



Benjamin Klein

Of Counsel

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Benjamin Klein is a former international prosecutor who represents clients in complex commercial, regulatory and white collar criminal matters, including cryptocurrency and corruption investigations by the US Department of Justice, the US Securities and Exchange Commission, and other enforcement agencies – both foreign and domestic.

Ben's experience includes conducting investigations and counseling clients on matters involving the Foreign Corrupt Practices Act (FCPA), the UK Bribery Act and the False Claims Act. He has performed cross-border investigations, risk assessments and compliance reviews in nearly two dozen countries on practically every continent including Africa, Asia, Europe and Latin America. Ben also routinely performs anti-corruption compliance due diligence for acquisitions, joint ventures, equity investments, and other transactions.

Ben regularly advises clients in a number of industries—including the energy, life sciences and technology sectors—on the development and improvement of corporate compliance programs and has drafted numerous compliance policies, operating procedures and codes of conduct. He also conducts anti-corruption compliance trainings for his clients, including trainings for officers, directors and corporate executives.

Ben is an editor of DLA's *Global Anticorruption Newsletter* and a commentator on topics ranging from crypto regulation to anticorruption enforcement. His writing has been featured in print and digital publications including *Law360*, the *National Law Journal*, the *New York Law Journal*, the *Daily Business Review*, *Yahoo! Finance*, *Corporate Counsel*, and the *Journal for Investment Compliance*.

LANGUAGES SPOKEN

- Spanish

EXPERIENCE

RELATED SERVICES

- Litigation, Arbitration and Investigations
- White Collar and Corporate Crime
- Global Governance and Compliance
- Investigations
- Emerging Growth and Venture Capital
- Corporate and Securities Litigation
- Data Protection, Privacy and Security

RELATED SECTORS

- Technology
- Life Sciences
- Energy and Natural Resources
- Financial Services

LANGUAGES SPOKEN

Spanish

GOVERNMENT EXPERIENCE

INTERNATIONAL CRIMINAL TRIBUNALS

Prior to joining DLA Piper, Ben worked at two United Nations criminal tribunals—the Special Court for Sierra Leone (Sierra Leone Tribunal) and the Extraordinary Chambers in the Courts of Cambodia (Khmer Rouge Tribunal). During his tenure at the Sierra Leone Tribunal, he second-chaired the witness-tampering prosecution of Prince Taylor (*Independent Counsel v. Taylor*) and helped with all stages of the Eric Senessie prosecution (*Independent Counsel v. Senessie*). At the Khmer Rouge Tribunal, Ben assisted the Office of the International Co-Prosecutor with the war crimes and crimes against humanity cases, including the prosecution of Kaing Guek Eav.

US DEPARTMENT OF JUSTICE

Prior to working for the tribunals, Ben interned for the US Department of Justice—first in the Criminal Division's Human Rights and Special Prosecutions Section (formerly the Domestic Security Section) and then in the Office of the Solicitor General.

SELECT REPRESENTATIONS

HUMAN RIGHTS

- Successfully represented plaintiff Farhan Mohamoud Tani Warfaa in a civil torture case brought against a former high-ranking Somali military commander, securing a unanimous jury verdict and a \$500,000 award for the client.

CRYPTOCURRENCY, BLOCKCHAIN, AND DIGITAL ASSETS

- Representing a digital currency issuer in regulatory and enforcement matters
- Counseling companies planning and launching ICOs on regulatory compliance and enforcement risks

