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CORPORATE CRIME REPORTER

MOLOLAMKEN'S STEVEN MOLO ON BOLTING THE BIG FIRM FOR THE BOUTIQUE

Frustrated with the bureaucracy and conflicts at a big white collar defense firm?

Why not just leave the big firm and start your own?

Steven Molo did.

After twenty three years with two big corporate defense firms, Molo set up – with his friend Jeff Lamken – the boutique litigation firm MoloLamken.

It started with five lawyers. Now it has 17. Molo's hoping to hit 40 to 50 in a couple of years.

Molo spent 18 years at Winston & Strawn and then another five years at Shearman & Sterling before deciding to set up his boutique litigation firm in 2009.

"There are a lot of great lawyers in large law firms," Molo told *Corporate Crime Reporter* in an interview last week. "They are doing a lot of great work. But some are frustrated with the conflicts and the bureaucracy."

"I'm proud of my association with both Winston & Strawn and Shearman & Sterling. They are two of the great law firms of the world."

"But I believe the kind of work we do – high stakes litigation – while often done well in large firms, there is also an opportunity to do it with greater efficiency and a greater opportunity for results based compensation in a boutique setting."

MoloLamken's focus is complex business litigation, white collar criminal defense, and IP.

And MoloLamken is not exclusively defense side.

"There is such a convergence of the criminal and civil in the white collar area," Molo said. "You may have regulatory, grand jury, civil litigation – all concerning the same subject matter. The best lawyers have a sensitivity to all of those issues in advising a client."

And, Molo is now free to not onlly defend big Wall Street banks, but sue them also.

"Clearly one the great advantages of being at a smaller firm is not having to deal with the conflict issues you have at larger firms," he says.

"We are free to bring lawsuits against major financial institutions. We have a plaintiff's side lawsuit against JP Morgan Chase. We have sued Citicorp on a couple of different matters. I represented a trader who was at Credit Suisse. It was a criminal case. Had I been at Shearman, it would have been more difficult to undertake that representation."

"I would never have been able to sue a financial institution at a large law firm."

What was your thinking when you decided to take the jump from big firm to boutique?

"Part of it was the issue of the conflicts," Molo said. "Part of it was the inefficiencies inherent in being at a big law firm. Those things were big drivers. Jeff and I are also very entrepreneurial in nature. Even within the context of a large law firm – both at Shearman and Winston, I had a pretty entrepreneurial bent."

"This seems like a natural vehicle. We looked around and saw other people who had done it and done it well. Knock on wood – we had pretty good success in the course of our careers. And we thought, if we do this right and we are thoughtful about it, why shouldn't we be able to do it in this other setting. Thus far, knock on wood, we've been fortunate that that has been the case."

"We have 17 lawyers now. We started out with five lawyers. And we are just now starting year three."

"Our stated goal is something like 40 to 50 lawyers in five years. We think we are on the mark for that. We are very cautious on hiring. We have exacting standards. We want people who are going to add value to the firm right away. We don't hire associates right out of law school."

"We hire people typically off clerkships, or who have spent a few years in a large firm. The partners are all people who have trial experience or appellate experience. People who have stood up in courtrooms and have had difficult client problems and can immediately bring some real knowledge and experience to bear in any representation that we undertake."

(See **MOLO**, page one)

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(**MOLO**, from page one)

"If we maintain that slow growth focused on quality, we think getting to that number of lawyers shouldn't be too hard to do."

"Again, it's quality over quantity – always."

As for how he handles a case, Molo says "lawyering matters."

"Conventional wisdom leads to conventional results," Molo said. "And conventional results in white collar cases are convictions."

"We can get good results for clients in those situations. We had a situation a couple of years ago. Elkan Abramowitz and I represented David Stockman. He had been under indictment in the Southern District of New York."

"We thought long and hard about how we were going to proceed. David had not committed a crime. We made a judgment after the indictment and after having received millions of pieces of evidence to go in and make a second white paper presentation to the U.S. Attorney's office."

"A second white paper presentation is virtually unheard of. That kind of presentation is made before indictment. But we felt so strongly about it after indictment that we went in and made a second pitch. Ultimately, the Southern District decided to dismiss the indictment against David Stockman. And that came after there were several guilty pleas in the case."

"Hats off to the Southern District for doing that. It took a lot of courage and integrity for them to do it. And it is perfectly consistent with their tradition."

"But a lot of lawyers are unwilling to take that kind of a stand. Or even take these cases to trial. It's up to the defense bar to challenge the government on these cases and say – maybe what the person did was wrong in some way, but it's not a crime. And they shouldn't have to go to jail for it."

(For the complete Interview with Steve Molo, see page 13.)

SIERRA CLUB TELLS MEMBERS – WE DON'T TAKE MONEY FROM CHESAPEAKE ENERGY– WHEN IN FACT THEY TOOK $25 MILLION

Last week, I wrote an article about how Chesapeake Energy, through its fracking activity, was destroying the rural way of life in West Virginia.

After the article ran, an insider called me with a tip – Sierra Club has taken money from Chesapeake Energy.

I called Sierra Club on Monday and asked – Are you taking money from frackers – in particular Chesapeake Energy?

Waiting for a response, I called Sierra Club activists in West Virginia to see if they know anything.

Two of them – Jim Sconyers and Beth Little – e-mailed Michael Brune, the president of Sierra Club, and asked him whether the Club has taken money from Chesapeake Energy.

Brune writes back to Little and Sconyers:

"We do not and will not take any money from Chesapeake or any other gas company. Hope all's well with you both."

Simultaneously, I get an e-mail from Maggie Kao, the spokesperson for the Sierra Club.

On Tuesday, Kao writes to me: "We do not and we will not take any money from any natural gas company."

I write back – I understand you do not and will not.

But have you taken money from Chesapeake?

That was Tuesday.

All day Wednesday goes by.

All day Thursday goes by.

And I can't get an answer.

Then Thursday night, Kao writes says – okay, Brune can talk to you at 7:30 pm EST.

And by the way, Kao says – check out this story just posted in Time magazine.

The headline: How the Sierra Club Took Millions from the Natural Gas Industry – and Why They Stopped.

Turns out, Sierra Club didn't want the story to break in Corporate Crime Reporter.

The millions from frackers.

And how as late as Tuesday, Sierra Club tried to mislead it's own members about the money.

