



BigLaw Revolving Door Report: Kirkland & Ellis

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The Revolving Door Project and People's Parity Project jointly publish the BigLaw Revolving Door report series. This series investigates the US's largest law firms, those firms' corporate clients, and how they seek to influence executive branch policies and actions and the larger field of regulatory law.

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Introduction

When *Politico* reported that Susan Davies was one of Biden's [top picks](#) to lead the Antitrust Division of the Department of Justice (DOJ), progressives were quick to point out her close [ties to Big Tech](#) and other corporations regulated by the division. Davies' prospective appointment put the spotlight on how Kirkland & Ellis has made a business out of influencing the executive branch to the benefit of their corporate clients using several strategies including, significantly, by employing lawyers who regularly revolve in and out of government positions. Primarily a [Republican-associated](#) BigLaw firm, Kirkland & Ellis sent several of their lawyers to serve in Trump's DOJ—including the Attorney General himself, William Barr—where they helped turn the Department into Trump's [personal legal team](#). But having high-profile Democrats like Davies work for Kirkland provides cover for the firm's clients that are more hesitant to be associated with a firm so closely tied to the GOP. Perhaps even more concerning is the fact that law firms like Kirkland often seek to hire individuals like Davies simply because attacks on government regulation sound more compelling to a Democratic administration when they come from a fellow Democrat, regardless of their corporate ties.

Kirkland's corporate clients, including [BP](#), [Raytheon](#), and [Facebook](#), all stand to benefit from the firm's influence peddling during both Republican and Democratic administrations. Biden's appointment of Kirkland attorneys will only perpetuate this cycle, giving corporate bad actors a leg up with the agencies tasked to regulate them.

Kirkland & Ellis' History of Corporate and Controversial Clients

Private Equity

Along with the standard spate of corporate clients including Facebook, BP, and General Electric, Kirkland [specializes](#) in advising private equity firms, facilitating multi-billion dollar deals that enrich wealthy investors — and, of course, Kirkland itself. Kirkland's award-winning private equity practice boasts more than [450](#) clients, including [Sun Capital Partners](#), [Thoma Bravo](#), and [Blackstone](#), representing them in buyouts that Senator Elizabeth Warren described as [“legalized looting”](#) for how they allow firms to profit off of failing companies by slashing costs and firing workers. Kirkland attorneys also frequently prep finance executives for Congressional hearings;

embattled fintech firm Robinhood hired Kirkland partner Reginald Brown to [prep its CEO](#) for the GameStop hearings. Brown, a veteran revolver, surely had helpful insight as to how Robinhood could be as evasive as possible without antagonizing Robinhood's natural allies on the Committee. By both helping financial firms both carry out questionable practices and then ensuring these firms are prepared when they inevitably face consequences for their actions, Kirkland attorneys ensure that Wall Street continues getting away with practices that have decimated our economy and cost countless American jobs.

Antitrust

Kirkland's mergers & acquisitions practice advises private equity and other corporations seeking to scoop up potential competitors and concentrate entire industries. The firm shepherds clients through [antitrust challenges](#) from the DOJ Antitrust Division, Federal Trade Commission (FTC), and consumers alike. Crucially, Kirkland consistently hires lawyers who once worked at the antitrust enforcement agencies and helped investigate and challenge anti-competitive behavior on behalf of the government to represent these clients in their anti-competitive conduct. The firm's antitrust practice is quite literally [headed](#) by the former assistant director leading the Mergers IV division within the FTC's Bureau of Competition, Matthew Reilly. In 2019, Kirkland [brought](#) on two more FTC staff attorneys.

Kirkland's antitrust work is particularly robust in the [mega-merger driven](#) healthcare and pharmaceutical sectors. In 2019, the firm was [named](#) "Healthcare & Pharma Law Firm Of The Year." Kirkland [represented](#) pharma giant AbbVie in its \$63 billion acquisition of Allergan, which Revolving Door Project's Jeff Hauser [called](#) an "anti-competitive merger [that] further entrenches Big Pharma at the expense of all Americans." Kirkland also represented Bristol-Myers Squibb in its [\\$90 billion acquisition](#) of Celgene and [\\$13 billion](#) acquisition of MyoKardia.

