

Ninth Circuit Limits Ability of Foreign Nationals to Challenge FCPA Charges from Abroad

As made clear in the DOJ and SEC's joint Resource Guide to the Foreign Corrupt Practices Act (FCPA), U.S. prosecutors view foreign nationals as liable under the FCPA—regardless of whether they have taken any action in the United States—in cases where they aided and abetted, conspired, or acted as an agent of an issuer or domestic concern. However, the practical implications of enforcing the FCPA against individuals residing outside the U.S. raises a litany of questions about how, and when, foreign nationals can contest criminal allegations against them brought in U.S. courts. A recent denial of certiorari from the U.S. Supreme Court in *Kim v. USDC CD CA, et al.*, left muddled the question of whether a foreign national can challenge an indictment from abroad.

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