

Government Contracts Group Of The Year: Sheppard Mullin

By **Dietrich Knauth**

Law360, New York (January 24, 2014, 7:59 PM ET) -- Along with many other victories Sheppard Mullin Richter Hampton LLP closed the book on a series of False Claims Act suits that challenged the sale of Chinese-made computers to government agencies, and helped a client win a place on a massive U.S. Air Force contract, earning the firm a spot among Law360's Government Contracts Practice Groups of the Year.

With 50 attorneys dedicated to government contracts and a strong integration with its West Coast offices and other practice areas, Sheppard Mullin usually has 100 attorneys working on government contracts matters at any given time, according to practice group head Anne Perry. That depth has helped the firm cover the spectrum of government contracts work, from bid protests and FCA litigation to fraud and regulatory compliance.

The firm's lawyers take pride in their specialized expertise, according to partner John Chierichella, who brings his experience as an Air Force acquisition attorney to the firm. The experts include a mix of veteran partners, like Chierichella and intellectual property guru Lou Victorino, and younger, up-and-coming attorneys, like Keith Szeliga and David Gallacher, who have carved out specialized niches in post-employment restrictions for government employees and Buy American Act restrictions respectively.

"Our younger people have already developed unique spheres of expertise, which you don't always see in other firms," Chierichella said.

And with Perry, a former bid protest attorney at the U.S. Government Accountability Office, at the group's head, the firm gains an extra edge in contract protests.

"She's as good a bid protest lawyer as anyone on the face of the Earth, and she's almost a walking encyclopedia of bid protest law," Chierichella said. "She's instant credibility for a client."

Perry represented Sterling Computers Corp. in successful protests over the Air Force's \$6.9 billion Network-Centric Solutions-2 contract for networking equipment and products, part of a \$24 billion procurement that includes several information technology contracts that will be mandatory for Air Force purchases.

"Sterling was a lot of fun," Perry said. "Not only did we identify a lot of flaws in the procurement, the agency went back to correct those flaws, and the client won an award under the eventual contract."

Perry also represented Sterling in a protest of Special Operations Forces Information Technology Enterprise Contracts, Tactical Local Area Network (or TACLAN) procurement. After the initial protest, the government agreed to take corrective action, but Sterling challenged the corrective action and successfully won another chance to compete under the procurement. Perry also successfully defended Northrop Grumman Corp. against two Lockheed Martin Corp. challenges to a \$365 million award of the Consolidated Afloat Networks and Enterprise Services contract. After she prepared a successful motion to dismiss that crippled the protest, Lockheed Martin withdrew the remaining portions of its protest, Perry said.

Partner Jonathan Aronie, an expert in the U.S. General Services Administration's Multiple Award Schedule Program and the government's mandatory disclosure rule, scored a significant win in 2013 by shutting the door on lawsuits alleging several clients had violated the FCA and Trade Agreements Act by putting Chinese-sourced computers up for sale to the government through the GSA's schedule contracts. And in March 2013, a D.C. federal judge granted summary judgment to the remaining defendant in a case called Folliard v. Synnex Co., after dismissing claims against Aronie's other clients earlier in the suit.

The win built on a 2012 victory in Sandager v. Dell Marketing LP, in which a relator with no insider knowledge accused 19 contractors of violating the FCA by misrepresenting the country of origin of products that were sold to the government through the GSA Advantage website.

Beating back the Sandager and Folliard cases helped restore the FCA to a more common-sense understanding that a relator should have some inside information and detailed facts of an alleged fraud to serve as a whistleblower under the law, Aronie said.

"We got every single defendant dismissed from the case, except for one, which we won on summary judgment," Aronie said. "We don't just roll over when someone sues; we're willing to go to court and fight when it's appropriate."

Chierichella scored a victory by fighting an FCA suit related to an ongoing dispute between Northrop Grumman and the U.S. Postal Service over an \$874 million contract for more than 100 flats sorting systems. While Chierichella likened the overall dispute, which involved \$175 million in Northrop Grumman claims and \$340 million in Postal Service counterclaims, to a "land war in Asia," he was able to protect Northrop Grumman from a related whistleblower complaint under the FCA by convincing the government to not intervene and convincing a judge to dismiss the lawsuit after it was unsealed.

While the relator may try amend his complaint and continue the suit, "knocking that first complaint out of the box was very significant," Chierichella said.

--Editing by Edrienne Su.