



# Fraud Section Year In Review | 2020



# Foreword

I am pleased to present the Fraud Section's Year in Review for 2020. The Fraud Section has for many years been a national leader in white-collar criminal enforcement, and this past year was no exception. Despite the unprecedented challenges caused by the National Emergency, the Fraud Section's commitment to our mission was steadfast.

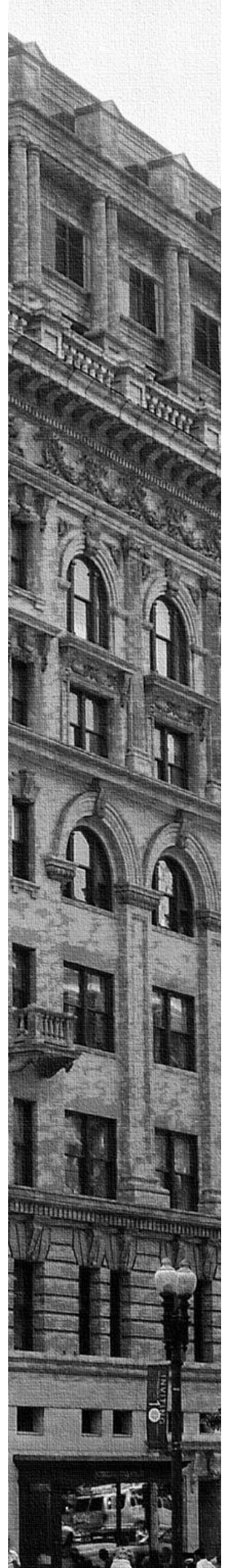
In the following pages you will read about the results Fraud Section prosecutors and support staff, in partnership with our law enforcement and regulatory colleagues here in the United States and overseas, have achieved over the past year.

In 2020, the Fraud Section spearheaded important and impactful initiatives, such as our rapid response to fraud on the Paycheck Protection Program and one of the largest-ever National Health Care Fraud and Prescription Opioid Takedowns. We continued to pursue just and righteous cases, no matter how complex or challenging, resulting in the charging and conviction of hundreds of individuals. And Fraud Section prosecutors entered into 13 corporate resolutions, including two of the largest-ever foreign bribery resolutions and several resolutions with financial institutions for fraudulent trading practices.

2020 also saw the Fraud Section continue and amplify its role in the development of white-collar criminal enforcement policy, including by refining and reissuing its Resource Guide to the Foreign Corrupt Practices Act and the Criminal Division's Evaluation of Corporate Compliance Programs guidance. Transparency and consistency have been hallmarks of our enforcement efforts in recent years, and our development of, and adherence to, these and other white-collar criminal enforcement policies have only strengthened the impact of those efforts. Notably, those efforts—along with our anti-corruption enforcement more generally—were commended by the OECD's Working Group on Bribery in its Phase IV review and report on the United States.

I am extremely grateful to the women and men of the Fraud Section for their outstanding work over the past year, and I am proud to present the following pages to you as but a brief overview of all they have accomplished in 2020.

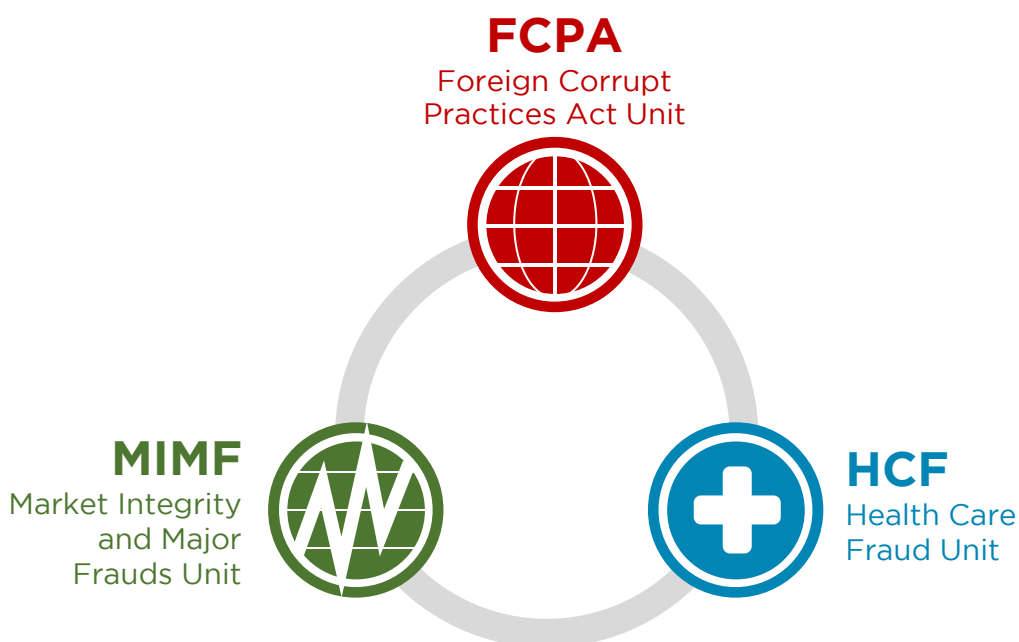
**Daniel Kahn**  
Acting Chief  
Fraud Section  
**February 2021**



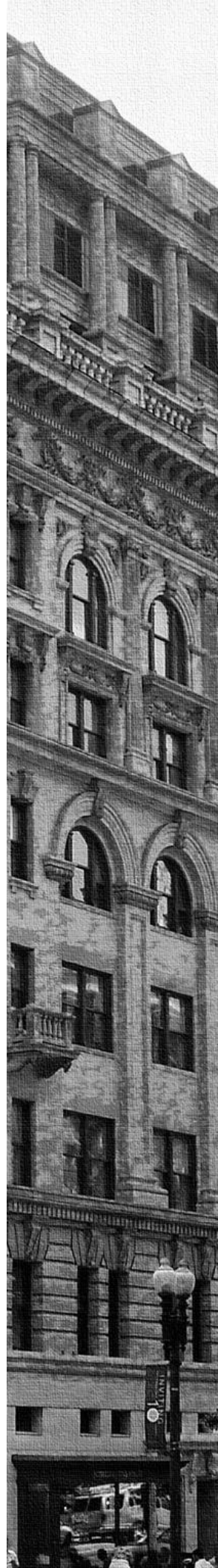
# The Fraud Section

The Fraud Section plays a unique and essential role in the Department of Justice's fight against sophisticated economic crime. Fraud Section attorneys investigate and prosecute complex white-collar crime cases throughout the country, and the Fraud Section is uniquely qualified to act in that capacity, based on its vast experience with sophisticated fraud schemes, corporate criminal cases, and multi-jurisdictional investigations and prosecutions, and its ability to deploy resources effectively to address law enforcement priorities and respond to geographically shifting crime problems. Because of this expertise, the Fraud Section also plays a critical role in the development of Department policy, implementing enforcement initiatives, and advising Department leadership on matters including internal Department policies, legislation, crime prevention, and public education. The Fraud Section also frequently coordinates interagency and multi-district investigations and international enforcement efforts, and assists prosecutors, regulators, law enforcement and the private sector by providing training, advice, and other assistance.

The Fraud Section has three litigating units:



<http://www.justice.gov/criminal-fraud>





The **Foreign Corrupt Practices Act (FCPA) Unit** has primary jurisdiction to investigate and prosecute violations of the FCPA, and works in parallel with the Securities and Exchange Commission (SEC), which has civil enforcement authority for violations of the FCPA by publicly traded companies. The FCPA Unit has brought a number of criminal enforcement actions against individuals and companies, and has focused its enforcement efforts on both the supply side and demand side of the corrupt transaction. The FCPA Unit also plays a leading role in developing policy as it relates to the FCPA, and training and assisting foreign governments in the global fight against corruption.



The **Health Care Fraud (HCF) Unit** focuses on the prosecution of complex health care fraud matters and cases involving the illegal prescription, distribution, and diversion of opioids. The HCF Unit's core mission is to protect federal health care programs, and the public fisc, from waste, fraud and abuse, and to detect, limit, and deter fraud and illegal opioid prescription, distribution, and diversion offenses resulting in patient harm. In 2020, the HCF Unit operated 15 Health Care Fraud and Prescription Opioid Strike Forces in 24 federal judicial districts across the United States.



The **Market Integrity and Major Frauds (MIMF) Unit** focuses on the prosecution of complex and sophisticated securities, commodities, corporate, and investment fraud cases. The MIMF Unit works in parallel with regulatory partners at the SEC, Commodity Futures Trading Commission (CFTC), and other agencies to tackle major national and international fraud schemes. The MIMF Unit also focuses on combatting a broader array of financial and corporate fraud, including government procurement fraud, bank fraud, mortgage fraud, and consumer fraud.

In addition, the Fraud Section has three units that support and enhance the missions of the three litigating units:

The **Strategy, Policy & Training (SPT) Unit** partners with the Fraud Section's management and litigating units to develop and implement strategic enforcement initiatives, policies, and training in order to: (1) strengthen Fraud Section prosecutors' ability to more effectively and efficiently investigate and prosecute cases against individuals and companies; and (2) deter corporate misconduct and encourage compliant behavior. The SPT Unit assists the litigating units on all corporate resolutions and post-resolution matters, including monitorships and compliance-related issues.

The **Special Matters Unit (SMU)** was created in 2020 to focus on issues related to privilege and legal ethics, including evidence collection and processing, pre- and post-indictment litigation, and advising and assisting Fraud Section prosecutors on related matters. The SMU: (1) conducts filter reviews to ensure that prosecutors are not exposed to potentially privileged material, (2) litigates privilege-related issues in connection with Fraud Section cases, and (3) provides training and guidance to Fraud Section prosecutors.

The **Administration & Management Unit** provides critical support services across the Fraud Section, and routinely advises and assists management on administrative matters.

# Summary of 2020 Fraud Section Individual Prosecutions<sup>1</sup>



## 326 Individuals CHARGED

FCPA



28<sup>2</sup>

HCF



167

\$3.77 billion in  
alleged fraud loss

MIMF



131



## 213 Individuals CONVICTED by Guilty Plea and at Trial

FCPA



15<sup>2</sup>

HCF



144

MIMF



54



## 16 Trial CONVICTIONS

FCPA



1

HCF



10

MIMF



5

<sup>1</sup> The summary statistics in this document exclude sealed cases. With respect to all charged individual cases referenced in this document, individual defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.



<sup>2</sup> Includes charges brought and pleas entered under seal in 2019 that were unsealed in 2020.

# Summary of 2020 Fraud Section Corporate Resolutions<sup>3</sup>

 **13 CORPORATE RESOLUTIONS**

FCPA  **8**      MIMF  **5**

## Involving the Imposition of<sup>4</sup>:

	Total Global Monetary Amounts of more than <b>\$8.9 billion</b>	Total U.S. Monetary Amounts of more than <b>\$4.4 billion</b>	Total U.S. Criminal Monetary Amounts of more than <b>\$2.9 billion</b>
FCPA 	<b>\$7.84 billion</b>	<b>\$3.33 billion</b>	<b>\$2.33 billion</b>
MIMF 	<b>\$1.06 billion</b>	<b>\$1.06 billion</b>	<b>\$578.2 million</b>

<sup>3</sup> The summary statistics in this document provide approximate dollar amounts for all referenced corporate resolutions that were announced in calendar year 2020. Documents related to all Fraud Section corporate resolutions are available on our website at: <https://www.justice.gov/criminal-fraud>.

<sup>4</sup> As used in this document and in Fraud Section corporate resolution papers, the terms “Total Global Monetary Amount,” “Total U.S. Monetary Amount,” and “Total U.S. Criminal Monetary Amount” are defined as follows:

- “**Total Global Monetary Amounts**” are the total enforcement action amounts payable to both: (1) U.S. criminal and civil authorities; and (2) foreign criminal and civil authorities.
- “**Total U.S. Monetary Amounts**” are the total enforcement action amounts payable to U.S. criminal and civil authorities.
- “**Total U.S. Criminal Monetary Amounts**” are the total criminal enforcement amounts payable to: (1) Department of Justice; and (2) victims, pursuant to a plea agreement, Deferred Prosecution Agreement (DPA), or Non-Prosecution Agreement (NPA). The Total U.S. Criminal Monetary Amount may include any or a combination of the following monetary components: criminal fine, criminal monetary penalty, criminal forfeiture, criminal disgorgement, restitution, and victim compensation payments.



# Timeline of Fraud Section Corporate Resolutions

2020

**(FCPA) Airbus SE | 1.31.2020**

- DPA - (D.D.C.)
- Total Global Monetary Amount: **\$3,967,200,000**
- U.S. Criminal Monetary Amount: **\$527,200,000**



**1.21.2020 | Propex Derivatives Pty Ltd. (MIMF)**

- DPA - (N.D.III.)
- Total Global Monetary Amount: **\$1,000,000**
- U.S. Criminal Monetary Amount: **\$537,729**

**(MIMF) Alutiiq International Solutions, LLC | 6.10.2020**

- NPA
- Total Global Monetary Amount: **\$1,259,444**
- U.S. Criminal Monetary Amount: **\$1,259,444**



**6.10.2020 | SK Engineering & Construction Co., Ltd. (MIMF)**

- Plea - (W.D. Tenn.)
- - \$65,778,847.08 Criminal Fine
- - \$2,601,883.86 Restitution
- Total Global Monetary Amount: **\$68,380,730.94**
- U.S. Criminal Monetary Amount: **\$63,180,730.94**

**(FCPA) Novartis Hellas S.A.C.I. & Alcon Pte Ltd | 6.25.2020**

- DPAs - (D.N.J.)
- Total Global Monetary Amount: **\$345,900,000**
- U.S. Criminal Monetary Amount: **\$233,900,000**



**8.19.2020 | Bank of Nova Scotia (MIMF)**

**(FCPA) Herbalife Nutrition Ltd. | 8.28.2020**

- DPA - (S.D.N.Y.)
- Total Global Monetary Amount: **\$123,056,590**
- U.S. Criminal Monetary Amount: **\$55,743,093**



- DPA (D.N.J.)
- Total Global Monetary Amount: **\$77,451,102**
- U.S. Criminal Monetary Amount: **\$39,451,102**

**(FCPA) Sargeant Marine Inc. | 9.22.2020**

- Plea - (E.D.N.Y.)
- Total Global Monetary Amount: **\$16,600,000**
- U.S. Criminal Monetary Amount: **\$16,600,000**



**9.28.2020 | JP Morgan Chase (MIMF)**

- DPA - (D. Conn.)
- Total Global Monetary Amount: **\$920,203,609**
- U.S. Criminal Monetary Amount: **\$473,771,798**

**(FCPA) J&F Investigations S.A. | 10.14.2020**

- Plea - (E.D.N.Y.)
- Total Global Monetary Amount: **\$283,363,591**
- U.S. Criminal Monetary Amount: **\$128,248,513**  
(after crediting 50% to Brazil)



**10.22.2020 | Goldman Sachs Group Inc. (FCPA)**

**(FCPA) Beam Suntory Inc. | 10.27.2020**

- DPA - (N.D.III.)
- Total Global Monetary Amount: **\$19,572,885**
- U.S. Criminal Monetary Amount: **\$19,572,885**



- DPA with Parent Goldman Sachs Group
- Plea with subsidiary Goldman Sachs Malaysia - (E.D.N.Y.)
- Total Global Monetary Amount: **\$2,921,088,000**
- U.S. Criminal Monetary Amount: **\$1,263,100,000**



**12.3.2020 | Vitol Inc. (FCPA)**

- DPA - (E.D.N.Y.)
- Total Global Monetary Amount: **\$163,791,000**
- U.S. Criminal Monetary Amount: **\$90,000,000**

# 2021 Fraud Section Senior Management



## **Daniel Kahn**, Fraud Section Acting Chief

Daniel Kahn joined the Fraud Section in 2010. Kahn became the Acting Chief in September 2020, after serving as the Senior Deputy Chief beginning in July 2019. Kahn was the Chief of the FCPA Unit from March 2016 until July 2019, and was an Assistant Chief in the FCPA Unit from 2013 to 2016. He previously worked in private practice at a law firm in New York.

