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Border Search Contributes To Conviction In IEEPA Prosecution

Evidence obtained from a cell phone and flash drive seized by Customs and Border Protection ("CBP") officers during a search at the Canadian border contributed to the owner's conviction this week of violating the International Emergency Economic Powers Act ("IEEPA") and the Iranian Transactions and Sanctions Regulations ("ITSR"). Ali Saboonchi, a 34-year-old U.S. citizen, was convicted Monday of violating the ITSР in federal court in Maryland after a two-week trial. He faces up to 20 years in prison.

Between 2009 until his arrest in 2013, Mr. Saboonchi conspired to evade the trade embargo against Iran by exporting U.S.-origin industrial goods to Iranian businesses through his company, Ace Electric. The goods included cyclone separators used in pipelines to separate impurities such as sand from liquids, and thermocouples, which are used to measure temperatures of liquids and gasses in industrial applications. After obtaining the goods from U.S. companies, Mr. Saboonchi would send them to co-conspirators in other countries, such as the United Arab Emirates and China, for onward shipment to Iran.

Portions of the incriminating evidence against Mr. Saboonchi came from a forensic search of his iPhone and a flash drive performed after Mr. Saboonchi's name registered a hit against a Department of Homeland Security database as he and his wife were returning from a trip to the Canadian side of Niagara Falls.

Mr. Saboonchi's name appeared in the database because the government was investigating suspicious inquiries to a Vermont company from a person named "Ali" with a telephone number that pointed to Mr. Saboonchi. Mr. Saboonchi argued at trial that the search of his electronic devices violated the Fourth Amendment and that evidence from the devices should be suppressed as fruit of the illegal search. The court disagreed, holding that the CBP officers had reasonable suspicion to perform the forensic search because of the government's existing investigation into his dealings with the Vermont company.

In case you missed it, the trial court in this case ruled in April 2014 that "forensic" searches of electronic devices cannot be performed under the border search doctrine without reasonable suspicion. The court found that a "forensic" search of a computer is different than a conventional search because it is technology-assisted and can exceed the capacity of human searches, including the ability to search vast amounts of data quickly, locate files a user has deleted, or obtain location data about activities in the home or away from the border. The court stated that its ruling, however, did not alter existing border search doctrine as regards conventional searches, which do not require individualized suspicion.

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