

Consumer Protection Group Of The Year: Troutman Sanders

By **Shayna Posses**

Law360, New York (January 19, 2017, 6:42 PM EST) -- Troutman Sanders LLP's compliance, litigation and enforcement expertise proved decisive last year, leading to a comprehensive deal resolving a probe into a discount retailer's trade practices and the defeat of a proposed class action claiming Blue Shield of California autodialed cellphones, landing the firm's Consumer Financial Services practice a spot among Law360's Consumer Protection Practice Groups of the Year.

The team came together organically, drawing on the experience of lawyers who practiced consumer law before it was in vogue, attorneys coming off stints in government and a robust banking practice, said Michael E. Lacy, a partner leading the consumer financial services practice. And the result is a multifaceted practice that handles a wide range of issues for companies like JPMorgan and Blue Shield of California the same way the clients tackle them, said Ashley L. Taylor Jr., a partner in the section leading the regulatory practice.



"The in-house counsel is not thinking, does this fit in litigation, compliance or regulatory? They have an issue or they see something on the horizon," he said. "So we started to work as a group the same way the client tackles issues when they sit around the conference room."

This approach is key to the group's success, helping it notch great results in matters like a multistate investigation launched by attorneys general from 49 states and the District of Columbia over allegedly deceptive trade practices by USA Living, formerly called USA Discounters, Taylor said.

The company — which principally sold consumer goods on credit, typically to members of the military and veterans — contacted Troutman Sanders after it resolved a smaller matter with the Consumer Financial Protection Bureau.

"The CFPB asked whether or not they were complying with a statute which requires an independent counsel to protect the interests of service members when they are sued..." Taylor said. "[The company] knew enough to know that that was probably opening up the door to a larger investigation. And they were correct."

The state attorneys general came out with a laundry list of allegations, including failure to disclose material terms of transactions and misleading consumers about the total prices of products, he said.

But Troutman Sanders, with Taylor serving as second chair, drew on almost two decades of experience handling multistate investigations to resolve the matter after a four-day mediation at the firm's D.C. office.

In a conference room packed with some 50-odd lawyers, the team nailed out a creative deal valued at \$100-plus million — including direct payments to states and consumers, credit and other components — which was announced in September.

“It brought together the skill sets we value: the ability to negotiate across jurisdictions, understanding what states believe are important, understanding the sensitive issues that they identify with respect to consumer products and managing a very large process that resulted in a complicated but successful resolution,” Taylor said.

The group also scored big wins in the litigation space, successfully defending Blue Shield of California against a proposed class action claim accusing the company and customer satisfaction research firm SQM US Inc. of autodialing cellphones.

The Troutman Sanders team got the TCPA matter tossed in late September for lack of concrete injury and thus lack of standing under the U.S. Supreme Court's Spokeo ruling, a landmark decision that's extremely important to the industry, Lacy said.

“That's a huge battleground in our industry: what constitutes injury-in-fact,” he said.

Courts have gone both ways in the context of TCPA claims, which are hot right now, making the Blue Shield win a big deal, Lacy said.

Another litigation victory came in early October, when the Troutman Sanders team secured a quick win for JPMorgan Chase Bank NA in a proposed Fair Credit Reporting Act class action brought by a job applicant who alleged the bank didn't give her a copy of the results of a fingerprint background check, which led to her job offer being revoked.

An Arizona federal judge held that the bank's fingerprint background check service, Fieldprint Inc., isn't a credit reporting agency regulated by the FCRA.

“That's really an example of the fact that we have as much or more experience in the background-screening FCRA space as any firm in the country...” Lacy said, adding that these cases are very important to clients.

“If they are allegedly out of compliance on one particular issue, they've got these hundreds of thousands of customers that they deal with,” he said. “It's very, very big exposure work.”

Overall, Lacy said, it was a good year for the Consumer Financial Services team, and the future looks bright.

A few years ago, the group had about 30 attorneys; now it's up to 80, he said. But notwithstanding the substantial growth, the team has maintained the client service and excellent representation it was able to provide as a smaller group, Lacy said.

“I think that really helps differentiate ourselves from other folks. Even though we’ve gotten bigger, the quality is still there...” he said. “We love getting good results, as anybody does, but we love working with the clients to get those good results and getting the job done the way the client wants it to get done.”

--Additional reporting by John Kennedy. Editing by Bruce Goldman.

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