



## Scott L. Marrah

PARTNER

Suite 2800, 1100 Peachtree Street NE  
Atlanta, GA, 30309-4528  
USA  
t +1 404.815.6609  
f +1 404.541.3180

[Smarrah@kilpatricktownsend.com](mailto:Smarrah@kilpatricktownsend.com)

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### Services

White Collar Litigation; Cybersecurity, Privacy & Data Governance; Government & Regulatory; White Collar Crime & Internal Investigations

### Industries

Health Care Litigation; Retail & Consumer Goods; Apparel, Accessories & Luxury Goods; Consumer Goods

Scott Marrah co-leads the firm's Government Enforcement & Investigations Team and serves on the firm's Executive Committee. He has extensive experience in the areas of white collar criminal defense, internal, criminal and SEC investigations, and complex commercial litigation. Mr. Marrah has significant trial and appellate experience gained from years as both a federal prosecutor and a defense attorney in private practice.

Mr. Marrah assists clients with government enforcement issues including the Foreign Corrupt Practices Act, the False Claims Act (including government contracting, healthcare and tax matters), Civil Investigative Demands, securities fraud allegations, criminal environmental and antitrust issues and export enforcement. He also regularly represents financial institutions in matters with DOJ, SEC, FDIC, and OCC, including subpoena compliance and internal investigations. He assists companies with grand jury inquiries and has handled investigations conducted by the Office of Inspector General from a variety of federal agencies.

Prior to joining the firm, he served as an Assistant United States Attorney in the Southern District of New York, where he successfully investigated and prosecuted a wide array of federal offenses in the areas of terrorism and national security, securities fraud, RICO, white collar crime, money laundering, export control and commerce violations, organized crime, trademark infringement and counterfeiting, mail, wire and bank fraud and international narcotics. As an Assistant United States Attorney, Mr. Marrah had numerous jury trials, bench trials, and hearings in federal court and also briefed and argued appeals before the United States Court of Appeals for the Second Circuit.

Before serving as a prosecutor, Mr. Marrah was a partner in an international law firm where he handled internal corporate investigations, white collar criminal defense, False Claims Act cases and complex commercial litigation matters. He also handled matters involving the Foreign Corrupt Practices Act, healthcare, environmental and SEC issues.

Mr. Marrah was listed in 2018 by *The Best Lawyers in America*<sup>®</sup> for White-Collar Criminal Defense. He was recognized as a Georgia "Super Lawyer" in Criminal Law in 2017 and the six years prior by *Super Lawyers* magazine. Mr. Marrah was also named to *Georgia Trend's* "Legal Elite" list for Criminal Law in 2016 and the seven years immediately preceding.

### Experience Highlights

#### FCPA declination by DOJ and SEC

Obtained a complete declination by Department of Justice and SEC of an FCPA matter for a public company client. Conducted a multi-national FCPA investigation and provided a voluntary disclosure to DOJ and SEC on behalf of an Audit Committee. Also assisted with training and instituting compliance improvements.

#### Investigation by DOJ of whistleblower claims

In less than four months, convinced the Civil Division of the Department of Justice that a whistleblower's claims against a company did not merit the Government's intervention into a sealed qui tam litigation. Soon after, the whistleblower voluntarily dismissed her litigation.

#### SEC investigation for a large financial institution

Represented a financial institution in a formal investigation by the Securities and Exchange Commission and convinced the Commission staff to close the investigation without taking any action.

#### Performed a corruption internal investigation in Argentina

Conducted an internal FCPA investigation for a public company relating to conduct in Argentina. The investigation included reviewing materials in Spanish and conducting interviews of Argentine and Chilean employees in both Spanish and English. The investigation's findings were favorable to the client.

#### Internal investigation of NYSE-listed energy company \*

Internal investigation on behalf of audit committee of NYSE-listed energy company to assess allegations regarding a wide array of issues, including securities and accounting fraud, violations of Sarbanes-Oxley and compliance with a variety of federal and state regulations.

#### Performed an internal investigation in India

Performed an internal investigation in India concerning potential crimes and advised the public company's Audit Committee on next steps and remedial measures.

#### Investigation on behalf of special committee of board of directors into misuse of bank resources

Internal investigation for special committee of board of directors of a bank related to misuse of bank resources by executive officers, including reports to special committee, board of directors, outside auditors and regulators.

