PROFILE

Berliner Corcoran and Rowe in a Changed Washington

Thomas Corcoran helped write the rules of modern Washington, then built a practice helping clients deal with the government that enforced them.

More than eighty years later, the firm that bears his name faces a different challenge: clients still need to know what the rules require, but increasingly want to know whether the government will apply them as expected. "We can run through the penalty calculations," said partner Dan Fisher-Owens, "but it's very hard to predict political risk."

Export controls, sanctions, customs requirements, and investment restrictions can converge on a single transaction. Berliner Corcoran & Rowe has spent years assembling a team of lawyers who can handle those questions together.

Thomas Gardiner Corcoran, Franklin Roosevelt's "Tommy the Cork," came to Washington as a law clerk to Justice Oliver Wendell Holmes Jr. Working with Benjamin Cohen and other New Deal lawyers, he helped draft and advance legislation governing securities markets, public utilities, and labor.

James Rowe, later his law partner, recalled that Corcoran and Cohen "would do the drafting and also carry it through the Hill." The lawyers who understood the substance also did the political work. In private practice, Corcoran put that combination of legal knowledge, personal relationships, and persuasion to work for corporate clients.

Read the Rule; Read the Room

Knowing what a regulation says is only the beginning. Clients also need to know how the officials administering it are likely to read it—and whether an interpretation accepted for years will survive a change in leadership. For Fisher-Owens, that requires both a close reading of the text and a judgment about the people applying it.



TIME MAGAZINE

Ben Cohen and Tom Corcoran, FDR's "Gold Dust Twins" Sept 12, 1938.

"More frequently in the last few years, my advice will be two barrels," he said. "First barrel is this is what the law says." The second addresses "the risk … that the government will take a contrary view" and assert "a non-traditional interpretation."

That combination of understanding the law and understanding Washington connects the present practice to Corcoran's. He helped draft legislation and secure its passage, then represented clients before the government he had helped shape. Today, Fisher-Owens says, practitioners must assess whether the text, past practice, and the government's present intentions still point toward the same answer.

New restrictions make that assessment harder. "We have a lot of novel regimes, like the outbound investment rules," he said, for which "there isn't a lot of interpretive precedent." Even where regulations are familiar, their application may be unsettled. "There's a lot of room in many of these regulations for reasonable minds or unreasonable minds to differ."

For years, counsel could make those judgments against a relatively familiar institutional background. "You had career prosecutors at DOJ," Fisher-Owens said, along with career staff exercising substantial influence at BIS, DDTC, and OFAC. Their experience supplied continuity: lawyers could draw on earlier interpretations and understand how an enforcement question was likely to be considered. An interpretation today, he said, may be "deliberately different than it has been in the last couple of decades."

A defensible reading of a regulation does not eliminate the risk of a contrary government position. In Fisher-Owens's view, counsel must explain where the legal argument is strong, where precedent offers little guidance, and where changes in personnel or policy make past practice a less reliable guide.

Trade and National Security

Ben Flowe helped establish another defining part of BCR's practice. Benjamin Hugh Flowe Jr. joined the firm in 1997 after practicing at other Washington firms. Along with John Ordway, he developed its export controls and sanctions work into a practice recognized nationally and internationally. His expertise encompassed licensing, compliance programs, voluntary disclosures, and enforcement, with particular authority in encryption controls.

Flowe's work required attention to the technology and the business behind a legal question. His clients

included software enterprises, aerospace and defense companies, and foreign businesses subject to U.S. reexport restrictions. Designing workable compliance programs meant understanding how products, information, and decisions moved through those organizations.

Flowe contributed beyond individual representations. Through long service on the Commerce Department's Regulations and Procedures Technical Advisory Committee, he helped officials test the practical operation of export regulations. He participated in work surrounding the comprehensive 1996 revision of the Export Administration Regulations and shared his expertise through publications, lectures, and mentorship.

In a recent tribute, Akin partner Kevin Wolf called Flowe "the leader of the export control bar for decades" and praised his proposals for improving the regulations and the Bureau of Industry and Security.

