



**John M. Hillebrecht**

**Partner**

**NATIONAL CO-CHAIR OF THE WHITE COLLAR, CORPORATE CRIME AND INVESTIGATIONS PRACTICE**

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John M. Hillebrecht is a veteran trial and appellate lawyer with an extensive background in high-profile cases and over 25 years of experience handling complicated criminal and civil litigation and investigations.

Immediately prior to joining DLA Piper in 2010, John served for 15 years as an Assistant United States Attorney in the Southern District of New York, garnering extensive trial, appellate and supervisory experience.

He has served as lead or sole counsel in more than 20 jury trials and approximately 50 Second Circuit appeals. His practice focuses on white collar criminal defense, internal investigations, regulatory enforcement, securities class actions, complex commercial litigation, and criminal tax matters. John is National Co-Chair of DLA's White Collar Practice—ranked as a "National Tier 1" practice group by *US News & World Report* (2018) and praised by *The Legal 500* for "its strength in corporate representations," including "cross-border investigations involving the DOJ, SEC and parallel foreign enforcement agencies." The latter publication quoted a client as praising the group's "actual experience in the trenches, meaning significant trial experience, former employment in government enforcement, and active cases against the government" and noted John's "key role" in the practice, recommending him for both white collar and securities litigation matters. The nationwide group and the New York office are both ranked by *Chambers* in Band 2 ("Highly Regarded"), with the publication quoting one client as saying DLA was "wonderful to work with and I would use them again in a heartbeat" and others praising the group's white collar investigations work as "superb" and "very strong on all fronts."

- White Collar and Corporate Crime
- Litigation, Arbitration and Investigations

## RECENT REPRESENTATIONS INCLUDE:

- A global financial institution in an insider trading investigation by the Department of Justice and the Securities and Exchange Commission
- A technology company in parallel DOJ and SEC investigations of alleged Foreign Corrupt Practices Act violations in Africa
- A high-ranking executive of General Motors in the GM ignition switch investigation by DOJ, the Department of Transportation, and the National Highway Traffic Safety Administration

- A pool of senior executives of a major automobile manufacturer in a DOJ investigation into alleged manipulation of emission control devices, and related civil litigation
- The Special Committee of the Board of a multi-billion dollar healthcare company to investigate matters relating to the criminal indictment of its CEO for personal conduct, which upon announcement caused a serious stock price drop
- A Fortune 50 Company in an FCPA-related internal investigation in various Latin American markets
- A hedge fund in connection with a DOJ criminal investigation into possible violations of U.S. sanctions on Sudan, premised on the hedge fund's passive investment in a publicly-traded company with minimal activities in Sudan
- A major Latin American bank in a DOJ and local investigation into money laundering, including arrests of certain former bank employees
- A major medical device company being investigated by DOJ for criminal violations of the Food, Drug, and Cosmetic Act, based on putative violations of current Good Manufacturing Practices (cGMP) regulations
- A media company in a multi-jurisdictional investigation of corruption involving the FIFA World Cup
- Several public audit firm professionals in investigations by the Public Company Accounting Oversight Board Division of Enforcement
- A leading biotechnology company in an SEC investigation of potential securities fraud
- A large commodities trading firm in an internal investigation into a rogue trader who concealed losses of nearly US\$250 million by manipulating the firm's internal controls
- A transportation company in an SEC investigation into the company's whole business securitization (WBS)
- A pool of senior executives at a major biopharmaceutical company in a joint DOJ/SEC investigation into allegations of "channel stuffing," financial misstatements, and violations of the Anti-Kickback Statute
- The Special Committee of the Board of a major US-listed China-based company to investigate wide-ranging allegations of corruption and misconduct against the CEO, raised by a large group of whistleblowers, that required coordination with Chinese regulators, the SEC, and the DOJ
- The Board of Directors of a Fortune 50 company in connection with a derivative action alleging breaches of fiduciary duty relating to alleged FCPA violations in eight separate countries
- A major defense contractor and its top executives in a securities fraud class action and related derivative cases alleging false and misleading statements regarding the financial performance of the company
- A State University in a False Claims Act investigation involving Federal construction grants and alleged retaliation against a putative whistleblower
- A European manufacturer in a False Claims Act case brought by DOJ, premised on a fraudulent scheme to evade U.S. customs duties
- A State University system in a DOJ False Claims Act investigation involving Federal research grants
- A major manufacturer in connection with a New York Attorney General antitrust investigation
- An international insurance company in connection with parallel SEC and DOJ investigations into a large Ponzi scheme
- An international banker in a FINRA investigation involving a possible violation of the FCPA
- A major food company and its Board of Directors in securities fraud class action and related derivative claims alleging fraudulent channel stuffing
- The former CEO of a major construction engineering firm in connection with a criminal investigation by DOJ and the New York Attorney General of alleged bribery and "pay to play" political campaign donations in connection with New York State construction contracts
- The Board of Directors of a major defense contractor in a derivative action alleging breaches of fiduciary duty in connection with numerous alleged violations of the Federal False Claims Act
- The Employees Retirement System of Puerto Rico in an action brought by 31 investment funds alleging breaches of contractual obligations under certain secured bonds prompted by the fiscal crisis in Puerto Rico
- A life sciences company in an SEC investigation into possible securities fraud
- A former head of the US dollar swaps desk for a global financial institution in an investigation of ISDAfix by the DOJ and the Commodity Futures Trading Commission
- A for-profit education institution in Congressional and related investigations

