



→ Michael J. Gilbert

Partner

30 Rockefeller Plaza
New York, NY 10112

T: +1.212.896.0611

F: +1.917.438.6225

mgilbert@sheppardmullin.com

Michael Gilbert is a partner in the Governmental Practice in the firm's New York office, focused on government and internal investigations, compliance policies and procedures and white collar criminal defense. He also has an active civil litigation practice.

Areas of Practice

Michael, a former federal prosecutor, served as an Assistant U.S. Attorney (AUSA) in the Southern District of New York prior to entering private practice. While serving as an AUSA, he investigated and prosecuted matters involving a wide variety of federal criminal laws, including mail and wire fraud, bribery, healthcare fraud and violations of the Foreign Corrupt Practices Act (FCPA). He represented the government in numerous jury trials and argued appeals before the U.S. Court of Appeals for the Second Circuit.

In private practice, Michael has focused on government and internal investigations and white collar criminal defense. He advises individuals and companies in a range of industries – including financial services, healthcare, life sciences, fintech and cryptocurrency – in navigating sensitive, complex government investigations conducted by a range of enforcement authorities, including the U.S. Attorney's Offices for the Southern and Eastern Districts of New York, the Enforcement Division of the Securities and Exchange Commission, the New York Attorney General's Office, the New York City Department of Investigation, and the Manhattan District Attorney's Office.

Michael has also represented individuals and entities in connection with matters under investigation by regulators and enforcement authorities in other countries, including Canada, Hong Kong, Luxembourg, and the United Kingdom. Michael has extensive experience with FCPA matters and is regularly consulted about FCPA issues in the context of transactions such as potential mergers and acquisitions. He has extensive experience with criminal tax investigations. Michael provides advice on compliance policies and procedures, including in the Anti-Money Laundering and Bank Secrecy Act compliance. He regularly assists investors in due diligence when considering if counterparties or proposed business partners are in compliance with applicable rules and regulations. Michael also litigates civil cases, including cases arising under the False Claims Act and securities enforcement issues.

Industry Focus

Michael is a member of various Sheppard Mullin industry teams, including Blockchain & Digital Assets, Cannabis, Life Sciences, and Healthcare.

Particularly in the crypto area, Michael brings his background as a federal prosecutor and extensive experience with SEC and CFTC Enforcement investigations to an industry that is the focus of intense regulatory scrutiny. His experience in this sector includes representing one of a large cryptocurrency exchange in connection with a Grand Jury investigation, among other matters.

Honors

New York Metro Super Lawyers, *Super Lawyers*, 2022

Experience

Institutional Representations

- Representation of a **cryptocurrency exchange** in connection with an OFAC sanctions investigation
- Representation of a **Brooklyn-based business** in connection with an investigation of alleged unlawful “structuring” and money laundering.
- Representation of a **hedge fund** in connection with an insider trading investigation of a current and former portfolio manager.
- Representation of a **hedge fund** in responding to subpoenas from the SEC relating to an insider trading investigation.
- Representation of a **non-profit agency** in connection with investigations by the New York Attorney General, the New York City Department of Investigations and the U.S. Attorney’s Office for the Southern District of New York of alleged financial improprieties.
- Representation of a **boutique investment bank** in a civil case alleging negligent misrepresentation in connection with a merger.
- Representation of a **Hong Kong-based hedge fund** in connection with a market manipulation investigation and a civil defamation action in New York State Supreme Court.

Individual Representations

- Represented over thirty employees of financial institutions involved in the SEC off-channel communications sweep enforcement initiative.
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- Representation of a cryptocurrency exchange in connection with an OFAC sanctions investigation
- Representation of an asset manager in connection with an SEC Enforcement inquiry related to a cryptocurrency fund offering
- Obtained complete dismissal of criminal charges for an individual who had been indicted by the U.S. Attorney’s Office for the Southern District of New York in a tax fraud case.
- Obtained a complete dismissal of criminal charges for a **Mexican national** who had been indicted by the U.S. Attorney’s Office for the Southern District of New York for money laundering.
- Representation of a **London businessman** in a FCPA investigation by the SEC and U.S. Attorney’s Office for the Eastern District of New York.

- Representation of a **former employee of a major investment bank** in connection with a FCPA investigation by the SEC and Department of Justice.
- Representations of **several employees of a major investment bank** in connection with an investigation by law enforcement authorities in several jurisdictions in connection with the setting of LIBOR.
- Representation of a **former Chief Compliance Officer of an investment advisor** whose owner was indicted for operating a Ponzi scheme.
- Representation of **an executive of a major investment bank** regarding residential mortgage-backed securities.
- Representation of a **former employee of a major investment bank** in connection with auction rate securities.
- Representation of an individual in a criminal tax prosecution by the U.S. Attorney's Office for the Southern District of New York.

