

AntitrustConnect Blog

DOJ Fugitive Page (And the Fugitive Disentitlement Doctrine)

Robert E. Connolly (Law Office of Robert Connolly) · Thursday, February 27th, 2025

Recently the Justice Department’s Antitrust Division and the FBI jointly announced the launch of a [new online portal](#) for information on international fugitives who have been charged with antitrust offenses and other crimes affecting the competitive process. There are 77 fugitives [on the list](#). As the press release notes, these individuals were not indicted under seal so they presumably understand that they have been indicted and are on a [Red Notice](#), making travel outside of their home country hazardous. If the offense they are charged with (e.g. price fixing or bid rigging) is not a criminal offense in their country, they are likely not subject to extradition. Even if a country has a criminal antitrust statute it may not be willing to extradite its citizens to the United States for this offense.

When I was the Chief of the Philadelphia Field Office, however, we did successfully extradite a British executive—not for the Sherman Act offense he was charged with, but for related obstruction of justice charges. He was convicted and [sentenced to prison](#). My office also indicted an Israeli national under seal and he was arrested at the Canadian border as he entered the U.S. He was tried and convicted as well. See [Cartel Capers, Compliments to the Procurement Collusion Strike Force and a Trip Down Memory Lane](#), December 2, 2024. There have since been other successful extraditions and apprehensions by the U.S. and Interpol.

The Antitrust Division maintains a “Fugitive” [web page](#). Among the items on the page is a [YouTube video](#) of a former fugitive who, in 2024, resolved his criminal charges by entering into a plea agreement with the Antitrust Division. The agreement was negotiated approximately five years after indictment. “Jim” Chu of Taiwan and the United States entered a “C”[1] plea agreement that included a fine of \$300,000 for Chu (the equivalent of what might have been the corporate fine but Chu’s company had been dissolved) but most importantly, the plea agreement explicitly recommended no sentence of imprisonment. In return, Chu agreed to provide assistance to the U.S. Department of Justice, Antitrust Division in connection with antitrust compliance and other public education efforts. See *United States v. Yeh Fei Chu aka Jim Chu and G Nova Corporation*, 4:19-cr-00070 ECF 34 (2/22/2014)(plea agreement). The YouTube video appears to be the product of that assistance.

Mr. Chu advises Sherman Act fugitives to consider reaching out to the Antitrust Division, accept responsibility and try to resolve the outstanding charges. Mr. Chu is certainly correct when he speaks of the real consequence of being a fugitive—especially not being able to travel outside of the home country without risking arrest. This may severely limit business travel/opportunities. It also can cut off connections with relatives living in other countries. Being picked up on a Red

Notice is no joke: In 2014, Romano Piscioti, an Italian citizen, was indicted under seal for violating Section One of the Sherman Act, seized by Interpol while changing planes in Germany and eventually extradited to the United States.[2] Even before conviction,

Romano Piscioti spent 669 days in custody. This included two hours in a police station in Lugano, Switzerland; 10 months in a jail in Frankfurt, Germany fighting extradition [on a Sherman Act indictment]; and eight months in a US federal prison in Folkston, Georgia, in a room with around 40 mainly Mexican inmates and a single corner toilet.” [3]

The consequences of being a fugitive are real and serious. But other fugitives reaching out to the Antitrust Division are unlikely to get the kind of deal Mr. Chu received. Chu was involved in price fixing for “koozies,” also known as can coolers: a foam or rubber sleeve that thermally insulates beverage containers such as cans or bottles. The volume of commerce was small: \$2,665,695.60. Most importantly, no other defendant had been sentenced to prison. In my experience, once a single defendant agrees to a prison term, a non-prison deal is off the table for subsequent defendants.

