

A Firm Footing: Senior Partner of Thailand's Oldest Law Firm

Tilleke & Gibbins is the oldest and one of the largest independent law firms in Thailand. At the head of this organization is senior partner, **Mr. David Lyman**. After joining his father's Thai-based firm in 1967, Mr. Lyman not only set about distinguishing himself in the legal field, but also became recognized for his contribution to various non-legal associations, such as the American Chamber of Commerce and the Thailand Society for Prevention of Cruelty to Animals. Mr. Lyman succeeded his father as the firm's owner and senior partner in 1984. During his 36 years with the firm, Mr. Lyman has seen his fair share of disputes sparked by cultural differences and miscommunication, the most public being the recent 'national security' case brought against two Far Eastern Economic Review reporters by the Thai police in 2002. He credits the amicable resolution to his understanding of Thai culture, and the ability to recognize the goodwill of the Thai authorities. Mr. Lyman has experienced the evolution in the Thai legal system firsthand. While there are obstacles to doing business in any country, a prospective investor's primary question regarding legalities is always, 'if there is a dispute, do foreign and local parties have the ability to enforce their rights?' David firmly believes that the answer is 'Yes'. To offset the pressures of his business, David insists that a sense of humor has been fundamental to his success. His experience and understanding of local customs and cultural attitudes has helped Tilleke & Gibbins earn respect and recognition in the highly competitive legal services industry.

> What made you decide to stay in Thailand and what was your biggest fear about living here?

> It didn't come to me in a flash, or in a vision. It just kind of evolved. I knew I wanted to return to Asia. My father wanted me to come into the firm, but I needed a couple of years experience practicing law in the States before I could really be effective here. My biggest fear when I first came here was that I wouldn't have anybody to talk to, or discuss things with. However, I found that it was an unsubstantiated fear. I was also worried about being seen as the son who simply walks into his father's law firm; being criticized for not making it on my own. It wasn't long before I realized that was a myth and that I would still have to work very hard in order to make the firm succeed.

> Why has your firm been so successful, why do clients seek your advice?

> Clients must feel comfortable with counsel. Many lawyers in Thailand can provide good advice. The international firms have their recognized names, they have depth, expertise and so on. Local firms may not have all of these, but they have other strengths; that's what competition is all about. We are a local firm. We can do things that international firms cannot do, or cannot do cost

effectively. We have many years of accumulated knowledge specific to Thailand and Southeast Asia. There are also smaller firms that can pick up work that we can't handle cost-effectively as a major corporate law firm. There is room for everybody.

Another reason for our success is our solid reputation, which can only be developed over many years. Let's say you wanted to establish a magazine in Vietnam, who would you go to for advice? You might come to me and ask, "As a lawyer, who do you know in Vietnam?" You might go to one of your competitors already doing business there and ask, "Hey, who do you guys use?" This is how a lot of business comes into law firms. So you've got to get your name out there – you have to be known. However, you can't be known for doing everything for everybody. If you try to do that, you're going to end up doing nothing for anybody. You have to have niche areas in business. To fill the gaps as a law firm, we have to establish relationships with other law firms around the world.

>What are the most common reasons why an international business may need to seek your advice?

>The principal problem is cultural barriers, the second is differences of international legal systems, and the third is sophistication or lack of sophistication in legal systems. One thing a Westerner learns when living in Asia is patience. Things just don't happen as easily or as quickly as they do in some Western countries. I attended a summer programme at Columbia University in New York and they had a professor there who told us that everything anybody does is logical. It's just that we all have different starting points for our logic, but once you find that starting point, you can trace through the actions and you can see that logic always prevails. That reality is sometimes difficult for people to grasp. Thus even businessmen from other Asian countries as well from European countries may experience difficulty in understanding uniquely Thai cultural processes. Also, there are many subtleties in the Thai language, which Westerners cannot understand. Often Thais will say, "Look, I just can't translate that." And it's true, you can't. There are academies here which try to find Thai words, or create Thai words, to deal with that situation, in order to preserve the language and culture. The French do the same thing. They hate to use English words. There is nothing wrong with that, but it does show this gap, if you will, between the cultures.

>What has been your most rewarding, or challenging case?

>I've been rewarded in many different ways. Perhaps the last fun case was for the Far Eastern Economic Review. Just going through it was tremendously challenging. [NB: On January 10, 2002, an article appeared in the Far Eastern Economic Review, which the Royal Thai Police felt was defamatory to the Thai monarchy. Citing threat to 'National Security', the authorities moved to have the two reporters responsible for the article deported. Represented by Mr. Lyman, the Hong Kong-based weekly submitted an apology to Parliament President Utahi Pimchaichon. The case was subsequently dropped.]

