

LAW.COM

Welcome to the New Law.com. [Click here](#) to register and get started.[SIGN IN](#)CORPORATE COUNSEL
Presents:

SOCIAL MEDIA: RISKS & REWARDS

Register Today! April 12, 2011 • Marines' Memorial Club & Hotel • San Francisco, CA

An ALM Web site

THE NATIONAL
LAW JOURNAL
with D.C. news from LegalTimes[This Site](#) | [Law.com Network](#) | [Legal Web](#)

Search the Legal Web

[Go >>](#)

30 Day Free Trial

National News

Washington News

RSS

[Home](#)[Legal Business](#)[Law Schools](#)[Columns](#)[Verdicts](#)[Opinion](#)[Video Center](#)[Blog](#)[NLJ Home](#) > [News](#) > [Former GC Disbarred for Alleged Misuse of Confidential Information](#)Font Size: [+](#) [-](#)

Former GC Disbarred for Alleged Misuse of Confidential Information

Alleged use of confidential information from government enforcement work requires former GC to surrender D.C. Bar membership

Bethany Broida and Emma Schwartz [All Articles](#)

Legal Times November 21, 2005

[Print](#)[Share](#)[Email](#)[Reprints & Permissions](#)[Write to the Editor](#)

Dennis O'Keefe

Image: Roberto Westbrook

The Commodity Futures Trading Commission isn't the kind of place where people go to make their mark. But when Dennis O'Keefe obtained a \$150 million settlement with one of Japan's largest trading houses, in May 1998, over a multimillion-dollar market manipulation of copper, the career bureaucrat seemed to be headed for bigger things.

Yet the fallout from the settlement with Sumitomo Corp., which was part of the agency's largest investigation in its 30-year history, has caused O'Keefe nothing but trouble.

Ethical questions over whether he misused his knowledge from the copper probe followed him from the agency into private practice until, earlier this month, O'Keefe, by then an attorney at Troutman Sanders, consented to disbarment.

The longtime government lawyer was accused by the D.C. Bar of a slew of misdeeds, including breaking the government's revolving-door rules, revealing confidential information he obtained while in government, knowingly making false statements, destroying evidence, perjury and lying to bar counsel.

In agreeing to forfeit his law license, O'Keefe says the bar dropped most of the charges. But the actual agreement with the bar remains under seal, and O'Keefe declined to provide *Legal Times* with a copy.

O'Keefe's disbarment and his quick resignation from Troutman Sanders last week capped a more than five-year battle between O'Keefe and the attorneys for Sumitomo, who first raised questions about O'Keefe's behavior.

To those attorneys who instigated the D.C. Bar's protracted investigation into O'Keefe's conduct, the downfall of the mild-mannered lawyer was a fitting punishment for a man they believed profited from his pursuit of Sumitomo. But to O'Keefe, 58, and many of his supporters, his disbarment was an unfortunate outcome of a series of bad decisions that snowballed into a lie he could not stop.

"You know, denial and fear do a lot to alter your judgment," says O'Keefe.

Need CLE? ▶

Advertisement

"I FIND WHAT I NEED WITHOUT WASTING THE CLIENTS' TIME OR MONEY."

BRIAN LEE, ASSOCIATE,
NUTTER MCLENNEN & FISH LLP, BOSTON**WestlawNext™**

Hear what Brian and others are saying ▶

Find similar content

Firms mentioned**Companies, agencies mentioned****Key categories****Most viewed stories****MOST INFLUENTIAL LAWYERS**Come gather 'round legal scholars,
for a conference on DylanTough sale for plaintiffs in Wal-Mart
casePlaintiffs' immigration status
'irrelevant' to their wage claims,
Mass. judge rulesAALS urges delay in debate over
law school accreditation standards

LAW.COM

Welcome to the New Law.com. [Click here](#) to register and get started.

Defending his actions over a coffee at a local Starbucks, a melancholy O'Keefe doesn't look like a big-time player, someone who had gamed the system to cash in on his government service. In his blue striped shirt and maroon tie, he resembles more closely the bureaucrat he was for most of his career.

"There were reasons I did things," he says, shredding the sleeve of his coffee cup into pieces as he speaks. "But they turned out to be poor decisions."

Now, O'Keefe says, he's looking to make amends.

"People keep telling me that things happen for a reason," he says. "The reason has yet to make itself apparent. I'm still waiting."

THE DEALER AND THE BUREAUCRAT

When O'Keefe, a 15-year veteran of the CFTC, launched an investigation into price manipulations in the copper-trading market in the fall of 1995, he never imagined it would ensnare some of the biggest powerhouses in the financial markets. One of the first targets was Sumitomo, which fired its lead copper trader, Yasuo Hamanaka, for authorizing trades that cost the company \$2.6 billion. The probe then focused on other companies, including Merrill Lynch & Co. and Global Minerals & Metal Corp.

