

Investigations & White Collar Defense

Gray Plant Mooty's Investigations and White Collar Defense team represents businesses, executives, and others facing investigation or charges of federal and state law violations. Our team includes experts with impressive backgrounds, including: former prosecutors at the federal, state, and local levels—including former Assistant U.S. Attorneys, District Attorneys, former head of a state agency, and former Assistant State Attorneys General.

This seasoned team has decades of vast experience on both the prosecution and defense side of these matters. We provide a focused approach to identify our clients' needs, align with their interests, and provide proactive advice to deliver insightful results. Because we believe that "an ounce of prevention is worth a pound of cure," we help clients develop robust compliance programs and procedures for responding to government investigations and enforcement actions, should the occasion arise.

We represent clients in the following areas:

- Antitrust and Competition
- Campaign Finance/Congressional and Administrative Investigations
- Consumer Fraud
- Corporate Compliance/Internal Controls
- Customs and Export Controls/Office of Foreign Asset Control
- Director, Officer, and Entity Defense
- Environmental Violations
- False Claims Act (FCA), including *Qui Tam* Litigation
- Financial Fraud/Financial Institution Fraud
- Foreign Corrupt Practices Act (FCPA)
- Government Contracting and Procurement Fraud/Government Contract Disputes
- Health Care Fraud and Abuse
- Insurance Coverage
- Internal Corporate Investigations
- Securities Fraud

Clients benefit from our deep industry experience in the full spectrum of proceedings, including: Congressional, Regulatory, Grand Jury, and Internal Investigations; Trials & Arbitrations; False Claims Act and *Qui Tam*/Whistleblower Litigation; and Corporate Compliance.

Congressional, Regulatory, Grand Jury & Internal Investigations

Clients need the right team on their side and rely on Gray Plant Mooty for experience-based preparation and advocacy in critical situations, such as testifying before Congress, state legislative and regulatory bodies, and grand juries. We are confident in taking on the toughest cases and have a solid track record of delivering successful results. When complaints of potential or actual wrongdoing or inquiries from federal or state law enforcement agencies occur, we conduct thorough internal investigations on behalf of our clients. Additionally, we assist with responses to requests, letters, and subpoenas seeking information from companies or individuals, and provide sound advice and counsel when search warrants are executed. During stressful times, we help our clients every step of the way.

Trials & Arbitrations

With a sterling reputation for trying and winning cases, our team is recognized by *Best Lawyers*, the American College of Trial Lawyers, the Litigation Counsel of America, *Super Lawyers*, Chambers USA, and numerous bar associations for achieving significant results in white collar, regulatory, and administrative litigation and enforcement actions. When an amicable resolution cannot be reached, we collaborate efficiently and effectively with clients and aggressively advocate on their behalf to minimize business and personal interruption.

Our team also represents individuals who are the subject of civil or criminal investigations. We take an aggressive approach to convince the government to refrain from bringing a civil action or criminal indictment. Although, in those instances where the government insists on taking action, we work diligently to reach an appropriate resolution when our client wishes us to do so and aggressively litigate the case before a judge, jury, arbitrator, or regulatory agency when appropriate. We not only take pride in our long history of success, but also in the fact that our clients are highly satisfied.

False Claims Act & *Qui Tam* / Whistleblower Litigation

For corporations that do business with the government, the False Claims Act can often feel like the omnipresent elephant in the room. We are well-versed in False Claims Act litigation and have defended corporations and executives in False Claims Act cases brought by federal and state government prosecutors, as well as by private whistleblowers in *Qui Tam* actions.

Corporate Compliance

We help clients navigate government investigations, litigation, and enforcement actions. With a proactive mindset, we detect problems at an early stage and deter wrongful conduct before it happens. Accordingly, we are frequently called upon to develop robust compliance programs for clients that operate in heavily regulated industries. Recognizing that one size does not fit all, we work collaboratively with our clients to develop policies and procedures that address their specific needs, and we provide regular training for clients and their employees in an effort to foster a culture of compliance throughout an organization.

Agency Experience

We have broad experience representing and defending clients before local, state, and federal agencies, including, but not limited to:

- State Departments of Commerce
- State Departments of Employment and Economic Development (DEED)
- State Departments of Health and Human Services
- State Departments of Labor
- State Departments of Revenue
- Equal Employment Opportunity Commission (EEOC)
- Immigration & Custom Enforcement (ICE)
- National Association of Securities Dealers (NASD)
- Office of Federal Contractor's Compliance Programs (OFCCP)
- Office of Higher Education
- Office of the Secretary of State
- State Pollution Control Agencies
- State Medical Licensing Boards
- States' Attorney General Offices
- Federal Bureau of Investigation (FBI)

