



## Christopher M. Ferguson

Partner



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### Biography

Chris Ferguson has over two decades of experience as a litigator, concentrating his practice on white-collar criminal defense as well as civil and criminal tax controversies and other regulatory enforcement matters. Chris also has extensive experience handling complex civil litigation and internal investigations.

Chris represents clients in both federal and state courts, as well as before governmental agencies and other regulatory bodies, including the U.S. Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission, FINRA, the New York Attorney General's Office, the U.S. Department of Labor, the New York City Department of Investigations and the Manhattan District Attorney's Office. He has defended clients in federal and state investigations and prosecutions involving allegations of tax fraud, securities fraud, criminal anti-trust violations (bid rigging and price fixing, including in the foreign exchange market), Bank Secrecy Act violations, mail and wire fraud, CARES Act fraud, prevailing wage fraud, theft of government services, fraud related to state and local Minority and Women Business Enterprise ("MWBE") programs, and other violations of federal and state law.

In his civil practice, Chris has represented both plaintiffs and defendants in a variety of complex commercial and regulatory matters, including wage and hour class actions, Department of Labor investigations, tax shelter litigations, government procurement matters and commercial litigations involving breach of contract, breach of fiduciary duty, fraudulent conveyances, civil fraud, civil RICO, civil forfeiture and similar claims.

Chris is drawn to litigation because he loves to compete and has a drive to win. Years of experience have taught him that winning can be measured in many ways and can mean different things to different clients. While skilled in a courtroom, Chris counts among his greatest victories those cases that never went to trial or made the headlines because he persuaded prosecutors not to charge his client or obtained a favorable settlement. He achieves these results through hard work and tireless devotion to his clients, many of whom are individuals or small business owners.

Chris also conducts internal investigations for institutional clients whose officers and/or employees have been suspected or accused of wrongdoing.

Chris is recognized in Super Lawyers and Best Lawyers in the areas of white collar criminal defense and commercial litigation. The Legal 500 describes him as a "key lawyer" at the Firm and ITR World Tax describes him as "highly regarded" in the area of tax controversy. He is a member of the New York Council of Defense Lawyers and is the former Secretary of the Criminal Law Committee of the New York City Bar Association. Chris also publishes and speaks extensively in the areas of white collar crime and civil and criminal tax controversies.

Chris received his B.A., magna cum laude, from Boston College and his J.D. from New York University School of Law. Prior to joining Kostelanetz LLP, he served as a law clerk to the Honorable Jay C. Waldman of the United States District Court for the Eastern District of Pennsylvania, and was associated with the law firm of Dewey Ballantine, LLP, where he practiced in the areas of complex commercial, antitrust, and bankruptcy litigation.

### Education

- Boston College, B.A. (1994), *magna cum laude*
- New York University School of Law, J.D. (1999)

### Bar Admissions

- New York State, 2000
- U.S.D.C. Southern District of New York, 2001
- U.S.D.C. Eastern District of New York, 2001

### Bar Committees

- Member, Criminal Law Committee, New York City Bar Association, 2010

### Awards and Recognition

- Super Lawyers (2021-2022)
- Best Lawyers (2024)

## Representative Matters

### Criminal Tax Matters

- Representation of publishing company and its CEO in criminal tax investigation into payroll tax evasion; persuaded U.S. Attorney's Office not to charge client.
- Representation of former managing director at large investment banking firm in criminal investigation for wire fraud and tax evasion; obtained non-prosecution agreement.
- Representation of CPA at major accounting firm in connection with a New Jersey Attorney General investigation into unlawfully obtaining tax credits; obtained a non-prosecution agreement.
- Representation of principal of major cryptocurrency trading platform with respect to tax and regulatory reporting issues incidental to a criminal investigation.
- Representation of high net worth taxpayer in criminal investigation for failure to file tax returns for multiple years; obtained misdemeanor disposition.
- Representation of numerous clients accused of holding undisclosed offshore financial accounts.
- Representation of target of investigation into tax evasion and Bank Secrecy Act violations in connection with foreign bank accounts; persuaded government not to bring charges.
- Representation of large regional moving company in payroll tax investigation and wage and hour class action; persuaded U.S. Attorney's Office not to bring charges.
- Persuaded United States Attorney's Office not to bring charges against chief executive of private company for tax evasion.