- A global pharmaceutical company in intensive in-country reviews of FCPA and related anti-corruption compliance efforts in Saudi Arabia (2010), Japan (2012), Ukraine (2013), and Argentina (2014)
- Various European officers of an international bank in connection with a multi-jurisdiction criminal investigation of alleged collusion among banks in the setting of LIBOR and similar benchmark interest rates
- An RMBS Trader in a criminal securities fraud prosecution in the District of Connecticut and in a parallel SEC enforcement action
- A former senior executive for a U.S. global financial institution in an investigation by the SEC, DOJ, and the Federal Reserve into alleged violations of the FCPA in China
- A former Lehman Brothers executive in an SEC investigation relating to the bankruptcy of Lehman Brothers
- The audit committee of a NASDAQ-listed company in an internal investigation of published allegations regarding possible improper payments in connection with a \$1 billion government tender
- An executive of a manufacturing company in connection with an investigation by the DOJ Antitrust Division
- A multinational bank in an investigation by DOJ, OFAC, and the District Attorney of New York of allegedly "non-transparent" wire transfer practices relating to several countries subject to U.S. sanctions
- Two senior foreign exchange ("FX") traders at a major U.S. bank in connection with a multi-nation criminal investigation into alleged manipulation of FX rates
- A national financial institution in a civil action involving fraud and RICO claims
- An accounting firm in a New York State false statement investigation
- An agricultural products company in an internal investigation of alleged commercial bribery violations
- A senior executive of a global shipping conglomerate in a criminal price-fixing investigation by the DOJ Antitrust Division
- Various individuals in connection with ongoing Southern District of New York Grand Jury investigations into undeclared offshore bank accounts
- A technology company and its top executives in a securities class action premised on violations of the FCPA
- An international conglomerate in connection with an investigation by the Manhattan District Attorney's Office into alleged OFAC violations relating to an Iranian shipping company
- A Middle Eastern bank defending a civil asset forfeiture action brought by the US Attorney's Office for the Southern District of New York, seeking forfeiture of nearly US\$1 billion
- An individual in a Southern District of New York prosecution for bank fraud involving Russia-based computer hackers
- An alleged "tippee" in an insider trading investigation by the DOJ and SEC
- An alleged "tipper" in an insider trading investigation by the DOJ and SEC
- A global investment management firm based in London in connection with an OFAC investigation into potential violation of sanctions regulations relating to Cuba
- Various companies in connection with drafting and implementing FCPA compliance policies and providing anti-corruption training in the US and abroad
- An investment fund based in the United Arab Emirates in connection with an action in the Southern District of New York asserting a claim to certain bank accounts frozen by OFAC
- An international freight forwarder in an internal investigation of an embezzlement of over US\$1 million, resulting in Federal criminal charges against the embezzler
- A global financial services and insurance company in litigation with a former executive involving claims of breach of fiduciary duty, breaches of contract, and the executive's theft of confidential information
- A Lebanese-based bank in connection with a sanctions-related joint investigation by OFAC, DOJ, and the District Attorney of New York
- A Fortune 50 company in an internal investigation of potential FCPA violations in Japan

## CREDENTIALS

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## Admissions

- New York

## Recognitions

In December 2015, *The National Law Journal* recognized John as one of the top white collar practitioners in the country. In 2021, *Global Investigations Review Who's Who Legal* included John in its list of top-flight investigators, describing him as "a pre-eminent trial lawyer and strategist" and quoting a client who "would put him at the top of the list of counsel best suited to represent companies and individuals in complex criminal investigations." *Chambers USA* has ranked John as a leading criminal defense lawyer who has been "increasingly recognized for his strong white-collar practice" and is "highly respected in this space" for the way he "handles complex criminal investigations and litigation" and his "impressive experience." It notes that John "is frequently called on by corporations to handle investigations and regulatory enforcement proceedings, often with cross-border elements." *Chambers* also has reported that clients and others "describe him as a 'very talented lawyer'" with "excellent judgment" who "gets facts quickly, figures out what's important, and communicates it." Noting that John has "a great skill set" and "a wealth of experience defending clients in both trials and appellate proceedings," *Chambers* also reports that John is viewed as "a terrific lawyer" with "good strategic sense." One client is quoted describing John as: "Tough and combative when he needs to be and able to reach a resolution when it is the right thing to do." Another: "He has excellent judgment and is good to collaborate with." Additionally, sources described John as "tireless" and "incredibly smart," with "an incredible presence in the courtroom."

