

## Regulatory and Administrative

A tension exists between the desire of business to make unencumbered, market-driven decisions and the desire of government to protect individuals and the economy from the dangers of an unregulated free market. As a consequence, the interface between business and government can be complex and contentious. Sills Cummis & Gross helps clients navigate that interface. The Firm understands the needs of business and the concerns of government, and it assists clients in achieving their purposes while complying with statutory and regulatory requirements.

### Areas of Focus

- Consumer Protection
- Environmental
- Gaming
- Health Care
- Internal Investigations
- Lobbying and Pay-to-Play
- Public Contracting
- Utilities

### Consumer Protection

Typically, the Firm represents clients in enforcement proceedings brought by the New Jersey Division of Consumer Affairs for alleged violation of consumer protection laws. It also represents clients responding to enforcement actions brought by the New Jersey Bureau of Securities.

### Environmental

The Firm's [Environmental Practice Group](#) is familiar with an array of statutory mandates and regulatory programs and has recently handled the following regulatory matters, among others:

- Led compliance team for permitting and construction for development and redevelopment of projects including regional shopping centers on former landfills, cogeneration facilities and mixed use developments.
- Assisted major client in managing multi-million dollar replacement program for underground storage tanks.
- Engaged in successful mediation with the New Jersey Department of Environmental Protection (NJDEP) to eliminate requirement for deep aquifer sampling of site containing high levels of chlorinated solvents.
- Conducted due diligence permit reviews for cogeneration facility client in connection with refinancing of multi-million dollar loans.
- Successfully defended enforcement actions brought by EPA against facility operators seeking

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multi-million dollar penalties and compliance mandates, resulting in payment representing less than 10% of EPA demand.

- Negotiated reversal of permit denial allowing restoring development potential of 100 acres of land.

## Gaming

The Firm has been involved in the gaming industry since the inception of casino gaming in New Jersey. Among other things, the Firm:

- Served as regulatory counsel to the trustee holding a significant interest in an Atlantic City casino hotel while the beneficial owner endeavored to comply with a divestiture agreement with the New Jersey gaming regulators.
- Obtained a Certificate of Compliance approving the owner of a major Boardwalk assemblage as a holding company of a proposed casino hotel.
- Responded to investigations by the New Jersey Division of Gaming Enforcement into allegations of contact with unacceptable persons by a casino company looking to develop gaming interests in other jurisdictions.
- Obtains waivers for institutional investors holding large positions in securities of affiliates of Atlantic City casino licensees.
- Advises institutional investors on qualification issues generated by bankruptcies of Atlantic City casino affiliates.

## Health Care

The Firm's [Health Care Practice Group](#) has participated in the following recent regulatory matters:

- Represents health care systems and hospitals in sale of hospitals and affiliates. Transactional and regulatory issues include the transfer of certificates of need, license approvals from the New Jersey Attorney General under the Community Healthcare Charitable Asset Protection Act ("CHAPA"), Medicare reimbursement, and Medicare approvals for changes of ownership.
- Represented major health care system and one of its hospitals in joint venture with another major health care system for operation of a Medicare-certified home health agency and related services. Like the sale of hospitals and affiliates, this transaction involved complex transactional and regulatory issues, including Medicare approval for change of ownership, New Jersey certificate of need and license transfer approvals, and the Attorney General's approval under the Attorney General's common law jurisdiction over the disposition of charitable assets.
- Represents health care systems, hospitals, long-term care facilities and other health care providers in government investigations, inquiries and audits, including internal investigations of billing and reimbursement issues, and defense of subpoenas and government investigations relating to Medicare and Medicaid billing, alleged kickbacks and related federal program issues.
- Represents general acute care hospitals challenging charity care subsidies provided by Department of Health and Senior Services pursuant to formula.
- Represented adult day care provider in regulatory compliance matters with the New Jersey

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Department of Health and Senior Services.

## **Internal Investigations**

The Sills Cummis & Gross [Corporate Investigations and Integrity Practice Group](#), which includes several former prosecutors, is frequently called on to represent persons who may be targets or subjects of criminal investigations or involved in parallel civil or administrative matters. Among other things, the Group responds to subpoenas at the state and federal levels, conducts internal investigations, defends companies and individuals in regulatory enforcement actions, and designs and implements compliance programs to preclude issues from arising in the first instance.

The Group counsels and, if necessary, aggressively defends clients who are the targets or subjects of investigations alleging or involving:

- Antitrust Price-Fixing
- Bank Fraud
- Civil Tax Litigation
- Class and Derivative Actions
- Commercial Bribery
- Consumer Fraud
- Criminal Environmental Investigations
- FDA Related Actions
- Government Contracting Fraud
- Health Care Fraud and Abuse
- Insider Trading and Revenue Recognition
- Pension Fraud
- Securities Fraud
- Tax Fraud Investigations and Prosecutions
- Whistleblower Suits

## **Lobbying and Pay-to-Play**

In recent years, New Jersey's lobbying and pay-to-play laws have undergone significant tightening. The Firm advises clients regarding current restrictions, reporting requirements, and limits on their ability to bid for public contracts if they make political contributions.

## **Public Contracting**

The Firm assists clients in preparing responses to requests for proposals and requests for bids, and it advises clients regarding post-bid-opening issues, including conformity of bids to specifications, qualification of bidders, and procedural and substantive issues generated by bid protests. Industries in which the Firm has prosecuted or defended bid protests include health care, road construction, bridge repair, metal plating, injection molding, custodial services, security guard services, banking services, office furniture, job retraining and computer systems.

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## **Utilities**

The Firm has represented a large municipal water supply utility in rate-making and other regulatory matters and an operator of solid waste-to-energy facilities in relations with the New Jersey Department of Environmental Protection.