

DONNA M. NAGY

C. BEN DUTTON PROFESSOR OF LAW

INDIANA UNIVERSITY MAURER SCHOOL OF LAW

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PROFESSIONAL EXPERIENCE

INDIANA UNIVERSITY MAURER SCHOOL OF LAW, Bloomington, IN 2006-present

C. Ben Dutton Professor of Law

On research sabbatical for the 2019-20 year

Courses: Securities Regulation, Securities Litigation & Enforcement, Corporations

Faculty Service:

Faculty Appointments Committee (Chair, 2011-12, member 2006-08; 2013-19)

Promotion and Tenure Committee (Chair, 2010-11; member 2008-10; 2014-19)

Student Petitions and Appeals Committee (Chair, Fall 2007; member 2009-10)

Order of the Coif, IU-Maurer Chapter (President, 2018-present; Secretary 2010-18)

Awards:

AALS Section on Business Associations –Outstanding Mentor Award for 2017

IU Trustees Teaching Award for 2011

Executive Associate Dean (2013-2019)

Responsibilities included: facilitating strategic planning and implementation, faculty appointments, tenure and promotion determinations, curriculum planning, educational policy, and budgeting. Representing the law school on campus and university committees, including the Campus Curriculum Committee and the Budgetary Planning and Analysis Roundtable.

UNIVERSITY OF CINCINNATI COLLEGE OF LAW, Cincinnati, Ohio 1994 - 2006

Charles Hartsock Professor of Law (2001-06), Professor (1999-2001),

Associate Professor (1998-99), Assistant Professor (1994-98)

Interim Dean (October 2004 - June 2005)

Associate Dean for Faculty Development (July 2002 - October 2004)

Courses: Securities Regulation, Securities Litigation & Enforcement, Corporations, Mergers & Acquisitions, Constitutional Law

Faculty Service: *Faculty Appointments Committee* (Chair, 1999-2004) (member, 1995-96)

Committee-on-Committees (1999-2004) (elected each year to the five person committee serving the Dean in an advisory capacity)

Faculty Advisor, Law Review (2004-05)

University Service: *Council of Deans* (October 2004 - June 2005)

Academic Operations Committee (October 2004-June 2005)

Participant, Comprehensive Academic Planning Process for UC|21 (January-May 2004)

Affiliated Faculty Member, Center for Women's Studies, University of Cincinnati

Awards: Harold C. Schott Publication Prize for 2003 and 2002

UNIVERSITY OF CANTERBURY SCHOOL OF LAW, Christchurch, New Zealand Spring 2002

Visiting Scholar – in residence for three months while on a research sabbatical

UNIVERSITY OF ILLINOIS COLLEGE OF LAW, Urbana-Champaign, Illinois
Visiting Professor of Law. Taught Securities Regulation and Mergers & Acquisitions

Spring 2001

DEBEVOISE & PLIMPTON, Washington DC

1989 - 1994

Associate. Litigation and corporate/securities practice that emphasized: representing corporations and individuals in connection with governmental investigations and civil and criminal proceedings (including matters involving insider trading, financial fraud, and corporate takeovers); conducting internal investigations for various purposes (including assisting corporate directors in assessing shareholder derivative demands and investigating the appropriateness of political campaign contributions); and counseling corporations in preventive law by developing corporate codes of conduct and assisting with the implementation of specific compliance programs. Also served as a cooperating attorney with the *Washington Lawyers' Committee for Civil Rights*.

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW
Juris Doctor, *cum laude*, May 1989

New York, New York

Order of the Coif

NEW YORK UNIVERSITY LAW REVIEW, Articles Editor, 1988-89, Staff Member, 1987-88
Teaching Assistant — Torts — for Professor Sylvia Law

VASSAR COLLEGE

Poughkeepsie, New York

B.A. with General Honors and Departmental Honors in Political Science, May 1986

Phi Beta Kappa; Debate Society President; Ida Frank Guttman Prize for the Distinguished Thesis in Political Science

PUBLICATIONS

BOOKS

SECURITIES LITIGATION AND ENFORCEMENT: CASES AND MATERIALS, 4TH EDITION (with Richard W. Painter and Margaret V. Sachs) (West Publishing, 2017; previous editions in 2003, 2008, 2012) and accompanying ANNUAL SUMMER SUPPLEMENTS and TEACHER'S MANUALS

