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The DOJ's Big Defeat in Rengan Rajaratnam Insider Trading Trial
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Rengan Rajaratnam was found not guilty of conspiracy to commit insider trading – a big defeat for Preet Bharara, the United States attorney for the Southern District of New York. The jury reached a verdict following only a few hours of deliberations, putting the first black mark on Bharara's record which includes 85 convictions of traders, analysts, and industry consultants on Wall Street. The Department of Justice ("DOJ") faced significant setbacks throughout the trial, leading to a loss which may diminish the DOJ's recent strength in prosecuting insider trading. The DOJ's prior prosecution of Rajaratnam's older brother, Raj, which resulted in an eleven year prison sentence placed the DOJ in a position of strength at the beginning of Rengan Rajaratnam's trial. However, Judge Buchwald, a United States District Judge for the Southern District of New York, has taken the wind out of the DOJ's sails in this case.

Background

The Government accused Rengan Rajaratnam of insider trading based on information from his brother, Raj, the co-founder of the Galleon Group hedge fund. In addition to seven counts of insider trading, the indictment also included a conspiracy count which claimed that the younger Rajaratnam traded on insider information about Advanced Micro Devices. The Government relied on wiretaps for much of their evidence, a similar strategy as the one used in the Raj Rajaratnam trial. Rengan Rajaratnam was considered a "remote" tippee, meaning that he received the inside information as part of a chain. In order to convict a remote tippee of insider trading, the Government must prove that that the tippee knew that the tipper breached a duty of trust and confidence by sharing the information and that there was a benefit flowing from the tippee to the tipper.

Judge Buchwald's Rulings

Initially, Judge Buchwald criticized the Government's indictment for using inconsistent theories which led the DOJ to drop the charges to two charges of insider trading and one charge of conspiracy. As the trial continued, Judge Buchwald dismissed the remaining two insider trading charges finding that the Government failed to show that Rajaratnam was aware of any benefit flowing to the tipper. Therefore, the case was allowed to proceed to the jury on a sole conspiracy to commit insider trading charge, which requires proof of an agreement to trade on inside information.

At the very least, this case shows that Preet Bharara is not invincible and the targets of his prosecutions are not without hope. Just how much of a setback this will be for the DOJ, however, remains to be seen.