ANTI-CORRUPTION, AML, AND SANCTIONS

- Represented a European pharmaceutical executive in connection with a joint FCPA investigation by the DOJ and SEC, resulting in no action against the client
- Represented an Asian technology company in an FCPA investigation of its business practices in Latin America, resulting in a deferred prosecution agreement
- Represented a Fortune 100 automotive company under investigation by US and foreign regulators for bribery and related misconduct
- Conducted a comprehensive FCPA/UKBA investigation for a multinational chemical company with operations throughout Asia including Mainland China
- Developed and performed a proactive review of customs brokers, freight forwarders, and transportation logistics companies for a Fortune 100 oil/gas company
- Developed and performed a proactive global compliance review of anti-corruption, AML, and sanctions controls for a Fortune 100 energy company
- Performed a proactive global compliance review of anti-corruption, anti-kickback, and related controls for a Fortune 100 pharmaceutical company
- Performed a proactive FCPA compliance review of a multinational food, snack, and beverage conglomerate's Eastern European operations
- Performed post-acquisition due diligence and related investigations for a Fortune 100 life sciences company with operations throughout Central and South America
- Advised a European transportation/logistics company on FCPA/UKBA risk exposure
- Conducted pre- and post-acquisition due diligence for multinational Fortune 500 companies in the biotech, energy, medical device, pharmaceutical, technology, and telecommunications industries
- Provided counseling and training to officers, directors, and employees of public and private companies regarding the development, implementation, evaluation, and auditing of anti-corruption compliance programs

HEALTHCARE FRAUD AND ABUSE

- Defended a global pharmaceutical company in various cases filed by state Attorneys General pursuant to state unfair trade practices acts and consumer protection statutes, resulting in favorable settlements
- Advised on numerous internal investigations and voluntary disclosures of potential healthcare fraud and abuse issues, including False Claims Act and Anti-Kickback Statute matters

GOVERNMENT PROGRAMS AND CONSTRUCTION LITIGATION

- Represented the management and operating agent of the US Department of Energy/National Nuclear Security Agency in complex, multiparty contract disputes before the Civilian Board of Contract Appeals

OTHER

- Represented a pipeline inspection company in a criminal investigation related to improper inspections, securing a declination of criminal charges
- Represented a DC-based non-profit organization and its Board of Directors in a lawsuit alleging breaches of fiduciary duty and defamation, resulting in a favorable settlement
- Represented a multinational transportation services company in an action involving breach of noncompetition and non-solicitation agreement protecting trade secret and confidential information, obtaining a preliminary injunction and consent order. *Veolia Transportation Services, Inc. v. Keolis Transit America, Inc.*, Case No. 24C13000782 (Baltimore Cty. Cir. Ct. 2013)

CREDENTIALS

Admissions

- District of Columbia
- Pennsylvania

Clerk Experience

- Clerked for Judge Leslie E. Kobayashi of the US District Court for the District of Hawaii

Recognitions

- Super Lawyers – Rising Star (White Collar and Government Investigations) 2016-2019

Education

- J.D., University of Michigan Law School
- M.Sc., London School of Economics and Political Science
- B.A., University of Pennsylvania

Courts

- United States District Court for the District of Columbia
- United States District Court for the Eastern District of Virginia

Memberships

- American Bar Association
- Pennsylvania Bar Association

INSIGHTS

Publications

Second Circuit: *McDonnell* "official act" requirement doesn't apply to FCPA violations

October 2019

The court found that prosecutors need not satisfy the *McDonnell* heightened "official act" requirement in order to prove an FCPA violation.

Facebook announces Libra cryptocurrency – Congress responds

26 July 2019

The Libra/Calibra project - two recent congressional hearings.

Digital asset regulation: SEC suggests possible path from security to non-security

25 APR 2019

Examining the concept that digital assets can reach a tipping point – an “evolutionary moment” in their development – where they transform from a security to a non-security.

Unpacking the SEC’s Digital Assets Guidance Framework and No Action Letter

16 APR 2019

The Framework describes factors for assessing whether digital assets are “investment contracts” subject to federal securities laws; the No Action letter applies those factors.

US and Australian regulators enter into FinTech cooperation agreement

24 JAN 2019

At the heart of the agreement is a desire to enhance mutual understanding about FinTech regulatory issues, identify market developments, promote innovation and encourage use of technology in market oversight.

Global Anticorruption Newsletter

5 DEC 2018

DLA Piper's *Global Anticorruption Newsletter* offers practical guidance on complying with international bribery laws.

