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In this issue:

Click here for an index of all FCPA Update articles

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Texas Federal Court Overturns FCPA Defendant's Conviction on Confrontation Clause Grounds

On April 14, 2026, Judge Kenneth M. Hoyt of the U.S. District Court for the Southern District of Texas entered a judgment of acquittal for Ramon Alexandro Rovirosa Martinez, a Mexican businessman, and dismissed the underlying indictment. Four months earlier, a jury had convicted Martinez on three counts alleging violations of the Foreign Corrupt Practices Act, based on an alleged bribery scheme involving Petróleos Mexicanos ("PEMEX") and its subsidiary, PEMEX Exploración y Producción ("PEP").[1] A judge overturning a post-trial conviction is rare. This decision is notable also because the Court's reliance on the Sixth Amendment's Confrontation Clause carries significant implications for white collar prosecutions, particularly in cross-border cases involving foreign language evidence.

Continued on page 2

1. Memorandum and Order Dismissing Indictment and Granting an Acquittal, *United States v. Rovirosa Martinez*, No. 4:25-cr-00415, Dkt. 147 (S.D. Tex. Apr. 14, 2026) ("Order").

Texas Federal Court Overturns FCPA Defendant's Conviction on Confrontation Clause Grounds

Continued from page 1

Background

In August 2025, DOJ charged Rovirosa and co-defendant Mario Alberto Avila Lizarraga in a four-count indictment with conspiracy to violate the FCPA and three substantive FCPA counts. The indictment alleged that, between June 2019 and October 2021, the defendants paid or offered approximately $150,000 in cash and luxury goods to three PEMEX and PEP officials in exchange for approximately $2.5 million in contracts and favorable audit outcomes for Mexican energy companies that Rovirosa owned or controlled.[2]

On December 5, 2025, the jury convicted Rovirosa on three counts and acquitted him on one of the substantive FCPA counts.[3]

The Evidentiary Record and the Parties' Contentions

The Government's case relied heavily on English translations of Spanish-language WhatsApp and email communications among Rovirosa, Avila, and alleged co-conspirators. Rovirosa objected before, during, and after trial that admission of those translations without producing the translators for cross-examination violated his Sixth Amendment rights under *Crawford v. Washington* and related cases.[4]

The Government maintained that the translations were admissible as co-conspirator statements, through certified translations under Fifth Circuit practice,[5] and based on review and testimony on accuracy by the FBI case agent, whom it characterized as "equally, if not better, qualified" than the translators.[6]

The Court's Reasoning

Granting Rovirosa's Rule 29(c) motion, the Court concluded that the Government's evidentiary approach failed on both constitutional and discovery grounds.

First, the Court held that foreign-language electronic communications, when translated and offered to prove the charged offenses, are testimonial for Confrontation

Continued on page 3

2. *See* Andrew M. Levine, Douglas S. Zolkind, Andreas A. Glimenakis & Scott J. Woods, "DOJ Charges Mexican Nationals with Bribing PEMEX Employees in First FCPA Case Since Resuming Enforcement," FCPA Update, Vol. 17, No. 1 (Aug. 2025), https://www.debevoise.com/insights/publications/2025/08/fcpa-update-august-2025; U.S. Dep't of Justice Press Release No. 25-835, "Two Mexican Nationals Charged for Bribing State-Owned Energy Officials" (Aug. 11, 2025), https://www.justice.gov/opa/pr/two-mexican-nationals-charged-bribing-state-owned-energy-officials.
3. Order at 2–3; U.S. Dep't of Justice Press Release No. 25-1146, "Texas Businessman Convicted for Scheme to Bribe Mexican Government Officials" (Dec. 5, 2025), https://www.justice.gov/opa/pr/texas-businessman-convicted-scheme-bribe-mexican-government-officials.
4. *Crawford* held that the Confrontation Clause bars testimonial, out-of-court statements against a criminal defendant if the declarant is unavailable and the defendant had no prior opportunity for cross-examination. 541 U.S. 36, 53-54, 68-69 (2004).
5. *United States v. Llinas*, 603 F.2d 506 (5th Cir. 1979).
6. Order at 4.

Texas Federal Court Overturns FCPA Defendant's Conviction on Confrontation Clause Grounds

Continued from page 2

Clause purposes. Applying the "primary purpose" test,[7] the Court reasoned that, although the underlying co-conspirator messages might be admissible hearsay in a conspiracy setting, the translations became critical evidence used to establish the Government's case and therefore triggered the Sixth Amendment.[8]

Second, the Court rejected the Government's reliance on translator certifications, agent testimony, and hearsay exceptions. The Government argued that the underlying messages were admissible as business records or co-conspirator statements and that agent testimony was sufficient to establish their accuracy. The Court disagreed, explaining that compliance with evidentiary rules, such as the business records exception, does not resolve a Confrontation Clause problem where testimonial evidence is at issue. Because the translators were available but not called, their certifications could not serve as a substitute for cross-examination. The Court also found that the Government's reliance on the case agent's review and "expert" opinion as to accuracy of the translations "turns on its head the science and art of proper translation."[9]

A judge overturning a post-trial conviction is rare. This decision is notable also because the Court's reliance on the Sixth Amendment's Confrontation Clause carries significant implications for white collar prosecutions, particularly in cross-border cases involving foreign language evidence.