When the investigation started, O'Keefe, a lawyer in the enforcement division, knew little about the intricacies of the metal industry. But he soon encountered a Canadian scrap-metal dealer named Herbert Black, the head of American Iron & Metal and a longtime trader in copper futures. Upset over the millions he said he lost by the manipulation, Black was eager to talk and quickly became a key informant in O'Keefe's investigation.

A flamboyant multimillionaire, Black got his start at his father's company, which he joined at age 19. By the time he met O'Keefe, he was already a larger-than-life figure, a fixture on the Montreal social circuit who enjoyed collecting fine art and Beatles memorabilia. Black would later earn a reputation as a professional tattletale, most recently exposing the price-fixing scandal at auction houses Sotheby's and Christie's. And his romantic fling with songwriter Denise Rich was fodder for the gossip columns.

Despite outward differences between such a gregarious figure and the more unassuming O'Keefe, the relationship between the two men blossomed, and they became close friends. When O'Keefe's wife was diagnosed with a rare form of bone cancer, in 1998, O'Keefe says he looked for support from Black, whose father had died of cancer when he was a young man.

The Sumitomo settlement in 1998 was their first victory, and Black continued to feed O'Keefe tips on further manipulations in the copper trade. Yet as the two were probing new leads, O'Keefe made his first fumble. His investigation into Global Minerals took a hit when an administrative law judge sought to kick him off the case in June 2000 for allegedly filing a report about the company that contained "knowingly false and misleading statements." A month later, the ruling was overturned on appeal, but the incident remained on O'Keefe's record.

He might have weathered that storm and remained with the CFTC, had it not been for his wife's health. Her cancer appeared to be progressing from bad to worse during the summer of 2000. The next round of treatment would restrict her physical activities, including driving. With three children at home, O'Keefe needed a more flexible work schedule, but he says he couldn't work out a deal with the CFTC.

"I needed a solution to what I thought was a dire situation," O'Keefe says.

Black, it turned out, was in need of some help. After years of feeding the CFTC morsels of information, he was preparing to file suit against Sumitomo and other companies for losses in the copper market on the London Metal Exchange. O'Keefe had just the sort of background Black was looking for. Aware of O'Keefe's troubles, Black made him an irresistible offer. As the general counsel for American Iron & Metal, O'Keefe would earn a \$200,000 annual salary -- double his government earnings. Even better, O'Keefe was promised 5 percent of any recovery in the copper litigation from the first \$50 million and 10 percent of a recovery worth more than that. In December, O'Keefe came on board.

Advertisement

SIGN IN

Lexis® for
Microsoft®
Office

LEARN MORE >

LexisNexis®

lawjobs.com

TOP JOBS

Mid-level Litigation Associate
Marina Sirras & Associates LLC
White Plains, New York

Mid-level Health Care Associate
Garrison & Sisson, Inc.
Washington, District of Columbia

MORE JOBS
POST A JOB

Advertisement




Right Steps,
Wrong Outcome –
What *Harkabi* Teaches
webinar is on-demand

sponsored by IBM

Click Here to Register

O'Keefe's move soon became the center of controversy. In March 2001, Black filed his claim in the United Kingdom against Sumitomo, alleging many of the same market manipulations O'Keefe had investigated while inside the CFTC. It became clear to Martin London, a partner at Paul, Weiss, Rifkind, Wharton & Garrison, and other attorneys for defendants in the case that Black relied heavily on the knowledge O'Keefe had gained when he led the CFTC investigation. For instance, one of the central allegations in Black's claim involved manipulation through a Chinese company that O'Keefe had traveled to China to investigate, in 1999.

O'Keefe's conflict of interest, defense lawyers alleged in court filings, gave Black an unfair advantage and seemed to violate government rules barring officials from taking on matters in the private sphere that they had worked on while in government service. (London at Paul Weiss declined to comment beyond the court filings.)

Other troubles were mounting. O'Keefe had failed to alert the CFTC about his employment negotiations with Black, which occurred while he was still at the agency. In April 2001 the CFTC wrote O'Keefe a letter reminding him of his ethical obligations under the revolving-door rule. O'Keefe says he checked with the D.C. Bar's Board on Professional Responsibility and claims he was given the green light to continue working -- a statement the bar denies.

London contacted the D.C. Bar and the CFTC, both of which launched ethics investigations of O'Keefe. All the while, O'Keefe continued to advise Black on the case.

