



Michael F. Maloney, CPA, CFF, CFE

### **Curriculum Vitae**

Mike is a leading expert in forensic accounting investigations, white-collar criminal and civil defense, and other matters involving complex accounting, auditing, financial reporting, and fraud issues. Mike served as Chief Accountant of the Division of Enforcement for the U.S. Securities and Exchange Commission from 2014 to 2018. Prior to his work at the SEC, Mike's practice involved serving corporate, individual, and regulatory clients and their counsel across a wide range of industries, including work on SEC, PCAOB, and DOJ investigations, fraud and embezzlement matters, complex litigation matters, and practicing as an external auditor. He has testified as an expert, supported complex regulatory and settlement negotiations, and provided on-site support during depositions and trial. Mike also has experience testifying to financial damages in commercial litigation matters, and earlier in his career completed a 3-year assignment providing external audit and consulting services in Eastern Europe.

Mike served as an Adjunct Professor in the McDonough School of Business at Georgetown University, teaching MBA coursework in Forensic Accounting. He is a Certified Public Accountant, Certified in Financial Forensics, and a Certified Fraud Examiner.

### **Professional Experience**

Prior to joining Credibility International in 2018, Mike was with: (1) the U.S. Securities and Exchange Commission from 2014 to 2018, as Chief Accountant of the Division of Enforcement; (2) Navigant Consulting, from 2002 to 2014 as a director and managing director and leader of Navigant's Forensic Accounting practice; (3) Arthur Andersen, where he began as a staff auditor in 1986 and finished as a partner in 2002.

### **Chief Accountant – U.S. Securities and Exchange Commission Division of Enforcement**

As Chief Accountant of the SEC's Division of Enforcement from 2014 to 2018, Mike oversaw and advised the Division on all accounting, auditing, and financial reporting enforcement matters, as well as other fraud matters including FCPA investigations, Ponzi schemes, and investment frauds. During his tenure Mike advised on and participated in over 400 financial fraud enforcement matters publicly filed by the SEC as well as hundreds of additional ongoing financial fraud investigations. Mike provided leadership and support to the Division's approximately 100 accountants and legal investigative teams through advice, guidance, and involvement on individual enforcement matters, as well as facilitating communication, knowledge sharing, and training on emerging issues. In addition, he worked on significant policy issues within the Division and with other Commission staff including the SEC's Office of the Chief Accountant and the Division of Corporation Finance, and led the Division's coordination with the Public Company Accounting Oversight Board's enforcement program. Mike also participated as an SEC representative on a multitude of public speaking engagements and conference panels. During Mike's tenure the SEC brought hundreds of financial reporting enforcement actions addressing a wide range of misconduct, including the following representative matters:

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- A major oil-services company and two senior executives for fraudulently inflating earnings reported to investors by using deceptive income tax accounting
- A major petroleum company and three top executives for defrauding investors through an allegedly extensive, multi-year accounting fraud that moved hundreds of millions of dollars in expenses from operating expenses to capital accounts
- A major agriculture company and three executives for failing to recognize millions of dollars of rebate expenses for a flagship product in the period in which they occurred, resulting in materially misstated earnings over three years
- A for-profit educational institution and two senior executives for allegedly fraudulently concealing from investors the poor performance and looming financial impact of two student loan programs the institution financially guaranteed
- Four large accounting firms and numerous individual partners for professional failures in audits of clients that faced SEC actions
- A large accounting firm and three of its partners for auditor independence violations due to close personal relationships between auditors and client personnel

### **Forensic Accounting, Auditing and Financial Reporting Investigations, Litigation, and Defense Matters**

Mike is a leading expert and consultant on a range of accounting, auditing, financial reporting, and fraud matters. His expert and consulting experience include matters involving allegations of accounting and securities fraud, violations of professional accounting, auditing, and SEC reporting standards and rules, FCPA investigations, Ponzi and other investment schemes, and asset misappropriation/embezzlement. His work has supported clients and their counsel in resolving issues with regulators, auditors, and other third parties, in both criminal and civil matters and independent investigations. He has been deeply involved in many high-profile accounting and securities fraud matters that occurred over the past two decades. Selected engagement experiences include:

#### ***White Collar SEC and DOJ Defense Matters (Consulting)***

- Communications Industry (2019) – Assisting in an SEC defense matter related to the reporting of various business metrics.
- Retail Industry (2018 – 2019) – Assisting in an SEC and DOJ defense matter related to revenue recognition under GAAP.
- Transportation Industry (2018 – 2019) – Assisting in a DOJ defense matter involving potential violations of the FCPA. Work has included analysis of potential profits from identified transactions, ability to pay issues, and cash flow forecasts.
- Technology Industry (2008 - 2012) - Led a team assisting a CFO and Chief Accounting Officer in defense of alleged GAAP and SEC reporting violations. Issues included revenue recognition, non-monetary transactions, and round-trip transactions.
- Automotive Industry (2007 - 2009) - Led a team assisting a CEO in defense of alleged criminal and civil GAAP and SEC reporting violations. Issues included vendor rebates, bank covenant compliance, EBITDA disclosures, and secured financing transactions. After nearly two years of discovery and analysis of the relevant issues, Mike's team supported a detailed submission to regulators that resulted in all criminal charges being dropped against the client and three co-defendants.
- Insurance Industry (2006 - 2008) - Led a team assisting a VP of Reinsurance in defense of alleged criminal and civil GAAP and SEC reporting violations. Issues included GAAP and statutory finite reinsurance accounting, and analyzing the work of the auditors. Mike provided on-site consultation and support during a 2-month criminal trial and through the appeals process.
- Insurance Industry (2005 - 2008) - Led a team assisting a CEO in defense of alleged civil GAAP and SEC reporting violations. Issues included revenue recognition, insurance reserve accounting, reinsurance accounting, consolidation accounting, and analyzing the work of the auditors.
- Foodservice Distribution Industry (2004 - 2010) - Led a team assisting a CFO and VP of Marketing in defense of alleged criminal and civil GAAP and SEC reporting violations and misrepresentations to auditors. Issues included vendor rebate accounting, revenue recognition, incentive compensation accruals, and analyzing the work of the auditors. Mike and his team provided on-site support during a criminal trial and through the appeals process.
- Cable Industry (2003 - 2007) - Led a team assisting a CEO, CFO, COO, and VP of Treasury in defense of alleged criminal and civil GAAP and SEC reporting violations, and misappropriation and embezzlement. Issues included revenue recognition, round-trip transactions, related party transactions and disclosures, equity/debt financing transactions, commingling of funds, reporting of business metrics, ability-to-pay analyses, and analyzing the work of the auditors. Mike and his team provided on-site support during a 5-month criminal trial and through the conclusion of extensive civil litigation.

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***Auditing-Related Matters (Consulting)***

- SEC Independence Matter (2019) – Assisting in an SEC defense matter involving an auditor independence issue related to a specific area of the independence rules and regulations.
- PCAOB Auditing Matter (2019) – Assisting in a PCAOB defense matter involving alleged audit failures regarding deferred taxes in the context of an acquisition. Mike submitted a signed declaration to the PCAOB addressing the relevant issues.
- Specialty Retail Industry (2019) – Assisted in an independent investigation involving auditor independence issues related to multiple areas of the SEC independence rules and regulations.
- Pharmaceutical Industry (2018 – 2019) – Assisted in a matter involving the results of a PCAOB inspection and collateral impacts on the company’s accounting for a particular issue.
- Financial Services Industry (2012) - Assisted an EVP and Commercial Loan Officer in defense of alleged criminal and civil GAAP violations, and asset misappropriation. Issues included analyzing the work of the auditors on various issues.
- China-Based Entity (2011) - Assisted in the evaluation of local audit work related to a Chinese manufacturing and distribution company that became an SEC registrant through a reverse merger. Issues included assessment of the nature and extent of audit procedures performed by both the principal auditor and the local audit team.
- Pharmaceutical Industry (2010 - 2012) - Led a team assisting an international Big 4 audit partner in defense of auditor malpractice claims brought by the PCAOB. Issues included revenue recognition, accounts receivable reserves, and multi-location audit procedures. Mike’s team provided expert testimony and on-site support during the PCAOB hearing, and support through the appeals process.