#### RICO prosecutions of two Asian organized crime enterprises in Manhattan \*

Served as co-lead counsel in RICO prosecutions of over eighty defendants, including bosses of two Asian organized crime enterprises in Manhattan.

#### Represented former White House official in DOJ probe

Represented a former White House official in Department of Justice criminal investigation.

#### Securities and wire fraud prosecution for a specialist firm \*

Sole prosecutor in prosecution of trader on the floor of the American Stock Exchange, for securities and wire fraud charges in connection with a scheme to defraud his employer, a specialist firm and member of the American Stock Exchange.

#### False Claims Act investigations for several corporations

Represented corporations in civil and criminal False Claims Act investigations and litigation, including government contracting, tax and healthcare matters.

#### Internal investigation with potential criminal and regulatory exposure

Internal investigation on behalf of a *Fortune* 100 company of potential criminal and regulatory exposure arising from an environmental incident in Midwest.

#### Foreign Corrupt Practices Act investigations, compliance and training \*

Conducted internal investigations for several *Fortune* 500 companies regarding Foreign Corrupt Practices Act issues in Middle East, Latin America, Europe, Southeast Asia, India and China. Also assisted with instituting or updating FCPA compliance programs, including risk assessments, policies, third party contracts and due diligence and employee training in China, Hong Kong, Vietnam, Indonesia, Mexico and the Middle East.

#### Federal criminal investigation for a university

Represented a university and its employees in a federal criminal investigation of a third party relating to federal government submissions. The matter ended in a favorable result for the university and its employees.

#### Foreign Corrupt Practices Act internal investigation

Conducted an internal investigation into Foreign Corrupt Practices Act issues in the Caribbean for a public company and later, provided extensive training to executive officers, the legal department as well as employees.

#### Conducted internal investigation for international construction company \*

Performed an internal investigation for an international construction company into Foreign Corrupt Practices Act issues as well as conducted training for employees.

#### Investigation and prosecution for providing material support to terrorists and/or terrorist organizations \*

Investigated and prosecuted numerous individuals for providing material support to terrorists and/or terrorist organizations.

**Represented a construction company executive during parallel investigations by the SEC & DOJ**

Represented an executive at a public construction company during parallel investigations by the SEC & DOJ and convinced the DOJ to use the executive as a cooperating witness during a criminal trial.

**Successfully responded to a civil investigative demand and persuaded the DOJ not to take any action against client**

Conducted an internal investigation and represented a healthcare practice in responding to a civil investigative demand and investigation into whether the practice violated the False Claims Act. After over two years of investigating, the DOJ decided to close the matter without taking any action against the practice.

**Anti-bribery compliance training for U.S. retailer operating facilities in China**

Conducted anti-bribery compliance training for U.S. retailer operating facilities in China in January, June, and November 2015.

**Internal investigations involving criminal activities and kickback schemes \***

Several internal investigations on behalf of management of *Fortune* 500 companies regarding potential criminal activities and kickback scheme involving high-level employees.

**Convinced DOJ not to take action in a theft of trade secret investigation**

In less than three months, we convinced the Department of Justice not to take any action against a client employee for allegedly stealing trade secrets from a competitor. During the investigation, our client continued to be a witness and did not have any criminal exposure.

**Internal and government investigations**

Led corporate internal and government investigations of potential misconduct, including criminal antitrust and securities violations, and other criminal statutes.

**Successfully persuaded the DOJ not to take any action against a construction client**

Convinced the Department of Justice to decline prosecution of a construction company, after the DOJ had previously identified the company as a target of an environmental crime investigation.

**Assistance with Department of Justice and Attorney General Civil Investigative Demands for corporate clients**

Assisted corporate clients with responses to Civil Investigative Demands issued by U.S. Attorneys' Offices and state Attorneys General.

**Represented employees in an export investigation**

Represented a group of employees in an investigation by a U.S. Attorney's Office, the Nuclear Regulatory Commission and Immigration & Customs Enforcement relating to the export of medical devices to sanctioned countries.

**Trademark infringement for a large American retail company \***

Assisted large American retail company in investigating and pursuing trademark infringement in Asia, including potential criminal and civil remedies.

**Internal investigation regarding bid-rigging and bribery**

Conducted an internal investigation for a public company concerning potential bid-rigging and bribery.