O'Keefe contends that he was hired solely to counsel Black and his attorneys on the U.K. litigation, which he believes involved allegations different from the ones that were part of the CFTC's settlement with Sumitomo. Moreover, O'Keefe says, he believed he was on solid ground if he wasn't relying on information he had learned exclusively as a result of his government service. The allegations in Black's lawsuit, he claims, were all ones Black learned about independently of the CFTC investigation.

"Nothing in government ethics rules prohibits my working for him," he says, recalling the situation. "My thought is that it was separate enough from what I did. Did I want to believe that because of my situation? Probably so. Probably so."

TIPPING POINT

Whatever the personal pressures, O'Keefe seemed an unlikely candidate to fall into trouble. Friends and colleagues say they were shocked to learn of his disbarment.

"He is a fine person and a very good lawyer," says William Marsan, a former Troutman Sanders partner and now general counsel at Indianapolis Power & Light Co. "He has an excellent sense of the practice of law, particularly how the government works in relation to investigations. He used that very effectively for the people he represented."

A Chicago native, O'Keefe moved to Washington for law school, graduating from George Washington University Law School in 1973. He then spent the next six years picking up criminal cases as a court-appointed attorney, gaining local notoriety when he won the acquittal of William Rindgo, who was accused in the rape, robbery and murder of a young airline-ticket clerk, found dead in front of the WTOP radio and television studios in downtown Washington.

But life as a court-appointed practitioner was taxing. When a former colleague suggested he take a look at a little-known government agency called the CFTC, O'Keefe jumped at the chance. After he joined the five-year-old agency, in 1980, O'Keefe worked his way to assistant director of the division of enforcement, developing a reputation as a hardworking and fair-minded bureaucrat.

But that reputation did little to help him as Sumitomo's lawyers made O'Keefe's involvement in the copper investigation a key line of their defense. The British courts threw out Black's claims in December 2001, finding them "speculative in the extreme." In February 2002, Black officially discharged O'Keefe as general counsel. Still, O'Keefe continued to provide legal advice and remained on American Iron & Metal's payroll until

LAW.COM According to court filings, Welcome to the New Law.com. [Click here](#) to register and get started.

[SIGN IN](#)

O'Keefe's departure meant the end of more than just their professional relationship. O'Keefe says he has not spoken to Black in more than two years. Neither Black nor his attorney returned calls for this article.

The timing of the dismissal proved fortuitous for O'Keefe. In the wake of the Enron scandal and allegations of overly-cozy relationships between the energy industry and regulators, the Federal Energy Regulatory Commission was looking for investigators to launch an Office of Market Oversight and Investigations. With nearly two decades of experience prosecuting market manipulators, O'Keefe was quickly hired on as the deputy director of enforcement.

He moved the agency toward stricter enforcement and tried to impose a get-tough policy on companies through internal investigations and higher penalties. He oversaw the probe into the California power crisis and landed a handful of significant settlements from companies for market manipulations, including a \$20 million settlement with Transcontinental Gas Pipeline Corp. and a \$750,000 settlement with Louisiana-based Cleco Corp., relating to their relations with affiliates. Despite the wholesale shift in the office, O'Keefe was seen as a straight shooter. As one outside energy attorney puts it, he was "someone who would do a very thorough investigation and saw it as he called it."

There was one glaring problem. He neglected to tell the FERC about the ongoing investigation by the D.C. Bar. "I didn't think it would go anywhere," O'Keefe says. "I thought I could handle it myself."

His problems would soon get worse. In April 2002, Black filed another suit against Sumitomo and similar defendants in the U.S. District Court for the Southern District of New York. Immediately, the defense attorneys, led by London at Paul Weiss and a group from Cadwalader, Wickersham & Taft, seized upon O'Keefe's conflicts of interest again, seeking to dismiss the case based on his previous involvement.

The defense deposed O'Keefe in late 2002, and shortly thereafter, the D.C. Bar alleges, he perjured himself while testifying in the New York case. O'Keefe eventually took the Fifth at trial, when asked about specific legal work he did for Black.

A few months later, Black withdrew his U.S. case in a settlement in which he paid the other side a total of \$5 million in attorney fees. He also agreed to drop a similar case he had refiled in the United Kingdom.

Meanwhile, in the summer of 2003, someone alerted the FERC to the D.C. Bar's investigation. Within weeks, O'Keefe was offered an early retirement package with lifetime government health benefits. It seemed clear, O'Keefe says, that the agency didn't want to risk any damaging public disclosure while he was at the FERC. "I think they would rather have me go," O'Keefe says. "[Chairman] Pat Wood [III] was under political pressure from the Hill. So if anything came out, it would be a problem." (The FERC declined to comment, saying it doesn't discuss personnel matters.)

