

David H. Resnicoff

Partner

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Dave Resnicoff helps sophisticated companies and executives manage government investigations, whistleblower allegations, and global compliance obligations in a practical way. Dave has experience in a wide variety of industries, and especially in life-sciences, medical device, and medical technology.

Dave helps his clients build and assess their compliance programs in light of their business model and risk profile. He helps them respond credibly and proportionately through internal investigations to internal allegations of misconduct. And he helps them respond effectively to government investigations by achieving resolution prior to charges ever being lodged, and by defending them vigorously in enforcement proceedings.

Dave offers the unique perspective of a seasoned trial lawyer with more than two decades of experience as a senior compliance executive with two global companies, as a federal prosecutor with the U.S. Department of Justice, and as a law-firm partner representing corporate boards, public and private companies, and senior corporate executives. He has more than a decade of experience in matters involving the Foreign Corrupt Practices Act, U.S. health care fraud and abuse regulation, and False Claims Act litigation, among other areas of criminal and civil law enforcement.

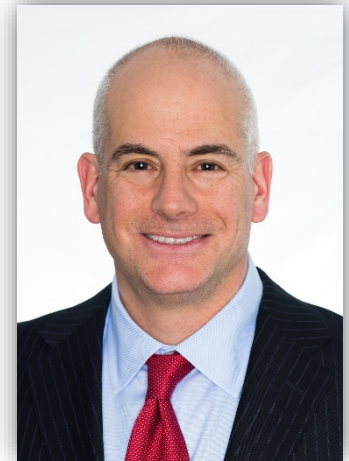
Dave's clients value his pragmatic and engaging approach that delivers practical advice and effective strategies tailored to their industries, business models, and risk.

EXPERIENCE

Dave joined the U.S. Attorney's Office for the Eastern District of Pennsylvania in 1995 after four years at a global, Washington-based law firm. As a federal prosecutor, Dave spent nearly a decade investigating and prosecuting health care and other government fraud, as well as other potential federal crimes. He spent half of his time evaluating and investigating allegations of misconduct by health care companies in sealed qui tam actions under the False Claims Act. He tried over ten federal cases to verdict, including a murder-for-hire conspiracy resulting in mid-trial guilty pleas and life sentences for all defendants. He received the Department of Justice's Director's Award for Superior Performance for his health care fraud investigations.

Dave joined Tyco International's turn-around team in 2003 as Counsel and Director of Internal Investigations, where he was responsible for managing and performing investigations for a \$40 billion diversified company, including a \$10 billion health care segment. He ran the senior-executive Compliance Committee, reporting to senior management and the Audit Committee.

Dave joined Baxter International as Associate General Counsel and Vice-President, Compliance in 2006, where he built and operated the compliance program from the ground up. Managing a team of twenty compliance professionals on three continents, he handled a wide variety of the critical compliance issues that face every global health care company, including compliance with U.S. health care fraud and abuse regulation (Anti-Kickback Statute, off-label sales, False Claims Act), and the



Foreign Corrupt Practices Act. Dave also managed the defense of multiple government investigations to successful resolution, and he chaired Baxter's Compliance Committee, regularly reporting to the Audit Committee.

Dave returned to private practice in 2011, where he has advised a wide variety of companies and executives with their compliance programs, internal investigations, and government inquiries, as follows:

Compliance Counseling, Program Reviews and Risk Assessments

Dave helps businesses in a variety of industries ensure that they have cost-effective and practical compliance programs designed to prevent and detect compliance issues before they become systemic.

With eight years of in-house experience, Dave is skilled at program design and governance, resource allocation and staffing, effective use of compliance committees, development and implementation of policies and procedures, compliance education programs, program and risk assessments, compliance program monitoring and auditing, investigation programs, and M&A and JV compliance due diligence.

Dave has managed and performed scores of global compliance program assessments through a mix of qualitative and forensic techniques, reporting to management and boards on the relative strengths, challenges, and opportunities of their programs. Several of these have included "pre-monitorship" assessments that evaluate and enhance programs in anticipation of government scrutiny or imposition of a monitor.

His experience includes the pharmaceutical, medical device, hospital supply, hospice, manufacturing, technology, insurance, transportation, energy, and retail sales industries.

Representative Engagements

- Retained by a privately held global medical technology company to perform a global compliance assessment during a federal FCPA investigation.
- Retained by a privately held global device and hospital supply company during a federal investigation to evaluate compliance program and risk with respect to the Foreign Corrupt Practices Act and U.S. health care fraud and abuse regulation.
- Retained by a privately held financial services company during a federal investigation to evaluate their compliance program and risks with respect to the Foreign Corrupt Practices Act.
- Retained by a publicly held pharmaceutical company during a federal investigation to evaluate their compliance program with respect to U.S. health care fraud and abuse regulations.
- Retained by a global technology and manufacturing company to perform global compliance program and risk assessment for a publicly held company with respect to the Foreign Corrupt Practices Act.
- Managed multiple U.S. and global compliance program and risk assessments for a publicly held medical device, supply, and pharmaceutical company for U.S. health care fraud and abuse regulations and the Foreign Corrupt Practices Act.

