

## ANTHONY S. BARKOW, Partner

*Anthony S. Barkow is Co-Chair of the firm's Investigations, Compliance and Defense Practice. He represents companies and executives in global and national criminal and regulatory investigations. He also conducts internal investigations for corporations and other institutions, provides counsel to senior management on enforcement and compliance issues, and serves as a corporate monitor. As a federal prosecutor for 12 years in the United States Attorney's Offices for the Southern District of New York and for the District of Columbia, and in Main Justice, he prosecuted some of the most significant international terrorism and white collar criminal cases in the country. He has tried over 40 cases and briefed and argued over 10 cases on appeal. During his government service, Mr. Barkow was awarded the Attorney General's Award for Exceptional Service, the highest award bestowed by the Attorney General in the Department of Justice.*

Mr. Barkow's engagements have included:

- Served as one of the team leaders conducting an investigation and producing an internal report to the board of directors for General Motors Company (GM) with regard to events leading up to certain recalls stemming from faulty ignition switches. In a 70-day period, a multidisciplinary team collected and searched in excess of 41 million documents and records and conducted more than 350 witness interviews. The firm team coordinated GM's response to several federal agencies and Congress. He also represented GM in a related investigation by the US Attorney's Office for the Southern District of New York, culminating in the resolution of the matter through a deferred prosecution agreement.
- Co-leading the monitorship of Credit Suisse AG following the bank's \$715 million settlement with the New York Department of Financial Services, part of a broader \$2.6 billion settlement that involved the US Department of Justice and federal regulators.
- Representing a leading global cybersecurity company in an international investigation and prosecution conducted by a United States Attorney's Office.
- Leading an internal investigation for a Fortune 100 financial services company.
- Leading a sensitive internal investigation for a major public university.
- Leading a sensitive international internal investigation for a leading international non-profit institution.
- Leading multiple internal investigations for and providing compliance advice to a global Fortune 500 manufacturing company.
- Representing an \$8 billion hedge fund in multiple investigations conducted by the Securities Exchange Commission.



## ANTHONY S. BARKOW Partner

### NEW YORK

Office: 212 891-1662

Fax: 212 909-0860

Email: [abarkow@jenner.com](mailto:abarkow@jenner.com)

### PRACTICE GROUPS

Consumer Law

Culture Risk and Sensitive Investigations

Education

FinTech

Government Controversies and Public Policy

Litigation

Investigations, Compliance and Defense

Litigation

Markets and Trading

Monitorship Practice

### INDUSTRY GROUPS

Cannabis

FinTech

Hospitality

Life Sciences

### EDUCATION

Harvard Law School, JD, 1995; *cum laude*;

Notes Office Co-Chair and Supervising

Editor, *Harvard Law Review*

University of Michigan, AB, 1991; *summa*

*cum laude*

### ADMISSIONS

California (inactive), 1996

District of Columbia, 1998

New York, 2009

### COURT ADMISSIONS

US Supreme Court

US Court of Appeals, Second Circuit

US Court of Appeals, DC Circuit

US District Court, Southern District of New

- Representing the New Jersey Legislative Select Committee on Investigation in its investigation of the decision to close access lanes to the George Washington Bridge, and other matters (generally referred to as “Bridgagate”).
- Defending an executive in an accounting fraud investigation by the United States Attorney’s Office for the Southern District of New York and the Securities and Exchange Commission, and related civil litigation.
- Defending an executive in an investigation by the United States Attorney’s Office for the Southern District of New York into alleged illegal trading and bank fraud.
- Representing executives, including a former CEO, in an accounting fraud investigation conducted by the Securities Exchange Commission.
- Representing executives of a major financial institution in connection with a Bank Secrecy Act and money laundering investigation by the United States Attorney’s Office for the Southern District of New York and the Financial Crimes Enforcement Network (FinCEN).
- Representing individuals in connection with domestic and international investigations of foreign exchange (FX) trading.
- Representing individuals in connection with domestic and international criminal and regulatory investigations into the setting of LIBOR rates.
- Representing executives of a global financial institution in connection with OFAC and money laundering investigations by banking regulators, the Department of Justice, the New York Attorney General’s Office, and the New York County District Attorney’s Office.
- Representing individuals in connection with investigations of swaps and derivatives markets, and ISDAfix benchmarks, by the United States Attorney’s Office for the Southern District of New York and the Commodity Futures Trading Commission (CFTC).
- Representing individuals in an honest services fraud investigation and prosecution involving the pharmaceutical industry conducted by the United States Attorney’s Office for the Southern District of New York.
- Monitoring Credit Suisse Securities (USA) LLC following its \$5.3 billion settlement with the US Department of Justice over the sales of residential mortgage-backed securities in the run-up to the 2008 financial crisis.
- Representing an executive in the Southern District of New York indicted on mortgage fraud charges.
- Representing Chesapeake Energy successfully at trial in the Southern District of New York in a well-publicized civil dispute with a trustee concerning the timeliness of a redemption of a \$1.3 billion bond offering.
- Representing a large pharmaceutical company in multiple shareholder derivative matters.

