

The legal sage

No one knows Thailand's legal minefields better than David Lyman, lawyer extraordinaire

By Maxmilian Wechsler



David Lyman did not set out to follow in his parents' footsteps and become a lawyer. Instead, in 1958, at the age of 21, he was commissioned in the United States Navy and was assigned first to a minesweeper and then to the US Submarine Service, where he was principally engaged in engineering, communications and operations. It was while he was in the service that he decided to study law, a choice that has brought him great success.

David is currently Chairman and Chief Values Officer at Tilleke & Gibbins (T&G) International Ltd, the oldest and biggest independent law firm in Thailand. One might expect that a man in his position, who meets with well-connected people day in and day out, would be found in a three-piece suit in a luxuriously appointed office.

But this is not the case with David, who usually wears casual clothes and has no aides following him around. His office on the 23rd floor of Supalai Grand Tower is relatively small and modest, although the view is breathtaking.

"Look, what a view of Bangkok," he said, walking close to the large window as if he were looking through it for the first time, admiring the skyline full of modern skyscrapers.

David's numerous friends and business associates invariably speak of his remarkable character, as reflected in his wisdom, sense of humor, friendliness and compassion for the less fortunate. He is one of the Kingdom's best-known foreign residents through his activities and services on behalf of the government and society, as well as the Thai and foreign business communities.

Reading through his 11-page CV, one cannot help but be impressed at his accomplishments. David is an active member in many local and international organizations, including the American Chamber of Commerce in Thailand, International Chamber of Commerce, World Economic Forum, International Crisis Group, Lex Mundi and Pacific Rim

Advisory Council law firm alliances, and Thailand Society for the Prevention of Cruelty to Animals.

David gave a short background of his law firm: "In 1890 Ceylonese lawyer William Alfred Goone Tilleke chose Siam as the place he wished to employ his talents and secure a career, and he opened a law office. In 1902 he teamed up with Ralph Gibbins, an Englishman, and the firm became Tilleke & Gibbins.

"My father, Albert Lyman, along with my mother, Freda Ring Lyman, purchased T&G in 1951 from the surviving partner, Victor Jaques, and I took over after my father's death in 1984."

David's parents came to Thailand in 1949, when he was 12 years old. Even at that time it was a friendly place, in comparison to other countries in the region, and the family decided to make their home here.

T&G has three principal groups – intellectual property, corporate and litiga-





tion or dispute resolution, which includes arbitration.

“We have now four offices: two in Thailand, in Bangkok and Phuket, and two in Vietnam, in Hanoi and Ho Chi Minh City. We employ about 350 people, including 100 lawyers, 85 of whom are in Bangkok. The firm serves over 5,000 clients from more than 100 countries. Our clients include government agencies, financial institutions, shipping companies and fashion houses.”

Recognizing the growing opportunity in Vietnam, the firm established T&G Consultants Limited in 1989 to provide investment and legal consulting services for businesses engaged in commercial activities there.

In 1992 Tilleke & Gibbins became the first foreign law firm to receive a license to establish a representative office in Vietnam. The office, situated in Ho Chi Minh City, was followed in 1994 by the opening of a representative branch in Hanoi. In 1996, both offices were awarded full law licenses.

The firm branched out to Phuket in early 2005 to service the needs of foreign

property buyers there and in surrounding areas. Since then, the firm has acted for more than over 1,000 foreign buyers there.