Third, the Court identified fatal discovery failures. During deliberations, the jury requested the original Spanish-language messages, which had never been placed into evidence.[10] This omission was compounded by the fact that the Government promised on at least two occasions to produce forensic copies of the Spanish messages taken from the defendants' devices, but failed to do so.[11] On these combined grounds, the Court dismissed the indictment and entered an acquittal for insufficient evidence.[12]

Continued on page 4

7. *See Crawford v. Washington*, 541 U.S. 36 (2004); *Michigan v. Bryant*, 562 U.S. 344 (2011); *Ohio v. Clark*, 576 U.S. 237 (2015).
8. Order at 6 (citing *Crawford*, 541 U.S. at 51).
9. Order at 7–8.
10. Order at 9.
11. *Id.*
12. It bears noting that Judge Hoyt twice dismissed foreign bribery charges against another defendant, Swiss-Portuguese banker Paolo Jorge Da Costa Casqueiro Murta, including on speedy trial grounds. The Fifth Circuit twice reinstated the charges and ordered the case to be reassigned to a different judge before Murta ultimately pled guilty in 2024. *See* Winston M. Paes, Douglas S. Zolkind & Philip Rohlik, "European Wealth Manager Pleads Guilty in PDVSA-Linked FCPA Case After Fifth Circuit Twice Reverses Dismissal of Indictment," FCPA Update, Vol. 15, No. 10 (May 2024), https://www.debevoise.com/insights/publications/2024/05/fcpa-update-may-2024.

Texas Federal Court Overturns FCPA Defendant's Conviction on Confrontation Clause Grounds

Continued from page 3

Confrontation Clause Implications for Foreign-Language Evidence

Although the decision is closely tied to the specific facts of the case, *Rovirosa* has several important implications for cross-border criminal enforcement.

The Court emphasized differences in translation methodologies, distinguishing between "pedagogic/literal format," or word-for-word translation, and the "poetic/dynamic" approach, which seeks to capture the "pulse and tone" of expressions.[13] It reasoned that cross-examination of translators is essential precisely because translation involves subjective judgments about linguistic choices, cultural context, and regional nuance that can materially affect how a communication is understood.

This point has particular resonance in white collar cases, where the meaning of a single word or phrase can be outcome-determinative (e.g., whether a payment is characterized as a "gift" or a "bribe"). The more informal and context-dependent the conduct, the more a case may turn on how communications are interpreted. In document-heavy cases, each layer of translation introduces potential ambiguity that can undermine both the reliability and persuasive force of the evidence.

The Court's core holding that Spanish-to-English translations of co-conspirator communications were "testimonial" suggests a more expansive view of the Confrontation Clause than other courts have adopted. Under the circumstances presented, the Court focused on the act of translation itself as testimonial, effectively treating the translators as separate declarants. This approach departs from cases such as *United States v. Nazemian*, 948 F.2d 522 (9th Cir. 1991), *United States v. Cordero*, 18 F.3d 1248 (5th Cir. 1994), and subsequent post-*Crawford* decisions in multiple circuits that have instead regarded certain translators as neutral language "conduits" for the co-conspirators' own statements.[14]

The Court's departure from prior decisions on this topic is significant for cases in which key evidence is often in a foreign language. In such cases, prosecutors routinely rely on translated communications to establish the elements of the crime charged. Here, the Court rejected the notion that translated digital evidence is self-proving, instead requiring a more rigorous evidentiary foundation than the Government appears to have anticipated. In *Rovirosa*, the Government's failure to produce translators for cross-examination at trial proved dispositive.

Continued on page 5

13. Order at 8–9.

14. *See, e.g.*, *United States v. Hieng*, 679 F.3d 1131, 1138–41 (9th Cir. 2012) (concluding that *Nazemian* is not in conflict with *Crawford* and its progeny); *United States v. Budha*, 495 F. App'x 452, 454 (5th Cir. 2012) (agreeing with the Ninth Circuit's interpretation in *Hieng*).

Texas Federal Court Overturns FCPA Defendant's Conviction on Confrontation Clause Grounds

Continued from page 4

Practical Considerations for Criminal Defendants

This outcome was based in large part on the Court's determination of weaknesses in the Government's evidentiary presentation in this particular case. Nevertheless, criminal defendants and counsel more generally should scrutinize how foreign language evidence is developed and introduced to ensure that the defendant's Confrontation Clause rights are protected. In particular, they should assess whether translated statements are being used in place of live testimony to establish key elements of the offense.