***Accounting Disputes and Litigation (Consulting)***

- Technology Industry (2019) – Assisting on a litigation matter involving GAAP revenue recognition issues under ASC 605 and ASC 606. Issues include alleged channel stuffing, and GAAP and SEC reporting related to business combinations.
- Manufacturing Industry (2019) – Assisting on a matter involving GAAP and SEC reporting issues related to asbestos liabilities. Work includes analysis of GAAP and SEC accounting and disclosures for asbestos liabilities.
- Oil & Gas Industry (2010 - 2012) - Led a team assisting in a complex litigation matter involving GAAP and SEC reporting issues. Issues included environmental remediation and toxic tort liabilities, internal controls and processes, GAAP and MD&A disclosures, SEC S-1 registration statement issues, and analyzing the work of the auditors. Mike’s team supported the filing of an extensive expert report and on-site support during a U.S. Bankruptcy Court trial.

***Forensic Investigations***

- Technology Industry (2019) – Led a team assisting management in an independent forensic investigation involving GAAP, SEC reporting, and misappropriation issues. Issues included revenue recognition, prerequisite disclosures, misappropriation and embezzlement, and analyzing the work of the auditors. The investigation reported findings to the SEC, DOJ, and NYSE.
- Oil & Gas Industry (2013 - 2014) – Led a matter involving potential violations of the FCPA and anti-money laundering issues. Issues included forensic analysis of funds flow through multiple entities, transaction tracing, identification of potential payments in violation of the FCPA, and analyzing indicia of money laundering.
- Manufacturing Industry (2012 - 2014) – Led a matter involving potential violations of the FCPA. Issues included analysis of several cross-border contracts, identification of potential payments in violation of the FCPA, and forensic analysis of funds flow through various entities and third-parties.
- Specialty Retailing Industry (2004 - 2006) - Led a team assisting a Special Committee of the BOD in an independent forensic investigation involving GAAP and SEC reporting issues. Issues included revenue recognition, business combinations, goodwill impairment, accrued liabilities, incentive compensation accruals, and reporting of business metrics. The investigation supported a financial statement restatement, and reported findings to external auditors, the SEC and DOJ.

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***Ponzi Schemes, Investment Schemes, and Market Manipulation Matters (Consulting)***

- Market Manipulation Matter (2018 - 2019) - Assisted in the defense of SEC allegations of market manipulation by an individual. Issues included analysis of trading patterns across and within various trading days.
- Market Manipulation Matter (2018) – Assisted in the defense of SEC allegations against a top management individual for alleged participation in various pump-and-dump schemes. Issues included analysis of trading patterns in various securities, and analysis of connections between trading patterns and significant events.
- Hedge Fund Industry (2012 - 2014) – Assisted in a matter involving the investigation of a hedge fund group. Issues included analysis of historical subscriptions, redemptions, and other transactions through a variety of entities to determine whether Ponzi-type payments or other inappropriate transactions existed.
- Oil & Gas Industry (2012 - 2013) - Assisted in a matter regarding allegations by a bankruptcy trustee that a joint-venture participant was aware that its joint-venture partner was perpetrating a Ponzi-scheme. Issues included analysis of funds flows through numerous entities, rebuttal of opposing expert reports, and supporting the preparation of an expert report.
- Hedge Fund Industry (2009 - 2012) - Led a team assisting a feeder/hedge fund group and its founder regarding investments it had with Bernard L. Madoff Investment Securities LLC. Issues included performing forensic accounting, damages, transactional, and reporting analyses regarding the Madoff Ponzi-scheme, and on-site support during arbitration hearings.
- Financial Services Industry (2009 - 2010) - Assisted in a matter involving an international financial institution, analyzing allegations of accounting and financial reporting fraud, and allegations that the institution was a Ponzi-scheme.

**Auditing and Related Experience**

In earlier stages of his career, Mike performed and supervised financial statement audits of both public registrants and private corporations, both domestic and international, in a wide variety of industries. He has had significant exposure to GAAP, GAAS (now PCAOB standards), and various international accounting standards through his audit experience. He also has experience performing accounting and financial due diligence for buyers and lenders in M&A transactions, performing accounting and financial analysis in corporate restructuring situations, and performing business valuations for a variety of purposes including litigation, M&A, and internal decisions.