- Federal Trade Commission (FTC)
- United States Army Corps of Engineers (USACE)
- United States Attorneys' Offices (USAO)
- United States Department of Commerce (DOC)
- United States Department of Defense (DOD)
- United States Department of Justice (DOJ)
- United States Department of Labor/DOL/Employee Benefits Security Administration
- United States Environmental Protection Agency (EPA)
- United States Small Business Administration (SBA)
- United States Food and Drug Administration (FDA)
- United States Securities and Exchange Commission (SEC)

Experience

Clients benefit from our deep industry experience in the full spectrum of proceedings, including: Congressional, Regulatory, Grand Jury, and Internal Investigations; Trials & Arbitrations; False Claims Act and *Qui Tam*/Whistleblower Litigation; and Corporate Compliance.

Antitrust and Competition

Campaign Finance / Congressional and Administrative Investigations

- Represented a company and individuals in grand jury investigation concerning President Clinton's pardon of Marc Rich
- Represented an individual in the DOJ's investigation into alleged violations of the Foreign Corrupt Practices Act
- Represented an individual in the Senate Ethics Committee investigation of Senator John Ensign (R. Nev.)
- Represented an institute of higher education in a lengthy and high profile investigation by a U.S. Senate Committee
- Represented individuals and organizations accused of campaign finance and election law violations

Consumer Fraud

- Represented a manufacturer of infant apparel in an investigation matter before the U.S. Consumer Product Safety Commission
- Represented an IT company and software developer in defense of claims asserted under the Minnesota False Advertising and Deceptive Trade Practices Act
- Represented a global money transfer business in defense of consumer fraud claims asserted in numerous jurisdictions within the United States and Canada

Corporate Compliance / Internal Controls

Customs and Export Controls / Office of Foreign Asset Control

- Represented a company in an investigation regarding alleged violations of federal import/export regulations
- Represented a metal casting and manufacturing company in various dealings with the Department of Defense and the Department of State, Directorate of Defense Trade Controls

- Represented manufacturers and distributors of various products including goods used in connection with the manufacturing of defense trade articles to ensure compliance with federal laws that apply to the import and export of various goods

Director, Officer, and Entity Defense

- Defended officers and directors of a dissolving corporation with an underfunded pension plan against claims by the Department of Labor that payments made to the corporation's secured creditors violated ERISA
- Represented directors and ESOP committee members in a Department of Labor investigation of a merger transaction involving two ESOP-owned businesses

Environmental Violations

- Conducted an internal investigation for a construction company allegedly involved in repeated environmental violations
- Represented a Canadian biotech firm with respect to an internal investigation and compliance with Health Canada and Environment Canada regulations relating to the manufacture, sale, and distribution of various bacteria products, many of which have criminal penalties
- Represented a chemical manufacturer with respect to potential criminal liability arising out of compliance with the U.S. EPA's Risk Management Plan (RMP) regulations under the Clean Air Act
- Represented an environmental consulting firm in responding to subpoena in multimedia criminal investigation

False Claims Act (FCA), including *Qui Tam* Litigation

- Represented a federal government contractor in parallel criminal, civil, and administrative investigations into alleged Federal False Claims Act and certifications violations
- Represented a food/beverage company regarding a Food and Drug Administration (FDA) warning letter regarding claims that the client's marketing efforts were in violation of FDA false claim laws
- Represented a national health care provider in a civil *qui tam* (or whistleblower) action brought in federal court in the State of Washington in which the Relator alleged violations of the Stark and Anti-kickback laws, and upcoding

Financial Fraud / Financial Institution Fraud

- Advised a large employer in connection with the discovery that its CFO had been embezzling from the company and obtained summary judgment in civil suit requiring the CFO to repay embezzled funds and forfeit his compensation
- Represented a broadcasting company in the internal investigation and prosecution related to a multimillion dollar fraud and embezzlement scheme
- Represented a company which was the subject of bad cash management investments which were criminal; met several times with the FBI to investigate the transactions and conducted our own internal investigation of the employee
- Represented an insurance and benefits administration company in investigating embezzlement by its former CFO and helped obtain multimillion dollar judgments for forfeiture and fraud
- Represented an investment executive charged with embezzlement by state authorities
- Represented companies and individuals in Maryland, Virginia, and Minnesota in connection with allegations of government contract fraud
- Represented the former high-level executive of a large soft drink manufacturing and distribution company in the DOJ's and SEC's parallel investigations of the company for alleged false earnings claims
- Represented the former president of Taylor Bean Whitaker in a criminal mortgage fraud case brought in federal court in Virginia