**Internal investigation regarding potential Foreign Corrupt Practices Act violations \***

Internal investigation on behalf of a board of directors of a *Fortune* 500 company regarding potential Foreign Corrupt Practices Act violations in the Middle East, Southeast Asia and Africa.

**RICO prosecution of an organized crime family \***

Served as co-lead counsel in successful RICO prosecution of 32 members and associates of the Gambino crime family, including the Acting boss, Underboss and high ranking captains. The six-week jury trial resulted in conviction of the family captain.

**National security matters, Foreign Corrupt Practice Act, export violations and counter proliferation issues \***

Investigated and prosecuted cases involving national security matters, Foreign Corrupt Practice Act, export violations and counter proliferation issues.

**Declination of prosecution in criminal tax matter**

Represented a company in criminal tax matter, resulting in Department of Justice declination of prosecution.

**Assistance with subpoenas for construction companies in a Department of Justice investigation**

Represented general construction companies in responding to federal grand jury subpoenas.

#### Federal and state grand jury proceedings

Represented companies in federal and state grand jury proceedings.

#### Criminal investigation against one of the largest and most notorious narcotics traffickers in Europe \*

Served as lead counsel in a successful prosecution of one of the largest and most notorious narcotics traffickers in Europe after a five-week jury trial.

#### Assistance with subpoenas and investigations for corporate clients

Assisted corporate clients with subpoenas and investigations by the New York State Attorney General's Office.

#### Criminal liability and government disclosures related to internal computer audits

Advised a *Fortune* 500 company on criminal liability and government disclosures related to internal computer audits.

#### Assistance with state and federal criminal inquiries

Counseled clients on state and federal criminal inquiries and assisted in compliance with regulatory requests.

#### Investigation by U.S. Attorney's office & HHS into billing practices

Represented a medical group, in an investigation by the U.S. Attorney's Office and U.S. Department of Health & Human Services concerning medical billing, which resulted in a favorable settlement.

#### Fraud investigation into officer malfeasance of a medical group

Led an internal investigation into a fraudulent scheme conducted by an officer of a medical group.

#### Resolution of Department of Justice and Office of Inspector General investigation for hospital system

Represented hospital system in successful resolution of Department of Justice and Office of Inspector General investigation.

#### Internal investigation in response to a subpoena from the U.S. Postal Service Office of Inspector General

Conducted an internal investigation for an international public company in response to a subpoena from the U.S. Postal Service Office of Inspector General.

#### Prosecution of large-scale securities, wire, and mail fraud conspiracies \*

Served as lead counsel in prosecution of large-scale securities, wire, and mail fraud conspiracies.

#### Internal investigation for medical diagnostic company

Represented an Audit Committee of a medical diagnostic company in conducting an internal investigation involving compliance and assisting with related government disclosure and resolution.

#### Securities Exchange Act and shareholder-related derivative suits for several publicly traded companies \*

Represented several publicly traded companies in defense of shareholder class actions alleging violations of the Securities Exchange Act and shareholder-related derivative suits.

#### Potential recourses against alleged criminal activity by an employee

Advised top management of a *Fortune* 500 company on potential recourse due to alleged criminal activity by an employee.

#### Fraud relating to Internet usage for a *Fortune* 500 company

Advised a *Fortune* 500 company on fraud relating to internet usage as well as email communications.

#### Internal investigations for health care clients \*

Represented multiple health care clients in connection with internal investigations and assistance in developing and implementing comprehensive compliance programs.

#### Internal investigation involving an employee kickback scheme

Conducted internal investigation for a *Fortune* 100 company involving an employee kickback scheme.

#### SEC investigation involving insider trading allegations for a large international law firm \*

Represented large international law firm in SEC investigation related to insider trading allegations.

#### Litigation for employees in an off-label marketing investigation

Represented executives and employees of a pharmaceutical manufacturer in an off-label marketing investigation initiated by a False Claims Act lawsuit.

#### Internal investigation into shareholder demand issues

Counsel to Special Committee of Board of Directors for investigation of shareholder demand issues, including full internal review and report of findings.

#### Criminal investigation for a public company

Represented a public company in an investigation of an employee's suspected possession of inappropriate and criminal material on company-owned computer equipment and worked with FBI and U.S. Attorney's office in the investigation.

