

## What Pending FCPA Trials Suggest About DOJ Priorities

By **Lilia Abecassis, Charlotte Krovoza and Phoebe Yu** (April 3, 2025, 6:17 PM EDT)

When the White House issued an executive order in early February instructing the U.S. Department of Justice to temporarily pause enforcement of the Foreign Corrupt Practices Act, five cases involving FCPA charges had already been set for trial.

In the ensuing weeks, the impact of the executive order has played out in real time in courtrooms across the country as the government, defense counsel and judges have scrambled to address the implications of the executive order for defendants facing trial.

The motions, status reports and hearing transcripts in these five cases provide a glimpse into how the DOJ is attempting to navigate instructions from the president to hit the pause button in the face of prosecutions that are on the cusp of trial.

### Background on the Executive Order

On Feb. 10, President Donald Trump issued an executive order that paused new FCPA investigations and enforcement actions for a 180-day period, which can be extended another 180 days, during which Attorney General Pam Bondi is directed to issue updated guidelines or policies governing FCPA investigations and enforcement.[1]

The attorney general is also directed to review in detail existing FCPA investigations and enforcement actions and to take appropriate steps to "restore proper bounds on FCPA enforcement," according to the executive order.[2]

The order states the Trump administration's view that overexpansive and unpredictable FCPA enforcement impedes American companies' ability to compete globally, and harms national security.[3]

The order followed the release of a memo issued by Bondi less than a week earlier, which directed the DOJ's FCPA unit to prioritize investigations that involve criminal operations of cartels and transnational criminal organizations, and to "shift focus away from investigations and cases that do not involve such a connection." [4]

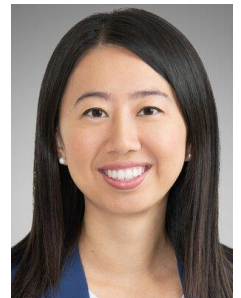
The Bondi memo also afforded U.S. attorney's offices discretion to initiate and conduct matters involving the FCPA or the Foreign Extortion Prevention Act that relate to cartels and transnational



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criminal organizations by suspending requirements that the DOJ's Criminal Division must authorize and conduct such investigations or prosecutions.

At the time of the order, five cases involving FCPA charges — all against individual defendants — were scheduled for trial in 2025. Two cases are in federal court in Florida, with the others in federal courts in New Jersey, Pennsylvania and California.

### **The FCPA Cases Set for Trial**

#### ***U.S. v. Coburn***

In the U.S. District Court for the District of New Jersey, *U.S. v. Coburn* was originally scheduled for trial in early March before U.S. District Judge Michael Farbiarz, but after some delays, the government moved to dismiss the case with prejudice on April 2.[5]

The government indicted this case in 2019 during the first Trump administration, charging former Cognizant Technology Solutions Corp. executives Gordon Coburn and Steven Schwartz with 12 counts of FCPA violations.[6]

Specifically, the indictment alleges that Coburn and Schwartz authorized an unlawful payment of \$2 million to an Indian government official in exchange for a permit to construct and open a new office campus.[7] Unlike the four other cases set for trial, this is the only case in which the defendants face only FCPA charges.

Trial was initially set for the first week of March, but a week after the order was issued, the government stated that it was conducting a review of the case in light of the order.[8] On Feb. 21, the government stated that "[f]ollowing its review of this case pursuant to the Executive Order, the Government can report that the Government intends to proceed to trial" in March as planned.[9]

On March 4, a day before trial was scheduled to begin, then-interim U.S. Attorney for the District of New Jersey John Giordano requested a six-month stay so that he could review the matter.[10] The defendants consented.[11]

Days later, Giordano filed another letter explaining his request for the review period, citing the need to align with the DOJ to properly apply the executive order.[12]

On March 11, the court ruled on the matter, noting that "the Attorney General's review of this case under the Executive Order took approximately 10 or 11 days" before the government confirmed the case would proceed to trial, and that the court therefore expected the U.S. Attorney's Office to be able to complete a review in the same time frame.[13] The parties agreed to April 7 as the new trial date.[14]

On April 2, the newly sworn-in interim U.S. attorney for the District of New Jersey, Alina Habba, submitted a letter to the court stating that the government, "[a]fter consultation with the Office of the Attorney General," is moving to dismiss the case with prejudice "based on the recent assessment of the Executive Order's application to this matter." [15]

The enclosed motion, signed only by the interim U.S. attorney, states that "further prosecution is not in the interest of the United States at this time." [16] On April 3, the court granted the motion to dismiss.

