



A FEIN FIT FOR U.S. ATTORNEY'S JOB

Nominee has prosecuted killers, defended corporate execs

By THOMAS B. SCHEFFEY

David B. Fein's nomination to serve as Connecticut's U.S. Attorney caps a long career of significant accomplishments in criminal law.

When he came to New Haven's Wiggin and Dana in 1997, Fein was the firm's first white-collar defense partner, fresh from a two-year stint in the Clinton White House, where he was an associate counsel.

Before that, Fein was a fast-rising star in the U.S. Attorney's Office in the Southern District of New York, where one of his bosses was Rudy Giuliani and another was Mary Jo White, now a partner at New York's Debevoise & Plimpton.

"David Fein is a superb choice as United States attorney," White said in an e-mail to the *Law Tribune*. "He is a brilliant lawyer with vast experience on both the defense and prosecution side, civil and criminal. His judgment is excellent and I am certain will be a very strong and fair United States attorney."

Fein was nominated by President Barack Obama last Thursday. A committee of legal experts appointed by Connecticut's two U.S. senators last year had recommended Fein and three others for consideration – acting U.S. Attorney Nora R. Dannehy; former supervisory assistant U.S. attorney Edgardo Ramos; and Democratic state Rep. William M. Tong, who is an associate at Finn, Dixon & Herling in Stamford.

If confirmed by the U.S. Senate, Fein would take over a staff of 50 lawyers and 60 staffers who work out of offices in Hartford, New Haven and Bridgeport. In recent years, the U.S. Attorney's Office in Connecticut has cracked down on illegal

practices in the trash-hauling industry and human trafficking of women forced into prostitution, as well as prosecuting a wide range of drug, firearm, tax evasion, and financial fraud offenses.

"I'm extremely honored to be nominated by the president for this important position and I very much look forward to the confirmation process," Fein said last week.

Fein is "a well-experienced criminal practitioner," said Harold James Pickerstein, a former Connecticut U.S. Attorney who now practices in the Southport office of Pepe & Hazard. "I think he has his work cut out for himself, but given his background, I think he will perform brilliantly."

Enron Counsel

Fein is no stranger to high-level criminal cases.

In 2004, he shared a defense table in Houston with colorful Texas lawyer Rusty Hardin, on behalf of employees of the Arthur Andersen accounting firm who were charged with illegally shredding documents belonging to scandal-plagued Enron Corp., a now-defunct energy company.

Andersen's defense lawyers subsequently won an acquittal at the U.S. Supreme Court, noted Scott D. Corrigan, who is co-chair of Wiggin's white-collar defense practice with Fein. "David is a great lawyer. He's also a great colleague, because he's hard-working, smart and fun to work with," said Corrigan. "He has a great personality, a great sense of humor."



David Fein has been the co-chair of Wiggin and Dana's white-collar defense practice group since 1997.

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Corrigan doesn't think his colleague will have trouble switching back to prosecutor. "What you do as a defense attorney isn't all that different from what you do as a prosecutor," Corrigan said. "You have to gather the facts and be a master of them, and then apply the law to those facts."

More than most, Fein understands the multiple layers of criminal and civil regulation of anti-social behavior, and the importance of properly calibrating the government's action, according to lawyers who know him.

Fein, a graduate of New York University Law School, was a young associate at New York's white-shoe Debevoise & Plimpton when Mary Jo White tapped him for the Southern New York U.S. Attorney's office, recounted Dierdre Daly, of Southport's Daly & Pavlis, a white-collar defense firm. Daly was a federal prosecutor between 1985 and 1997 in the same office as Fein, and they col-

laborated on several dramatic cases.

"I was doing some large money laundering cases that we worked on together," Daly recalled. "I passed on some of those cases to him, a large undercover sting operation involving some Colombian drug dealers, at a time when there was a focus on tracking the money, not just the drugs, to get to a higher level."

One of Fein's more colorful prosecutions centered on police officers involved in cocaine dealing through neighborhood bars and extorting payoffs from suspects. A star witness for the prosecution was a former cop, Michael Dowd, who was arrested in 1992.

The scandal led to the Mollen Commission, a panel established by then-New York City Mayor David Dinkins to investigate police corruption. Dowd offered the panel details about widespread police wrongdoing. Judge Milton Mollen, who headed the panel, said Dowd's candor helped "seize public attention" for the police corruption issue.

But Fein was less accommodating. As a top narcotics prosecutor, he called Dowd untruthful, evasive and unrepentant, and urged the federal judge not to go easy on the ex-cop. Dowd ultimately was sentenced to 14 years in prison.

Fein went on to become deputy chief of the entire criminal division of the U.S. attorney's office and then went on to be a top assistant to White. Former colleague Daly said all the while he handled some of the office's most challenging questions.

"He handled The Company case, involving a violent narcotics gang of that name, charged under the [Racketeer Influenced and Corrupt Organizations Act] statute and involving a number of murders," said Daly. "The last murder he prosecuted was a murder for hire involving a stockbroker."

Connecticut and Beyond

While heading Wiggin's white collar practice, Fein was busy in Illinois, Boston, Providence and Washington, D.C. His highest-profile trial was in 2008, when Fein and Corrigan defended senior executive John R. "Jack" Kramer of CVS pharmacies, based in Woonsocket, R.I.

Kramer was charged with more than 20 counts of bribery, mail fraud and conspiracy in a case brought by federal public prosecutors in Providence. The prosecution's star witness was a former state representative who had been on the CVS payroll at \$1,000 a month, promoting CVS golf outings and charitable

events on his public access TV show.

Federal prosecutors contended the money was an illegal attempt to influence legislation, but Fein and Corrigan convinced the jury that the conduct was legal, and within Rhode Island's tradition of having a citizen legislature, where lawmakers also earn a private living.

The jury was out for less than 90 minutes before acquitting on all counts.

Fein's white-collar practice was not always criminal, and not always defensive. He represented the Ohio tire company, Bandag, in a private antitrust litigation, and has built the Wiggin and Dana white-collar practice into a team of five partners supported by eight associates, according to former Wiggin managing partner is Edward Wood "Jack" Dunham.

Fein's nomination "is one of those bittersweet things, like when [former Wiggin partner] Mark Kravitz went on the federal bench," said Dunham. "You never like losing people of such outstanding quality. But David, like Mark, has always been interested in public service, and the public is going to get a great public servant in him. You can only be happy for him... but I pity the poor criminals he goes after." ■