The respected legal directory *The Legal 500 United States* also recommended John for his work in white collar litigation, called John "pragmatic" and "hardworking," and emphasized that he understands "the dynamics of complex white collar cases." It also recommended John as a "'fantastic litigator'" in the securities class action context. Throughout his time at DLA Piper, John has repeatedly been named a Thomson Reuters "Super Lawyer," with the publication citing him as a top-rated white collar crime attorney in New York. In December 2015 *The National Law Journal* named John a "White Collar Trailblazer," one of 50 in the nation. In addition, the respected publication *Global Investigations Review* has identified John as one "of the firm's big-hitters" in its annual review of prominent global investigations practices. John has also been recognized in *The Best Lawyers in America 2020* as ranking among the top five percent of attorneys in the area of white-collar criminal defense, as determined by a vote of peers already included in that publication.

## Clerk Experience

- The Honorable Irving R. Kaufman, Second Circuit

## Education

- J.D., Stanford Law School 1989
- B.A., Georgetown University 1985

## Government Experience

John joined the SDNY United States Attorney's Office in February 1995. He was responsible for a wide variety of significant investigations and successful prosecutions in a range of areas, including racketeering, securities fraud, tax evasion, bank fraud and crimes of violence.

John served at various times as Deputy Chief of the Organized Crime and Terrorism Unit (with responsibility for supervising 20 prosecutors pursuing racketeering, terrorism, terrorism financing and financial fraud investigations and prosecutions), Chief of the Major Crimes/Complex Frauds Unit (with responsibility for supervising 15 prosecutors pursuing complex financial investigations and prosecutions, including those involving bank fraud, tax fraud, cybercrime and Foreign Corrupt Practices Act violations), and Deputy Chief Appellate Attorney. From 2007 through 2010, he also served as Senior Trial Counsel, with particular responsibility for white collar and tax fraud matters.

While at the United States Attorney's Office, John received the Department of Justice Director's Award for Superior Performance as an Assistant United States Attorney and was awarded the prestigious Henry L. Stimson Medal by the Association of the Bar of the City of New York in recognition of his history of leading complex prosecutions and his role as lead prosecutor in the largest tax fraud prosecution in US history.

Before entering government service, John was in private practice for five years, focusing on complex commercial litigation and securities

cases.

## INSIGHTS

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### Publications

#### ***US v. Bescond* addresses "fugitive disentitlement": Potential game changer for foreign-based defendants facing US charges**

30 August 2021

The Second Circuit found that a French citizen who had been in France throughout the period of the alleged crimes was not a "fugitive" and that the district court abused its discretion by applying the fugitive disentitlement doctrine.

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#### **Representing individuals in interviews – the US perspective**

30 March 2021

Determining whether to consent to an interview, and any interview itself, can be pivotal.

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#### **DOJ expands home confinement options as coronavirus spreads in prisons**

16 April 2020

Thousands of inmates in numerous states have already been released from detention centers in an effort to minimize the risk of COVID-19 to those in custody, while also minimizing the risk to the public.

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#### ***US v. Hoskins*: in setback for DOJ, court grants post-trial motion for acquittal on all FCPA counts**

27 February 2020

The decision calls into question DOJ's aggressive approach to a narrow but significant class of potential defendants in FCPA cases.

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#### **Jury acquits foreign national in apparent rebuke of DOJ's attempt to police overseas corruption**

4 December 2019

The result highlights some significant issues that may, in some cases, limit the ability of the DOJ to prosecute foreign nationals for corruption overseas.

