



## Michael S. Kim

Lawyer

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Michael S. Kim, co-founder of the firm, serves as lead counsel in high-stakes disputes and investigations.

Recognized by *Chambers & Partners* as “an extraordinary attorney with great trial and legal skills who knows how to give clients what they want,” Mr. Kim is a well-known advocate and strategist in complex disputes and investigations, particularly those involving international regulatory proceedings. Client reports in *Benchmark Litigation* describe him as “a brilliant strategist and creative thinker” and “an exceptional leader, especially in cases involving multi-jurisdictional issues” who “coordinated legal proceedings in three or four jurisdictions all working together to achieve our objective.”

Mr. Kim’s focus lies at the intersection of fraud and insolvency in situations involving government investigations and asset forfeiture/confiscation, recovery of hidden assets and bankruptcy, often in simultaneous legal proceedings in multiple countries. He has served as lead counsel in some of the most significant matters in these specialized areas of law.

In the area of government investigations and asset forfeiture/confiscation, Mr. Kim has been recognized as one of the most highly regarded individuals in international business crime defense by the publishers of the *Global Competition Review (UK)*, which noted his “extraordinary advisory and trial skills.” Mr. Kim was also recognized by the publishers of *Benchmark Litigation*, highlighting his work in global financial disputes and criminal investigations. He has served as an expert witness on international government and regulatory enforcement issues in the courts of England, Switzerland and Italy.

In the areas of insolvency and judgment enforcement, Mr. Kim has been ranked as one of the top lawyers in the world by the publishers of the *Global Arbitration Review*. He has served as an expert witness on U.S. debtor-creditor laws in the courts of the Cayman Islands and is co-author of the book *Debtor-Creditor Fraud* (Thomson West).

Prior to establishing Kobre & Kim, he served as a prosecutor for the U.S. Department of Justice (as an Assistant U.S. Attorney in the Criminal Division of the U.S. Attorney’s Office for the Southern District of New York (DOJ-SEC-CFTC Securities and Commodities Fraud Task Force)). While serving in that capacity, Mr. Kim focused on white-collar criminal cases involving hedge funds, securities and commodity futures fraud, many of which involved international asset tracing and forfeiture.

Earlier in his legal career, Mr. Kim practiced at Davis Polk & Wardwell LLP in New York.

Before his legal career, Mr. Kim served as a U.S. Army infantry officer.

### Admissions

- New York
- Connecticut
- Illinois
- District of Columbia
- U.S. Court of Appeals for the District of Columbia, Second, Third, and Seventh Circuits
- U.S. Court of Federal Claims

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- Registered Foreign Lawyer, England & Wales
  - Registered Foreign Lawyer, Hong Kong
  - Registered Foreign Lawyer, South Korea
  - U.S. District Court for the District of Columbia
  - U.S. District Court for the District of Connecticut
  - U.S. District Courts for the Southern and Eastern Districts of New York
  - U.S. District Court for the Northern District of Illinois, Trial Bar
  - Dubai International Financial Center Courts
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## Education

- Harvard Law School, JD (*Harvard Law Review*, Executive Editor)
  - Harvard College, AB
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## Languages

- Korean
  - Spanish
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## Accolades

*Benchmark Litigation*, Litigation  
*Chambers USA*, Litigation: General Commercial (New York)  
*Chambers USA*, Litigation: White-Collar Crime & Government Investigations (New York)  
*The Legal 500 United States*, Corporate Investigations & White-Collar Criminal Defense  
*The Legal 500 United States*, General Commercial Disputes  
*The Legal 500 United States*, International Litigation  
*Who's Who Legal*, Asset Recovery  
*Who's Who Legal*, Business Crime Defence  
*Who's Who Legal*, Investigations  
*Lawdragon 500 Leading Lawyers in America*

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## Select Engagements

### International Judgment Enforcement & Asset Recovery

Utilizing his knowledge of locating fraudulently concealed assets, as well as in attacking and defending complex legal structures, Mr. Kim has served as lead counsel in a number of matters involving the enforcement of high-value judgments and arbitration awards, including for:

- An engineering company, in the enforcement of a US multibillion-dollar arbitration award against an African state.
- ConocoPhillips, in relation to the worldwide enforcement of anticipated US multibillion-dollar International Centre for Settlement of Investment Disputes and International Chamber of Commerce arbitration awards against the Republic of Venezuela and its national oil company.

