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NEWSLETTER

Federal Court Issues Stiff Five-Year Sentences for FECA and FARA Violations

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A federal judge in California last month sentenced Imaad Zuberi, a California businessman, to five years for violating the Federal Election Campaign Act (FECA) and five years for violating the Foreign Agents Registration Act (FARA), with the sentences to be served concurrently. In addition, the judge fined Mr. Zuberi $250,000 for the FECA violation and $1 million for the FARA violation.

These sentences and criminal fines are some of the highest on record for violations of FECA and FARA. The five-year sentences are the maximum sentences for the violations. The judge issued them despite the fact that Mr. Zuberi had pleaded guilty prior to being indicted – a factor that typically demonstrates acceptance of responsibility and militates in favor of leniency in sentencing.

According to the pre-indictment criminal information filed by the government, Mr. Zuberi made conduit contributions, contributions in the name of others, and was reimbursed for contributions by corporations and foreign citizens. Over the past 10 years, defendants who pleaded guilty to similar FECA violations, including several who went to trial, received prison terms of significantly less than the five-year maximum.

For example, in 2018, Thomas Dodd pleaded guilty to crimes related to illegal conduit contributions and received a sentence of 18 months.[1] In 2013, William Danielczyk was sentenced to 28 months in prison after pleading guilty to making contributions in the name of another, which were reimbursed by a corporation.[2] In 2010, Paul Magliocchetti received 27 months in prison after pleading guilty to making illegal conduit and corporate contributions.[3] Each of these defendants pleaded guilty after being indicted. Other violators have

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been sentenced to probation or home confinement rather than prison terms for violations of the FECA.

The five-year FARA sentence also is noteworthy. Between 1966 and 2015, there were only seven criminal prosecutions under FARA.[4] Perhaps because the FARA was considered a sleepy statute usually vindicated by bringing people into tardy compliance, the U.S. Sentencing Commission did not include it in the federal Sentencing Guidelines, which advise federal judges on the appropriate sentences for crimes. As a result, FARA defendants are subject to wide discretion based on idiosyncratic circumstances and whims of federal judges.

Special Counsel Robert Mueller's investigation into Russian interference in the 2016 presidential election elevated FARA from a poorly understood statute to what appears to be a significant enforcement priority. Prior to Mr. Mueller's indictment of Paul Manafort, the vast majority of FARA violations were resolved as civil matters that required retrospective FARA filings. In one of the few pre-2018 FARA criminal prosecutions, former Congressman Mark Siljander pleaded guilty to violating FARA and obstruction of justice. Mr. Siljander was sentenced to one year in prison. (Mr. Siljander was later pardoned.) His co-defendant, Abdel Azim El-Siddiq, also pleaded guilty to failing to register under FARA and received two years of probation. In 2014, Prince Asiel Ben Israel received seven months for failing to register under FARA for his activities on behalf of the government of Zimbabwe.

Although there have been a few statutory maximum sentences imposed for FARA violations, those sentences were issued after a full trial, including Paul Manafort's sentence. One would be hard-pressed to identify a case where a defendant was sentenced to five years of prison after pleading guilty of a FARA violation prior to indictment.

Further, Mr. Zuberi's violation was not failing to file a FARA registration, but rather omitting information from his FARA registration. According to the pre-indictment information filed by the government, Mr. Zuberi filed a FARA registration for his work on behalf of the government of Sri Lanka but failed to disclose federal campaign contributions that he made in the reporting period prior to the filing of his registration and failing to adequately disclose the amount he was paid for his activities. For all of these reasons, Mr. Zuberi's five-year sentence is noteworthy.

Mr. Zuberi also pleaded guilty to one count of obstruction of justice and one count of tax evasion, for which he received additional penalties. The case is *United States v. Zuberi* in the Southern District of California. The judge was U.S. District Judge Virginia A. Phillips. The U.S. Department of Justice's press release discussing the sentence is here.

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1 *United States v. Thomas Dodd, et al.*, Case No. 4:17-cr-00116 (S.D. Tex.), ECF Nos. 1, 20, 375.

2 *United States v. William Danielczyk*, Case No. 1:11-cr-85 (E.D. Va.), ECF No. 221, 253.

3 *United States v. Paul J. Magliocchetti*, Case No. 1:10-cr-286 (E.D. Va.), ECF No. 22, 36.

4 Office of the Inspector General, US Dep't of Justice, Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act 2 (2016) at 8.