We could have stumbled anywhere along the way, but we didn't, or if we did I don't know about it. The end result was what everybody wanted. A lifetime of professional experience came to use: being able to read the situation, knowing what to do and when to do it; knowing what the legal

rights are, and where and what the holes in the process are; and being able to read people. At times I had my team behind me, at times my team didn't agree with me, but I did it anyway, and it turned out I was right. That's the fun part. But I couldn't have done it without a good back-up team and a great deal of luck. I also couldn't have done it without a great deal of goodwill from the Thai side. I knew that goodwill existed, but I wouldn't have known that if I hadn't been here for all these years.

➤What is your business philosophy?

➤Be honest and do the best you can. I have values – such as ethics, justice, fair play – that I demand from my people. And as to what my staff and clients can expect from me? Total absolute integrity, honesty, trustfulness, loyalty and respect. A very successful American actor called Spencer Tracy was once asked what was the secret of his success in acting, and he said, “Remember your lines and don't bump into the furniture.” It's something like that here. You've got to work hard, know your business, you've got to be lucky, you have to treat your clients well and you can't be arrogant or aloof. And you must have a very tight credit control, or some of your clients will expect all kinds of legal aid for nothing, and if you're prepared to give it to them they will take it.

➤What have you found to be the key factors to doing business in Thailand?

➤Interestingly enough, cost is a factor, but it's not the primary factor. The ability to communicate, responsiveness, keeping in touch with the client – these are more important. And of course you have to be right. If I had to boil it down to one word, it's 'communication'. It's the ability to get your point of view across to the other person in a way that they understand. They may or may not agree with it, but at least they understand it and they understand the context in which you are using it.

Avoiding conflict, any type of conflict, is something that most people want to do in business. The reason why conflict exists is often due to a lack of communication, a lack of understanding. Of course there are other human characteristics such as greed or change of circumstances as well. However, the avoidance of conflict is crucial in what we call preventative law, just like prescribing a medicine in order to catch maladies before they really get out of hand, and this is most crucial in judicial situations, just as it would be in a marriage. There was a recent article in the newspaper about why marriages fail and how best to try to make them work. The answer hinges around understanding. I think somewhere between 40 and 50 percent of respondents said better understanding and meeting the other side halfway was key.

➤What changes, if any, have you seen in your profession? Where would you like to see further changes made?

➤The services that clients expect really haven't changed that much over the years, but because of modern forms of communication they just expect it sooner. They expect it to be as complete and well thought out as they always did, and they're looking for instantaneous gratification. That's the

nature of the era in which we live. But the rules are still pretty much the same. We're still humans dealing with humans.

The court system has been improved to accommodate some needs, as Thailand is finding it to be in its own best interests to make these changes. But it takes time to educate the judges and educate the lawyers as to what they can and cannot do. It takes time. It's the nature of the system. I can't think of anywhere in the world where you can get instant relief. It still takes time to make your case and present it. Some countries are a little faster than Thailand, some countries are slower, but Thailand isn't bad in terms of speed and relief. Unfortunately, it is difficult to get interim relief here. For example, it is very difficult to obtain a temporary restraining order. And given the speed with which money can be moved these days, the relief isn't there to help. So that's an area that could stand improvement.

Another thing is that it's contempt of court to talk in too much detail about a case that is already in the courts, while in other countries you can follow the progress and you can publicize it. I'd like to see that opened up a little bit, so that you can talk about the cases in the courts.

> Are most people who decide to move to Thailand successful in business?

> On a corporate level, many succeed if they do their homework and if they keep their expectations within bounds. On an individual level, many fail. And often people succeed where I would think they would fail. That's why I am not a businessman, I'm a lawyer!

Some people are natural entrepreneurs and some people are company people and they should remain company people; and they're very good at it. But when the latter go out and try to do something on their own, they fail because they don't have the support mechanisms behind them. They hope and expect things to get done, but they don't because there is nobody there to do them. They have to either do it themselves or hire people. Most people's lives are as short as they are limited. The entrepreneur is a great risk taker, and your typical entrepreneur is a guy who goes out and creates businesses, gets them up and running, but hasn't got the patience to see them through. He'll then sell the operation to somebody else, who will in turn bring in somebody else to run it. A person needs to know where he fits in that process, and normally he doesn't know until he tries. It's best to plant your feet in your own home culture, as opposed to coming out to a new culture and trying to do it. Success is about luck and sweat. If you're not lucky you won't be able to succeed, no matter how much sweat you put in.

> What are your future goals?

> I'm hoping that the firm's core values will be preserved by the next generation. They will not run the firm exactly the way I did. I didn't run the firm the way my father did and he didn't run it the way his predecessors did. That's fine. It must survive. It must look after the interests of its clients. I also hope that the firm grows. We don't have to be the largest law firm in the country, but I would like to think of it as being the best, with my personal values – dignity, honor, integrity, honesty, loyalty, respect, trustworthiness, caring, generosity and love – being reflected in the service we provide.