



Neil T. Smith

Partner

Boston
+1.617.261.3180

Neil.Smith@klgates.com

OVERVIEW

Neil Smith is the co-leader of the firm's White Collar Defense and Investigations practice group. His practice focuses on government investigations, securities enforcement, internal investigations, and white collar defense representations. He has extensive experience advising clients in global investigations involving potential violations of the Foreign Corrupt Practices Act and other anti-corruption laws.

Neil represents corporations and individuals in a wide range of criminal and regulatory matters, including investigations conducted by the US Securities and Exchange Commission, Department of Justice, FINRA, and other federal and state authorities. His practice also involves counseling clients on best practices and risk mitigation strategies in securities regulation, compliance policies and controls, accounting practices, cryptocurrency issues, regulatory examinations, and FCPA and anti-corruption compliance. He also has extensive, first chair trial experience in securities enforcement and litigation matters.

Prior to joining the firm, Neil served as senior counsel in the Enforcement Division of the US Securities and Exchange Commission (SEC) for more than six years, where he was a member of the SEC's Foreign Corrupt Practices Act specialized unit. He is recognized for his knowledge in FCPA enforcement and is a frequent speaker at industry conferences. His experience includes extensive collaboration with US and foreign criminal and regulatory authorities in complex, cross-border investigations. While at the SEC, Neil also had extensive experience investigating financial services firms and other companies for violations including securities fraud, investor misrepresentations, and marketing violations. Since joining the firm, Neil has continued to represent clients in securities enforcement matters, complex, cross-border investigations involving government investigations, and proactive risk assessments and reviews.

PROFESSIONAL BACKGROUND

In 2017, Neil was the recipient of the Ferdinand Pecora Award for tenacity, creativity and efficiency under difficult circumstances during an SEC investigation, and the SEC's Director of Enforcement Award for outstanding service in 2016.

Before joining the SEC, Neil was a senior associate in the litigation department of a global law firm, where his practice focused on securities litigation, internal investigations, trade secret and intellectual property disputes, and white collar defense.

SPEAKING ENGAGEMENTS

- ACI's 40th Annual FCPA Conference: Speaker, "Ephemeral Communications, Cooperation and DOJ Expectations: The Newest High Stakes Risks on the Line – from Employment Litigation, Data Privacy Pitfalls to FCPA Penalty Exposure" (2023)
- ACI's 37th Annual FCPA Conference: Speaker, "The Intensifying Enforcement of the FCPA's Internal Control's Provision: Expanding, Interpretation, Strict Liability, and Expectations for Industry" (2021).
- ACI's 36th Annual FCPA Conference: Moderator, "Strengthening an Ethical Culture in Good Times- and in Bad: Real-Life Examples of Wins and Misses on Messaging, Training, and Monitoring" (2019).
- ACI's 35th Annual FCPA Conference: Moderator, "Russia: How Multinationals Are Addressing the Most Pressing ABAC, Sanctions and Antitrust Issues Keeping them Up at Night" (2018).
- Boston Bar Association: Moderator, "Enforcement and Exam Priorities for the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA)" (2019 and 2020).
- ACI's 34th Annual FCPA Conference: Moderator, Town Hall Discussion with Government Enforcers (2017).
- Practicing Law Institute: Panelist at "FCPA and International Corruption Developments Conference" (2015 – 2018).
- Practicing Law Institute: Panelist at "White Collar Crime 2016: Prosecutors and Regulators Speak" (2016).
- Boston Investment Management Conference: Panelist, "Developments in SEC Enforcement and Examinations." (2017-2020).
- Securities and Exchange Commission and Department of Justice: Panelist at the Foreign Bribery and Corruption Conference (2014)
- Boston Bar Association: Panelist for a Continuing Legal Education panel discussion on whistleblowers and the FCPA (2014)

EDUCATION

- J.D., Boston College Law School, 2001 (*summa cum laude*, *Boston College Law Review*)
- B.A., Dartmouth College, 1994

ADMISSIONS

- Bar of Massachusetts

- United States Court of Appeals for the First Circuit
- United States District Court for the District of Massachusetts

