The 12th Annual National Institute on Securities Fraud
January 11-12, 2018 | Hilton Salt Lake City | Salt Lake City, UT

Description of Proceedings
Each year, this National Institute draws elite officials from both the U.S. Department of Justice and the U.S. Securities and Exchange Commission for an exclusive educational and professional forum to examine current legal and ethical issues relating to securities fraud.

Program Focus
• The Year in Review and the Year Ahead
• The Disgorgement Dilemma
• Broker-Dealer/Registered Investment Advisor Enforcement 101
• Internalizing Investigations: What stays “inside” and what necessitates “outside counsel” involvement?

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<td>$1,365</td>
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ABA Criminal Justice Section
ABA Business Law Section

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Washington, DC

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The Chickens**t Club
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Washington, DC

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Partner
Crowell & Moring LLP
Washington, DC

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Hilder & Associates, P.C.
Houston, TX

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FINRA
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District of Utah
Salt Lake City, UT

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Partner
Dorsey & Whitney LLP
Salt Lake City, UT

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Washington, DC

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Washington, DC

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Partner  
Jones Day  
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Washington, DC

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Partner  
Morvillo LLP  
Washington, DC

Thomas C. Newkirk  
Partner  
Jenner & Block  
Washington, DC

Paul E. Pelletier  
Partner  
Pepper Hamilton LLP  
Washington, DC

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Senior Vice President  
Charles Schwab Corporation  
San Francisco, CA

Howard Scheck  
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StoneTurn Group  
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Bruch Hannah  
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Director  
PwC  
Tysons, VA

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Crowell & Moring LLP  
New York, NY

Robert Zink  
Principal Deputy Chief, Fraud Section  
US Department of Justice  
Washington, DC
### Thursday, January 11, 2018