Internal Investigations

Dave advises companies on how to assess and respond appropriately and proportionately to allegations of misconduct by whistleblowers, either partnering with them to perform the investigation, or performing an independent investigation. These issues have spanned health care

fraud and abuse, FDA misbranding ("off-label" sales), anti-corruption (FCPA and the U.K. Bribery Act), commercial and financial fraud, embezzlement, export control and sanctions matters, and serious conflicts of interest. He has performed scores of investigations throughout North America, South America, Asia, the Middle East, and Europe.

With two decades of investigative experience, Dave has broad perspective and in-house savvy in planning and executing complex, sensitive internal investigations and reporting to senior management, Compliance Committees, and Board level.

Representative Engagements

- Multiple allegations of improper payments to hospital administrators, physicians, and regulators concerning pharmaceuticals and medical devices in Europe, Asia, and Latin America.
- Multiple allegations of off-label sales and kickbacks to physicians and hospitals in the U.S. by pharmaceutical and medical-device companies.
- Allegations of improper payments to government officials in Lebanon for registration of pharmaceutical products.
- Allegation of improper payments to government officials in China concerning local government program.
- Allegation of improper payments to government officials in China concerning tax liability.
- Allegation of improper payment to government officials in China concerning manufacturing contract.
- Allegation of improper payments to government officials in Mexico concerning government tender.
- Allegation of improper payments to government officials in Angola concerning immigration visas.

Government Investigations

Dave helps companies respond appropriately to government inquiries made through civil and criminal investigative demands and subpoenas, and aggressively defends against civil and criminal government enforcement actions. His practice encompasses health care fraud and abuse, FDA misbranding ("off-label" sales), corruption (FCPA and the U.K. Bribery Act), commercial and financial fraud, embezzlement, and export control and sanctions matters.

Representative Engagements

- Multiple DOJ investigations of pharmaceutical company executives involving allegations of health care fraud.
- SEC investigation of an energy company for alleged improper payments in Asia.
- DOJ investigation of a financial services company for alleged improper payments in Asia.
- DOJ/SEC investigation of a health care company for alleged improper payments in Asia, Europe, and Latin America.
- DOJ investigation of a health care company for alleged violations of FDA regulations in the United States.
- DOJ investigation of a health care company for alleged kickbacks and off-label sales in the United States.
- SEC investigation of a manufacturing company for alleged improper payments in connection with the U.N. Oil-for-Food program.
- DOJ investigation of multiple corporate executives for participation in alleged violations of federal law, including health care fraud, the Foreign Corrupt Practices Act, FDA GMPs, Customs regulation, wire fraud, and embezzlement.

CREDENTIALS

Education

Boston College Law School, J.D., 1990, *cum laude*, Editor-in-Chief, *International and Comparative Law Review*

Johns Hopkins University, M.A., International Affairs, 1987, *with distinction* in American Foreign Policy and International Economics

Colby College, B.A., 1985, *cum laude*

Bar Admissions

District of Columbia

Illinois

Massachusetts

Professional Memberships

American Bar Association

Section of Litigation

Section of Business Law (White Collar Crime)

Chicago Inn of Court, Master

Honors & Awards

U.S. Department of Justice, Director's Award for Superior Performance as an Assistant U.S. Attorney

Illinois Leading Lawyer, *Law Bulletin Media Leading Lawyers* (2020-2021)

Legal 500, Legalease (2012, 2013)

PUBLICATIONS & PRESENTATIONS

Dave regularly speaks on compliance and government enforcement issues at conferences throughout the United States.

“Fraud and Abuse: Demystifying Monitorships—What General Counsel and Compliance Officers Need to Know,” (co-presenter) American Health Law Association (AHLA) (September 21, 2021)

“Prosecutorial Perspectives on Recent Settlements, OIG’s Guidance, and Enforcement Priorities for 2021,” (moderator) American Conference Institute (ACI) Special Briefing, Fraud & Abuse in the Sales and Marketing of Drugs & Medical Devices (March 18, 2021)

“COVID-19 And Compliance: Lessons From Great Recession,” (co-author) *Law360* Commentary (April 14, 2020)

“SEC FCPA Enforcement Update,” (co-panelist) ACI 9th Midwest Anti-Corruption Compliance Forum, Chicago, IL (June 26, 2018)

“De-Risking Executives From Personal Liability For Compliance Failures,” (author) *Risk & Compliance* (January-March 2018 Issue)

COMMUNITY SERVICE

Throughout his career, Dave has been involved in a variety of pro bono representations and community service activities, including: serving for six months at Neighborhood Legal Services in Washington, D.C.; representing a multi-ethnic Olympic team fearing persecution in their home country in successful U.S. asylum proceedings; representing the ACLU as *amicus* in a brief filed in the U.S. Supreme Court on issues of judicial independence in the military; leading public service projects at the Chicago-based Housing Opportunities for Women, and Habitat for Humanity; serving on his local township Caucus; and coaching community youth lacrosse.