

**Alert | White Collar Defense & Special Investigations**



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## **Federal Court Tosses Hoskins' FCPA Counts but Sustains Money Laundering Conviction**

A federal judge in Connecticut has thrown out the conviction of Alstom S.A. executive Lawrence Hoskins for violations of the Foreign Corrupt Practices Act (FCPA), on the ground that prosecutors failed to prove Hoskins was an agent of the company's U.S. subsidiary and thus was subject to the FCPA.

This is just the latest twist in a closely-watched case that has tested the extra-territorial reach of U.S. foreign bribery laws. Hoskins, a British national who worked for a French company and had never set foot in the United States, was not among the class of persons ordinarily subject to the FCPA. He was nonetheless charged with aiding and abetting FCPA violations, as well as with money laundering and money laundering conspiracy, in connection with bribes allegedly paid to Indonesian officials on behalf of a U.S. affiliate of Alstom.

On interlocutory appeal, the Second Circuit held that that Hoskins could not be prosecuted for aiding and abetting FCPA violations that he could not have committed as a principal. The Second Circuit nonetheless left open the possibility that Hoskins could be convicted if he acted as an agent of a U.S. domestic concern subject to the FCPA. On remand, the district court adopted jury instructions on the question of agency relationship that were arguably favorable more to the government than the defendant, and in December 2019, Hoskins was convicted on multiple FCPA and money laundering counts.

On Feb. 26, 2020, the district court granted the defendant's motion for acquittal on the FCPA charges, finding there was insufficient evidence for the jury to conclude that Hoskins was an agent of a domestic

concern. In particular, the court found insufficient proof that Hoskins agreed to act, and did act, under the control of Alstom's U.S. affiliate. Interestingly, the district court upheld Hoskins' conviction on money laundering offenses, including charges that Hoskins laundered money into the United States to promote a violation of the FCPA.

It remains to be seen how DOJ, and in particular the Fraud Section, responds to this loss. The loss comes on the heels of a defeat at trial in the *Boustani* matter in the Eastern District of New York, which outside observers have linked to a concern about the extra-territorial scope of U.S. bribery laws. It is possible that DOJ will now be more circumspect in charging non-U.S. persons and entities with foreign bribery. But given that the money laundering charges against Hoskins were sustained, it is also possible that the district court's disposition encourages DOJ, going forward, to view foreign corruption through the lens of money laundering – a path that it was arguably already on before this latest twist. Notably, the money laundering statutes expressly provide for extra-territorial jurisdiction under certain circumstances; and they also specifically extend to financial transactions that involve the proceeds of foreign predicate offenses, including foreign bribery offenses, so long as the financial transactions occurred in whole *or in part* in the United States.

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