

White Collar Defense and Investigations

Chair

Abraham J. Rein
215-587-1057
arein@postschell.com

Managing internal and government investigations, responding to subpoenas and search warrants, interfacing and negotiating with the government, and trying complex cases require substance, experience, and presence.

Overview

With decades of combined white collar defense and prosecution experience, Post & Schell's White Collar Defense and Investigations Group focuses on criminal and civil fraud and corruption investigations. We provide corporate clients and individuals, domestic and foreign, with:

- Effective internal investigations
- Seasoned risk assessment
- Insights into high-level law enforcement decision-making
- Informed defense strategies
- Sure-handed representation in and out of the courtroom and the boardroom

Our attorneys have extensive experience interacting and negotiating with federal and state enforcement and regulatory agencies, including the U.S. Department of Justice, Federal Bureau of Investigation (FBI), the Offices of Inspector General (OIG) for the Departments of Health & Human Services (HHS), Defense (DoD), Centers for Medicare & Medicaid Services (CMS), Securities and Exchange Commission (SEC), Drug Enforcement Agency (DEA), Internal Revenue Service (IRS), Environmental Protection Agency (EPA), Immigration and Customs Enforcement (ICE), state Attorneys General's offices, and the Transportation (DOT), Labor (DOL), and the Food and Drug Administration (FDA).

Our attorneys regularly:

- Defend enterprises, corporations, and persons who are subjects, targets, or witnesses in government investigations, with particular strength in False Claims Act and *qui tam* investigations, and related civil or administrative litigation
- Defend and advise individuals subject to criminal investigation and prosecution
- Conduct internal investigations to assess compliance issues and determine whether questionable conduct has occurred, and provide a comprehensive factual, legal, and risk analysis
- Track and respond rapidly to all stages of an investigation, ranging from subpoena compliance and grand jury practice to the execution of search warrants or the unsealing of criminal indictments and civil fraud complaints
- Manage data breaches or threatened data breaches, mitigating the effects of the breach and coordinating an effective response
 - This includes guiding clients in complying with and responding to the demands of the regulatory and enforcement community, while balancing these requirements with business and operational demands, and providing counsel for clients' specific legal and business needs with minimal disruption to business operations
- Avoid or mitigate enforcement action by working with clients to develop and implement compliance measures that conform to agency guidance and the federal Organizational Sentencing Guidelines and meet clients' operational needs
- Evaluate the need for and, where appropriate, negotiate voluntary disclosures to relevant government agencies

- Negotiate corporate integrity agreements and monitor ongoing corporate compliance
- Defend collateral civil proceedings such as suspensions, debarments, exclusions, or civil lawsuits in which fraud is alleged
- Defend enterprises, corporations, officers, and directors at criminal or civil trial and/or on appeal
- Counsel and defend on matters including alleged health care, securities, tax, insurance, mail, wire, and financial institution fraud, as well as matters concerning regulatory compliance, the Foreign Corrupt Practices Act (FCPA), anti-money laundering (AML), and Bank Secrecy Act (BSA) compliance, government contracting and reimbursement, immigration, internal theft, public corruption, data security, identity theft, and labor racketeering

Our clients include enterprises, corporations, and individuals in a broad spectrum of industries, including:

- Health Care
- Life sciences (pharmaceutical and medical device)
- Publicly-traded companies
- Multinational corporations
- Government contractors
- Energy and utilities
- Private equity and venture capital
- Hospitality
- Environmental contractors
- Retail
- Construction and contracting
- Financial services and banking

