Banking and Finance Law Daily Wrap Up, CRIMES AND OFFENSES—U.S.: High Court review sought for 'false statement' conviction, (Aug. 22, 2025)

Banking and Finance Law Daily Wrap Up

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By Charles A. Menke, J.D.

The petitioner seeks review of his conviction under 18 U.S.C. § 1014 citing a conflict with the Supreme Court's recent decision interpreting the statute.

Bart W. Reagor has filed a petition for a writ of *certiorari* with the United States Supreme Court requesting a review of a Fifth Circuit Court of Appeals decision affirming his conviction for a violation of 18 U.S.C. § 1014 for making a false statement to a bank in connection with a loan to his company. According to the petition, the Fifth Circuit's affirmation of the conviction directly conflicts with the Supreme Court's decision *Thompson v. United States* (145 S. Ct. 821, 827 (2025)) "limiting § 1014 to false and not merely misleading statements" and, therefore, the Court should grant certiorari and reverse (*Reagor v. United States*, No. 25-174 (U.S. Aug. 11, 2025)).

Under 18 U.S.C. § 1014, a person is guilty of a crime if they "knowingly make any false statement or report" to, among other things, "obtain a loan from a bank insured by the Federal Deposit Insurance Corporation." In *Thompson*, the Supreme Court noted that Section 1014 does not include any statutory language using the term "misleading," and accordingly held that Section 1014 "does not criminalize statements that are misleading but not false" (see *Banking and Finance Law Daily*, March 21, 2025).

Reagor's conviction stemmed from a loan obtained by his company, Reagor-Dykes Auto Group (RDAG), from the International Bank of Commerce. According to the petition, the stated purpose of the loan was for "working capital," although that term was not defined in the loan agreement. During the course of the loan negotiations, a section of the loan agreement was revised to allow distributions unless the distribution would result in a default or if there had already been an event of default on the loan. After RDAG received the loan, a portion of it was used to make owner distributions. RDAG later defaulted on the loan following the discovery of an unrelated check-kiting and fraud scheme.

At trial, Reagor claimed "he did not know that a portion of a loan made to provide working capital could not be used to make distributions to owners and thus, when Reagor agreed that the loan to RDAG would be used for working capital, he did not knowingly make any false or misleading statements." Notwithstanding, a jury convicted Reagor of one count of making a false statement under 18 U.S.C. § 1014, although he was acquitted of bank fraud, which was affirmed by the Fifth Circuit.

In the petition, Reagor asserts that "both the District Court and the Court of Appeals focused almost exclusively on whether there was sufficient evidence for a jury to conclude that Reagor knew that working capital excluded owner distributions when he represented to the bank that the loan would be used for working capital. Neither court gave much attention to Reagor's argument that the statement at issue was not in fact false."

Reagor emphasizes that after the Fifth Circuit affirmed the conviction but before denying Reagor's petition for rehearing, the Supreme Court issued its opinion in *Thompson*. The petition argues that prior to *Thompson*, "there was insufficient evidence for the jury to have found, beyond a reasonable doubt, that Reagor knowingly made a false statement to a bank. After Thompson, limiting § 1014 to false and not merely misleading statements, any remaining doubt as to the sufficiency of the evidence to support that narrowed scope of the charge was erased." Accordingly, "[t]he Fifth Circuit's affirmation of the District Court's decision below is in direct conflict with this Court's decision in *Thompson* [,]" the petition states, and therefore "[t]he Court should grant certiorari and reverse."

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Following the filing of the petition, the United States government waived its right to file a response, unless requested to do so by the Court.

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Companies: International Bank of Commerce; Reagor-Dykes Auto Group

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