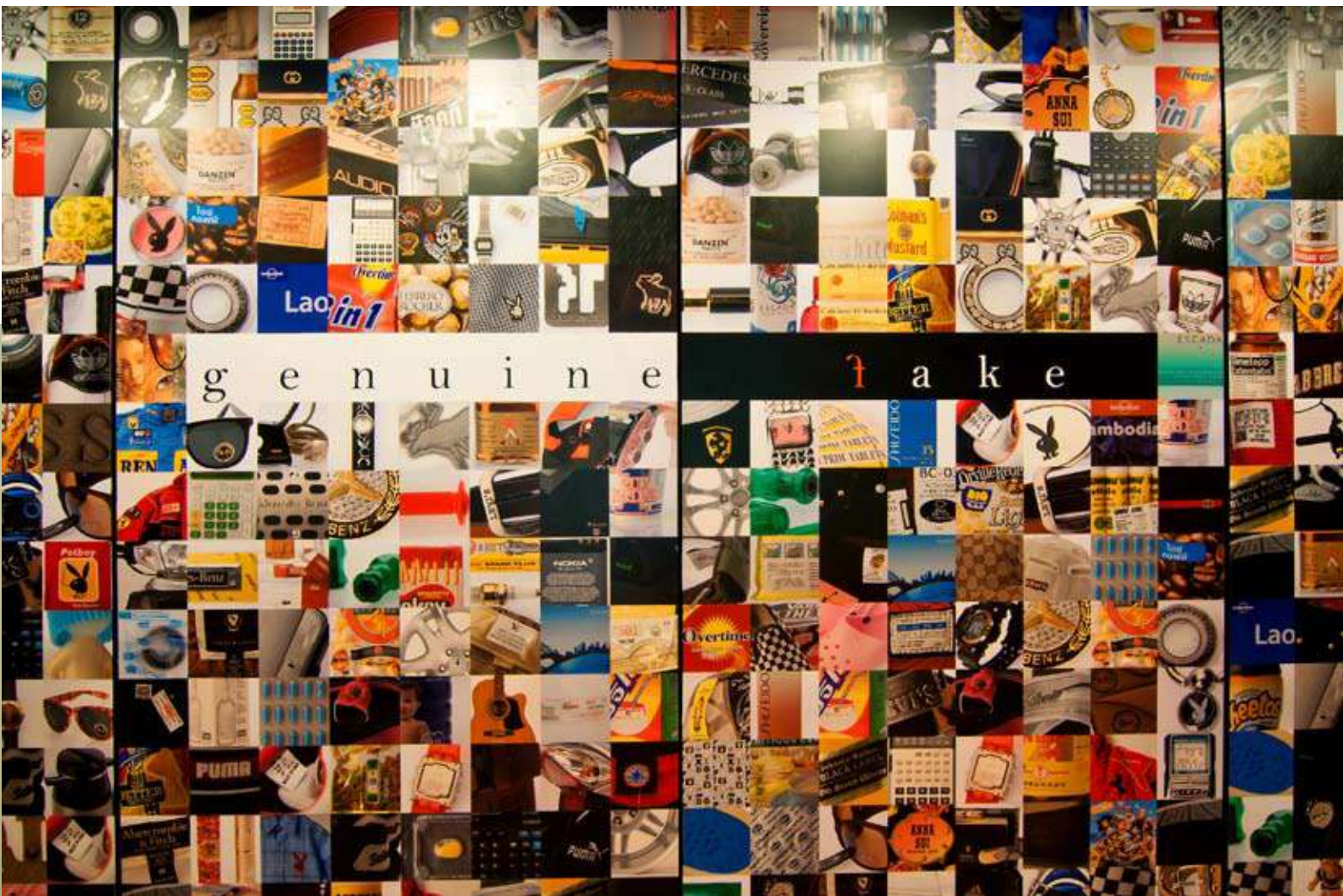
“My family contributed to the development of the law in this country, and did a lot of charity work and so on. My father founded the American Association of Thailand (now the American Chamber of Commerce) and was a founder and chairman of the Bangkok Stock Exchange (now the Stock Exchange of Thailand).

“My mother played a major role in the creation of the Foundation for Crippled Children and she was involved in other projects like Cheshire Homes which provides support for the disabled.

“In recognition of her work, she was awarded the Most Noble Order of the Crown of Thailand 5th Class in 1961, making her the first foreign woman to be decorated by His Majesty King Bhumibol Adulyadej.”