### White Collar Criminal and Regulatory Matters

- Representation of foreign currency trader in criminal antitrust investigation into bid rigging and other anti-competitive behavior in foreign currency markets; persuaded Department of Justice Antitrust Division not to charge client.
- Representation of business owner who pled guilty to CARES Act fraud; obtained below Guidelines sentence.
- Representation of minority owner of electrical contractor in investigation by U.S. Attorney's office into alleged scheme to defraud New York City; secured non-prosecution agreement.
- Representation of Chief Financial Officer of public company in coordinated DOJ and SEC investigation into alleged material misstatements and omissions in public filings related to the award of a government contract; achieved negligence-based settlement.

- Representation of employee of bidding agent in multi-jurisdictional Department of Justice bid rigging investigation into the municipal derivatives industry; persuaded government not to charge client.
- Representation of registered representative at major investment bank in coordinated multi-agency investigation into mutual fund market timing; persuaded Department of Justice and SEC not to bring charges.
- Representation of CFO of payday lending company in criminal RICO investigation; persuaded government not to bring charges.
- Representation of executive at major New York City electrical contracting company in investigation into MWBE fraud and tax fraud; persuaded U.S. Attorney's Office not to charge client.
- Representation of principal of one of the largest Chinese food distributors on the East Coast in investigation of Bank Secrecy Act violations by United States Attorney's Office; persuaded government not to bring charges.
- Representation of individual accused of engaging in mail and wire fraud by defrauding New York City in credit card scam; obtained sentence of two weeks where minimum recommended sentence under the United States Sentencing Guidelines was one year.
- Representation of owner of construction company in Department of Justice prosecution for structuring offenses; obtained non-incarceration sentence following guilty plea.

### Civil Tax Controversies

- Representation of multiple taxpayers in tax shelter litigations in various federal district courts and tax court.
- Representation of firms engaged in processing employee retention tax credits with compliance and IRS enforcement issues
- Successfully persuaded Office of IRS Appeals to fully abate fraud penalties assessed against hedge fund manager.
- Representation of numerous taxpayers in IRS "eggshell" audits involving various sensitive tax issues.
- Representation of art appraiser in promoter investigation.
- Assisted multiple non-resident taxpayers in non-compliance with foreign reporting non-compliance.
- Represented donor of conservation easement in IRS appeal; obtained favorable settlement.

## Civil Litigation

- Representation of insurance company in multi-jurisdictional litigation with an insurance conglomerate involving claims of fraud and breach of contract.
- Represented executive in fraudulent conveyance action brought by receiver seeking to claw back millions in compensation received by executive over several years; secured dismissal of the action.
- Representation of large New York City affordable housing developer in U.S. Department of Labor prevailing wage investigation and related civil wage and hour class action.
- Representation of hedge fund partner in ownership dispute involving claims of fraud and breach of fiduciary duty.
- Representation of owner of New York City parking garages in shareholder dispute.
- Representation of New York golf course in various contract disputes.

## Internal Investigations

- Conducted internal investigation of not-for-profit affordable housing developer with respect to suspected embezzlement by an employee. Obtained evidence of embezzlement that formed basis of employee's termination and subsequent prosecution by the Manhattan District Attorney's Office. Recommended improvements to client's internal policies and procedures aimed at preventing and detecting theft, waste, fraud and abuse.
- Conducted internal investigation for quasi-governmental agency into allegations of bribes and theft by company employees. Investigation led to the termination of one employee. Recommended improvements to client's internal policies and procedures aimed at preventing and detecting theft, waste, fraud and abuse.
- Conducted internal investigation on behalf of Board of Directors of public company engaged in on-line gambling. Investigation uncovered misconduct by company executives and other employees as well as regulatory violations. Investigation resulted in the termination of chief executive officer and others, the revision of company SEC filings, and the institution of improvements to the company's policies and procedures.
- Conducted investigation on behalf of affordable housing developer into wage violations by its employees and subcontractors. Assisted company in developing and implementing a state-of-the art, unprecedented voluntary wage compliance program.