

Significant Criminal Conviction Illustrates Importance of Experienced Sanctions Counsel

By **Doreen M. Edelman**, **Rachel Maimin**, **Abbey E. Baker**, and **Christian C. Contardo**

What You Need To Know:

- An Iranian national was found guilty of bank fraud and money laundering for evading U.S. sanctions by using foreign companies and hiding transactions from U.S. banks.
- Experienced sanctions counsel should be involved in crafting compliance programs to detect potential violations at the earliest possible juncture so that prosecution may be prevented.
- If a prosecution on sanctions violations proceeds, counsel with significant sanctions experience will be a critical component of the trial team because the area of law is extraordinarily specialized and the nuances may help mitigate harsh penalties.

On Monday, March 16, a federal jury in the United States District Court for the Southern District of New York found an Iranian national guilty of conspiring to violate the United States economic sanctions laws against Iran. Specifically, Ali Sadr Hashemi Nejad (Sadr) was convicted of conspiring to violate the International Emergency Economic Powers Act (IEEPA), conspiring to defraud the United States by not obtaining the required approval from the Office of Foreign Assets Control (OFAC), committing bank fraud, conspiring to commit bank fraud, and money laundering. Sadr and others attempted to evade U.S. sanctions laws in two ways: by conducting international financial transactions using Swiss and Turkish companies on behalf of and for the benefit of Iran, and by concealing from U.S. banks that services were provided to Iran in violation of the IEEPA and the Iranian Transactions and Sanctions Regulations.

This case, which is part and parcel of the DOJ's current crackdown on sanctions violations, illustrates the importance of having lawyers with experience in sanctions enforcement on a

criminal defense team at the earliest possible juncture in an investigation and prosecution. The case also reinforces the importance of involving lawyers with deep sanctions knowledge in the design and implementation of compliance programs so that investigation and prosecution can be avoided altogether.

U.S. government enforcement of sanctions violations is increasing. In 2019, OFAC imposed 26 civil penalties amounting to nearly \$1.3 billion (up from seven totaling \$71.5 million in 2018). OFAC also issued a framework for compliance, putting companies on notice of its expectations. The DOJ likely will increase its role in sanctions enforcement as well; in December 2019, it issued a voluntary disclosure policy to encourage companies to self-disclose potential willful violations to the DOJ in return for non-prosecution agreements and significant reductions of fines, which will likely lead to increased prosecutions of individual wrongdoers.

The best path to avoiding a criminal prosecution begins with an effective compliance program,

developed by experienced sanctions counsel, that sets forth clear procedures to abide by all applicable economic sanctions, as well as a clear line of reporting for all potential violations. Once such a potential violation is discovered, sanctions counsel must be consulted alongside experienced criminal defense counsel to analyze the facts, conduct further investigation if need be, and determine whether voluntary disclosure is warranted. If a criminal investigation is commenced, counsel versed in sanctions will

be a critical component of the defense team. Sanctions counsel will use their knowledge to assist in crafting presentations to law enforcement and, if a case is prosecuted, assist in motion practice and trial preparation. Sanctions law is so specialized, and so ever-changing, that it would be difficult to prepare adequately for a trial on sanctions violations without someone with specialized knowledge in this area on the defense team.

Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

DOREEN M. EDELMAN

Partner
Chair, Global Trade & Policy
T: 202.753.3808
dedelman@lowenstein.com

RACHEL MAIMIN

Partner
T: 212.419.5876
rmaimin@lowenstein.com

ABBIE E. BAKER

Counsel
T: 202.753.3806
abaker@lowenstein.com

CHRISTIAN C. CONTARDO

Associate
T: 202.753.3804
ccontardo@lowenstein.com

NEW YORK

PALO ALTO

NEW JERSEY

UTAH

WASHINGTON, D.C.

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