When asked what he likes and dislikes the most in Thailand, he answered quickly: “I like the Thai people and dislike the corruption.

“Corruption is pervasive across the



world and throughout history. Corruption and other illicit activities thrive in Thailand today as they have in the past because most people believe that they, as individuals, can do little to curb it. So they learn to live with it.

“Thailand does not lack for anti-corruption laws, but are they enforced?”

Money, politics, an age-old patronage system, personal connections, nepotism, interventions by influential persons, lack of funding to pay government officials and to fund the operations of some government agencies – these are some reasons for the corruption.

“When a government official wants a promotion, it may be necessary to pay a superior. Where do these officials get the money to feed the system and still support themselves and their families? Unless they moonlight or their families have money, they have to get it from those they serve.”

David said that it is not easy to operate a business in Thailand. “You will always run into problems. My father used to say: ‘A problem every hour and a crisis twice a day.’ This was one of his famous sayings. Maybe the crisis just comes twice a week, but there are always problems.”

David reckons that on average his firm takes on 1,000 new cases every month. The majority – 700 to 800 – are for intellectual property registrations, which are small cases with a fixed fee. The rest are more time consuming, involving litigation or corporate matters, for example.

“The ordinary cases like formation of

a company or registration of a trademark, that’s bread-and-butter work,” said David. “However, once a while we will get a fascinating case. One of the more memorable and extraordinary cases for me was that of two foreign journalists, Rodney Tasker and Shawn Crispen.

“Both were working for the now defunct weekly Hong Kong-based magazine Far Eastern Economic Review. They were threatened with expulsion in 2002 after the Thai authorities deemed an article published in January that year to be offensive to the country. They had some problems with former Prime Minister Thaksin Shinawatra.

“We resolved the whole thing with a little help here and there, including some behind-the-scenes negotiations. Everyone was telling me, ‘David, you will get in trouble with Thaksin over this.’

“Not long after the matter was resolved, I attended a luncheon that the Foreign Chambers of Commerce held for then Prime Minister Thaksin. As usual, I came in late. In order to get to my table I had to pass where Thaksin was sitting. We’ve known each other for 30 years.



“While I was passing by his table, he said, ‘David, sit down, there’s an empty seat here.’ I said, ‘Prime Minister, this is a seat for the president of a Foreign Chamber of Commerce which I am no longer.’

“David, sit down,” he repeated. So what do you do if the prime minister tells you to sit down? I sat down.

“Thaksin gave me a lot of face at that meeting, but no trouble over the incident. It was his way of saying, it is a closed chapter, let’s move on. I am not commenting on his politics, just this case.”

David said he and his firm have had good relationships with almost every government because they don’t become involved in partisan political matters.

“Naturally, we have to understand the political situation and to know the politicians. Some I have known since I was young. We grew up together.”

He doesn’t like drug (narcotics) cases and no longer takes them. “We used to take a lot of them, but not now. Usually, the accused are guilty as hell, so why take money from them when we cannot help them? There is an occasional case when someone is framed or the wrong person is arrested, but generally speaking, in the average drug case they are caught red-handed.

“However, occasionally, if it is a special case, and for example the parents of the person in trouble call us, we try to help. But if we can’t then we will refer the case to somebody else,” David said.

Commenting on an area his firm is still heavily involved in – counterfeiting or piracy of intellectual property – he said it is still going strong and even increasing. “Anything made by man can be and most probably has been or is being counterfeited. Counterfeiting is not unique to Thailand. On a global scale, it is very hard to measure – but according to the International Chamber of Commerce, somewhere from seven to ten percent of the total world trade is in counterfeit products.”

David gives his staff independence and encourages them to take responsibility. “We have an organization here. There’s an old saying: ‘I didn’t build the business, I built the organization and the organization built the business.’ That’s the way it happens with us. You have to have trusted people and allow them to make decisions.

