Government Investigations, Enforcement & Compliance

The Firm has significant experience in handling sensitive matters regarding US federal government agency investigations, audits, enforcement actions, voluntary disclosures, and compliance for US and non-US parties relating to international business and trade.

The Firm's attorneys regularly represent and advise clients in matters before agencies such as the US Bureau of Industry and Security (BIS), Office of Export Enforcement (OEE), US Customs and Border Protection (CBP), CFIUS Monitoring Agencies (CMAs), the Directorate of Defense Trade Controls (DDTC), Homeland Security Investigations (HSI), the Internal Revenue Service (IRS), the Office of Foreign Assets Control (OFAC), the US Department of Justice (DOJ), and US Attorney Offices, as well foreign agencies such as Canada's Customs Border Services Agency (CBSA), Mexico's Servicio de Administración Tributaria (SAT), and even the Federal Customs Service of Russia.

To assist in certain matters, the Firm has strategic alliances with experienced investigators and consultants, including retired Special Agents from law enforcement agencies such as CBP and HSI, who can lend valuable insights and facilitate communications with investigators at various federal agencies and counterparts in foreign countries, and we have a network of counsel to assist locally, when needed.

Our attorneys and strategic alliance consultants represent and advise clients in international trade investigations, enforcement actions, and in compliance, across a wide spectrum, including:

- Conducting internal investigations upon identifying apparent or actual violations of laws and regulations;
- Responding to requests for documents, including administrative and grand jury subpoenas, and allegations of potential unlawful activities;
- Continuing to represent and advise clients regarding post-resolution obligations, including payment, audit, reporting, and training requirements;
- Preparing and implementing compliance policies and procedures, including integration with FCPA/antibribery compliance; and

- Reviewing and updating compliance programs in response to legal and regulatory developments, as well as changes in corporate, ownership, and board structures.

Our Experience

GOVERNMENT INVESTIGATIONS, ENFORCEMENT & COMPLIANCE

In close cooperation with an independent investigator and retired HSI Special Agent, advising and representing a foreign businessman and owner of US entities regarding violations of the International Traffic in Arms (ITAR) brokering regulations and potential other violations of US laws and regulations.

Ongoing advice and representation of a Massachusetts advanced materials manufacturer in a voluntary disclosure and license application submitted to BIS regarding a deemed export violation in giving access to a foreign person employee to controlled development and production technology.

Continuing advice to a New York State manufacturer of specialty equipment used in one of the so-called Section 1758 Technologies (formerly known as “emerging and foundational technologies”) on compliance with a National Security Agreement imposed by the Committee on Foreign Investment in the United States (CFIUS) and a BIS Is Informed Letter, including preparing and submitting required Export Notices to the CFIUS Monitoring Agencies (CMAs) and export license applications, and representation of the client before CMAs and BIS, including negotiating modifications of the NSA and Is Informed Letter.

Advised and represented a European defense contractor before the DDTC in a voluntary disclosure regarding a violation of a Technical Assistance Agreement (TAA) with a US prime contractor regarding the export of technical data and defense services to an unauthorized foreign person involved in the production of certain assemblies for a US Navy submarine program. The matter was closed without any adverse action taken against the client or US signatory.

Advised and prepared responses on behalf of the European subsidiary of a California graphic film manufacturer in a Federal Customs Service of Russia investigation into violations of currency regulation and currency controls by a former customer and demonstrating that signatures on supply contracts with the customer of purported company officers were forgeries. The investigation was concluded as to the client with no action taken.

Represented California-based monthly fishing subscription box company in an IRS audit regarding failure to pay excise taxes on the importation of fishing lures from China. Case was favorably resolved, with a minimal payment of excise taxes due for one tax year quarter, closure of audit, and no CBP penalty assessed.

Represented and advised an international trade consulting firm in responding to a New York State federal court grand jury subpoena for records relating to the investigation of unauthorized exports by a client of the consulting firm and confirming with the investigating BIS OEE Special Agent the consulting firm's status as a witness only, not a subject or target of the investigation.

