

Employer Takeaways From SEC V. Huang

Publication

10.14.15

Risa Boerner's article "Employer Takeaways From SEC V. Huang" was featured in *Law360* on October 14, 2015.

Can employees be compelled to disclose the passcodes for employer-issued devices used by the employees in the course of their employment? Not necessarily, according to the United States District Court for the Eastern District of Pennsylvania. In *Securities and Exchange Commission v. Huang*, No. 15-269 (E.D. Pa. Sept. 23, 2015), the court denied the U.S. Securities and Exchange Commission's request for an order compelling two former data analysts for Capital One Financial Corp., a credit-card issuer bank, to disclose the secret personal passcodes for smartphones owned by their former employer.

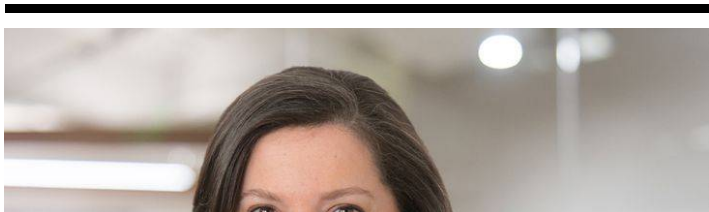
The data analysts were accused by the SEC of insider trading based on information available to them while they were employed by Capital One. Capital One had provided the employees with smartphones, but allowed them to create and set their own passcodes for the phones. Capital One had policies confirming its ownership of the smartphones, as well as any corporate documents stored on the smartphones. In order to enhance the security of the data on the smartphones, Capital One instructed its employees not to keep records of the personal passcodes they used for the phones.

In the article, Risa discusses the following topics:

- Motion to Compel Production of the Passcodes
- The Court's Ruling
- Implications for Employers

To read the full article, please visit [Law360](#).

Related People





Risa B. Boerner, CIPP/US, CIPM

Partner

610.230.2132

Email

Service Focus

Privacy and Cyber