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<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>8:00 a.m.</td>
<td><strong>Registration</strong></td>
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<tr>
<td>9:00 a.m.</td>
<td><strong>The Year in Review and the Year Ahead.</strong></td>
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<tr>
<td></td>
<td>There are some new sheriffs in town and on Wall Street. Will they be</td>
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<td>using the same techniques? Focusing on the same (alleged) violations?</td>
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<td></td>
<td>Or, will the new enforcers re-focus and re-emphasize a whole new set</td>
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<td></td>
<td>of priorities when it comes to federal and state securities fraud</td>
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<td>enforcement?</td>
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<td></td>
<td><strong>Moderator:</strong> Thomas A. Hanusik</td>
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<tr>
<td></td>
<td><strong>Speakers:</strong> Richard Best, Gregory S. Bruch, Jessica B. Hopper, John</td>
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<tr>
<td>10:15 a.m.</td>
<td><strong>Break</strong></td>
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<tr>
<td>10:30 a.m.</td>
<td><strong>Breakout Session I</strong></td>
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<tr>
<td></td>
<td><strong>A. The Disgorgement Dilemma</strong></td>
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<tr>
<td></td>
<td>The Supreme Court in <em>Kokesh</em> made it clear that SEC disgorgement is</td>
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<td>a penalty subject to a five-year statute of limitations. Still an</td>
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<td>open question is the impact of this decision on settlements and the</td>
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<td>question of whether the SEC has the authority to even seek</td>
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<td>disgorgement in litigated matters. And, if they do, how does one</td>
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<td>calculate disgorgement for violations that straddle the five-year</td>
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<td>period?</td>
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<td><strong>Moderator:</strong> Jonathan R. Barr</td>
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<td></td>
<td><strong>Speakers:</strong> Deborah R. Meshulam, Daniel A. Nathan, Thomas C. Newkirk,</td>
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<td></td>
<td>Pamela J. Parizek</td>
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<td></td>
<td><strong>B. The Ties that Bind: Joint Defense and Common Interest Agreements</strong></td>
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<tr>
<td></td>
<td>in the Era of Corporate Cooperation, Data Privacy and Parallel</td>
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<td>Investigations</td>
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<td>Navigate the ethical minefield of fiduciary duties to owners/shareholders when the client is an organization under Model Rule 1.13, there is a zealous advocacy requirement under Model Rule 1.3, and confidentiality requirement under Model Rule 1.6. All of these will impact decision-making when representing companies seeking cooperation credit in the midst of government investigations seeking “just the facts” while also entering into (or just contemplating) joint-defense and common-interest agreements with counsel for individuals and other entities.</td>
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<td><strong>Moderator:</strong> Colleen Conry</td>
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<td></td>
<td><strong>Speakers:</strong> John A. Irvine, James M. Koukios, Hank Bond Walther</td>
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<tr>
<td>11:30 a.m.</td>
<td><strong>Break</strong></td>
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<tr>
<td>11:45 a.m.</td>
<td><strong>Breakout Session II</strong></td>
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<td><strong>A. Whither the ALJs?</strong></td>
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<td>With a circuit split now firmly entrenched, the issue about whether</td>
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<td>SEC ALJs are constitutionally permissible or a gross abuse of the</td>
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<td>Appointments Clause seems destined for the Supreme Court. What are</td>
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<td>the possible outcomes? Are there administrative or legislative fixes</td>
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<td>to this thorny problem? Are the enforcement actions entered by</td>
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<td>potentially unconstitutional ALJs valid anymore? Is there recourse</td>
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<td>for the defendants in those cases?</td>
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<td><strong>Moderator:</strong> Ivan B. Knauer</td>
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<td></td>
<td><strong>Speakers:</strong> Erik A. Christiansen, Khiran Sidhu, Gregory D. DiMeglio</td>
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<td><strong>B. Insider Trading—What is Prohibited?</strong></td>
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<td>In <em>Salman v. United States</em>, the Supreme Court clarified both the</td>
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<td>reach and limits of insider trading liability. The Second Circuit’s</td>
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<td><em>Martoma</em> decision soon followed the guidance. Likewise, the STOCK</td>
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<td>Act imposes specific restrictions on politicians and staffers who</td>
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<td>profit from “inside” information. What are the rules of the road?</td>
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<td>How remote can the enforcers go? Are the rules the same for the</td>
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<td>general public as for political types? Will the SEC actually</td>
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<td>prosecute people on Capitol Hill for insider trading?</td>
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<td></td>
<td><strong>Moderator:</strong> Michael N. Levy</td>
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<td></td>
<td><strong>Speakers:</strong> Scott W. Friestad, Brad R. Jacobsen, Daniel Zelenko</td>
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### Agenda

**12th Annual National Institute on Securities Fraud**  
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#### Thursday, January 11, 2018 continued

