

Second Circuit: Dodd-Frank Act's Whistleblower Protections do not Extend to Foreign Tipsters

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The Second Circuit ruled Thursday that the Dodd-Frank Act's whistleblower protections do not cover whistleblowers overseas, siding with a foreign employer in a case brought by a former employee alleging that he was fired after reporting alleged fraud relating to events that occurred abroad.

Liu Meng-Lin, a citizen and resident of Taiwan, was employed as a compliance officer for the healthcare division of Siemens China, Ltd., a Chinese corporation that is a wholly owned subsidiary of Siemens AG ("Siemens"). Liu discovered that fellow employees were making improper payments to officials in North Korea and China in connection with the sale of medical equipment in those countries. Liu reported this conduct — which he believed to be violative of anti-corruption measures — to his superiors. Lui claimed that as he moved forward with addressing these alleged violations, Siemens progressively restricted his authority as a compliance officer, demoted him, and ultimately fired him. After his termination, Liu sued Siemens alleging that Siemens retaliated against him in response to his disclosures of alleged corrupt conduct, and that Siemens thereby violated the whistleblower anti-retaliation provision of the Dodd-Frank Act.

In interpreting the anti-retaliation provision of the Dodd-Frank Act, the Second Circuit concluded that there was no legislative evidence to suggest that the provision in question was intended to have extraterritorial reach. As such, the Court went on to find that because Liu's Complaint alleged that he was a non-citizen employed abroad by a foreign company, and that all events allegedly giving rise to liability occurred outside of the U.S., applying the anti-retaliation provision at question to the facts as alleged by Liu would constitute an unintended extraterritorial application of the statute. "There is no indication Congress intended the whistleblower protection provision to have extraterritorial application," the Second Circuit rule, and "[t]he facts in the complaint unequivocally demonstrate that applying the statute, in this case, would constitute an extraterritorial application."

The name of the case *Liu Meng-Lin v. Siemens AG*, No. 13-4385-cv (2d Cir. August 14, 2014). For more information, please contact [Andrew M. Gordon](#).

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