Defendants and counsel likewise should be alert to situations where prosecutors introduce translations through a surrogate witness, such as a case agent, rather than through the translator. Depending on the jurisdiction, this may support exclusion of the translations or, at a minimum, require that the translator be made available for cross-examination. *Rovirosa* underscores the importance of reviewing document productions for completeness. The Court placed significant weight on the Government's failure to produce original Spanish-language messages and forensic copies of the communications. Defendants similarly should examine whether summary documents, translations, or expert analyses are supported by complete underlying source materials, where appropriate.

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The *Rovirosa* decision highlights practical challenges of prosecuting conduct that occurs primarily in non-English speaking countries. Its potential implications naturally extend beyond the FCPA context, particularly as enforcement priorities continue to focus on drug cartels, sanctions, immigration violations, and other cross-border conduct. More fundamentally, the decision underscores that successful enforcement depends not only on investigative reach, but on careful development and presentation of evidence at trial.

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Continued on page 6

China's New Interpretation of its Anti-Bribery Law Includes Guidance on Corporate Criminal Liability

On April 10, 2026, the Supreme People's Court ("SPC") and the Supreme People's Procuratorate ("SPP"), respectively China's highest judicial and prosecutorial entities, jointly issued an updated interpretation of various bribery-related crimes under PRC Criminal Law. Although not a law, an interpretation in the Chinese legal system constitutes instructions and guidance for lower courts and prosecutors to follow when interpreting the law. This guidance—entitled Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Embezzlement and Bribery (II) ("Second Interpretation")—squarely addresses corporate criminal liability.[1]

The Second Interpretation updates the guidance from 2016 ("First Interpretation").[2] In the intervening decade, China twice amended its Criminal Law [3] and enacted the Supervision Law, governing (among other things) how bribery and related crimes are investigated.[4] For multinational corporations, the Second Interpretation is potentially significant in clarifying when entities should be held liable for bribery crimes. This development also potentially signals an intention to regularize rarely used corporate criminal liability.

Classifying Bribery under PRC Law

The Criminal Law of China defines various bribery-related crimes, including:

- bribery of a state functionary[5] (offer and acceptance) (Arts. 389 and 385);
- commercial bribery (offer and acceptance) (Arts. 163 and 164);

Continued on page 7

1. 最高人民法院、最高人民检察院《关于办理贪污贿赂刑事案件适用法律若干问题的解释（二）(The Supreme People's Court and the Supreme People's Procuratorate jointly issued the Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Embezzlement and Bribery (II)) (Apr. 10, 2026), https://www.spp.gov.cn/xwfbh/wsfbt/202604/t20260410_725586.shtml#1.
2. *See* Andrew M. Levine, Bruce E. Yannett, Philip Rohlik, and Christina Jie Wang, "China Releases New Criminal Interpretation of Bribery," FCPA Update, Vol. 7, No. 10, at 20 (May 2016), https://www.debevoise.com/insights/publications/2016/05/fcpa-update-may-2016.
3. *See* Kara Brockmeyer, et al., "The Year 2023 in Review: Steady Enforcement as Laws and Policies Proliferate," FCPA Update, Vol. 15, No. 6, at 46 (Jan. 2024), https://www.debevoise.com/insights/publications/2024/01/fcpa-update-january-2024.
4. *See* Kara Brockmeyer, Andrew M. Levine, Philip Rohlik, De Zha, "China Creates New Anti-Corruption Regulator," FCPA Update, Vol. 9, No. 8, at 10 (Mar. 2018), https://www.debevoise.com/insights/publications/2018/03/fcpa-update-march-2018.
5. Under PRC Law, whether an individual is a state functionary depends on what the person does rather than who employs the person. The term therefore is not the equivalent of a "foreign official" under the FCPA. Within a state-owned enterprise, employees serving a public function might be state functionaries while employees with a commercial role would not. Under Article 93 of Criminal Law, the term "state functionary (国家工作人员)" refers to a person who performs public service in a state organ, which includes: (1) persons performing public service in state-owned companies, enterprises, and public institutions, and people's organizations; (2) persons assigned by state organs and state-owned companies, enterprises, and public institutions to perform public service in non-state-owned companies, enterprises, and public institutions, as well as social organizations; and (3) other persons performing public service in accordance with the law.