In 2018, the Trump Administration nominated [former Kirkland partner Christine Wilson](#) to the Federal Trade Commission. In her tenure thus far, Wilson's legacy includes [voting against](#) the historic FTC suit aimed at breaking up Facebook, as well as voting for a [slap-on-the-wrist settlement](#) when Facebook deceived users about their ability to control the privacy of their personal information. Between Kirkland and joining the FTC, Wilson worked on regulatory matters for [Delta Airlines](#), one of the four airlines that [control 80 percent](#) of domestic passenger traffic. Unsurprisingly, Delta Airlines [is a client](#) of Kirkland & Ellis.

Like the firm's connections to the FTC, Kirkland's ties to the DOJ run deep. Several of the firm's antitrust lawyers are former DOJ attorneys, including Davies, who formerly worked at the Department of Justice's [Antitrust Division](#). Davies now uses her insider knowledge of the Antitrust Division to help corporations skirt antitrust regulations, including Facebook, whom she [represented](#) in a lawsuit [alleging](#) that the company violated federal antitrust and California unfair competition laws. Davies' other antitrust clients at Kirkland [include](#) chemical producer Tronox, which was sued by the FTC over its \$2.4 billion purchase of Saudi chemical company Cristal.

Recently, Kirkland's lawyers [represented Goldman Sachs](#) in a corruption case before the DOJ, in which the bank paid a \$2.9 billion fine and admitted wrongdoing. The DOJ official who oversaw this investigation, Brian Benczkowski, was a partner at Kirkland before revolving into government. Similarly, Kirkland [represented](#) Boeing in the DOJ's 737 Max investigation alleging that the company concealed information about the aircraft's software from regulators in the wake of two crashes that [killed 346 people](#). DOJ officials in the department at the time, including Claire Murray and John Moran, previously represented Boeing while attorneys at Kirkland. Kirkland's DOJ practice also helped Russia's Alfa Bank investigate contacts between the bank and President Trump amid scrutiny in the [Trump-Russia investigation](#).

Oil & Gas

Kirkland is also a [favorite](#) firm of oil and gas giants targeted by class actions and environmental investigations. Kirkland [represented BP](#) in a 2020 suit by workers and coastal residents claiming to have health problems due to the Deepwater Horizon oil spill, and the firm also defended BP when fishing businesses and other affected parties [sued the company](#). The Kirkland lawyer in the latter case, Jeffrey Bossert Clark, wasn't just a hired gun—has [vocally questioned](#) the validity of climate change and his defense of fossil fuel giants landed him a gig as Trump's Assistant Attorney General for the environment and natural resources. Clark has also represented the U.S. Chamber of Commerce in suits challenging the federal government's authority to [regulate carbon emissions](#).

The firm's portfolio includes [major oil & gas companies](#) including Kinder Morgan, Parker Drilling Company, Linn Energy, Ultra Petroleum Corporation, and PetroStar Services. Kirkland also advised defense contractor Raytheon in an [environmental contamination lawsuit](#) over a [toxic waste plume](#) at a Florida plant that the company kept secret for over a decade.

Jeffrey Epstein

In addition to its portfolio of corporate clients, Kirkland represented and defended Jeffrey Epstein after he was accused of sexual abuse of dozens of minors. Lawyers from Kirkland helped secure Epstein's sweetheart plea deal in 2007 in Florida, negotiating with Florida U.S. attorney Alex Acosta, who was previously an attorney at Kirkland. Acosta has since faced criticism for the apparent preferential treatment in Epstein's case and the unusual nature of the non-prosecution agreement. As recently as 2011, partner Jay Lefkowitz and other Kirkland attorneys represented Epstein in New York state court proceedings, attempting to prevent him from having to report to the New York Police Department regularly or appear in the sex offender database.

