



## Government Enforcement Defense

Our trial lawyers have extensive experience aggressively defending clients in high-profile cases against the government. Our criminal and regulatory practice is primarily cross-border, often involving simultaneous investigations by law enforcement authorities in several countries. We are one of the only firms with former U.S. prosecutors permanently stationed in offices in Asia, Europe and the Middle East.

### **Lawyers With Government Insight.**

Our trial lawyers have extensive experience aggressively defending clients in high-profile cases against the government. We are former government litigators with experience litigating disputes from both sides.

### **International Reach.**

Our criminal and regulatory practice is primarily cross-border, often involving simultaneous investigations by law enforcement authorities in several countries. The team includes former U.S. prosecutors stationed not only in our U.S. offices, but throughout our offices in Asia, Europe, the Middle East and Latin America. As a result, we have deep experience with international extradition, asylum and mutual legal assistance treaty (MLAT) issues, as well as with the laws that most often arise in international criminal cases, including the Foreign Corrupt Practices Act (FCPA), the Commodities Exchange Act (CEA), the International Emergency Economic Powers Act (IEEPA), antitrust/competition laws, and the International Traffic in Arms Regulations (ITAR). Our team also handles matters involving forfeiture actions initiated as a result of alleged violations of economic sanctions regimes, including those arising out of the recent implementation of the previously suspended Title III of the Helms-Burton Act, among other statutes.

### **Award-Winning Results.**

We are consistently ranked by *Chambers & Partners* for our white-collar crime and government investigations practice, which has noted that we are "a highly skilled, highly experienced and nimble group" with "an incredibly strong reputation in trial defense." Our criminal law practice has also been described as "efficient, responsive, and effective" by *The Legal 500*, particularly in the areas of anti-corruption and compliance. Moreover, we were also recognized as "Trial Firm of the Year" by the publication *Main Justice* for our precedent-setting defensive strategies used against the U.S. government at trial.

### **High-Profile Cases.**

Most of our engagements involve matters in which our client is the subject of significant public attention. We regularly coordinate with PR/crisis communications firms to provide our client with an integrated defense on both legal and reputational fronts.

### **Industry and Regulatory Know-How.**

We focus much of our work on the financial services, pharmaceutical, energy and defense contracting industries, among others, and have developed a deep reservoir of experience in substantive issues in these sectors.

Our lawyers are also skilled in dealing with most governmental and regulatory agencies, including:

- the Commodity Futures Trading Commission (CFTC);
- futures and options self-regulatory organizations, such as the Chicago Mercantile Exchange (CME), the Chicago Board of Trade (CBOT), Intercontinental Exchange (ICE) (formerly known as the New York Board of Trade), and the New York Mercantile Exchange (NYMEX);
- the U.S. Securities and Exchange Commission (SEC);
- various divisions of the U.S. Department of Justice and the New York State Attorney General's Office;
- the Internal Revenue Service's Criminal Investigation Division (CID);
- the Federal Trade Commission (FTC);
- the Financial Industry Regulatory Authority (FINRA);

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- the New York Stock Exchange (NYSE);
- the Office of the Comptroller of the Currency (OCC);
- the Public Company Accounting Oversight Board (PCAOB);
- the Federal Deposit Insurance Corporation (FDIC);
- the U.S. Department of Homeland Security (DHS);
- the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC);
- the U.S. Department of Health and Human Services (HHS);
- the New York City Department of Investigations (DOI);
- the Government Accountability Office (GAO);
- the Federal Reserve Bank of New York;
- the Hong Kong Independent Commission Against Corruption (ICAC); and
- the Hong Kong Securities and Futures Commission (SFC).

Serving as special counsel, we have also provided advice on certain international aspects of cases brought by various non-U.S. regulators, including:

- the UK's Financial Conduct Authority (FCA),
- the UK's Serious Fraud Office (SFO),
- the UK's National Crime Agency (NCA),
- the Republic of Korea Public Prosecutor's Office (PPO), and
- the Republic of Korea Financial Supervisory Service (FSS).