## **Joseph Beemsterboer**, Fraud Section Principal Deputy Chief

Joseph Beemsterboer joined the Fraud Section in 2010. Beemsterboer became Principal Deputy Chief in 2020, after serving as Senior Deputy Chief beginning July 2019. Beemsterboer was the Chief of the HCF Unit from July 2016 until July 2019 and was an Assistant Chief in the HCF Unit from 2013 to 2016. Beemsterboer previously worked in private practice at a law firm in Washington, D.C.

## **Albert Stieglitz**, Fraud Section Senior Deputy Chief

Albert Stieglitz joined the Fraud Section in 2008 through the Attorney General's Honors Program. He became Senior Deputy Chief in 2020, following his return from a three-year detail to the United Kingdom's Serious Fraud Office and Financial Conduct Authority. Prior to his time in the United Kingdom, he served as an Assistant Chief in both the FCPA and MIMF Units.

## **Christopher Cestaro**, FCPA Unit Chief

Christopher Cestaro joined the Fraud Section in 2012. Cestaro became the Chief of the FCPA Unit in 2019 after serving as an Assistant Chief in the unit since 2017. He previously worked in private practice at a law firm and as a compliance counsel at a company in Washington, D.C.

## **Allan Medina**, HCF Unit Chief

Allan Medina joined the Fraud Section in 2012. Medina became the Chief of the HCF Unit in 2019 after serving as an Assistant Chief in the unit since 2015. Medina served as the Assistant Chief in nine different Strike Force cities. Prior to joining the Department, he worked in private practice at a law firm in Miami, Florida.

## **Lisa Miller**, MIMF Unit Chief

Lisa Miller joined the Fraud Section in 2014. Miller became the Chief of the MIMF Unit in January 2021, following the departure of Brian Kidd who held the position from 2018-2021. Prior to becoming Chief of the MIMF Unit, Miller served as the Principal Assistant Deputy Chief of the HCF Unit since April 2020. Previously, Miller served as an Assistant U.S. Attorney in the Southern District of Florida. Prior to joining the Fraud Section, Miller clerked for a U.S. District Court Judge in the Southern District of New York, worked in private practice in New York, and served as a Special Assistant Attorney General at the D.C. Office of the Attorney General.



### **Sally Molloy, SPT Unit Chief**

Sally Molloy joined the Fraud Section in 2016. Molloy became the Chief of the SPT Unit in January 2019, after serving as an Assistant Chief in the HCF Unit since 2016. Prior to joining the Fraud Section, Molloy was an AUSA in the U.S. Attorney's Office for the Northern District of Georgia and a Trial Attorney in the Antitrust Division's Atlanta Criminal Field Office.

### **Brian Young, Chief of Litigation**

Brian Young Joined the Fraud Section in 2010. Young became the Deputy Chief for Litigation in 2019 after serving as an Assistant Chief in the MIMF (then Securities & Financial Fraud) Unit. Prior to joining the Criminal Division, Young worked for the Civil Division of the Department of Justice and clerked on the Sixth Circuit Court of Appeals.

### **Jerrob Duffy, SMU Unit Chief**

Jerrob Duffy re-joined the Fraud Section in 2020, after previously serving in the Fraud Section from 2006 to 2011. From 2011 to 2020, Duffy was an Assistant U.S. Attorney in the Southern District of Florida. From 2002 through 2006, he was a Trial Attorney in the Civil Rights Division, Criminal Section. Duffy previously clerked in the Southern District of Florida and worked for a law firm in New York.

### **Christina Weidner, A&M Unit Chief**

Christina Weidner joined the Fraud Section in 2018 as the Chief of the Administration and Management Unit. Prior to joining the Department, she worked for the Administrative Office of the U.S. Courts in the Case Management Systems office as the Chief of the Business Support Division.



# Foreign Corrupt Practices Act Unit



The FCPA Unit's 39 prosecutors investigate and prosecute cases under the FCPA and related statutes. Given the global nature of our economy, corruption abroad poses a serious threat to American citizens and companies that are trying to compete in a fair and transparent marketplace. Transnational corruption also empowers corrupt regimes and leads to destabilization of foreign governments, which can result in significant threats to America's national security. Our prosecutors cooperate with international law enforcement partners to investigate and prosecute foreign bribery offenses committed by both American and foreign individuals and companies and have achieved significant coordinated corporate resolutions with foreign law enforcement partners over the past several years. Our prosecutors also train foreign law enforcement authorities to help them more effectively combat transnational corruption. The FCPA Unit also plays an integral role in working with other U.S. agencies to ensure that the United States is meeting its anti-corruption treaty obligations, including under the OECD Anti-Bribery Convention. In November 2020, the OECD Working Group on Bribery issued its Phase 4 Report on the United States, which applauded the United States for its sustained and outstanding commitment to enforcing its foreign bribery laws, and highlighted the number and quality of foreign bribery related cases brought since 2010 (when the Working Group on Bribery released the United States' Phase 3 Report), the enhanced expertise and resources to investigate and prosecute foreign bribery, the enforcement of a broad range of offenses in foreign bribery cases, the effective use of non-trial resolution mechanisms and multijurisdictional resolutions, and the development of published policies to incentivize companies' cooperation with law enforcement agencies.

<http://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

## FCPA Unit Statistics 2020

INDIVIDUAL  
PROSECUTIONS



**28**<sup>5</sup> **Individuals  
CHARGED**

**15**<sup>5</sup> **Individuals  
CONVICTED**

**14** **Individuals  
PLEADED GUILTY**

**1** **Individual  
CONVICTED AT TRIAL**



CORPORATE  
RESOLUTIONS

**8**

**CORPORATE RESOLUTIONS** Involving the Imposition of:



Total Global Monetary Amounts of more than **\$7.84 billion**

Total U.S. Monetary Amounts of more than **\$3.33 billion**

Total U.S. Criminal Monetary Amounts of more than **\$2.33 billion**

<sup>5</sup> Includes charges brought and pleas entered under seal in 2019 that were unsealed in 2020.

# Foreign Corrupt Practices Act Unit

## *Significant Corporate Resolutions*

### ***Airbus***

In January 2020, Airbus SE (Airbus), a global provider of civilian and military aircraft based in France, agreed to pay combined penalties of more than \$3.9 billion to resolve foreign bribery charges with authorities in the United States, France, and the United Kingdom and to resolve Airbus's violation of the Arms Export Control Act (AECA) and its implementing regulations, the International Traffic in Arms Regulations (ITAR), in the United States. The FCPA charges arose out of Airbus's scheme to offer and pay bribes to foreign officials, including Chinese officials, in order to obtain and retain business, including contracts to sell aircraft. The ITAR charges stemmed from Airbus's willful failure to disclose political contributions, commissions or fees to the U.S. government, as required under the ITAR, in connection with the sale or export of defense articles and defense services to the armed forces of a foreign country or international organization.

As part of the coordinated global resolution with the Serious Fraud Office (SFO) in the United Kingdom and the Parquet National Financier (PNF) in France, Airbus entered into a three-year deferred prosecution agreement (DPA) with the DOJ and paid a criminal penalty of approximately \$527 million to resolve the FCPA and ITAR charges after the DOJ credited a portion of the amount the company agreed to pay in its parallel resolutions with the PNF and the U.S. Department of State's Directorate of Defense Trade Controls. Airbus also paid an additional €50 million (approximately \$55 million) as part of a civil forfeiture agreement for the ITAR-related conduct. Under the terms of the DPA, Airbus agreed to continue to cooperate with the DOJ in any ongoing investigations and prosecutions relating to the conduct and to enhance its compliance program. This case is being jointly prosecuted with the National Security Division's Counterintelligence and Export Control Section and the U.S. Attorney's Office for the District of Columbia.

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### ***Goldman Sachs***

In October 2020, The Goldman Sachs Group, Inc. (Goldman), a global financial institution headquartered in New York, entered into a DPA and agreed to pay a criminal penalty and disgorgement of more than \$2.9 billion to resolve charges related to FCPA violations in Malaysia, in a resolution that involved the largest FCPA penalty ever. Also in



connection with the resolution, a Goldman subsidiary, Goldman Sachs (Malaysia) Sdn. Bhd., pleaded guilty to FCPA charges. Goldman also reached separate parallel resolutions with foreign authorities in the United Kingdom, Singapore, Malaysia, and elsewhere, along with domestic authorities in the United States. The DOJ will credit over \$1.6 billion in payments with respect to those resolutions.

As part of the resolution, Goldman admitted that beginning in 2009 and continuing until 2014, Goldman, through certain of its employees and agents, conspired with others to violate the anti-bribery provisions of the FCPA by engaging in a scheme to pay more than \$1.6 billion in bribes, directly and indirectly, to high-level government officials in Malaysia and Abu Dhabi in order to obtain and retain business for Goldman from 1Malaysia Development Bhd. (1MDB), a Malaysian state-owned and state-controlled investment and development fund. The bribes helped secure Goldman's role as arranger and underwriter on three bond deals with a total value of \$6.5 billion. The co-conspirators paid these bribes from more than \$2.7 billion in funds members of the conspiracy had diverted and misappropriated from the bond offerings underwritten by Goldman. Although Goldman control functions knew of significant red flags surrounding the transactions, they failed to take reasonable steps to investigate and mitigate corruption risks so that the highly lucrative transactions would be approved, and Goldman could continue to do business with 1MDB. Under the terms of the resolution, Goldman has agreed to continue to cooperate with the DOJ in any ongoing investigations and prosecutions relating to the conduct and to enhance its compliance program.

Two Goldman bankers have been criminally charged in connection with the conspiracy—one pleaded guilty in 2018 and the other faces trial in 2021. The intermediary who facilitated the bribery scheme has also been charged and remains a fugitive. This case is being jointly prosecuted with the Criminal Division's Money Laundering and Asset Recovery Section and the U.S. Attorney's Office for the Eastern District of New York.

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## ***Sargeant Marine***

In September 2020, Sargeant Marine Inc. (Sargeant Marine), an asphalt company formerly based in Boca Raton, Florida, pleaded guilty to conspiracy to violate the FCPA and paid a penalty of approximately \$16.6 million to resolve criminal charges related to bribery schemes in Brazil, Ecuador, and Venezuela. The charge stemmed from schemes by Sargeant Marine to pay bribes to foreign officials, through its executives, employees, and agents, in exchange for contracts to sell asphalt to the state-owned and state-controlled oil companies of Brazil and Ecuador, as well as contracts to buy asphalt from the Venezuelan state-owned and state-controlled energy company. To execute and conceal the schemes, Sargeant Marine entered into fake consulting agreements with third-party agents and consultants in each of the three countries. The agents issued fake invoices for commission payments that they used, in part, to pay the bribes.

Ten individuals have pleaded guilty for their roles in the schemes, including a senior executive and two traders at the company, six agents, and one of the former Venezuelan officials who received bribes from the company. An eleventh individual, also a former Venezuelan official who allegedly received bribes, was charged with conspiracy to commit money laundering, in part for his role in the Venezuela bribery scheme. This case is being jointly prosecuted with the U.S. Attorney's Office for the Eastern District of New York.

# Foreign Corrupt Practices Act Unit

## *Significant Trials, Charges and Guilty Pleas*

### ***United States v. Donville Inniss (E.D.N.Y.)***

In January 2020, a federal jury convicted Donville Inniss, a former member of the Parliament of Barbados and the former Minister of Industry, International Business, Commerce, and Small Business Development of Barbados, for his role in a scheme to launder using a U.S. bank account bribes that he received from high-level executives of the Insurance Corporation of Barbados Limited (ICBL) in exchange for helping ICBL win lucrative government contracts. Inniss was convicted of two counts of money laundering and one count of conspiracy to commit money laundering.

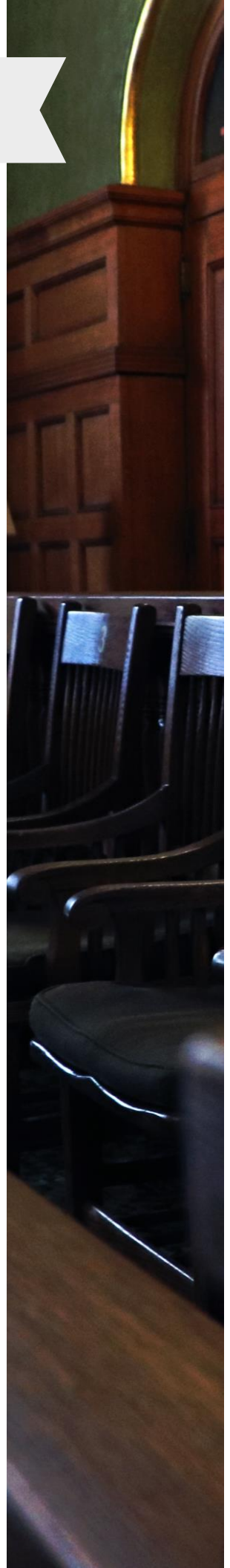
The evidence at trial showed that in exchange for a bribe of approximately \$36,000, Inniss leveraged his position as the Minister of Industry to enable ICBL to obtain two insurance contracts from the Barbados government to insure over \$100 million worth of government property. To conceal the bribes, Inniss arranged to receive them through a U.S. bank account in the name of his friend's dental company, which had an address in New York. Inniss is scheduled to be sentenced in April 2021. This case is being jointly prosecuted with the U.S. Attorney's Office for the Eastern District of New York.

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### ***Venezuela***

In 2020, DOJ announced numerous charges against and seven guilty pleas by individuals who were involved in paying and laundering bribes to high-ranking Venezuelan officials, including officials of Venezuela's state-owned and state-controlled energy company, Petróleos de Venezuela S.A. (PDVSA), and its Houston-based subsidiary, Citgo Petroleum Corporation (Citgo), in exchange for obtaining and retaining business. These cases included:

- In February 2020, Tulio Anibal Farias Perez, a Venezuelan citizen and Houston resident, pleaded guilty to conspiring to violate the FCPA in connection with a bribery scheme involving PDVSA and Citgo. Farias and his co-conspirators agreed to provide and provided things of value, including money, meals, concert tickets,



Super Bowl and other sports tickets, recreational travel and entertainment, and expensive jewelry and watches, to PDVSA and Citgo officials in exchange for assistance in winning contracts, providing inside information, and receiving payment priority on past due invoices.

