KENNYHERTZ PERRY
ATTORNEYS AT LAW

BRADEN M. PERRY

KENNYHERTZ PERRY, LLC
2000 Shawnee Mission Parkway, Ste. 210
Mission Woods, KS 66205
Additional Offices in Kansas City, MO

Office: 816.527.9445; Cell: 913.488.4882
braden@kennyhertzperry.com
https://twitter.com/bradenmperry
www.kennyhertzperry.com

Education:

J.D., UNIVERSITY OF KANSAS SCHOOL OF LAW, Lawrence, KS
- Member, Kansas Journal of Law and Public Policy

B.S., Journalism, KANSAS STATE UNIVERSITY, Manhattan, KS

Licenses and Certificates:

Missouri Bar (Admitted 2002), Kansas Bar (Admitted 2003), District of Columbia Bar (Admitted 2022), Georgia Bar (Admitted 2024)
Qualified Risk Director® (2023-Present), Certificate in Risk Governance® (2023-Present)
Certified Anti-Money Laundering Specialist (2018-Present)
DCC Digital Currency Certification (2015)
SIE, Series 7, 66, 24 (Lapsed - CRD# 5782256)

Employment History:

2011-Current Co-Founder/Partner, KENNYHERTZ PERRY, LLC, Mission Woods, KS/Kansas City, MO
- Consults with clients throughout the United States in areas of government inquiries and investigations, litigation, internal investigations, enforcement matters, regulatory issues, and corporate transactions, specializing in complex, novel, and emerging financial issues.
- Focuses include commodities, derivatives, securities, financial institutions, the Foreign Corrupt Practices Act ("FCPA"), technology, cybersecurity, and compliance.
- Certified Anti-Money Laundering Specialist ("CAMS"), assisting clients in all areas of BSA/AML policies and procedures, including advising on government inquiries involving suspicious behavior.
- Criminal Justice Act Panelist for the District of Kansas and the Western District of Missouri.
- Serves on the W.D. Mo, D. Kan., and S.D. GA Criminal Justice Act ("CJA") Panels, Georgia Association of Criminal Defense Lawyers ("GACDL") member and GACDL Lawyer Assistance Team "Strike Force" volunteer, and Missouri Coalition for the Right to Counsel Pro Bono participant.
- Serves as an expert witness and consultant in complex regulatory and criminal matters.
- Engaged by the Office of the State Bank Commissioner of Kansas to review and revise long-standing policies and procedures for modernization and thoroughness from regulatory change (Kansas Public Bid Event ID 17300-EVT0005059).
- Engaged by the Kansas 911 Coordinating Council (now State Board) to represent its legal interests by participating in and intervening in state and federal proceedings before administrative agencies through appeal or original action, including reviewing all contracts and MOUs, preparing testimony, pleadings, and other documents, researching novel legal issues and providing the Council on various regulatory matters, and points of law, and assisting with proposed legislative bills (Kansas Public Bid Event ID 17300-EVT0006565).

- Engaged by the Kansas Department of Health and Environment to represent its legal interests in federal bankruptcy proceedings (Kansas Public Bid Event ID 17300-EVT0006843).
- Selected as a Hearing Panelist for the Disciplinary and Ethics Commission of the Certified Financial Planner Board of Standards, Inc. ("CFP Board").
- Selected to the Directors and Chief Risk Officers ("DCRO") Cyber Risk Governance Council.
- Selected to the Association of Derivative Professionals ("NIBA") Advisory Group. Currently serve as co-chair of the NIBA Compliance Officers Group ("COG").
- FINRA and NFA Arbitrator and selected to the Mediation and Conciliation Network ("MCN") Panel of Expert Neutrals representing Kansas as an Accredited Dispute Resolutions Professional (Mediator, Conciliator, Ombudsman, and Arbitrator).
- Frequent speaker on financial and regulatory issues and contributor to financial and legal publications.
- First-chaired trials in Federal Courts, Missouri Circuit Courts, and Kansas Chapter 60 and 61 courts, representing both plaintiffs and defendants in various financial, commercial, criminal, and collection matters.