## **Representative Engagements:**

### **• Securities/Commodity Futures:**

- Representation of DRW Investments LLC in a 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.
- Representation of 3Red Trading LLC as trial counsel in successfully defeating a motion for preliminary injunction filed by the CFTC after a lengthy evidentiary hearing in connection with a civil enforcement action regarding purported "spoofing" and market manipulation.
- Representation of Michael Coscia, a high-speed commodities trader, in post-conviction initiatives (including expected appeal to the U.S. Court of Appeals for the Seventh Circuit) following his conviction at trial arising from allegations of commodities fraud and spoofing in futures markets. Mr. Coscia is the first individual ever charged under the federal criminal anti-spoofing statute.
- Representation of Navinder Sarao, the UK-based futures trader, facing CFTC civil enforcement and U.S. Department of Justice (DOJ) criminal actions in the U.S. District Court for the Northern District of Illinois for commodities manipulation, fraud and spoofing, alleged to have caused the 2010 "Flash Crash" — a market event in which US \$1 trillion was erased from the U.S. stock market in minutes.
- Representation of Brian Hunter, the former head of energy trading at Amaranth Advisors LLC, a fund that once had US \$9 billion under management, in connection with actions by the CFTC and FERC, a pre-emptive suit against the FERC for overreaching the limits of its jurisdiction, and in the defense of several class and private civil suits.
- Representation of a prominent hedge fund manager as a witness in an interview by the U.S. DOJ, Criminal Division and the Federal Bureau of Investigation arising out of a grand jury investigation into the residential mortgage-backed securities credit default swap market.
- Representation of the former chief financial officer of a large public company in an investigation by the U.S. Attorney's Office for the Eastern District of New York and the U.S. Securities and Exchange Commission, as well as in several securities class and derivative actions in the U.S. District Court for the Eastern District of New York, alleging regulatory violations from "options backdating" issues.

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## • **Accounting, Securities and Tax Fraud:**

- Obtained landmark acquittal on behalf of Raoul Weil, former head of UBS Wealth Management and the highest-ranking Swiss banker to stand trial in the U.S., on allegations he conspired with wealthy Americans to hide US \$20 billion in secret offshore accounts. Kobre & Kim was brought in as special litigation counsel for the trial in Florida, where the firm's aggressive cross-examinations of government witnesses and closing arguments played a key role in crippling the government's case.
- Representation of a leading European law firm in connection with an investigation by the DOJ's Tax Division into participation in alleged tax evasion schemes involving offshore trusts and bank accounts in "tax havens."
- Secured dismissal of all charges in the U.S. District Court for the Southern District of New York and the U.S. Court of Appeals for the Second Circuit for a former KPMG partner in the highly publicized DOJ prosecution of alleged fraudulent design and marketing of tax shelter products involving US \$2 billion+ of disputed tax liabilities.
- Representation of a former Credit Suisse banker in prosecution of the DOJ in the U.S. District Court for the Southern District of Florida relating to alleged assistance to U.S. taxpayers in evading tax obligations.
- Representation of an executive at an international commercial bank in an investigation being conducted by the DOJ, the New York County District Attorney's Office and the U.S. Senate's Permanent Subcommittee on Investigations into alleged violations of the U.S. tax laws through use of offshore accounts in Switzerland, Liechtenstein and elsewhere.
- Representation of a former senior vice chairman of American International Group Inc., in connection with the highly publicized investigations of AIG by the DOJ, the New York State Attorney General's Office and the SEC, as well as in several securities class and derivative actions in the U.S. District Court for the Southern District of New York and Delaware Chancery Court, alleging violations relating to accounting issues and insurance product marketing practices.

## • **Antitrust:**

- Representation of an Asian freight forwarding company in connection with the well-known U.S. Department of Justice (DOJ) and European Union antitrust authorities' investigation into alleged price-fixing in the airline industry.
- Representation of an Asian manufacturer of liquid crystal display (LCD) screens in an antitrust action brought by the New York State Attorney General's Office.
- Representation of a UK-based executive against the DOJ's prosecution of cartel activity involving Morgan Crucible PLC and several other manufacturers of industrial carbon brushes.
- Representation of a Japanese executive in a DOJ Antitrust Division investigation of an alleged international cartel in the energy sector.

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## • **Public Corruption/FCPA/Government Fraud:**

- Representation of Pankesh Patel in the highly publicized, eight-week-long “ The Foreign Corrupt Practices Act (FCPA) sting trial” in Washington DC. Kobre & Kim obtained a novel ruling regarding the government’s assertion of expansive jurisdiction under the FCPA, which resulted in the court entering a judgment of acquittal on an alleged substantive violation of the act. Kobre & Kim also sought and obtained a mistrial from the court as to the remaining two charges.
- Representation of Dr. Salomon Melgen, co-defendant alongside U.S. Senator Robert Menendez, as trial counsel in the highly publicized U.S. Department of Justice (DOJ) corruption case, resulting in a hung jury after a two-month trial, which was widely reported as a victory for the defense. Following the mistrial, the court granted our motion for judgment of acquittal on seven of the 18 counts charged, resulting in the DOJ’s dropping the case entirely by dismissing all remaining charges with prejudice.
- Representation of a former Kellogg Brown & Root employee charged in an FCPA indictment in the U.S. District Court for the Southern District of Texas.
- Representation of a Middle Eastern prince in connection with an investigation by the U.S. DOJ in Washington DC into alleged FCPA violations.
- Representation of a managing director of an international financial institution in an FCPA investigation by the U.S. DOJ and the U.S. Securities and Exchange Commission (SEC).
- Representation of executives of several healthcare companies in connection with investigations by the U.S. Attorney's Office for the District of Massachusetts, the DOJ, and the U.S. Department of Health and Human Services (HHS) relating to various violations of Medicare and Medicaid laws, including anti-kickback statutes and Pharmaceutical Research and Manufacturers of America (PhRMA) guidelines.
- Representation of Tongsun Park, a well-known international lobbyist, in connection with a prosecution arising out of the United Nations "Oil for Food" investigations.
- Representation of a former Cabinet minister of the Russian Federation in connection with criminal investigations by the Russian government into alleged financial improprieties.
- Representation of the general counsel of a public high-technology company in connection with an investigation into FCPA issues.