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- DuPont, in enforcing a US \$920 million judgment against Kolon Industries, a Korean conglomerate operating in the U.S., Europe and Asia.
- Chevron, in enforcing an investment treaty award for US \$100 million+ against the Republic of Ecuador.
- An African bank, in executing asset tracing and recovery efforts of £ 18 million+ stolen in an elaborate fraud scheme perpetrated on the bank by a purported commodities importer, involving investigations or legal actions in Nigeria, Ghana, London and New York.
- The Commonwealth of the Northern Mariana Islands, in the enforcement of a US \$120 million tax judgment against debtors with assets structured in numerous offshore vehicles and shell companies throughout Europe, Asia and offshore jurisdictions.

## **Insolvency Disputes**

Mr. Kim has served as special litigation counsel in several of the largest insolvencies of recent years, investigating and litigating allegations of fraud, asset concealment and other improper transactions, including for:

- The unsecured creditors committee in the SunEdison bankruptcy in the U.S. Bankruptcy Court for the Southern District of New York, in adversary proceedings against first- and second-lien noteholders.
- The first lien notes trustee in the Energy Futures Holdings bankruptcy in the U.S. Bankruptcy Court for the District of Delaware, in an adversary proceeding against bank lenders, hedges and swaps in an intercreditor dispute.
- The debtor in possession of the Baha Mar insolvency involving a Chapter 11 proceeding in the U.S. Bankruptcy Court for the District of Delaware and a provisional liquidation in the Bahamas, involving legal proceedings in U.S., English and Bahamas courts.
- Institutional investors who conducted transactions with Caesars Entertainment Corp., in a litigation arising out of the Caesars Entertainment Operating Co. bankruptcy in the U.S. Bankruptcy Court for the Northern District of Illinois.
- The trustee, and subsequently the creditors committee, in the Petters bankruptcy in the U.S. Bankruptcy Court for the District of Minnesota in international asset recovery actions in various jurisdictions in the Caribbean, Europe and elsewhere.
- Fannie Mae, as a creditor against Lehman Brothers, in the U.S. Bankruptcy Court for the Southern District of New York in relation to a 11 USC § 510 subordination issue with an amount in controversy of US \$5 billion+.

## **Investigations & Monitorships**

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Mr. Kim has conducted a number of international investigations for the boards of directors of public companies regarding allegations of fraud, embezzlement, bribery and other illegal conduct, including for:

- The audit committee of a European company, in conducting an internal investigation into operations in the Czech Republic, Ukraine and Romania in connection with alleged Foreign Corrupt Practices Act (FCPA), accounting, and antitrust violations.
- An Asia-based public company, in conducting an internal review of operations in China relating to anti-money laundering issues.
- The special committee of an Asia-based public company, in conducting an internal review of operations in Africa.
- The audit committee of a U.S. public company, in conducting an internal investigation into operations in South America in connection with alleged FCPA violations, accounting fraud and embezzlement issues.

## **Government Enforcement and Asset Forfeiture/Confiscation Defense**

Mr. Kim has served as counsel in numerous highly publicized international government enforcement and asset forfeiture/confiscation matters involving authorities from several countries, including for:

- The former ruling family of an African nation, in an international corruption case involving attempted asset confiscation actions by authorities from several countries.
- The former management of Yukos, in relation to investigations and asset confiscation actions by the Russian Federation.
- Tiger Eye Investments, a Cayman Islands company allegedly holding funds from Brazilian investors, in highly publicized asset forfeiture and criminal cases by Brazilian, Italian, UK and U.S. authorities.
- Representation of Jho Low, an international businessman, in legal matters arising out of the 1MDB matter, which involved U.S. Department of Justice civil asset forfeiture proceedings and legal action from authorities in Singapore, Switzerland and other countries.
- Tongsun Park, an international lobbyist, in legal matters arising out of the "Oil for Food" scandal.
- Rebekah Brooks, the former CEO of News International, in legal matters arising out of "phone hacking" investigations in the UK.
- Representation of KPMG, handling federal criminal prosecution of BLIPS tax products widely reported in the media, which ended with all criminal charges being rejected.
- Representation of a global mining and exploration company that handles investigations by the US Securities and Exchange Commission and the US Department of Justice regarding possible violations of the FCPA in certain Southeast Asian projects.