SECURITIES LITIGATION AND ENFORCEMENT IN A NUTSHELL (with Margaret V. Sachs and Gerald Russello) (West Publishing, 2016)

FERRARA ON INSIDER TRADING AND THE WALL (with Ralph C. Ferrara and Herbert Thomas) Law Journal Seminars-Press (2002) (with semi-annual updates for loose-leaf edition)

LAW REVIEW ARTICLES

Chiarella v. United States and its *Indelible Impact on Insider Trading Law*, __ TENN. J. L. & POL. __ (forthcoming "Insider Trading Stories" symposium issue, 2020)

The Statutory Authority for Court-Ordered Disgorgement in SEC Enforcement Actions, in the *Texas Gulf Sulphur 50th Anniversary Commemorative Issue*, 71 SMU LAW REVIEW 895-926 (2018)

Reprinted in 2019 SECURITIES LAW REVIEW § 4.1 (ed., Donald C. Langevoort)

Beyond Dirks: Gratuitous Tipping and Insider Trading, 42 J. CORP. LAW 1-57 (2016)

Salman v. United States: Insider Trading's Tipping Point, 69 STAN. L. REV. ONLINE 28-36 (2016)

The Costs of Mandatory Cost-Benefit Analysis in SEC Rulemaking, 57 ARIZONA L. REV. 129-160 (2015)

Plugging Leaks and Lowering Levees in the Federal Government: Practical Solutions for Securities Trading Based on Political Intelligence, 2014 ILLINOIS L. REV. 1521-1572 (2014) (co-authored with Richard Painter)

Owning Stock While Making Law: An Agency Problem and a Fiduciary Solution, 48 WAKE FOREST L. REV. 567-623 (2013)

Selective Disclosure by Federal Officials and the Case for an FGD (Fairer Government Disclosure) Regime, 2012 WISCONSIN L. REV. 1285-1365 (2012) (co-authored with Richard W. Painter)

Insider Trading, Congressional Officials, and Duties of Entrustment, 91 BOSTON UNIV. L. REV. 1105-1163 (2011)

Selected by the Corporate Practice Commentator's annual professor poll as one of the Top Ten Corporate and Securities Articles of 2011; reprinted in 44 SECURITIES LAW REVIEW (2012) (ed., Donald C. Langevoort) and 54 CORPORATE PRACTICE COMMENTATOR (2012) (ed., Robert B. Thompson)

Is the PCAOB a "Heavily Controlled Component" of the SEC?: An Essential Question in the Constitutional Controversy, 71 PITT. L. REV. 361-402 (2010)

Insider Trading and the Gradual Demise of Fiduciary Principles, 94 IOWA L. REV. 1315-1379 (2009)

Selected by the Corporate Practice Commentator's annual professor poll as one of the Top Ten Corporate and Securities Articles of 2009; reprinted in 52 CORPORATE PRACTICE COMMENTATOR (2010) (ed., Robert B. Thompson)

Regulating the Mutual Fund Industry, 1 BROOK. J. OF CORP., FIN. AND COMM. LAW 11-44 (2006)

Playing Peekaboo with Constitutional Law: The PCAOB and Its Public/Private Status, 80 NOTRE DAME LAW REV. 975-1071 (2005)

Reprinted in 38 SECURITIES LAW REV. 424 (2006) (ed., Donald C. Langevoort)

The "Possession vs. Use" Debate in the Context of Securities Trading by Traditional Insiders: Why Silence Can Never Be Golden, 67 U. CIN. L. REV. 1129-1200 (1999) (Annual Corporate Law Symposium issue)

Reframing the Misappropriation Theory of Insider Trading Liability: A Post-O'Hagan Suggestion, 59 OHIO ST. L. J. 1223-1310 (1998)
Reprinted in 41 CORPORATE PRACTICE COMMENTATOR 607 (1999) (ed., Robert Thompson)