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- "Federal Appeals Court Affirms Broad Government Authority to Conduct Warrantless Searches of Electronic Devices at the Border," *DLA Client Alerts*, February 16, 2021
- Co-author, "The Pandemic's Toll On Criminal Defendant Rights: Part 2," *Law360*, December 2, 2020
- Co-author, "The Pandemic's Toll On Criminal Defendant Rights: Part 1," *Law360*, December 2, 2020
- "Representing Individuals in Interviews: The US Perspective," Chapter 16 in *GIR Practitioner's Guide to Global Investigations 2020* (Global Investigations Review, 4<sup>th</sup> Edition, Jan. 2020)

- "Jury Acquits Foreign National in Apparent Rebuke to DOJ's Attempt to Police Overseas Corruption," *DLA Client Alerts*, December 4, 2019
- "SEC Issues FY2019 Enforcement Report -- Highlights and Key Takeaways," *DLA Client Alerts*, November 19, 2019
- "Jury Finds Former Executive Guilty in Key Case Testing Agency Under the FCPA," *DLA Client Alerts*, November 8, 2019
- "Department of Justice Unveils Guidelines For Cooperation Credit in False Claims Act Matters," *DLA Client Alerts*, May 9, 2019
- "First Circuit Reverses Course on its First-to-File Rule in False Claims Act Cases," *DLA Client Alerts*, May 9, 2019
- "Applying the 'No-Contact' Rule to Represented Witnesses: Criminal Matters Are All About 'The Party,'" *New York Law Journal*, April 4, 2019
- "False Claims Act Year in Review: 2018," *DLA Client Alerts*, February 2019
- "Understanding Joint Defense Agreements: The Implication For White Collar Defendants," *New York Law Journal*, January 25, 2019
- "DOJ Announces Changes to Yates Memo," *DLA Client Alerts*, December 2018
- "To Monitor or Not to Monitor? DOJ Criminal Division Issues New Policy Guidance Regarding the Imposition of Corporate Monitorships," *DLA Client Alerts*, October 2018
- "The Second Circuit Rules Against DOJ's Aggressive Assertion of Extraterritorial FCPA Jurisdiction Over Foreign Accessories," *DLA Client Alerts*, August 2018
- "Representing a Subpoenaed Entity With Documents Stored Overseas," *New York Law Journal*, May 4, 2018
- "False Claims Act Year in Review: 2017," *DLA Client Alerts*, February 2018
- "Managing a Global Regulatory Investigation – Unique Challenges in Cross-Border Investigations," *The Review of Securities & Commodities Regulation*, May 2017
- "On False Claims Act Enforcement, Sessions DOJ Might be More Friendly Than it First Appears," *22 Westlaw Health Care Fraud Journal* 10 (April 2017)
- "First Circuit Affirms Pfizer Victory in False Claims Act Case," *DLA Client Alerts*, February 2017
- "What is a Personal Benefit? U.S. Supreme Court Issues Major Insider Trading Decision," *DLA Client Alerts*, December 2016
- "Seven Principles For Conducting a Digital Forensic Review," *New York Law Journal*, November 21, 2016
- "A New Enforcement Mechanism? Declinations With Disgorgement -- DOJ's FCPA Pilot Program in Action," *DLA Client Alerts*, October 2016
- "Amidst a Rising Tide of FDCA Criminal Enforcement, FDA Cautions Companies to Remain Mindful of cGMP Data Integrity," *14 Bloomberg BNA Pharmaceutical Law & Industry Report* 1112, August 2016
- "Supreme Court Unanimously Overturns Public Corruption Conviction of Former Virginia Governor," *DLA Client Alerts*, June 2016
- "Second Circuit Affirms Employers' Right to Terminate Employees Who Fail to Cooperate With Internal Investigations," *DLA Client Alerts*, July 2016
- "DC Circuit Curtails Judicial Supervision Over Deferred Prosecution Agreements," *DLA Client Alerts*, April 2016
- "Do the Government's Recent FCPA Victories Provide a Road Map For Challenging Future FCPA Cases?," *Financial Fraud Law Report*, September 2011
- "US Anti-Corruption Efforts Targeting Commercial Private Bribery Abroad," *Corporate Secretary*, November 2010

## Events

- Panelist, "Managing a Global Regulatory Investigation," Securities Industry and Financial Markets Association (SIFMA) Compliance and Legal Society Conference, San Diego, March 2017
- Speaker, "Internal Audit, Investigations and Compliance in a Changing Environment," Singapore, July 2016
- Panelist, "Expanding Reach of US Regulation and Litigation," Kuwait, June 2016
- Panelist, "An International View of Market Abuse," London, March 2015
- Faculty Member and Speaker, "Second Annual Global Investigations Summit," London, October 2014
- Panelist, "SEC & DOJ Hot Topics 2015," New York, October 2014
- Speaker, "Emerging Issues in Cross-Border Regulation and Enforcement," Association of Corporate Counsel, New York, November

2012

- Panelist, "Trends in Insider Trading Investigation, Prosecution, and Enforcement," Association of Corporate Counsel, New York, May 2011

## NEWS

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## MEDIA MENTIONS

- Mentioned, "Compliance Brief: COVID-19 Disrupts Internal Probes," *The Wall Street Journal*, May 12, 2020
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