THOUGHT LEADERSHIP *POWERED BY HUB*

- 12 April 2024, The SEC Fines Stand-Alone Adviser for Off-Channel Communications
- 1 April 2024, Out of the Shadows: SEC Shines a Light on Insider Trading
- 15 March 2024, Dialing for Dollars: US Department of Justice Announces New Whistleblower Pilot Program
- 18 January 2024, US Asset Management Regulatory Year in Review 2023
- 26 December 2023, Criminalizing the "Quo:" The New Foreign Extortion Prevention Act Targets the Demand Side of Bribery
- 1 November 2023, The SEC Publishes 2024 Examination Priorities Ahead of Schedule, Previewing Key Areas of Focus for Registered Entities
- 16 October 2023, DOJ Incentivizes Voluntary Self-Disclosure in New Safe Harbor Policy for Mergers and Acquisitions
- 11 August 2023, United States: SEC Charges 11 Firms With Record Retention Violations
- 16 May 2023, SEC Charges Two Broker-Dealers With Record Retention Violations
- 14 February 2023, Message Received: SEC Zeros In On Off-Channel Communication
- 16 November 2022, United States: A Record Year: SEC FY 2022 Enforcement Actions Bring Big Penalties
- 11 April 2022, The SEC's Division of Examinations Publishes 2022 Examination Priorities and Previews Key Focus Areas for Registered Investment Advisers and Broker-Dealers
- 10 June 2021, Biden Administration Identifies Global Corruption as a National Security Issue
- 8 March 2021, Voluntary Disclosure: Deep Dive - They Still Know What You Did Last Summer—Phase 2 of the U.S. Government's Response to the Paycheck Protection Program
- 23 February 2021, Voluntary Disclosure: Deep Dive - They Know What You Did Last Summer—Phase 1 of the U.S. Government's Response to the Paycheck Protection Program
- 4 February 2021, They Know What You Did Last Summer: DOJ Announces First Civil Settlement Involving PPP Borrower
- 21 December 2020, 2021: A New Year, the Same Fear - Why Companies Should Expect a Wave of PPP Investigations
- 9 December 2020, Voluntary Disclosure: Special Edition - A Debrief on the 37th International Conference on the Foreign Corrupt Practices Act

- 13 July 2020, DOJ and SEC Issue First Major Update to FCPA Resource Guide Since 2012: What You Need to Know
- 24 June 2020, Liu v. SEC: The Supreme Court Limits the SEC's Disgorgement Power and Sets the Stage for Future Legal Battles
- 2 June 2020, COVID-19: Still Open for Business, and Business is Booming: What Companies Should Expect from the SEC in the Time of COVID-19
- 28 April 2020, COVID-19: Federal Stimulus Today, Federal Investigation Tomorrow: What TARP Can Tell Us about the Coming Wave of CARES Act Enforcement
- 5 March 2020, Supreme Court Hears Oral Arguments in Liu v. SEC to Determine the Fate of the SEC's Ability to Seek Disgorgement in Judicial Proceedings
- 17 February 2020, Russian Competition Regulators, Mount Up: Russian Authorities Crack Down on Anti-Competitive Agreements With Uptick in Criminal Liability for Antitrust Violations
- 1 October 2019, DOJ v. China: Is DOJ Acting as an Instrument of Foreign Policy?
- 17 September 2019, Are We Living in the Golden Age of Cooperation or Not? The Implications of SEC Chair Jay Clayton's Recent Comments Challenging Perceptions of Cross-Border Collaboration in FCPA Enforcement
- 7 March 2019, Another Cop on the International Beat: The CFTC Announces Expanded Focus on Foreign Corruption
- 14 June 2018, SCOTUS Says Costs of Internal Investigations Are Not Reimbursable Under Mandatory Victims Restitution Act
- 2 May 2018, DOJ Makes Early-Decision to Take Elite Colleges and Universities to School
- 3 January 2018, The Future of Financial Crime and Enforcement is Cyber-Based
- 7 December 2017, Takeaways from the 34th International Conference on the Foreign Corrupt Practices Act

OTHER PUBLICATIONS

- "4 Questions On Groundbreaking New Foreign Bribery Law," *Law360*, 16 January 2024
- "Challenges, Opportunities, and the Future of FCPA Enforcement After Liu v. SEC", *Global Investigations Review*, 29 June 2020