According to the Time report, between 2007 and 2010 the Sierra Club accepted over $25 million in donations from the gas industry, mostly from Aubrey McClendon, CEO of Chesapeake Energy – one of the biggest gas drilling companies in the U.S. and a firm heavily involved in fracking.

Time reported that the group ended its relationship with Chesapeake in 2010 – and the Club says it turned its back on an additional $30 million in promised donations.

Waiting to speak with Brune.

And ask him what he meant by:

"We do not and will not take any money from Chesapeake or any other gas company."

YAZAKI CORP., DENSO CORP. AND FOUR YAZAKI EXECS TO PLEAD GUILTY TO AUTOMOBILE PARTS PRICE-FIXING

Two Japanese suppliers of automotive electrical components – Yazaki Corporation and DENSO Corporation – will plead guilty and to pay a total of $548 million in criminal fines for their involvement in multiple price-fixing and bid-rigging conspiracies in the sale of parts to automobile manufacturers in the United States.

Four executives, all Japanese nationals, have also agreed to plead guilty and to serve prison time in the United States.

Yazaki will pay a $470 million criminal fine–the second largest criminal fine obtained for a Sherman Act antitrust violation–and DENSO has agreed to pay a $78 million criminal fine.

The four executives from Yazaki – Tsuneaki Hanamura, Ryoji Kawai, Shigeru Ogawa and Hisamitsu Takada – will serve prison time ranging from 15 months to two years.

The two-year sentences would be the longest term of imprisonment imposed on a foreign national voluntarily submitting to U.S. jurisdiction for a Sherman Act antitrust violation.

The fine amount and prison sentences are subject to court approval.

"As a result of the Antitrust Division's ongoing criminal investigation of price fixing and bid rigging in the auto parts industry, more than $748 million in fines have been obtained–which already surpasses the total amount in criminal fines obtained by the division for all of last fiscal year," said Sharis A. Pozen, Acting Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "Criminal antitrust enforcement remains a top priority and the Antitrust Division will continue to work with the FBI and our law enforcement counterparts to root out this kind of pernicious cartel conduct that results in higher prices to American consumers and businesses."

Yazaki, DENSO, Hanamura, Kawai, Ogawa, Takada and their co-conspirators carried out the conspiracies by agreeing, during meetings and conversations, to allocate the supply of the named products on a model-by-model basis and to coordinate price adjustments requested by automobile manufacturers in the United States and elsewhere.

They sold automotive electrical components to automobile manufacturers at inflated prices and engaged in meetings and conversations for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme.

Yazaki engaged in three separate conspiracies: to rig bids for and fix, stabilize and maintain the prices of automotive wire harnesses and related products from 2000 through 2010; to rig bids for and fix, stabilize and maintain the prices of instrument panel clusters from 2002 through 2010; and to fix, stabilize and maintain the prices of fuel senders from 2004 through 2010.

All three conspiracies involved products sold to customers in the United States and elsewhere. Automotive wire harnesses are automotive electrical distribution systems used to direct and control electronic components, wiring and circuit boards in cars.

Instrument panel clusters, also known as meters, are the mounted array of instruments and gauges housed in front of the driver of an automobile. Fuel senders reside in the fuel tank of an automobile and measure the amount of fuel in the tank.

DENSO engaged in conspiracies to rig bids for and to fix, stabilize and maintain the prices of electronic control units (ECUs) and heater control panels (HCPs) sold to customers in the United States and elsewhere.

An ECU is an embedded system that controls one or more of the electronic systems or subsystems in a motor vehicle. HCPs are located in the center console of an automobile and control the temperature of the interior environment of a vehicle.

Hanamura, Kawai, Ogawa and Takada each

engaged in a conspiracy to rig bids for and to fix, stabilize and maintain the prices of automotive wire harnesses and related products sold to customers in the United States and elsewhere.

The department said that the individuals participated in the conspiracies at various times from at least as early as January 2000, until at least February 2010. During the conspiracies, the individuals held the following positions:

Hanamura was a branch manager at Yazaki North America in Columbus, Ohio, and a Honda division sales manager in Japan.

Kawai was director of Toyota Sales of Yazaki North America in Lexington, Ky., and vice division head of Yazaki's Toyota Business Unit in Japan.

Ogawa was assistant section manager and later section manager in Yazaki's Honda Business Unit in Japan, and branch manager in Yazaki's Honda Sales Unit and later director at Yazaki North America in Columbus.

Takada was assistant manager in Yazaki's Toyota Business Unit, director of Yazaki North America in Lexington, and manager of a sales department of Yazaki's Toyota Business Unit in Japan.

Ogawa and Takada have each agreed to serve 15 months in a U.S. prison.

Hanamura and Kawai have each agreed to serve two years in a U.S. prison.

Each of the four executives has also agreed to pay a $20,000 criminal fine.

Yazaki, DENSO, Hanamura, Kawai, Ogawa and Takada have all agreed to assist the department in its ongoing investigation into the automotive parts industry.

On November 14, 2011, Furukawa Electric Co. Ltd. pled guilty and was sentenced to pay a $200 million fine for its role in the wire harnesses price-fixing and bid-rigging conspiracy.

Three of Furukawa's executives also pleaded guilty.

The court sentenced two of the executives to 15 and 18 month prison sentences, to be served in the United States.

Sentencing of the third executive, who agreed to serve a year and a day in prison in the United States, is scheduled for Feb. 28, 2012.

NYU'S ARLEN SAYS ORGANIZATIONAL SENTENCING GUIDELINES HAVE FAILED

The Organizational Sentencing Guidelines have failed to deter corporate crime and should be reformed.

That's according to NYU Law Professor Jennifer Arlen writing in the current issue of the University of Miami Law Review.

The article is titled – The Failure of the Organizational Sentencing Guidelines.

"To deter corporate crime, corporate sanctions must be structured to induce large corporations to help federal prosecutors detect and punish corporate crime," Arlen writes. "Specifically, firms must be encouraged to detect and report wrongdoing, and to cooperate with the government's effort to identify and sanction the individuals responsible for the crime. Firms will not engage in these activities unless they face lower expected sanctions if they detect, report, and cooperate than if they do not."

Arlen concludes that the guidelines do not achieve this objective.

"Although the Organizational Sentencing Guidelines offer sanction mitigation to firms that adopt effective compliance programs, self-report, and cooperate, these provisions offer too little mitigation to encourage firms to detect, report, and cooperate," Arlen writes.