Kirkland & Ellis' Right-Wing Connections

Kirkland has a [history](#) of employing conservative lawyers that have revolved between the firm and Republican administrations. One 2015 paper analyzing political contributions from lawyers at the industry's top law firms found that Kirkland was the [second-most conservative](#) among them. In 2016, Kirkland acquired the DC law firm Bancroft, which was known for representing right-wing clients before the Supreme Court in controversial cases, including advocating for the Defense Against Marriage Act. Bancroft also [represented](#) South Carolina in disputes over its stringent voter ID laws and Arizona in a Supreme Court case regarding its "papers please" immigration law.

Supreme Court Justice Brett Kavanaugh was formerly a Kirkland lawyer, and the firm went to great lengths to defend Kavanaugh during his controversial confirmation hearings, in which Kavanaugh was accused of sexual assault by multiple women. In 2018, Kirkland posted an op-ed originally published in the *National Review* [praising Kavanaugh](#). After his confirmation, Kirkland employees helped sponsor a dinner hosted by the Federalist Society that aimed to "[rehabilitate](#)" Justice Kavanaugh's image. During his time at the firm, Kavanaugh helped defend Kirkland's prominent right-wing clients. In *Rice v. Cayetano* (2000), Kavanaugh represented the Center for Equal Opportunity, a [conservative think tank](#) that opposes race-conscious hiring and admissions policies. Kavanaugh also filed several amicus briefs for conservative clients, primarily over [religious freedom issues](#).

Another conservative Kirkland [partner](#), Robert Bork, [nearly](#) secured a Supreme Court seat of his own, until his right-wing racist beliefs sunk his high court nomination, including his extensive writings [criticizing](#) the Civil Rights Act of 1964. Bork once argued that a poll tax struck down by the Supreme Court was merely a "[very small tax](#)." As a circuit court judge, Bork ruled against workers and civil rights, finding in favor of a company whose employees had undergone sterilization procedures to keep their jobs. Bork also ruled that there was no constitutional right to engage in homosexual conduct and that government-sponsored school prayer did not violate the First Amendment. Beyond his egregious opinions, Bork was an influential antitrust [scholar](#) who pioneered the "consumer welfare standard," the theory that antitrust laws should only be enforced if monopolies led to increases in consumer price. Lawyers at Kirkland and other BigLaw firms still employ this rationale to justify corporate clients' anticompetitive conduct. Prior to his nomination by President Reagan, Bork served as the solicitor general under Nixon and played a key [role](#) in the Watergate scandal, carrying out the order to fire a special prosecutor.

The ties between conservative jurisprudence and Kirkland extend beyond Kavanaugh and Bork. Former Kirkland partner and Bush DOJ lawyer Viet D. Dinh is a prominent conservative legal [scholar](#) best known as one of the lead architects of the Patriot Act, which dramatically increased law enforcement funding and surveillance in the name of fighting terrorism. Dinh [left](#) Kirkland in 2018 to become Fox Corporation's chief legal and policy executive. Current Kirkland partner Paul Clement is a conservative powerhouse for the firm's Supreme Court practice who clerked for Justice Scalia and has [written extensively praising](#) the late conservative justice. Clement has secured victories on behalf of clients like Little Sisters of the Poor in a fight over religious exemptions to the [ACA's contraception mandate](#) and the developers of an [Atlantic coast gas pipeline](#) in a fight over access to the Appalachian National Scenic Trail. In 2018, Clement won an [anti-worker appeal](#) for Encino Motorcars in a fight centering on overtime pay, arguing that auto service advisers were not covered by the Fair Labor Standards Act's overtime pay requirement.

Kirkland attorneys have defended other conservative petitioners in high-stakes litigation, including the [New York State Rifle & Pistol Association](#) in a Second Amendment case [challenging NYC's restriction](#) on the transport of guns. The firm has also supported conservative gerrymandering efforts, [representing](#) the Wisconsin State Legislature before the Supreme Court, arguing against the Democratic plaintiffs challenging redistricting efforts.

After serving as solicitor general under George H.W. Bush, Ken Starr [joined Kirkland](#) as a partner. In 2016 Starr, who famously [investigated](#) Bill Clinton's sexual misconduct, was [ousted](#) from his role as Baylor University president after mishandling campus sexual assault allegations. Most recently, Starr [served](#) on Donald Trump's legal defense team for his second impeachment.