- Represented the bankruptcy trustee and, working with forensic accountants, developed a database which was ultimately used by the FBI to investigate the Ponzi scheme of the debtors
- Represented a transportation company in connection with a fraud and embezzlement scheme conducted by a former employee and obtained summary judgment ruling ordering restitution and the forfeiture of compensation paid by the employer
- Represented various banks and have assisted them in filing criminal referrals in matters involving false financial statements and Bank Secrecy Act matters
- Served as a bankruptcy trustee in connection with a debtor who was engaged in a large check-kiting and Ponzi scheme case; investigated the debtor's business and worked closely with the FBI and U.S. Attorney who ultimately prosecuted the debtor

Foreign Corrupt Practices Act (FCPA)

- Represented an individual in the DOJ's investigation into alleged violations of the Foreign Corrupt Practices Act
- Represented an individual in the government's investigation of a multinational telecommunications company for alleged violations of the Foreign Corrupt Practices Act
- Conducted an internal investigation on behalf of a health care company into allegations of Foreign Corrupt Practices Act violations occurring in Southeast Asia

Government Contracting and Procurement Fraud / Government Contract Disputes

- Represented a federal government contractor in parallel criminal, civil, and administrative investigations into alleged Federal False Claims Act and certifications violations
- Represented a government contractor with over 1,400 employees in conjunction with an audit by the Office of OFCCP and achieved a favorable outcome for the client
- Represented defense industry companies and individuals in Maryland, Virginia, and Minnesota in connection with allegations of government contract fraud
- Represented numerous employers in connection with affirmative action compliance audits

Health Care Fraud and Abuse

- Represented a health care insurer in a Congressional investigation regarding Medicaid managed care rate setting activities
- Represented a health care provider in a whistleblower case alleging improper billing under the Medicare program
- Represented health care providers in alleged rate setting violations for state programs
- Represented health care providers in inquires related to compliance with federal and state antitrust laws
- Represented health care providers in investigations into orders regarding alleged tainted pharmaceuticals purchased from New England Compound Center (NECC)
- Represented laboratory providers in regulatory investigations with respect to alleged violations of Clinical Laboratories Improvement Act (CLIA) proficiency testing rules
- Represented a national health care provider in a civil *qui tam* (or whistleblower) action brought in federal court in the State of Washington in which the Relator alleged violations of the Stark and Anti-kickback laws, and upcoding

Foreign Corrupt Practices Act (FCPA)

- Regularly assist corporate clients and executives in procuring and evaluating liability insurance coverage for claims arising from corporate decision-making and actions; when claims arise, we assist the clients in providing notice to the insurers and arranging for defense of the claims and seek indemnification for settlements or judgments arising from the claims

- Represented individual corporate officers in seeking defense costs under liability policies arising from alleged violations of Section 10(b) of the Securities Exchange Act and Investment Advisors Act
- Representing a corporate client and individual officers and directors in obtaining a defense from insurers for a governmental investigation arising from alleged Online Representations and Certifications Application violations

Internal Corporate Investigations

- Advised a large employer in connection with the discovery that its CFO had been embezzling from the company and obtained summary judgment in civil suit requiring the CFO to repay embezzled funds and forfeit his compensation
- Conducted an internal investigation for a construction company allegedly involved in repeated environmental violations
- Conducted investigations for numerous employers into alleged employee misconduct or legal violations, including alleged harassment, discrimination, retaliation, and complaints received on the client's whistleblower hotline
- Investigated allegations relating to the alleged adulteration of meat products by a meat packer's employee
- Represented a broadcasting company in the internal investigation and prosecution related to a multi-million dollar fraud and embezzlement scheme
- Represented a Canadian biotech firm with respect to an internal investigation and compliance with Health Canada and Environment Canada regulations relating to the manufacture, sale, and distribution of various bacteria products, many of which have criminal penalties
- Represented a company that was the subject of bad cash management investments which were criminal; met several times with the FBI to investigate the transactions and conducted our own internal investigation of the employee
- Represented a manufacturer of infant apparel in an investigation matter before the U.S. Consumer Product Safety Commission
- Represented a state broadcasting company in prosecution and an internal investigation related to a multimillion dollar fraud and embezzlement scheme
- Represented a Washington, D.C., corporation in an internal investigation of potential conflicts of interest
- Represented a transportation company in connection with a fraud and embezzlement scheme conducted by former employee and obtained summary judgment ruling ordering restitution and the forfeiture of compensation paid by the employer

Securities Fraud

- Represented the former high-level executive of a large soft drink manufacturing and distribution company in the DOJ's and SEC's parallel investigations of the company for alleged false earnings claims
- Represented individual corporate officers in seeking defense costs arising from alleged violations of Section 10(b) of the Securities Exchange Act and Investment Advisors Act
- Represented individuals accused of violations of securities regulations
- Represented individuals and venture capital funds accused of violating federal securities laws