

# Thomas J. Krysa

## Partner

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Tom Krysa advises clients in securities enforcement and litigation matters, government investigations, class actions, and complex commercial disputes. As a former federal prosecutor and SEC trial lawyer, Tom uses his extensive government experience to resolve his clients' problems short of government action while at the same time preserving their interests, should litigation and trial become necessary. He is a partner in the firm's Securities Enforcement & Litigation Practice and a member of the Environmental, Social, and Corporate Governance (ESG) Team.

Tom represents clients in matters involving the SEC, DOJ, FINRA, PCAOB, CFTC, and other federal and state regulators and self-regulatory organizations. He conducts internal investigations for companies, audit committees, and boards of directors. He also represents clients in class actions and complex commercial litigation in federal and state courts.

While at the SEC, Tom served in several capacities — as a staff attorney, trial attorney, supervisory trial counsel, and ultimately as associate regional director in charge of enforcement and trials for the Denver regional office. In these roles Tom litigated and supervised matters involving insider trading, financial fraud, broker-dealer and investment adviser misconduct, offering fraud, market timing, market manipulation, and auditor negligence. Prior to the SEC, Tom was a federal prosecutor for the Department of Justice in Washington, D.C., prosecuting criminal tax and other white-collar matters in federal district courts.

Tom Krysa is an experienced trial lawyer and securities enforcement and litigation partner who represents clients in state and federal courts across the country. Tom primarily represents clients in cases involving securities litigation, class actions, and complex commercial disputes and regularly represents clients in cases involving the SEC, DOJ, and state securities regulators. As a former federal prosecutor and SEC trial lawyer, Tom uses his trial experience to navigate difficult and complex cases for clients to find positive outcomes — while preserving their interests should trial become necessary. He is at home in the courtroom and excels at simplifying complex issues, and he has significant trial experience in both jury and bench trial settings.

involving federal securities violations, auditor negligence, tax fraud, money laundering, and other white-collar matters. While at the SEC, Tom supervised the SEC's trial unit in Denver, Colorado, and in 2014, he was appointed by Chair Mary Jo White to a Senior Officer position to lead the SEC's enforcement and trial program in Denver. Tom was exposed to trial work early in his career at the DOJ's Western Criminal Enforcement Section of the Tax Division, prosecuting criminal tax and other white-collar matters. Tom was hired by the DOJ under the Attorney General's Honor Program and earned the Tax Division's Outstanding Attorney Award for his trial work.

### **Representative Experience\***

- Represented the chief executive officer of a public company under SEC investigation involving disclosure and executive compensation issues, resulting in no government action and termination of the investigation.
- Represented the chief financial officer of a public company under SEC investigation involving disclosure issues, resulting in no government action and termination of the investigation.
- Represented a public company under SEC investigation involving accounting restatement, resulting in no government action and termination of the investigation.
- Represented a chief operating officer in SEC and DOJ parallel prosecutions involving revenue recognition and disclosure issues.
- Represents a public company under SEC investigation involving revenue recognition issues.
- Represents a private fund adviser in SEC investigation involving potential conflicts of interest and disclosure issues.
- Represents registered representatives of broker dealer in SEC investigation involving Reg BI issues.
- Represented a private fund adviser in SEC investigation involving potential conflicts of interest and disclosure issues.
- Represented limited partners in a complex commercial dispute involving two private equity funds.
- Represented a public company in a private securities fraud and commercial dispute, resulting in dismissal of securities fraud claims.
- Served as outside fiduciary counsel to the board of trustees of a \$50 billion public pension fund.

### **Representative Government Experience**

- Lead SEC trial counsel in a matter involving undisclosed perquisite compensation against two former CFOs of an Omaha-based database marketing company, resulting in a successful four-week jury trial in Omaha, Nebraska.
- Lead SEC trial counsel in a disclosure fraud case against a California-based paint manufacturer and its president, resulting in a successful two-week jury trial in Los Angeles, California.
- Lead SEC trial counsel in a case involving market timing at a mutual fund complex against its portfolio manager, head of marketing, and sales employee, resulting in a partially successful 10-day bench trial in Denver, Colorado and Washington, D.C. before an administrative law judge.

- Lead SEC trial counsel in a case involving large-scale financial fraud at a Denver telecommunications company against several former executives, including the CEO, CFO, and COO.
- Lead SEC trial counsel in an action involving a US\$54 million Ponzi scheme relating to green energy fraud against a president and a sales promoter, resulting in a successful summary judgment motion and more than \$200 million in monetary relief.
- Lead DOJ trial counsel in a criminal case against a tax return preparer for preparing false tax returns, resulting in a successful jury trial in Alexandria, Virginia.
- DOJ trial counsel in a criminal case against an attorney for securities fraud, wire fraud, money laundering, and tax fraud relating to a pump-and-dump securities fraud scheme, resulting in a successful five-week jury trial in Las Vegas, Nevada.
- DOJ trial counsel in a criminal case against a chiropractor and his wife for federal tax fraud, resulting in a successful three-week jury trial in Reno, Nevada.

*\*Matters were handled prior to joining Foley.*

## **Presentations and Publications**

- Panelist, “[SEC Regulatory and Enforcement Priorities Under the Biden Administration](#),” Association of Corporate Counsel (June 23, 2021)
- Panelist, “[A Primer on Internal Investigations](#),” Association of Corporate Counsel In-House Counsel Forum (September 23, 2021)

## **Sectors**

- [Energy & Infrastructure](#)

## **Practice Areas**

- [Environmental, Social, and Governance \(ESG\)](#)
- [Government Enforcement Defense & Investigations](#)
- [Litigation](#)
- [Securities Enforcement & Litigation](#)
- [Transactions](#)

## **Education**

- Georgetown University Law Center (LL.M.)
  - Taxation with distinction
- University of Denver Sturm College of Law (J.D.)
- Pennsylvania State University (B.A.)

## **Admissions**

- Colorado
- District of Columbia

- U.S. District Court, District of Colorado
- U.S. Court of Appeals
  - 10th Circuit
  - 4th Circuit
- U.S. Tax Court