York

US District Court, Eastern District of New York

**JUDICIAL CLERKSHIPS**

Hon. Thomas P. Griesa, US District Court, Southern District of New York, 1995 - 1996

- Co-leading an investigation on behalf of a state public utilities commission into whether one of the nation's largest utility companies misled the commission in connection with an application for merger approval.
- Conducting an internal investigation of a mortgage lender in connection with a fraud investigation by the Department of Justice.
- Representing an individual indicted on conspiracy and other charges in the Eastern District of New York.
- Successfully securing dismissal of all charges for individual criminally prosecuted by the Manhattan District Attorney's Office.

Mr. Barkow is a prolific author, speaker, and commentator on criminal law issues, particularly regarding issues involving prosecutors. He has appeared on various news programs, including *NBC Nightly News with Brian Williams*, BBC News and the Fox Business Channel, and has been quoted in a variety of other media sources, including *The New York Times*, *The Wall Street Journal*, *USA Today*, and NPR. Mr. Barkow testified before the United States House of Representatives Judiciary Committee's Subcommittee on Commercial and Administrative Law regarding proposed corporate monitoring legislation. He is the co-editor of and a contributing author to *Prosecutors in the Boardroom: Using Criminal Law to Regulate Corporate Conduct* (NYU 2011), a leading volume on deferred- and non-prosecution agreements and corporate monitors.

Mr. Barkow is a member of the firm's Management Committee.

- **New York University School of Law.** Immediately before joining Jenner & Block, Mr. Barkow was the Executive Director of New York University School of Law's Center on the Administration of Criminal Law (CACL). Mr. Barkow established the nonprofit, apolitical advocacy organization in 2008. It is dedicated to promoting good government practices in the criminal justice system and particularly focuses on the exercise of prosecutorial power and discretion. At the time of its founding, it was the first organization of its kind in the country.

In his capacity as CACL Director, Mr. Barkow filed more than 25 amicus briefs in courts around the country, including more than 20 amicus briefs in the US Supreme Court. In December 2011, Mr. Barkow argued as amicus curiae in an extremely rare en banc proceeding before the US Court of Appeals for the Second Circuit, in *United States v. Gupta*, which addressed whether closure of a courtroom during jury selection violated the Sixth Amendment. He also testified before Congress regarding legislation relating to corporate monitors and submitted testimony, by invitation, to the Pennsylvania House of Representatives Judiciary Committee regarding juvenile life without parole sentences. In 2008, Mr. Barkow served as a human rights observer of the military commission hearings in Guantanamo Bay, Cuba.

Mr. Barkow has also served as an adjunct clinical professor of law at New York University School of Law.

- **United States Attorney's Office for the Southern District of New York.** From 2002 to 2008, Mr. Barkow was an Assistant United States Attorney in the US Attorney's Office for the Southern District of New York, serving in the Securities Unit and the Terrorism and Organized Crime Unit, among others. During that time, Mr. Barkow prosecuted the high-profile case of *United States v. Stewart, et al.*, involving several defendants who were convicted after a 9-month trial on all charges, including conspiracy to kill Americans abroad, providing material support to a conspiracy to kill, and violating government restrictions on communications and other contacts with Sheikh Omar Abdel Rahman, a high-security federal prisoner. Mr. Barkow delivered the government's rebuttal summation over two days at the conclusion of the trial.
- **United States Attorney's Office for the District of Columbia.** From 1998 through 2002, Mr. Barkow was an Assistant United States Attorney in the US Attorney's Office for the District of Columbia. He prosecuted homicide, international narcotics trafficking, domestic violence, sexual abuse, and drug and gun street crimes.

