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Hughes Hubbard & Reed

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Acting on ground-breaking claims against Russia arising from the annexation of Crimea

While it can at times seem a bit of a domestic litigation shop like many of its US peers, Hughes Hubbard & Reed stands out from the crowd by its early embrace of international arbitration. The firm was founded in 1888 by Charles Evan Hughes, a future Chief Justice of the United States and Republican presidential candidate against Woodrow Wilson, who became a member of the Permanent Court of Arbitration at The Hague in 1926 and served as a US delegate to the Pan American Conference on Conciliation and Arbitration in 1928.

The modern arbitration practice was started by Paris partner Axel Baum and Washington, DC partner John Townsend nearly 40 years ago, when they filed their first ICC case. Under Baum's tutelage, lawyers in Europe and the US have had the time and space to develop true credentials in the field and are now recognised figures in their own right who sit as arbitrators as well as conducting counsel work.

Townsend leads the international arbitration practice with New York-based partner John Fellas and Paris-based José Rosell. He also co-chairs the investment treaty arbitration practice with Alexander Yanos, who was a partner at Freshfields Bruckhaus Deringer until he moved over in 2014.

Townsend is a former chairman of the board of the American Arbitration Association, who in 2014 was made one of seven vice presidents of the LCIA Court – and the only one from the United States. He's been on the ICSID panel of arbitrators since 2008.

Firm members also hold sway at the ICC International Court of Arbitration: both Rosell and another Paris partner, Marc Henry, are on its commission.

Locations

The New York, Paris and DC offices house the majority of the firm's 60 arbitration lawyers, with a few in Los Angeles and Miami too.

Who uses it?

Turkish state oil and gas company Türkiye Petrolleri Anonim Ortaklığı used the firm for an ICSID claim against Kazakhstan, while other clients have included Swedish telecoms operator Tele2 Sverige, and Indian wind power provider Suzlon Energy. In the pharmaceuticals sector, it represents the US's Forest Laboratories and Singapore's Menarini Asia-Pacific, formerly Invida.

State clients have included Lithuania and Canada (one of the firm's partners, Joanne Osendarp, is a former trade lawyer for the government) and it has also advised the central bank of a South American country.

Track record

In 2013, working alongside local firm Lawin, José Rosell helped the government of Lithuania defeat a €206 million damages claim brought by an Italian investor in the sparkling wine industry. Although

the UNCITRAL panel found the state in breach of a bilateral investment treaty, it refused to award any damages.

The year before, Osendarp and Townsend helped Canada prevail in an LCIA arbitration brought by the United States under the Softwood Lumber Agreement. A high-profile tribunal chaired by German arbitrator Klaus Sachs said the United States had failed to prove its case, which concerned the under-pricing of logs from forests in British Columbia killed by a mountain pine beetle infestation.

In 2010, a Hughes Hubbard team helped RosInvestCo, a UK subsidiary of US hedge fund Elliott Associates, win an SCC award against Russia over the expropriation of its shares in Yukos Oil Company (along with VV Veeder QC and Swedish law firm Mannheimer Swartling). Although the award wasn't huge (US\$3.5 million), it was the first time the state had been held liable under an investment treaty over the *Yukos* affair. The award was shortlisted for Arbitration Win of the Year at the 2011 GAR Awards, although it has since been overturned.

Fellas is proud of his work for Tele2 Sverige in defending an ICDR award in the New York courts. He not only got the set-aside action by BVI entity DigiTelecom dismissed, but persuaded the court to impose sanctions on the other side's counsel on the grounds that the action was frivolous and had caused "unnecessary expense and delay".

Recent events

The group has a brace of new high-value instructions, including a set of five investment treaty claims against Russia over the 2014 annexation of Crimea, for companies of various descriptions associated with Ukrainian-Cypriot-Israeli businessman Igor Kolomoisky. The claims are thought to be the first ever investment treaty claims related to the annexation of foreign territory and are under way at the PCA. For some, the firm has teamed up with Swedish lawyer Kaj Hober, who it has worked with successfully in the past.

It is defending French engineering client Technip in a US\$1.5 billion dispute with Algeria's state-owned oil company Sonatrach, over the cancellation of a planned refinery upgrade. It has also been retained by Malaysia's YTL Power Generation to enforce a US\$125 million UNCITRAL award against Malaysian state oil company Petronas in the DC courts.

John Fellas and Hagit Elul won injunctive relief from an American Arbitration Association arbitral tribunal in cosmetics client Roche's claim against US cosmetics producer GlamGlow. The tribunal enjoined GlamGlow from terminating its distribution agreement with the client pending the outcome of the arbitration.

It also settled a UNCITRAL arbitration for a French rail engineering company after a four-week hearing featuring 30 fact and expert witnesses. The case concerned an English law contract for a construction of a power plant in Eastern Europe.

As co-counsel with Lithuanian firm Glimstedt, it won an ICSID claim against Serbia over the privatisation of a fertiliser factory on behalf of Lithuanian clients Arbi and Sanitex. The firm's investment treaty work also includes three active claims against Venezuela being led by Yanos.

The group promoted a new partner in DC, James Boykin – who was part of the team that prepared an amicus brief supporting BG Group's attempt to reinstate its US\$185 million award against Argentina in the US Supreme Court.

Two New York partners left to set up Foley Hoag's new office in the city.

Paris partner José Rosell was elected as a member of the Swedish Arbitration Association's executive committee, charged with reviewing proposals for amendments to the Swedish Arbitration Act, while

Townsend is chairing an AAA committee reviewing the institution's governing structure.

Client comment

Colin Bird, minister-counsellor for Economic and Trade Policy at the Canadian embassy in Washington, DC, says Hughes Hubbard & Reed “dominated” in written and oral submissions in the softwood lumber disputes, which he said had direct tax implications of over half a billion dollars to Canada. “These were highly complex arbitrations involving high stakes, multiple stakeholders, extensive economic data and novel legal issues,” he says. The US may have had the simpler storyline, but the firm was “very effective at breaking down a very complex economic and regulatory context to put forward a compelling defence” and present a clear decision tree for the arbitrators.

Of Townsend, Bird says: “His ability to develop a rapport with the bench has no peer and he is a master at presenting complex economic evidence in a clear and compelling way.” Others in the team “demonstrated an unparalleled command of the economics and context”,

Another client's former legal director praises the firm's “intelligence, tenacity and conviviality” in a multi-jurisdictional insurance dispute, adding that Townsend “knows international arbitration inside and out.”