Judicial Reliance on Regulatory Interpretations in SEC No-Action Letters: Current Problems and a Proposed Framework, 83 CORNELL L. REV. 921-1013 (1998)
Reprinted in 31 SECURITIES LAW REV. 75 (1999) (ed., Donald C. Langevoort) and 1998-1999 CORPORATE PRACTICE COMMENTATOR 569 (ed., Robert B. Thompson)

BOOK CHAPTERS

Misleading Silence as the Basis for Insider Trading Liability Under the Federal Securities Laws in MISLEADING SILENCE: A COLLECTION OF ESSAYS (ELISE BANT AND JEANNINE PATERSON, EDS.) (HART PUBLISHING, FORTHCOMING 2020)

Congressional Officials and the Fiduciary Duty of Loyalty: Lessons from Corporate Law in FIDUCIARY GOVERNMENT (EVAN CRIDDLE ET AL. EDS.) (CAMBRIDGE UNIV. PRESS, 2018)

Constitutional Law and Public Policy: Gender Equity (with Aviva Rich) in GENDER MOSAICS: SOCIAL PERSPECTIVES (DANA VANNOY, ED.) (ROXBURY PRESS, 2001)

OTHER WRITINGS

Op-ed, *Tom Price's Stock Controversy Shows an Urgent Need for a New Law*, WASH. POST, January 24, 2017 at <https://wpo.st/MB9f2>

Guest Commentary, *After Salman, Whither Outsiders and Facebook Friends in Insider Trading?*, Columbia Law School Blue Sky Blog, October 12, 2016 at <http://clsbluesky.law.columbia.edu/2016/10/12/after-salman-whither-outsiders-and-facebook-friends-in-insider-trading/>

Guest Commentary, *Beyond Dirks: Gratuitous Tipping and Insider Trading*, Harvard Law School Forum on Corporate Governance and Financial Regulation, September 26, 2016, at <https://corpgov.law.harvard.edu/2016/09/26/beyond-dirks-gratuitous-tipping-and-insider-trading/>

Op-ed, *Enforce Laws to Right Lawmaker Insider Trading*, ROLL CALL, October 12, 2011 at http://www.rollcall.com/issues/57_40/donna_nagy_enforce_laws_fight_lawmaker_insider_trading-209378-1.html

Supreme Court Amici Curiae Brief of Law Professors in Support of Petitioners in *Free Enterprise Fund v. Public Company Accounting Oversight Board*, No. 08-861, August 3, 2009, at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1443971

Remarks from Roundtable Discussion, *The Impact of Criminal Sanctions on Corporate Misconduct*, 2 J. of Bus. & Tech. L. 111-14 (2007)

Comment Letter to SEC Commissioners regarding selective disclosure and insider trading rules, April 24, 2000, at <http://www.sec.gov/rules/proposed/s73199/nagy1.htm>

CONGRESSIONAL TESTIMONY

Hearing on H.R. 1148 – The Stop Trading on Congressional Knowledge (STOCK) Act – Before the U.S. House Committee on Financial Services, December 6, 2011. Written testimony available at <http://financialservices.house.gov/Calendar/EventSingle.aspx?EventID=270508>

Hearing on Insider Trading and Congressional Accountability Before the U.S. Senate Committee on Homeland Security and Governmental Affairs, December 1, 2011. Written testimony at <http://www.hsgac.senate.gov/hearings/insider-trading-and-congressional-accountability>

PROFESSIONAL ACTIVITIES

AMERICAN BAR ASSOCIATION, BUSINESS LAW SECTION, CORPORATE LAW COMMITTEE MEMBER

Six year appointment, 2011-2017; Co-Chair, Task Force on the Impact of Federal Government Initiatives (2013-15)

AMERICAN LAW INSTITUTE (ALI)

Member of the Consultative Group for Project on Principles of Government Ethics

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. (FINRA)

Non-industry member, National Adjudicatory Council (three year appointment, January 2010 - January 2013)

SEC HISTORICAL SOCIETY

Vice-President and Member of Board of Trustees (June 2008-2011)

Museum Accession Committee (Chair, June 2008-2011; committee member 2004-08)

ASSOCIATION OF AMERICAN LAW SCHOOLS (AALS)

Standing Committee on Sections and Annual Meetings (Member (2018-present))

