



Skilling Having Impact on Pending Honest Services Fraud Cases

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On June 24, 2010, the U.S. Supreme Court handed down its much-awaited ruling in *Skilling v. United States*, which limited the scope of honest-services fraud. The next step is to look at the lower courts and see how they are interpreting the *Skilling* decision.

After comments made very recently by U.S. District Judge Ellen Segal Huvelle in a high-profile case in the District of Columbia, prosecutors may need to rethink their case against Kevin A. Ring, a former associate of disgraced lobbyist Jack Abramoff, in the light of *Skilling*.

During a July 6 status conference in Ring's case, prosecutor Peter Koski reportedly insisted that *Skilling* would have "no impact whatsoever" on the government's prosecution of Ring. But Huvelle apparently disagreed. According to [an article posted on the Blog of Legal Times](#), Huvelle answered that the once-broad honest-services fraud statute "is not an unlimited category now." She said the "'arena' today is different There's a new definition of bribery and materiality."

Ring must be heartened. In September 2008, he was indicted for acts relating to his work with Abramoff. Of 10 counts in the Indictment, six alleged honest services wire fraud; one alleged illegal gratuity payments. More than a year later, Ring's first trial concluded with a hung jury. Aware that the Supreme Court would either strike down or provide significant guidance regarding honest-services fraud, Judge Huvelle delayed the start of Ring's second trial.



Formerly, the statute had been used to prosecute defendants for using interstate communications systems to defraud citizens of the honest services of public officials, whether through schemes involving bribery, kickbacks or illegal gratuities, or schemes designed to conceal conflicts of interest. After the *Skilling* ruling, the statute reaches only schemes involving bribery or kickbacks.

If Ring had been charged with bribery, one could understand Koski's position that *Skilling* does not affect his case. But he wasn't. Moreover, the government must be a little concerned that it did not get a conviction for illegal gratuity payments –a crime that is easier to prove than bribery.

Perhaps the prosecution is just playing hardball. In any case, the parties are ready for battle. On July 13, the government filed its Bill of Particulars, which alleges essential elements of bribery: the “things of value” Ring allegedly gave to public officials, the recipients, and the official acts that those “things of value” were intended to influence. Six days later, Ring filed his motion requesting, among other things, a judgment of acquittal on the honest-services fraud counts.

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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