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GIR

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40 UNDER 40

The world's leading young investigations specialists

Interviews: Charles Duross, Frédéric Jenny, Drago Kos, Geoff Nicholas

Attestations • DPAs • Brazil's new ABC law • Anti-corruption versus competition in Russia



40 UNDER 40

Global Investigations Review presents
40 of the world's leading investigations
lawyers under the age of 40.

At the beginning of 2014, we asked ourselves a question: Who are the next generation that will lead the global investigations bar?

It's a difficult one. For a start, it's not clear there's even a current generation of global investigations luminaries – at least not in the same way as there is in, say, M&A or arbitration. Today, few people introduce themselves as an investigations lawyer. In the US they're typically a litigator, a white-collar lawyer, or a financial services expert. But with the explosion of investigations work in the post-Enron, Sarbanes-Oxley era, a new species is emerging.

Across the pond, the idea is taking hold too. In 2010, Freshfields Bruckhaus Deringer launched its global investigations practice – the world's first, at least by name – recognising that by realigning its various practices under one roof, the firm could more effectively handle multilateral investigations of all types. Other firms have also adopted similar approaches in recent times – particularly those from the English-speaking world, but there's change afoot in other countries too.

With all this in mind, we asked firms across the world to nominate their best investigations partners under the age of 40. And we're going to stick our necks out and say that what we have here is the best of the first generation of global investigations lawyers.

The 40 were self-selecting to some degree. We asked firms to nominate no more than three of their best partners or counsel under the age of 40 at the end of 2013.

To help us make an informed judgement, we required each nomination to be accompanied by three references explaining why the nominee is a cut above the rest: one from

another partner, or a senior colleague at the same firm; one from a client; and a third from another source of the nominee's choosing. Importantly, we also asked each nominee to detail the five best matters they've worked on.

The volume and calibre of the nominations we received was outstanding. These truly are the world's best young investigations specialists: one look at the significance of the cases they're working on, the praise from their clients and, indeed, the quality of the firms they're working for will confirm this. We would love to have published the submissions we received from our candidates, but ultimately the sensitivity of the information precluded us from doing so.

The margin between those who made it into the final 40 and those who didn't was for the most part extremely slim. We're unashamed to say that where the difference between two candidates was negligible, we erred on the side of diversity.

So among our 40 we have 13 women and 27 men from 33 different firms, based in 11 different cities: Beijing, Calgary, Dublin, Düsseldorf, Hong Kong, London, Moscow, New York, San Francisco, São Paulo, and Washington, DC.

After deciding our final 40, we asked each of them a series of questions about themselves and their practice. From adventures down Bolivian mines and corruption in Afghanistan, to eating McDonald's on a Saturday morning and fine dining in Hong Kong, the results, we think you'll agree, make compelling reading.

The full versions of all 40 profiles can be read online at globalinvestigationsreview.com



Matthew Reinhard

Miller & Chevalier
Washington, DC
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Why investigations?

Quite honestly, I fell into it. I started my legal career as a commercial litigator. I was working on a series of big pieces of civil litigation that all seemed to hit a lull around the same time a firm client was looking for someone to go to Angola to conduct interviews. The trip sounded exciting, the work interesting, and no one else had volunteered, so off I went. I loved the experience, found I wasn't half bad at it, and started reorienting my career towards investigative work.

Career highlight

I've been extremely fortunate to have a lot of potential experiences to choose from. I recently returned from Myanmar/Burma conducting an investigation, and it was really amazing to be in a country that is just opening up after so much isolation, and to be engaged with the local business community at such a time. But that first experience in Angola – in 2005, by myself, armed with nothing but a legal pad and a rented satellite phone, will stick with me forever. The trip ended up being a combination of never-ending logistical challenges followed by bursts of activity. I had to visit people in three different cities and seemed to spend much of my time figuring out how to get from point A to point B. When I finally got to where I needed to be and found the person I needed to see, I then had to have these very delicate conversations about corruption. Every evening I furiously typed up interview notes to send back to the team in the US. At that time in Angola there was really no internet to speak of beyond a dial-up connection in my hotel, so I would type these memos and hit send around midnight, go to bed, and hope the email transmitted overnight. At one point I was in Soyo (in northern Angola) and a meeting with a local agent got a bit testy. As things started to heat up I realised I was several thousand miles from home, not really sure how to get back to the airport, and completely reliant on the people around me (who I met that morning for the first time) to get me out of there at day's end. Eventually the situation calmed down and we all departed on good terms (and I got to the airport), but it was a sobering moment and an early lesson in how to defuse and refocus an interview when things start to break badly. On the final day I was back in Luanda and it was the last World Cup qualifying match, with Angola playing Rwanda. The entire country ground to a halt to watch that game and I watched along at a beach-front bar, cheering like a life-long fan when Angola won and qualified. That entire trip really turned me onto my career. To this day I have a fondness for work in West Africa and always jump at the chance to return.