AALS Reporter on Site Evaluation Team for ABA/AALS Reaccreditation and Membership Review (Site Team Visit: November 12-15, 2017)

Chair, Program Committee for the 2017 AALS Annual Meeting

Chair, Planning Committee for the 2015 AALS New Law Teachers Workshop

AALS Reporter on Site Evaluation Team for ABA/AALS Reaccreditation and Membership Review (Site Team Visit: February 19-23, 2013)

Standing Committee on Professional Development (Chair, 2011-13, member 2010-2011)

Nominating Committee for 2011 Officers and Members of the Executive Committee (2010)

Standing Committee on Audit and Association Investment Policy (2009-2010)

Chair, Planning Committee for Professional Development Conference on Business Associations, Long Beach, CA (June 7-10, 2009)

Standing Committee on Sections and Annual Meetings (Chair, 2007-08; member (2005-07)

Past Chair, AALS Section on Securities Regulation (2004-05); executive committee member (2000-06)

RECENT PRESENTATIONS

Senior Commentator, *The New Insider Trading*, Emerging Voices in Securities Regulation, Annual Meeting of the Association of American Law Schools, Washington, DC, January 4, 2020

Paper Presenter, *Chiarella v. United States and its Indelible Impact on Insider Trading Law*, Insider Trading Stories Symposium, University of Tennessee College of Law, November 15, 2019

Faculty Workshop Speaker, *Misleading Silence as the Basis for Insider Trading Liability Under the Federal Securities Laws*, Auckland Law School, Auckland, New Zealand, September 30, 2019

Faculty Workshop Speaker, *Misleading Silence as the Basis for Insider Trading Liability Under the Federal Securities Laws*, Australian National University Law School, Canberra, September 25, 2019

Seminar Presenter, *Insider Trading Law in the United States and Australia*, Ross Parons Corporate Law Center at Sydney Law School and the Australian Securities and Investments Commission, September 23, 2019

Paper Presenter, *Misleading Silence as the Basis for Insider Trading Liability Under the Federal Securities Laws*, Misleading Silence Colloquium, Melbourne Law School, September 19-20, 2019

Discussion Group Participant, *Insider Trading Stories*, Annual Meeting of the Southeastern Association of Law Schools, Boca Raton, FL, August 1, 2019

Panel Presentation, *Leading From Where We Are*, Women's Leadership in the Legal Academia 2019 Conference, University of Virginia School of Law, July 18, 2019

Faculty Workshop Speaker, *The Statutory Authority for Court-Ordered Disgorgement in SEC Enforcement Proceedings*, Albany Law School, February 20, 2019

Presenter, Lynn Stout Memorial Conference, *Plenary Panel on The Engagement Challenge*, Cornell Law School, The Cornell Club, New York City, February 1, 2019

Paper Presenter, *Insider Trading in Cryptoassets: Placing Jurisdictional Murkiness Off to One Side Insider Trading in Crypto-Assets*, Insider Trading Discussion Group at the Annual Meeting of the Association of American Law Schools, New Orleans, January 3, 2019

Presenter, *Women and Corporate Governance: A Conference Exploring the Impact of Women in the Governance of Public Corporations*, George Washington University School of Law, November 2, 2018

Paper Presenter, *The Statutory Authority for Court-Ordered Disgorgement in SEC Enforcement Proceedings*, National Business Law Scholars Conference, University of Georgia School of Law, June 21-22, 2018

Paper Presentation, *Members of Congress and the Duty of Loyalty: Lessons from Corporate Law*, Conference on Fiduciary Government, UCLA Law School, June 7-8, 2017

Panel Presenter, *Engaged Conversations: Financial Conflicts of Interest and Congressional Ethics*, Indiana University Maurer School of Law, April 17, 2017

Panel Presentation, *Building a Compliance Culture in Today's Financial Institutions: Recent Issues and Developments*, Chicago-Kent Law School, March 3, 2017

Discussion Group Participant, *Insider Trading Regulation and Enforcement after Salman v. United States*, Annual Meeting of the Association of American Law Schools, San Francisco, January 6, 2017

Discussion Group Participant, *Perspectives on the Future of White-Collar Crime*, Annual Meeting of the Southeastern Association of Law Schools, Amelia Island, FL, August 7, 2016