"Indeed, the Guidelines' mitigation provisions are particularly inadequate in the very circumstances where corporate detection and investigation is most important – in cases involving crimes committed by managers of large firms."

"As a result, U.S. efforts to deter corporate crime are undermined by adherence to the Organizational Sentencing Guidelines."

"This may partly explain why the Department of Justice adopted an alternative strategy for encouraging corporate reporting and cooperation, one that differs materially from the Organizational Guidelines."

"To help deter corporate crime, the Sentencing Commission should reform the Guidelines, " she concludes.

Arlen says the Department of Justice no longer relies primarily on the incentives provided by the Organizational Guidelines to induce corporate policing.

"Approximately eight years after the adoption of the Organizational Guidelines, the Department formally adopted a policy designed to provide firms with far greater incentives to engage in effective policing than is offered by the Guidelines."

"Specifically, in 1999, then-Deputy Attorney General Eric Holder issued a memorandum to prosecutors detailing the factors they should consider when deciding whether to indict a corporation for its employees' crimes."

"These guidelines encouraged prosecutors not to prosecute firms that engage in specified good corporate conduct, even when firms could be held criminally liable through respondeat superior and would have been fined under the Organizational Guidelines."

"Following the Holder Memo, prosecutors increasingly have chosen not to prosecute firms if the crime occurred despite effective corporate policing, especially if the firm reported the crime and cooperated."

"Firms exempt from criminal prosecution still are subject to penalties – including remediation and forfeiture – which often are imposed through deferred or non-prosecution agreements."

"Yet the magnitude of mitigation produced by the decision not to convict – in concert with the monetary penalty reduction – is enormous. The Department's policy favoring non-prosecution of firms that undertake effective policing – especially cooperation – provides stronger incentive for firms to adopt effective compliance programs, self-report, and fully cooperate than is produced by the Organizational Sentencing Guidelines."

"Moreover, an increasing number of federal prosecutors are addressing compliance failures through a combination of smaller penalties, direct mandates, and monitoring, as opposed to relying primarily on the threat of substantial sanctions for non-compliance."

"The Department's non-prosecution policy provides some evidence that federal enforcement officials have decided that they need to provide stronger incentives to induce corporate policing than those provided by the Guidelines."

"Nevertheless, the Organizational Guidelines – and their defects – are still important because the Guidelines continue to determine the sanctions imposed on many firms even when the firm engaged in some effective policing. This is because many U.S. Attorneys continue to convict firms even when the firm had an effective compliance program, fully cooperated, or undertook other policing measures," she writes.

QUALCOMM DISCLOSES FCPA PROBE

Qualcomm Inc. said Wednesday it is the subject of a U.S. investigation into possible violations of foreign bribery law, the Wall Street Journal reported last week.

The San Diego-based company, which sells chips used in cellphones and earns royalties from licensing patents to handset makers, said in a filing with the Securities and Exchange Commission that it was told on Friday the SEC and the Justice Department began a preliminary investigation into the company's compliance with the Foreign Corrupt Practices Act, which prohibits bribing foreign officials to get or keep business.

"The company believes that it is in compliance with the requirements of the FCPA and will continue to cooperate with both agencies," said Qualcomm in the filing.

ON EVE OF SUPER BOWL, SPOTLIGHT ON PLIGHT OF NFL RETIREES

For too long retired players in need have been denied disability benefits for their football related injuries.

Unable to work and receiving minimal retirement funds, the legends who built the National Football League into the Goliath it is today, sit on the sidelines forgotten and barely able to survive.

That's the conclusion of a report released on the eve of Super Bowl XLVI by two law firms – Hausfeld LLP and Zelle Haufman.

The report – The Neglected: Broken and Forgotten – features former NFL stars who are seeking to use the Super Bowl to draw attention to "the plight of their broken and damaged brethren who had literally banged heads on the field, but now in times of need were denied necessary access to the colossal NFL Automatic Teller Machine."

The report finds that "it is difficult to find a former NFL player who doesn't walk with a limp, isn't hunched over due to back pain, or doesn't have trouble getting in and out of a car."

"More and more former players are finding that not only are their bodies breaking down, but their minds are also showing signs of wear and tear. Years of playing through concussions, or what Hall of Famer Lem Barney refers to them as, 'stingers, dingers, and bell ringers' have left the NFL retiree landscape littered with relatively young men suffering from cognitive brain problems such as dementia, Alzheimer's, ALS, depression, suicidal thoughts, memory loss, headaches, sleeping disorders, and a myriad of other dysfunctions."

The report includes a first hand account by Sandy Unitas – wife of the late Baltimore Colts great Johnny Unitas – who documents how her late husband lost the use of his right hand and how the NFL denied him disability benefits.

"The right-handed quarterback, who'd once been able to throw the football 50 and 60 yards downfield, could no longer close his hand to brush his teeth, button his shirt or tie his shoelaces," Sandy Unitas writes.

"Yet despite the clear correlation between the 1968 injury and the 1993 failure of his hand, John was denied disability benefits," she writes. "Why? Because he didn't apply before he reached age 55 in 1988, five years before his right hand became useless, because he was already collecting an NFL pension, and because he was deemed not 'totally and permanently disabled.'

"Having witnessed the effort he made to perform such routine tasks as buttoning his shirt or tying his shoelaces, it's difficult for me to comprehend how his disability claim could ever have been denied."

"Perhaps even more perplexing is the failure of the league and the union to require members of the disability board – the NFL and NFLPA representatives who determine whether a former player qualifies for disability payments – to have a medical degree or even a background in any field of medicine."

The report also includes first hand stories by John Riggins, Elvin Bethea, Conrad Dobler and Dwight Harrison.

NEIL EGGLESTON JUMPS FROM DEBEVOISE TO KIRKLAND

Famed white collar criminal defense attorney W. Neil Eggleston has jumped from Debevoise to Kirkland & Ellis.

"Neil Eggleston has an impeccable reputation in the white collar bar as an exceptionally talented lawyer, with a depth of experience that is difficult to match," said Kirkland's Jeffrey Hammes. "He joins us at a time when increased government scrutiny and regulation, and the successes of our white collar practice, continue to increase demand for our experienced white collar and securities enforcement attorneys. We believe Neil's practice is a perfect match for our strong existing group, and we enthusiastically welcome him to the firm."

For more than 20 years, Mr. Eggleston, 58, has represented corporations and high-profile public figures against allegations of a variety of civil and criminal fraud-related offenses in the areas of securities, health care and government procurement, as well as violations of the Foreign Corrupt Practices Act and antitrust laws, among other matters.

