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Out of the Box

Taylor & Patchen LLP draws top talent by taking on complicated, often novel, matters.

By Sean Kagan
Daily Journal Staff Writer

When Theranos whistleblower Tyler Shultz divulged to the Wall Street Journal the company's blood testing machines regularly failed quality-control checks, Taylor & Patchen LLP defended him.

Shultz's grandfather, former secretary of state George P. Shultz, sat on the board of the blood testing company. That did not, however, stop Theranos' lawyers from coming out aggressively against his grandson.

"The strategy was to keep him safe and out of litigation, and that required some creative thinking," Taylor & Patchen founder and managing partner Stephen E. Taylor said of representing the younger Schultz, noting he challenged Theranos' attorneys to litigate the issue in a public forum.

"It was a delicate balance of representing him while enabling Tyler to retain the very principles Theranos' lawyers were trying to silence," Taylor added.

Theranos CEO Elizabeth Holmes was indicted on fraud charges last year and the startup, once valued at \$9 billion, is now defunct.

Taylor & Patchen, formerly Taylor & Company Law Offices LLP, is a well-established San Francisco boutique with over 25 years of practice. The firm features a team of 11 attorneys and has a penchant for drawing top talent from big law while handling complex business litigation, trade secret, and intellectual property matters.

The firm also takes on "outside-the-box matters," such as *E-Smart Technologies Inc. v. Drizin*, a



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From left, Taylor & Patchen LLP co-founder and managing partner Stephen E. Taylor, co-founder Jonathan A. Patchen, partner Cheryl A. Cauley

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— Taylor & Patchen, LLP co-founder Jonathan A. Patchen

case firm co-founder Jonathan A. Patchen called "a real soap opera." In the lawsuit, a federal judge appointed Taylor & Patchen as counsel to represent the court and to prosecute a contempt action.

"The defendants brought in a unique piece of evidence to a settlement conference, and the evidence disappeared and was not returned," Patchen explained. Former U.S. District Judge Marilyn H. Patel appointed Taylor & Patchen as prosecutors. After an investigation and a full bench trial, U.S. District Judge William B. Shubb found the CEO of *E-Smart Technologies Inc. v. Drizin*, CV06-05528, (N.D. Cal., filed Sept. 11, 2006).

Patchen said it was "a once in a lifetime experience to have a federal court as a client and a federal judge as your lead witness."

Technology companies are drawn to the firm partly because of Taylor's expertise and insider insight from his time serving as a general counsel in the industry.

"When I started the firm, I represented Intel after having been an acting general counsel at People-Soft," said Taylor. "Other tech companies came to us with disputes, and we developed an expertise helping those IP companies, and then we got good at helping [venture capitalists] and their portfolio companies."

Determined to provide high

level service, Taylor started the firm with his longtime legal assistant, Catherine Dunbar.

"I wanted to find a way to recognize her but couldn't formally put her name on the door," he recalled. "So she was the '& Company' of Taylor & Company."

Patchen, a Harvard Law School alumnus, said it's not uncommon for graduates from his alma mater and similar schools to focus on working for the nation's largest firms. Patchen noted when he first came to San Francisco he worked at Covington & Burling LLP. While searching for new opportunities, however, Patchen met Taylor during the Taylor & Company Law Offices days.

"It was really eye opening for me," Patchen said. "There was this whole other potential world of litigation boutiques that can deliver as good or better legal services that are flexible and client focused."

Patchen joined the firm in 2008, became a partner in 2010, and in 2017 added his name to the letterhead.

"Steve and my practices are quite complimentary," Patchen said. "He is excellent at figuring out how to resolve cases and trying to get in early and achieve the greatest results as possible. Me, with my debate background, I enjoy the litigation and arbitration aspects."

Choate Hall & Stewart LLP partner Mark D. Cahill has seen Taylor's early resolution focus firsthand as opposing counsel.

"Sometimes when there is a disputed matter, people fight and fight before they resolve things," Cahill said. "We had an early discussion to see if contentious

litigation could be avoided rather than running up bills for both clients and rattling sabers for weeks if not months. He was extremely reasonable, practical, and instilled trust, and the end result was a successful negotiated resolution of the dispute.”

Another powerhouse at Taylor & Patchen is firm partner Cheryl A. Cauley, whose clients span internet search and advertising, wireless communications and biotechnology. The Stanford Law School alumna said after eight years at Quinn Emanuel Urquhart & Sullivan LLP, she learned about Taylor & Patchen from a recruiter. Cauley noted Taylor’s interest in her career trajectory greatly influenced her decision to join.

“In one of our early interviews we went for a walk down the Embarcadero and Steve was really interested in where I was hoping to go with my legal practice,” Cauley said. “Those are the types

of questions you don’t often get at a bigger firm.”

Cauley called her transition from a large firm to a boutique “very smooth.”

“The legal work is so similar,” she explained. “And we have very interesting types of cases at the cutting edge areas of law.”

Last spring, Cauley handled a two-week arbitration related to a dispute surrounding two individuals who left Google to found a self-driving vehicle company, Ottomotto LLC, that was later acquired by Uber.

“The crux of the arbitration was how California’s courts have approached employee mobility,” Cauley said, and “how much an employee can prepare to start a new venture before they leave their current job.”

Goodwin Procter LLP partner and technology litigator Neel Chatterjee was co-counsel in the arbitration.

“We lived with [Taylor & Patchen] day in and day out for over a year,” Chatterjee said. “They worked as if we are part of the same firm and were extremely collaborative and bright lawyers.”

Patchen said one of the biggest challenges for the firm is conveying their value proposition to general counsel and startups.

“A large firm can be seen as ‘the safe play’ or a risk-adverse play, but because we are smaller and more nimble, the rates and costs to deliver the same or better legal representation are substantially less,” he explained.

“Our number one goal is to provide superb, cost-effective representation, which leads to referrals and repeat clients,” Cauley said. “We’ve been able to do that repeatedly, and with the team we have here, are fully confident that we’ll continue to win that pitch — even against larger firms.”

Taylor & Patchen is already a

well-oiled machine, but that does not mean the firm would pass up the opportunity to add to attorneys.

“We are trying to grow — not exponentially, but driven by what the clients need,” said Taylor.

“At a small firm like ours, every lawyer or staff person is a big change to the culture and dynamics of the firm,” Patchen said, noting the firm grows organically and hires when they come across an attorney “too good to pass up.”

Taylor found a unique way to make the most of his firm’s space in the historic Ferry Building. “I like art, so I invite artists to come over for an art show and bring up wine and oysters to the office from the market below,” Taylor said. “We have done six or seven of these now and invite clients, lawyers, and the students of the artists.”

“It’s a great way to get together in a completely different environment,” said Cauley.