

Compliance Group Of The Year: Covington & Burling

By **Al Barbarino**

Law360 (December 11, 2020, 5:21 PM EST) -- Covington & Burling LLP facilitated major deals to streamline the production of crucial COVID-19 supplies and equipment, including a collaboration allowing Ventec Life Systems to use General Motors' manufacturing plants to produce about \$489 million worth of ventilators, earning the firm a spot on Law360's 2020 Compliance Groups of the Year.

In addition to guiding Ventec, Covington represented numerous pharmaceutical and medical device manufacturers in their pandemic response, including counseling Gilead Sciences in the emergency distribution of its antiviral drug remdesivir, under the brand name Veklury.

Jennifer Plitsch, co-chair of the firm's government contracts practice group, said a COVID-19 task force she heads up with senior of counsel Daniel F. Feldman, consisting of roughly 50 attorneys, allowed for the quick and efficient delegation of assignments as the pandemic played out.

"We kept tabs on what everyone in the firm was doing so that, as things came in at a very rapid pace, we weren't reinventing the wheel but instead coordinating with the attorneys with the right experience and specialty," Plitsch said.

In advising Ventec, a ventilator manufacturer, the firm's corporate, regulatory, government contracts and public policy lawyers helped arrange the large-scale production of ventilators.

Covington's work to secure the \$489 million deal struck in April 2020 included negotiations with the White House's COVID-19 task force and the Federal Drug Administration, structuring a federal government purchase order, and analyzing various emergency declarations and authorizations, Plitsch said.

Meanwhile, the firm's work with Gilead included navigating government contracting rules as well as advising on FDA regulatory strategy, clinical trial-related matters and facilitating patient access.

"There wasn't a very large amount of product available but it was very much in demand around the



world," Plitsch said. "And so our life sciences and FDA lawyers worked very quickly to work out how clinical trials could be put together."

The firm's capabilities stretch across regulatory disciplines, from anti-corruption and anti-money laundering to public policy and white-collar defense. That comes together to form what Donald J. Ridings Jr., chair of the firm's global anti-corruption practice group, called the "largest and deepest" regulatory and compliance practice in the U.S., if not the world.

The staff includes well over 100 former government officials around the world who formerly served in senior roles at agencies, from the U.S. Department of Justice, Treasury Department and Federal Trade Commission to the United Nations and European Parliament, he noted.

"We are strong across the board but strongest in highly-regulated industries, where knowledge of both substantive corporate law litigation, white-collar work, and regulatory regimes is critical," Ridings said.

The firm's pandemic-related work also included a pivotal role in assisting dozens of clients in securing forgivable government loans through the Paycheck Protection Program, said Plitsch, noting that the deluge of incoming requests about the program was unprecedented.

"In 21 years at the firm I've never seen anything like that period of time," she said. "We put together a multi-disciplinary team of over 35 lawyers who coordinated and advised on the program because there was a very short time frame in which to put those applications in."

Among other areas, the firm's Foreign Corrupt Practices Act-focused practice groups had a busy year.

In one major assignment, following a five-year investigation from the DOJ and SEC into Alexion Pharmaceuticals for FCPA violations in numerous countries, Covington secured a declination from the DOJ and a \$21.5 million "no admit-no deny" administrative settlement from the SEC.

The July 2020 settlement included the "very unusual" stipulation that no ongoing monitoring, reporting or compliance obligations would be necessary, said Steve Fagell, co-chair of Covington's white-collar defense and investigations practice.

"This particular matter was so challenging because it presented novel issues in the life sciences industry, extended to multiple countries, and attracted significant attention and resources from DOJ and the SEC," Fagell said.

"I'd like to think our reputation in this regard precedes us, and it leads to exceptional outcomes. But I'm a believer that with fair-minded lawyers on both sides ... the facts usually win, and that's what happened here," he said.

Covington also counseled Uber on a DOJ investigation in Indonesia, Malaysia, China and India tied to alleged misleading statements, leading the DOJ to close the case in December 2019.

As more countries ramp up regulation across disciplines, the challenges of doing business globally have grown increasingly complex, said Ridings, the chair of the global anti-corruption practice group.

"The number and complexity of regulatory and compliance issues that have arisen in the past two years have been unprecedented in my 20-plus year career," Ridings said, noting that the pandemic created

additional complexities as workers continue to work largely remotely. "Sending people home to work has reduced some risks but at the same time created new risks. Companies have had to attend to and adapt, and I think that's continued to create the need for our compliance resources."

--Editing by Amy Rowe.

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