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Supreme Court: SEC Disgorgement Claims Subject to Five-Year Statute of Limitations

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On June 5, 2017, a unanimous Supreme Court in *Kokesh v. SEC* held that SEC enforcement actions seeking disgorgement must be brought within a five-year statute of limitations. *Kokesh* resolved a split in the Courts of Appeals by concluding that disgorgement in SEC federal court actions is a “penalty,” thus triggering § 2462’s statute of limitations. As a result, we may see the SEC bringing enforcement actions more quickly or becoming more aggressive in pressing parties to agree to toll the applicable limitations period. In this article, partner Peter White and special counsel Jeffrey Robertson discuss the potential effects of this decision.

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