

More Insider Trading Clarity for Money Managers

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It is plainly illegal to bribe a corporate insider for non-public information and then trade that company's stock. But what if the briber shares that information with a money manager, who then trades on that inside information, knowing that it is non-public but ignorant of the bribe? According to the U.S. Attorney for the Southern District of New York, as recently argued in *United States v. Newman*, this would, indeed, constitute a crime. The Second Circuit disagreed, however, and overturned the convictions of two former hedge fund managers charged with making \$72 million off trades in the stocks of technology companies Dell and NVIDIA. At trial, the government accused Todd Newman and Anthony Chiasson of trading on tips received from their employees, members of a "cohort of analysts" who shared with each other non-public information obtained from corporate insiders. The trial judge rejected a defense jury instruction that would have required the government to prove that Newman and Chiasson knew that the Dell and NVIDIA insiders received a personal benefit in exchange for the disclosure. The appellate court reversed, holding that **"to sustain a conviction for insider trading, the Government must prove beyond a reasonable doubt that the tippee knew that an insider disclosed confidential information and that he did so in exchange for a personal benefit."** For added measure, the court found insufficient evidence that the corporate insiders even received a "personal benefit" in exchange for the information. The government has requested a rehearing and a rehearing *en banc*. For now, however, this decision can provide some comfort—at least in the Second Circuit—to money managers who do not know the circumstances under which information about an issuer was divulged or, perhaps, even whether the information must be regarded as nonpublic.

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