

## **Government Investigations 2015: Electronic Information in Investigation and Response**

March 23, 2015, New York City

### **Why You Should Attend**

In many ways, 2014 was the year that highlighted privacy and security issues involving electronic information. As revelations of massive data breaches and the loss of private information became public, both regulators and corporate entities grappled with the consequences of those revelations and the investigations that followed. At the same time, regulators and corporations continued to deal with the challenges of the ever-increasing volumes of electronic information that are relevant to all types of government investigations. These important trends will continue in 2015 and beyond.

Our faculty, which includes judges, regulators, and attorneys experienced in government investigations, will address these issues as well as the “how and why” of government investigations and corporate responses. They will use panel presentations on general topics as well as specific case studies to guide you through this dynamic and growing field of law.

### **What You Will Learn**

Many issues arise from the pervasiveness of electronic information in the context of government investigations. This program will address these issues and other questions:

- What triggers a government investigation?
- What is the scope of a government investigation?
- What are the limitations on a government investigation?
- What might the government demand in an investigation and how might a corporate entity respond to such a demand?
- What room for negotiation exists between a corporate entity and the government?
- What is the role of -- and relationship between -- parallel civil proceedings and government investigations, and how might they be coordinated?

### **Who Should Attend**

This program will be of interest to in-house and retained counsel, corporate officers and other personnel, consultants, and service providers who find themselves involved in investigations by federal or state regulators, as well as in parallel civil proceedings. Likewise, the program will be of great benefit to the staff of agencies who conduct investigations as well as attorneys who litigate parallel proceedings as either plaintiffs or defendants.

## **Program Schedule (1:30 p.m. – 5:00 p.m.)**

### **1:30 Opening Remarks and Information**

*Ronald J. Hedges*

### **1:45 Scope and Limits of Government Investigations of Data Breaches**

*Moderator: Maura R. Grossman*

*Panelists: Samantha Green, Deborah Morris, David C. Shonka, Allison Stanton, Hon. Thomas Vanaskie*

- What sort of conduct might give rise to a privacy investigation?
- What statutes and rules does the government seek to enforce in privacy investigations?
- May privacy investigations be triggered by something other than a breach?
- Do agencies coordinate investigations with each other or with other parties?
- When does the duty to preserve arise in the context of a data breach?
- What information do regulators typically seek in a privacy investigation?
- What remedies might the government seek when security problems are uncovered?
- Case Study: Investigating Social Media and the “Internet of Things”
  - What is the “Internet of Things”?
  - What unique privacy issues are raised by social media and the “Internet of Things”?

### **3:15 Networking Break**

### **3:30 Responding to Government Investigations and Handling Parallel Proceedings**

*Moderator: Jeane A. Thomas*

*Panelists: Celeste Chase, John Einstman, Manfred J. Gabriel, Anthony Galioto, Ignatius A. Grande, Tracy Greer, Maura R. Grossman, Joseph P. Guglielmo, David C. Shonka*

- Negotiating with regulators at the discovery stage of an investigation: who, when, why and how?
- How might a subject produce electronic information in response to a government demand?
- What judicial remedies exist for the government and the subject?
- What protection might a subject have from waiver of attorney-client privilege or work-product protection?
- How do parallel proceedings fit with investigations?
  - Parallel civil actions?
  - Parallel criminal actions?
  - How do the various actors in parallel proceedings coordinate their efforts?
- Case Study: A Hypothetical Transnational Antitrust Investigation
  - How do multiple jurisdictions coordinate their efforts?

- How does the subject cooperate with or challenge the sharing of information produced in a transnational investigation?
- How can the subject protect privilege given different standards among jurisdictions?

#### **5:00 Program Adjourns**

##### Program Chair:

##### **Ronald J. Hedges**

Ronald J. Hedges, LLP  
New Jersey

##### Program Faculty

##### **Celeste A. Chase**

Assistant Regional Director, Division of Enforcement  
U.S. Securities and Exchange Commission  
New York City

##### **John Einstman**

Chief Trial Attorney  
Division of Enforcement  
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##### **Manfred J. Gabriel**

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##### **Anthony J. Galioto**

Assistant General Counsel  
Head of Enforcement & Investigations  
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##### **Ignatius A. Grande**

Senior Discovery Attorney/Director of Practice Support  
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##### **Samantha Green**

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SCOTT+SCOTT, Attorneys at Law LLP  
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**Deborah Morris**

Deputy Enforcement Director  
Consumer Financial Protection Bureau  
Washington, D.C.

**David C. Shonka**

Principal Deputy General Counsel  
Federal Trade Commission  
Washington, D.C.

**Allison C. Stanton**

Director of E-Discovery, FOIA, and Records  
Office of the Assistant Attorney General  
U.S. Department of Justice, Civil Division  
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**Jeane A. Thomas**

Crowell & Moring LLP  
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**Hon. Thomas I. Vanaskie**

US Court of Appeals for the Third Circuit  
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