

CLIENT ALERT

Fifth Circuit Breaks New Ground on Vicarious Liability Under the Anti-Kickback Act

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In *U.S. ex rel. Vavra v. Kellogg Brown & Root, Inc.* (July 19, 2013), the Fifth Circuit addressed, as a matter of first impression, whether the double damages provision of the Anti-Kickback Act (AKA) can be applied to a corporate entity under a vicarious liability theory or whether doing so would render the single damages provision that applies to corporate entities whose "employees" violate the AKA superfluous. The Fifth Circuit held that the AKA does allow for vicarious liability when an employee is acting either within her scope of employment or under "apparent authority," as defined by the common law of agency.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.