2024-Present Member, GLOBAL COMPLIANCE INSTITUTE ("GCI"), New York, NY
- Member of the U.S. Chapter and responsible for growing GCI presence in the United States.
- Advise and assist with the expansion efforts on a global basis.
- Provide training on different financial crime-related topics.

2010-2011 Senior Vice President, Regulatory Affairs and Compliance/CCO, MARINER HOLDINGS, LLC, Leawood, KS
- Responsible for Broker-Dealer, multiple RIA, '40 Act, and hedge funds' compliance with policies and government/industry regulations, including identifying and assessing the compliance risks of the firms, implementing effective policies and procedures, including insider trading and related party transaction policies, and reviewing their continued adequacy and effectiveness.
- Prepared and reviewed various SEC and FINRA filings, including 13Fs, Form 3s, Form 5s, Rule 407 letters, Restricted Securities, and FINRA financial reports.
- Prepared and reviewed ADVs, Exempt Fund documentation, and Mutual Fund prospectuses for all asset managers.
- Responsible for all regulatory interactions and customer complaints or inquiries.

2008-2010 Senior Trial Attorney, UNITED STATES COMMODITY FUTURES TRADING COMMISSION, Kansas City, MO
- Conducted investigations and litigation under the Commodity Exchange Act ("Act") and the rules and regulations adopted by the Commodity Futures Trading Commission ("CFTC") under the Act, including responsibility for all aspects of investigations of suspected violations, administrative proceedings, and civil actions in Federal district courts, including injunctive and subpoena actions.
- Investigative activities included taking testimony and the acquisition and analysis of documents and testimony relevant to suspected violations on both exchange and off-exchange markets.
- Litigation included preparing pleadings, including complaints and motions for statutory restraining orders, preliminary injunctions, and summary judgment and the conducting of hearings and trials.
- Served as a liaison to the Northern District of Illinois U.S. Attorney's Office and Federal Bureau of Investigation in a high-profile Forex fraud investigation.
- Named as Liaison to the Office of General Counsel and led a 4-person intra-agency task force charged with implementing new procedures for enforcement staff, focused on anticipated regulatory changes in the wake of financial reform.
- Member of an SEC, FERC, and CFTC inter-agency task force on document retention risks in government agencies and drafted guidance for multiple agencies on risks related to data preservation and FOIA issues.

2002-2008 Attorney, HUSCH BLACKWELL SANDERS, LLP, Kansas City, MO
- Member of the White-Collar Criminal Defense, Government Compliance, Investigations, and Litigation,

Commercial and Business Litigation, and Digital Discovery and Records Management practice groups.
- Represented clients in the prosecution and defense of complex business disputes in domestic and international jurisdictions, served as counsel to publicly and privately held companies undergoing both internal and external investigations, assisted clients in recognizing and avoiding the expanding risk of corporate criminal liability, and designed and implemented targeted corporate compliance programs.
- Specialized in identifying risks associated with highly regulated business and proactively limit risks through advising and counseling on government regulations and drafting policies and procedures to comply efficiently with the rules and regulations.
- Designed and implemented Sarbanes-Oxley and corporate governance policies and procedures for publicly traded companies, including policies and procedures for Foreign Corrupt Practices Act, financial reporting, executive compensation, and subsidiary monitoring compliance.
- First-chaired trials in Missouri Circuit Courts and Kansas Chapter 60 and 61 courts, representing both plaintiffs and defendants in various commercial, criminal, and collection matters.

2001-02 Lecturer, Political Science 480, EMPORIA STATE UNIVERSITY
- Lectured survey course on legal concepts, including current topics in the practice of law.
- Created original curriculum and testing materials, and responsible for all aspects of course management.

2001-02 Judicial Clerkship Clinic, THE HONORABLE JOHN W. LUNGSTRUM, United States District Court for the District of Kansas
- Participated in judiciary duties as a clerk for the United States District Court for the District of Kansas, including conducting legal research and drafting orders and opinions.
- Assisted judicial clerks with the process of federal sentencing guideline analysis, focusing primarily on narcotic sentencing.