“We have two Thai ladies, Darani Vachanavuttivong and Tiziana Sucharitkul, who have been co-managing partners since August 2006. They are trained professionals and are running the firm. The days of family-owned law firms are past.”

David remarked that the law field





to go through all the papers I have here and in other rooms and to sort them out – throw away stuff that should be thrown away, and archive documents for the history of the firm. We have 121 years of history in this firm and we have that kind of heritage, a legacy that should be passed on to future generations.”

David said that fundamentally a lawyer’s job is very simple: “Solve clients’ problems. Get the job done. Problems change and clients change. Our lawyers don’t change too often. We have very little turnover. It is very difficult to get into the firm as there are all kinds of tests and hurdles. Once someone gets in, they usually stay.

“It’s a different attitude here. We are still a family law firm with a family attitude, whereas when you deal with some international law firms it is strictly a business. Everything is numbers.

“We do take people back who have left us for other experiences and we are glad to do so because if they go somewhere else, they will get more training and more exposure,” he added.

David had some advice for foreigners considering starting a business in Thailand: “You should understand the difficulties of a foreigner doing business in a foreign environment. If you have never done business in a foreign environment, then I will tell you: Don’t start in Thailand, go somewhere else first.”

At 75, he remains very active and gives little sign of slowing down. “Personally, I am healthy,” he acknowledged, knocking several times on the wooden desk with his fingers. “I have problems associated with aging, of course. I have been taking hormone therapy for several years now.”

It’s clear that David truly enjoys his life. He still makes time for hobbies that include swimming, scuba diving, underwater photography and travelling to remote areas of the world to record people and places in his photographs.

How has he managed to live such a productive life? “My biggest success has come from my successful parents.” He added, “Thailand has been very good to my family, and allowed us to prosper and to contribute.”

When asked to name his biggest failure, David replied with a smile: “Not learning to play the banjo – my hands and fingers are too big...or the marimba.”

*Visit Museum of Counterfeit Goods:
Tilleke&Gibbins International Ltd.
Supalai Grand Tower, 26th Fl.
1011 Rama III Rd., Bangkok
Tel: 02 653 5555*

When I first came here, there were three or four law firms here and only about 6,000 lawyers countrywide. At that time my secretary asked me: ‘David, do you know why there are so few lawyers in Thailand?’ I said: No, why? She responded, ‘There’s an old Thai saying: Bullets are cheaper.’

is very competitive in Thailand. “Thais make some very fine lawyers. When I first came here, there were three or four law firms here and only about 6,000 lawyers countrywide. At that time my secretary asked me: ‘David, do you know why there are so few lawyers in Thailand?’ I said: No, why? She responded, ‘There’s an old Thai saying: Bullets are cheaper.’

“Now, there are more than 50 significant firms and 58,000 lawyers in Thailand – that’s how many are registered with the Law Council. Some students from the main schools here are very ordinary, but some are brilliant.

“We have students coming here all the time to visit the museum of counterfeit goods we set up in 1989. We get a couple of hundred students each month, mainly from universities. We use the museum as an educational tool. We also help train police, Customs and Department of Special Investigation officers.

“When we opened the museum in 1989, the collection consisted of approximately 100 counterfeit items divided into a few basic categories: clothing, leather

goods, electronics and toiletries. At present, the collection is composed of more than 3,500 products divided into 14 categories, including footwear, watches, eyewear, cosmetics, drugs, copyright works, foods, office supplies, alcohol and cigarettes, automotive parts and electrical devices.

“The museum has attracted significant media attention. Several TV networks, including CNN and BBC, have featured it in documentaries concerning counterfeiting in Thailand.”

The firm also has displays showcasing its history and a textile collection with more than 2,000 pieces from around Southeast Asia.

When asked how long he will continue to work, David said: “I have been practicing law here since 1967 and will go on until I die, although I am slowing down. As they used to say in the Old West, I will die with my boots on, as did both my parents.”

And his future plans? “Do you see all the boxes around my office? Well, I am a packrat. I collect papers and it is time