Paper Presenter, *Beyond Dirks: Gratuitous Tipping and Insider Trading*, National Business Law Scholars Conference, University of Chicago Law School, June 23-24, 2016

Paper Presenter, *Beyond Dirks: Gratuitous Tipping and Insider Trading*, 2016 Fiduciary Law Workshop, Duke Law School, June 17-18, 2016

Panel Presentation, *New Directions in Corporate Compliance Conference*, Rutgers Law School, May 20, 2016

Faculty Workshop Speaker, *The Gratuitous Tipping Point in Insider Trading*, Loyola Law School, Los Angeles, CA, February 25, 2016

Paper Presenter, *Beyond Dirks: Gratuitous Tipping and Insider Trading*, Conference on Defining the Boundaries of Insider Trading, UCLA Law School, Los Angeles, CA, October 9, 2015

Paper Presenter, *Beyond Dirks: Gratuitous Tipping and Insider Trading*, Workshop on Recent Developments in Securities Regulation, Meeting of the Southeastern Association of Law Schools, Boca Raton, FL, July 31, 2015

Paper Presenter, *What Corporate Law Can Teach Us about Government Ethics: Panel on Public Fiduciary Law*, 2015 Annual Meeting of the Law & Society Ass'n, Seattle, WA, May 28, 2015

Distinguished Scholar and Lecturer at the 2015 Ruby R. Vale Interschool Moot Court Competition, *What Corporate Law Can Teach Us about Government Ethics*, Widener Law School, Wilmington, DE, March 13, 2015

Commentator and Participant in Fifth Annual Workshop for Business and Financial Law Junior Faculty, Center for Law, Economics and Finance, George Washington University Law School, Washington, D.C., February 27, 2015

Faculty Workshop Speaker, *The Costs of Mandatory Cost-Benefit Analysis in SEC Rulemaking*, Washington University School of Law, St. Louis, MO, February 26, 2015

Paper Presenter, *Plugging Leaks and Lowering Levees in the Federal Government: Practical Solutions to Securities Trading Based on Political Intelligence*, 2014 Annual Meeting of the Law & Society Association, Minneapolis, MN, May 30, 2014

Salon Discussant: *Examining the SEC's Role in Information Disclosure*, 2014 Annual Meeting of the Law and Society Association, Minneapolis, MN May 29, 2014

Paper Presenter, *Owning Stock While Making Law: An Agency Problem and a Fiduciary Solution*, Workshop on Fiduciary Law, McGill University, Montreal, Canada, May 6, 2014

Panelist, *Recent Changes to the Model Business Corporation Act*, Spring Meeting of the ABA Section on Business Law, Los Angeles, April 11, 2014

Presenter, *The Costs of Mandatory Cost-Benefit Analysis in SEC Rulemaking*, Institute for Law and Economic Policy's 20th Annual Symposium, Business Litigation and Regulatory Agency Review in the Era of the Roberts Court, Boca Raton, FL, April 17, 2014

Faculty Workshop Speaker, *The Costs of Mandatory Cost-Benefit Analysis in SEC Rulemaking*, Indiana University McKinney School of Law, March 25, 2014

Presenter, *Plugging Leaks and Lowering Levees in the Federal Government: Practical Solutions to Securities Trading Based on Political Intelligence*, with co-author Richard Painter at the Larry Ribstein Memorial Symposium, University of Illinois College of Law, October 17, 2013

Panel Presenter, *The Constantly Evolving Law of Insider Trading in the United States*, 2013 Meeting of the Southeastern Association of Law Schools, Palm Beach, FL, August 10, 2013

Workshop Participant, *The Future of Fiduciary Duties*, 2013 Meeting of the Southeastern Association of Law Schools, Palm Beach, FL, August 9, 2013

Paper Presenter, *Owning Stock While Making Law: An Agency Problem and a Fiduciary Solution*, Panel on Securities Fraud and Disclosure, 2013 Meeting of the Law & Society Association, Boston, MA, May 30, 2013

Paper Discussant, *Learning from Last Resorts: Litigation, Bankruptcy, and Other Bad Outcomes*, 2013 Meeting of the Law & Society Association, Boston, MA, May 30, 2013

