

CLIENT ALERT

Employee's Schmoozing Leads to Company Liability Under Anti-Kickback Act

February 8, 2017

In *United States ex rel. Vavra v. Kellogg Brown & Root, Inc.* (Feb. 3, 2017), the Fifth Circuit held that under the Anti-Kickback Act, corporations are liable "only for the knowing violations of those employees whose authority, responsibility, or managerial role within the corporation is such that their knowledge is imputable to the corporation." In applying this standard to the two KBR employees, the court found that one employee's knowledge could be imputed to the corporation because of his "somewhat significant managerial authority over the sphere of activities in question," while the other employee's responsibility with the subcontract was too limited to impute knowledge. Additionally, the court noted that while currying favor generally would be insufficient to constitute a kickback under the Act, here the supplier intended to receive favorable treatment and thus the meals and entertainment (totaling less than \$4,700), were sufficiently connected "with the specific kind of treatment sought in a way that establishes impropriety" to constitute kickbacks. [Visit our blog](#) for additional details about this decision.

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

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