He also has substantial experience representing companies and individuals in internal investigations and congressional investigations.

Eggleston served as defense counsel for former White House Chief of Staff Rahm Emanuel in the prosecution of former Illinois Gov. Rod Blagojevich.

He also previously represented the Office of the President of the United States in the Whitewater/Lewinsky investigation, a secretary of labor, a secretary of transportation and U.S. senators, among other prominent agencies and individuals.

In an interview with *Corporate Crime Reporter* last year, Eggleston reminisced about what it was like bringing a corporate criminal prosecution when he was a young prosecutor in Manhattan in the mid-1980s.

"I remember asking my colleagues for sample jury charges," Eggleston told *Corporate Crime Reporter*. "And I remember people looking at me blankly. No one could remember ever having a prosecution against a company."

"The whole issue of corporate criminal liability arose when the penalties were minuscule," Eggleston said. "Then in the early 1980s, Congress amended penalty statutes which put enormous penalties on corporations. That made it advantageous for a prosecutor to bring corporate criminal liability cases."

"And then the corporate sentencing guidelines came along – all of which changed the way of thinking about this."

Back then, when a big corporate law firm needed a criminal defense lawyer, they would have to seek out a specialist.

Now, like Eggleston, they are embedded in big firms.

"Neil's substantial government experience will be immediately beneficial to our clients, as well as our attorneys in our national Government, Regulatory and Internal Investigations Practice Group and the Washington office," said Kirkland's Eugene Assaf. "We have admired Neil's work for years, and we look forward to adding his intellectual drive and energy to our office."

LOS ANGELES SUES OVER $95 MILLION PENSION LOSS

Los Angeles City Attorney Carmen A. Trutanich last week filed a civil lawsuit against Northern Trust Corporation alleged that the company invested city pension assets in high-risk consumer debt bond products, including failing home mortgage-backed securities, resulting in the loss of more than $95 million.

The civil enforcement lawsuit alleges unlawful business practices and violations of the False Claims Act.

The complaint alleges that Northern Trust made false claims and statements regarding the investment of funds held by the Los Angeles City Employees' Retirement System (LACERS).

The civil lawsuit also names Pension Consulting Alliance, Inc. (PCA), a company contracted by LACERS to act as its watchdog on investments, for knowingly or recklessly failing to warn LACERS that Northern Trust was engaging in inappropriate, high risk investments in consumer debt and long-term mortgage securities.

LACERS manages the retirement benefits for more than 43,000 active public employees and their families.

Since 1991, Northern Trust has acted as the primary custodian, investment manager and custodian of LACERS' assets, including acting as an independent manager of the LACERS' securities lending program.

City officials alleged that Northern Trust claimed that investments made by the company on behalf of LACERS were "low risk" or "minimized risk," including conservative, short-term, highly-liquid investments.

However, from June 2006 until June 2008, Northern Trust failed to inform LACERS that it had changed its investment strategy in violation of common law fiduciary standards.

The company allegedly provided no details of each specific investment in the City's portfolio, including the current market value of each investment.

Northern Trust also allegedly engaged in highly-risky investments in companies dealing in consumer debt and mortgaged-backed securities, including Washington Mutual Bank, CIT Group, Lehman Brothers, Greenpoint Mortgage and Bear Stearns.

Northern Trust shared with LACERS in profits from these investments during the housing boom from 2006 through 2008, but did not share with LACERS in the downside risk and losses after the collapse of the housing bubble and the subprime mortgage market.

Northern Trust took up to 15% of the earnings generated from its investment of cash collateral in securities, despite the risk inherent in those investments and despite the fact they were inappropriate for the pension fund.

As the financial meltdown continued, Northern Trust allegedly sought to prevent a stampede of pension funds, such as LACERS, seeking to liquidate the investments Northern Trust had made in securities.

A collapse in certain investment pools managed by Northern Trust would have caused a significant loss to the company.

The complaint alleges that Northern Trust therefore allegedly embarked on a strategy to save the investment pools by convincing the various pension funds not to pull their money, effectively putting the interest of Northern Trust in saving the collateral pools above the interest of individual pension funds, including LACERS.

Northern Trust repeatedly kept LACERS in the dark about the true nature of the investments that Northern Trust had made until mounting and staggering losses forced the company in October 2010 to provide LACERS with a statement of the investments, which noted substantial losses.

Northern Trust thereafter demanded that LACERS make a payment for those losses prior to July 8, 2011. Under protest, LACERS made the payment on July 7, 2011 in the amount of $95,662,812.

SWISS BANK ALLEGEDLY CONSPIRED TO HIDE MORE THAN $1.2 BILLION FROM THE IRS

Wegelin & Co., a Swiss private bank, was indicted last week on charges of conspiring with U.S. taxpayers and others to hide from the IRS more than $1.2 billion in secret accounts and the income these accounts generated.

This is the first time an overseas bank has been indicted by the United States for facilitating tax fraud by U.S. taxpayers.

Federal officials seized more than $16 million from Wegelin's correspondent bank account in the United States, pursuant to a civil forfeiture Complaint and arrest warrant in rem.

Michael Berlinka, Urs Frei, and Roger Keller, three client advisers at the bank were previously charged with the same conspiracy.

"As alleged, Wegelin Bank aided and abetted U.S. taxpayers who were in flagrant violation of the tax code," U.S. Attorney Preet Bharara. "And they were undeterred by the crystal clear warning they got when they learned that UBS was under investigation for the identical practices. Today's indictment makes clear that we will seek to punish not only those U.S. taxpayers who violate the law in an effort to avoid paying their fair share of taxes, but also the individuals and entities who facilitate their crimes."

Wegelin, founded in 1741, is Switzerland's oldest bank.

Wegelin provided private banking, asset management, and other services to clients around the world, including U.S. taxpayers living in the Southern District of New York.

Wegelin had no branches outside Switzerland, but it directly accessed the U.S. banking system through a correspondent bank account that it held at UBS AG in Stamford, Connecticut.

SEC CHARGES FORMER EXECUTIVES AND ACCOUNTANTS WITH FRAUD AT BRITISH SUBSIDIARY OF MEDICAL DEVICES COMPANY

The Securities and Exchange Commission (SEC) last week charged four former senior executives and accountants at the British subsidiary of an Indiana-based manufacturer of medical devices and aerospace products for their roles in an accounting fraud that was so pervasive that it distorted the financial statements of the parent company.