#### Foreign Corrupt Practices Act advice for consumer goods manufacturer

Advised an international consumer goods manufacturer on Foreign Corrupt Practices Act issues as well as assisted in drafting its FCPA policy, guidelines and contract language.

#### FCPA investigation in South America

Conducted an internal FCPA investigation for a manufacturer relating to conduct in Argentina. The investigation included reviewing materials in Spanish and conducting interviews of Argentine and Chilean employees in both Spanish and English. The investigation's findings were favorable to the client.

#### Computer intrusions and related computer crimes for a Fortune 500 company

Advised a Fortune 500 company with respect to computer intrusions and related computer crimes.

\*Experience gained by attorney prior to joining Kilpatrick Townsend

## Publications, Articles and Speaking Engagements

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### Latest Developments in U.S. FCPA Enforcement

Insight: The Journal of the American Chamber of Commerce in Shanghai, September 01, 2016

"Latest Developments in U.S. FCPA Enforcement," Insight: The Journal of the American Chamber of Commerce in Shanghai, September 2016

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### Emerging Anti-Corruption Trends in China for the Healthcare Industry

American Chamber of Commerce Shanghai, June 16, 2016

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### FCPA and Anti-Corruption Enforcement

American Chamber of Commerce Shanghai's Healthcare Committee, June 16, 2016

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### Case Studies in Third Party Audits — What Should You Do If...

American Conference Institute, June 15, 2016

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### Case Studies in Third Party Audits — What Should You Do If...

American Conference Institute, June 15, 2016

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### Trends Regarding Anti-Corruption Enforcement & Espionage in China and the United States

ABA Criminal Justice Section Global White Collar Crime Institute, November 20, 2015

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### Minimizing Corruption Incentives in Your Sales and Marketing Operations: Focus on Corporate Events, Sponsorship, and Kickback Schemes

American Conference Institute 8th Advanced China Forum on Anti-Corruption, June 16, 2015

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### Anti-Corruption Law

American Chamber of Commerce Shanghai, Legal Committee, January 23, 2015

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### Whistleblowers/Qui Tam Actions

American Bar Association International White Collar Crime Conference, October 13, 2014

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### The Evolving Challenges of Investigating and Preventing Corporate Espionage and Cyber Crimes in the Twenty-First Century

American Bar Association International White Collar Crime Conference, October 07, 2013

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### Recent Trends in Transnational Investigations

American Bar Association, Criminal Justice Section, December 07, 2012

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**Watching Your Step: Identifying and Dealing with Complicated Issues that can Undermine an Internal Investigation**  
ICLE in Georgia, White Collar Crime Seminar, January 27, 2012

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**Anti-Corruption Measures in Infrastructure Projects: Moving from Preaching to Practice**  
International Bar Association Annual Conference, November 02, 2011

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**When East Meets West: Navigating Antitrust in the US and Taiwan**  
Graduate Institute of Intellectual Property, College of Commerce, National Chengchi University, October 06, 2011

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**Scary Stuff: Potential Civil & Criminal Liability Related to Federal Dollars**  
Atlanta Bar Association, Construction Law Section Breakfast, September 28, 2011

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**We're from the Government ... How to Prepare for a Government Investigation**  
Northern Virginia Technology Council - General Counsel Committee, September 15, 2011

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**Environmental Crimes: Case Studies**  
International Bar Association Annual Conference, October 03, 2010

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### **Professional & Community Activities**

Georgia Bar Association, Member

Federal Bar Association, Executive Committee of Atlanta Chapter

International Bar Association, Member

### **Education**

Ohio State University, Moritz College of Law, J.D. (1993)  
*with honors*

Ohio State University, B.A. (1990)  
*summa cum laude*

### **Bar Admissions**

Georgia (1998)

Ohio (1993)

Not Licensed in New York

### **Admissions**

U.S. Court of Appeals for the Eleventh Circuit (2007)

U.S. Court of Appeals for the Second Circuit (2005)

U.S. District Court for the Northern District of Georgia (1999)

U.S. District Court for the Southern District of Ohio (1995)

U.S. Court of Appeals for the Sixth Circuit (1994)

### **Clerkships**

U.S. Court of Appeals for the Sixth Circuit — Honorable Alice M. Batchelder