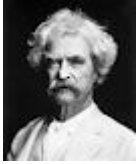


Mark Twain, Dr. No and Problem Solving

Sunday, February 5, 2012



Mark Twain observed correctly about lawyers: **“Lawyers are like other people—fools on the average; but it is easier for an ass to succeed in that trade than any other.”**

When it comes to advising clients in the area of the FCPA and Bribery Act, counseling attorneys are critical players. We play an important role in the end in making sure a company complies with the law. Like in many other areas of life and work, the challenge is not just to be a nay-sayer, not just to parade out a bunch of horrors, kill a transaction or a deal, and then rest assured that I have served my client. Rather, the challenge is to look at a situation, factor in the business needs and impact, and develop creative solutions to the problem.

All too often, I hear complaints about compliance officers, general counsels, and outside counsels, who are the so-called “deal-killers” or “doomsayers.” The challenge within any organization is not to stop the work but to consult and advise on ways to meet the requirements of the law and figure out a way to make it work.

It is easy to be “Dr. No.” It is harder to say “That is a problem. How can we solve it? What can we do to make it work?” Such an approach is critical to establishing credibility with your client company, and making sure you are viewed as a part of the team.

Building your position as a problem solver ensures the most critical aspect of the lawyer-client relationship – Trust. Once you are viewed as a problem solver you establish yourself as a credible partner in the business and develop a rapport so that salespeople and other staff who are on the frontlines and in the trenches will come to you when they see a potential problem.

A successful general counsel is one who plays a critical role in the development and implementation of business strategy. Some general counsels like to sit back and wait for the problems to come to them. In contrast, some sit at the right hand of the CEO and advise on business just as much as legal issues – that is the challenge for our profession.

I know I am not supposed to criticize my profession – or say that we really are “fools on average” but as I see and hear more about compliance issues in the FCPA and Bribery Act industry, I would urge my brethren to take a deep breath, carefully assess the issue and make sure the first words out of your mouth are not “No, we cannot do that.” Rather, the challenge is to listen to the problem, and then say – “Let’s see if we can figure out a way to make it work, so that we are comfortable and we can further our business

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