Represented a New York State precision components supplier to the aerospace, automotive, electronics, and medical/dental sectors in submitting voluntary disclosures to DDTC and BIS regarding the company's unauthorized exports of technical data related to defense articles controlled under the ITAR and the EAR to Swiss manufacturers and failing to maintain DDTC registration. Both agencies closed the matters without taking any adverse action.

Represented an Ohio industrial induction heating and melting equipment manufacturer in a BIS OEE FAP Cincinnati investigation regarding multiple unlicensed exports of products classified as ECCN 2B226 to China, Germany, Taiwan, and Thailand, responding to requests for export documentation and demonstrating misclassification of items, resulting in no adverse action being taken.

Represented an Ohio equipment recycling company in a BIS OEE Atlanta Resident Office investigation of export controls violations regarding shipments of pre-owned CNC and other machines to an ultimate consignee in Pakistan, including during client interview by OEE Special Agents. Matter was closed with no adverse action taken against the client.

Represented a New York State freight forwarder in a BIS OEE New York Field Office investigation of unlicensed exports to Russian and Chinese parties on the Entity List and represented the client before BIS Office of Chief Counsel in responding to a Proposed Charging Letter (PCL) of three (3) charges of causing, aiding, or abetting a violation and negotiating the settlement of a civil monetary penalty, including suspension of a portion of the penalty.

Represented a New York State optics company in a BIS OEE New York Field Office investigation of an apparent reexport violation relating to a European counterparty's hand-carry of a high definition digital weapon sight/observation monocular controlled under ECCN 0A987 to a Middle East country. The matter was resolved favorably with no adverse action taken.

Represented a Canadian non-resident importer in CBP administrative penalty proceedings stemming from a prior disclosure submitted by prior counsel in connection with a CBP NAFTA verification which the company could pay, including through negotiating an Offer-in-Compromise (OIC) with CBP that was rejected. Negotiated favorable settlement with DOJ for less than OIC prior to commencement of penalty enforcement litigation.

Represented a New York State supplier to US defense prime contractor in voluntary disclosures to DDTC and BIS regarding the export of technical data to the client's Chinese subsidiary for the production of a minor component of the Javelin Launch Tube Assembly, including performing the internal investigation interviews, providing export controls training to senior leadership and other staff, preparing Technology Control Plan (TCP) and other compliance documents. Voluntary disclosures were successfully resolved with no adverse actions taken.

Represented a Chinese-owned Michigan Tier 1 automotive supplier in a CBP antidumping/countervailing duty audit regarding imported components containing aluminum extrusions resulting in a multimillion dollar prior disclosure regarding improper valuation of imported parts consigned to the client from the Chinese parent company.

Advised and represented an Ohio company and one of the co-owners in a BIS OEE FAP Cincinnati investigation regarding the intended export of equipment to an Iranian engineering firm through a sale to an Indian distributor and shipment to the UAE, including during a proffer of evidence meeting before OEE Special Agents and DOJ Assistant US Attorneys of the National Security Division Counterintelligence and Export Control Section.

Advised and represented an Ohio online auction company in a US Fish & Wildlife Service (USFWS) investigation sale and export of rhinoceros horn ivory artwork to a Hong Kong buyer, in violation of the Convention on International Trade in Endangered Species (CITES), resulting in a minor violation fine only.

Represented an Ohio manufacturer and supplier of emergency and mass casualty products in an Immigration and Customs Enforcement (ICE, now Homeland Security Investigations, HSI) in a criminal investigation regarding alleged fraudulent invoices used in connection with the importation of goods from Korea and then represented the client and owners in a seven-figure CBP administrative fraud penalty case, resulting in a favorable negotiated settlement.

IF YOU NEED REPRESENTATION IN AN INTERNATIONAL TRADE INVESTIGATION, ENFORCEMENT ACTION, OR COMPLIANCE ASSISTANCE, PLEASE CONTACT US AT INFO@YORMICKLAW.COM

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