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Life Sciences Rising Star: Gibson Dunn's Steven Tave

By **Rachel Slajda**

Law360, New York (March 26, 2013) -- As a former prosecutor for the Food and Drug Administration, Steven Tave, now of counsel at Gibson Dunn & Crutcher LLP, took down criminals selling fake medication and worked on a case that resulted in a $250 million criminal penalty against a device maker, earning him a spot among life sciences attorneys recently recognized by Law360.

Tave, who is 37, joined Gibson Dunn in April 2012, after spending five years as associate chief counsel for enforcement at the FDA — and also made his way onto Law360's Rising Star list of top attorneys under 40 this year. As of counsel, he is defending clients in False Claims Act cases and advising companies on regulatory compliance.

During his time at the FDA, Tave was twice named a special assistant U.S. attorney for the District of Arizona, where he prosecuted fraud cases.

In one, U.S. v. Isaac, Tave accused an Arizona company of smuggling an illegal Chinese version of Viagra into the U.S. and fraudulently marketing it as an “all-natural” herbal supplement. The three individual defendants ended up pleading guilty to felony charges, and the lead defendant was sentenced to five years in prison.

Tave told Law360 he is especially proud of his work on that case.

“There was a real public health impact. You had people who frankly, I think, had a borderline criminal history who got into the supplement business ... saying this is 100 percent all-natural, this is herbal. Not only was that not true, but the ingredients were smuggled from China. They had no real controls over the manufacturing process,” he said.

“It was both fraud and it was unsafe,” he added. “To help put an end to that is a really good example of what the government can do.”

Gibson Dunn had to woo Tave aggressively, he said, because he was reluctant to leave his job at the FDA. Tave joined partner Stephen Payne in expanding the firm's life sciences compliance and enforcement practice.

“To have the opportunity to help grow and develop an area of a practice at a firm like this was something I didn't think would be available at another time,” he said.

Another major case Tave worked on in the FDA chief counsel's office was one against Boston Scientific Corp. unit Guidant LLC for withholding from the agency information about a life-threatening defect in its implantable defibrillators.

After Guidant pled guilty, it was ordered to pay a $254 million fine and forfeit $42 million.

Tave's role was to advise Department of Justice prosecutors on FDA regulations, and he also participated in negotiations with Guidant and helped draft the plea agreement and charging documents.

Tave could not speak about any specific cases he is working on at Gibson Dunn. Since he's only been there a year, none of his cases are ready for public disclosure, the firm said. His work at the FDA has also conflicted him out of several cases, he said.

He is advising clients on regulatory compliance, he said, and assisting Gibson Dunn's transactional attorneys on deals involving life sciences companies.

Much of his work is focused on helping clients deal with the “potentially unbridled growth of liability under the FCA,” he said, as Congress continues to expand the law and prosecutors and qui tam relators become increasingly creative in defining what constitutes a false claim.

“As companies have boosted their own compliance efforts, what's happened is the theories of potential liability have migrated to more and more tenuous connections to actual defects in products, actual misrepresentations,” Tave said.

--Editing by Kat Laskowski.
