

CAPABILITY STATEMENT

# WHITE COLLAR CRIMINAL DEFENSE

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

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

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

- Conducting background investigations of the government's cooperating witnesses to impeach their credibility
- Collecting evidence and adducing facts in support of defense motions
- 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
- Testing the government's theory to see if it is supported by information in the public record or by information obtained through confidential sources
- Creating alternative theories to counter the government's theory of prosecution
- Providing material for plea negotiation and cross-examination

In addition to these services, we are experts in identifying undisclosed links between subjects and witnesses,

## Our Services

With Nardello & Co. as your best kept secret, we've got you covered with worldwide capabilities working in your best interest:

- Due Diligence
  - Third-Party Agent & Intermediaries
  - Board & C-Suite Vetting
  - Cyber Due Diligence
- Anti-Corruption & Fraud Investigations
  - Foreign Corrupt Practices Act
  - Fraud Investigation Services
  - Forensic Accounting Services
- Litigation & Arbitration Support
  - White Collar Criminal Defense
  - Civil Litigation Support
  - Arbitration Support
- Intelligence
  - Strategic Intelligence
  - Political Risk Assessment
- Digital Investigations & Cyber Defense
- Monitorships & Independent Investigations
- Compliance

investigating credentials of expert witnesses, supporting counsel and jury consultants in jury selection research, retrieving and analyzing data files using computer forensic methods, and conducting forensic accounting reviews of financial records.

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## SELECT WHITE COLLAR CRIMINAL DEFENSE EXPERIENCE

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### 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 charge. 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 | **FCPA Violations in Azerbaijan**

Nardello & Co. was 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. Nardello & Co. conducted an investigation of the cooperating witness in various locations, including the US, UK, Turkey, Serbia, Cyprus, Russia, Azerbaijan, and Australia. The investigative team revealed that the co-operator engaged in wrongful activity both historically and during his cooperation with the government. As part of Nardello & Co.'s investigative process, a series of interviews were conducted and relevant records reviewed 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, Nardello & Co. conducted an 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 Nardello & Co.'s findings to have the case against its client dismissed three years after he was indicted.



### Case Study | **Severe Penalty for Missing a Meeting**

When an employee of a multinational company was accused of negligence that resulted in a death, Nardello & Co. was retained to investigate the underlying circumstances. The employee's presence at a meeting where the allegedly negligent condition was discussed among management was an important piece of the government's evidence. Nardello & Co. was asked to find and interview witnesses who had knowledge of the meeting. The government provided defense counsel with the names of potential witnesses, but most of the names were common and the government did not provide addresses or additional identifying information. Nevertheless, Nardello & Co. was able to identify and locate former employees, including one who emphatically stated that government agents and prosecutors had threatened him when he provided them with information that was not in their favor. This individual provided compelling testimony at trial, including testimony about the government's misconduct, which helped defense counsel obtain an acquittal of all charges.

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## WHAT SETS US APART

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Nardello & Co.'s adherence to 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 the jurisdictions in which we work. We regard our clients' confidences as 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 whom 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 to investors, not to shareholders. Instead of competing, our offices collaborate to provide 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 whose experienced professionals handle a broad range of issues including: Due Diligence, such as third-party agent and executive vetting; Anti-Corruption & Fraud Investigations, such as forensic accounting or those related to the FCPA/UK Bribery Act; Litigation & Arbitration Support, such as civil and white collar criminal litigation; Asset Tracing; Activist Defense; Intelligence, such as political risk assessment; Digital Investigations & Cyber Defense, such as computer forensics; Monitorships & Independent Investigations; and Compliance.

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, Hong Kong, Tokyo, Milan, and Dubai, Nardello & Co. maintains a professional staff that includes former US federal prosecutors, US and international lawyers, former law enforcement personnel and intelligence operatives, licensed investigators, research analysts, former journalists, financial crime specialists, forensic accountants, and computer forensic experts.

## Contact

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