### ***U.S. v. Zaglin***

U.S. v. Zaglin, pending in the U.S. District Court for the Southern District of Florida before U.S. District Judge Jacqueline Becerra, was initially set for trial on April 7, but the case has been continued twice, most recently to Aug. 11.

Defendants Carl Alan Zaglin, Francisco Roberto Cosenza Centeno and Aldo Nestor Marchena, who were indicted in 2023, allegedly participated in a scheme to "pay and conceal bribes to Honduran government officials to secure contracts to provide uniforms and other goods to the Honduran National Police." [17]

Among other counts, Zaglin and Marchena are charged with conspiracy to violate the FCPA, and Zaglin is charged with one count of violating the FCPA. [18]

Following the executive order, Judge Becerra held a status conference and continued the trial from April 7 to April 28 to give the parties time to address the complexities that arose from the order. [19] Judge Becerra further ordered the government to provide the court with a status report every two weeks. [20] The government has thus far provided three reports, noting that the case is undergoing priority review. [21]

On March 18, the parties filed a joint motion to continue trial to Sept. 2, citing the voluminous discovery in the case and noting that the case is still undergoing review. [22] Following a hearing on March 24, Judge Becerra granted the parties' motion, and reset trial for Aug. 11.

### ***U.S. v. Hobson***

U.S. v. Hobson, pending in the Western District of Pennsylvania before U.S. District Judge Robert Colville, was scheduled for trial in April, but the trial date has been vacated for now.

The defendant, Corsa Coal Vice President Charles Hobson, was indicted in 2022 with FCPA, money laundering and wire fraud charges for engaging in a scheme to bribe officials at an Egyptian state-owned chemical company and receiving a portion of commissions to sales intermediaries as kickbacks. [23]

This case was originally scheduled for trial on April 21, but has been stayed pending the government's review in light of the executive order. [24] In this case, the defendant requested a 180-day stay. [25]

In response, the government requested the case be continued two weeks and indicated it "expects to have an update on the status of its review" in that time frame. [26] The court vacated the April 21 trial date, ordered both parties to file a joint status report by April 25 and scheduled a status hearing for May 6. [27]

### ***U. S. v. Diallo***

U.S. v. Diallo, pending in the U.S. District Court for the Central District of California before U.S. District Judge Anne Hwang, is set for trial on Sept. 16.

In May 2023, Amadou Kane Diallo was charged with wire fraud and money laundering for allegedly soliciting investments under false pretenses for his two businesses. [28] The superseding indictment added an FCPA charge, alleging Diallo corruptly sought a land-grant from Senegalese government officials. [29]

The executive order has not been referenced in filings thus far, but Judge Hwang has set a status conference for May 14.[30] It is unclear whether the status conference will address the order, given that the trial is scheduled for after the attorney general's 180-day review period.

### ***U.S. v. Donato Bautista***

U.S. v. Donato Bautista, pending in the U.S. District Court for the Southern District of Florida before U.S. District Judge Kathleen Williams, is set for trial on Oct. 6.

Defendants Roger Alejandro Pinate Martinez, Jorge Miguel Vasquez, Juan Andres Donato Bautista and Elie Moreno are facing charges from a 2024 indictment stemming from allegations that they engaged in a "bribery and money laundering scheme to retain and obtain business related to the 2016 Philippine elections." [31] Pinate Martinez and Vasquez are specifically charged with conspiracy to violate and violating the FCPA.[32]

In its response to the defense's request to continue the pretrial deadlines, the government acknowledged the order, and noted the Oct. 6 trial date afforded adequate time for the case to be reviewed.[33]

### **Key Takeaways and Open Questions**

#### ***The DOJ's move to dismiss charges in Coburn signals alignment with the order and potentially the Bondi memo.***

The interim U.S. attorney's motion to dismiss the charges with prejudice against defendants Coburn and Schwartz does not expand on the reason for dismissal beyond stating that "further prosecution is not in the interests of the United States at this time."

