



Partner

New York | Three Bryant Park, 1095 Avenue of the Americas, New York, NY, United States of America
10036-6797

T +1 212 698 3886 | F +1 212 698 3599

michael.gilbert@dechert.com

Services

- White Collar, Compliance and Investigations >
- Anti-Corruption Compliance and Investigations >
- Asset Management Litigation/Enforcement > Securities Litigation/Enforcement >
- Complex Commercial Litigation > Financial Services and Investment Management >
- Life Sciences > Private Equity > Banking and Financial Institutions >
- Government > Private Funds >

Michael J. Gilbert is a former federal prosecutor, having served as an Assistant U.S. Attorney (AUSA) in the Southern District of New York prior to entering private practice. In his time as an AUSA he investigated and prosecuted matters involving a wide variety of federal criminal law, including mail and wire fraud, bribery, health care 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.

Since entering private practice, Mr. Gilbert has assisted individuals and companies 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. He has also represented individuals and entities in connection with matters under investigation by

regulators and enforcement authorities in other countries, including Canada, Hong Kong, the United Kingdom and Luxembourg.

Financial Services Industry Matters

Mr. Gilbert has represented individuals and entities in the financial services industry, including some of the largest and most recognizable firms in the industry, in matters arising from: the market timing/late trading scandal in the mutual fund industry, the stock options backdating scandal, various investigations involving the residential mortgage backed securities industry, auction rate securities, insider trading investigations, alleged market manipulation and investigations relating to the setting of the LIBOR rate. Mr. Gilbert has resolved many of these matters without any public filing or press attention. In a rarely achieved victory, in 2012, Mr. Gilbert obtained a complete dismissal of criminal charges against an investment professional *after* he had been indicted by the U.S. Attorney's Office and charged with tax fraud. On multiple occasions, he has convinced the Staff of the SEC not to recommend charges even after the issuance of a *Wells* notice.

Through his work on these types of matters, Mr. Gilbert has become a trusted advisor to Chief Compliance Officers and General Counsels. He provides ongoing counsel on more routine issues such as SEC and other regulatory examinations, implementation of compliance policies and procedures and employment matters. He leads a state of the art internal email review surveillance program for a major hedge fund as part of its compliance program.

FCPA and Money Laundering Matters

Mr. Gilbert has extensive experience with FCPA matters and has represented numerous individuals and companies in connection with FCPA investigations. He has recently provided counsel to pharmaceutical companies on anti-corruption issues related to the sale of products in Asia and South America. He is regularly consulted about FCPA issues in the context of business transactions such as potential mergers and acquisitions. He has published articles about the FCPA in publications such as the *National Law Journal*, *Hedge Fund Law Reporter* and the *FCPA Law Reporter* and presented at various conferences and seminars.

Mr. Gilbert also has a focus defending matters involving seizure of assets and forfeiture actions by the U.S. Department of Justice and money laundering allegations. He has repeatedly assisted clients in obtaining the return of funds frozen by law enforcement. Amongst his successful representations concerning alleged money laundering, Mr. Gilbert obtained a complete dismissal of a federal criminal indictment in the United States of a Mexican national who had been charged with money laundering.

Civil Litigation

Mr. Gilbert also maintains a civil litigation practice. In addition to handling civil securities fraud and derivative actions, and defamation actions, he has represented clients in commercial disputes in the New York State Supreme Court's Commercial Division. Among his successful civil representations, he won the complete dismissal of a civil RICO action filed in the U.S. District Court for the District of Connecticut.

Pro Bono

Mr. Gilbert has an active pro bono practice. In 2003, he was appointed to the Criminal Justice Act (CJA) Panel for the U.S. District Court for the Southern District of New York, through which he represents individuals in federal criminal cases who cannot afford to pay for a lawyer. In connection

with his CJA Panel work, he regularly appears before federal judges in the Southern District of New York federal court. He recently obtained a complete dismissal of criminal charges for an individual following a suppression hearing based on an unlawful “stop and frisk.”

Recognition

Mr. Gilbert has been recognized for his outstanding advocacy by his designation as a *Super Lawyer* in the area of white collar criminal defense. He is featured in a book entitled *Inside the Minds – Responding to White Collar Investigations and Indictments*. In 2014, Mr. Gilbert was appointed by *Law360* to its White Collar Editorial Advisory Board.

Clients have commented that his “grace under pressure,” “calm demeanor,” “impeccable judgment,” and “credibility with regulators,” have allowed him to achieve outstanding results in the most challenging circumstances.

EXPERIENCE

- 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 LIBO.
- Representation of **a former Chief Compliance Officer of an investment advisor** whose owner was indicted for operating a Ponzi scheme.
- 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 **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 **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
- Representation of an individual in a criminal tax prosecution by the U.S. Attorney's Office for the Southern District of New York.

EDUCATION

- Tufts University, B.A., 1991, *cum laude*
- University of Pennsylvania Law School, J.D., 1994, *magna cum laude*, Order of the Coif, Comments Editor of the *University of Pennsylvania Law Review*

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

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

SPEAKING ENGAGEMENTS

- **Anti-Corruption Compliance Overview: Laws, Trends, and Internal Investigations** - Lawline Course (November 14, 2016)
- **New FCPA Guidance and Key Take-Away's from 2012 FCPA and UK Bribery Act Enforcement: Assessing Your Company's Risks, Implementing Effective Internal Controls and Best Practices** — ACC America - Greater New York Chapter, New York, NY (December 9, 2012)

Speaker, " Assessing Your Company's Risks, Implementing Effective Internal Controls and Best Practices" panel not only discussed the potential risks and exposure under the FCPA and UK Bribery Act, but also provided best practices that companies should incorporate into their anti-corruption compliance policies.

- **International Law Compliance** — New York Association of Corporate Counsel's Compliance Program, New York, NY (April 16, 2008)
- **Waiver of Attorney/Client Privilege, Cooperating with the Government, and Deferred Prosecution Agreements** — Association of Corporate Counsel, Greater New York Chapter's Second Annual Compliance and Ethics Event, New York, NY (June 21, 2006)