- In March 2020, Carlos Enrique Urbano Fermin, a Venezuelan businessman, was charged with conspiracy to commit money laundering based on his role in a scheme to launder the proceeds of an illegal bribery scheme involving payments to PDVSA officials. Fermin is alleged to have paid bribes and kickbacks to PDVSA officials in exchange for assistance with obtaining inflated contracts for goods or services and getting payment priority on procurement contracts.
- In July 2020, Jose Luis De Jongh Atencio, a former Citgo procurement manager, was charged in a six-count indictment with money laundering and conspiracy to launder the proceeds of an illegal bribery scheme involving payments to Citgo officials. In December 2020, De Jongh was charged in a superseding indictment with four additional counts of conspiring to violate the Travel Act and violating the Travel Act.
- In August 2020, Lennys Rangel, a former PDVSA procurement director, and Edoardo Orsoni, a former PDVSA general counsel, each pleaded guilty to conspiracy to commit money laundering for their roles in a scheme to launder the proceeds of an illegal bribery scheme involving payments to PDVSA officials. Rangel and Orsoni each admitted to receiving bribe payments from Venezuelan businessmen in exchange for their assistance in awarding PDVSA contracts.
- In September 2020, charges against five individuals related to the Florida-based asphalt company Sargeant Marine were unsealed, including the guilty pleas of Daniel Sargeant, Jose Tomas Meneses, David Diaz, and Hector Nuñez Troyano. Daniel Sargeant is a former senior executive at Sargeant Marine who pleaded guilty in December 2019 to one count of conspiracy to violate the FCPA and one count of conspiracy to commit money laundering, based in part for his role to bribe foreign officials in Venezuela in exchange for contracts to purchase asphalt from PDVSA. Jose Tomas Meneses, an employee of Sargeant Marine, pleaded guilty in August 2018 to one count of conspiracy to violate the FCPA.
- In November 2020, Natalino D'Amato, a Venezuelan businessman, was charged in an eleven-count indictment with conspiracy to commit money laundering and money laundering for his alleged role in a scheme to launder the proceeds of an illegal bribery scheme involving payments to officials at PDVSA. D'Amato is alleged to have paid bribes to numerous Venezuelan officials who worked at PDVSA joint ventures in order to obtain highly inflated and lucrative contracts to provide goods and services to the PDVSA joint ventures. As part of the scheme, companies controlled by D'Amato received approximately \$160 million from the PDVSA joint ventures.



- In December 2020, Claudia Patricia Diaz Guillen, the former National Treasurer of Venezuela, and her spouse, Adrian Jose Velasquez Figueroa, were charged in a superseding indictment for their alleged participation in a previously indicted billion-dollar money laundering scheme involving bribes paid by Venezuelan businessman Raul Gorrin to Diaz Gullen and former National Treasurer Alejandro Andrade to corruptly secure contracts to conduct currency exchanges on behalf of the Venezuelan government. Andrade previously pleaded guilty in connection with the case.

To date, the DOJ has announced the guilty pleas of 33 individuals in connection with its ongoing probe into corruption in Venezuela. These cases are being prosecuted jointly with the U.S. Attorneys' Offices for the Southern District of Florida, Southern District of Texas, and Eastern District of New York.

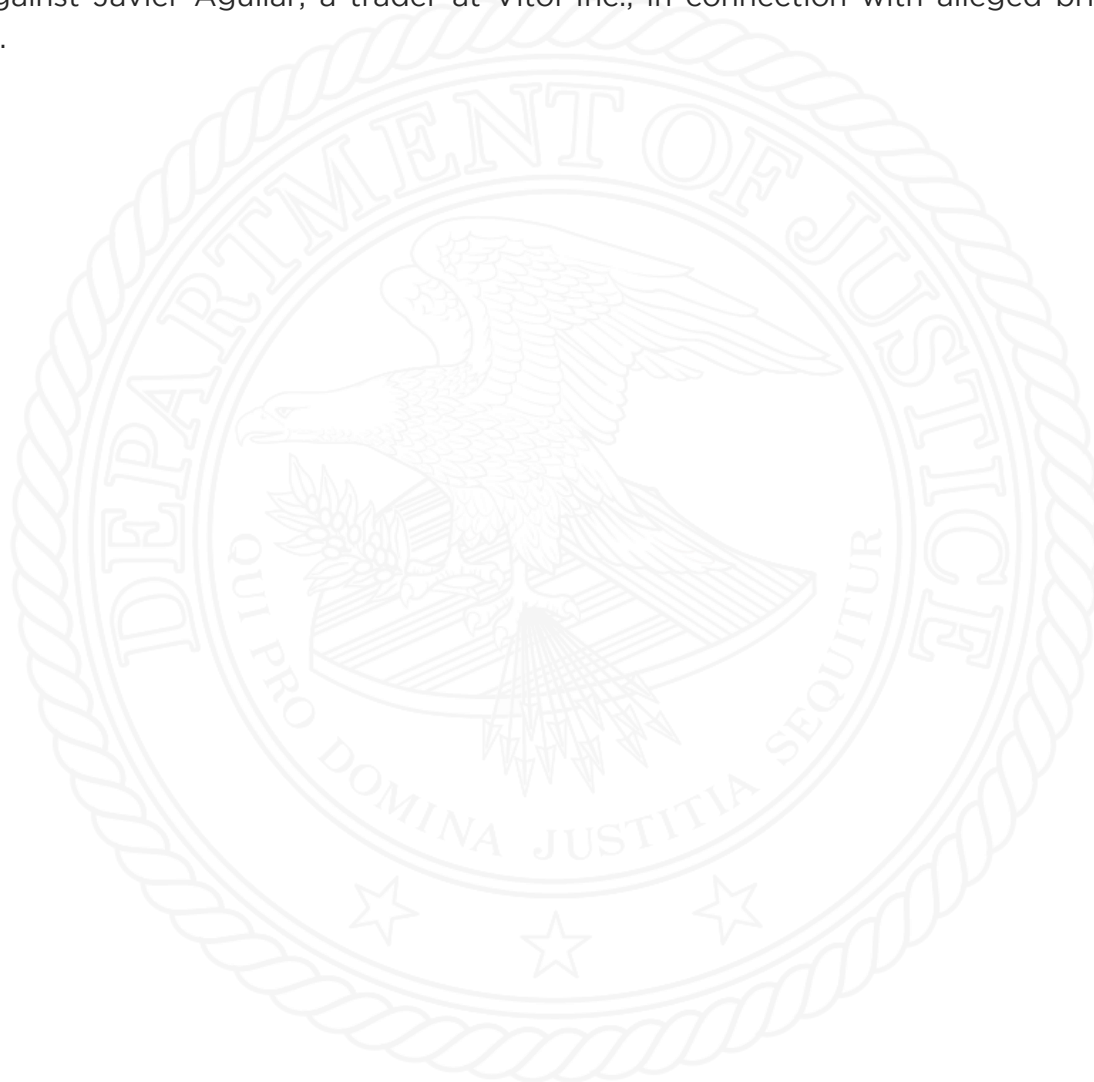
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## ***Ecuador***

In 2020, the DOJ announced numerous charges, guilty pleas and corporate resolutions involving individuals and companies that paid and laundered bribes to high-ranking officials in Ecuador, including officials of Empresa Pública de Hidrocarburos del Ecuador (PetroEcuador)—the Ecuadorian state-owned and state-controlled oil company—and Seguros Sucre S.A.—Ecuador's state-owned and state-controlled insurance company. The investigations have focused on tens of millions of dollars of alleged bribes paid to Ecuadorian officials to obtain or retain business with PetroEcuador and Seguros Sucre. Since 2017, charges have been announced against eighteen individuals in the government's ongoing investigation into pervasive corruption at PetroEcuador, all of whom have pleaded guilty. In 2020, four individuals were charged in connection with the government's investigation into corruption at Seguros Sucre, all of whom have pleaded guilty. The individuals who have been held accountable for their roles in the bribery and money laundering schemes include former Ecuadorian officials who received and concealed bribe payments, businessmen and contractors who paid bribes to obtain lucrative contracts from PetroEcuador and Seguros Sucre, and intermediaries who enabled and facilitated bribery through the use of U.S. and offshore companies and bank accounts.

The past year also saw two corporate resolutions in which companies admitted to paying bribes to Ecuadorian officials. In addition to the above-mentioned Sargeant Marine matter, which involved the payments of bribes to then-Ecuadorian officials in exchange for the sale of asphalt by Sargeant Marine to PetroEcuador, the DOJ also entered into a deferred prosecution agreement with **Vitol Inc.**, the U.S. subsidiary of a large international energy trading company. As part of the resolution, Vitol Inc. agreed to pay a criminal penalty of \$135 million, \$45 million of which the DOJ credited against Vitol's parallel resolution with Brazilian authorities. The CFTC, in its first coordinated resolution with the

Fraud Section in a foreign bribery case, also imposed a civil penalty and obtained disgorgement for related conduct. In addition to paying bribes to officials in Brazil and Mexico, Vitol admitted that it made bribe payments to Ecuadorian officials between 2015 and 2020 in connection with the purchase and sale of oil products. Vitol paid these bribes through the use of sham consulting agreements that allowed it to transfer funds to offshore companies for the ultimate benefit of the officials. In September 2020, the DOJ also brought charges alleging conspiracies to commit money laundering and to violate the FCPA against Javier Aguilar, a trader at Vitol Inc., in connection with alleged bribery in Ecuador.



# Foreign Corrupt Practices Act Unit

## *FCPA Corporate Enforcement Policy Declination*

### ***World Acceptance Corporation***

In August 2020, the Fraud Section issued a declination letter to World Acceptance Corporation (“World Acceptance”), a South Carolina-based company, relating to bribery by its subsidiary in Mexico. The company voluntarily self-disclosed the conduct, fully and proactively cooperated with the investigation, fully remediated, and disgorged the ill-gotten gains from the scheme. The SEC also resolved its parallel civil investigation, pursuant to which World Acceptance was required to pay a civil penalty, disgorgement, and prejudgment interest totaling approximately \$21.7 million. The Fraud Section credited the disgorgement paid to the SEC.

## *FCPA Resource Guide, Second Edition*

In July 2020, the Department of Justice and the Securities and Exchange Commission released: *A Resource Guide to the U.S. Foreign Corrupt Practices Act, Second Edition*. The *Guide* is the product of extensive efforts by experts at the DOJ and the SEC and has benefited from valuable input from the Departments of Commerce and State.

Originally released in November 2012 and updated in July 2020, the *Guide* addresses a wide variety of topics, including who and what is covered by the FCPA’s anti-bribery and accounting provisions; the definition of a “foreign official;” the jurisdictional reach of the FCPA; types of proper and improper payments; application of successor liability in the mergers and acquisitions

context; the hallmarks of an effective corporate compliance program; and the different types of civil and criminal resolutions available in the FCPA context. The *Guide* also sets out the factors considered by the DOJ and the SEC when deciding to open an investigation or bring charges, such as among others, voluntary self-disclosure, full cooperation, and timely and appropriate remediation, including implementation of an effective compliance and ethics program. On

these and other topics, the *Guide* provides detailed information about the statutory requirements as well as insight into DOJ and SEC enforcement policies and practices through hypotheticals, examples of enforcement actions and declinations, and summaries of applicable case law.



 <https://www.justice.gov/criminal-fraud/fcpa-resource-guide>



# Health Care Fraud Unit



The HCF Unit's 80 prosecutors focus solely on prosecuting complex health care fraud matters and cases involving the illegal prescription, distribution, and diversion of opioids. The HCF Unit's core mission is to protect the public fisc from fraud, waste, and abuse, and to detect, limit, and deter fraud and illegal prescription, distribution, and diversion offenses resulting in patient harm.

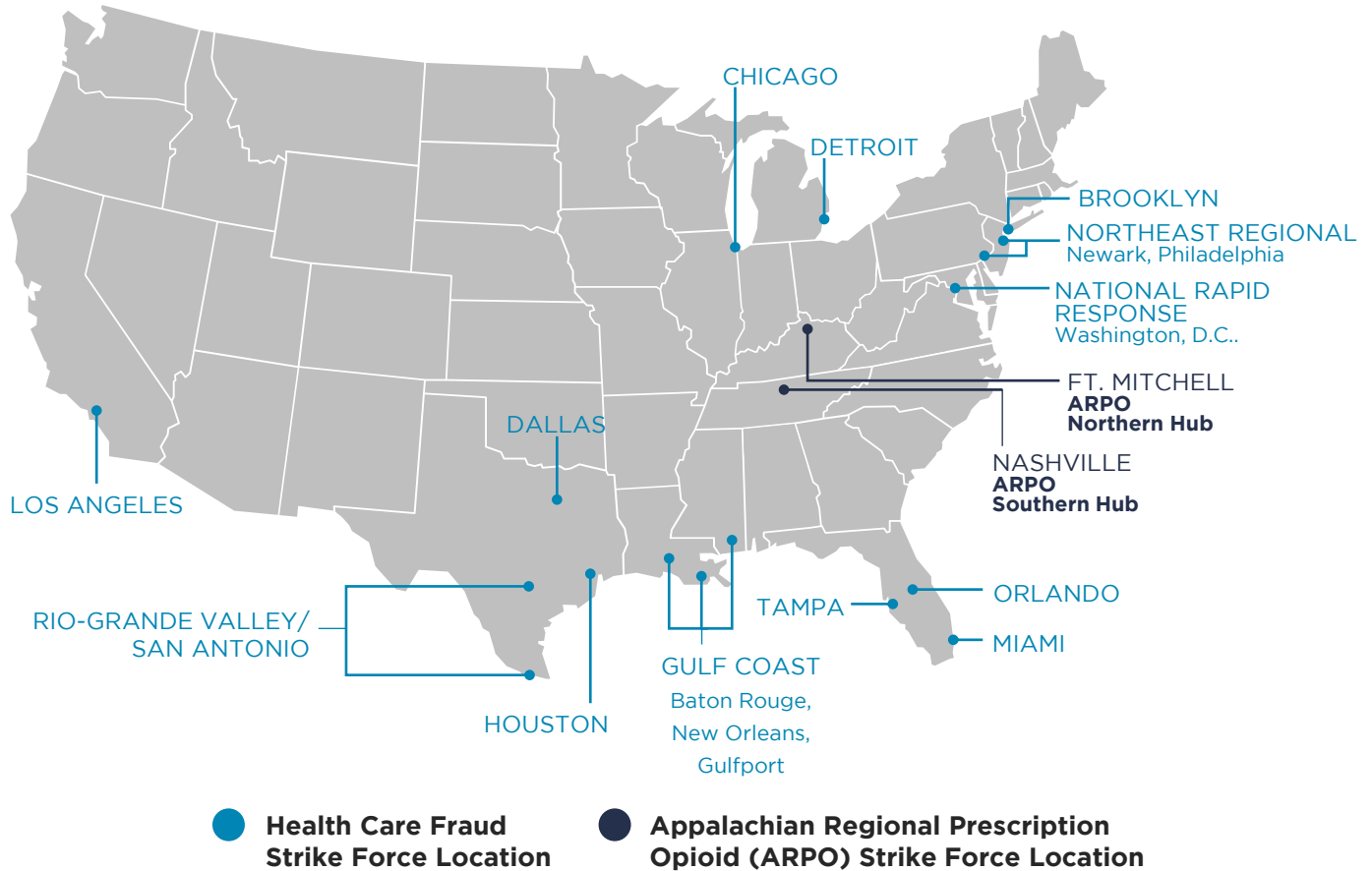
The HCF Unit has a recognized and successful Strike Force Model for effectively and efficiently prosecuting health care fraud and illegal prescription opioid cases across the United States. HCF Unit prosecutors currently operate in 15 Health Care Fraud and Appalachian Regional Prescription Opioid (ARPO) Strike Forces across the country, including the District of Columbia. The Strike Force Model centers on a cross-agency collaborative approach, bringing together the investigative and analytical resources of the Fraud Section, FBI, the U.S. Department of Health and Human Services Office of the Inspector General (HHS-OIG), the Centers for Medicare & Medicaid Services (CMS), Drug Enforcement Administration (DEA), Defense Criminal Investigative Service (DCIS), Federal Deposit Insurance Corporation Office of the Inspector General (FDIC-OIG), Internal Revenue Service (IRS), and other agencies, along with the prosecutorial resources of U.S. Attorneys' Offices and state and local law enforcement partners. The HCF Unit is a leader in using advanced data analytics to identify aberrant billing levels and target suspicious billing patterns, as well as emerging schemes and schemes that are multi-jurisdictional.