Representative Cases

- Multi-national medical device manufacturer under federal investigation for kickback and price reporting violations. **Result:** Government declination.
- Multi-national pharmaceutical manufacturer under criminal and civil investigation for kickback and off-label marketing violations. **Result:** Global settlement in amount several multiples below that of comparable "pharma" cases.
- Multi-national electronics corporation targeted in a federal tax fraud investigation. **Result:** Global criminal and civil settlement with stipulated lower financial penalty. No prosecution of any individuals.
- Two major hospital systems under investigation for "one-day stay" billing violations. **Result:** For one, a rare settlement under the standard "double damages" amount with no corporate integrity agreement (CIA); for other, declination.
- Multi-national advertising corporation embroiled in a federal corruption/fraud investigation. **Result:** Criminal declination. No civil exposure.
- Large durable medical equipment corporation subject to undercover recordings and told that its CEO is targeted on health care fraud charges. **Result:** Criminal declination. Low False Claims Act civil settlement.
- Major hospital system under investigation for organ transplant-related billing violations. **Result:** Government declination.
- False Claims Act suit brought against national hospital system alleging payments received under a contract with one of the system's Pennsylvania hospitals were meant to prompt patient referrals, i.e. kickbacks. **Result:** Motion to dismiss case granted by Eastern District of Pennsylvania, finding theory of kickbacks, "implausible." Dismissal upheld by Third Circuit Court of Appeals.
- Large multi-national food company investigated by a grand jury for environmental false statements pursuant to EPA inspection. **Result:** Criminal declination.
- National construction firm investigated for alleged fraud in highway construction project and possible debarment. **Result:** No criminal prosecution. Debarment action withdrawn.
- Large construction company sued under False Claims Act. **Result:** Motion to dismiss company granted.

- National health system sued for fraud by physicians as regards a multi-million dollar joint venture ambulatory surgery center. **Result:** Summary judgment granted by trial court; affirmed on appeal.
- Engineering firm involved in construction project sued under False Claims Act. **Result:** Nominal settlement.
- Health care system's contract practices under scrutiny. Internal investigation results in self-disclosure to the fiscal intermediary. **Result:** No federal criminal or civil prosecution.
- Multi-national pharmaceutical corporation suspects employee misconduct. **Result:** Internal investigation uncovers sales person self-dealing. Internal corrective action.
- High-ranking executives of a multi-national oil company and a multi-national engineering company embroiled in Foreign Corrupt Practices Act (FCPA) investigations. **Result:** No criminal or civil sanctions.
- Owner/executive of major construction company charged with tax and immigration-related crimes. **Result:** Probation.
- High-ranking executive for a collapsed insurance company targeted for insurance fraud due to regulatory filings. **Result:** Criminal declination.
- Political figure federally charged in 47-page racketeering (RICO)/fraud indictment. **Result:** Plea agreement to a misdemeanor tax charge, \$250 fine and probation.
- Young adult charged in felony computer hacking conspiracy with worldwide publicity. **Result:** Plea agreement to misdemeanor computer charge. Probation.
- Physician targeted in federal criminal investigation for billing practices. **Result:** Criminal declination. Low civil settlement.
- Physician group under federal investigation for alleged tax and insurance fraud crimes. **Result:** Government declination.
- Investment firm under investigation by Securities and Exchange Commission (SEC) for alleged insider trading in securities. **Result:** Government declination.
- Investment firm under investigation by the SEC for inter-fund loans involving alleged conflicts of interest, and related constitutional litigation regarding the ability of the SEC to pursue administrative enforcement actions. **Result:** Settlement involving a suspension but no industry bar.
- Internal investigation and self-disclosure of hospice billing issue. **Result:** No payment due.
- Engineer under criminal investigation for allegedly false billings to federal government in connection with space technology research grant, which led to a related debarment action against the client. **Result:** Government declination, and termination of debarment action with no penalty.
- Hospital named as defendant in federal *qui tam* whistleblower complaint brought by a current employee, alleging false Medicare billing and physician kickbacks. **Result:** Government declination.
- Individual with exposures related to undisclosed Swiss bank account. **Result:** Acceptance into streamlined IRS disclosure program, with penalties greatly reduced from initial IRS demand.
- Major U.S. credit card company defending two lawsuits for alleged Truth in Lending Act violations. **Result:** Defense judgment in both matters.
- In-house counsel for major financial institution embroiled in Bank Secrecy Act investigation. **Result:** No criminal or civil sanctions.
- Individual target of investigation into alleged criminal violation of the International Emergency Economic Powers Act (IEPPA). **Result:** Government declination.