**Commercial Damages**

Mike has calculated, analyzed and testified to general business and commercial damages, including in breach of contract, intellectual property, and other commercial disputes. His intellectual property matters have included patent, trademark, copyright and trade secret disputes involving lost profits, reasonable royalties and unjust enrichment. He has provided testimony in federal court and other forums on commercial and intellectual property damages and related issues. He also has experience in licensing and royalty matters involving underpaid royalties, license agreement issues, comparable royalty rate studies, royalty audits, and transfer pricing studies.

**Insurance Claims**

Mike has experience working on behalf of policyholders and insurance carriers to resolve complex insurance claim disputes through settlement and litigation. Subject areas have included 3rd party environmental, asbestos, product and toxic tort matters, and 1st party property damage and business interruption matters. His work on these matters has included insurance policy analysis and allocation, historical costs accumulation, future cost projections, reinsurance analyses, and business interruption and extra expense claims. He has provided deposition testimony and authored expert reports in insurance litigation matters, and has defended the results of his insurance claim analyses in settlement negotiations.

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**Expert Testimony Matters (matters not included above):**

- Ionis Pharmaceuticals, Inc. v. Alnylam Pharmaceuticals, Inc., American Arbitration Association (No. 01-18-0004-0990) (Deposition Testimony, Expert Report) (GAAP and SEC disclosures, and GAAP revenue recognition) (2020)
- In re Signet Jewelers Limited Securities Litigation, United States District Court for the Southern District of New York (No.1:16-CV-06728-JMF) (Deposition Testimony, Expert Report) (GAAP loan loss reserves on credit card loan portfolio) (2019)
- Coface Collections North America. Inc. v. William J. Newton, United States District Court for the District of Delaware (No. 11-00052 LPS) (Deposition Testimony, Expert Report) (Intellectual property damages - trade secrets) (2011)
- Aurum STS Aggressive Trading LLC v. Societe Generale, et al, FINRA Dispute Resolution (FINRA Arbitration Number 09-3598) (Hearing Testimony, Expert Report) (Breach of contract damages - hedge fund derivative financial instrument) (2011)
- Image API. Inc. v. Maximus, Inc., American Arbitration Association (No. 16 103 Y 00223 08) (Hearing Testimony, Expert Report) (Breach of contract damages - consulting industry) (2009)
- Freedom Card, Inc. and Urban Television Network, Inc. v. J.P. Morgan Chase & Co., United States District Court for the District of Delaware (No. 03-217 KAJ) (Deposition Testimony, Expert Report) (Intellectual property damages - trademarks) (2004)
- Medical Broadcasting Company v. William C. Flaiz and i-FRONTIER Corp., United States District Court for the Eastern District of Pennsylvania (C.A. No. 02-8554 HB) (Trial Testimony, 3 Expert Reports) (Intellectual property damages - trade secrets) (2003)
- RSR Corporation, et al. v. AIU Insurance Co., et al., District Court of Harrison County, Texas (C.A. No. 93-0127) (Deposition Testimony) (Insurance claim - GAAP issues) (2003)
- Road Runners Transportation Corporation v. Atlantic of New York, Inc., et al., United States District Court for the Eastern District of Virginia (No. 3:96:CV184) (Deposition Testimony) (Breach of contract damages - transportation industry) (1996)