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</table>
| 12:30 p.m. | **LUNCH (No CLE)**  
*Did They Get Away with It? The ChickenNSFW Club Review*: Hear from the author and some of the featured players about the recent blockbuster book on the white collar securities fraud prosecutions—or lack thereof—during the past ten years. This historical, well-documented and thoughtful analysis lays the groundwork for a rethinking of DOJ and SEC’s approach to individual prosecutions. Or does it?  
**Moderator:** John Arterberry  
**Speakers:** Jesse Eisinger, Paul E. Pelletier, Robert Zink |                                                                                                                                                                                                        |
| 2:00 p.m.  | **Breakout Session III**  
**A. FCPA Individual Prosecutions—The New Norm?**  
In 2017, the FCPA focus shifted as the SEC wound up an 11-year old investigation with settlements against three individuals and DOJ obtained guilty verdicts against individuals in three different cases, in addition to a handful of guilty pleas. Are the FCPA units shifting their focus and resource to individual prosecutions? Will this continue under new leadership at both agencies? What theories of jurisdiction and prosecution are SEC and DOJ using to bring these cases?  
**Moderator:** Michael L. Koenig  
**Speakers:** Eric G. Benson, Robert I. Dodge, David Last |                                                                                                                                                                                                        |
| 2:00 p.m.  | **Breakout Session III**  
**B. SEC’s Hot Focus Areas: Cyber Security, AML, Bank Secrecy Act....Wait!**  
These are not part of the Exchange Act of 1934? Why is the SEC spending so much time and effort focusing on these issues? What do you need to know to be prepared when they call? What are the next hot topics?  
**Moderator:** Brent R. Baker  
**Speakers:** Carlton Greene, Vincente L. Martinez, Kara Suro |                                                                                                                                                                                                        |
| 3:00 p.m.  | **Break**                                                                 |                                                                                                                                                                                                        |
| 3:15 p.m.  | **Breakout Session IV**  
**A. Receivers and Compliance Monitors. What are the Best Approaches Toward Having an Effective Compliance Program?**  
What is the appropriate role and scope of a receiver? A compliance monitor? What limits can be imposed? Will DOJ/SEC be the arbiters of disputes? Will the courts?  
**Moderator:** Joan McKown, Jones Day  
**Speakers:** Timothy D. Belevetz, Peggy Hunt, Howard Scheck |                                                                                                                                                                                                        |
| 3:15 p.m.  | **Breakout Session IV**  
**B. Broker-Dealer/Registered Investment Advisor Enforcement 101—The Basics**  
The panel will concentrate on the essentials of broker-dealer and registered investment advisor compliance, working with enforcement agencies, dealing with DOJ, SEC, CFTC, OCIE, state regulators, and FINRA. The will also examine some issues beyond the essentials such as cybersecurity/hacking, alternative trading systems and high-frequency trading, fee and compensation issues, knowing when and why to file suspicious activity reports (SARs), enforcement priorities of the regulators, issues facing the in-house team (including supervisory liability) and mounting a strong defense when the time is right.  
**Moderator:** Ernest E. Badway  
**Speakers:** J. Bradley Bennett, Keith Woodwell |                                                                                                                                                                                                        |
| 4:15 p.m.  | **Adjourn**                                                             |                                                                                                                                                                                                        |
### Friday, January 12, 2018

**8:30 a.m.** Registration

**9:15 a.m.** Internalizing Investigations: What stays “inside” and What Necessitates “outside counsel” Involvement?

- Do these factors vary by size and type of entity? How do internal surveillance products work? Are government expectations and/or maintaining the attorney-client privilege important factors? What about forensic auditors? When is it time to use them? How do you keep their work privileged? How do you get the most out of what they do? Are there ethical implications to consider—focusing on ABA Model Rules 1.6, 1.7 and 1.13 among others—from conducting employee interviews to contemplating and entering into common-interest and joint-defense agreements?

  **Moderator:** Philip Hilder, Hilder & Associates  
  **Speakers:** Elizabeth Gray, Greg Ruppert, Koutayba Yamak, David K. Willingham

**10:15 a.m.** Break

**10:30 a.m.** The Next Wave of Civil Securities Claims: Targeting Internal Investigation and Defense Costs

- Shareholder attacks on the conduct that is subject to an SEC investigation and enforcement action are nothing new. More recent lawsuits focus on the corporate response, the costs of internal investigations, and even the costs of defending the SEC claims. The theories behind these follow-on shareholder claims and the strategies for defending them, including the impact and interrelationship with D & O coverage and indemnity, as well as recent legal developments, will be covered.

  **Moderator:** Fritz Berckmueller  
  **Speakers:** Jennifer L. Cavill, Benjamin Galdston, Charles H. Lichtman, George S. Wang

**12:00 p.m.** Adjourn
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<tr>
<td>ABA Business Law Section Enrollment - $60</td>
<td>6C $</td>
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<td>ABA Criminal Justice Section Enrollment - $60</td>
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255 S. West Temple
Salt Lake City, UT 84101
Make reservations by either calling 801-328-2000 or 800-HILTONS and refer to the ABA National Institute on Securities Fraud to receive the group rate
Group Rate: $209/night

**Hotel Deadline: December 20, 2017**

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