<https://www.justice.gov/criminal-fraud/health-care-fraud-unit>

## HCF Unit Statistics 2020



## Health Care Fraud and Appalachian Regional Prescription Opioid (ARPO) Strike Force Map






### HCF Unit Statistics | 2018 - 2020

**\$5.8 m**  
average LOSS per  
individual CHARGED

**\$11.9 m**  
average LOSS per  
individual CHARGED

**\$22.6 m**  
average LOSS per  
individual CHARGED

2018	2019	2020
 <b>309</b> Individuals CHARGED	 <b>344</b> Individuals CHARGED	 <b>167</b> Individuals CHARGED
<b>\$1.80</b> billion alleged LOSS	<b>\$4.11</b> billion alleged LOSS	<b>\$3.77</b> billion alleged LOSS

**\$9.68 bn**  
in Alleged LOSS  
between 2018 and 2020

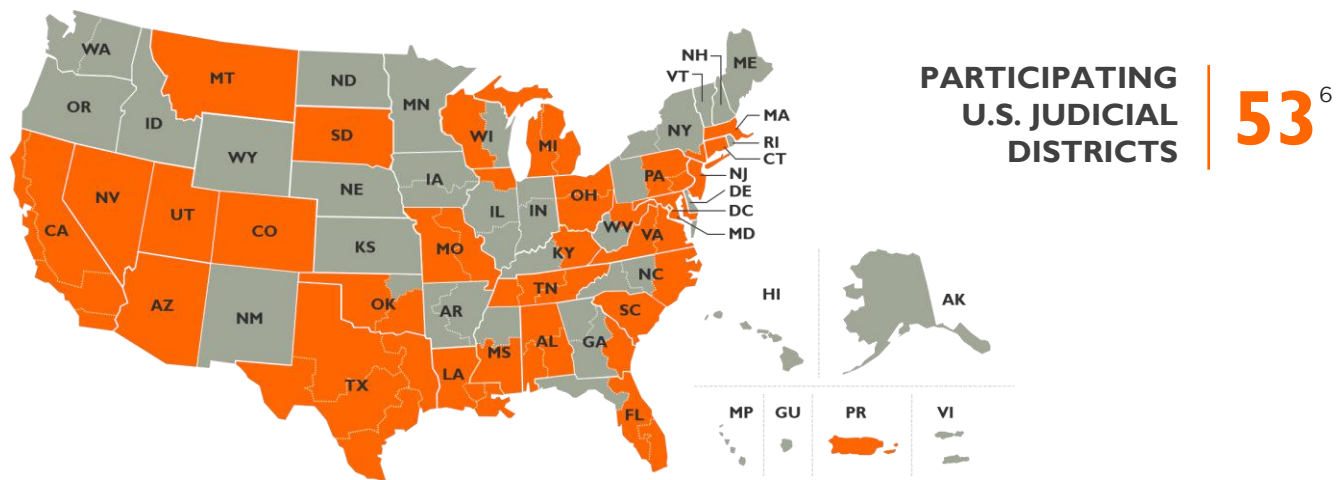
 **820**  
Individuals CHARGED  
between 2018 and 2020

# Health Care Fraud Unit

## Significant Initiatives

### 2020 NATIONAL HEALTH CARE FRAUD AND OPIOID TAKEDOWN

In September 2020, the HCF Unit organized and led a historic national takedown, in collaboration with U.S. Attorney's Offices, HHS-OIG, FBI, DEA, and other federal and state partners. On September 30, 2020, the department announced this nationwide enforcement action, which involved 345 charged defendants across 51 federal districts, including more than 100 doctors, nurses and other licensed medical professionals. These defendants collectively were charged with submitting more than \$6 billion in allegedly false and fraudulent claims to federal health care programs and private insurers, including more than \$4 billion connected to telemedicine, more than \$845 million connected to substance abuse treatment facilities, or "sober homes," and more than \$806 million connected to other health care fraud and illegal opioid distribution schemes across the country. This enforcement initiative included cases charged during an unprecedented national health emergency, from April 2020 to September 2020, with the majority (nearly two-thirds) being charged or unsealed after Labor Day (September 7, 2020). In connection with the 2020 takedown, the Centers for Medicare and Medicaid Services, Center for Program Integrity (CMS-CPI) also imposed more than 250 billing privilege revocations to further ensure the integrity of federal health care programs.



**MORE THAN 300** | **DEFENDANTS CHARGED**

**MORE THAN \$6 bn** | **of ALLEGED LOSS**

**MORE THAN 100** | **LICENSED MEDICAL PROFESSIONALS CHARGED**

**MORE THAN 30 m** | **PRESCRIBED OPIOID DOSES**

<sup>6</sup> This number is updated to reflect the inclusion of the Eastern and Middle Districts of Louisiana, in which charges were filed, but were not yet unsealed, as of the morning of September 30, 2020 when the results of the Takedown were announced.



## **APPALACHIAN REGIONAL PRESCRIPTION OPIOID (ARPO) STRIKE FORCE**

In October 2018, the Strike Force Program expanded to Appalachia forming the ARPO Strike Force, a joint effort between the Fraud Section, USAOs, FBI, HHS-OIG, DEA, and state and local law enforcement to combat health care fraud and the opioid epidemic in parts of the country that have been particularly harmed by addiction. Similar to traditional Health Care Fraud Strike Forces, the ARPO Strike Force relies on a model of cross-agency collaboration and data analytics.

ARPO focuses on prosecutions of medical professionals and others involved in the illegal prescription, diversion, and distribution of opioids, and operates out of two hubs: ARPO North in Ft. Mitchell, Kentucky, and ARPO South in Nashville, Tennessee.<sup>7</sup> Since 2019, the ARPO Strike Force has charged 86 defendants, including 65 licensed medical professionals and 50 prescribers, and its casework has targeted the alleged illegal distribution of more than 65 million controlled substance pills and more than 350,000 prescriptions. These efforts have resulted in 41 convictions as of the end of 2020. A few examples include:

### ***United States v. Richard Farmer (W.D. Tenn.)***

After a nine-day jury trial in February 2020, a jury found Dr. Richard Farmer, a psychiatrist, guilty of unlawfully distributing oxycodone. Evidence at trial established that Farmer prescribed oxycodone that had no legitimate medical purpose and was outside the usual course of professional practice. His conduct included prescribing these drugs to three sisters, including one who was seeing him as a patient for grief counseling, in exchange for sexual acts and female companionship. In October 2020 Farmer was sentenced to 48 months' imprisonment.

### ***United States v. Ricky Houdersheldt (S.D. W.Va.)***

In the middle of the national emergency, and after a six-day jury trial in August 2020, a jury found Dr. Ricky Houdersheldt guilty of 15 counts of distribution of controlled substances outside the scope of professional practice and without a legitimate medical purpose. The evidence at trial established Houdersheldt repeatedly attempted to trade prescriptions for sexual favors and female companionship. Evidence also established that Houdersheldt prescribed more than seven times the dosage of opioid drugs recommended by the Centers for Disease Control to one patient, and that he commonly

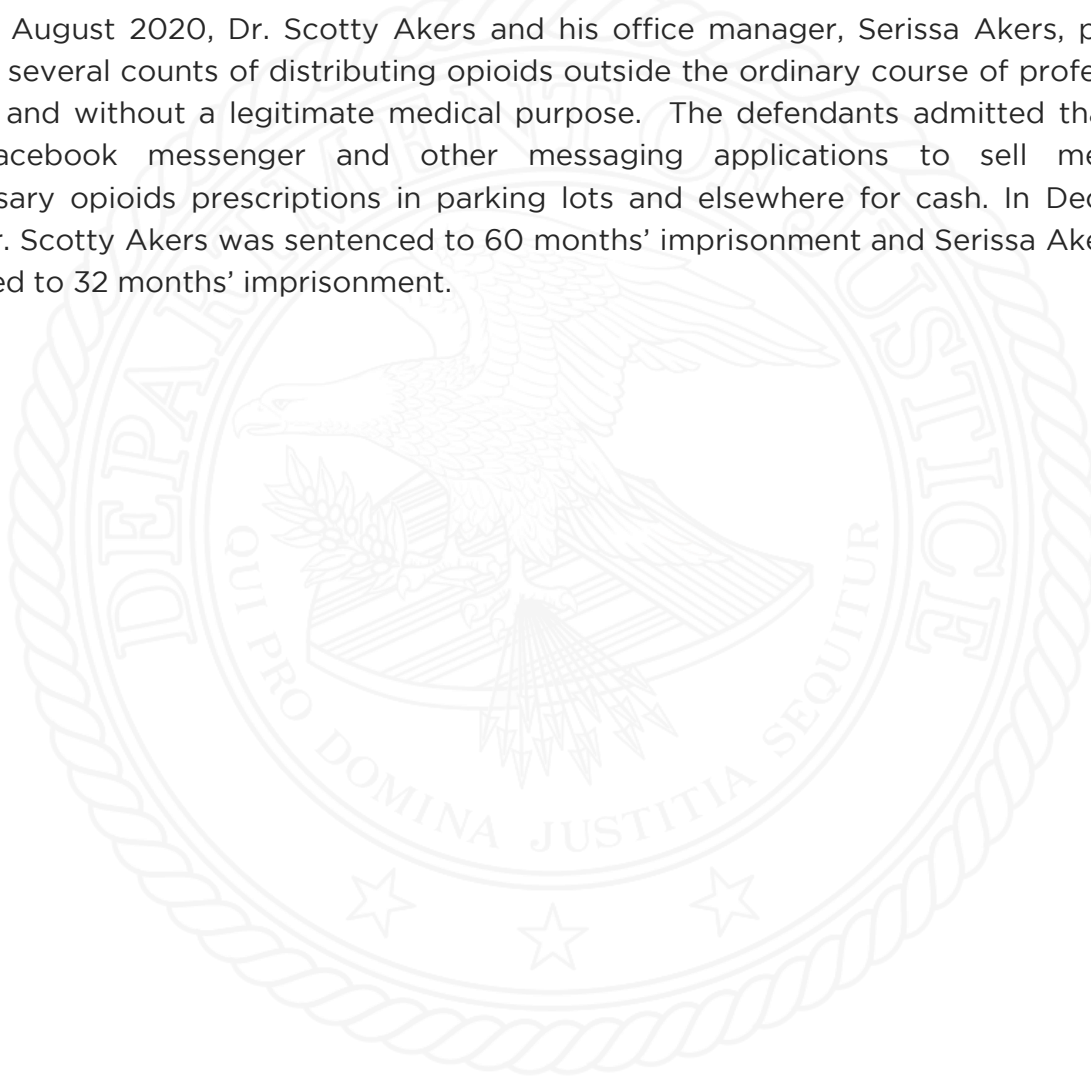
<sup>7</sup> To date, 10 U.S. Attorneys' Offices have partnered with the ARPO Strike Force: the Southern District of Ohio; the Eastern and Western Districts of Kentucky; the Eastern, Middle and Western Districts of Tennessee; the Northern District of Alabama; the Northern and Southern Districts of West Virginia; and the Western District of Virginia. The ARPO Strike Force also works with public health officials, including the Centers for Disease Control, to provide resources to patients that could be impacted by the ARPO Strike Force's law enforcement activities in order to ensure continuity of care.

prescribed this patient the dangerous combination of morphine and the powerful opioid fentanyl. In January 2021, Houdersheldt was sentenced to 60 months of probation and a \$200,000 fine. As a result of his conviction, Houdersheldt's medical license and DEA registration were revoked permanently.

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### ***United States v. Scotty Akers, et al. (E.D. Ky.)***

In August 2020, Dr. Scotty Akers and his office manager, Serissa Akers, pleaded guilty to several counts of distributing opioids outside the ordinary course of professional practice and without a legitimate medical purpose. The defendants admitted that they used Facebook messenger and other messaging applications to sell medically unnecessary opioids prescriptions in parking lots and elsewhere for cash. In December 2020, Dr. Scotty Akers was sentenced to 60 months' imprisonment and Serissa Akers was sentenced to 32 months' imprisonment.



## **NATIONAL RAPID RESPONSE STRIKE FORCE**

The nature and scope of health care fraud has rapidly evolved over the past few years with the advent of new technologies, including telehealth, that have broadened the reach of health care and, consequently, health care fraud. In response, in 2020, the Fraud Section developed and launched the National Rapid Response Strike Force (NRRSF): a way to quickly respond to emerging multi-jurisdictional health care fraud cases and priorities, without diverting attorneys from district-specific Strike Forces. NRRSF prosecutors, who are based in Washington, D.C. and in certain existing Strike Force locations, are dedicated exclusively to the immediate and decisive response to new and emerging health care fraud trends. Like the other Strike Forces, the NRRSF coordinates with U.S. Attorneys' Offices and federal and state law enforcement partners to prosecute these significant multi-jurisdictional and corporate fraud matters. Recently, the NRRSF coordinated the Department's efforts to combat telemedicine fraud in the 2020 National HCF and Opioid Takedown which resulted in charges against 80 defendants across multiple districts and involved more than \$4 billion in alleged fraud loss.

### ***United States v. Jorge Perez, et al. (M.D. Fla.)***

One example of the types of matters that fall under the NRRSF's purview is *United States v. Jorge Perez, et al.*, a nationwide \$1.4 billion rural hospitals billing fraud scheme involving medically unnecessary laboratory testing indicted in the Middle District of Florida—one of the largest health care fraud prosecutions to date (measured by alleged loss). In this case, several defendants obtained control over four separate rural hospitals which typically receive high reimbursements from insurers due to their location and patient base. They proceeded to fraudulently bill insurers through the rural hospitals for medically unnecessary lab tests performed at outside, independent labs spread across multiple states owned by other defendants, all on behalf of non-hospital patients. Other participants in the scheme recruited laboratories and paid kickbacks to obtain more samples. These hospitals, labs and the patients were spread across multiple states and federal districts. The scheme left bankrupt or financially strapped hospitals in its wake as insurers scrutinized the claims and shut down the reimbursements. Certain of the defendants also laundered the proceeds of the scheme. All defendants are awaiting trial.