NEWS & EVENTS

- 11 April 2024, SEC's First Off-Channel Communications Settlement With a Non-Broker Dealer RIA
- 7 February 2024, Looking Back and Looking Ahead: 2023 Regulatory Year in Review and What to Expect in 2024

- 3 November 2022, 2022 K&L Gates Asset Management and Investment Funds Conference - Boston
- 23 October 2020, *Global Investigations Review*: GIR 100 2020
- 27 July 2017, K&L Gates Further Strengthens Investigations, Enforcement, and White Collar Practice with Hire of SEC Senior Counsel as Boston Partner

MEDIA MENTIONS

- Mentioned, "PNC Bank Urges Judge To Leave It Out Of TelexFree Suit," *Law360*, 25 October 2022

AREAS OF FOCUS

- White Collar Defense and Investigations
- Anti-Bribery and Anti-Corruption
- Financial Institutions and Services Litigation
- Internal Investigations
- Securities Enforcement / Financial Regulatory Enforcement

REPRESENTATIVE EXPERIENCE

- Represented a global construction company in SEC enforcement investigation involving potential FCPA violations in China and other countries. Investigation concluded with no charges recommended against our client.
- Represented a publicly listed medical testing company in SEC enforcement investigation and resolution involving disclosures related to the company's Covid-19 testing product.
- Represented a major international construction company in responding to FCPA and related inquiries from the DOJ and SEC FCPA units in multiple countries. The investigation concluded with no charges brought against our client.
- Represent convertible noteholders in ongoing Delaware litigation, including trial in Delaware Chancery Court, involving conversion rights and equity stake.
- Represents a global broker-dealer in ongoing SEC enforcement sweep investigation regarding off-channel messaging.
- Represented a global pharmaceutical company in accounting investigation by the SEC involving cross-border manufacturing and inventory systems.
- Represent multiple individuals in ongoing DOJ and SEC accounting fraud investigation involving revenue recognition and related issues.

- Represented an asset management company in SEC enforcement investigation and proceeding involving Rule 105 of Regulation M.
- Currently represents an individual in ongoing, multiparty SEC enforcement action involving stock manipulation.
- Representation of a former employee in ongoing DOJ, SEC, and CFTC investigations involving collapse of cryptocurrency exchange and trading fund.
- Represent multiple individuals in ongoing DOJ and SEC accounting fraud investigation involving revenue recognition and related issues.
- Represented a global financial services client in responding to an SEC sweep investigation into accounting and financial reporting issues.
- Represented an individual in SEC-led cross-border accounting fraud investigation.
- Represented multiple individuals in responding to government and internal investigations through voluntary or subpoenaed testimony.
- Represented a medical devices company in internal investigation involving foreign subsidiary.
- Advised multiple international financial services, medical devices, pharmaceutical, and construction clients on FCPA compliance and controls issues.
- Represented an investment manager and its principals in an SEC investigation into possible Advisers Act violations that resulted in settlement with the SEC.
- Advised board members of investment fund regarding Advisers Act issues and SEC enforcement actions.
- Represented a public company in responding to state criminal investigation involving its subsidiary and successor entity.
- Advised a financial services client on anti-corruption, anti-graft, and anti-kickback regulations in more than 15 countries.

SEC Experience

- Led the SEC's investigation in a landmark FCPA enforcement action against hedge fund and its employees for extensive FCPA and Advisers Act violations relating to conduct in Africa.
- Initiated and led the investigation and groundbreaking enforcement action against investment bank for illegal hiring practices in Asia.
- Developed and led industry sweeps involving financial services firms interacting with sovereign wealth funds in high-risk jurisdictions.
- Litigated against individuals and companies for violations relating to issuer fraud and investor misrepresentations.

- Collaborated extensively with US criminal authorities and regulatory agencies and foreign authorities across multiple investigations.
- Investigated and brought enforcement action against financial services firms for improper marketing of CDOs during the financial crisis.
- Commenced and directed industry-wide sweep of investment banks regarding referral hiring practices and other conduct in Asia-Pacific region.