The SEC also reached settlements with the company's former CEO and current CFO, who were not involved or aware of the scheme at the subsidiary, to recover bonus compensation and stock profits they received while the fraud was occurring and inflating company profits.

The SEC alleges that vice president for European operations Richard J. Senior, finance director Matthew Bell, controller Lynne Norman, and management accountant Shaun P. Whiteley orchestrated and carried out the fraud at Thornton Precision Components (TPC), which is the Sheffield, England-based subsidiary of NYSE-listed Symmetry Medical Inc.

The accounting scheme involved the systematic understatement of expenses and overstatement of assets and revenues at TPC, and materially distorted Symmetry's financial statements for a three-year period.

The four executives and accountants, as well as Symmetry in a separate administrative proceeding, agreed to settle the SEC's charges, and the subsidiary's two outside auditors formerly of Ernst & Young LLP UK agreed to suspensions for their deficient audits.

"The accounting fraud orchestrated by TPC executives had a ripple effect right up to the financials of the parent company. Symmetry shareholders were investing their money – and Symmetry and TPC executives were collecting their bonuses – based in part on inflated numbers," said Stephen L. Cohen, Associate Director of the SEC's Division of Enforcement. "We also found significant failures by two outside auditors, which helped this fraud to continue undetected. Accountants who practice before the SEC, including those who audit foreign subsidiaries of U.S. registrants, need to make sure their audits conform to U.S. auditing standards or they won't be allowed to practice before the SEC."

The SEC alleged that Symmetry's annual financial statements for 2005 and 2006 as well as other reporting periods were materially misstated as a result of misconduct in the reporting of TPC's financials.

Senior, Bell and Norman made false certifications as to the accuracy of the financial information reported to Symmetry by TPC, and lied to TPC's outside auditors. Meanwhile, Senior and Bell each received bonuses and sold Symmetry stock at prices they knew or recklessly disregarded were fraudulently inflated by the accounting fraud taking place at TPC.

The SEC is seeking reimbursement for bonuses and other incentive-based and equity-based compensation received by Symmetry's former CEO Brian S. Moore under Section 304 of the Sarbanes-Oxley Act.

Under the settlement, subject to court approval, Moore agreed to reimburse $450,000 to Symmetry.

The SEC also instituted separate settled administrative proceedings against Symmetry and its CFO Fred L. Hite. The SEC finds that Hite failed to provide an internal audit status report concerning TPC to Symmetry's Audit Committee in July 2006. Although the internal audit status report had not uncovered the fraud at TPC, it did raise the potential for deeper problems there. Hite also failed to reimburse Symmetry for bonuses, other compensation, and Symmetry stock-sale proceeds he received while the fraud occurred at the subsidiary (as required by SOX Section 304).

Hite agreed to pay a $25,000 penalty and reimburse $185,000 to Symmetry.

For its part, Symmetry agreed to a cease-and-desist order against future financial reporting, books-and-records and internal controls violations.

The SEC separately instituted and settled administrative proceedings against two associate chartered accountants in the United Kingdom – Christopher J. Kelly and Margaret Hebb née Whyte – who were the former audit partner and audit manager on Ernst & Young LLP UK's audits of TPC for its 2004 to 2006 fiscal years (in the case of Kelly) and its 2005 and 2006 fiscal years (in the case of Hebb).

The SEC's order finds that Kelly and Hebb engaged in improper professional conduct by, among other things, failing to properly audit TPC's accounts receivable balances and inventory. The order suspends both Kelly and Hebb from appearing or practicing before the SEC as accountants, with the opportunity to seek reinstatement after two years.

FDA WHISTLEBLOWER LAWSUIT SPARKS CONGRESSIONAL INVESTIGATION

Senator Charles E. Grassley (R-Iowa) launched an investigation last week in response to a lawsuit filed by six FDA whistleblowers and documents released by the National Whistleblowers Center that show the FDA targeted whistleblowers for special monitoring and intercepted personal communications to Congress, including emails to Senator Grassley's staff.

Senator Grassley, the Ranking Member of the Senate Judiciary Committee and a highly respected advocate of government oversight, launched an investigation into the FDA's targeted monitoring of whistleblowers.

The Senator specifically asked FDA Commissioner Margaret Hamburg whether or not whistleblowers were singled out for special monitoring based on a letter they wrote to President-Elect Obama's Transition Team.

"The FDA went far beyond 'routine monitoring," said Stephen M. Kohn, NWC Executive Director. "They unconstitutionally targeted one group of employees simply because they had the guts to speak up about misconduct. The FDA cannot use unconstitutional tactics to enforce an otherwise neutral employee surveillance policy."

"Targeted monitoring has a devastating chilling effect on all public employees, strangling the ability of the American public and Congress to learn about misconduct and corruption in the federal government."

The lawsuit filed last week by the six whisltleblowers details how the FDA began targeting employees for special monitoring after learning that the employees blew the whistle on managers' misconduct in approving unsafe medical devices.

The Agency installed spyware on their workplace computers and used other technology that to monitor their password-protected gmail-to-gmail communications and take contemporaneous screen shots of the employees' computer screens.

The FDA's prolonged, covert monitoring of the whistleblowers continued even after the HHS Office of Inspector General denied the FDA's request to take any criminal and/or administrative action against the whistleblowers. In their letter of refusal, the OIG explicitly informed the FDA that the whistleblowers' communications to Congress were protected under law.

TWO FORMER CREDIT SUISSE CHARGED WITH INFLATING SUBPRIME MORTGAGE-RELATED BOND PRICES

Kareem Serageldin, David Higgs and Salmaan Siddiqui, respectively, Managing Director/Global Head of Structured Credit, Managing Director and Vice-President in the Investment Banking Division of Credit Suisse Group were charged with fraudulently inflating the prices of asset-backed bonds, which comprised subprime residential mortgage backed securities (RMBS) and commercial mortgage backed securities (CMBS) in Credit Suisse's trading book in late 2007 and early 2008.

The defendants' alleged manipulation of these bond prices contributed to CreditSuisse taking a $2.65 billion write-down of its 2007 year-end financial results. Serageldin, Higgs and Siddiqui were able to secure significant year-end bonuses for themselves since bonus amounts were largely based on trading books' profitability.

Serageldin's 2007 bonus was over $1.7 million and his incentive share unit award was more than $5.2 million.