## **TELEMEDICINE FRAUD INITIATIVE**

Since 2019, the HCF Unit has led nationwide efforts to combat telemedicine fraud and ensure that needed access to care that is provided by this new technology is not compromised by wrongdoers. To date, the Fraud Section has charged 73 defendants involving more than \$3.7 billion in alleged fraud loss across 16 districts involving schemes that exploited telemedicine. Most recently, for the September 2020 National Health Care Fraud and Opioid Takedown, the Fraud Section and USAO partners charged 80 defendants that involved more than \$4 billion in false and fraudulent claims related to telemedicine.

In these telemedicine schemes, telemedicine company executives are alleged to have paid doctors and nurse practitioners to order unnecessary durable medical equipment, genetic and other diagnostic testing, and pain medications, either without any patient interaction at all, or with only a brief telephonic conversation with patients they have never met or seen. Proceeds of these telemedicine fraud schemes are alleged to have been laundered through shell corporations and foreign banks.

### ***United States v. Steven Kahn (S.D. Fla.)***

An example prosecution from the Telemedicine Fraud Initiative is the July 2020 conviction of Steven Kahn, a South Florida telemedicine company owner, who pleaded guilty for his role in a durable medical equipment (DME) scheme wherein he generated and sold doctors' orders that were used to defraud Medicare of more than \$21 million.

In connection with his plea, Kahn admitted that from approximately January 2017 through approximately April 2019 he and his co-defendants, through several telemedicine companies that he co-owned or operated, paid kickbacks and bribes to physicians for purported telemedicine consultations and, in turn, sold the resultant doctors' orders for medically unnecessary orthotic braces to various DME companies in exchange for kickbacks. Kahn admitted that he paid kickbacks to physicians who he knew did not comply with Medicare's rules for conducting telemedicine consultations. Kahn is awaiting sentencing.

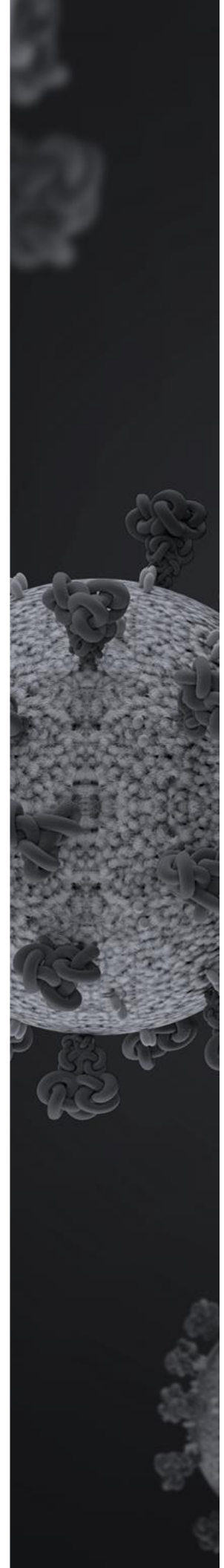
## COVID-19 FRAUD INITIATIVE

The HCF Unit chairs an interagency COVID-19 fraud working group with federal law enforcement and public health agencies to identify and combat health care fraud trends emerging during the COVID-19 crisis. This has involved coordinating and training other Criminal Division and U.S. Attorney's Office prosecutors and offering support to their investigations and cases, including data analytics support. The HCF Unit expects that the COVID-19 working group will continue to generate criminal prosecutions in several areas, including COVID-19 test bundling schemes, securities fraud cases involving health care technology companies, and Health Resources and Services Administration (HRSA) fraud cases. Some of those prosecutions include:

### ***United States v. Mark Schena (N.D. Cal.)***

In June 2020, Mark Schena, the president of Arrayit Corporation, a publicly traded medical technology company, was arrested and charged with securities fraud and conspiracy to commit health care fraud in connection with his alleged participation in schemes to mislead investors, to manipulate the company's stock price, and to commit health care fraud in connection with the submission of over \$69 million in false and fraudulent claims for allergy and COVID-19 testing. The charges against Schena are the first criminal securities fraud prosecution related to the COVID-19 pandemic that has been brought by the DOJ, and was the result of a collaboration between the Fraud Section's HCF and MIMF Units and the U.S. Attorney's Office for the Northern District of California.

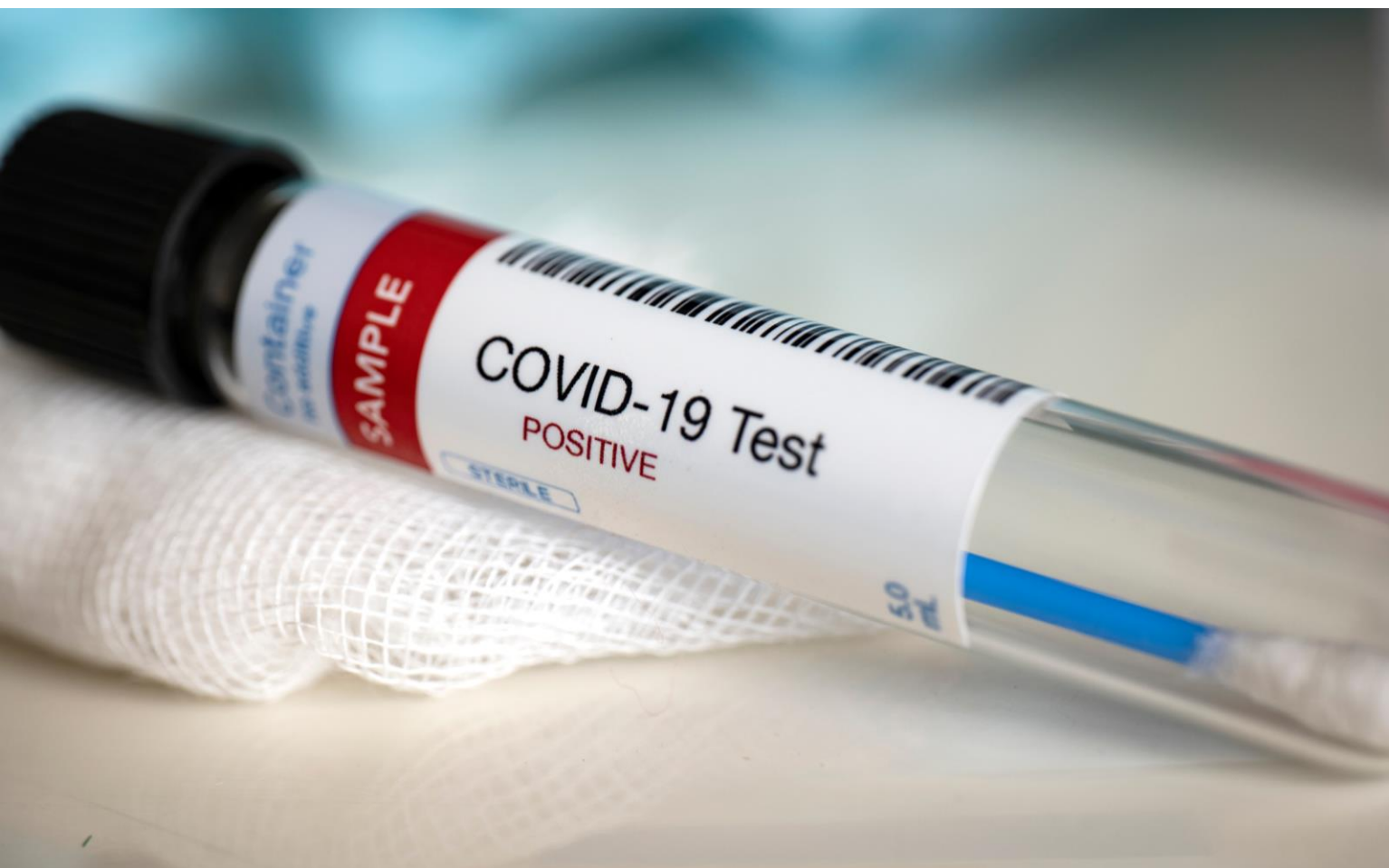
Between 2018 and February 2020, Schena and others at Arrayit are alleged to have paid kickbacks and bribes to recruiters and doctors to run an allergy screening test on every patient regardless of medical necessity, and then made numerous misrepresentations to potential investors about Arrayit's allergy test sales, financial condition, and its future prospects. Schena and others issued press releases and tweeted about potential partnerships with Fortune 500 companies, government agencies and public institutions, without disclosing that such partnerships either did not exist or were of *de minimis* value. As the COVID-19 crisis began to escalate in March 2020, Schena and others made false claims concerning Arrayit's ability to provide fast, reliable, and inexpensive COVID-19 tests in compliance with state and federal regulations, and made numerous misrepresentations to potential investors about the COVID-19 tests and Arrayit's future prospects for COVID-19 testing. Schena is currently awaiting trial.



## ***United States v. Ashley Hoobler Parris (M.D. Fla.)***

In May 2020, Ashley Hoobler Parris was arrested and charged with conspiracy to commit health care fraud, among other offenses, for her role in a scheme to defraud Medicare by causing the submission of false and fraudulent claims related to COVID-19 and other laboratory testing, including cancer genetic testing.

In September 2020, Parris was charged via information for her role in a laboratory testing scheme with one count of conspiracy to commit health care fraud, to which she ultimately pleaded guilty in November 2020. As part of her plea, Parris admitted that although Respiratory Pathogen Panel (RPP) tests did not, and could not, test for COVID-19, she nonetheless caused RPP tests to be ordered, referred, and performed for the sole purpose of increasing reimbursement rates for patient samples. Medicare reimbursed RPP tests at four times the rate of COVID-19 tests alone. Parris ultimately admitted that she defrauded Medicare of approximately \$3 million for medically unnecessary laboratory testing. Parris is awaiting sentencing.





## **SOBER HOMES INITIATIVE**

In September 2020, the Criminal Division announced the Sober Homes Initiative, the first coordinated enforcement action in DOJ history focused on fraud schemes in the substance abuse treatment industry. Led by the National Rapid Response, Los Angeles, and Miami Strike Forces, with the participation of the U.S. Attorneys' Offices for the Central District of California and the Southern District of Florida, the initiative focuses on schemes intended to exploit patients suffering from addiction. To date, the Sober Homes Initiative has resulted in thirteen individuals charged for roles in various schemes to defraud health care programs of more than \$934 million.

The alleged schemes involve substance abuse treatment facilities paying illegal kickbacks and bribes to patient recruiters in exchange for their recruitment of addicted patients whose care can be billed to private insurance for treatment. The recruiters in turn arrange for the transportation of the patients to the geographic area, and pay kickbacks to the patients in exchange for entering treatment at a specific facility. In addition, recruiters often provide opioids, benzodiazepines, and other drugs to the addicted patients before admission to the facility in order to guarantee that the patients qualify for a higher-reimbursing level of treatment. Once patients are brought to an addiction treatment facility through this corrupt system, the facility's owners and operators bill the patients' insurers for millions of dollars for excessive and unnecessary urinalysis tests and other services. Corrupt physicians enable the fraud by authorizing the fraudulent treatments as medical directors for these facilities. Then, in order for recruiters to generate additional kickbacks for themselves, the recruiters arrange for the patients to withdraw from one facility and enter another, often providing them with additional drugs in order to re-qualify them for more care—further destabilizing the patients' recovery. Testing labs also pay kickbacks to treatment facilities, physicians, and recruiters in exchange for orders of medically unnecessary urinalysis testing billed to insurance. Examples of these prosecutions include:

### ***United States v. Dr. Michael Ligotti (S.D. Fla.)***

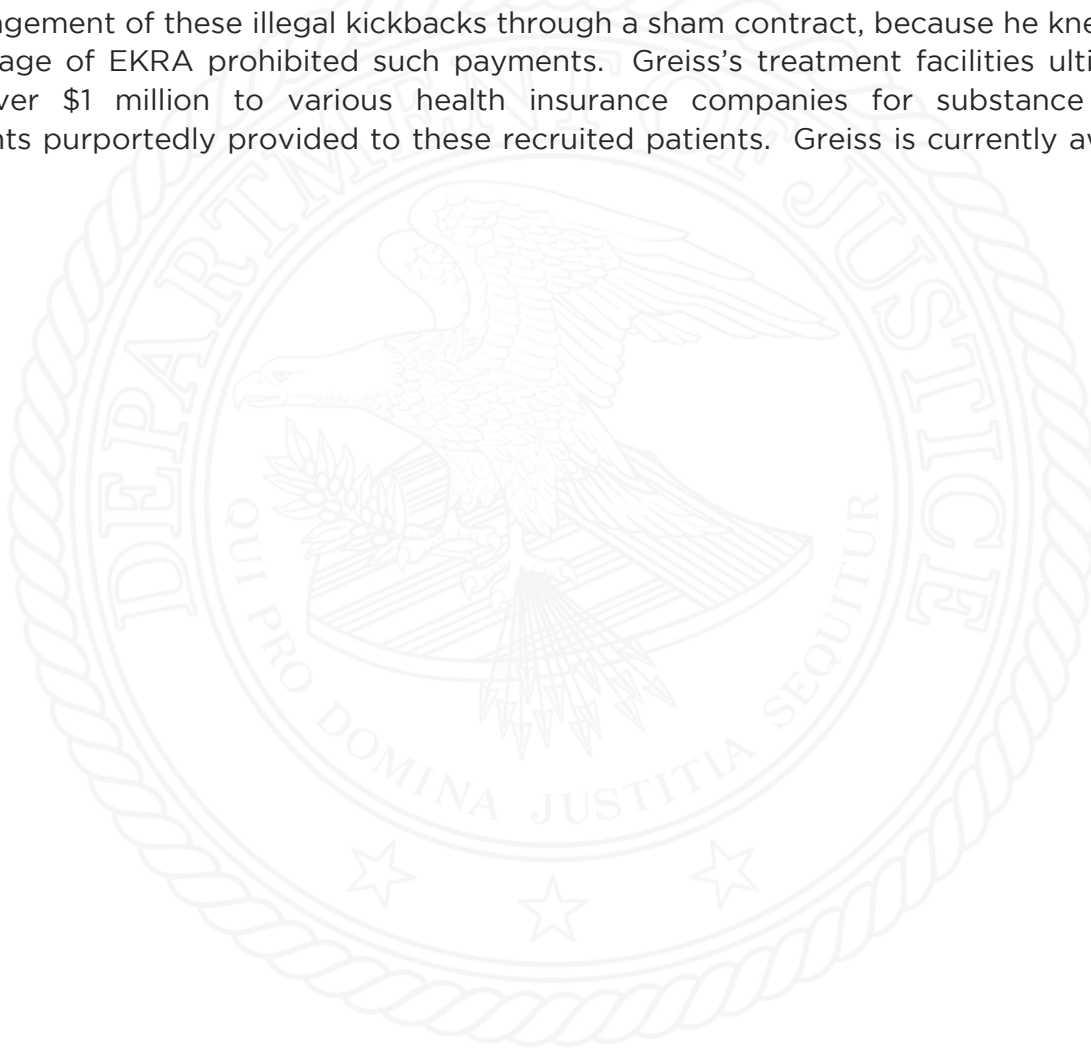
In December 2020, Dr. Michael Ligotti was charged with multiple federal offenses arising out of his role in a \$746 million scheme involving vulnerable substance abuse patients in which private insurers were billed for medically unnecessary urinalyses (UAs), blood tests, psychiatric treatment, prescription drugs, and other fraudulent addiction treatment services.