Expert Witness Engagements:
- Trading Analysis/FCM Standard of Care and Evaluation of Claims Against Third Parties – *Securities Exchange Commission v. Wells Real Estate Investment LLC*, 24-CV-80980 (S.D. Fla.), on behalf of Andres Rivero, Esq., the Court-appointed Receiver, 2025
- Securities and Cryptocurrency Regulations/Money Transmission Analysis – *Seven Peaks Venture Fund II, LP v. Fenwick & West LLP, et al.,* Circuit Court of Multnomah County, OR (multiple cases), on behalf of Plaintiff, 2025
- Trading Analysis of Futures Contracts and Hedging Activity – *Maple Valley Oil Association Co-Op v. Killoran, et ano.*, Cass County, N.D., Case No. 09-2024-CV-01649, on behalf of the Plaintiff, 2025
- Cryptocurrency Regulations/Money Transmission Analysis – *USA v. Sewell et al.*, D. Utah, Docket No. 4:24-CR-00054, on behalf of Defendant Keen Lee Elsworth, 2024
- Evaluation of Legal Standard of Care in FINRA Arbitration Mechanics – In the Matter of: [Nonpublic AAA Arbitration, on behalf of the Claimants, 2024
- Complex Financial Analysis/Monetary Tracing – *State v. Kristy K. Carter*, 16th Circuit Court, Jackson County, MO, Dkt. No. 2216-CR04709-01, on behalf of the Missouri State Public Defender, 2024
- Regulatory/Legal Analysis and Standard of Care in the Precious Metals Industry – *Morales v. First National Bullion, LLC et al.*, JAMS Ref: 1240024660, on behalf of the Claimant, 2024
- Regulatory Analysis of Trading Activity in Off-Exchange Markets – *Mid Columbia Producers, Inc. v. Haguewood*, Merchants Exchange of Portland Oregon, on behalf of Respondent, 2023
- Cryptocurrency Characterization for Insurance Purposes – *Masterson Staffing Solutions v. Philadelphia Indemnity Insurance Company*, Fourth Judicial District, Hennepin County, MN, Court File No. 27-CV-21-9112, on behalf of the Defendant, 2022
- CFTC Legal Analysis – *Johnny Karp Investments, LLC v. Peter C. Kyriakoulis, et al.,* Superior Court of New Jersey Law Division: Special Civil Part, Bergen County, Docket No. BER-L-2373-20, regarding the standard of care for legal specialization in CFTC matter, on behalf of the Defendants, 2022

- CFTC Legal Analysis – *Daniel Miller, et al. v. Jeffery Barclay, et al.,* Court of Common Please, Summit County, Ohio, Case No. CV-2020-3643, regarding the standard of care for legal specialization in CFTC matters, on behalf of the Plaintiffs, 2021
- FCM/Broker-Dealer Standard of Care Analysis in Relation to Oil Futures – In the Matter of: [Nonpublic National Futures Association Consumer Arbitration], on behalf of the Claimant, 2021
- Commodity Trading Advisor Standard of Care and Legal Analysis – In the Matter of: [Nonpublic National Futures Association Consumer Arbitration], on behalf of the Claimant, 2021
- CFTC Legal Analysis – *U.S. Commodity Futures Trading Commission v. Cartu, etc.*, United States District Court for Western District of Texas, Case No. 1:20-cv-908-RP, on behalf of Defendant Ryan Masten, 2020
- CFTC Legal Analysis – In the Matter of: [Nonpublic National Futures Association Consumer Arbitration], 2020
- CFTC Legal Analysis – In the Matter of: [Nonpublic Investigation of Cryptocurrency Trading Firm], 2020
- CFTC Legal Analysis – OptionsSellers/Short Squeeze Event, *Tristani, Tarry, and Marshall v. OptionSellers.com and Cordier*, United States District Court for the Eastern District of Texas, Case No. 19-cv-00585, on behalf of Plaintiffs Anthony Tristani, Radford Tarry, and Mark Marshall, 2019
- CFTC Legal Analysis – Evan Dooly/MF Global Actions, *New Hampshire Insurance Company, et al., v. MF Global, Inc.*, Supreme Court of the State of New York, County of New York, Index No. 09601621, on behalf of Plaintiffs New Hampshire Insurance Company, Vigilant Insurance Company, Certain Underwriters of Lloyds of London Subscribing to Certificate No. B0576MMU280, St. Paul Fire & Marine Insurance Company, Fidelity & Deposit Company of Maryland, Continental Casualty Company, Liberty Mutual Insurance Company, Great American Insurance Company, and Axis Reinsurance Company, 2016

