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TOP WHITE COLLAR LAWYERS 2021



Smith teamed with longtime friend Thomas W. McNamara in 2017 to form the six-attorney boutique McNamara Smith LLP after both men had practiced white collar defense elsewhere—sometimes on opposing sides—for years.

Each had started with federal district court clerkships. In Smith's case, he'd worked in the chambers of U.S. District Judge Ellen Segal Huvelle of the District of Columbia following his graduation cum laude from Harvard Law School. "Judge Huvelle had done white collar work in private practice and she encouraged me to look at a well-known boutique in Washington," Smith said. That firm was Zuckerman Spader LLP, where fellow Harvard Law graduate Roger E. Zuckerman proved to be a masterful mentor, Smith said. "He emphasized decency both to the client and to the other side."

Smith spent eight years representing former Enron executive Lou Pai, who emerged uncharged criminally in the long-running Enron scandal and settled civilly with the SEC with a fine and restitution. "It was a mix of fascinating cases involving the SEC, the DOJ and a class action," Smith said. "We got him a soft landing after a long haul and that was my introduction to white collar work. It hooked me."

With his wife, Smith moved to San Diego to raise a family and re-connected with McNamara to open their

firm. "She's an attorney, but she's currently not practicing," Smith said of his wife, "except she's litigating constantly with our five- and eight-year-olds."

In San Diego, Smith represented Margaret Hunter, the estranged wife of Congressman Duncan D. Hunter; both were indicted in 2018 for allegedly using more than \$250,000 in campaign funds for personal expenses. Margaret had been Duncan's campaign manager. *U.S. v. Hunter*, 3:18-cr- 03677 (S.D. Cal., filed Aug. 21, 2018).

Smith negotiated with prosecutors a cooperation agreement that led to a probationary sentence with home confinement. "She is a deeply private person who never wanted the glare of publicity," he said. "Our goal was to create a cocoon for her three children and find her the softest landing possible." She and Smith spent hours with prosecutors. At sentencing, the judge commended her cooperation. Smith called it "gratifying to get her to a place to start rebuilding her life." Then- President Donald J. Trump pardoned the couple in Dec. 2020.

In an ongoing high profile case, Smith represents Sean McManus in a massive online 67-count charter school fraud prosecution that has also involved an extensive cooperation deal plus millions of dollars in restitution that is expected to result in confinement not to exceed four years. The case was complicated by



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SAN DIEGO

WHITE COLLAR
DEFENSE, INTERNAL
INVESTIGATIONS,
AND LITIGATION

the client's living in Australia. *People v. McManus et al.*, SCD266439 (San Diego Sup. Ct., filed May 29, 2019).

"Sometimes you challenge the facts, and sometimes it's best to cooperate aggressively," Smith said.

— John Roemer