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Notable Case Updates

October 13, 2025

1. SEC Dismisses FCPA Charges against Ex-Cognizant Executives

On the heels of DOJ's decision in April to dismiss FCPA charges against ex-Cognizant executives Steven Schwartz and Gordon Coburn, the SEC followed suit on July 15, 2025, dismissing its case against the executives. The case, which began in February 2019, alleged that the executives authorized a bribe to an Indian official in exchange for a permit to build a multi-million-square-foot office in Chennai, India. In 2019, Cognizant paid more than $30 million to resolve similar charges with the SEC and DOJ. The SEC described its decision to dismiss the case against the two executives as policy-based and not merits-based, suggesting that the SEC may be acting in step with the recently issued DOJ FCPA Guidelines.

Gina Castellano, Martin Weinstein, and Laura Perkins recently wrote an article in Corporate Compliance Insights about the SEC dismissal. Read more ***here****.*

2. CEO Convicted in First FCPA Trial Since Enforcement Resumed

On September 15, 2025, Carl Alan Zaglin was **convicted** for his role in a five-year bribery and money laundering scheme, marking the conclusion of the first FCPA trial since FCPA enforcement resumed in June. Zaglin, the CEO and owner of Atlanco, LLC (Atlanco), a Georgia-based manufacturer of law enforcement uniforms and accessories, was accused of laundering money and bribing the Honduran state entity responsible for procuring goods for the Honduran national police to secure contracts worth over $10 million.

The jury found Zaglin guilty of one count of conspiracy to violate the FCPA, one count of violating the FCPA, and one count of conspiracy to commit money laundering. He faces a maximum sentence of up to 30 years in prison.

3. Two Corporate Enforcement Policy Declinations in Two Months: DOJ Declines Prosecutions of Liberty Mutual and Bank of America

On August 7, 2025, DOJ and the U.S. Attorney's Office for the District of Massachusetts, **announced** that they will not prosecute Liberty Mutual for FCPA violations in connection with conduct by its Indian subsidiary. This marks the first FCPA **Corporate Enforcement and Voluntary Self-Disclosure Policy** (CEP) declination by the current administration and since DOJ resumed FCPA enforcement in June 2025. According to DOJ, between 2017 and 2022, a Liberty Mutual subsidiary in India paid $1.47 million in bribes to state-owned banks to secure referrals of customers to its insurance products. The scheme generated roughly $9.2 million in revenue and $4.7 million in profit, which Liberty Mutual agreed to disgorge.

On September 18, 2025, DOJ **announced** its decision not to prosecute Bank of America Securities (BoAS), a North Carolina-based financial institution, for alleged market manipulation schemes. Between November 2014 and April 2020, two BoAS traders placed more than 1,000 spoof orders (*i.e.*, orders placed without the intent to execute them at the time they were placed) on the secondary market and, for one of the employees, the futures market for U.S. Treasuries. In connection with the declination, BoAS agreed to disgorge $1.96 million and contribute $3.6 million to a victim compensation fund, which BoAS will establish and administer. This declination follows the guilty plea in April 2022 of one of the involved traders.

Both decisions not to prosecute come under the Criminal Division's updated CEP and have been touted by DOJ leadership as demonstrating DOJ's commitment to the "will decline" language in the CEP, as opposed to the presumption of a declination in prior iterations of the CEP.

4. DOJ Settles with Illumina over Alleged FCA Cybersecurity Violations

On July 31, 2025, DOJ **announced** a $9.8 million settlement with biotechnology company Illumina, Inc. (Illumina) to resolve alleged FCA violations related to cybersecurity vulnerabilities in its medical device software that endangered the government agencies with which it contracted. The case was initially filed by Illumina's former Director of Platform Management, a *qui tam* whistleblower.

The **settlement agreement** alleges that between February 2016 and September 2023, Illumina submitted false claims for payment to federal agencies, failed to implement adequate security programs in its technologies, and sold genetic sequencing products with significant software shortcomings to DOJ, VA, HHS, DHS, and NASA. Importantly, the settlement agreement contends that the claims were false "regardless of whether any actual cybersecurity breaches occurred." According to DOJ, Illumina's knowing failure to correct design vulnerabilities and incorporate cybersecurity measures into the development, installation, and use of its products was enough to constitute a false claim.

This marks the first DOJ settlement involving failures to meet cybersecurity requirements by a medical device manufacturer, signaling that the government is broadening its cybersecurity focus beyond defense contractors to include other federal contractors.

5. Interactive Brokers Settles with OFAC

On July 15, 2025, Office of Foreign Assets Control (OFAC) **announced** an $11.8 million settlement with Interactive Brokers, a Connecticut-based brokerage platform, for alleged sanctions violations involving China, Cuba, Iran, Russia, Syria, and Venezuela. Between 2016 and 2024, Interactive Brokers processed thousands of transactions for customers in sanctioned countries and on behalf of sanctioned individuals. Despite supposed restrictions, customers in restricted regions could still log in and trade, including securities trading linked to a Chinese water firm associated with a paramilitary group accused of human rights abuses as well as dealings with sanctioned Russian banks. Interactive Brokers self-disclosed the conduct to OFAC and has since restructured its compliance program by enhancing its geo-blocking capabilities and introducing internal testing measures to strengthen oversight.

6. FirstEnergy Suit Turns into Fight over Attorney-Client Privilege

On October 3, 2025, the Sixth Circuit **vacated** a discovery order requiring FirstEnergy, Ohio's largest utility company, to disclose internal investigative documents prepared by outside counsel. The decision follows a District Court in the Southern District of Ohio **granting** a request for investigative materials, finding the documents were not protected by attorney-client privilege because they were created primarily for business- and human resources-related purposes as opposed to legal ones.

The Sixth Circuit unanimously granted the writ of mandamus and vacated the discovery order, finding that the requested materials were covered by both the attorney-client privilege and attorney work product doctrine. In doing so, the Sixth Circuit relied on the Supreme Court's seminal decision in *Upjohn Co v. United States*, which held that the attorney-client privilege "applies when a company seeks legal advice to assess risks of civil and criminal liability."

7. Second Circuit Narrows Wire Fraud Statute in NFT Insider Trading Prosecution

In *United States v. Chastain*, a split panel of the Second Circuit reversed the conviction of a former senior manager of OpenSea, finding the district court had improperly instructed the jury and holding that confidential business information must have commercial value to the company in order to constitute a traditional property interest under the wire fraud statute.

Chastain comes after a 2022 decision by the Second Circuit to rein in the reach of the wire fraud statute. In *United States v. Blaszczak*, the Second Circuit vacated wire fraud convictions, holding that confidential information from a federal agency was not "property" under the wire fraud statute because the information did not have commercial value to the government. However, **as reported last quarter**, the Supreme Court expanded the reach of criminal wire fraud liability to claims with no economic loss. It remains to be seen how courts will interpret the Supreme Court's recent expansion of the fraudulent inducement theory of wire fraud at the same time that the Second Circuit has been paring back the reach of the statute.