

## Martin Auerbach

OF COUNSEL | NEW YORK

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### Martin is a consultant\* in the litigation and arbitration team.

Martin leads the firm's White Collar and Investigations practice in New York. Martin has a national reputation in the US as a preeminent white collar and securities defense lawyer. He has served in the Judicial and Congressional branches of the US government and in the Executive branch as a member of the US Attorney's Office for the Southern District of New York where he prosecuted Marc Rich, the largest tax evasion case in US history. Martin's clients deeply appreciate the counsel and care he brings to their most daunting matters, and the exceptional results he has achieved.

He has successfully counselled and defended prominent individuals, industry leaders and leading companies in many of the highest profile white collar and regulatory matters, and parallel civil litigation, over the past three decades ranging from the Milken insider trading prosecution, to cases arising from the Mueller investigation.

Among Martin's most iconic clients are Federal Reserve Chairman Paul Volcker, and global brand Sweet'N Low. He has represented senior people in cases ranging from the JPMorgan "London Whale" scandal to the Madoff case, insider trading cases involving Michael Milken, McKinsey & Co.'s former CEO, Rajat Gupta, Martha Stewart and ImClone's CEO Sam Waksal, the SEC case against Texas billionaire entrepreneurs Sam and Charles Wyly, the KPMG tax shelter prosecution, as well as Market Timing, Research Analysts, and Municipal GIC Antitrust investigations and the US Senate Offshore Tax Haven probe, among others. In addition to prominent individuals and entrepreneurs, Martin's clients have come from institutions such as Citigroup, Prudential, Lehman Brothers, JPMorgan Chase, Jefferies, Christies, IMAX, Computer Associates and Conair/Cuisinart.

He has developed deep subject matter experience in areas ranging from financial services, securities and accounting fraud, insider trading, mail and wire fraud, the Foreign Corrupt Practices Act, RICO, money-laundering, government contracting fraud and construction, to taxes, gaming, official corruption and campaign finance violations. Martin has also led, and defended clients in, sensitive internal investigations at institutions and public companies, on subjects ranging from cybersecurity to sexual harassment.

Martin recognizes the benefits of resolving matters in private, whenever possible, and is a skillful negotiator, discreetly working to achieve optimal outcomes. Martin is also a highly effective and experienced trial lawyer. Martin's experience has given him acute awareness of the need to manage the reputational implications of high-profile matters and he works closely with the firm's Media and Reputation team to prevent or minimize those impacts.

In addition to skills refined over more than three decades of practice, Martin offers clients the business perspective born of his experiences serving in the roles of General Counsel, Chief Compliance Officer, Cybersecurity committee member and Compliance Committee member for a multi-billion-dollar private equity fund and a multi-jurisdictional gaming company, and as Consulting Counsel for the world's largest equipment rental company. His wealth of experience allows Martin to craft highly sophisticated crisis management strategies and solutions.

\* Mr. Auerbach is an independent contractor of Withers Bergman LLP, and nothing herein shall be construed as creating any other relationship between Mr. Auerbach or Martin J. Auerbach, Esquire, PLLC, on the one hand, and Withers Bergman LLP or its affiliated entities (the "Firm") on the other hand, including but not limited to a partnership relationship. Neither Mr. Auerbach, Martin J. Auerbach, Esquire, PLLC, nor any of his or its employees or personnel are or shall be deemed to be employees of the Firm.

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## Track record

### Federal and state courts

Martin has successfully represented clients in Federal and state courts across the US, before the Department of Justice, the Securities and Exchange Commission, Congress, a host of other Federal and State governmental agencies including state gaming and racing regulators, and in arbitrations before FINRA and other bodies. In addition to the US, Martin has acted for clients, and in matters, in the UK, Europe, Russia, Ukraine and other CIS countries, China, Japan, the Middle East, South America, Africa, Canada, Turkey and the Isle of Man.

### Confidentiality

Many of Martin's greatest successes have been achieved confidentially. Indeed, given the highly sensitive nature of many of his matters and the profile of many of his clients, confidentiality is often an important element of that success. Martin has persuaded prosecutors and regulators to end investigations without charges or sanctions, secured deferred prosecutions for institutions, and obtained non-custodial sentences for individuals.

### United Rentals Inc investigations

One of Martin's most visible successes came in resolving the life-threatening crisis faced by the world's largest rental equipment company, United Rentals Inc. The company was the focus of securities fraud investigations by the Department of Justice and the SEC, class action and derivative law suits, a de-listing review by the New York Stock Exchange and a potential downgrade by the major securities rating agencies. The company's remarkable recovery, following the successful end to those existential threats, is chronicled in a Harvard Business School case study.

## Civil suits and class action litigation

Civil suits paralleling US Justice Department and SEC proceedings, as well as class action litigation, are another setting in which Martin's success has been achieved publicly, including the recent dismissal of class action claims against senior corporate officers accused of securities fraud and dismissal of RICO claims against a leading international mining company.

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## Talks

- *'Consumer Protection: Best Practices for Responding to FTC and State AG Inquiries,'* 9th Annual L Suite Fullstack GC Conference - May 2, 2024, speaker
- *'When your founder, CEO (or you) are the client: Protecting you and your team when things get personal,'* TechGC Global Summit - November 4, 2021, co-presenter
- *'2021 IFSEA Virtual Conference: Session 10 - How to Navigate the Storm - Dealing with Investigations against Senior Executives and Founders,'* CM Murray LLP - March 4, 2021, speaker
- Lectured as adjunct faculty at NYU's Stern School of Management.

