

Compliance Group Of The Year: Covington

By Sarah Jarvis

Law360 (January 31, 2024, 2:02 PM EST) -- Covington & Burling LLP helped Stanley Black & Decker secure an unprecedented corporate declination from the SEC in a case allegedly involving more than \$1 million in unreported perks and benefits, while helping Seagate Technology negotiate a \$300 million settlement over alleged sales to Huawei, earning the firm a spot among Law360's 2023 Compliance Groups of the Year.

Covington has more than 500 lawyers focused on regulatory and compliance issues across the world, including in Belgium, Germany, China, South Korea, Dubai, London, Africa and the U.S. The firm also counts more than 120 former senior government officials among its ranks.

Steve Fagell, co-head of Covington's white-collar practice, highlighted the Stanley Black & Decker matter as a significant result for the company and former executive Jeffery D. Ansell — and unprecedented under Gurbir Grewal, the U.S. Securities and Exchange Commission's enforcement head.

"After considering Stanley Black & Decker's self-reporting, cooperation and remediation, the SEC declined to bring charges against the company related to his conduct," Fagell said. "That's significant because it's really, by our survey, only the fourth time in more than 20 years that the SEC declined to bring charges against a company in similar circumstances."

The SEC's June order marked the first such declination since Grewal became enforcement director in 2021, as well as the first under the Biden administration.

Without admitting or denying the SEC's findings, the Connecticut-based toolmaker and Ansell agreed to cease and desist violating provisions of the Exchange Act. The agency didn't fine Stanley Black & Decker, noting the company self-reported the disclosure failures, though Ansell agreed to pay a \$75,000 civil penalty.

The agency alleged the tool company failed to disclose at least \$1.3 million in perks and benefits paid to, or on behalf of, four of the company's executive officers and one director from 2017 through 2020.

Fagell said the SEC has given a fair amount of attention to perks and benefits in recent years. He said in this case, the agency recognized Stanley Black & Decker's exemplary corporate response in the matter.



"It reflects the way we practice at Covington," he said. "I think that in general, regulators know that we are honest brokers with the facts, but we're also tenacious advocates, and we're credible advocates."

Covington also helped hard-disk drive manufacturer Seagate Technology LLC and its Singapore-based affiliate secure a \$300 million settlement to end an investigation by the U.S. Department of Commerce's Bureau of Industry and Security into sales to Chinese technology giant Huawei. The company had faced a maximum penalty of \$2.2 billion, Covington noted.

The April settlement was the largest civil-only penalty in the bureau's history, yet it was less than 15% of the maximum penalty the company allegedly faced. The deal allowed Seagate to spread the payment over five years and didn't require a compliance monitor.

Covington attorneys told Law360 after the settlement that the deal should serve as a warning to companies operating in China about minimizing exposure to avoid a darkening enforcement landscape.

Additionally, the firm helped Booz Allen Hamilton Holding Corp. secure a \$377.45 million settlement in July to resolve whistleblower allegations that it improperly billed commercial and international costs to its government contracts, marking one of the biggest procurement fraud settlements in history.

Shortly after that, Covington helped the engineering services provider score a complete declination of the SEC's case, ending more than six years of investigation.

Fagell said the area of compliance brings together two critical skills — the ability to guide clients prospectively in complying with the law, and the ability to defend them effectively when regulators allege they haven't. Looking to the future for the firm's white-collar practice, Fagell said attorneys are keeping a close eye on the priorities of U.S. regulators, such as the Department of Justice and the SEC.

The firm is "incredibly well-positioned to advise just about any company in the world who may face regulatory enforcement issues, both in the United States and abroad," Fagell told Law260.

Jennifer Saperstein, co-head of Covington's anti-corruption practice group, highlighted the strength and breadth of the firm's practice, saying it's able to succeed across a range of subject matter and geographies.

"I think that is really the true accomplishment of this work ... the breadth of what we're able to do and the various subject-matter expertise that we're able to pull together in a way that is really seamless for our clients," Saperstein said.

She said attorneys have applied their regulatory and compliance acumen to cutting-edge questions and issues, including new technology such as artificial intelligence as well as new legal frameworks — such as in the human rights and environmental, social and corporate governance spaces.

One new aspect of the firm's white-collar and compliance practices is a focus on institutional culture and social responsibility, or ICSR. She said Covington is a leader when it comes to shareholders bringing proposals for companies to conduct racial equity audits or civil rights assessments.

"We've brought together compliance experts, white-collar experts and employment law experts to really develop a leading practice in this area," she said. "It is very much a key aspect of our compliance practice these days."

Saperstein said regulatory and compliance expertise is "built into everything we do" at Covington.

"It's not bolted onto our corporate work or litigation work or white-collar work," she said. "It is truly an equal partner with those significant practice areas."

--Additional reporting by Jennifer Doherty and Hailey Konnath. Editing by Linda Voorhis.

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