

Q&A With Sheppard Mullin's Scott Maberry

Law360, New York (April 01, 2013, 1:16 PM ET) -- J. Scott Maberry is an international trade partner in Sheppard Mullin Richter & Hampton LLP's Washington, D.C., office. He specializes in government investigations, corporate compliance, internal investigations and white collar criminal defense in the following areas: export controls, munitions exports, economic sanctions and embargoes, and the Foreign Corrupt Practices Act.

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

A: For a client, we defended in a major government investigation a few years ago, with facts that could be used as a law school exam in international trade controls. The case was challenging because of its breadth and complexity: the investigation covered activities in nearly a dozen countries. The allegations involved violation of the U.S. Foreign Corrupt Practices Act, export controls and the U.S. economic sanctions against Cuba, Iran, and Sudan. The agencies investigating the case included a U.S. federal grand jury; a U.S. Attorney's office; the U.S. Department of Justice Criminal Division, Fraud Section in Washington; the U.S. Department of Commerce Office of Export Enforcement; and the U.S. Department of Treasury, Office of Foreign Assets Control. The matter also involved foreign private parties threatening legal action against the client in multiple foreign jurisdictions.

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

A: U.S. export controls currently place too many restrictions on too many transactions. This creates undue burden on U.S. companies who need to export their goods and technologies to compete in the complex global market. What is needed is a higher fence around fewer exports.

In August 2009, President Obama announced his Export Control Reform Initiative, which has determined that the current export control system is too complicated, too redundant and, "in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities." It is the most ambitious export reform effort of my lifetime.

The goal of the reform, which I support, is to create a more streamlined export control system with a single export control list, a single licensing agency, a unified information technology system, and a single enforcement coordination center. Most importantly, items that have low strategic value will be removed from the most stringent controls. Tremendous progress has already been made under the president's leadership, and new steps are being taken by the White House and the relevant agencies almost every day.

These reforms will provide business with new export opportunities. At the same time, the increased focus on the most sensitive exports will enhance U.S. national security.

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

A: The single most important issue in all four of my main practice areas (export control, arms export control, economic sanctions and the FCPA) is extraterritorial jurisdiction. As the enforcement agencies and courts enforce these laws, they must strike a balance between protecting U.S. national security and economic stability on the one hand, and creating a stable, predictable and fair enforcement regime on the other. Too much jurisdiction over foreign persons becomes unstable, and too little creates an unlevel playing field.

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

A: Bill McGlone at Latham & Watkins combines technical expertise and client service in a very impressive way. His clients rely on him for very high-level export control analysis. He runs a large and successful law practice while at the same time maintaining a quiet, kind demeanor.

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

A: Early in my career, I felt a need to know everything. Particularly when talking with a prospective client, I would tend to talk more than listen. I would take every concern voiced by the client as an invitation to describe my own relevant knowledge, experience or insight. That turned out not to be very good client development technique. When I allow myself to listen more and talk less, I find I not only understand the client's needs better, I have more success in developing and retaining the relationships that create lifelong clients.

My advice to young lawyers is to remember that client relationships are relationships first and foremost, and the more you can know about them the better you will be able to serve them.

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