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## Hoskins Win Shows DOJ Pursuit of Individuals Won't Be Held Back by Jurisdictional Concerns

Following a protracted appellate battle over the reach of the FCPA, former Alstom executive Lawrence Hoskins was convicted of FCPA and money laundering charges by a Connecticut jury on November 8, 2019. Hoskins was indicted in 2013 in connection with a bribery scheme that took place from 2002 to 2004. [Alstom pled guilty](#) to FCPA charges in December 2014 and paid \$772 million to resolve the allegations with the DOJ.

The traditional [FCPA jurisdictional hooks](#) did not work for Hoskins – he was employed by a French company in Paris, held a U.K. passport and claimed he never set foot in the U.S. The question of whether he could be liable under the FCPA as a conspirator without one of those three jurisdictional bases present [reached the Second Circuit](#), which [affirmed the district court](#) and held that Hoskins could not be liable as a conspirator unless he could be directly liable as an employee, director or agent of a U.S. company – in this case Alstom's Connecticut-based subsidiary.

The FCPA does not define “agent” and the subsequent trial focused on whether Hoskins' relationship with Alstom's American subsidiary established agency. Jurors were instructed that agency included a manifestation by the principal that the agent will act for it, the agent's acceptance of those acts and the understanding that the principal is in control of those acts.

The DOJ has continued to [emphasize individual FCPA prosecutions](#) (in June, it [prevailed in another FCPA trial](#)) and the Hoskins victory demonstrated the limitations of the Second Circuit's check on jurisdiction over foreign nationals with minimal U.S. contacts. Further, in the Seventh Circuit, a district court judge recently denied foreign businessmen Dmitry Firtash and Andras Knopp's motion to dismiss FCPA charges after [their 2014 indictment](#). That court held, in opposition to the Second Circuit, that a defendant may be liable for conspiracy even if he or she would be exempt from primary liability for the crime, setting the stage for a circuit split that may make conditions for prosecutors more favorable.

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