



Mark B. Sweet

Partner



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Mark is an investigations and trial attorney with 20 years of experience. He has a deep knowledge of the False Claims Act (FCA) and routinely represents clients responding to Civil Investigative Demands (CIDs) and facing fraud investigations and whistleblower complaints. He has successfully navigated clients through high-stakes, high-profile investigations by the U.S. Department of Justice (DOJ), federal Inspectors General (IGs), Congress, and other law enforcement agencies. Mark also serves as lead trial counsel on complex commercial litigation involving government contracts, copyright and trade secrets, environmental issues, health care, federal grants, and other issues. Mark will aggressively represent clients all the way through trial, and he has a track record of winning cases and securing favorable settlements.

Representative Matters

- Leading cases:
 - First-chaired a multi-week trial and won all 13 counts for a government contractor in litigation over teaming agreement, employee non-competes, and theft of trade secrets. *Futrend Technology, Inc. v. MicroHealth LLC* (Va. Ct.).
 - Won multiple sanctions against the DOJ for discovery violations and forced settlement for less than \$9 million in FCA suit alleging \$400 million of violations by a Coast Guard *United States v. Bollinger Shipyards, Inc.* (E.D. La.).
 - Navigated the lead developer of gov through congressional and IG investigations about the troubled rollout of the health care exchange system, shifting

Practice Areas

White Collar Defense & Government Investigations
Litigation
Government Contracts
Telecom, Media & Technology
Copyright

Credentials

Education

J.D., Duke University School of Law
B.A., with distinction, University of North Carolina at Chapel Hill

Law Journals

Member, *Duke Law and Technology Review*

Bar and Court Memberships

District of Columbia Bar
North Carolina Bar
U.S. Courts of Appeals for the Second, Fourth, Fifth and District of Columbia Circuits
U.S. District Courts for the District of Columbia, Northern District of Illinois, and Southern District of Texas

investigators from blaming the contractor to finding fault with government mismanagement of the project.

- Successfully represented an engineering firm that advised the City of Flint, Michigan, on its water systems in criminal investigations by federal and state law enforcement.
- Won outright dismissal of all 10 counts in criminal prosecution of 2017 Inauguration Day protester after obtaining sanctions for *Brady* violations against the U.S. Attorney's Office.
- Successes in FCA investigations and litigation:
 - Secured a declination from a U.S. Attorney's Office, dismissal by district court, and affirmation by appellate court in *qui tam* suit alleging misrepresentations of projected costs and profits in proposals for a HUD services contract. *U.S. ex rel. Ashmore v. CGI Group, Inc. et al.* (S.D.N.Y. and 2d Cir.).
 - Secured a declination by a U.S. Attorney's Office and a dismissal by relators in *qui tam* suit alleging government contractor inflated costs for overseas employees' meals. *U.S. ex rel. Smith v. Dyncorp International LLC* (E.D. Va.).
 - Won dismissal with prejudice of FCA claims against recovery audit contractor alleged to have retained unearned fees. *U.S. ex rel. Frey v. HMS, Inc.* (S.D. Tex.).
 - Negotiated a favorable settlement and compliance agreement, including credit for disclosure and cooperation, for a telecom provider alleged to have submitted false claims under the Lifeline *U.S. ex rel. Gordon v. TracFone Wireless, Inc.* (M.D. Fla.).
 - Convinced a U.S. Attorney's Office not to proceed with an FCA investigation of a software company regarding the use, implementation, and testing of technology supplied to military and intelligence agencies.
 - Negotiated inexpensive settlement, without any discovery, of government investigation and *qui tam* suit alleging false statements in technology services *U.S. ex. rel. Solicitation Integrity Associates v. Calnet LLC* (E.D. Va.).
 - Secured a declination from the DOJ in a *qui tam* suit by former employees alleging violations of the FCA by a government contractor, leading to dismissal of the entire *U.S. ex rel. Burghard v. AECOM* (C.D. Cal.).
- Federal enforcement of small business and set-aside eligibility rules for government contracts and grants:
 - Represented multiple companies under investigation for potential violation of rules governing Small Business Innovation Research (SBIR) Awards and Small Business Technology Transfer (STTR) Awards.
 - Defended small business in investigation of FCA and Anti-Kickback Act violations due to performance as subcontractor on 8(a) set-aside contract.
 - Conducted several internal investigations of compliance with rules for small business, HUBZone, and other set-aside contracts and grants.

