

CAPABILITY STATEMENT

WHITE COLLAR CRIMINAL DEFENSE

As the premier investigative resource for white collar defense practitioners, we work collaboratively and creatively with defense counsel from the pre-indictment stage through the end of the trial.

The Nardello & Co. team includes former federal prosecutors, former general counsels, ex-law enforcement officials, corporate investigators, forensic accountants and computer forensic specialists with long-standing experience conducting defense investigations. This experience has proven invaluable both in crafting investigative strategies designed to challenge the government's case and in bolstering defense theories. Our cases have involved charges of insider trading, fraud and corruption, RICO, money laundering, tax evasion, and other significant reputation-damaging and criminal enforcement issues.

When the client's future is on the line in a criminal case, access to information can mean the difference between acquittal and conviction.

Our Services

Our work in connection with the defense of white collar criminal matters includes:

- Collecting evidence and adducing facts in support of defense motions
- Conducting background investigations of the government's cooperating witnesses to impeach their credibility
- Investigating credentials of expert witnesses
- Identifying, locating and interviewing potential witnesses
- Interviewing confidential sources for background information when public records are unavailable, unhelpful or non-existent
- Tracing and locating assets
- Identifying undisclosed links between subjects and witnesses
- Testing the government's theory to see if it is supported by information in the public record or information obtained through confidential sources
- Creating alternative theories to counter the government's theory of prosecution
- Providing material for plea negotiation and cross examination
- Retrieving and analyzing data files using computer forensic methods
- Conducting forensic accounting reviews of financial records
- Supporting counsel and jury consultants in jury selection research

SELECT WHITE COLLAR CRIMINAL DEFENSE EXPERIENCE

The value of our work is perhaps best illustrated by the results our clients have achieved on numerous high-stakes and high-profile criminal cases as described in further detail below.



Case Study | **Hired Gun Backfires**

Nardello & Co. assisted counsel in the defense of an employee of a financial institution who was charged for his alleged involvement in a tax evasion and tax fraud scheme. Nardello & Co. conducted an investigation of the government's main expert witness, who provided testimony regarding the propriety of the tax fraud. Although the witness had provided expert testimony in numerous cases and trials, his background was unchallenged. A review of US corporate records revealed that the expert's former business partner was the personal lawyer and partner of an infamous fugitive wanted for tax evasion. Examination of media and corporate records in the Cayman Islands also revealed that the expert served on the board of numerous investment funds incorporated in the Caymans, all incorporated by a Cayman law firm that was known for assisting foreigners in setting up companies for the purpose of sheltering wealth from tax authorities. This information established that the government witness on tax matters was at the same time partnering with individuals and companies who were associated with tax evasion, and supported the defense's assertion that the expert was merely a hired gun. The defendant was acquitted.



Case Study | **Acquittal for Defendant**

Nardello & Co. was retained by a law firm representing a defendant who was accused of defrauding a financial institution. A critical issue at trial was missing evidence, which the government believed that the defendant had destroyed. The government wanted to present its "facts" about the missing evidence and argue to the jury that the defendant was responsible. Nardello & Co.'s team tracked down former employees of the firm, including a former security officer, all of whom stated that numerous items had been reported missing from the firm's offices during the relevant time period, and it was believed that the missing items had been stolen. Our interviewees also identified internal company records that documented the incidents. Armed with this information, defense counsel was able to successfully convince the court to preclude the government from making mention of the missing evidence. The defendant was acquitted.



Case Study | **FCPA Violations in Azerbaijan**

We were retained by a US law firm to assist in the criminal defense of David Pinkerton, an AIG fund manager who was indicted for alleged FCPA violations relating to the privatization of the national oil company in Azerbaijan [US v. Kozeny, et al.]. The government's case relied heavily on information provided by a cooperating witness. We conducted an investigation of the cooperating witness in various locations including the US, UK, Turkey, Serbia, Cyprus, Russia, Azerbaijan and Australia. Our investigation revealed that the co-operator engaged in wrongful activity both historically and during his cooperation with the government.

As part of our investigative process, we conducted a series of interviews and reviewed relevant records in order to establish alternative theories for the cooperating witness's actions that suggested that his role in the scheme was likely much larger than previously known. The government's case as to Mr. Pinkerton also relied on a conscious avoidance theory, i.e., he must have known of illegal payments because objective due diligence would have led him to walk away from the investment. As part of the defense, we conducted historical "snapshot" due diligence to show that in fact, at the time that the investment was made, due diligence would have provided ample reason for the client to proceed with the transaction, and that in fact the US government was actively encouraging investment in Azerbaijan in the relevant time period. The law firm was able to use our findings to have the case against its client dismissed three years after he was indicted.

WHAT SETS US APART

Nardello & Co.'s adherence to our core values has led clients to retain us time and again on matters of the utmost importance and sensitivity. Our relationships are built on:

- **Integrity.** Acting ethically and legally is of paramount importance to us. We respect the laws of the countries in which we have offices and in the jurisdictions in which we work. Our clients' confidences are sacrosanct and we rigorously screen for conflicts.
- **Analysis. Creativity. Thoroughness.** We don't believe in menu-driven investigations or a democracy of facts. We are exhaustive but focused and adept at teasing out inferences, providing corroboration and separating "information" from evidence.
- **Responsiveness. Hands-on management.** We focus on our clients' objectives and tailor our investigative strategies accordingly. There are no layers between the professionals who do the work and the clients we serve.
- **Client focus.** We communicate with our clients clearly, succinctly and in real time. We respect budgets and deadlines.
- **Independence. Collaboration.** We are independently owned and answer only to our clients—not investors, not shareholders. Our offices collaborate, not compete, providing our clients with seamless service.

No parachutes needed

We're already on the ground with in-country resources worldwide. We speak the language, we're on top of the politics, we understand the regulatory environment and we know the key players.

About our firm

Nardello & Co. is a global investigations firm with experienced professionals handling a broad range of issues including the FCPA/UK Bribery Act and other corruption-related investigations, civil and white collar criminal litigation and arbitration support, asset tracing, strategic intelligence and political risk assessment, computer forensics and reputational due diligence. Our clients include the world's leading law firms and financial institutions, Fortune 500 and FTSE 100 companies, high-net-worth individuals and family offices, governments, NGOs, sports organizations and academic institutions. With offices in New York, London, Washington DC, Atlanta, Hong Kong, Tokyo, Milan and Dubai, Nardello & Co.'s professional staff includes former US federal prosecutors, US and international lawyers, former general counsels of multinational corporations, former law enforcement personnel and intelligence operatives, licensed investigators, research analysts, former journalists, financial crime specialists, forensic accountants and computer forensic experts.

Why risk it?

Whether you have an urgent situation today or something stirring on the horizon, whenever, wherever you need us, we'll work with you to develop custom solutions to meet your needs.

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