## • **Insider Trading:**

- Representation of two French proprietary trading firms in an SEC civil enforcement action in the U.S. District Court for New Jersey facing allegations of insider trading in connection with the high-profile investigation of hacking of corporate earnings announcements from newswire services.
- Representation of a Chinese national named as a defendant in an insider trading case brought by the SEC.
- Representation of an employee of a prominent hedge fund in connection with an insider trading investigation by the DOJ and the SEC regarding tips that were allegedly passed to hedge fund managers by expert-network consulting firms.
- Representation of an executive of a financial institution in connection with an investigation by the SEC for insider trading in a special-purpose acquisition company.
- Representation of an expert clinical research consultant in an SEC investigation into allegations of insider trading during the Food and Drug Administration approval process for pharmaceutical drug treatments.

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- **National Security:**

- Representation of a former prime minister of Thailand in addressing allegations of terrorism made by the Thai government, in interfacing with U.S. and international law enforcement authorities.
- Representation of the principal of a major government contractor supplying goods and services to an overseas U.S. military base, relating to allegations of breach of national security provisions and foreign corruption.
- Representation of an executive at an Asian financial institution in relation to an investigation by the OFAC involving allegations of improper financing activities.
- Representation of a European supplier of military equipment to "restricted" countries in relation to an investigation by the DOJ for alleged violations of international sanctions and U.S. export control laws.

- **Asset Forfeiture/Money Laundering:**

- Representation of a Cayman trust in defeating in the U.S. courts an attempted asset seizure of US \$400 million+ pursued by the U.S. and Brazilian governments, alleging money laundering and other offenses.
- Representation of former African political leaders in defending against attempts to seize US \$1 billion+ allegedly pilfered from the national treasury through corrupt oil contracts, litigated in various European courts.
- Representation of a Brazilian national in advising regarding potential criminal charges and forfeiture actions that the U.S. authorities may bring against him.

- **International Extraditions/MLATs/Asylum Proceedings:**

- Representation of a judge from a country in the former Soviet Union in his application for asylum and withholding of removal based on persecution on account of political opinion, in addition to representing various other asylum-related matters involving a variety of countries including Bangladesh, Guinea, Honduras, Iran, El Salvador, Russia, Sudan, Ukraine and Venezuela.
- Representation of a former United Nations ambassador from Bosnia in connection with a prosecution by the Bosnian government for international extradition proceedings from the U.S. to Bosnia, on charges of alleged corruption.
- Representation and advice to various clients facing extradition to the U.S. from a variety of countries and judicial systems, including South Korea, the United Kingdom, Hong Kong, Netherlands and Germany.

- **Industrial Disasters/Product Liability:**

- Representation of a client investigated by the New York County District Attorney's Office in connection with the highly publicized fire in the Deutsche Bank Building in Downtown New York in 2007.
- Representation of the former CEO of Mazeikiu Nafta, an oil refinery in Lithuania, in connection with a criminal case brought by the Lithuanian public prosecutor in the courts of Lithuania.
- Representation of a client investigated by the New York law enforcement authorities in connection with a highly publicized collapse of a crane at a construction site.
- Representation of executives of several healthcare companies in connection with investigations by the U.S. Attorney's Office for the District of Massachusetts and the U.S. Department of Health and Human Services relating to various violations of the Prescription Drug Marketing Act.

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- **Healthcare Fraud:**

- Representation of American Renal Associates, a publicly traded nationwide dialysis provider, in a suit by United Healthcare, the nation's largest insurer, related to allegations of a fraudulent scheme to improperly enroll patients on United's insurance policies and submit inflated bills for dialysis treatments provided in Florida and Ohio clinics.
- Representation of the Board of Directors of a holding company for a large U.S.-based physician's group in response to investigations by the DOJ and the Office of the Inspector General for the U.S. Department of Health and Human Services, which includes an internal review of the conduct under investigation, providing counsel on options for response, and interfacing with government enforcement officials as the investigations develop further.
- Representation of a prominent Florida doctor in a high-profile criminal case regarding an allegedly massive scheme to defraud the Medicare system. We were brought in as special litigation counsel to lead the trial over the government's claims that the client submitted fraudulent billings to Medicare.