- Regularly advises private equity firms on due diligence concerns arising during sales or acquisitions of government contractors holding SBIR and STTR Awards.
- Navigated government contractors through disclosure and resolution of eligibility issues arising during or after performance of small business and other set-aside contracts.
- Commercial litigation:
 - Representing international security firm in Anti-Terrorism Act suit arising from performance of government contracts in Afghanistan. *Cabrera v. Black & Veatch Special Projects Corp., et al.* (D.C.)
 - Second-chaired a two-week trial in arbitration over pharmaceutical pricing dispute between health insurer and chain pharmacy.
 - Second-chaired an arbitration trial over indemnification for environmental remediation.
 - Successfully represented a fuel cell company in international arbitration involving over \$100 million in damages due to foreign partner's failure to market and distribute technology.
 - Won dismissal of lawsuits alleging Racketeer Influenced and Corrupt Organizations Act (RICO) violations and torts related to the collection of personal data by technology *Kimberlin v. Hunton & Williams LLP* (D. Md.).
 - Represented government contractor in multiple suits with former owner alleging fraud and breach of contract arising from fast-moving sale of company after S. Army denied base access due to security concerns about former owner. *AAL USA, Inc. v. Black Hall Aerospace, Inc.* (N.D. Ala.); *AAL Group, Ltd. v. Black Hall Aerospace, Inc.* (N.D. Ala.).
- Internal investigations to assess corporate employee misconduct and disclosure obligations:
 - Led investigation of government contractor executive's use of side companies to divert federal procurement funds.
 - Conducted internal investigation of a public technology company's compliance with small business regulations during channel sales to the federal government.
 - Led multiple investigations for an intelligence community contractor regarding concerns about procurement integrity and mischarging on government contracts.
 - Led an investigation into a whistleblower's claims of mischarging and retaliation by a company that provides storage and logistics to the military.
- Federal Trade Commission (FTC) and Federal Communications Commission (FCC) enforcement matters:
 - Represented wireless telecom company in FCC Notice of Apparent Liability due to alleged violations of Lifeline program rules.
 - Successfully navigated company through FCC, DOJ, and SEC investigation for potential violation of telecommunications relay service regulations.
 - Negotiated a favorable settlement for a major wireless provider facing an FTC investigation and class action suits over marketing of its data plans.

- Other criminal defense:
 - Convinced U.S. Attorney's Office to drop all charges against university professor accused of obstructing federal audit.
 - Represented a senior executive of a generic drug manufacturer in a criminal investigation into allegations of insider trading and violations of the good manufacturing practices.
 - Part of a trial team that defended a senior government official against allegations of false statements and obstruction of justice.

Professional Experience

- Financial Analyst, American Airlines (1998-2000)

Affiliations

- American Bar Association (ABA)
 - Co-Chair, Section of Public Contract Law, Procurement Fraud and False Claims Committee (2018-2022)
 - Vice-Chair, Section of Public Contract Law, Procurement Fraud and False Claims Committee (2013-2018, 2022-Present)
 - Section of Criminal Justice, White Collar Crime Committee
- Federal Bar Association, Qui Tam Section
- Federal Communications Bar Association (FCBA), Enforcement Committee
- William B. Bryant Inn of Court

Recognitions

- Recognized by *The Legal 500 US* in Corporate Investigations and White-Collar Criminal Defense (2019-2021)