

## Compliance Today – April 2023



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### United States v. Holland and its importance to compliance professionals

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by Gabriel L. Imperato, Esq.

The recent decision of a U.S. Federal District Court in *United States v. Holland*<sup>[1]</sup> is an important development in the application of the federal Anti-Kickback Statute (AKS); however, it is also significant for healthcare organization compliance programs and compliance professionals in addressing and managing risks under the AKS. The court in *United States v. Holland* first discussed and analyzed the “one-purpose test” and concluded that it was not settled law but also stated that the “one-purpose test” must be considered in connection with the knowing and *willful* standard under the AKS. The court further concluded that the mere existence of an arrangement for services where referrals and payments were involved (i.e., “one purpose of a payment”) did not establish knowing and willful conduct, which would violate the AKS. The court decided that it could not automatically impute willfulness simply based on the identification that “one purpose” of an arrangement was to induce referrals without a basis to show that the parties knew they were breaking the law.

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