The Fugitive Disentitlement Doctrine

The subject of foreign fugitives reminded me of a series of Cartel Capers blog posts I wrote on the subject jointly with a distinguished lawyer from Japan, [Masayuki Atsumi](#). See Cartel Capers, [Defending the Foreign “Fugitive” Against the Fugitive Disentitlement Doctrine](#)[4] The fugitive disentitlement doctrine is an equitable doctrine under which a court has the discretion to decline to consider a petition of a defendant if that defendant does not submit the jurisdiction of the court. The “paradigmatic object of the doctrine is the convicted criminal who flees while his appeals is pending....” (Gao v. Gonzales, 481 F.3d 173,175 (2d Cir. 2007)). Today, however, the fugitive disentitlement doctrine has been applied to bar a foreign citizen indicted by an Antitrust Division grand jury from raising any matters with the court unless he first appears personally before the court. It may be surprising to learn that a person who has never set foot in the United States may be considered a “fugitive.” For example, if a grand jury in Detroit indicts a Japanese executive while he is having breakfast in Tokyo, he has become a “fugitive” if he does not surrender in the United States.

The cliff notes version of our article is that the fugitive disentitlement doctrine can be overbroad when applied to foreign defendants. The doctrine is fair (i.e. equitable) in prohibiting a foreign fugitive from litigating his case from abroad (e.g. by getting discovery and then deciding whether to submit to the jurisdiction of the court). But, we argue, a foreign fugitive should be able to attack the facial validity of an indictment, for example on statute of limitations or jurisdictional grounds. To have to appear before the court to raise these challenges would require the fugitive to come to the United States, get arrested, and likely spend time in jail, or at a minimum, a very long time in the United States awaiting trial since his passport would be revoked. Allowing a foreign fugitive to attack the facial validity of an indictment would provide prudent restraint on prosecutors because, without that possibility, there is no realistic way to contest what might be prosecutorial overreach on its face. And as Mr. Chu attests in his video, and Roman Piscioti can strongly second, there are dire consequences for a foreign business person that flow from simply being indicted. The equitable position would be to at least allow the foreign fugitive an opportunity to

facially challenge to indictment. To be sure, this is not a situation that will be common but it is not out of the realm of possibility. The issue is of further prevalence because it can also arise in the context of other criminal prosecutions such as FCPA or securities criminal prosecutions.

The recent published list of criminal antitrust fugitives is unlikely to spur any new plea deals but it is a useful reminder and deterrent to executives that an indictment does not go away with time. Being indicted for an antitrust crime is a serious handicap to a successful (and less stressful) career in international business.

I'd like to thank [Erin Lyman](#), JD Candidate University of Wisconsin Law School (2025), for her help in producing this blog post.

Thanks for reading.

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This post originally was published in the [CartelCapers](#) blog.

[1] “Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the Defendant may withdraw from this agreement or the guilty plea if the Court rejects the parties’ sentencing recommendations and imposes a sentence of imprisonment at the sentencing hearing.”

[2] Lewis Crofts and Leah Nylen, December 9, 2015, Mlex Interview with Romano Piscioti, available at <https://mlexmarketinsight.com/insights-center/reports/interview-with-Romano-Pisciotti>,

[3] *Id.* See also Plea Agreement with Roman Piscioti, <https://www.justice.gov/atr/case-document/file/507541/download>, which was discussed by Renata Hess in her remarks. See Remarks of Renata Hess, <https://www.justice.gov/opa/speech/acting-assistant-attorney-general-renata-hesse-antitrust-division-delivers-remarks>. Piscioti was not the only foreign citizen extradited and sent to prison, In her remarks Hesse added:

And earlier this year, John Bennett, former CEO of a Canadian hazardous waste company, was convicted in a New Jersey court and sentenced to more than five years in prison for his role in a Superfund cleanup kickback scheme following his extradition from Canada in November 2014.

Id.

[4] See Cartel Capers, *Defending the Foreign “Fugitive” Against the Fugitive Disentitlement Doctrine Part 1, Part 2.*

This entry was posted on Thursday, February 27th, 2025 at 7:05 pm and is filed under [Department of Justice Antitrust Division](#)

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