

Immigration Investigations and Enforcement

Immigration has again become a major law enforcement priority in the United States. Senior administration officials have vowed to strictly enforce immigration laws, and the administration has committed to hiring thousands of new officers and agents to aid in the investigation and prosecution of violations. With this renewed focus on immigration, employers should prepare for a heightened emphasis on worksite compliance. Government agencies like Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), the Department of Justice (DOJ), the Department of State (DOS), the Department of Labor (DOL), and the Social Security Administration (SSA) have many tools at their disposal to scrutinize a company's payroll and its policies and practices with respect to the lawful recruitment, hire, retention, and/or termination of workers.

The consequences of violating the immigration laws can be grave. Corporate entities or individuals who knowingly hire individuals unauthorized to work in the United States may face criminal misdemeanor or felony charges resulting in fines, imprisonment, and/or the seizure and forfeiture of their assets and property. Government contractors who commit immigration offenses may be debarred from participation in federal and state programs. And even in less serious cases, civil and administrative liability – including liability under the False Claims Act, with its specter of treble damages – are possible for a wide variety of infractions, from visa-related abuses to technical insufficiencies in the creation and storage of electronic Forms I-9. Companies may find themselves ensnared in these investigations not only through their own personnel and practices, but also through the conduct of third parties such as distributors, franchisees, contractors, and other business partners.

King & Spalding's Special Matters & Government Investigations Practice Group has the expertise necessary to support clients in preparing for and responding to immigration-related litigation and government investigations.



Corporate Crime & Investigations



Named a 2018 Law Firm of the Year

SEASONED ATTORNEYS WITH GOVERNMENT EXPERIENCE

Our Special Matters team is flush with numerous former federal prosecutors and enforcement officials, including a former U.S. Deputy Attorney General; Assistant Attorneys General from DOJ's Criminal, Civil and Antitrust Divisions; a Chief of Staff to the Attorney General; six U.S. Attorneys; an Assistant Chief of the FCPA Unit in the Fraud Section; an SEC Director of Enforcement, General Counsel, Regional Director of the Northeast Regional office, an Associate Director of Enforcement, and two Assistant Directors of Enforcement; 23 Assistant U.S. Attorneys; and supervisors from multiple U.S. Attorneys' Offices, including both the Southern and Eastern Districts of New York; a Senior Vice President and Deputy Enforcement Chief at FINRA; a Chief Counsel in the Regulatory Action Division at the Bank of England; and the Executive Director of the UK's Financial Reporting Council.

Our team has handled investigations before 73 of the 93 U.S. Attorney's Offices in the United States and every litigating division of the Justice Department. We have also appeared before Congress and myriad enforcement and regulatory entities at the federal and state levels. We regularly prevail prior to litigation and without unwanted publicity: several of our immigration-related representations, like many of our other matters, were resolved through a declination of the criminal case and a closure of the government's file without payment of a monetary settlement or imposition of other penalties on the company. When necessary and strategically sensible, however, we also fight in court at the administrative, trial, and appellate levels. In those situations, we draw on our crisis management expertise, and we fight to win.

IMMIGRATION EXPERTISE

Along with the breadth of our team's government enforcement and regulatory experience across a wide range of industries and subject matters, the team is uniquely experienced and well-equipped to represent companies in the current environment of aggressive immigration enforcement. Our corporate immigration representations have involved complex internal investigations and appearances before U.S. Attorneys' Offices in multiple regions across the country, as well as extensive interactions and responses to audits and other inquiries from ICE (and legacy INS), DOL, HHS OIG, and state enforcement authorities.

This defense-side experience is complemented by the expertise and credibility developed by Special Matters lawyers who participated in major immigration enforcement efforts during their terms of service with the federal government. For instance, one of our partners, a former U.S. Attorney, was presented by the Attorney General with the prestigious Director's Award for Superior Performance for his successful prosecution of a large-scale alien smuggling operation. Another of our partners oversaw the Domestic Security Section of DOJ's Criminal Division during his tenure as Assistant Attorney General; that Section (now part of the Human Rights and Special Prosecutions Section) focused on prosecutions of complex immigration frauds, smuggling organizations, and similar abuses. Multiple other Special Matters partners and counsel handled a variety of immigration and worksite enforcement investigations as former Assistant U.S. Attorneys, including matters involving illegal reentry by aggravated felons and other undocumented individuals, forgery of government identity documents and visa fraud.



Two-time White Collar Practice Group of the Year

*“Major player in the market,”
“experienced roster of former government lawyers,”
“excellent credibility before the agencies across a broad swathe of white-collar matters,” and “ideally placed to take on high-stakes criminal cases and parallel civil litigation.”*

– LEGAL 500

REPRESENTATIVE MATTERS

- A Fortune 500 company in a major criminal, civil, and administrative investigation conducted by DOJ, DHS, DOL, HHS OIG, and a state Attorney General's Office, involving simultaneous execution of search warrants by 50+ federal agents in multiple districts and alleging the hire of large numbers of unauthorized workers, healthcare fraud offenses associated with those workers, and noncompliance with regulations regarding electronic Forms I-9.
- A national fast-food chain in a criminal investigation by a U.S. Attorney's Office into the alleged hire of unauthorized workers by owner-operators of franchise stores.
- A major foreign manufacturer in a multistate investigation by ICE into alleged immigration and customs enforcement issues at product distribution centers located across the southeastern United States.
- A frozen food company in a criminal and civil investigation following a raid on a company facility and the detention of employees by immigration agents.
- A large staffing agency in a criminal immigration investigation following an ICE inspection that led to the detention of employees.
- The construction business of a private real estate development company in connection with an ICE inspection and subsequent criminal investigation by a U.S. Attorney's Office into offenses involving the knowing hire of undocumented workers, falsification of Forms I-9, and other worksite enforcement violations.
- A construction company in a criminal investigation stemming from a surprise facility inspection by ICE, involving allegations of employment of unauthorized workers in multiple states, the provision of forged documentation, and the possibility of individual liability of a company manager.

A PROACTIVE AND CLIENT-DRIVEN APPROACH

We recognize that most clients would prefer to prevent problems before they occur. We welcome the opportunity to work with clients in developing proactive compliance measures. Our experience includes advising clients about enrollment and participation in USCIS's employment eligibility verification systems and programs, including the Basic Pilot Program, E-Verify, and the IMAGE Program. We have also advised and assisted clients with implementing other labor and employment-related compliance enhancements, including self-administrated workforce audits, training programs targeting identity theft and fraud, and strategic changes to policies and procedures governing the hire and rehire of workers.

We understand that each client is unique, and we use our experience and knowledge of the law to tailor our advice to each client's needs. Whether you are facing a current investigation into employment practices or simply looking to prepare for one, our team has the knowledge and experience to assist your business in navigating the changing landscape of immigration enforcement.



*"Very strategic,"
"tremendously professional
in every respect,"
"seamless," and "terrific—
very collaborative and
politically savvy."*
— CHAMBERS USA.