It is alleged that Dr. Ligotti agreed to become the "Medical Director" for over 50 sober homes and treatment centers in the Palm Beach, Florida area, and then authorized "Standing Orders" for hundreds of millions of dollars in medically unnecessary tests for patients from these facilities, which were billed through testing laboratories. In exchange for these Standing Orders, these facilities allegedly allowed Dr. Ligotti to treat their patients, and cause hundreds of millions of dollars in additional medically unnecessary treatments to be billed, including duplicative UAs, and for psychiatric services that were never performed. Dr. Ligotti is also alleged to have improperly prescribed controlled substances, including buprenorphine/suboxone and benzodiazepines, to his clinic patients. This scheme is alleged to have lasted almost a decade and is the largest addiction treatment fraud case ever charged as measured by the fraudulent amount billed: \$746 million, of which approximately \$127 million was paid to Dr. Ligotti. Ligotti is awaiting trial.

## ***United States v. Tarek Greiss (C.D. Cal.)***

In September 2020, Tarek Greiss, a former medical doctor and the owner of two substance abuse treatment facilities in Costa Mesa, California, was charged with conspiracy to violate the Eliminating Kickbacks in Recovery Act (EKRA)), among other offenses, for his role in illegally recruiting patients for his substance abuse treatment facilities.

According to the indictment, Greiss paid tens of thousands of dollars to a patient recruiter to induce referrals of patients to Greiss's treatment facilities. Greiss allegedly hid the arrangement of these illegal kickbacks through a sham contract, because he knew that the passage of EKRA prohibited such payments. Greiss's treatment facilities ultimately billed over \$1 million to various health insurance companies for substance abuse treatments purportedly provided to these recruited patients. Greiss is currently awaiting trial.



## Health Care Fraud Unit

### *Other Significant Trials and Guilty Pleas*

#### ***United States v. Jorge Zamora-Quezada, M.D. (S.D. Tex.)***

In January 2020, after a twenty-five day trial, a jury found Dr. Jorge Zamora-Quezada guilty of multiple federal crimes arising out of his role in a \$325 million health care fraud scheme in which he falsely diagnosed patients with chronic diseases and treated them with toxic medications on the basis of those false diagnoses.

According to the evidence presented at trial, Zamora-Quezada falsely diagnosed thousands of patients with rheumatoid arthritis—a life-long, incurable disease—that he subsequently treated with toxic, medically unnecessary medications such as chemotherapy drugs, through painful infusions, injections, and other procedures. The trial evidence demonstrated that many patients – including children – suffered physical and psychological harm as a result of the false diagnoses, chemotherapy injections, hours-long intravenous infusions, and other excessive, repetitive, and profit-driven medical procedures. The evidence furthered showed that Zamora-Quezada obstructed a federal grand jury investigation by falsifying patients’ medical records, including by adding fictitious x-ray reports, to support the medically unnecessary procedures that he billed to Medicare and other health care benefit programs. Evidence demonstrated that Zamora-Quezada submitted more than \$325 million in false and fraudulent claims over the course of eighteen years regarding these medically unnecessary and harmful procedures. Zamora-Quezada is awaiting sentencing.

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#### ***United States v. Spilios Pappas, et al. (E.D. Mich.)***

In February 2020, after a four-week trial, a jury found Drs. Spilios Pappas, Joseph Betro, Tariq Omar, and Mohammed Zahoor guilty of multiple federal crimes arising out of their roles in a \$150 million scheme to defraud Medicare in connection with the unlawful distribution of opioids and the prescription of medically unnecessary facet injections.

According to evidence presented at trial, from 2008 to 2016, Pappas, Betro, Omar, and Zahoor worked at numerous medical clinics in Michigan and Ohio and, irrespective of any medical necessity, administered a medical protocol of facet joint injections and urine drug





screens to patients, and further ordered home health and other medically unnecessary services that the defendants ultimately billed to Medicare. Some of these patients were addicted to opioids, and, even though they told the defendants that they did not want, need, or benefit from the injections, the defendants denied these patients opioid prescriptions until they agreed to submit to the expensive and unnecessary injections. The defendants were responsible for prescribing more than 6.6 million doses of oxycodone to patients, some of which were resold on the street, in exchange for the patients submitting to these medically unnecessary services. Evidence presented at trial demonstrated that, in some cases, patients experienced more pain from the injections than from their original underlying conditions, and that some patients had harmful reactions to medically unnecessary spinal injections, including the development of open wounds on their backs. In addition to the unnecessary injections, the evidence showed that the defendants signed a standing order for urine tests for each patient for every visit to be sent to a specific laboratory in exchange for healthcare kickbacks.

Pappas and Zahoor are scheduled to be sentenced on March 4 and 29, 2021, respectively, and Omar and Betro are scheduled to be sentenced on May 20, 2021. Seventeen other defendants, including eight other doctors, previously pleaded guilty in connection with the investigation.

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### ***United States v. Wade Ashley Walters (S.D. Miss.)***

In July 2020, Wade Ashley Walters pleaded guilty for his role in a \$287 million dollar scheme to defraud TRICARE, the health care benefit program serving the U.S. military, veterans, and their respective family members, as well as private health care benefit programs.

According to documents filed in the case, Walters and his co-conspirators fraudulently formulated, prescribed, dispensed, and shipped medically unnecessary compounded medications to thousands of Americans and further submitted false and fraudulent claims to numerous health insurance companies for the same. Walters' scheme to dispense these compounded medications in the form of topical creams and vitamins, some of which contained controlled substances, circumvented federal regulations and approvals regarding use and efficacy, and further exploited the manner in which health insurance companies reimbursed the dispensation of compounded medications. To further facilitate the scheme, Walters received kickbacks and bribes from pharmacies, and paid kickbacks and bribes to physicians, other medical providers, recruiters, and beneficiaries to prescribe, refer, and receive prescriptions for medically unnecessary compounded medications.

During his plea, Walters admitted to defrauding insurance companies of more than \$287 million, and personally profiting by more than \$40 million. On January 15, 2021, Walters was sentenced to 18 years' imprisonment and to pay more than \$287 million in restitution and to forfeit more than \$56 million in proceeds. To date, thirteen others, including physicians, nurse practitioners, pharmacists, pharmacy owners, and marketers, have been convicted for their roles in Walters' fraud scheme.

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### ***United States v. Alexander Khavash (E.D.N.Y.)***

In August 2020, Alexander Khavash, a Brooklyn-area chiropractor, pleaded guilty for his role in a scheme to defraud Medicare of more than \$116 million dollars.

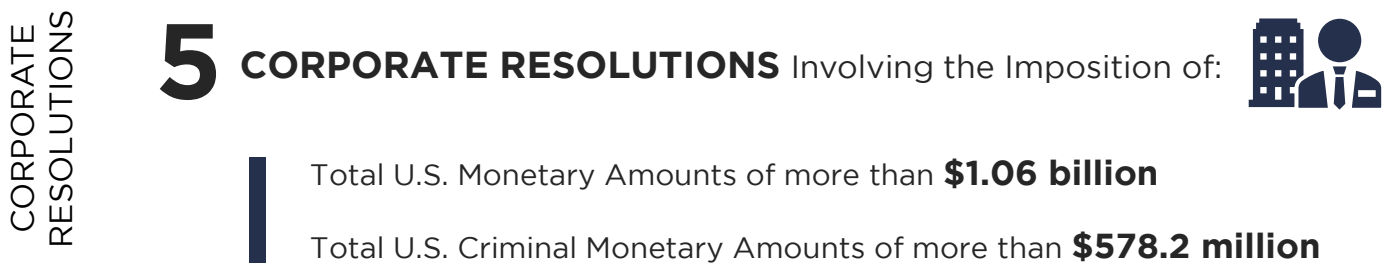
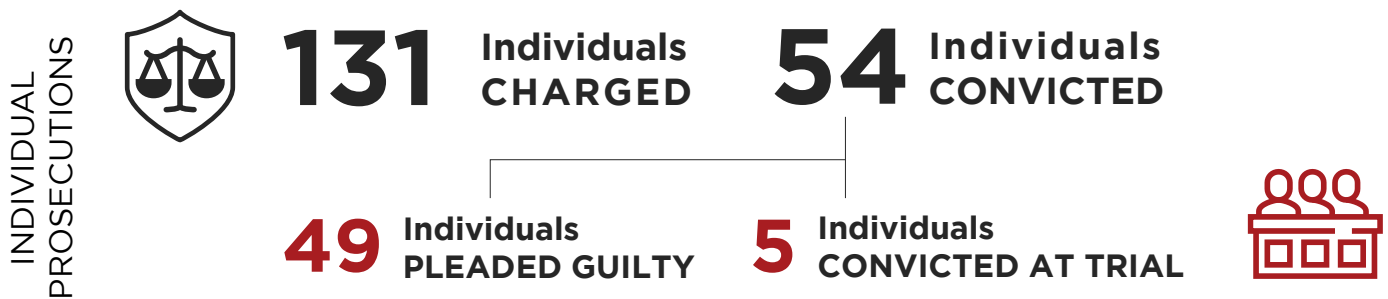
During his plea, Khavash admitted that between 2009 and 2016 he and his co-conspirators engaged in a scheme wherein they paid illegal kickbacks to purported clinic managers for the referral of patients to their multiple medical practices and subsequently submitted false and fraudulent claims to Medicare for medical services purportedly provided to patients procured through these kickbacks, including physical and occupational therapy as well as chiropractic and other services. The patients of these medical practices, for their part, handed over their personal medical information to be used in this illicit billing scheme and subjected themselves to purported treatment in return for kickbacks. For his part, Khavash caused the submission of more than \$9 million in claims to Medicare for chiropractic services and helped to launder funds paid by Medicare on these claims by engaging in a series of financial transactions designed, at least in part, to conceal the source and ownership of the scheme's proceeds. Khavash further falsely reported funds paid to co-conspirator clinic managers on the tax returns he filed for himself and his companies with the IRS. Khavash is scheduled to be sentenced on April 21, 2021.



The Market Integrity & Major Frauds (MIMF) Unit's 42 prosecutors investigate and prosecute a wide variety of complex financial fraud schemes across five distinct concentrations: (1) commodities fraud; (2) consumer, regulatory, and investment fraud; (3) fraud involving financial institutions; (4) government procurement fraud and bribery; and (5) securities fraud. Working in parallel with its regulatory partners, as well as domestic and international law enforcement agencies, the MIMF Unit investigates and prosecutes a broad array of fraud schemes, including sophisticated market manipulation schemes and other large-scale fraud schemes in the financial services industry, in addition to telemarketing fraud and advance-fee schemes, fraud in connection with the automobile industry, and most recently, fraud in connection with the Paycheck Protection Program and securities fraud schemes which exploit the COVID-19 pandemic.

<https://www.justice.gov/criminal-fraud/market-integrity-and-major-frauds-unit>

## MIMF Unit Statistics 2020



# Market Integrity and Major Frauds Unit

## Significant Initiatives

### COVID-19 RELIEF FRAUD

The MIMF Unit has spearheaded the Department's effort to combat fraud in connection with the **Paycheck Protection Program** (PPP), which was created by Congress in the Coronavirus Aid, Relief, and Economic Security (CARES) Act in late March 2020 in order to assist American businesses that were suffering from the economic impact of the COVID-19 pandemic. The initiative has leveraged the Unit's expertise in data-driven investigations, expertise that also has been deployed in other areas of the Unit's work.

In 2020, Fraud Section prosecutors charged 97 individuals in PPP-related cases, who are alleged to have attempted to cause losses exceeding \$260 million, and from whom more than \$64 million in illegal proceeds have been seized or frozen. These cases have been brought in over 20 different federal districts, highlighting the Fraud Section's partnerships with law enforcement agencies and U.S. Attorneys' Offices around the country. These cases have also ranged from single-defendant frauds to multi-defendant fraud rings involving tens of millions of dollars in fraudulent loans.

### PPP Enforcement | 2020 Fraud Section Totals<sup>8</sup>

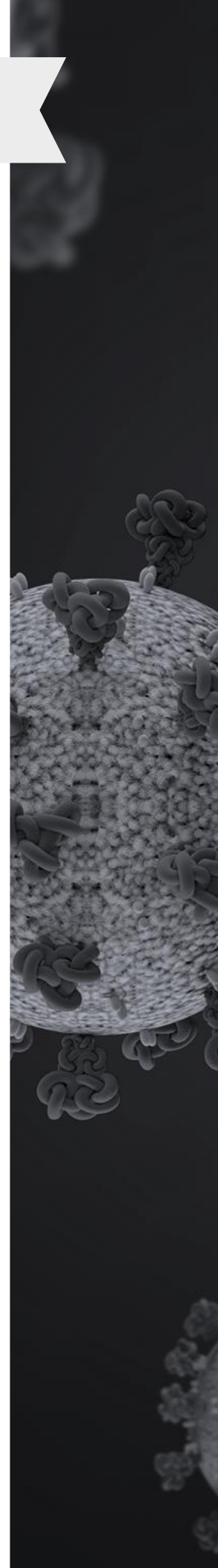
**67** | CASES      **97** | DEFENDANTS CHARGED

**MORE THAN \$260 MILLION** | of ATTEMPTED LOSS

**MORE THAN \$130 MILLION** | of ACTUAL LOSS

**MORE THAN \$64 MILLION** | of SEIZED / FROZEN FUNDS

<sup>8</sup> This chart shows totals through December 31, 2020. As of the date of this publication, the Fraud Section has charged 109 defendants in 74 cases involving attempted losses of more than \$268 million and actual losses of more than \$138 million, and has seized/frozen more than \$65 million.





## **COMMODITIES FRAUD**

MIMF Unit prosecutors focus on identifying and prosecuting complex fraud, price manipulation, and insider trading cases involving core U.S. commodities markets and closely related securities instruments, using data analysis together with traditional law enforcement techniques. MIMF Unit prosecutors have developed unique algorithms to comb market-wide trade data for patterns indicative of manipulative trading practices. As of the end of 2020, the Fraud Section's efforts in this area have resulted in charges against 20 commodities traders, programmers, and salespeople at global financial institutions and proprietary trading firms. Also as of the end of 2020, eleven traders have been convicted, including former Deutsche Bank traders James Vorley and Cedric Chanu, as noted below; six others await trial in 2021. In addition, in 2019 and 2020, the Fraud Section entered into five corporate resolutions relating to violations of the commodities laws—with JPMorgan Chase, The Bank of Nova Scotia, Merrill Lynch Commodities, Tower Research Capital, and Propex Derivatives—with a combined total monetary amount of over \$1 billion.