The latter was rescinded after Credit Suisse discovered the alleged fraud. Higgs and Siddiqui each pleaded guilty to one count of conspiracy to falsify books and records and commit wire fraud for their roles in the scheme.

They are cooperating with the government's investigation.

"While the residential housing market was in free fall, and shock waves were reverberating throughout the economy, these defendants decided they were above the rules of the market and above the law," said U.S. Attorney Preet Bharara "As alleged, they papered over more than a half billion dollars in subprime mortgage-related losses to secure for themselves a big payday at the same time that many people were losing their homes and their jobs."

CARLYLE DROPS CLASS ACTION LAWSUIT BAN

Carlyle Group LP abandoned a plan to ban shareholders from filing class-action lawsuits, Bloomberg News reported last week.

The Washington-based firm amended the documents for its initial public offering last month to include a provision that would have required future stockholders to resolve any claim against Carlyle through arbitration rather than in court.

The move provoked controversy among lawmakers and shareholder rights advocates, who were waiting to see whether the U.S. Securities and Exchange Commission would allow Carlyle's IPO to proceed with the arbitration clause in effect, Bloomberg reported.

"After consultations with the SEC, Carlyle investors and other interested parties, we have decided to withdraw the proposed arbitration provision," Christopher Ullman, a Carlyle spokesman, said in an e-mailed statement to Bloomberg."We first offered the provision because we believed that arbitrating claims would be more efficient, cost effective and beneficial to our unitholders."

FINRA CHARGES CHARLES SCHWAB WITH USING CLASS ACTION WAIVER IN CUSTOMER AGREEMENTS

The Financial Industry Regulatory Authority (FINRA) filed a complaint against Charles Schwab & Company charging the firm with violating FINRA rules by requiring its customers to waive their rights to bring class actions against the firm.

FINRA's complaint charges that in October 2011, Schwab amended its customer account agreement to include a provision requiring customers to waive their rights to bring or participate in class actions against the firm. Schwab sent the amended agreements to nearly 7 million customers.

The agreement also included a provision requiring customers to agree that arbitrators in arbitration proceedings would not have the authority to consolidate more than one party's claims. FINRA's complaint charges that both provisions violate FINRA rules concerning language or conditions that firms may place in customer agreements.

FINRA's complaint seeks an expedited hearing because Schwab's conduct is ongoing, as the firm has continued to use account agreements containing these provisions in opening more than 50,000 new customer accounts since October 2011.

LATERAL MOVES

Greg D. Andres, a federal prosecutor and senior official with the U.S. Department of Justice, will rejoin Davis Polk in New York.

Andres will join Davis Polk's Litigation Department, where he will work with the firm's top-ranked White Collar Criminal Defense Group and represent clients in both civil and criminal trials.

Andres, 44, has been a federal prosecutor since 1999. Most recently, he served as a Deputy Assistant Attorney General in the Criminal Division of the Department of Justice, where his wide-ranging responsibilities included supervision of the Fraud and Appellate Sections.

Among other duties, Andres was involved in policy and enforcement issues relating to both health care fraud and the Foreign Corrupt Practices Act (FCPA).

His high-profile trials include the prosecution of ex-Credit Suisse broker Eric Butler, who was convicted for a securities fraud scheme that cost investors $1 billion.

From 2007 to 2010, Andres served as the Chief of the Criminal Division of the U.S. Attorney's Office in the Eastern District of New York.

He was an associate in Davis Polk's Litigation Department from 1997 to 1999, when he left the firm to become an Assistant U.S. Attorney in the Eastern District.

Andres is the recipient of numerous awards in the legal profession. In 2008, he earned the Attorney General's Distinguished Service Award.

"Greg brings to the firm well over a decade of experience handling high-stakes trials and investigations on behalf of the federal government," said Carey R. Dunne, Chair of Davis Polk's Litigation Practice and a member of the firm's three-person Management Committee. "He is a top-flight lawyer who is well-suited to join our world-class, white collar criminal defense team and assist our clients on their most sensitive investigations and trials. Greg joins a long list of lawyers to return to the firm after working in senior-level capacities with the government, and we are delighted to welcome him back to Davis Polk."

Department of Justice official Hank Bond Walther has joined the Jones Day's Washington office.

Walther served as Deputy Chief in charge of the Health Care Fraud Unit in the Fraud Section of the Department's Criminal Division and, previously, as Assistant Chief of the Foreign Corrupt Practices Act Unit in the Fraud Section.

"Hank Walther brings a wealth of experience and insight from his years in government," said Greg Shumaker, the Partner-in-Charge of Jones Day's Washington Office. "The unique perspective he has gained from prosecuting hundreds of health care fraud and FCPA cases on behalf of the federal government will add tremendously to our Corporate Criminal Investigations Practice. We're delighted he's chosen Jones Day for his return to the private sector."

As Chief of the Department's Health Care Fraud Unit since March 2010, Walther supervised all health care fraud investigations and prosecutions pursued by the Criminal Division, including violations of the False Claims Act, Anti-Kickback Statute, Stark Laws, the Federal Food, Drug, and Cosmetic Act, money laundering laws, and mail and wire fraud laws.

He also led the Department's Medicare Fraud Strike Forces across the country, which over the past five years investigated and prosecuted over 1100 defendants responsible for approximately $3 billion in health care fraud.

While with the FCPA Unit, Walther conducted and supervised many of the Criminal Division's foreign corruption investigations and prosecutions and coordinated with domestic and foreign law enforcement, the Securities and Exchange Commission, and other federal agencies. He also participated in the U.S. delegation to the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and worked with foreign governments in connection with anti-bribery and anti-corruption enforcement and legislation.

NOTABLE AND QUOTABLE

Even as the Securities and Exchange Commission has stepped up its investigations of Wall Street in the last decade, the agency has repeatedly allowed the biggest firms to avoid punishments specifically meant to apply to fraud cases.

By granting exemptions to laws and regulations that act as a deterrent to securities fraud, the S.E.C. has let financial giants like JPMorganChase, Goldman Sachs and Bank of America continue to have advantages reserved for the most dependable companies, making it easier for them to raise money from investors, for example, and to avoid liability from lawsuits if their financial forecasts turn out to be wrong.

An analysis by The New York Times of S.E.C. investigations over the last decade found nearly 350 instances where the agency has given big Wall Street institutions and other financial companies a pass on those or other sanctions. Those instances also include waivers permitting firms to underwrite certain stock and bond sales and manage mutual fund portfolios.

