

Understanding New York Executive Law § 63 (12) and its Potential Impact on Businesses



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Thanks to media attention to the case Attorney General Letitia James brought against former President Donald J. Trump, an obscure statute first enacted in 1956 has become a major point of interest for businesses operating in New York. New York Executive Law § 63(12) grants the Office of the Attorney General *broad* authority to investigate and regulate “repeated fraudulent or illegal acts” and “persistent fraud or illegality in the carrying on, conducting or transaction of business...” Recently, the Attorney General has employed the power of § 63(12) against nursing homes, debt relief companies, and businesses with little or no consumer contact such as in the Trump case. In 2022, for instance, the Attorney General provoked national headlines by using § 63(12) to file a lawsuit generally alleging that President Trump and other defendants submitted inflated financial statements to financial institutions to receive favorable interest rates.

As in the Trump case, the sweeping authority granted to the Office of the Attorney General by § 63(12) can have detrimental effects on a business, including disgorgement of gains, prohibitions on loan applications, cancellation of business certificates, and limits on an individual’s ability to serve as a corporate officer or director. Other potential

consequences include receiverships, heightened reporting requirements, and fines.

In a highly regulated market like New York State, with far-reaching investigatory and enforcement provisions such as § 63(12), it is imperative that New York State businesses are guided in their corporate transactions by experienced counsel. Moreover, if a New York based business receives a subpoena or other investigatory instrument from the Office of the Attorney General, it is absolutely crucial that an experienced attorney with a government investigation background be contacted immediately.

If you have questions regarding your business or § 63(12) specifically and its ramifications on New York State business, contact Lippes Mathias' [Government & Corporate Investigations Practice Team](#) members [Dennis C. Vacco](#) (dvacco@lippes.com), [Scott S. Allen, Jr.](#) (sallen@lippes.com), or [Michael G. Rossetti](#) (mrossetti@lippes.com); or [Banking & Financial Transactions Practice Team](#) member [Mitchell J. Ream](#) (mream@lippes.com).

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