In one of the first criminal cases brought under US sanctions laws involving cryptocurrency transactions, a federal magistrate judge approved the Department of Justice’s criminal complaint. In the opinion unsealed on May 13, 2022, US Magistrate Judge Zia M. Faruqi ruled that the Department of Justice demonstrated probable cause in accusing an unnamed defendant of transmitting more than $10 million in bitcoin to a “comprehensively sanctioned” country.

The government’s criminal complaint alleged that a US citizen, whose name was redacted while the docket remains under seal, used an IP address in the United States to operate an online payments and remittances platform based in a “comprehensively sanctioned” country. Operation of the payment platform involved the use of a US shell company to conduct financial services and transfer virtual
currency to accounts associated with the payment platform. The platform advertised that its services were designed to evade US sanctions, including through purportedly untraceable virtual currency transactions. Nevertheless, criminal investigators were able to determine the defendant’s identity through subpoenas to virtual currency exchanges, email search warrants, banking information, and shell company registration information.

The government alleged that the defendant conspired to violate the International Emergency Economic Powers Act and defraud the United States. In his ruling adopting previous OFAC interpretive guidance, the magistrate judge determined that virtual currency exchange and transmission is covered under US sanctions laws, and that virtual currency is subject to OFAC regulation. The magistrate judge determined that the defendant’s transmission of virtual currency to the sanctioned country violated US sanctions. Additionally, the magistrate judge opined that the defendant faces liability because his transactions caused the virtual currency exchanges, perhaps unwittingly, to violate US sanctions. In turn, these willful violations established probable cause to believe the defendant violated the US federal criminal law against defrauding the United States. As the opinion noted, “civil liability is not the ceiling. The Department of Justice can and will criminally prosecute individuals and entities for failure to comply with OFAC’s regulations, including as to virtual currency.”

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