JPMorganChase, for example, has settled six fraud cases in the last 13 years, including one with a $228 million settlement last summer, but it has obtained at least 22 waivers, in part by arguing that it has "a strong record of compliance with securities laws." Bank of America and Merrill Lynch, which merged in 2009, have settled 15 fraud cases and received at least 39 waivers.

Only about a dozen companies – Dell, General Electric and United Rentals among them – have felt the full force of the law after issuing misleading information about their businesses. Citigroup was the only major Wall Street bank among them. In 11 years, it settled six fraud cases and received 25 waivers before it lost most of its privileges in 2010.

By granting those waivers, the S.E.C. allowed Wall Street firms to have powerful advantages, securities experts and former regulators say. The institutions remained protected under the Private Securities Litigation Reform Act of 1995, which makes it easier to avoid class-action shareholder lawsuits.

And the companies continue to use rules that let them instantly raise money publicly, without waiting weeks for government approvals. Without the waivers, the companies could not move as quickly as rivals that had not settled fraud charges to sell stocks or bonds when market conditions were most favorable.

Other waivers allowed Wall Street firms that had settled fraud or lesser charges to continue managing mutual funds and to help small, private companies raise money from investors – two types of business from which they otherwise would be excluded.

"The ramifications of losing those exemptions are enormous to these firms," David S. Ruder, a former S.E.C. chairman, said in an interview. Without the waivers, agreeing to settle charges of securities fraud "might have vast repercussions affecting the ability of a firm to continue to stay in business," he said.. . .

– SEC Is Avoiding Tough Sanctions for Large Banks by Edward Wyatt, New York Times, September 3, 2012

INTERVIEW WITH STEVEN MOLO, PARTNER, MOLOLAMKEN, NEW YORK, NEW YORK

Frustrated with the bureaucracy and conflicts at a big white collar defense firm?

Why not just leave the big firm and start your own?

Steven Molo did.

After twenty three years with two big corporate defense firms, Molo set up – with his friend Jeff Lamken – the boutique litigation firm MoloLamken.

It started with five lawyers. Now it has 17. Molo's hoping to hit 40 to 50 in a couple of years.

We interviewed Steven Molo on January 23, 2012.

CCR: You graduated from the University of Illinois College of Law in 1982. What have you been doing since?

MOLO: I began my career as a prosecutor in Chicago.

I then spent eighteen years at Winston & Strawn in Chicago where I was a partner and member of the executive committee.

I was persuaded to join Shearman & Sterling in New York. I was a partner in the litigation practice there for five and a half years – from March 2004 through October 2009.

I left Shearman in October 2009 to form MoloLamken with Jeff Lamken. Jeff had been the head of the appellate practice at Baker Botts in

Washington, D.C.

CCR: Do you come from a family of lawyers?

MOLO: No. I grew up on the south side of Chicago in modest circumstances.

I saw being a lawyer as something that was a way to advance myself from an educational standpoint – both professionally and socially.

It is a wonderful profession.

I was interested in it from the start.

I was a lawyer at the age of 25. And I have never regretted that decision. I love what I do.

CCR: You were almost 23 years with two big firms and then you went out on your own. Why?

MOLO: I'm proud of my association with both Winston & Strawn and Shearman & Sterling. They are two of the great law firms of the world.

But I believe the kind of work we do – high stakes litigation – while often done well in large firms, there is also an opportunity to do it with greater efficiency and a greater opportunity for results based compensation in a boutique setting.

CCR: What is the practice of your firm?

MOLO: We do business litigation, white collar criminal defense, and IP work.

CCR: Lamken was the IP guy?

MOLO: He was the head of the appellate practice at Baker Botts. He had done some IP work but is one of the premiere appellate advocates in the country.

Since we started the firm, he has argued four cases to the Supreme Court of the United States and we are counsel of record in another.

In our first year, we had three wins in the Supreme Court. Sometimes that work includes IP work.

We just won a big case in the Federal Circuit for Abbott Laboratories in the TheraSense case. That dealt with the inequitable conduct doctrine.

But we are advocates first and subject matter specialists second.

I've always done a lot of white collar criminal defense work. But I've done other work too. I do business civil litigation as well.

CCR: Are you 100 percent defense side?

MOLO: On the civil side, we do plaintiff's work.

There is such a convergence of the criminal and civil in the white collar area. You may have regulatory, grand jury, civil litigation – all concerning the same subject matter. The best lawyers have a sensitivity to all of those issues in advising a client.

CCR: Would you take plaintiff's side False Claims Act and whistleblower cases?

MOLO: Yes.

CCR: How does it break down individual versus corporate?

MOLO: Now it's a bit more on the individual side.

CCR: Is it more difficult to represent individuals at big firms because of conflicts?

MOLO: Clearly one the great advantages of being at a smaller firm is not having to deal with the conflict issues you have at larger firms.

We are free to bring lawsuits against major financial institutions. We have a plaintiff's side lawsuit against JP Morgan Chase.

We have sued Citicorp on a couple of different matters. I represented a trader who was at Credit Suisse.

It was a criminal case. Had I been at Shearman, it would have been more difficult to undertake that representation.

CCR: And it would have been difficult to take a plaintiff's side case.

MOLO: I would never have been able to sue a financial institution at a large law firm.

CCR: What are your plaintiff's side cases about?

MOLO: The case against JP Morgan Chase deals with an M&A deal that went bad. There are allegations of breach of contract and fraud. Those are things we see on the criminal side as well.

Clients don't seem to mind. Obviously, you don't want to create a direct legal conflict. But clients are looking for expertise, for people who are agile and who can understand the issues.

CCR: Our readers at the big corporate defense firms are going to ask – what was he thinking in tossing the security of a big firm out for the risks involved in a start up?

MOLO: Part of it was the issue of the conflicts. Part of it was the inefficiencies inherent in being at a big law firm.

Those things were big drivers. Jeff and I are also very entrepreneurial in nature. Even within the context of a large law firm – both at Shearman and Winston, I had a pretty entrepreneurial bent.

This seems like a natural vehicle. We looked around and saw other people who had done it and done it well.

Knock on wood – we had pretty good success in the course of our careers. And we thought, if we do this right and we are thoughtful about it, why shouldn't we be able to do it in this other setting.

Thus far, knock on wood, we've been fortunate that that has been the case.