Faculty Workshop Speaker, *Plugging Leaks and Lowering Levees in the Federal Government: Practical Solutions to Securities Trading Based on Political Intelligence*, University of Washington School of Law, April 25, 2013

Commentator and Participant in Third Annual Workshop for Business and Financial Law Junior Faculty, Center for Law, Economics and Finance, George Washington University Law School, April 5-6, 2013

Panelist, *Shareholder Values, Benefit Corporations, and the Model Business Corporation Act*, Spring Meeting of the ABA Section on Business Law, April 5, 2013

Paper Presenter, *Owning Stock While Making Law: An Agency Problem and a Fiduciary Solution*, Spring 2013 Business Law Symposium -- Agency Theory: Still Viable?, Wake Forest University School of Law School, March 22, 2013

Colloquium Speaker, *Plugging Leaks and Lowering Levees in the Federal Government: Practical Solutions to Securities Trading Based on Political Intelligence*, Center for Law, Society, and Culture, Indiana University Maurer School of Law, Bloomington, IN, January 24, 2013

Panelist, ABA Section of Administrative Law & Regulatory Practice, *Insider Trading on Government Information -- Issues in Enforcement and Interpretation of the STOCK Act of 2012*, Washington, DC, October 25, 2012

Panelist, National Business Law Scholars Conference, *Debating the STOCK Act and JOBS Act*, University of Cincinnati College of Law, June 27, 2012

Paper Presenter, *Selective Disclosure by Federal Officials and the Case for an FGD (Fairer Government Disclosure) Regime*, Panel on the Continued Debate over the Efficacy of Disclosure in Securities Regulations for Markets, Politics, and the Global Economy, 2012 Meeting of the Law & Society Association, Honolulu, June 8, 2012

Paper Presenter, *Insider Trading, Congressional Officials, and Duties of Entrustment*, Panel on New Corporate Governance: U.S. Federal Law and Federalism, 2011 Meeting of the Law & Society Association, San Francisco, June 3, 2011

Commentator and Participant in Inaugural Workshop for Business and Financial Law
Junior Faculty, Center for Law, Economics and Finance, George Washington University Law School, April 1-2, 2011

Panelist, *Congress Punts, Administrative Agencies Receives, Welcome to a Decade of Rulemaking*, Symposium: From Wall Street to Main Street: The Future of Financial Regulation, Chapman University School of Law, January 28, 2011

Paper Presenter, *Insider Trading, Congressional Officials and Duties of Entrustment*, The Role of Fiduciary Law and Trust in the 21st Century: A Conference Inspired by the Work of Tamar Frankel, Boston University School of Law, October 29, 2010

Moderator, *Self-Regulation in the Securities Industry*, SEC Historical Society's 11th Annual Meeting, Securities and Exchange Commission, June 3, 2010

Paper Presenter, *Self-Regulation in the Securities Industry*, Panel on Corporate and Securities Law: History, Future, Theory, and Claims, 2010 Meeting of the Law & Society Association, Chicago, May 29, 2010

Panelist, *The Constitutional Challenge to the PCAOB: The Appointments Clause and the Power of the President to Supervise Administrative Agencies*, Spring Meeting of the ABA Section on Administrative Law & Regulatory Practice, May 14, 2010

Panelist, *The Constitution and the Economy: Accountability and Autonomy in a Time of Financial Market and Regulatory Transformations*, AALS Annual Meeting, New Orleans, Jan. 7, 2010

Colloquium Speaker, *Insider Trading and the Gradual Demise of Fiduciary Principles*, Wisconsin Law School, October 28, 2009

Colloquium Speaker, *Is the PCAOB a "Heavily Controlled Component" of the SEC?: An Essential Question in the Constitutional Controversy*, Boston College Law School, October 21, 2009

OTHER MEMBERSHIPS AND BAR ADMISSIONS

Member, *American Law Institute* (elected October 2003)

Member, *Association of American Law Schools*, Sections on Business Associations, Securities Regulation, and Women in Legal Education

Member of the District of Columbia Bar

Admitted before the U.S. Supreme Court and the U.S. Dist. Court for the District of Columbia