Did the government determine that the case should be dismissed because there was no clear nexus to cartels or transnational criminal organizations? Did the fact that the defendants are U.S. citizens who worked for an American company play a role in the government's decision, given the order's criticism of "overexpansive and unpredictable FCPA enforcement against American citizens and businesses"?

These questions remain unanswered, but the Coburn dismissal is an important data point that underscores the Trump administration's desire to pause FCPA enforcement and prosecution, even for a case that was on the eve of trial.

#### ***Significant uncertainty remains for other defendants facing trial in light of development in Coburn.***

Coburn is the only pending trial in which all the charges are FCPA violations. To date, the government has not dropped any FCPA charges in the four remaining trials, but that could quickly change in light of Coburn.

The four remaining cases could still proceed to trial without FCPA charges, but a significant question remains as to whether the DOJ would drop related non-FCPA charges that arise out of a bribery scheme. This could also affect other pending FCPA cases that have not yet been scheduled for trial.

In addition, it is an open question whether the DOJ would factor a defendant's nationality into its

decision and continue to pursue FCPA cases against non-U.S. citizens.

For example, in Donato Bautista, defendant Pinate Martinez is a Venezuelan citizen, while codefendant Miguel Vasquez is a U.S. citizen. In Diallo, the defendant is a Senegalese citizen and a U.S. permanent resident; in Zaglin, one of the defendants facing FCPA charges holds dual Peru-U.S. citizenship.

The differing nationalities of the defendants in these four other cases further distinguish them from Coburn, but whether the DOJ will view the cases differently as a result remains to be seen.

***Court filings have revealed very little about the DOJ's internal review process.***

The DOJ has filed multiple letters referencing its priority review of these cases, but has not provided further details about the review, such as how it is being conducted, by whom and on what timetable.

The court in Coburn observed that the initial review process under the order took approximately 10 to 11 days, but the result of this review appears to have been overtaken by a separate review by the interim-U.S. attorney.

In unsealed hearing transcripts in Coburn, the government has not offered additional information about the review process. The motion to dismiss in Coburn and the accompanying letter are signed only by the interim U.S. attorney, even though a status update the prior day was signed also by DOJ attorneys.

Given the interim U.S. attorney's interjection and sudden move to dismiss the charges in Coburn, the filings also raise questions about which components of the DOJ are leading the review and what their roles are.

***Judges and parties' approaches have differed in cases set for trial, but most are coalescing around kicking the can down the road.***

Some courts have addressed the order on their own, whereas others have waited for motions from the government or the defense. Judges are looking to the other FCPA cases for guidance when available.

For example, Judge Farbiarz, who is presiding over Coburn, requested transcripts from status conferences in Zaglin and Hobson when he was considering the interim U.S. Attorney Giordano's request for a 180-day continuance. The defendants' filings in these cases also frequently cite to proceedings in the other FCPA cases.

What is clear is that the order has resulted in delays in the FCPA cases scheduled for trial. Coburn is now facing dismissal after an initial delay in the trial date. Zaglin and Hobson have both been postponed.

***Key milestones are ahead.***

Upcoming status hearings and filings in these five cases may shed more light on the DOJ's executive order review process, and perhaps even its approach to FCPA cases more generally.

Will the government move to dismiss more FCPA charges or FCPA-adjacent charges in the remaining trials, or dismiss those cases altogether? Most importantly, the expiration of the first 180-day review period under the order — Aug. 9 — is a significant milestone to watch as the shape of FCPA enforcement comes into focus.

Moving forward, the FCPA cases scheduled for trial present an interesting question for the DOJ in light of the executive order. Time will tell how the DOJ answers it, and whether any public comments from the DOJ surrounding these trials may shed light on the future of FCPA enforcement.

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[1] Exec. Order No. 14209, 90 Fed. Reg. 9587 (Feb. 10, 2025), <https://www.federalregister.gov/documents/2025/02/14/2025-02736/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security>.

[2] Id.

[3] Id.

[4] Memorandum from Pamela Bondi, Attorney General, U.S. Dept. of Justice on Total Elimination of Cartels and Transnational Criminal Organizations (Feb. 5, 2025), [https://assets.law360news.com/2294000/2294194/eliminating\\_cartels\\_and\\_tcos\\_1.pdf](https://assets.law360news.com/2294000/2294194/eliminating_cartels_and_tcos_1.pdf) (last visited March 26, 2025).

