

GOVERNANCE AND COMPLIANCE

Corporate scandals continue to capture headlines with business leaders often finding themselves in an unforgiving environment. Inattention and missteps can lead to negative press and inquiries from the Securities Exchange Commission (SEC) or the Department of Justice (DOJ), as well as instigate shareholder claims.

Having a culture of compliance focused on business ethics is critical to limiting your company's liability. Lawyers in our Governance and Compliance practice area have both the corporate and prosecutorial experience to address the changing landscape, which allows little tolerance for compliance error. By having effective compliance programs in place, companies can avoid litigation, multimillion-dollar penalties and reputational damage.

Lawyers in this practice area include former federal prosecutors; experienced securities lawyers, including the former Missouri Commissioner of Securities; and compliance professionals, including Certified Information Privacy Professionals (CIPP/U.S. and EU) and a Certified Ethical Hacker. Their varied backgrounds and knowledge of relevant regulations help clients break down silos and look at compliance more holistically to drive value and efficiency.

Our lawyers work with clients, including boards of directors and board committees, to support their efforts in adopting the right corporate governance structure to comply with the Sarbanes-Oxley Act of 2002, SEC, NASDAQ and NYSE requirements. The United States Sentencing Commission has also revised the Federal Sentencing Guidelines to require higher standards. The laws, regulations and other standards are incredibly complex and require a significant investment of time.

Our Governance and Compliance lawyers take a multifaceted approach and provide comprehensive solutions to public, private and not-for-profit companies in the following areas.

- Acting as outside counsel to audit committees
- Advising boards of directors with respect to their fiduciary duties, particularly to control transactions
- Assisting companies in responding to shareholder proposals
- Counseling compensation committees regarding executive compensation
- Counseling on hostile takeovers, forced and agreed buyouts and split-ups
- Counseling on issues arising out of majority-minority shareholder relationships, and other shareholder disputes
- Conducting risk assessments and compliance reviews, including M&A due diligence reviews
- Developing and implementing codes of ethics, policies and procedures, including document retention policies
- Enabling transparency in financial reporting
- Establishing whistleblower procedures
- Identifying conflicts of interest
- Implementing information technology systems and processes that support compliance
- Investigating alleged fraud or other wrongdoing
- Reviewing coverage under director and officer liability insurance

EXPERIENCE



Pricing Policy Compliance Training for Manufacturer Resellers

Provided training for resellers of a privately held manufacturing and distribution company to ensure compliance with the company's Minimum Advertised Price Policy. Training included overview of relevant antitrust laws and discussion of real-world pricing scenarios.

Advised Menswear Retailer in SMS Program Launch, Compliance

Advised a major American menswear retailer in launch a transactional SMS program allowing them to communicate via text message with customers who have opted-in. Armstrong Teasdale navigated a strict regulatory environment by identifying regulatory requirements for SMS programs, evaluating internal business processes to streamline compliance, and drafting the requisite consent language. The program required significant cross-collaboration to meet the expected deadlines.

Defense Counsel for Mobile Advertising Platform Developer and Directors in Delaware Chancery Court

Served as defense counsel for a mobile advertising platform developer and its former directors in a Delaware Chancery Court action alleging breach of fiduciary duty and disclosure violations arising out of an M&A transaction.

Representations in Actions Seeking Access to Company's Records

Represented companies defending, and shareholders and members prosecuting, actions seeking access to a company's books and records pursuant to Section 220 of the Delaware General Corporation Law and Section 18-305 of the Delaware LLC Act.

Defense Counsel in Advancement Action

Defended company in Delaware chancery court in action brought by former officers and directors for advancement of attorneys' fees and expenses under indemnification provisions of company's corporate charter and separate indemnification agreements.

Defense Counsel in Business Divorce Arbitration

Represented company and its officers and directors against former officer's and shareholder's breach of fiduciary duty claims in arbitration.

Representation in Series A Round for Blockchain Platform

Represented lead investors in Series A round in company building on a blockchain platform. This involved drafting various investor documents, including term sheets, stockholder purchase agreements, voting rights agreements, investors' rights agreements, and indemnification agreements, as well as drafting board resolutions and amending certificates of incorporation and company bylaws.

Representation of Medical Corporation in Corporate Governance Dispute

Represented closely held medical corporation in corporate governance dispute with dissident minority shareholder.

Defended Company Performing Cleanup at Superfund Site

Defended company who performed \$28 million environmental cleanup of PCBs, asbestos and TCE at Superfund site, formerly used for automotive manufacturing, under Administrative Settlement Agreement and Order on Consent. The site is located in a residential area and will be transformed into a recreational facility.

Defense of Billion-Dollar Qui Tam Action

Successfully defended medical practice in billion-dollar qui tam action.

Obtained Dismissal for Midwestern Livestock Show Relating to Governance

Served as lead counsel in suit brought against a historic Midwestern livestock show. The plaintiffs sought a court order mandating that they be allowed to participate in future competitions. Obtained dismissal of plaintiffs' claims, thereby protecting the right of a private organization to govern its competitions.

Representation of Manufacturing Company in Soil and Groundwater Cleanups



Represented manufacturing company in soil and multi-plume groundwater cleanups of PCBs and solvents in Missouri. Persuaded EPA to pursue separate source of groundwater contamination. Site is located in close proximity to drinking water wellfield.

