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Enron, Madoff and the Cases That Shaped a Career: How a CPA-Turned-Prosecutor and Trial Lawyer Uses His Financial Skills to Win for His Clients



In this interview, PLI Program Attorney Stephanie Figueroa sits down with John Carney, a former SEC senior counsel, federal prosecutor and CPA about his path from accounting to law and the high-stakes cases that shaped his career. Learn how John's financial background gave him an edge in the courtroom and why he transitioned from government to private practice.

From CPA to SEC senior counsel to DOJ lead prosecutor in one of the most important Enron-era cases—and being on the front line of the multibillion-dollar Madoff recovery effort—you have had an incredible journey. Can you share what originally inspired you to transition from working as a CPA in a "Big Four" accounting firm to pursue a legal career?

A. I began my studies in accounting with the goal of becoming a special agent with the FBI. Graduating at twenty-one, and a few years too young to apply to the Bureau, I decided to join KPMG to gain real life financial experience. I spent five years at KPMG, after which I decided to go to law school because I felt the combination of accounting and law would best position me to produce a positive impact in law enforcement.

Was it always your plan to shift from accountant to attorney? What motivated you to pursue a career in law?

A. While my five years with KPMG were a tremendous learning experience, going to law school was always in the plan because I was very interested in the practice of law. I knew I was born to be an advocate—a trial lawyer.

Attorneys often joke they went into law because they can't do math. Do you find your accounting experience gave you an upper hand when beginning your legal career?

A. Having real world accounting, auditing and tax experience is almost the equivalent of speaking a second language that other lawyers do not understand. This has allowed me to master facts and examine financial professionals and experts in a way that other lawyers cannot match. My background gave me an edge to represent chief financial officers and accountants and meaningfully engage with experts like FTI in the Madoff case. This has made all the difference in cutting short meritless investigations and digging in on those that need to be tried.

What were the key differences between your roles at the SEC and DOJ, and what skills did you develop in each?

A. The work at the SEC was much more technical and often not fraud based. The work at the DOJ was purely criminal in nature. Both positions were important and challenging. The SEC allowed me to hone my witness skills in deposing hundreds of witnesses against some of the best defense attorneys in the country; the United States Attorney's Office had me in the courtroom on a daily basis trying to convince all twelve jurors beyond a reasonable doubt that the defendant was guilty of a crime—no easy feat in an accounting fraud case as accounting is judgment based and sometimes allows for more than just one possible result.

When did you know it was time for your next career transition and to leave the government? Was there a moment or experience that impacted your decision to practice law in the private sector?

A. Honestly, during my time in the federal government I had handled dozens of trials and hearings, examined hundreds of witnesses and helped oversee major undercover operations. Twelve years in, I was appointed lead counsel and a Special Attorney by the U.S. Attorney General to try one of the biggest Enron-era accounting fraud cases. The matter was amazingly complex and lasted almost eleven months and allowed me to fully practice the art of advocacy

before a most patient jury. When the jury came back, I knew it was time to make a move and transition to the next big challenge—providing a first-class defense to corporations and their employees.

Do you have any advice for government attorneys thinking about leaving for private practice?

A. It takes time, but all the years of government service provides an excellent foundation for a referral network. Building a practice is just like building a case—one witness and one client at a time. I also recommend spending time educating your new partners on your unique litigation skill set for them to keep you top of mind when they are speaking with corporate clients.

How did you navigate the initial challenges of transitioning from government attorney to law firm partner?

A. I was extremely lucky to find my firm, Baker Hostetler. A great firm with good people and a strong work ethic. I was also lucky to be at a firm that was in the heart of major cases, including Madoff, the London Whale, and the monitorship of Merril Lynch—to name a few. I have also been selected by judges to serve as a receiver or examiner for courts and use my investigative and trial skills honed in the government to help recover funds for defrauded investors.

Having litigated for and against the U.S. government has made you a seasoned advocate. Of all the skills you've developed throughout your career, which have been most impactful in your work as a firm litigator and which have helped you most during each of your career transitions?

A. The answer is the same for both questions—relentless preparation and concise persuasion. Preparation is everything—the best way to settle a case favorably is to have your opponent see that you are fully ready to try the matter in court. Practicing the art of persuasion every day, I have come up with something I call the 345 rule. In essence, I practice the art of distilling and conveying my key message in three sentences and under forty-five seconds. For example, if I am defending a CEO in a financial fraud matter, I'm not going to cite accounting standards. Rather, I might argue that 1) Mr. Smith the CEO has no formal training in accounting; 2) He hired the best and brightest to be his CFO; and 3) He is entitled to reasonably rely on the expertise of others.

If you could do it all again, would you want your career to take the same path?

A. Yes. My experiences as a CPA at KPMG, public service at the SEC and the DOJ, and current practice as a white-collar criminal defense attorney were all incredibly fulfilling.

What are your aspirations for the future? Might you ever return to the government?

A. To continue to give individuals and corporations the finest advocacy possible, be it in civil actions, SEC defense or DOJ grand jury matters. As for more government service, if there was a position where I could make a real difference, I would give it serious consideration.

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