Kirkland has long been the firm of [choice](#) for Fox and Rupert Murdoch himself. Kirkland attorneys are [representing](#) Fox in a \$2.7 billion defamation suit brought by election technology company Smartmatic accusing the network of spreading falsehoods that the company tried to rig the presidential election against Trump. The firm also represented Fox and Tucker Carlson in a [suit](#) accusing the anchor of slander.

Kirkland & Ellis' Revolving Door to the Executive Branch

Trump Administration

Unsurprisingly, Kirkland's top lawyers who represent the firm's largest and worst clients are the same individuals who achieved the highest ranks in the Trump Administration. President Trump's DOJ was [stacked](#) with Kirkland recruits, including Attorney General and Trump loyalist Bill Barr and his two highest-ranking deputies, Jeffrey Rosen and Claire Murray. Barr joined Kirkland in 1994, and was a longtime partner who represented Verizon, BP (regarding the 2011 oil spill), and private equity firms. Rosen, Barr's Deputy Attorney General, was another longtime partner whose clients included General Motors and Raytheon. Murray, Barr's Principal Deputy Associate Attorney General, represented corporate clients as a partner at Kirkland including Boeing, Syngenta, and United Technologies. She has revolved between government and BigLaw multiple times, previously serving in the White House counsel's office, where she helped handle Kavanaugh's Supreme Court nomination. Kirkland alumni were so prolific in the ranks of Trump's DOJ that Murray once [joked](#) at an industry conference that "our philosophy is that an agency can never be led by too many lawyers from Kirkland & Ellis."

Under Barr and other Kirkland alumni, the DOJ became [Trump's personal law firm](#), taking on his battles without regard for ethical or legal considerations. The "Kirkland network" at DOJ led President Trump's defense in the [E. Jean Carroll defamation case](#), with Barr installing former Kirkland lawyers in key positions at the Civil Division and its Torts Branch, which handled the case.

Beyond Barr's DOJ, many senior officials in the Trump Administration had worked at Kirkland, including [John Bolton](#) (National Security Advisor), [Alex Acosta](#) (Labor Secretary), [Alex Azar](#) (HHS Secretary), [Jeff Wall](#) (Principal Deputy Solicitor General), [Pat Cipollone](#) (White House Counsel), [Patrick Philbin](#) (Deputy White House Counsel), and [John Eisenberg](#) (Deputy White House Counsel).

Obama Administration

The Obama administration famously tapped BigLaw attorneys for key administration positions, and Kirkland lawyers were no exception. Robert Khuzami, [a former Kirkland partner](#), served as director of the SEC’s enforcement division under Obama. After his government stint, Khuzami took a job with [one of his former clients](#)—investment bank Guggenheim Partner. After serving as White House Counsel to President Obama from 2014 to 2017, Neil Eggleston [joined Kirkland](#), where he [sells his insider knowledge](#) of government to help corporations navigate enforcement matters at DOJ, the Securities and Exchange Commission, U.S. Attorney’s Offices, and other enforcement agencies.

Susan Davies, as discussed above, [revolved](#) to Kirkland from her role as Deputy White House Counsel where she peddles her insider knowledge of government to Fortune 100 companies. Davies [led](#) judicial selection for the Obama administration, which notoriously [favored](#) corporate attorneys for federal judgeships. One [study](#) found that 71% of circuit and district court judges came from the corporate sector, while fewer than 4% of Obama’s judicial nominees were public interest lawyers.

Conclusion

Given the firm’s ties to right-wing ideologues and corporate giants, President Biden must not appoint Kirkland attorneys to roles in his administration. Kirkland’s ties to fossil fuel giants undermine Biden’s promise to lead [“a clean energy revolution”](#) and its defense of Facebook should be a red flag to an administration looking to [crack down](#) on Big Tech. Lawyers who defend large corporations like Boeing and Goldman Sachs have no place in the agencies designed to regulate these companies. Biden must root out the influence of Kirkland alumni at DOJ and across his administration.