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*Kokesh v. SEC*, No. 16-529

Except where Congress has provided otherwise, a five-year limitations period applies to any “action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise.” Today, the Supreme Court held unanimously through an opinion by Justice Sotomayor that claims for disgorgement imposed as a sanction for violating federal securities laws are subject to the five-year limitations period. In so holding, the Court reversed the judgment of the U.S. Court of Appeals for the Tenth Circuit, which distinguished between statutory monetary penalties, which it deemed subject to the 5-year limit, and claims for disgorgement, as to which the Tenth Circuit believed no statutory period applied. In the view of the unanimous Court, because disgorgement orders go beyond compensation and are designed to label defendants as wrongdoers, they are penalties that trigger the 5-year clock. This decision reduces the exposure of individuals under investigation by the SEC.