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Mr. Kim also has particular experience in matters related to the commodities futures industry and has acted in many of the most significant enforcement actions in this area in recent years, including for:

- Brian Hunter, the former head of energy trading at Amaranth Advisors LLC, against the U.S. Commodity Futures Trading Commission (CFTC) and Federal Energy Regulatory Commission (FERC) over alleged manipulative natural gas trading.
- Representation of DRW Investments LLC in highly publicized case brought by the U.S. Commodity Futures Trading Commission (CFTC) over alleged market manipulation of interest rate swap futures. After a bench trial in the U.S. District Court for the Southern District of New York, the Court returned a verdict in favor of the defense and against the CFTC on all causes of action.
- Michael Coscia, in an appeal to the U.S. Court of Appeals for the Seventh Circuit relating to the first criminal conviction for “spoofing” under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).
- Navinder Sarao, against the CFTC and U.S. Department of Justice, relating to alleged “spoofing” and market manipulation arising out of the “Flash Crash.”
- 3Red and Igor Oystacher, against the CFTC, relating to alleged “spoofing” under the Dodd-Frank Act.

## **Publications & Presentations**

Mr. Kim is regularly called upon to speak on topics relating to the firm's core areas of practice:

### **International Insolvency Litigation, Judgment Enforcement & Offshore Asset Recovery**

- Co-author, "Execution and Judgment Enforcement in the United States" (ABA International Aspects of U.S. Litigation, February 2017)
- International Crime and Hidden Assets Involving Korea and Europe (International Association for Korean Lawyers, London)
- Impact Beyond the US: International Careers and Experiences Abroad (Harvard Law School Asian Pacific American Law Students Association, Massachusetts)
- Commercial Arbitration Involving States: Public Interests and Private Justice? (Association Suisse de l'Arbitrage, Zurich)
- The Fundamentals of International Legal Business Practice: Anti-Bribery Law in Korea and Other Jurisdictions (International Bar Association)
- Contributing author, *Getting the Deal Through — Asset Recovery (2016)*
- Contributing author, *Getting the Deal Through — Asset Recovery (2014)*
- Attacks on Wealth and Protecting Trustees (Butterworths' Trust & Estates Litigation Conference, London, United Kingdom)
- International Judgment Enforcement: Recovering Hidden Assets (New York City Bar Association, New York)
- The Challenges of International Judgment Enforcement: Tools, Tips and Lessons Learned (*The Asian Lawyer*, Webinar)

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- Assistance/Enforcement of UK Asset Recovery in the US (Asset Recovery: Criminal Confiscation and Civil Recovery Conference, London, United Kingdom)
- Responding to a US Assertion of Extraterritorial Jurisdiction in Fraud Cases to Safeguard the Interests of the Client (Fraud, Asset Tracing & Recovery Conference, London, United Kingdom)
- Assessing the Impact of UK and US Long-Arm Jurisdiction on European Fraud Cases: Strategies for Responding Effectively (Fraud & Asset Tracing & Recovery Conference, Geneva, Switzerland)

## **Government Enforcement Defense**

- Criminal Tax Shelter Prosecutions (International Bar Association Conference, Prague, Czech Republic)
- International Antitrust Investigations & Compliance (Osaka, Japan)
- Cartel Prosecutions in the United States (Auckland, New Zealand)
- Securities Fraud Enforcement (Visiting Lecturer, Harvard Law School)
- Foreign Corrupt Practices Act & Foreign Investigations (Government Investigation Preparedness for the Pharmaceutical Industry, New York)
- U.S. Sentencing Guidelines (International Bar Association Conference, Madrid, Spain)

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He is an “incredibly sophisticated lawyer and big-picture thinker who is immersed in the details as well.”

- *Chambers*