Flowe retired in December 2024 and died on October 8, 2026, after living with ALS for nearly twelve years. To recognize his generosity toward younger practitioners, BCR partners and the National Council on International Trade Development established the Benjamin H. Flowe Jr. Trade Scholar Award in 2026.

Everything but Your IPO

The trade practice grew from Flowe's work in computing and cryptographic software and Ordway's concentration on defense trade and space. That experience now extends to semiconductors and AI chips. "So we're kind of deep in that stack," Fisher-Owens said. The firm combines "some deep experience and also some repeat play in particular industries."

When Fisher-Owens joined roughly two decades ago, the practice consisted of "three people trying to cover the waterfront," principally in export controls. "Our sanctions exposure was largely on trading goods," he recalled, including clients dealing with reexport restrictions involving Iran and Sudan.

The arrival of lawyers including Perry Bechky and David Baron broadened both the sanctions work and the matters the firm could undertake. At the time of the interview, Bechky was serving as an arbitrator in a sanctions-related case in Europe. "That wouldn't have been in our lane in 2005," Fisher-Owens said.

Litigators Laina Lopez and Bill Coffield's dded the ability to carry regulatory matters into investigations and contested proceedings, according to Managing Partner Babak Hoghooghi. "We've been involved in 10, 15 cases at least in the last decade where people have been charged criminally for sanctions and export control violations," he said. "Another area that's growing is delistings, because the number of people who are being sanctioned and increasingly people are challenging that."

"What they bring to us is the ability to be not only a counseling and compliance shop, but also in the event of an investigation, we've got the capacity to handle that within BCR" added Fisher Owens

Customs was a longstanding gap. With BJ Shannon's arrival, Fisher-Owens joked, "we cured our allergy to customs." Her addition "has rounded out a portion of our practice that was missing for a long time," he said.

The growth has followed clients' needs while retaining the firm's specialist character. "I feel like we've evolved from kind of having a particular focus 20 years ago to really being able to provide full service, but on export controls and sanctions and trade compliance," Fisher-Owens said. "The only thing we can't do is your IPO."

Close to the Client

"Our value proposition is big firm quality at small firm prices," said Hoghooghi. "What we do on the trade side is highly specialized."

Fisher Owens described a service model which puts the client's question before someone who already knows the field and can keep the commercial objective in view. "Everybody here has had a decade or more, and in some cases more than several decades of experience.," he said. "We tend to try to get to solutions for the clients quickly and efficiently."

That familiarity becomes particularly valuable when a company receives an inquiry or subpoena. Counsel must assess the conduct under investigation while establishing who is handling the matter and how decisions will be reviewed. Familiar procedures cannot simply be assumed.

What has become harder, they suggested, is forecasting the result. A published settlement can reveal an agency's priorities without disclosing all the facts, negotiations, or considerations that produced the penalty. Counsel must determine how much that case says about the client's own circumstances. A penalty calculation is part of the answer; it cannot settle every question about enforcement risk.

That work explains why BCR's lawyers return to experience when describing the firm. They need to know the regulations, the industries, and how investigations develop. They also need to recognize when an established expectation no longer holds.

The demands on their clients have widened along with the firm's practice. As Customs practitioner BJ Shannon put it: "If your job used to be ITAR, now it's tariffs also." A compliance officer who once concentrated on defense exports may now face import duties, supply-chain questions, and forced labor restrictions.

For a firm with roots in Corcoran's Washington, the work still requires understanding the client's business, determining what government requires, and finding a course the client can act on—even when the familiar channels have changed.

"Attorneys at BCR have represented clients from over 100 countries," said Hoghooghi, "and for a firm our size, I think that's really phenomenal. It speaks to our international DNA and our international focus as American attorneys. When you put all of that together, with people like Dan, who really know their stuff, I think that's what distinguishes us. You don't pay huge billing rates, but you really do get top-quality legal service. I think it's widely recognized because of our pedigree." [15864]