

Ken Yeadon Talks to Business Insurance about SEC Disgorgement Case Recently Accepted for Review by SCOTUS

In The News | 1 min read

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Hinshaw partner and former SEC enforcement attorney Ken Yeadon discussed with Judy Greenwald of *Business Insurance* the recent decision by the U.S. Supreme Court to review *Securities and Exchange Commission v. Charles C. Liu et. al.* At issue is whether the SEC has the authority to seek disgorgement of ill-gotten gains in civil enforcement cases. The SEC reported last week it had assessed about \$4.3 billion in fines and disgorgement in fiscal 2019, up from \$3.9 billion a year earlier.

Yeadon said that a ruling on the issue would “give more certainty to insurers, as well as in the industry, about what potential exposure there could be to individuals and companies and insurance companies when they’re looking at an SEC investigation and potential lawsuit.” He added that a change in the kinds of remedies the SEC can get “is going to have an effect on [directors and officers liability] insurers, even if they don’t cover disgorgement per se,” because D&O policies can cover investigations. Finally, he noted the SEC “may attempt to get creative in its efforts to recover amounts that they believe their investigation shows that the defendants in the lawsuit shouldn’t be keeping,” which could affect insurance coverage.

“High court ruling on ‘ill-gotten gains’ may affect D&O premiums” was published by *Business Insurance*, November 12, 2019.

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