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## **GOVERNMENT PROCUREMENT FRAUD AND BRIBERY**

The MIMF Unit's Procurement Fraud and Bribery program is dedicated to combating corruption and contracting fraud in federal government programs. Working with a wide range of law enforcement agencies and in parallel with civil and regulatory partners, the program prosecutes individual and corporate defendants engaged in bribery of U.S. officials and schemes to defraud the U.S. Government. In 2020, notable cases included the prosecutions of SK Engineering and Construction Co. and Xavier Monroy. The Procurement Fraud and Bribery program also focuses on criminal accounting fraud schemes involving major defense contractors.

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## **CONSUMER AND INVESTMENT FRAUD**

MIMF Unit prosecutors handle a wide range of complex investment and consumer frauds of national significance, including Ponzi and pyramid schemes, telemarketing and internet fraud, emissions and safety-related fraud committed by corporations and corporate employees and officers, and binary options and cryptocurrency scams. The Unit devotes special attention to preventing and prosecuting crimes that target senior citizens and other vulnerable victims.

# Market Integrity and Major Frauds Unit

## *Significant Corporate Resolutions*

### ***JPMorgan Chase & Co. (D. Conn.)***

On September 29, 2020, JPMorgan Chase & Co. (JPMorgan), a New York-based global banking and financial services firm, entered into a Deferred Prosecution Agreement with the Fraud Section and the U.S. Attorney's Office for the District of Connecticut to resolve criminal charges related to two distinct schemes to defraud: the first involving tens of thousands of episodes of unlawful trading in the markets for precious metals futures contracts, and the second involving thousands of episodes of unlawful trading in the markets for U.S. Treasury futures contracts and in the secondary (cash) market for U.S. Treasury notes and bonds. Under the terms of the agreement, JPMorgan paid over \$920 million in a criminal monetary penalty, criminal disgorgement, and victim compensation. JPMorgan also agreed to cooperate in any ongoing or future investigations by the Fraud Section and to report conduct that may constitute a violation of the federal securities and commodities fraud laws.

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### ***The Bank of Nova Scotia (D.N.J.)***

On August 19, 2020, the Bank of Nova Scotia (Scotiabank), a Toronto, Canada-based global banking and financial services firm, entered into a Deferred Prosecution Agreement with the Fraud Section and the U.S. Attorney's Office for the District of New Jersey to resolve criminal charges related to a price manipulation scheme involving thousands of episodes of unlawful trading activity by four traders in the precious metals futures contracts markets. In addition, and as set forth in the agreement, Scotiabank's compliance function failed to detect or prevent the four traders' unlawful trading practices, and three Scotiabank compliance officers possessed information regarding unlawful trading by one of the traders but failed to prevent further unlawful conduct by this same trader. Under the terms of the DPA, Scotiabank paid over \$60.4 million in a criminal monetary penalty, criminal disgorgement, and victim compensation. Scotiabank also agreed to the imposition of an independent compliance monitor and to cooperate with the Fraud Section's investigation.

## ***SK Engineering & Construction Co. Ltd. (W.D. Tenn.)***

On June 10, 2020, SK Engineering & Construction Co. Ltd. (SK), one of the largest engineering firms in the Republic of Korea, pleaded guilty to one count of wire fraud in connection with a fraudulent scheme to obtain U.S. Army contracts through payments to a U.S. Department of Defense contracting official and the submission of false claims to the U.S. government. As part of the plea agreement, SK agreed to pay over \$60 million in criminal fines and over \$2.6 million in restitution to the U.S. Army, and to serve three years of probation, during which time SK will not to pursue U.S. federal government contracts. As part of SK's plea agreement, SK also agreed to, among other things, cooperate fully with the United States in all matters relating to the conduct covered by the plea agreement and other conduct under investigation by the United States, to report violations of U.S. federal law, and to continue to implement a compliance and ethics program designed to effectively detect and deter violations of U.S. federal law throughout its operations.

According to plea documents, SK obtained a large U.S. Army construction contract at Camp Humphreys, South Korea, in 2008 worth hundreds of millions of dollars. SK paid millions of dollars to a fake Korean construction company named S&Teoul, which subsequently paid that money to a contracting official with the U.S. Army Corps of Engineers. In order to cover approximately \$2.6 million in payments to S&Teoul, and ultimately to the contracting official, SK submitted false documents to the U.S. Army. SK also admitted that its employees obstructed and attempted to obstruct federal criminal investigations of the fraud and bribery scheme. SK admitted that in April 2015, its employees burned large numbers of documents related to U.S. Army contracts, in order to hamper U.S. and Korean investigators. Further, SK admitted that in the fall of 2017, its employees obstructed a federal criminal proceeding by attempting to persuade an individual not to cooperate with U.S. authorities.

In November 2018, two SK employees, Hyeong-won Lee and Dong-Guel Lee, were indicted on charges of conspiracy, major fraud against the United States, wire fraud, money-laundering conspiracy, and obstruction of justice for their alleged roles in the scheme. Both defendants are fugitives believed to reside in the Republic of Korea.

# Market Integrity and Major Frauds Unit

## *Significant Trials, Charges and Guilty Pleas*

### ***United States v. James Vorley and Cedric Chanu (N.D. Ill.)***

In September 2020, after a five-day trial, two former employees of Deutsche Bank AG, James Vorley and Cedric Chanu, were found guilty by a jury of multiple federal crimes in connection with their fraudulent and manipulative trading practices involving publicly-traded precious metals futures contracts. According to evidence presented at trial, Vorley and Chanu defrauded other market participants by placing fraudulent orders that they did not intend to execute in order to create the appearance of false supply and demand and to induce others to trade at prices, quantities, and times that they otherwise would not have traded, a practice commonly referred to as “spoofing.” Vorley and Chanu are currently awaiting sentencing.

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### ***United States v. Xavier Monroy (D.D.C.)***

In May 2020, Xavier Monroy, the former Director of Operations of the U.S. Navy’s Military Sealift Command Office in Busan, Republic of Korea (ROK), was charged with conspiracy to commit bribery, bribery, making false statements, and obstruction of justice based on his alleged participation in a bribery conspiracy.

It is alleged that Monroy conspired with Sung Yol “David” Kim, the owner of DK Marine, a ROK-based company that provided ship husbanding services to the U.S. Navy, and James Russell Driver III, a former civilian U.S. Navy cargo ship captain, in connection with the provision of husbanding services for Driver’s ship during a December 2013 port visit in Chinhae, ROK. In order to steer the ship’s husbanding services business to DK Marine, Driver sought, and Kim conveyed, Monroy’s directions on how to circumvent appropriate Navy procedures. In exchange for the steering of business and the provision of such information, Kim paid bribes to Monroy in the form of cash, personal travel and entertainment expenses, and meals and alcoholic beverages. Monroy is currently awaiting further proceedings in the district court.





## ***United States v. Erica Montgomery, et al. (M.D. Ga.)***

In October 2020, six former administrators from the Columbus, Georgia campus of the Apex School of Technology were indicted on multiple federal charges arising out of their alleged participation in a scheme to defraud student loan programs of more than \$12,000,000. It is alleged that the defendants engaged in a scheme to operate an off-site learning center in Columbus, Georgia on behalf of Apex, a now-defunct school offering programs in theology and other subjects. As part of the scheme, the defendants are alleged to have recruited individuals with offers of “free money” to act as fake “students” and fraudulently apply for federal financial aid. These “students” were told that they did not have to do any work or attend classes, but they would have to split their financial aid with the defendants, who used federal financial aid funds to personally enrich themselves.

The indictment further alleges that the defendants submitted plagiarized work for the “students,” took their tests, and logged on to the school’s website as if they were the “students” to deceive the Department of Education into believing they were real students making adequate academic progress. The defendants falsified admission packets and applied for federal financial aid in the names of the students, falsely certifying that they were the students and that the financial aid would be used for educational purposes. Instead, the financial aid was used to enrich the recruited “students” and the defendants. Montgomery and her co-defendants are currently awaiting trial.

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## ***United States v. Sean Finn (D. Nev.)***

In February 2020, after a five-day trial, Sean Finn was found guilty by a jury of multiple federal crimes in connection with his participation as a broker in a high-yield investment fraud. According to evidence presented at trial, Finn conspired with others in the United States and Switzerland to promote investments and loan instruments that he knew to be fictitious, telling victims that for an up-front payment ranging from \$100,000 to \$1 million, a Swiss company known as Malom Group AG (Malom), whose name stood for “Make A Lot Of Money,” would provide access to lucrative investment opportunities and substantial cash loans. The evidence showed that to effectuate this scheme, Finn and his co-conspirators provided victims with fabricated bank documents purporting to show that Malom held hundreds of millions of dollars in overseas bank accounts, as well as documents falsely stating that Malom had previously closed similar deals. When victims wired their money into an escrow account controlled by the co-conspirators, the money was released and disbursed to, among others, Finn for his own personal use. The evidence further showed that shortly before he was indicted in 2013, Finn fled to Canada, where he was arrested in 2014 and ultimately extradited back to the United States in 2018. Losses to Finn’s victims totaled approximately \$4 million.

In September 2020, Finn was sentenced to 87 months’ imprisonment and ordered to pay \$6,075,000 in restitution and to forfeit \$830,000.

## ***United States v. Phillip Augustin, et al. (S.D. Fla. & N.D. Ohio)***

In one notable example of the MIMF Unit's work to combat PPP fraud, fourteen individuals have been charged for their alleged involvement in a scheme to submit numerous fraudulent PPP loan applications in the largest PPP fraud scheme charged anywhere in the United States in 2020. The charges allege that the scheme involved the preparation of at least 90 fraudulent applications for a total of more than \$24 million, most of which were submitted before the scheme was disrupted by law enforcement. Many of these loan applications were approved and funded by financial institutions, which paid out at least \$17.4 million. Members of the conspiracy allegedly used PPP proceeds to purchase luxury goods including a Ferrari and jewelry, and other personal expenses. The Fraud Section is prosecuting this case in partnership with the U.S. Attorneys' Offices for the Northern District of Ohio and the Southern District of Florida. Such partnerships are a hallmark of the Fraud Section's nationwide leadership role in combating PPP fraud, which has not only involved deploying its data analytics capabilities to quickly identify and disrupt PPP fraud schemes, but to coordinate and in many cases work alongside its U.S. Attorney's Office partners to ensure the maximum reach of accountability for a nationwide problem. Augustin and his co-defendants are currently awaiting trial.

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## ***United States v. Keith Berman (D.D.C.)***

In December 2020, Keith Berman, the chief executive officer of California-based medical-device company Decision Diagnostics, Inc. (DECN), was indicted in connection with an alleged scheme to defraud investors by making false and misleading statements about the company's purported development of a new COVID-19 test. The indictment alleges that from March through December 2020, Berman engaged in a scheme to defraud investors by falsely claiming that DECEN had developed a 15-second test to detect COVID-19 in a finger-prick sample of blood. It is alleged that Berman knew his test was merely an idea and not a validated method of accurately detecting COVID-19, much less an actual product ready for manufacture and sale. It is further alleged that Berman falsely told investors that the Food and Drug Administration (FDA) was on the verge of approving DECEN's request for emergency-use authorization of its new COVID-19 test when, in fact, Berman knew that the company lacked the financial resources and insurance necessary to conduct the clinical testing required by the FDA to complete the application process, but concealed these material facts from and misled investors. Between early March and April 23, 2020, DECEN's stock price rose by over 1,500% in connection with Berman's misrepresentations to the investing public. Berman is currently awaiting trial.

## ***United States v. Bradley Reifler (M.D.N.C.)***

In December 2020, Bradley Reifler, a former investment manager, was charged with multiple federal offenses arising out of his alleged participation in a scheme to defraud a North Carolina-based life insurance company out of over \$34 million. It is alleged that Reifler, the chief executive officer and founder of Forefront Capital Holdings, engaged in a scheme to enrich himself and his business entities by defrauding a life-insurance company out of assets held in trust for the potential payment of life insurance claims. It is further alleged that as a result of Reifler's scheme, the life-insurance company was able to recoup only a portion of the approximately \$34 million that it entrusted to him, was unable to pay out on claims by its beneficiaries, and was placed in rehabilitation. Reifler is currently awaiting trial.

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## ***United States v. Cengiz Jan Comu and John Mervyn Price (N.D. Tex.)***

In March and June 2020, respectively, Cengiz Jan Comu and John Mervyn Price, two former executives of EarthWater Limited (EarthWater), pleaded guilty to fraud and money laundering charges for their roles in a multi-million-dollar investment fraud scheme that targeted elderly victims. As alleged in the underlying indictment, Comu and Price conspired to sell stock in EarthWater, a United Kingdom company headquartered in Dallas, Texas, which manufactured and sold bottled water that it claimed was infused with special minerals mined from an 80-million-year-old deposit hidden in a secret location. As part of his guilty plea, Price, who had been EarthWater's chief operating officer, admitted that beginning in or about 2013 and continuing through in or about 2016, he and Comu, who had been EarthWater's chief executive officer, managed and supervised a scheme to defraud individuals by convincing them to invest in EarthWater under the false pretense that their investment would increase substantially in value in the immediate future. Price further admitted that, in truth and in fact, he and his co-conspirators knew that the proceeds of EarthWater stock sales were not invested in EarthWater as described to investors but paid out to Price and his co-conspirators to be used for their personal benefit.

As part of his guilty plea, Comu similarly admitted that he conspired to obtain EarthWater investor funds through a scheme to defraud in which he made materially false and fraudulent misrepresentations to investors that the majority of their funds would be used to support EarthWater's operations, when, in fact, the funds were used to pay undisclosed, excessive commissions to those selling EarthWater stock on Comu's behalf. Comu further admitted that he knowingly engaged in monetary transactions in amounts greater than \$10,000 involving investor funds obtained as part of the fraudulent scheme.

Both defendants await sentencing in 2021.

# Strategy, Policy & Training Unit

The SPT Unit partners with the Fraud Section's management and litigating units to develop and implement strategic enforcement initiatives, policies and training in order to strengthen Fraud Section prosecutors' ability to more effectively and efficiently prosecute cases against individuals and companies, and deter corporate misconduct and encourage and incentivize compliant behavior. In furtherance of this mandate, the SPT Unit: (1) assists the litigating units with their corporate criminal enforcement practice; (2) helps draft and revise the Fraud Section's, Criminal Division's, and Department's corporate criminal enforcement policies; (3) responds to and proactively develops legislative and regulatory proposals; (4) participates in global intergovernmental bodies; (5) provides crime victim assistance to the litigating units; (6) handles appellate and FOIA matters for the Section; and (7) conducts training for the Fraud Section prosecutors and other enforcement authorities.