Influences

My law partner Mark Rochon. Mark is chair of our litigation practice and working for him early in my career really shaped the kind of investigative lawyer I've become. Mark taught me that "you catch more flies with honey than vinegar" and so there's no reason to go into investigative interviews and take an accusatory "bad cop" tone. Rather, by establishing a rapport and a trusting environment with an interview subject you can

learn much more information. Mark taught me that when you sit down for an interview it's you doing your job, but it's almost always the worst thing in the world for the person sitting on the other side of table. That person's job may be at stake, he may be embarrassed about something he's done, and you just don't know until he starts talking. Mark showed me that if you don't recognise the humanity of the person sitting across the table from you, and the pressure they are under, you are much less likely to find out what you need to know. You have to be an honest broker, coming to a problem with an open mind and a willingness to discard previous beliefs as facts unfold. Mark also taught me that this process is all about client service. When we get brought in to investigate a matter it is usually because a client is really worried about something and decided it cannot handle the matter in-house. They need to know that you are going to investigate the matter thoroughly, keep business disruption to a minimum, treat their employees fairly, and steadily guide the client through what can be a very tumultuous process. This means keeping your client informed of the progress of the investigation and being transparent in the process.

If you hadn't been a lawyer...

At this point I'm probably most qualified to be a travel agent. I seem to have a pretty good grasp on international flight schedules, so much so that it drives my actual travel agent nuts (sorry Meg).

Advice to young lawyers

Find someone doing this work who you respect and attach yourself to them at the hip. But be patient. This is really "learn by doing" work. You can't read about this in a law review article and go out and be an effective investigator. You need to sit second chair, take a lot of notes, watch how interviews are conducted, facts are collected and collated, and how a coherent report is drafted and presented.

What's everyone talking about?

On the geographic side it's the Far East and east Africa. China is a massive market that continues to expand, filled with numerous cultural pitfalls. It can be difficult for Western companies to enter China and conduct business in a manner that does not attract the attention of law enforcement agencies. Additionally, as Myanmar ends its 50 years of isolation and companies enter that market there will be significant challenges surrounding corruption and the remaining US sanctions. New petroleum and mineral opportunities are arising in east African countries and initial tenders for exploration and production are being awarded. People are watching that process carefully to see whether East Africa can learn from the mistakes of west Africa and avoid the "curse" of corruption that followed petrodollars in west Africa. On the industry side, everyone is looking at financial services. The Libor and Forex investigations that began in the UK appear likely, in some fashion, to spill over into

the US. And, as investors chase opportunities in developing economies corruption risks increase, especially as foreign sovereign wealth funds become more active global investors.

What's next in investigations?

The forensic technology will continue to advance, and we will be better able to uncover (with less time and money) deleted emails, text messages, and other electronic communications that can often be critical in investigations but difficult to obtain. Top-notch forensic accountants will continue to be in demand to partner with investigative lawyers as financial structures become more complex and global. That said, at the end of the day you are still going to need experienced investigative counsel to sift through all the facts discovered, make judgments, and sit down and interview people. Technology can't do that.

Favourite restaurant

This is a tough question, because I really like food! I had a fantastic dinner at the Silver Darling in Aberdeen, Scotland years ago after a long week of work, and it was some of the best and freshest seafood I've ever eaten. When I'm in London I always make time for Indian food. Some friends recently took me to Benares and it was fantastic. I also love a good burger, so I always try to stop at Beck's Prime when I'm in Houston. But my favourite restaurant is my kitchen table, eating that first dinner at home with my family after a long work trip!



Matteson Ellis

Miller & Chevalier
Washington, DC
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Why investigations?

The field of investigations fell into my lap. After law school, I was looking for an area of practice that would allow me to utilise my Spanish and Portuguese language skills and experiences in Latin America. I happened to join a law firm – Miller & Chevalier – that was a leader in FCPA investigations before most people knew what the FCPA was. I was able to cut my teeth with the best. That experience parlayed into opportunities in investigations at the World Bank and Inter-American Development Bank, and eventually led me to launch my own practice. Last year, I was excited to return to Miller & Chevalier, now as a peer to the attorneys I used to work for.

