

Q&A With Dechert's Jeremy Zucker

Law360, New York (March 05, 2013, 1:34 PM ET) -- Jeremy B. Zucker, is a partner in Dechert LLP's Washington, D.C., office. He advises on international trade regulatory compliance matters, including in relation to the U.S. Foreign Corrupt Practices Act, the Export Administration Regulations, the International Traffic in Arms Regulations, economic sanctions programs administered by the Office of Foreign Assets Control, and the anti-money laundering provisions of the Patriot Act. Zucker has represented clients before the U.S. Departments of Commerce, Defense, Homeland Security, Justice, State and Treasury, as well as at the White House.

Q: What is the most challenging case you have worked on and what made it challenging?

A: In my international trade practice, I counsel clients on compliance with laws and regulations that arise from national security imperatives (such as export controls and economic sanctions). Challenges arise any time a government agency is involved, and they multiply when more than one agency has a role to play; when multiple agencies from multiple governments must be accommodated, that's when the fun begins.

A few years ago, I assisted a U.S. industrial company with its acquisition of significant Russian operations. The acquisition was premised on the U.S. buyer bringing its technological capabilities to Russia. Both companies made products used widely throughout global commercial markets; both also supplied products to the military. Each company possessed production technology — as well as information regarding the requirements of its military customers — that its government wanted to shield from foreign eyes. The U.S. government was concerned about possible improvements that might appear on the Russian side “of the battlefield.” At the same time, the Russian government was concerned that the U.S. buyer would learn from its Russian subsidiary about Russian military designs and capabilities (or lack thereof) and report this information to the U.S. government.

Finding ways to assuage the concerns of both governments was challenging, as was training employees of both entities (in two languages) so they could work together without divulging “too much” information in either direction. And I won't forget my time in the Russian production facilities — in a location that had been a “closed city” back in the USSR, with a giant statue of Lenin out front, in an auditorium where every chandelier was shaped like Sputnik — delivering compliance training regarding U.S. and Russian requirements and taking questions from an audience that (I was informed as I walked on stage) included “representatives” from Russian intelligence.

Q: What aspects of your practice area are in need of reform and why?

A: In the area of export controls, almost all of my clients are aware of the rules that apply to them and are eager to comply as they conduct their business. But the current structure of the U.S. export controls regime gets in the way: It is unnecessarily cumbersome, spread over multiple agencies, each with its own jurisdiction, rules, lists and databases. Companies trying to do the right thing are frustrated by lack of transparency, delay and unnecessary expense. The current administration has been working with Congress to implement significant reform in this area. If they can achieve their stated goal — a single licensing agency administering a single list, operating on a single IT platform, and enforced by a single export enforcement coordination agency — then this reform effort will be meaningful both in law and in the daily business of my clients.

Q: What is an important issue or case relevant to your practice area and why?

A: When a non-U.S. company acquires a controlling interest in a U.S. company whose activities implicate U.S. national security, the Committee on Foreign Investment in the United States might review the transaction. CFIUS can recommend that the president block a deal (or require that it be unwound), and it can recommend/require that the foreign buyer make certain commitments as a condition of receiving approval. I often assist clients with this process.

A few years ago, significant political attention was paid in this country to the attempted acquisition of the U.S. operations of a British ports operator by a Dubai-based company, and to CFIUS' role in reviewing and approving that transaction. (The deal eventually was unwound in response to political pressure.) Congress then passed legislation revising and expanding CFIUS' mandate. Coverage of these events significantly widened the community of international corporate executives who are aware of CFIUS and are sensitive to the need to consider potential national security concerns that might arise (in matters of both substance and politics) in the context of a cross-border transaction.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I have had the good fortune to work with many excellent attorneys. From among that group, Beth Peters (head of the international trade practice at Hogan Lovells) stands out. I began my career in international trade law working with Beth, and I learned more from her than anyone else about the substance of the laws and regulations that make up my practice. As important, if not more so, by her own example, Beth demonstrates how to care for clients: listening carefully, preparing thoroughly and honoring the client's own contributions to the discussion. I could not have hoped for a better mentor and friend.

Q: What is a mistake you made early in your career and what did you learn from it?

A: Despite their best intentions, my clients make mistakes from time to time — or at least some of their employees do! I have conducted many internal investigations for my clients, and I have appreciated the opportunity to help them identify and remedy their “compliance exceptions.” It is also immensely satisfying to catch lying liars who lie. The thrill of that hunt can be intoxicating, sometimes too much so.

As a junior associate, I was assisting a partner with an internal investigation regarding the release of controlled technology to recipients in a country subject to U.S. economic sanctions. I was eager to demonstrate my knowledge of the subject and my interviewing “prowess” to the partner, and I was delighted when he gave me the opportunity to lead an interview. Channeling my inner Columbo, I began with a disarmingly polite set of softball questions, and the answers I elicited seemed destined to set up a thrilling “gotcha!” denouement. Things were going well. I followed up with some tougher stuff, and as my interviewee dug in, I let him have it. It was like the famous scene from “A Few Good Men.” Except I’m no Lt. Kaffee, and the interviewee was no Col. Jessup. He was from the mailroom, and he had done nothing wrong. He left the room in tears. The partner kindly spared me the lecture.

The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

All Content © 2003-2013, Portfolio Media, Inc.