Expert Consultations:

- The Current Regulatory Framework of Voluntary Carbon Credits, Capstone, 2023
- Analysis of *Chenette et al. v. Porch.com et al.*, and its effect on the Telephone Consumer Protection Act, Coleman Research Group, Inc., 2022
- Analysis of Legacy Vivint Smart Home Disclosure of Subpoena in Connection with an Investigation by the U.S. Department of Justice on Potential Violations of the Financial Institutions Reform, Recovery and Enforcement Act and a Civil Investigative Demand from the Federal Trade Commission Potential Violations of the Fair Credit Reporting Act and the "Red Flags Rule," Coleman Research Group, Inc., 2020
- Analysis of Tiffany & Company/ LVMH Moët Hennessy-Louis Vuitton SE Legal Battle and MAC Clause, Coleman Research Group, Inc., 2020
- Credit Acceptance Corp (CACC) Lawsuit Outlook, Gerson Lehrman Group, 2020
- Business and Legislative Impact of the Department of Justice and SEC Investigations into Excelon and its Lobbying Arm, Gerson Lehrman Group, 2020
- Potential Impact of Consumer Financial Protection Bureau Under a Democratic President, Gerson Lehrman Group, 2019
- Impact to the Telecom Industry from the *FTC v. Qualcomm* Lawsuit, Coleman Research Group, Inc., 2019
- Mississippi Consumer Finance Cases: Credit Acceptance Corp. and Santander, Gerson Lehrman Group, 2019
- SEC's Investigation into Rounded-Up Quarterly Earnings and the Effect on Stock Prices, Coleman Research Group, Inc. 2019
- CFTC Probe of Glencore for Corruption Practices, Gerson Lehrman Group, 2019
- Regulatory Landscape Overview of U.S. Exchanges, Gerson Lehrman Group, 2018
- Impact of Symantec Internal Audit Committee Investigation into Transition and Transformation Expense Reporting, Coleman Research Group, Inc., 2018
- Foreign Corrupt Practices Act Updates and Certain Telecom Practices, Coleman Research Group, Inc., 2017
- Material Adverse Clauses and the Cybersecurity Breach Revelations in the Yahoo!/Verizon Purchase Agreement, Coleman Research Group, Inc., 2017
- U.S. Regulations on Liquidation of Broker-Dealer Relationships, Gerson Lehrman Group, 2016
- Branch-Based Consumer Lenders and Pending CFPB Rulemaking, Gerson Lehrman Group, 2016
- High-Frequency Trading (Futures Market) Overview, Gerson Lehrman Group, 2015

- "Two and Twenty" Fee Structure Review in Light of New Regulations, Gerson Lehrman Group, 2015
- Implementation of Rules and Regulations that Fall Under CFTC Authority, Gerson Lehrman Group, 2014
- Regulatory Environment for High-Speed Trading and Financial Exchanges, Gerson Lehrman Group, 2014
- CFTC Policy and Rulemaking, Gerson Lehrman Group, 2013

Published Writings:

"Opinion: An Antiquated Regulatory Regime Allowed SBF to 'F--- Up,'" Opinion: Opinion: An antiquated regulatory regime allowed SBF to 'f— up' - MarketWatch, 2022

"Ransomware During COVID and the Need for Proactive Cyber Hygiene," *NIBA*, https://www.theniba.com/ransomware-during-covid-and-the-need-for-proactive-cyber-hygiene/, 2020