**Presentations, Publications, Academic and Professional Affiliations**

**Presentations:**

- Guest Lecturer – Georgetown University, Accounting and MBA programs, presentations regarding SEC enforcement issues and forensic accounting litigation and investigations (2019 - 2020)
- The Knowledge Group, panelist *“How to Effectively Deal with the SEC’s Financial Fraud Enforcement Probes: Practical Guide in 2019”* (2019)
- Northwestern Pritzker School of Law: 45<sup>th</sup> Annual Securities Regulation Institute, panelist *“What’s New in SEC Enforcement”* (2018)
- AICPA Conference on SEC and PCAOB Developments, panelist *“SEC Enforcement Update”* (2014, 2015, 2016, 2017)
- American Law Institute: Accountants Liability Conference, panelist *“Auditing and Accounting Issues and Substantive Defense Strategies in SEC and PCAOB Proceedings”* (2015, 2016, 2017)
- Baruch College Annual Financial Reporting Conference, panelist *“Current Developments at the SEC”* (2014, 2015, 2016, 2017)
- Practicing Law Institute: The SEC Speaks, panelist *“Accounting”* (2015, 2016, 2017)
- Colorado Bar Association: 49<sup>th</sup> Annual Rocky Mountain Securities Conference, panelist *“Accounting and Audit Issues: Hot Topics and Important Updates”* (2017)
- Practicing Law Institute 33<sup>rd</sup> Annual SEC Reporting and FASB Forum, panelist *“Government Enforcement Priorities: What’s New, What’s Hot and What’s Not”* (2017)
- University of Texas School of Law: Government Enforcement Institute, panelist *“Financial Fraud Enforcement: Public Companies, the SEC and the DOJ”* (2017)
- Financial Executives Institute: Current Financial Reporting Issues Conference, panelist *“Update from the SEC Division of Corporation Finance and Division of Enforcement”* (2015, 2016)
- National Association of Corporate Directors Philadelphia Chapter, panelist *“Corporate Investigations”* (2016)
- PCAOB International Institute on Audit Regulation, panelist on SEC Update panel (2016)
- University of California Irvine: The UCI Audit Committee Summit, panelist *“SEC Enforcement – Recent Developments Impacting Audit Committee Members”* (2016)
- CPE Inc, panelist on SEC Update panel (2015)
- DC Bar Association, Corporation Finance and Securities Law Section, panelist *“Financial Fraud – A View from the Office of the Chief Accountant of the SEC’s Division of Enforcement”* (2015)
- AICPA National Conference on Banks and Savings Institutions, panelist on SEC Update panel (2014)
- USC Leventhal School of Accounting: SEC and Financial Reporting Institute Conference, panelist *“Current Accounting and Financial Reporting Practice Issues”* (2014)

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- University of Texas School of Law: Government Enforcement Institute, panelist "Accounting Fraud: The SEC's New Game Plan" (2014)
- ABA National Institute on White Collar Crime, panelist "Securities Fraud: What's Happening Post-Indictment?" (2013)
- Guest Lecturer – Georgetown University, Accounting and MBA programs, case studies on *Accounting Litigation and Investigations* (2006 - 2013)
- Guest Lecturer - Georgetown University Law School, presentation on *Forensic Investigation of Potential Violations of the Foreign Corrupt Practices Act* (2013)
- Federal Circuit Bar Association, "Expert Witness Examinations - Deposition and Trial," damages expert in mock-expert program (2012)
- ABA Criminal Justice Section - National Institute on Securities Fraud, panelist "Dodd Frank's New Tools for the SEC Toolbox" (2011)
- National Association of Corporate Directors, moderator "What to Do When the Company Stumbles" (2011)
- ABA Criminal Justice Section – National Institute on Securities Fraud, panelist "The Globalization of the Federal Securities Laws" (2008)
- Guest Lecturer - University of Virginia Accounting program, case study on *Accounting Litigation and Investigations* (2008)

### **Publications Authored:**

- Corporate Disputes Magazine, co-authored article "Forensic Accounting in Fraud Related Disputes" October-December 2013 issue
- IP Litigator Magazine, co-authored article "Trends in Litigated and Nonlitigated Royalty Rates" January-February 2004 issue

### **Academic and Professional Affiliations:**

- SEC Historical Society, member of the Board of Advisors, and member of a working group supporting the creation of a Historical Society gallery on the PCAOB (2018 – 2019)
- Adjunct Professor – Georgetown University McDonough School of Business, devised and taught an MBA-level course on Forensic Accounting (2012 – 2013)

### **Education and Professional Certifications**

- Bachelor of Science in Accountancy (High Honors), University of Illinois at Urbana-Champaign
- Certified Public Accountant (CPA), licensed in Illinois
- Certified in Financial Forensics (CFF)
- Certified Fraud Examiner (CFE)
- Member – American Institute of Certified Public Accountants (AICPA)
- Member – Illinois CPA Society