



Practice Group of The Year

Wilmer Cutler Pickering Hale and Dorr LLP



The **Best FCPA Lawyers Client Service Awards** highlight exceptional service in Foreign Corrupt Practices Act and global anti-corruption matters. Awards were determined by Main Justice based on submissions by firms, interviews with firm partners, client feedback and public records

Main Justice is an independent news organization that covers the U.S. Department of Justice.

WilmerHale is named FCPA Practice Group of the Year for exhibiting stellar judgment in its ongoing counseling of more than 50 companies regarding FCPA and global anti-corruption matters.

An experienced team of more than 40 attorneys collaborates across the firm's U.S., European, and Asian offices to provide seamless representation to clients around the clock. Led by Roger Witten, Kimberly Parker and Jay Holtmeier, the practice members are acknowledged by clients as team players with a keen grasp of the issues.

The firm boasts strong collaboration among colleagues with informed perspectives and strategic positioning in key markets. It offers a deep understanding of specific industry risks and the ability to aid clients through practice compliance counseling, risk assessments, and effective advocacy in enforcement and investigations.

WilmerHale works at the highest levels in all areas of global anti-corruption. The integrated compliance, enforcement and investigations practice prides itself on its collaboration. "We believe in a very collegial approach to work," says Witten. "For most client matters we try to have at least two partners whom the clients know they can contact about the matter."

Witten, a veteran attorney recognized by Main Justice as an FCPA Master, draws on his extensive experience in representing clients before the Department of Justice, Securities and Exchange Commission and other enforcement authorities.

"Because we have a large amount of government contact and industry contact we have a great deal of exposure that broadens our knowledge base to help clients make informed decisions based on trends, the market, and how enforcement authorities are thinking," explains Witten.



L-R: Saniya O'Brien, Erin Sloane, Jay Holtmeier, Roger Witten, Kim Parker, Lillian Potter, Tom Koffer (Photo Doug Stroud)



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Roger Witten

Recognized by his peers as one of the “deans” of the FCPA bar, Witten over the years has been involved in many “firsts” in the evolving body of law and guidance on the FCPA.

In the 1990s, Witten represented Triton Energy Corporation in one of the first cases to advance the theory that payments to reduce taxes could violate the FCPA. Triton, which neither admitted nor denied allegations of improper payments in Indonesia, resolved an SEC enforcement action in 1997 by paying a \$300,000 penalty.

In 2004 Witten represented InVision Corporation, one of the earliest FCPA cases in the context of a merger or acquisition. It was also the first case in which the DOJ interpreted an “agent” of the company to include distributors and wholesalers.

In 2007, Witten and Holtmeier represented York International Corporation in a U.N. oil-for-food matter in which the company’s air conditioning and refrigeration subsidiaries admitted paying kickbacks to the Iraqi government for contracts. York was the first case in which the DOJ agreed in a deferred prosecution agreement not to prosecute the company for historical conduct discovered after the settlement.

Witten’s expertise is such that he is often sought out by companies to provide a “second opinion” on matters handled by other firms.



Roger Witten (Photo Doug Stroud)

In 2012 he obtained a declination for a major conglomerate based on the due diligence steps it took pursuant to Witten’s advice before and after closing an acquisition.

Currently Witten represents 10 clients in matters before the DOJ and SEC.

Other representations

Lufthansa Technik AG/BizJet International

After discovering irregular payments at U.S. subsidiary BizJet International Sales and Support Inc., Germany’s Lufthansa Technik AG engaged WilmerHale to conduct an investigation. On behalf of the company, WilmerHale made a voluntary disclosure to the DOJ of questionable payments in Mexico and Panama for aircraft maintenance and repair contracts.

The result: BizJet was charged in 2012 with a single count of conspiracy to violate the FCPA, entered into a deferred prosecution agreement and avoided an expensive corporate monitor. BizJet agreed to pay an \$11.8 million criminal penalty – more than 30 percent off the lowest end of the U.S. Sentencing Guidelines.

Significantly, the parent company received a non-prosecution agreement that – in a rare occurrence – contained no “statement of facts” outlining the misconduct. Lufthansa Technik also paid no monetary penalty.

The Department of Justice has referred to the BizJet matter in public statements as an example of the rewards of cooperating with prosecutors. Holtmeier supervised this case.

Meanwhile, the department on April 5, 2013, disclosed the unsealing of criminal charges against four former BizJet executives – two of whom had pleaded guilty in January. The other two were apparent fugitives.

Armor Holdings Inc.

WilmerHale represented BAE Systems Inc. during its acquisition of Armor Holdings Inc., which had voluntarily disclosed to the DOJ in April 2007 the misconduct of its former vice president of international sales, Richard Bistrong.

Bistrong, who’d authorized bribes to a United Nations procurement official to secure body armor contracts for U.N. peacekeepers, later went on to greater infamy as the government’s key cooperator in its well publicized FCPA Africa sting case.

After conducting the transaction due diligence on Armor, WilmerHale became lead counsel on the FCPA matter after BAE closed the deal.

Bistrong’s role as a cooperator in an FBI undercover sting operation that eventually led to charges against 22 brokers of defense and law enforcement products created numerous hurdles for WilmerHale as it defended the BAE-owned Armor subsidiary. But in 2011 Armor Holdings entered into a non-prosecution agreement with the DOJ that recognized the company’s “extensive remedial efforts.” The \$10.3 million penalty Armor agreed to pay to settle the DOJ matter was approximately 30 percent off the U.S. Sentencing Guidelines low-end range.

During 2012 WilmerHale made numerous appearances before U.S. District Judge Richard Leon in Washington, D.C., to negotiate reporting requirements with the court regarding its SEC settlement. WilmerHale also negotiated novel agreements to adopt the SEC and DOJ settlements with a new buyer of the relevant parts of the business spun off by BAE in July 2012. Parker and Witten oversaw the case.



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Paul Jennings/Innospec Inc.

WilmerHale's ongoing representation of former Innospec CEO Paul Jennings relates to a DOJ, SEC and U.K. Serious Fraud Office investigation of U.N. Oil-for-Food program bribes paid by the chemical manufacturer in Iraq. In 2011, Jennings entered into a consent judgment with the SEC and agreed to pay a penalty of \$229,000.

Jennings is now awaiting sentencing in Britain, after the DOJ did not pursue charges. Holtmeier and Witten oversaw the representation.

WilmerHale represents other non-public clients in major FCPA investigations by the DOJ and SEC that can't be disclosed. The public examples cited above establish WilmerHale as an elite practice group able to achieve favorable outcomes for its clients in high-profile matters.