"PPP Fraud in the Billions: Loans Over $2 Million Subject to Scrutiny," *Kansas City Business Journal*, https://www.bizjournals.com/kansascity/news/2020/09/28/ppp-loans-over-2-million-subject-to-scrutiny.html, 2020

"CFTC's Silence Stings in Wheat Futures Manipulation Case," *Law360*, https://www.law360.com/assetmanagement/articles/1190458/cftc-s-silence-stings-in-wheat-futures-manipulation-case, 2019

"How to Become Successful in Compliance," *ComplianceCrossing.com,* http://www.compliancecrossing.com/article/900016647/How-to-Become-Successful-in-Compliance/), 2013

"Are Contracts Made to be Broken," *LawTV.com*, http://news.thelaw.tv/2013/07/19/are-contracts-really-made-to-be-broken/, 2013

"Doing Time: White-Collar Sentencing Has Varied Since 2005 Ruling," *Kansas City Business Magazine*, Feb. 2008

Professional Speaking Engagements:

"The Future of Financial Regulation and Compliance," Wiki Finance Expo, Dubai UAE (Virtual Keynote), 2024

"How to Survive a Regulatory Audit," Pinnacle Alts Forum 2024, Tempe, AZ, 2024

"Safeguarding Small Businesses Against Legal Risks," Intrust Round Table with NEJC Chamber, Prairie Village, KS 2024

"Regulatory Risks in the Futures, Commodities, and Derivatives Industry," Center for Risk Management Education and Research, Kansas State University, Manhattan, KS, 2024

"Advanced Technology Risks: Evaluating Evolving Risks Posed by Advance Technology, Including Threat Actors and the Use of AI in Nefarious Ways, NIBA Compliance Officers Meeting, Chicago, IL, 2023

"Non-Fungible Tokens (NFTs) and the Future They Open Up for Business," Missouri Bar Annual Meeting, 2022

"Smart Contact and Regulatory Developments in Blockchain," Featured Speaker, Blockchain KC Meetup, Virtual, 2020

"Regulatory and Business Struggles of Introducing Brokers," Featured Speaker, Association for Derivative Professionals ("NIBA"), Chicago, IL, 2019

"Harnessing the Technology Landscape," ISG Digital Business Summit, Clearwater Beach, FL, 2019

"Law Talk: Bitcoin – What Lawyers Need to Know," Missouri Bar/Missouri Judicial Conference Annual Meeting, Branson, MO, 2019

"Legal Ethics: Top Challenges. Confidentiality and Data Security," National Business Institute, Overland Park, KS/Wichita, KS, 2019

"Up in Smoke, Credit Unions and Cannabis, Part 1," CU2.0 Podcast, 2019

"Virtual Currency: The Evolving Bankruptcy Issues," ABI Talks, Midwestern Bankruptcy Institute, Kansas City, MO, 2018

"Cryptocurrencies: Evolving IRS, CFTC, SEC and DOJ Legal and Regulatory Issues," Bench-Bar & Boardroom Conference, Branson, MO, 2018

"Gun Law in Kansas," National Business Institute, Overland Park, KS, 2017

"Legalized Marijuana Law," National Business Institute, Overland Park, KS, 2017

"State and Federal Firearms Laws: What Attorneys Need to Know," National Business Institute, Kansas

City, MO, 2017

"Firearms Dealers and Licensing Requirements," National Business Institute, Kansas City, MO 2017

"How to Obtain a Federal Firearms License," National Business Institute, Kansas City, MO 2017

"The Evolving Legal and Regulatory Issues with Cryptocurrency," Nebraska Attorney General's Office Staff and Liaison Agency Training, Lincoln, NE 2016

"Who Are the Potential Users of Digital Currencies, Distributed Ledgers and the Blockchain?" Conference of Western Attorneys General, Deer Valley, UT 2016

"Foreign Corrupt Practices Act ("FCPA") Investigation Cooperation: Avoiding Common Corporate Mistake," Knowledge Congress Live Webcast Series, 2016

"Digital Currencies: What are They and How Do They Impact Law Enforcement," Conference of Western Attorneys General, Deer Valley, UT 2016