The D.C. Bar's investigation also seemed to be heating up. Investigators had already discovered that O'Keefe had destroyed documents from his time with Black. And that summer a bar investigator called O'Keefe to say the agency was still following the proceedings in the New York case. It was then, O'Keefe says, "I realized it could be a big deal."

But apparently not big enough for O'Keefe to mention it to prospective employers. Back on the job market in the fall of 2003, O'Keefe interviewed at a handful of firms and was referred, through a mutual acquaintance, to Troutman Sanders' energy group. The firm was looking for someone to counsel clients on the FERC's increasing number of internal company audits -- the kind he had overseen at the agency.

Both Troutman Sanders' D.C. managing partner, Kevin Fitzgerald, and O'Keefe declined to say when the firm became aware that O'Keefe was under investigation. His disbarment is not effective until the end of the year, but he has already left the firm.

"Dennis is a really nice guy," Fitzgerald says. "It's probably been really difficult for him." As for the firm, Fitzgerald says that Troutman Sanders is in the clear, since the violations did

LAW.COM O'Keefe was there.

Welcome to the New Law.com. [Click here](#) to register and get started.

[SIGN IN](#)

O'Keefe says he is unsure about his next move. His wife's cancer is in remission, although she continues to take regular medication. He says he would like to continue working in the energy industry, perhaps as a consultant.

"I try to teach my kids to be responsible and take responsibility for their actions," says O'Keefe, who can reapply for his law license in five years. "So you have to walk the walk and talk the talk. I think I need to take responsibility for this."

[Subscribe to Legal Times](#)

Print

Share

Email

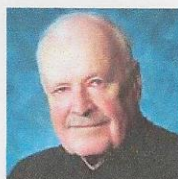
Reprints & Permissions

Write to the Editor

Close [X]

From the Law.com Network

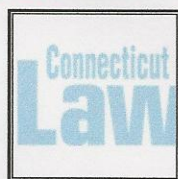
The Legal Intelligencer



**Federal Judge Slashes
Defamation Verdict
Against West Publishing**

**Lean Legal Market Inspires
Phila. Judicial Fellowship
Program**

**Connecticut
LawTribune**



**Conn. Bill Could Boost
Liability for Owners of
Vicious Pets**

**N.Y. Firm's Opening of
Conn. Office Called Sign of
Economic Rebound**

The 2010-2011
NLJ 250 Staffing Survey

THE NATIONAL
LAW JOURNAL

Find Out

ORDER NOW

888-770-5647

AN
ALM LEGAL INTELLIGENCE
EXCLUSIVE

**Turning the Tables:
Doctors Sue Lawyers Over
Letters of Protection**

**Broadcast Prompts Death
Threats Against Judge**

**Not So Scar
Bribery Act
Takes the E**

[terms & conditions](#) | [privacy](#) | [advertise](#) | [about NLJ.com](#) | [contact us](#) | [subscribe](#)

the LAW.COM network

LAW.COM

Newswire
Special Reports
International News
Small Firms
Lists, Surveys & Rankings
Legal Blogs

ALM NATIONAL

The American Lawyer
The Am Law Litigation Daily
Corporate Counsel
Law Technology News
Minority Law Journal
The National Law Journal

ALM REGIONAL

Connecticut Law Tribune
Daily Business Review (FL)
Delaware Law Weekly
Daily Report (GA)
The Legal Intelligencer (PA)
New Jersey Law Journal
New York Law Journal
GC New York
New York Lawyer
The Recorder (CA)
Texas Lawyer

DIRECTORIES

ALM Experts
LegalTech® Directory
In-House Law Departments at the Top
500 Companies
New York's Women Leaders in the
Law
Corporate Counsel: Best Lawyers®
Annual Guides
The American Lawyer: Best Lawyers®
Annual Guides
The National Law Journal Leadership
Profiles

BOOKS & NEWSLETTERS

Best-Selling Books
Publication E-Alerts
Law Journal Newsletters
LawCatalog
Law Journal Press Online

RESEARCH

ALM Legal Intelligence
Court Reporters
MA 3000
Verdict Search
ALM Experts
Legal Dictionary
Smart Litigator

EVENTS & CONFERENCES

ALM Events
LegalTech®
Virtual LegalTech®
Virtual Events
Webinars & Online Events
Insight Information

REPRINTS

Reprints

ONLINE CLE

CLE Center

CAREER

Lawjobs

About ALM | About Law.com | Customer Support | Reprints | Privacy Policy | Terms & Conditions
Copyright 2011. ALM Media Properties, LLC. All rights reserved.