How technical touchpoints can ensnare foreign cryptocurrency companies

29 OCT 2018

Useful guideposts for overseas companies assessing whether they are exposed to US securities laws.

EDNY: US securities laws can be used to prosecute ICO fraud

18 SEP 2018

While the order allows the criminal prosecution to advance, it does not settle the investment contract debate.

First judicial finding that digital tokens are securities

16 JUL 2018

But the precedential value of this finding remains an open question.

The rise of the "Crypto Czar," the fall of a "blockchain evangelist," and other crypto developments

12 JUNE 2018

Three legal developments and their implications for the blockchain and cryptocurrency communities.

How one New York court is shaping the future of cryptocurrency regulation

17 MAY 2018

Cases with far-reaching implications for the cryptocurrency regulatory landscape.

Crypto industry sweep: ICOs and token offerings under increasing scrutiny by US regulators

18 APR 2018

Recent enforcement developments targeting the cryptocurrency community, and the opportunities and challenges that lie ahead.

BOOK CHAPTERS (CO-AUTHORED)

- "The Foreign Corrupt Practices Act," in *White Collar Crime: Business and Regulatory Offenses* (Obermaier, Morvillo, Anello and Bohrer eds. 2018)
- "How Whistleblowing May Pay Under the U.S. Dodd-Frank Act: Implications and Best Practices for Multinational Companies," in *Temas de Anticorrupção e Compliance* (Bruno Carneiro Maeda ed., 2013)

FEATURED ARTICLES (CO-AUTHORED)

- "Second Circuit: McDonnell "official act" requirement doesn't apply to FCPA violations," *DLA Piper* (August 13, 2019)
- "Crypto Regulation: SEC Suggests Possible Path from Security to Non-Security," *New York Law Journal* (April 24, 2019)
- "Despite TurnKey, SEC Will Try To Regulate Most Digital Assets," *Law360* (Apr. 15, 2019)
- "US And Australia Tackle Fintech Regulation Together," *Law360* (Jan. 23, 2019)
- "How Technical Touchpoints Can Ensnare Foreign Crypto Cos.," *Law360* (Oct. 25, 2018)
- "EDNY: U.S. Securities Laws Can Be Used to Prosecute ICO Fraud," *NYLJ* (Sept. 18, 2018)

- "First Judicial Finding that Digital Tokens Are Securities," *Law360* (July 11, 2018)
- "The Rise of the 'Crypto Czar,' the Fall of a 'Blockchain Evangelist'," *New York Law Journal* (June 7, 2018)
– Also featured in *Yahoo! Finance*, the *National Law Journal*, *Corporate Counsel*, *ThinkAdvisor*, and industry publications like *Coin News King*.
- "How One Court Is Shaping The Future Of Crypto Regulation," *Law360* (May 15, 2018)
- "Crypto Industry Sweep: ICOs Under Increasing Scrutiny by U.S. Regulators," *New York Law Journal* (Apr. 17, 2018)
- "When Attorneys Get Ensnared In FCPA Misconduct," *Law360* (Jan. 23, 2018)
- "New FCPA Enforcement Policy Presumes Declination For Companies That Voluntarily Disclose, Cooperate And Remediate," *DLA Piper* (Nov. 30, 2017)
- "A Look At DOJ's New Guidance On Compliance Programs," *Law360* (Feb. 21, 2017)

JOURNAL ARTICLES AND WHITE PAPERS (CO-AUTHORED)

- "Cryptocurrency and its impact on insolvency and restructuring," *INSOL International*, May 2019
- "Digital Transformation in Financial Services White Paper," *DLA Piper* (Sept. 13, 2018)
- "2017-2018 SEC Whistleblowing Review: Insights and Trends," *Journal of Investment Compliance*, Vol. 19, Issue 1 (July 10, 2018)

OTHER PUBLICATIONS (CO-AUTHORED)