- **United States Department of Justice, Attorney General's Honors Program.** Mr. Barkow began his legal career in 1996 as a trial attorney in the Attorney General's Honors Program in the Office of Consumer Litigation, Civil Division, United States Department of Justice, litigating white collar criminal and civil cases under various federal consumer protection statutes.
- **Pro Bono.** Mr. Barkow maintains an active pro bono practice at the firm. He is a member of the Criminal Justice Act panel in the United States District Court for the Southern District of New York, representing indigent defendants in criminal cases, and has handled CJA cases in the Eastern District of New York as well. He has filed amicus briefs in the US Supreme Court and US Court of Appeals for the Second Circuit for clients including the NAACP Legal Defense Fund.

## Awards

- Attorney General's Award for Exceptional Service - 2005
- *Chambers USA*  
Litigation: White-Collar Crime & Government Investigations (New York) - 2017-2020
- Jenner & Block Mentorship Award - 2014, 2020
- *Legal 500*  
Dispute Resolution - Corporate Investigations and White-Collar Criminal Defense - 2017, 2020, 2021
- *New York Super Lawyers*  
Criminal Defense: White Collar - 2013-2020  
Appellate, 2015  
Litigation, 2015

## Service To The Bar

- Chairperson, ABA Criminal Justice Section Task Force on Corporate Monitoring - 2010-2011

## Testimony

- Hearing on House Bill 1999 (to end juvenile life without parole), House Judiciary Committee, Pennsylvania State Legislature - August 4-5, 2010
- "Transparency and Integrity in Corporate Monitoring," Hearing before the House Subcommittee on Commercial and Administrative Law, US Congress - November 19, 2009

## Educational

- Instructor, "The Art & Science of Internal Investigations: Best Practices," CLE, Jenner & Block - November 2020
- Instructor, Grand Jury Practice CLE, Jenner & Block, New York, NY - December 2014
- Instructor, Internal Investigations CLE, Jenner & Block, New York, NY - April 2013 and September 2012
- Instructor, Briefwriting CLE, Jenner & Block, New York NY - May 2012
- Adjunct Clinical Professor of Law, New York University School of Law, Prosecution Clinic, United States Attorney's Office for the Southern District of New York - 2006-2008

- Instructor, Trial Advocacy Skills Training, United States Attorney's Office, Southern District of New York - 2007-2008
- Instructor, Trial Advocacy Skills Training, United States Attorney's Office, District of Columbia - 2002
- Instructor, Training on *Bruton v. United States*, United States Attorney's Office, District of Columbia - 2001

## Publications

- Co-Author, Client Alert: Deputy Attorney General Announces Significant Changes to DOJ's Corporate Criminal Enforcement Policies, November 3, 2021
- Co-Author, Client Alert: Do Your ESG Disclosures Need Leveling Up? Leading Video Game Company Faces SEC Investigation into Its Harassment and Discrimination Disclosures as It Reaches \$18 Million Settlement with EEOC, October 5, 2021
- Co-Author, "Responding To Fraud Charges Based On Trade Data Analytics," *Law360*, July 29, 2021
- Editor, *The Guide to Monitorships – Second Edition*, June 2020
- Co-Author, Client Alert: DOJ Updates Guidance Regarding the "Evaluation of Corporate Compliance Programs" — Key Take-Homes, June 4, 2020
- Co-Author, Client Alert: Second Circuit Allows Insider Trading to Be Proven Without Personal Benefit, January 10, 2020
- Editor, *The Guide to Monitorships*, June 2019
- "Introduction," *The Guide to Monitorships*, June 2019
- "New Indictment a Reminder of CPSC's Enforcement Capabilities," *New York Law Journal*, May 2, 2019
- Key Considerations in Investigating Workplace Sexual Misconduct Complaints, April 5, 2018
- "The Effect of Brexit on UK and US Enforcement," *Compliance & Enforcement*, July 27, 2016
- Client Alert: "DOJ Issues Guidance Regarding Enhanced FCPA Enforcement and Credit for Voluntary Disclosure, Cooperation, and Remediation", April 7, 2016
- Co-Author, "The Value of Separate Employee Counsel after Yates Memo," *Law360*, December 9, 2015
- Co-Author, Client Alert: *U.S. v. Newman*: Second Circuit Reverses Remote Tippees' Convictions for Insider Trading Where Tipsters Never Charged, December 22, 2014
- "American Prosecutorial Imperialism?" *American Bar Journal's Litigation*, Fall 2014
- "A Whole Lot of *Wurie*: Information Acquisition and the Fourth Amendment," *SCOTUSblog*, June 26, 2014
- "Bitcoin: What It Is and How It's Regulated in the US," *New York Law Journal*, February 18, 2014
- Client Alert: UK Sentencing Council Issues Definitive Guideline for Fraud, Bribery and Money Laundering Offenses by Corporate Offenders, February 7, 2014
- "Court Rulings Support Broad Jurisdiction in FCPA Cases," *New York Law Journal*, November 5, 2013
- "Increased Judicial Scrutiny of Deferred Prosecution Agreements," *New York Law Journal*, August 20, 2013
- Client Alert: Consumer Financial Protection Bureau Issues New Guidance for "Responsible Business Conduct" in connection with Enforcement Actions, July 29, 2013

