates to the companies' user agreements and the obtaining of user consent for automated telephone calls and text messages in relation to compliance with the Telephone Consumer Protection Act and related laws. Successfully resolved both investigations without enforcement action.
- Financial Institution: In a potentially ground-breaking criminal and civil investigation at the confluence of cybersecurity, privacy, and the securities laws, represents a investment bank in handling a sensitive network security compromise and loss of data related to potential insider trading, including defending the bank in active DOJ, SEC, and FCA investigations.
- Public reinsurance company: Represented a public reinsurance company in an internal investigation related to allegations of collusion and price-fixing.
- High-level bank executive: Represented 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.
- Adtech and big data company: Defending leading adtech and big data company in investigation related to COPPA compliance by the New York Attorney General's Office.

- International bank: Represented international bank in Department of Justice investigation of foreign corrupt practices related to Middle Eastern activities by bank client.
- Educational non-profit institution: Represented a major educational non-profit institution in a significant investigation by the New York Attorney General's Office concerning the institution's governance.
- Chevron Corporation: Represented Chevron Corporation defending against environmental claims emanating from Ecuador, in which the plaintiffs allege billions of dollars in damages, including in civil RICO proceedings in the Southern District of New York and related matters.
- High-level bank executive: Represents head of collateral analytics group at investment bank in criminal investigation by District of Massachusetts U.S. Attorney's Office related to alleged securities fraud in marketing and sales of collateralized debt obligations and other structured financial products.
- Non-profit institution: Represented a prominent non-profit institution in a significant investigation by the New York Attorney General's Office Charities Division concerning the institution's use funds raised.
- Independent Monitor: 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.
- Private equity principal and fund: 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.
- Dermatologist: Represented 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.
- Chief Compliance Officer: Represents former Chief Compliance Officer in criminal securities fraud investigation by District of North Carolina U.S. Attorney's Office related to alleged front-running in swaps transactions.
- Board Audit Committee: Represented Board Audit Committee of health insurance provider in internal investigation related to allegations of poor internal and audit controls.
- Former executive at an accounting firm: 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.
- Moneygram: Represented Moneygram in proceedings seeking to recover losses from funds forfeited in related criminal bank fraud prosecution. Successfully obtained substantial recovery through forfeiture litigation.
- Home health aide provider: 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.
- Publisher and distributor of consumer guides: Represented the leading publisher and distributor of consumer guides in a tax-related internal investigation.

- US-based on-line company: Represents a prominent US-based on-line company in its interactions with the New Jersey United States Attorney's Office related to automated attacks on the company's web site.
- Facebook: 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.
- Bank: Represented a bank in a securities fraud investigation by the New York Attorney General's Office, the Securities and Exchange Commission and Department of Justice, and achieved a declination of prosecution.
- Company: 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.
- JPMorgan Chase: Represented JPMorgan Chase in a civil "mass action" in New York State court related to the bank's mortgage origination practices. Successfully obtained dismissal prior to the start of discovery.
- Port Authority of New York and New Jersey: Represented the Port Authority of New York and New Jersey in litigation in the Southern District of New York brought by two local Automobile Associations challenging recent Port Authority toll increases on statutory and constitutional grounds.
- Finance executive at a project management and construction company: 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.
- Non-profit credit union: Counseled a non-profit credit union in relation to federal forfeiture and seizure warrants.
- Warner Music Group Chairman Edgar Bronfman, Jr.: Obtained dismissal of a \$100 million breach of contract case against Warner Music Group Chairman Edgar Bronfman, Jr. The dismissal was affirmed by the New York Court of Appeals in an important precedent affirming the application of the Statute of Frauds to oral contract claims.

Government Experience

Prior to joining Gibson Dunn, 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 Practice Act violations, bank secrecy act violations, identity theft, firearms crimes, tax offenses, child exploitation, and immigration and document fraud 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 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.