Risk Transfer for Two Former Coal-Fired Power Plants

Represented the risk transfer buyer of two former coal-fired power plants and negotiated the collateral package with insurers.

Six Citations Vacated for Electrical Equipment Manufacturer

Defended manufacturer of electrical equipment in OSHA evidentiary hearing where issues all involved possible electrocution hazards associated with high voltage equipment. The Administrative Law Judge vacated all six citations that were issued.

Successful Outcome in Cases Related to Misinterpretation, Misapplication of Lockout/Tagout Standard

Defended numerous employers in cases in which OSHA was persuaded that it misinterpreted or misapplied the lockout/tagout standard.

\$850 Million Pet Food Industry Reorganization

Represented acquiring and acquired persons in an \$850 million reorganization in the pet food industry.

Outside Counsel for Financial Institution

Serves as outside counsel for financial transactions, real estate, acquisitions, employment, and corporate governance matters while working daily with senior management and the board of directors.

Favorable Result for Company Cited in Violation of OSHA Silica PEL

Defended company that received citation alleging exceedance of OSHA's silica PEL. Convinced OSHA the sample results were invalid, resulting in withdrawal of citation.

Secured Withdrawal of OSHA Citations for Manufacturing Client

Defended company that received two willful citations under OSHA lead standard when manufacturing with leaded brass. OSHA withdrew both willful citations.

Secured Withdrawal of OSHA Citations Relating to Hexavalent Chrome Standard

Defended company that received 14 citations under OSHA's hexavalent chrome standard, including alleged exceedance of PEL. OSHA withdrew 12 of 14 citations.

Reduced Penalties for Dairy Farm in Fatalities Following OSHA SVEP Placement

Defended dairy farm in two separate fatality cases that resulted in repeat OSHA citations and placement on OSHA Severe Violator Enforcement Program (SVEP). At conclusion of negotiation, company was removed from SVEP and penalties were cut by 75%.

Defended Magnesium Recycler in EPA Cost Recovery Action

Defended magnesium recycler in EPA cost recovery action in Pennsylvania including negotiating consent decree and private party allocation.

Successfully Resolved Matter for Company in OSHA Severe Violator Enforcement Program

Defended company placed in OSHA Severe Violator Enforcement Program (SVEP) involving combustible dust explosion and serious injuries. The case was settled with no willful violations and the company was removed from SVEP.

Antitrust and Compliance Reviews for Fortune 500 Manufacturer



Performed numerous on-site antitrust compliance reviews and training for a Fortune 500 multinational manufacturing and engineering services company. Involved travel with in-house counsel to numerous subsidiaries and allowed the client to achieve its compliance program goals and initiatives.

Citations Vacated for Client in Fatality Involving Construction Crane

Defended company in an OSHA evidentiary hearing involving a fatality on a crane. At the conclusion of the hearing, the Administrative Law Judge vacated all citations.

Citations Vacated for Client in OSHA Evidentiary Hearing

Defended company in OSHA evidentiary hearing in which company asserted that installation of wood trusses constituted steel erection. Administrative Law Judge agreed and vacated the citations.

No Prosecution for Client in Multiple Fatality Case Referred to the U.S. Attorney

Defended a company in a multiple fatality case that resulted in an OSHA referral to the U.S. Attorney for prosecution. After meeting with the U.S. Attorney, no prosecution resulted.

No Willful Violations in Case Involving Availability of Rescue Boat

Defended company in OSHA evidentiary hearing involving facility and availability of rescue boat. The Administrative Law Judge determined violation was not willful.

Defended Publicly Traded Company in Cleanup of VOCs, Lead

Represented publicly traded company performing environmental cleanup of VOCs and lead under the Unilateral Administrative Order at a wildlife refuge in Illinois that was a WWII ordnance plant.

No Negligence in MSHA Mine Fatality

Persuaded MSHA to make a determination of no negligence in a mine fatality in which the employee was struck by equipment being hoisted.

Multimillion-Dollar Settlement for Publicly Traded Railroad Facing Environmental Claims

Obtained multimillion-dollar settlement for a publicly traded railroad in environmental claims involving diesel fuel and PCB spills, and numerous signal battery disposal sites against predecessor in interest.

Successfully Defended Contractor in Arbitration Against Seven-Figure Claim

Defended general contractor in seven-figure claim brought by an asbestos contractor in arbitration. Arbitrator's award to asbestos contractor was 5% of the amount sought and was less than the general contractor had offered in settlement.

Successfully Defended Used Oil Recycler Following Alleged Sale of Contaminated Oil

Defended used oil recycler in sale of alleged contaminated oil to customer. Jury awarded recycler all costs for unpaid shipments of oil, and awarded \$3,000 to customer after four-day trial.

No Willful Violations for Publicly Traded Company

Defended publicly traded company in a two-week OSHA evidentiary hearing involving multiple alleged willful violations at a meat plant. At the conclusion of the hearing, the Administrative Law Judge determined there were no willful violations.

Defended Client in Waste Regulation Action Affirmed on Appeal

Defended client in an action against the Missouri Air Conservation Commission. The judge invalidated Missouri medical waste, industrial waste and sewage sludge incinerator regulations in the first of the "no stricter than" cases brought under the Missouri Clean Air Act. The decision was affirmed on appeal by the Missouri Court of Appeals.