Career highlight

While conducting corruption investigations around the world, I've seen first-hand the many challenges we face in an integrated world. This taught me the importance of training our future leaders to be internationally aware and ethically strong. I realised that situations of ethical ambiguity are more common than one might think. These lessons inspired me to co-found The School for Ethics and Global Leadership (SEGL) in Washington, DC in my free time. It is a programme where high school juniors from all different backgrounds can explore leadership and ethics in the context of international affairs. Now in its fifth year, SEGL has quickly become a huge success. We recently received a major endorsement from the Bill & Melinda Gates Foundation. I consider SEGL to be my biggest success to date.

Influences

I have had the great privilege to learn under Homer E Moyer Jr, commonly considered the “dean” of the FCPA Bar. To watch Homer's mind work is an amazing thing. He makes the complex look simple. He sees angles that others don't. There are hundreds of FCPA lawyers practising today. But there is still something to be said for depth of experience, and this is where people like Homer stand apart.

If you hadn't been a lawyer...

I always look at my friends who have gone into public service with an eye of envy. People these days tend to give politicians and others who work in government a bad rap. But I still think public service can be noble. We need good people to take on leadership roles in our country, especially given the challenges we face. Perhaps investigating corruption is my own way of satisfying these interests. At the end of the day, our profession is about helping to make governments work the way they are supposed to – based on service to the public and not under-the-table deals.

Advice to young lawyers

Take risks. The field of investigations is highly competitive. To succeed, it is necessary to distinguish oneself – with languages, cultural know-how, subject matter expertise, unique disciplines, etc. Young attorneys can do

this when they are willing to sidestep the normal professional path and try something new. I've done it several times. I chose to move to Argentina after college when most of my friends were going into investment banking and consulting. I gained skills there that I continue to apply today. I left my DC firm to join the World Bank, which included great uncertainties but paid off with one-of-a-kind experiences. I launched my own practice, which gave me a crash course in business development. Big risks like these are not easy to take, but they pay off if they are done in a smart way. They also tend to make life more fun.

A pivotal decision you've made

I worked on what became one of the World Bank's most important collusion investigations to date. I was the lawyer embedded in the investigations team to help ensure certain protections were in place, like due process for witnesses. The case went to the Sanctions Board and wound up turning on a due process issue. The World Bank prevailed, and I was proud to have made an important mark. Experiences like this teach me that it is sometimes necessary for investigators to practise restraint to ensure a just outcome. When you are in the role of an investigator under pressure to prove a case, this is not always easy to do.

What's everyone talking about?

Everyone is talking about Brazil's new Anti-Bribery Law, with good reason. It is bold and does dramatic things for a Latin American country, particularly in the areas of corporate liability, credit for compliance and leniency. My blog, FCPAméricas, had been following the legislation for two years as it continued to stall in the Brazilian Congress. Then, seemingly overnight, the law was passed after a million Brazilians staged massive protests throughout the country against corruption. I understand that the new law's chief enforcers are avid readers of the blog. What an amazing thing to watch develop, and to participate in.

What's next in investigations?

Anti-corruption enforcement will no longer be unipolar. The FCPA will no longer be the only game in town. One hundred and forty countries have already committed to implementing anti-corruption laws under the United Nations Convention against Corruption. Certainly they will do so at different speeds. But even if a small percentage of this group begins to enforce anti-corruption laws, the landscape will change dramatically. This is already happening.

The most interesting place your job has taken you

I remember flying on a small commercial aeroplane, apparently unchanged from the 1970s, from Kazakhstan to Tajikistan during one investigation. Before boarding, I learned that the airline company had been banned from European airspace for safety concerns. It was the type of plane where seatbelts did not work and ripped upholstery fell from the ceiling of the cabin. The ride was nerve-wracking, but the views out the window were spectacular. We flew right through the middle of the snow-capped Pamir mountain range, which is an offshoot of the Himalayas, with peaks rising above us on each side.

Favourite restaurant

After so much international travel, it is always good to come home to Texas, where BBQ and Tex-Mex are king. One Tex-Mex restaurant called Polvo's on the South Side of Austin stands out. Try the fish tacos and loaded Chile con Queso, with a frozen margarita with salt.