- "Crypto Regulation Roundup," *Israel Global Gateway* (July 26, 2018)
- "Global Anticorruption Newsletter," *DLA Piper* (Jul. 10, 2018)
- "ICOs Under Increasing Scrutiny by U.S. Regulators," *Treasury & Risk* (Apr. 17, 2018)
- "DOJ Announces Extension of FCPA Pilot Program," *JD Supra* (Mar. 13, 2017)
- "DOJ Issues New Guidance on Corporate Compliance Programs," *JD Supra* (Feb. 22, 2017)
- "A New Measuring Stick For Anti-Bribery Compliance Programs," *Law360* (Oct. 16, 2016)
- "Charitable Donations And FCPA Risks: Lessons From Nu Skin," *Law360* (Sept. 30, 2016)
- "Supreme Court's Interpretation of 'Official Act' Poses New Challenge," *JD Supra* (June 29, 2016)
- "ISO 37001: A New Measuring Stick for Corporate Compliance Programs," *JD Supra* (May 24, 2016)
- "DOJ Issues New FCPA Guidance and Launches Self-Reporting Pilot Program," *JD Supra* (Apr. 6, 2016)
- "SEC Policy Change: Voluntary Disclosure Now Required for DPA/NPA Resolutions in FCPA Cases," *JD Supra* (Dec. 7, 2015)
- "DOJ: Companies Need Not Expend Exorbitant Fees to Get Full Cooperation Credit," *JD Supra* (May 19, 2015)
- "FBI Dedicating More to Anti-Bribery FCPA Enforcement," *Daily Business Review* (Apr. 22, 2015)
- "FBI Establishes 'Dedicated International Corruption Squads' to Bust FCPA Violators," *JD Supra* (Apr. 15, 2015)
- "Federal Appeals Court Defines 'Instrumentality' Under FCPA," *National Law Review* (May 20, 2014)
- "Senior U.S. Officials Discuss FCPA Enforcement Trends and Activity," *Lexology* (Nov. 22, 2013)
- "Fraudulent Receipts Pose Risks for Multinationals Operating in China," *JD Supra* (Aug. 12, 2013)
- "The SEC Speaks: Enforcement Panel Discusses 2013 Priorities and Past Successes," *JD Supra* (Feb. 27, 2013)
- "District Court Decision Limits the Extraterritorial Reach of the FCPA," *JD Supra* (Feb. 25, 2013)
- "Long-Awaited FCPA Guidance Offers Clarity But Few Revelations," *National Law Review* (Nov. 18, 2012)

Events

SPEAKING ENGAGEMENTS

- Speaker, "Digital Asset Regulation: What the SEC Is Doing and Why It Matters," West Legal (June 18, 2019)
- Panel Moderator, "Cryptocurrency and Cannabis: The Legal Industry's Response to Modern Challenges," ILTACON (Aug. 20, 2018)
- Speaker, "FCPA Investigations in M&A Transactions: Understanding Red Flags and Post-Acquisition Due Diligence,"

Knowledge Group (Feb. 28, 2018)

- Speaker, "New FCPA Corporate Enforcement Policy and the FCPA Landscape: Implications for Companies," Strafford (Feb. 13, 2018)

NEWS

DLA Piper prepares report on the impact of cryptocurrency on insolvency and restructuring

31 MAY 2019

DLA Piper is pleased to announce the release of a special report titled "Cryptocurrency and its impact on insolvency and restructuring."

MEDIA MENTIONS

- "Virginia Uber driver was Somali war criminal," BBC News (May 21, 2019)
- "US Jury: Former Somali Colonel Responsible for Torture," Voice of America (May 21, 2019)
- "Ex Somali Colonel Faces Civil Trial in the US Alleging Torture," New York Times (May 13, 2019)
 - Also featured in the Washington Post, Business Insider, NBC, Seattle Times, and other media outlets
- "Enhancing the Skills of Women Lawyers in Nepal: Reflections by Ben Klein" New Perimeter (July 2018)