 <http://www.justice.gov/criminal-fraud/strategy-policy-and-training-unit>

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## *Corporate Criminal Enforcement Practice*

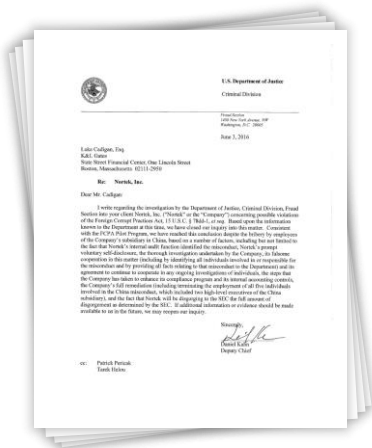
In 2020, the SPT Unit assisted the Fraud Section's litigating units with all aspects of their corporate criminal enforcement practice, including by working with and advising prosecution teams on the structural, monetary, and compliance components of corporate resolutions; evaluating corporate compliance programs and determining whether an independent compliance monitor should be imposed as part of a corporate resolution; and also with post-resolution matters, including the selection and oversight of monitors and compliance and reporting obligations. In 2020, the Fraud Section continued to oversee the work of thirteen monitors, selected a monitor for Telefonaktiebolaget LM Ericsson (Ericsson), and began the selection process for a monitor for the Bank of Nova Scotia, pursuant to those companies' Deferred Prosecution Agreements with the Fraud Section.



# Strategy, Policy & Training Unit

## Corporate Criminal Enforcement Policies

Over the past several years, Fraud Section and SPT Unit representatives have collaborated with Criminal Division leadership to develop, revise, and implement corporate enforcement policies aimed at providing greater transparency to the business community about the Department's approach to corporate criminal enforcement; certain of these policies are described in more detail below. The goal of these policies is to provide incentives and clear guidance to help responsible companies invest in compliance and understand that if they respond appropriately to misconduct, including by self-disclosing, remediating and cooperating, they will be treated fairly by the Department.



### FCPA Corporate Enforcement Policy

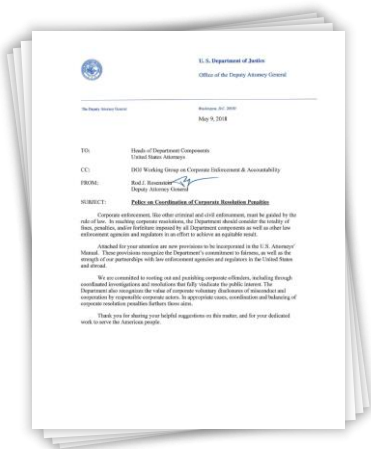
In April 2016, the Fraud Section began a “Pilot Program” in the FCPA Unit that provided greater transparency to companies regarding the meaning and benefits of voluntarily self-disclosing misconduct, cooperation, and remediation in FCPA cases. In addition to providing increased transparency and predictability regarding the Fraud Section’s approach to corporate criminal enforcement, the Pilot Program’s goals were to incentivize and reward good corporate behavior and increase the effectiveness of individual prosecutions.

In November 2017, the FCPA Corporate Enforcement Policy (CEP) was formally adopted and incorporated into the DOJ’s Justice Manual, and it was slightly revised in November 2019. (JM 9-47.120). Criminal Division leadership announced in 2019 that despite its FCPA-specific title, the principles of the CEP would apply to all corporate cases in the Criminal Division.

👉 <https://www.justice.gov/jm/jm-9-47000-foreign-corrupt-practices-act-1977#9-47.120>

Since the issuance of what is now the CEP, the Fraud Section has observed an increase in the number of voluntary self-disclosures, and better cooperation and remediation by companies in connection with corporate criminal investigations. To date, the FCPA Unit has announced fourteen declinations pursuant to the Pilot Program and CEP, all of which are public and can be found on the FCPA Unit’s website.

👉 <https://www.justice.gov/criminal-fraud/pilot-program/declinations>

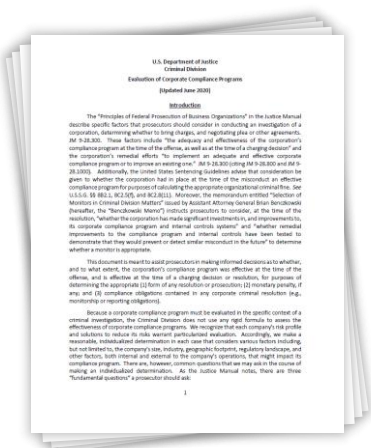


## “Anti-Piling On” Policy

In May 2018, the Deputy Attorney General announced a new Department policy regarding coordination of corporate resolution penalties in parallel and/or joint investigations and proceedings arising from the same misconduct. This policy, which has come to be known as the “Anti-Piling On” Policy, was formally adopted and incorporated into the DOJ’s Justice Manual (JM 1-12.100), and was developed with the input and assistance of the Fraud Section. It aims to avoid imposing duplicative penalties in corporate resolutions involving multiple domestic and/or foreign enforcement authorities, and was born out of the FCPA Unit’s

practice of coordinating corporate resolutions with the SEC and foreign authorities, including by crediting one another’s resolutions in order to avoid having the company pay multiple and duplicative fines, penalties, forfeiture, and disgorgement for the same misconduct. The policy makes clear that, where appropriate, the Department will coordinate with its domestic and foreign counterparts when entering into a resolution to avoid “piling on” penalties, forfeiture, and disgorgement. Relevant factors in making such a determination include: (1) the egregiousness of the misconduct; (2) the risk of unwarranted delay in achieving a final resolution; and (3) the adequacy and timeliness of a company’s disclosures and cooperation with the Department.

➡ <https://www.justice.gov/opa/speech/file/1061186/download>

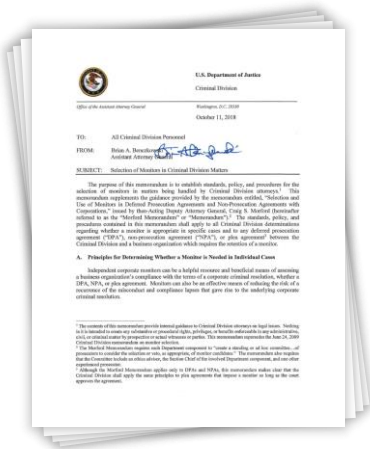


## Evaluation of Corporate Compliance Programs Guidance (ECCP)

The Fraud Section first published the ECCP in 2017, and revised and reissued it with Criminal Division leadership in 2019 and again in 2020. It consists of a series of compliance topics and questions that prosecutors may find relevant in evaluating corporate compliance programs, and thus establishes more predictable enforcement and compliance guideposts for companies. The ECCP sets forth a framework of three topic questions for evaluating corporate compliance programs: (1) “Is

the corporation’s compliance program well designed?” (2) “Is the program being applied earnestly and in good faith? In other words, is the program adequately resourced and empowered to function effectively?”, and (3) “Does the corporation’s compliance program work in practice?”

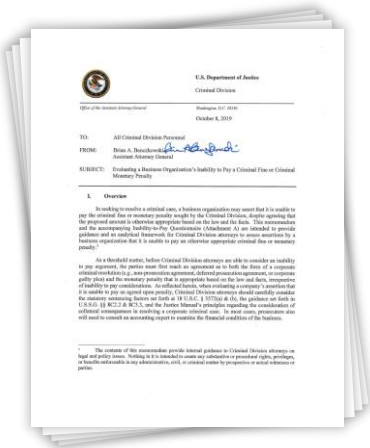
➡ <https://www.justice.gov/criminal-fraud/page/file/937501/download>



# Memorandum on the Selection of Monitors in Criminal Division Matters

In October 2018, the Assistant Attorney General for the Criminal Division issued a Memorandum on the Selection of Monitors in Criminal Division Matters. The Fraud Section played an integral role in the design, drafting, and publication of this memorandum, which sets forth the Criminal Division's monitor selection process and the principles for determining whether prosecutors should seek to impose an independent compliance monitor in connection with a corporate resolution. Such principles include consideration of: (1) the type of misconduct (e.g., whether there was exploitation of an inadequate compliance program or internal controls); (2) the pervasiveness of the misconduct (e.g., whether it involved senior management); (3) whether a company has made improvements to its corporate compliance program and internal control systems; and (4) whether remedial measures have been tested for the ability to prevent or detect similar misconduct.

<https://www.justice.gov/opa/speech/file/1100531/download>



# Memorandum on Evaluating a Business Organization's Inability to Pay a Criminal Fine or Criminal Monetary Penalty

In October 2019, the Assistant Attorney General for the Criminal Division issued a Memorandum on Evaluating a Business Organization's Inability to Pay a Criminal Fine or Criminal Monetary Penalty. This memorandum, which set forth what has come to be referred to as "Inability to Pay" guidance, was drafted and published based on significant input by the Fraud Section, and with its accompanying questionnaire provides an analytical

framework for evaluating assertions by a business organization that it cannot pay a criminal fine or monetary penalty that it would otherwise concede is appropriate based on the law and the facts. As the policy makes clear, where legitimate questions exist regarding a company's inability to pay, the government will consider a range of factors, and the memorandum further clarifies that where a company is in fact unable to pay the appropriate fine or penalty, Criminal Division attorneys should recommend an adjustment to that amount, but only to the extent necessary to avoid threatening the organization's viability or impairing its ability to make restitution to victims.

<https://www.justice.gov/opa/speech/file/1207576/download>

# Strategy, Policy & Training Unit

## *Participation in Global Anti-Corruption Bodies*

The United States is a party to a number of international anti-corruption conventions, including the OECD Anti-Bribery Convention, the United Nations Convention against Corruption, and the Inter-American Convention Against Corruption. Under these conventions, member countries undertake commitments to adopt a range of preventive and criminal law enforcement measures to combat corruption. The conventions incorporate review processes that permit other parties to monitor the United States' anti-corruption laws and enforcement to ensure that such enforcement and legal frameworks are consistent with the United States' treaty obligations.

The Fraud Section, and the FCPA Unit and SPT Unit in particular, play an integral role in working with the State Department and other U.S. agencies to ensure that the United States is meeting its treaty obligations. Aside from participating in meetings related to foreign bribery and corruption hosted by the OECD, the United Nations, and other intergovernmental bodies and liaising with these bodies throughout the year on anti-corruption matters, the Fraud Section has actively participated in the reviews of other countries pursuant to anti-bribery conventions. The Fraud Section also has taken a leading role in the OECD Working Group on Bribery's Law Enforcement Officials Group meetings, where prosecutors discuss best practices with law enforcement authorities from around the world.

As part of the Fraud Section's commitment to its international partnerships, Fraud Section representatives made presentations in 2020 to global anti-corruption bodies including the United Nations Convention against Corruption Working Group, the Asia Pacific Economic Cooperation (APEC) Anticorruption and Transparency Working Group's Network of Anticorruption Authorities and Law Enforcement Agencies (ACT-NET); and the 3rd Annual OECD Working Group on Bribery Latin American Law Enforcement Network meeting.

### **OECD | Working Group on Bribery Phase 4 Report on the United States**

As noted in the introduction to the FCPA Unit's work in 2020, in November 2020, the OECD Working Group on Bribery issued its Phase 4 Report on the United States, which focuses primarily on the United States' enforcement of the FCPA. The Phase 4 Report was issued following a year-long review that included lengthy written submissions, compilation of enforcement data, and a series of interviews with government, private sector, academic, and civil society experts. The Working Group applauded the United States for its sustained and outstanding commitment to enforcing its foreign bribery laws



and highlighted the number and quality of individual and corporate foreign bribery related cases brought since 2010 (when the Working Group on Bribery released the United States' Phase 3 Report).

More specifically, the Report states that the United States has maintained “its prominent role in the fight against transnational corruption” through a “combination of enhanced expertise and resources to investigate and prosecute foreign bribery, the enforcement of a broad range of offences in foreign bribery cases, the effective use of non-trial resolution mechanisms, and the development of published policies to incentivize companies' cooperation with law enforcement agencies.” The Report indicates that the updated FCPA Resource Guide “continue[s] to provide clear and comprehensive public guidance on the fast-evolving FCPA landscape. With this sustained and holistic enforcement policy, the United States has become a driving force in concluding multijurisdictional resolutions, which enable the countries concerned to conclude foreign bribery matters comprehensively with effective, proportionate, and dissuasive sanctions, while also providing legal certainty to the companies involved.”

The Report goes on to state that the United States' “concerted efforts to build working relationships with engaged foreign partners among the Parties to the Convention and in other jurisdictions as well as to help build capacity through joint conferences and peer-to-peer training have enabled the law enforcement authorities to better investigate and sanction prominent foreign bribery cases.” In addition, “increased guidance and transparency of enforcement policies have fostered voluntary disclosure and cooperation with foreign bribery investigations.” The Report also praises the Fraud Section's efforts to build in-house compliance expertise and publish guidance to prosecutors on effective corporate compliance programs.

# Strategy, Policy & Training Unit

## *Compliance and Monitorship Matters*

Over the past several years, the SPT Unit has focused on enhancing the Fraud Section's expertise in compliance and monitorship matters. Aside from assisting in drafting the compliance and monitorship policies mentioned above, the SPT Unit has dedicated FCPA and MIMF compliance and monitorship experts who work closely together with Fraud Section prosecutors in evaluating companies' compliance programs and determining whether an independent compliance monitor should be imposed as part of a corporate resolution.

The SPT Unit advises prosecution teams on post-resolution matters, including the selection and oversight of monitors and compliance and reporting obligations. The SPT Unit also provides training on compliance and monitorship matters to prosecutors within and outside the Fraud Section, and educates the business community on these topics through speaking engagements and policy guidance.

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## *Appellate Litigation*

The SPT Unit is also responsible for managing the Fraud Section's appellate docket, defending the convictions secured by the Section's litigating units on appeal. In 2020, the appellate attorneys in the SPT Unit, in coordination with the Appellate Section of the Criminal Division, oversaw over 110 separate criminal appeals and mandamus petitions pending in eleven separate Courts of Appeals across the country, with 57 new notices of appeals filed in 2020.

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## *Crime Victim Assistance*

The SPT Unit oversees the Fraud Section's crime victim assistance program. In 2020, the SPT Unit welcomed its first full-time victim attorney and victim specialist, which has greatly enhanced the Fraud Section's ability to provide high-quality victim services in cases involving particularly large numbers of victims or vulnerable victims, including the elderly and persons with substance use disorders.

# Strategy, Policy & Training Unit

## *Collaboration with United Kingdom Enforcement Authorities*

From August 2017 to August 2020, the Fraud Section detailed a prosecutor to the United Kingdom's Serious Fraud Office (SFO) and Financial Conduct Authority (FCA) to further develop and expand the close collaboration and cooperation between those agencies and the Department. Deployed from and overseen by the SPT Unit, this unique position reflects the Fraud Section's, the Criminal Division's and the Department's commitment to international cooperation in the fight against sophisticated cross-border economic crime. The Fraud Section's detailee participated in FCA and SFO investigations, advised DOJ, FCA, SFO and other UK regulatory and law enforcement personnel on effective interagency coordination, and otherwise served as a liaison between the Fraud Section and some of its most critical overseas law enforcement and regulatory partners. The Fraud Section has committed to detailing another prosecutor to these UK enforcement partners in 2021.

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## *Training*

The SPT Unit coordinates with Fraud Section management to plan and execute training for Section prosecutors, including annual training and periodic smaller group training on topics which range from lessons learned from trials to innovative investigative techniques to significant legal developments. In addition to Fraud Section training, the SPT Unit, together with the litigating units, conducts training for other components within the Department and for other domestic and foreign enforcement authorities.