## External publications

- 'SEC Opens Gate To Ether ETFs, But Firms Await Green Light,' Law360 - May 23, 2024, quoted
- 'Looking at Sam Bankman-Fried's Appeals Process,' CoinDesk - April 17, 2024, quoted
- 'Sam Bankman-Fried's Team To File A Notice Of Appeal; What Next?,' The Coin Republic - April 17, 2024, quoted
- 'Sam Bankman-Fried Sentenced to 25 Years in Prison for His FTX Crimes,' NPR - March 28, 2024, quoted
- 'Sam Bankman-Fried Sentenced to 25 Years in Prison,' The Washington Post - March 28, 2024, quoted
- 'Sam Bankman-Fried Gets 25-Year Sentence,' Slate - March 28, 2024, quoted
- 'How Sam Bankman-Fried's Sentencing Hearing May Play Out,' CoinDesk - March 27, 2024, quoted
- 'Sam Bankman-Fried's Sentence Might Be Lighter Than You'd Expect,' CoinDesk - February 16, 2024, quoted
- 'SAP's \$220-Million Settlement Offers Clues on Compliance Expectations,' Anti-Corruption Report - February 14, 2024, quoted
- 'Representing Individuals in Interviews: The US Perspective,' Global Investigations Review - January 10, 2024, co-author
- 'After Bitcoin ETFs, What's Next For SEC Crypto Policy?,' Law360 - January 12, 2024, quoted
- 'Lifecore Biomedical Declination Exemplifies 2023's Self-Disclosure Trend,' Anti-Corruption Report - December 20, 2023, quoted
- 'What's Next for Sam Bankman-Fried,' Yahoo! Finance - November 18, 2023, quoted
- 'Sam Bankman-Fried Faces Lengthy Sentence—And Long Odds on Appeal,' The Wall Street Journal - November 3, 2023, quoted
- 'Bankman-Fried Notches Small Victories In Star Witness Cross,' Law360 - October 13, 2023, quoted
- 'The ADHD Defense,' SLATE - October 11, 2023, quoted
- 'How A 'Boxed In' Bankman-Fried Can Argue His Case,' Law360 - October 10, 2023, quoted
- 'Remind Me, What Exactly Is SBF Charged With?,' SLATE - October 4, 2023, quoted
- 'What Crypto Attys Will Be Watching During The SBF Trial,' Law360 - October 2, 2023, quoted
- 'FTX Founder Sam Bankman-Fried Begins the Fight for His Freedom,' Yahoo Finance - October 2, 2023, quoted
- 'Crypto prodigy to 'blame the lawyers' in the fraud trial of the century,' The Telegraph - October 1, 2023, quoted
- 'Compliance Lessons From the Federal Reserve's \$186-Million Fine Against Recidivist Deutsche Bank,' Anti-Corruption Report - September 27, 2023, quoted
- 'FTX Founder Sam Bankman-Fried To Plead Not Guilty In Wire Fraud Case,' inkl - September 26, 2023, quoted
- 'Sam Bankman-Fried (Probably) Won't Get a 115-Year Prison Sentence,' Coindesk - September 25, 2023, quoted
- 'What A Guilty Verdict Would Mean For FTX Founder Bankman-Fried's Prison Sentence,' Benzinga - September 25, 2023, quoted

'Understanding How FTX Founder Sam Bankman-Fried's Trial Might Play Out,' Cryptocompass - September 21, 2023, quoted

'Here's How FTX Founder Sam Bankman-Fried's Trial May Play Out,' Entrepreneur News - September 21, 2023, quoted

'Here's How FTX Founder Sam Bankman-Fried's Trial May Play Out,' Coindesk - September 21, 2023, quoted

'M&A Lessons From the \$388-Million Credit Suisse Settlement,' Anti-Corruption Report - September 13, 2023, quoted

'Crystal Kim and Brady Dale,' Axios - August 29, 2023, quoted

'Sam Bankman-Fried's Public Defense Shuns Traditional Legal Strategies,' The Wall Street Journal - February 22, 2023, quoted

'Crypto Meltdown Sparks Legal Battle Over Assets,' Politico - January 31, 2023, quoted

'Global investigations: Representing individuals in investigative interviews in the UK and US,' Global Investigations Review - January 9, 2023, co-author

'Regulators' Strategies Toward FTX Reveal Crypto Law Gaps,' Law360 - December 15, 2022, quoted

'[As Celebs Shill Crypto, SEC Aims To Be Ultimate Influencer](#),' Law360 - October 4, 2022 - quoted

'[Crypto scams are rising, but justice is harder to come by](#),' The Plug - May 12, 2022, quoted

'[Directors Growing More Tolerant of Bad Behavior](#),' Agenda - February 3, 2022, quoted

'*Kardashian, Mayweather Sued Over Promotion of Cryptocurrency EthereumMax*,' Thomson Reuters Westlaw - January 13, 2022, quoted

## Admissions

NY State 1978

US Supreme Court 2019

US Court of Appeals

Second Circuit 1983

US District Court

Southern District of New York 1979

US District Court

Eastern District of New York 1979

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## Education

Harvard Law School (Cum Laude)

Harvard College, BA (Magna Cum Laude) Biology

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## Languages

English

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## Memberships

New York Council of Defense Lawyers

American Bar Association

Association of the Bar of the City of New York

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## Key dates

Year joined: 2020

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