

# White Collar, Investigations and Compliance

## Overview

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When either a company or an individual is the subject of a white-collar criminal action, the need for savvy legal representation cannot be overstated. Katten's White Collar, Investigations and Compliance group has a strong track record defending clients facing allegations in federal, state and regulatory settings. Most of our attorneys come from government backgrounds — as prosecutors and regulators — which gives them both the connections and the credibility to effectively guide clients through every phase of a criminal case, from grand jury up to and including trial, sentencing and appeal.

### White collar defense

The defense of corporations in criminal matters is significantly different from the defense of individuals, and our group is equally adept at both. When representing corporate entities, we work closely with in-house counsel to develop defense strategies that minimize the impact of litigation — legal, financial and reputational — on the company's business realities. When defending individuals, we combine deep knowledge of the law and all relevant government entities with a keen sensitivity to the unique stresses of people facing criminal charges.

### Internal investigations

We are frequently engaged to conduct independent investigations at the behest of corporate boards or special committees. These investigations may be prompted by shareholders alleging board improprieties, by media reports of wrongdoing, by whistleblower allegations, or by grand jury or administrative subpoena. In all cases, our findings are thorough, highly credible and readily accepted as evidence of compliance or cooperation.

### Compliance programs

In the aftermath of a criminal action — or in the interest of preventing such an action in the future — we are often called on to develop compliance programs for corporate clients. We help them design and implement the policies and protocols that minimize the risk of criminal liability and resulting civil exposure.

Our roster of former prosecutors, government leaders and counsel includes:

- 15 former federal or state prosecutors
- 13 former assistant US attorneys
- Two former associate deputy attorneys general

- Former Department of Justice environmental crimes section chief
- Six former counsel at the Securities and Exchange Commission
- Three former counsel at the Commodity Futures Trading Commission
- Former counsel at the Consumer Financial Protection Bureau, Department of Housing and Urban Development, Federal Deposit Insurance Corporation and Financial Industry Regulatory Authority.

## Our Experience

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### *Financial services*

- Regularly represent high-profile clients in large, complex insider trading investigations involving an array of issues from stock price manipulation to violating confidentiality agreements, often in the US District Courts for the District of New Jersey and the Southern District of New York.
- Represented target and affiliated companies in a grand jury investigation into the payday lending industry – one of the first in the nation under the DOJ's Operation Choke Point into payday loans. The appeal produced a precedential opinion, protecting attorney-client communications from crime-fraud allegations.
- Represent hedge funds in federal, criminal and regulatory investigations. We are known for effective defense strategies and the decisive implementation of compliance practice and procedures.
- Represent senior broker in investigation by the CFTC and DOJ as part of a global probe into bank traders and brokers. Concerns potential manipulation of a key interest-rate benchmark used in areas such as setting payout rates on pension funds, determining the cost of real estate loans, and valuing swap contracts settled between banks and institutional and wealthy investors.
- Represented subprime auto loan company facing the first-ever lawsuit brought by a state regulator using powers granted by Section 1042 of the Dodd-Frank Act. Our defense entailed responding to a temporary restraining order and then preliminary injunction, examining witnesses and helping the client navigate the effects of a receivership, negotiations with affected banks, and settlement negotiations with DFS.

### *Health care*

- Represent several pharmaceutical company officers in a large, multijurisdictional DOJ investigation involving FDA issues and anti-kickback statutes related to nationwide sales practices of opioid pain-killer products.
- Represented president of a pharmaceutical company in a seven-week federal criminal jury trial in the US District Court for the Eastern District of New York. The case concerned the alleged importation of pharmaceuticals that were not approved by the FDA. We obtained acquittals on the most serious counts in the indictment.
- Represent former member of the board of directors of a pharmaceutical corporation in an FCPA and accounting investigation by the SEC and the DOJ of the company. Issues involve FCPA concerning drug approval and price reimbursement in China, as well as various restatements of the company's financials unrelated to any alleged FCPA violations.

- Defended publicly traded health insurance company against criminal, civil and administrative claims after employees and executives accessed the Medicare Beneficiary Database without authorization. We responded to grand jury subpoenas and met repeatedly with senior prosecutors, then successfully convinced the DOJ to drop all potential criminal charges against the client and all current or former employees or directors. We further convinced the DOJ to drop its demand for a plea agreement or a deferred prosecution agreement. After a five-year negotiation process, the matter was resolved with a civil settlement of \$3 million.
- Represented physician indicted on 144 counts of prescribing opioids outside the bounds of his medical practice. In March 2016, following a five-year battle, the court granted our motion to dismiss the case in its entirety.
- Represented regional GI authority dedicated to digestive health regarding a False Claims Act complaint. We secured the government's declination to prosecute and dismissal.

### ***Environmental***

- Represent American multinational energy corporation on a wide range of significant environmental matters. We advise on criminal and civil enforcement, regulatory compliance, permitting and regulatory advocacy/litigation with the EPA. Issues include regulation of methane from upstream oil and gas operations, Clean Air Act compliance in California, RAGAGEP and unmonitored flaring.
- Represent executive of an energy company in a DOJ criminal matter relating to the Upper Big Branch coal mine disaster in West Virginia which involved multiple fatalities.
- Represent Fortune 50 energy company in a federal criminal and grand jury investigation, an EPA investigation, a state and county criminal case, administrative proceedings before the state OSHA, and inquiries by a number of other government entities into Clean Air Act compliance (and related state regulations) relating to a fire at one of the client's facilities in California.
- Represent midstream energy company in federal grand jury investigation of alleged willful violation regarding an explosion and fire resulting in a fatality involving materials generated from a natural gas processing facility in the Bakken Shale.

## **Key Contacts**

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## Recognized By

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- *U.S. News Best Lawyers – "Best Law Firms"*
  - Criminal Defense: White-Collar
    - National, 2016–2019
    - Chicago, 2013–2019
    - Los Angeles, 2016–2018
    - Washington, DC, 2013–2018
- The Legal 500 United States
  - Corporate Investigations and White-Collar Criminal Defense, 2016–2019
- *Chambers USA*
  - Litigation: White-Collar Crime and Government Investigations
    - Illinois, 2007–2019