Articles

- 2 FCPA Settlements Illuminate Self-Disclosure, Disgorgement
Law360, 01.11.2024
- Financial Cos. At Risk In Feds' Off-Channel Messaging Sweep
Law360, 06.28.2023
- SEC Shifts Focus on Employees' Off-Channel Business Communications to Investment Advisers
The Texas Lawbook, 11.22.2022

Corporate & Securities Law Blog

- "What Private Equity Firms Need to Know About the Ongoing SEC Investigation of "Off-Channel" Communications," April 19, 2024
- "Treasury Announces Renewed Push for Investment Adviser AML Rules," January 9, 2024
- "SEC Shifts Focus on Employees' Off-Channel Business Communications to Investment Advisers," November 11, 2022
- "June 2022 Crypto Enforcement Actions and Regulatory Guidance Roundup," July 19, 2022
- "May 2022 Crypto Enforcement Actions and Regulatory Guidance Roundup," June 6, 2022

Government Contracts and Investigations Blog Posts

- "SEC Off-Channel Communications Sweep," May 24, 2023
- "The Second Circuit Court of Appeals Finds That French Banker Need Not Travel to the United States to Seek Dismissal of Her Indictment," August 16, 2021

Healthcare Law Blog Posts

- "Sutter Health Settles Medicare Fraud Case For \$90 Million: The Largest Settlement For Medicare Advantage Fraud," September 13, 2021

White Collar & Government Enforcement Blog Posts

- "DOJ Plans to Apply the New Whistleblower Rewards Pilot Program to FCPA Cases," April 15, 2024

- "Sanctions Enforcement in the Cryptocurrency Industry Continues to be a Focus," December 21, 2023
- "Corrupt Foreign Leaders Now on the Hook for Bribery Charges: Congress Passes the Foreign Extortion Prevention Act," December 19, 2023
- "'Take Five' – A Guide to Invoking the Fifth Amendment in Civil Cases," December 14, 2023
- "OFAC Sanctions Crypto Mixer Following Allegations of Laundering Funds to North Korea," December 4, 2023
- "Voluntary Self-Disclosure of FCPA Violations Following Acquisition Avoids Corruption Charges," November 21, 2023
- "Albermarle Agrees to Pay \$218 Million to Settle Foreign Bribery Probe," October 4, 2023

Events

Corporate & Regulatory Compliance Boot Camp: Foreign Corrupt Practices Act Compliance
03.28.2024

Compliance Institute
AI Technologies and Predictive Data Analytics
10.24.2023

Compliance Institute 2023
Afternoon Plenary Session: AI Technologies and Predictive Data Analytics
New York, NY, 10.24.2023

Construction Project Cost Reporting Risks and How to Manage Them after Securities Exchange Commission v. Granite Construction, Inc.
Sheppard Mullin New York Office, 03.28.2023

ACC New York and Sheppard Mullin's Wine Cheese and Conversation...
01.31.2023

Association of Corporate Counsel, New York chapter: Non-Competes and Non-Solicitation Clauses: What You Need to Know
Hard Rock Cafe, New York City, 09.21.2022

Memberships

Board Member, New York Office of the Appellate Defenders

Podcasts & Webinars

Construction Project Cost Reporting Risks and How to Manage Them after SEC v. Granite Construction, Inc.
03.28.2023

Practices

Securities Enforcement

False Claims Act

Foreign Corrupt Practices Act (FCPA)

Governmental Practice

Healthcare Enforcement

International Trade and Investment

Litigation

Organizational Integrity Group

Sanctions and Anti-Money Laundering

White Collar Defense and Corporate Investigations

Industries

Blockchain

Blockchain and Fintech

Cannabis

Healthcare

Life Sciences

Education

J.D., University of Pennsylvania Carey School of Law, 1994, *magna cum laude*, Order of the Coif

B.A., Tufts University, 1991, *cum laude*

Clerkships

United States District Court for the Eastern District of Pennsylvania, Honorable Donald VanArtsdalen

United States Court of Appeals for the Second Circuit, Honorable Joseph McLaughlin

Admissions

New York

United States Court of Appeals for the Second Circuit

United States District Court for the Eastern District of New York

United States District Court for the Southern District of New York