CCR: How many lawyers do you have now?

MOLO: We actually have 17 lawyers now. We started out with five lawyers. And we are just now starting year three.

Our stated goal is something like 40 to 50 lawyers in five years.

We think we are on the mark for that.

We are very cautious on hiring. We have exacting standards.

We want people who are going to add value to the firm right away.

We don't hire associates right out of law school.

We hire people typically off clerkships, or who have spent a few years in a large firm.

The partners are all people who have trial experience or appellate experience.

People who have stood up in courtrooms and have had difficult client problems and can immediately bring some real knowledge and experience to bear in any representation that we undertake.

If we maintain that slow growth focused on quality, we think getting to that number of lawyers shouldn't be too hard to do.

Again, it's quality over quantity – always.

CCR: Twenty five years ago, at the dawn of white collar criminal practice, the Justice Department would bring a case, get a plea, or not bring a case.

Now there is this vast expanse of middle ground – deferred and non prosecution agreements.

Might Judge Rakoff's attacks on the neither admit nor deny SEC settlements spill over into the criminal deferred and non prosecution settlements?

MOLO: I was involved in some of these sorts of agreements early on.

But the use of them has just mushroomed.

It has set up a situation that is sometimes unfortunate in the administration of justice. You have essentially the company and all of its resources pitted against executives.

Companies are given incentives to identify wrongdoers to gain cooperation credit. It transfers a prosecutor's role to a private corporation and its counsel.

CCR: So, what are you saying – corporate counsel as private attorney general?

MOLO: That's essentially what is happening. Elkan Abramowitz gave a great talk on that at a defense counsel luncheon a couple of years ago on that very issue. And it is troubling.

In most of these cases, whether or not a crime has been committed is not a black or white question. As is the case in most white collar cases, the facts are generally not in dispute. The question is – what was the intent?

People tearing through almost unlimited amounts of data, reviewing e-mails, looking at things taken out of context, come to a judgment that may be inconsistent with what really was the state of mind of people involved at the time.

On the revenue recognition cases, the accounting rules are not black and white. There are a lot of judgments that have to go into accounting decisions.

People after the fact say – things have to be treated in a particular way. In fact, it wasn't. Therefore you acted with criminal intent. And that is not always the case.

Sometimes the situation is black and white. Somebody makes a clear judgment knowing that what they are about to direct someone to do is against the law or contrary to what they should be doing.

But often, these are nuanced and gray issues. That makes the idea of corporate counsel as private attorney general all the more troubling.

CCR: Isn't it fundamentally unfair to have the corporate counsel and AUSA teaming up against the individual executive?

MOLO: It can be unfair. But that's always going to be subject to the corporate counsel and prosecutor.

CCR: You are in a position to get those kind of cases. You have the big firm representing the company.

They are cooperating with the government. So, you get your individual cases that way, right?

MOLO: We get some cases that way – referrals from the big firms. Sometimes we get work directly from the individuals.

CCR: But when you're representing an individual executive going up against both his former company and the government, what are the odds that you are going to get a decent outcome for your client?

MOLO: Lawyering matters. Conventional wisdom leads to conventional results.

And conventional results in white collar cases are convictions.

We can get good results for clients in those situations.

We had a situation a couple of years ago. Elkan Abramowitz and I represented David Stockman.

He had been under indictment in the Southern District of New York.

We thought long and hard about how we were going to proceed. David had not committed a crime.

We made a judgment after the indictment and after having received millions of pieces of evidence to go in and make a second white paper presentation to the U.S. Attorney's office.

A second white paper presentation is virtually unheard of. That kind of presentation is made before indictment.

But we felt so strongly about it after indictment that we went in and made a second pitch.

Ultimately, the Southern District decided to dismiss the indictment against David Stockman.

And that came after there were several guilty pleas in the case.

Hats off to the Southern District for doing that. It took a lot of courage and integrity for them to do it. And it is perfectly consistent with their tradition.

But a lot of lawyers are unwilling to take that kind of a stand.

Or even take these cases to trial. It's up to the defense bar to challenge the government on these cases and say – maybe what the person did was wrong in some way, but it's not a crime. And they shouldn't have to go to jail for it.

CCR: On FCPA, maybe 15 to 20 cases are brought every year. Why is it such a big deal?

MOLO: Globalization. The cost of corruption. There is a far greater level of cooperation between countries. Denis J. McInerney is head of the Fraud Section.

I've heard him speak about the level of cooperation that exists now. And it's really rather stunning.

That has been a fairly recent phenomenon.

And so, there is a strong emphasis on it.

When the government focuses on something, there is more likely to be prosecutions that follow.

So yes we are seeing an uptick in FCPA cases. And also an uptick in antitrust cases.

There are a number of antitrust investigations involving Japanese companies.

CCR: We ran a story last week about the government's prosecution of foreign corporations. Does the government for some reason come down harder on foreign corporations?

MOLO: I'd have to look at the data. But just anecdotally, the culture of compliance in most US corporations on the whole is probably stronger than in some foreign corporations.

You may have cultural differences in the way business is done.

We have a more aggressive enforcement environment in the US.

And some countries don't have corporate criminal liability.

So, if you are not prosecuting corporations, what is the incentive for the compliance programs that we deem as a significant factor in mitigation in deciding whether or not to bring criminal charges or enter into a deferred prosecution agreement?

CCR: Are we going to see an uptick in white collar boutiques?

MOLO: The white collar business has always had some outstanding lawyers practicing in smaller settings. The Morvillo firm in New York. John Siffert's firm in New York. In Chicago Dave Stetler's firm.

There are great firms in Miami and Los Angeles. There is a trend on the civil side with firms like Bartlit Beck and Susman Godfrey. Guy Petrillo left the U.S. Attorney's office and set up his own firm.

You will continue to see more of it.

A lot of lawyers are disaffected with large law firms.

There are a lot of great lawyers in large law firms.

They are doing a lot of great work. But some are frustrated with the conflicts and the bureaucracy.

CCR: Many of the civil laws have bounty provisions. The False Claims Act. And the new whistleblower provisions of Dodd Frank. Would you take such a case?

MOLO: Yes. We have one case in the health care area. And we have another case that we did in connection with Dodd Frank.

We bring the perspective and experience of people who have dealt with these issues on behalf of major corporations in the past.

So, we hope to apply a pretty good filter to the case and assess it in a more realistic way than perhaps somebody who doesn't have the kind of experience that we have.

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