China's New Interpretation of its Anti-Bribery Law Includes Guidance on Corporate Criminal Liability

Continued from page 6

- accepting bribes by an entity (Art. 381) (by state-owned entities only);
- offering bribes to an entity (Art. 391) (to state-owned entities only);
- offering bribes by an entity (Art. 393);
- bribery of a person with influence (offer and acceptance) (*i.e.*, offer to or acceptance by a person with close relationship with state functionaries) (Arts. 388-1 and 390-1);
- introduction of bribery (*i.e.*, acting as a middleman in a bribery transaction) (Art. 392); and
- bribery by mediation (*i.e.*, an official receiving bribes and seeking improper benefits for influencing another official) (Art. 388).

Like its predecessor, the Second Interpretation is principally concerned with refining the applications of and establishing the monetary thresholds at which bribery and related crimes should be (i) criminally prosecuted and (ii) deemed "serious" or "especially serious," thereby qualifying for enhanced sentencing under the Criminal Law.

The monetary thresholds differ depending on the crime and whether the defendant is an entity or an individual. The First Interpretation set out a standard threshold for each crime and type of defendant, as well as a lower threshold that is applicable if aggravating circumstances exist. The Second Interpretation amends many (but not all) of those thresholds and sets forth the aggravating circumstances for each crime covered. The thresholds for bribery of a state functionary (offer and acceptance) (Art. 389 and 385), bribery by mediation (Art. 388), and bribery of a person with influence (offer and acceptance) (Art. 388-1 and 390-1) are unchanged.

Distinguishing Individual and Corporate Liability for Bribery Crimes

In theory, the bribery provisions of the PRC Criminal Law apply to both individuals and entities. There is corporate liability for both active and, in the case of state-owned enterprises and similar entities, passive bribery. Unlike the FCPA, it is possible under the Criminal Law to commit bribery where the benefit flows only to an entity, not a natural person. For example, one company providing a discount that is undisclosed or not transparently accounted for to a Chinese state-owned entity (*e.g.*, a state-owned hospital) to encourage the second company to inappropriately favor the first company in a public tender could be seen as payment of a bribe by the first company and acceptance of a bribe by the second.

Continued on page 8

China's New Interpretation of its Anti-Bribery Law Includes Guidance on Corporate Criminal Liability

Continued from page 7

Despite the theoretical application of the Criminal Law to entities, reported cases of corporate criminal liability for bribery have been rare. Most prominent was the 2014 conviction of GlaxoSmithKline, which was fined RMB 3 billion (approximately $490 million) for commercial bribery—a noteworthy case both for its scale and its focus on the entity itself rather than solely on individual employees. More recently, real estate conglomerate Evergrande Group was charged with bribery and fraud by prosecutors in Shenzhen.[6] Prosecutors typically pursue the individuals involved, and corporations are held liable for commercial bribery under the civil and administrative provisions of the Anti-Unfair Competition Law ("AUCL"). The AUCL's commercial bribery provisions, which also apply to individuals, are subject to lower monetary thresholds than the Criminal Law, and the use of the AUCL avoids many of the complexities and evidentiary burdens of criminal prosecution.

For multinational corporations, the Second Interpretation is potentially significant in clarifying when entities should be held liable for bribery crimes. This development also potentially signals an intention to regularize rarely used corporate criminal liability.

Notwithstanding the past focus of prosecutors on individuals, Article 16 of the Second Interpretation provides new and clear guidance as to whether a bribe should be classified as the crime of bribery by individuals[7] or by entities.[8] Article 16 draws a line between individual liability and corporate liability based on two factors: (1) who made the decision to offer the bribe; and (2) where the illegal benefits flow. Where a bribe is approved collectively by the entity (*e.g.*, upon a management decision) or is authorized by the owner or a person in charge, and the benefits go to the entity, the entity should bear the liability. Differentiating between control person and collective decision-making leaves more room to impose corporate liability when bribery occurs at a level below a company's ultimate decision maker, especially when the benefit flows to the entity. Where individual and company assets are comingled and the benefits ultimately flow to the individual (as in the case of a closely held, owner-dominated corporation), Article 16 suggests that the case should be pursued against the individual control person.

Continued on page 9

6. *See* 恒大集团、恒大地产及许家印案一审开庭 (The Trial of Evergrande Group, Evergrande Real Estate, and Xu Jiayin was held), Xinhua Net (Apr. 14, 2026), https://www.news.cn/legal/20260414/6dee06e149b74b4d8a4ae39baea2a856/c.html.
7. PRC Criminal Law Art. 389.
8. PRC Criminal Law Art. 393.

China's New Interpretation of its Anti-Bribery Law Includes Guidance on Corporate Criminal Liability

Continued from page 8

Equalizing Public and Commercial Bribery Thresholds

Unlike the First Interpretation, the Second Interpretation equalizes prosecution and sentencing thresholds for active and passive bribery by state functionaries and private individuals. Specifically, it provides that the thresholds applicable to private individuals shall be determined with reference to the thresholds for state functionaries. This is consistent with China's recent legislative trend of treating bribery in public and private sectors with equal severity.

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