- “Dissent in *Peugh* as a Blueprint for Below-Guidelines Sentences,” *New York Law Journal*, July 24, 2013
- Co-Editor and Contributing Author, *Prosecutors In the Boardroom: Using Criminal Law to Regulate Corporate Conduct*, New York University Press, 2011
- Co-Author, “Prosecuting Political Defendants,” 44 *Georgia Law Review* 953, 2010

## Speaking Engagements

- “Corporate Response to Crisis: What Happens When Your Company Is Under Scrutiny?” Global Ethics Summit 2018, March 14, 2018
- “Corporate Response to Crisis – What Happens When Your Company is Under Scrutiny,” Association of Corporate Counsel of New York City, April 26, 2017
- Panelist, “How to Interact with External Regulators and Investigators,” National Association of College and University Attorneys, November 13, 2015
- Speaker, “Important Topics for Federal Practice,” New York State Association of Criminal Defense Lawyers, October 24, 2014
- “Deferred and Non-Prosecution Agreements,” Neither Admit Nor Deny: Corporate Crime in the Age of Deferred Prosecutions, Consent Decrees, Whistleblowers & Monitors, May 03, 2013
- Moderator, “Prospective and Proactive Measures That Prosecutors Can Implement To Avoid Wrongful Convictions,” Conviction Integrity Roundtable, New York University School of Law, New York, NY, December 06, 2011
- Introductory Speaker, “Policing, Regulating, and Prosecuting Corruption,” New York University School of Law, New York, NY, March 25, 2011
- Panelist, “The Courts on Trial: Is The System Failing Us?” Law & Disorder: Facing the Legal and Economic Challenges to American Criminal Justice, 6th Annual HF Guggenheim Symposium on Crime in America, John Jay College of Criminal Justice, New York, NY, February 01, 2011
- Panelist, “The Supreme Court Term: Criminal Cases,” New York City Bar, New York, NY, July 21, 2010
- Panelist, “Drawing the Ethical Line: Controversial Cases, Zealous Advocacy and the Public Good,” University of Georgia School of Law, Athens, GA, October 15, 2009 to October 16, 2009
- “Improving Cross-Cultural Communication and Reentry,” ABA Criminal Justice Congress, Washington, DC, May 28, 2009 to May 29, 2009
- “Prosecuting Terrorism” Roundtable, Human Rights First, Washington, DC, November 17, 2008 to November 18, 2008
- Moderator, “New Frontiers In Race and Criminal Justice: Race and Prosecution,” New York University School of Law, New York, NY, April 17, 2002
- Introductory Speaker, “Allocating Prosecutorial Power: How Prosecutors Compete, Cooperate and Clash,” New York University School of Law, New York, NY,
- Panelist, “*Holder v. Humanitarian Law Project* Post-Argument Panel”, Georgetown University Law Center, Washington, DC,
- Panelist, “Prosecuting Terrorists in Article III Courts,” New York County Lawyers’ Association, New York, NY,

- Introductory Speaker, “Public Address on White Collar Crime by Preet Bharara, United States Attorney for the Southern District of New York,” New York University School of Law, New York, NY,
- Panelist, “Should Good People Be Prosecutors,” New York University School of Law, New York, NY,
- Introductory Speaker, “Regulation By Prosecutors,” New York University School of Law, New York, NY,
- Criminal Justice Ethics Roundtable regarding New York State Bar Association Task Force on Wrongful Convictions Draft Report, Benjamin N. Cardozo Law School, New York, NY,
- Panelist, “A Nation of Laws? Responses to the Alleged Crimes of the Bush Administration,” University of Pennsylvania School of Law, Philadelphia, PA,
- “Prosecuting Large Scale Terrorism Cases,” Goldstock Criminal Law Roundtable, New York University School of Law, New York, NY,
- “Prosecuting Terrorism Cases and Guantanamo,” National Security Law Association, Harvard Law School, Cambridge, MA,
- Panelist, “Meeting The Threat: A Symposium On Counter-Terrorism,” Duke Law School, Durham, NC,