[5] Carla Baranauckas, Feds, Ex-Cognizant Execs Ink April Date for FCPA Trial, Law 360 (Mar. 12, 2025), <https://www.law360.com/articles/2309798/feds-ex-cognizant-execs-ink-april-date-for-fcpa-trial-> (last visited March 24, 2025).

[6] Indictment, United States v. Coburn, et al., No. 19-cr-0120-KM (D.N.J. Feb. 14, 2019), ECF No. 1 ("Coburn"), available at <https://www.justice.gov/criminal/criminal-fraud/file/1133531/dl?inline> (last visited March 24, 2025).

[7] Id.

[8] Letter and Motion to Dismiss, Coburn, ECF No. 1034.

[9] Letter, Coburn, ECF No. 834.

[10] Letter, Coburn, ECF No. 956; Carla Baranauckas, New US Atty Wants 6-Month Pause of Cognizant Bribery Trial, Law 360 (Mar. 4, 2025), <https://www.law360.com/articles/2305829/new-us-atty-wants-6-month-pause-of-cognizant-bribery-trial> (last visited March 24, 2025).

[11] Letter, Coburn, ECF No. 971.

[12] Letter, Coburn, ECF No. 996.

[13] Order, Coburn, ECF No. 1003.

[14] Letter from the United States Regarding the Trial Date, Coburn, ECF No. 1010; Text Order, Coburn, ECF No. 1011.

[15] Letter, Coburn, ECF No. 1034.

[16] Motion to Dismiss, Coburn, ECF No. 1034.

[17] Indictment, United States v. Zaglin, et al., No. 23-cr-20454-JB (S.D. Fla. Nov. 28, 2023), ECF No. 3 ("Zaglin"), available at <https://www.justice.gov/criminal/media/1330111/dl?inline> (last visited March 24, 2025); Press Release, U. S. Department of Justice, Three Men Charged in International Bribery and Money Laundering Scheme (Dec. 22, 2023), <https://www.justice.gov/archives/opa/pr/three-men-charged-international-bribery-and-money-laundering-scheme> (last visited March 24, 2025).

[18] Id.

[19] Minute Entry, Zaglin, ECF No. 109; Exhibit 1, Letter from the United States Regarding Status Conference Transcripts, Hobson, ECF No. 1002.

[20] Id.

[21] Status Report, Zaglin, ECF No. 114; Status Report, Zaglin, ECF No. 116; Status Report, Zaglin, ECF No. 122.

[22] Joint Motion to Continue Trial, Zaglin, ECF No. 115.

[23] Indictment, United States v. Hobson, No. 22-cr-00086 (W.D. Pa. Mar. 29, 2022), ECF No. 3 ("Hobson"), available at <https://www.justice.gov/archives/opa/press-release/file/1489071/dl> (last visited March 24, 2025).

[24] Order of Court, Hobson, ECF No. 102.

[25] Motion to Continue Trial Date and All Pretrial Deadlines, Hobson, ECF No. 96.

[26] Government's Response to Motion to Continue, Hobson, ECF No. 99.

[27] Order of Court, Hobson, ECF No. 102.

[28] Indictment, United States v. Diallo, No. 23-cr-00054-AH (C.D. Cal. May 3, 2023), ECF No. 1 ("Diallo"), available at <https://www.justice.gov/d9/2023-09/diallo-original-indictment.pdf>.

[29] First Superseding Indictment, Diallo, ECF No. 29, available at <https://www.justice.gov/d9/2023-09/sa-23-cr-00054-jwh-fsi-diallo-filed.pdf>.

[30] Order, Diallo, ECF No. 168.

[31] Indictment, United States v. Donato Bautista, et al., No. 24-cr-20343-KMW (S.D. Fla. Aug. 8, 2024), ECF No. 12 ("Donato Bautista"), available at <https://www.justice.gov/criminal/media/1376096/dl?inline>; Press Release, U. S. Department of Justice, Four Men Charged in Philippine Bribery and Money

Laundering Scheme (Aug. 8, 2024), <https://www.justice.gov/archives/opa/pr/four-men-charged-philippine-bribery-and-money-laundering-scheme> (last visited March 24, 2025).

[32] Id.

[33] Response to Motion to Continue Deadlines, Donato Bautista, ECF No. 119.