

Competition Group Of The Year: Gibson Dunn

By **Scott Flaherty**

Law360, New York (January 10, 2013) -- Guiding Dole Food Co. Inc. to the successful dismissal of a price-fixing class action brought by potato buyers and helping UBS AG navigate a global investigation into alleged Libor manipulations were just two of the recent, high-profile antitrust representations that landed Gibson Dunn & Crutcher LLP among Law360's Competition Practice Groups of the Year.

The firm's antitrust group spearheaded Dole's defense efforts in a consolidated action brought by direct and indirect potato purchasers, and successfully fended off allegations that Dole conspired with others to restrict the supply and raise prices of fresh and processed potatoes.

Out of more than 20 defendants that sought to dismiss the case, only Dole and the United Potato Growers of Canada — a Canadian cooperative that was also represented by Gibson Dunn in the case — were able to convince an Idaho federal judge to toss the allegations against them.

For Dole, which does not grow or sell potatoes, Gibson Dunn successfully argued that the purchasers' claims against the company were not supported by the facts. The presiding judge dismissed the suit with respect to Dole in December 2011, finding there was not enough evidence to link the company to the alleged conspiracy.

“That was a nice one, and I think reflective of our ability to end cases quickly,” said Gibson Dunn partner Daniel Swanson, who worked on the case and serves as one of the four co-chairs of the firm's antitrust group.

The firm is also representing UBS as it faces ongoing investigations from competition regulators across the globe, regarding alleged manipulations of the London Interbank Offered Rate, a key interest rate used as a benchmark for trillions of dollars worth of financial transactions. The alleged indiscretions have also spawned civil suits against UBS and other banks, including putative class actions in New York federal court, which Gibson Dunn is handling as well.

Jarrett Arp — a partner in Gibson Dunn's Washington office and a key member of the team representing UBS — said that although “our client has had to face some pain” as a result of the ongoing Libor probes, the matter has been a rewarding one to work on, in part because of its magnitude and the complexity that comes with mounting a defense on multiple fronts.

“It is one of the most challenging matters, and one of the most important,” Arp said. “Representing our client in this matter has been incredibly complex.”

The Dole and UBS matters are among several wins and high-profile representations Gibson Dunn's competition group had over the past year.

In March, the Ninth Circuit upheld the dismissal of a suit against several television networks and cable distributors, including Gibson Dunn client Cox Communications Inc. That suit involved allegations that Cox and others had bundled channels in violation of the Sherman Act's prohibition against product tying.

The firm is also leading the legal effort for Apple Inc. in the U.S. Department of Justice's case accusing the company of conspiring with major publishing houses to fix prices on e-books, prior to the launch of Apple's iBookstore. Those allegations have brought follow-on actions from state attorneys general, as well as a putative class of e-book purchasers. A trial in the DOJ's suit is scheduled for June.

Gibson Dunn's competition practice is one of the firm's core focuses, according to Swanson. In all, there are 191 attorneys practicing in Gibson Dunn's antitrust group in all of its 17 offices in the U.S. and abroad, the firm said.

Swanson, who has been with Gibson Dunn close to 30 years, attributed the antitrust group's success to a trial lawyer's mindset that, he said, “brings a singular approach and orientation to all our work” and gives the firm “the firepower to step into court.”

“The single most distinguishing feature,” he said, “is our litigation and trial lawyer approach.”

The practice group's “deep bench” of highly experienced partners is another aspect that sets Gibson Dunn apart, according to Arp. During his approximately 18 years with the firm, Arp said he's watched the antitrust group expand to gain expertise and experience across all areas of competition law.

“What one has seen over the course of those years is a filling out of our practice,” he said, adding that the group now has “enormous accumulated experience.”

And the firm, Swanson added, has all intentions of continuing to build its competition group in the future, in part by pulling in new lateral partners with a range of experience.

“I think we cover all areas and we feel that we do so at the highest level already,” said Swanson. “Our focus is on finding the best people.”

--Editing by Andrew Park.

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