

Two Federal Courts Uphold Criminal Convictions for Insurance Brokers

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Two federal appellate decisions highlight the potential criminal liability for rogue agents. First, in *United States v. Bindow*, the Second Circuit Court of Appeals upheld mail and wire fraud convictions of three individuals for misrepresenting the financial status, reasons for buying, intentions of, and premium financing used by life insurance applicants. Defendants argued that the government failed to prove that defendants contemplated actual harm to their victims – the insurers – because STOLI and non-STOLI policies were economically identical. The court disagreed, finding it sufficient "that the misrepresentations were relevant to the insurers' economic decision-making because they believed that the STOLI policies differed economically from non-STOLI policies." The court also found it unnecessary to prove actual harm or that the defendants intended a specific harm so long as they intended their misrepresentations to induce insurers to enter transactions without the relevant facts necessary to make an informed economic decision. The second case, *United States v. Caramadre*, is more notable for the brazenness of the scheme, which the court referred to as "one of the most avaricious frauds in Rhode Island history," and the severity of the penalty imposed. The defendant was convicted of leading a conspiracy to purchase variable annuities and corporate bonds with death-benefit features in the name of terminally ill individuals who were not aware of these purchases. The First Circuit Court of Appeals rejected defendant's appeal of the trial court's refusal to let him withdraw his guilty plea and imposition of a six-year prison sentence and \$46 million in restitution, finding that plea was knowing, intelligent, and voluntary, and that he had waived his right to appeal his sentence by the terms of his plea agreement.

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