"CFTC Proposed Rule for the Cross-Border Application of the Margin Requirements," Knowledge Congress Live Webcast Series, 2016

"Kraft vs. CFTC," McGraw Hill Financial Global Institute Podcast, https://www.mhfi.com/about/Global-Institute/white-papers/Kraft-vs-the-CFTC.html, 2015

"CFTC's Financial Market Reform in 2015: Boon or Bane?" Knowledge Congress Live Webcast Series, 2015

"CFTC Levels a Charge of 'Spoofing.' What Does it Mean for Trading," McGraw Hill Financial Global Institute Podcast, https://www.mhfi.com/mhfi-global-institute/institute-insight-podcasts/CFTC-Levels-a-Charge-of-Spoofing-What-Does-It-Mean-For-Trading.html

"Analyzing the Current Swaps Marketplace as Regulators Look Poised to Ensure Anonymity for Traders," Coleman Research Group, 2015

"Peer to Peer: Innovation and Regulation," Lend360, 2014

"The Rise (and Fall?) of Bitcoin: The Evolving Legal and Regulatory Issues with Cryptocurrency," Kansas Attorney General Annual CLE, 2014

"Reputational Risk and Your Bank: Creating a Compliance Plan to Conform to Scrutiny," OLA, 2014

"Reg S-ID: Identity Theft Red Flag Rules," Kansas City Compliance Group, 2013

"FINRA Rules for Communications with the Public," Kansas City Compliance Group, 2013

"The Foreign Corrupt Practices Act: Prevention, Defense, and its Impact on Business," KCMBA CLE, 2012

"MF Global: Legal Consequences of its Collapse," KCMBA Securities Committee Seminar, 2012

"Electronic Discovery, an Attorney's Point of View," KPA & WPA Seminar, 2007

Recognitions:

- Super Lawyers, White-Collar Defense, 2024, 2023, 2022, 2021
- Best Lawyers in America, Best Lawyers, 2024, 2023, 2022
- Law Firm Leader, Missouri Lawyers Media, 2024
- The Power 30: White-Collar Defense, Missouri Lawyers Media, 2022, 2021, 2020
- Inaugural Member, Kansas City Business Journal Leadership Trust, 2019

For-Profit Board Service

- 2023 – Present, Xogos Gaming, Inc.
- 2017 – Present, Northeast Johnson County Chamber of Commerce Board Member Emeritus and General Counsel
- 2013 – 2024, 2017 Recording Secretary, Board Member, Kansas City Securities Association
- 2013 – 2017, 2016 Chair, Board Member, Family Advisory Board, Children's Mercy Hospital

Civic Board Service and Memberships:

- 2019 – Leadership NEJC
- 2018 – Present, Prairie Village Civil Service Commission
- 2018 – Present, Appointed by Jeff Colyer, Governor of Kansas, as a member of the Kansas State Board of Indigents' Defense Services ("BIDS"), pursuant to K.S.A. 22-4519 and former Chair

- 2018 – 2020, Belinder Elementary PTA Legislative Liaison
- 2017 – Present, Northeast Johnson County Chamber of Commerce Board Member Emeritus and General Counsel
- 2016 – Leadership Kansas
- 2015 – 2023, Member and Chair (2018-2022) of the City Council, City of Mission Hills, KS
- 2014 – Discover Children's Mercy (Spring Session)
- 2014 – Citizen's Police Academy, City of Prairie Village, KS
- 2011 – 2017, Director, Tomahawk Road Homes Association
- 2009 – 2015, Member and Chair (2014-2015) of the City of Mission Hills, KS, Board of Zoning Appeals
- 2007 – 2015, Member and Chair (2013-2015) of the City of Mission Hills, KS, Crime Prevention and Safety Committee

Charitable Board Service:

- 2019 – Present, Board Member, American Royal Pro Rodeo Committee
- 2018 – Present, 2018-2019 Co-Chair of Cook for Courage, Child Protection Center
- 2016 – 2017, Board Member, Victory Project
- 2011 – 2017, Board Member, 2015 Co-Chair of the Hands & Hearts for Children Auxiliary, Children's Mercy Hospital