

ALERTS

Newman's Aftermath: District Court Vacates Four Insider Trading Guilty Pleas; Government Seeks Rehearing in Second Circuit

January 27, 2015

Last week saw two significant developments for insider trading law stemming from the Second Circuit's important decision in *U.S. v. Newman*, 773 F.3d 438 (2d Cir. 2014). First, the government was dealt a significant loss when, on Jan. 22, 2015, U.S. District Judge Andrew L. Carter, Jr. vacated four insider trading defendants' guilty pleas in the wake of *Newman* and rejected the government's argument that the *Newman* decision does not apply to cases prosecuted under the so-called "misappropriation" theory of insider trading liability. Second, the next day, the government filed a petition for panel rehearing and rehearing *en banc* in *Newman*, seeking reversal of the Second Circuit's earlier decision vacating the convictions of defendants Todd Newman and Anthony Chiasson and dismissing their indictments with prejudice. Earlier this week, the SEC indicated its support of the U.S. Attorney's Office's position by filing a motion seeking to submit an *amicus curiae* (friend of the court) brief in support of the petition for rehearing in *Newman*.

These developments make clear that *Newman* is, as the government states in its petition for rehearing, "one of the most significant developments in insider trading law in a generation" (Petition, at 22-23) and suggest that the full impact of *Newman* on insider trading law still remains to be seen. These and further developments involving *Newman* should be closely followed by financial professionals and compliance personnel. *Newman* and its progeny will be important not just in criminal

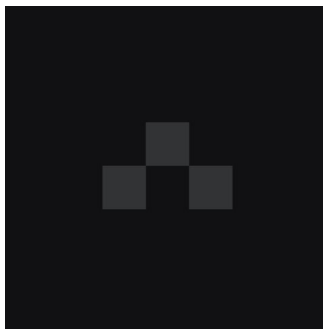
insider trading cases but in civil cases brought by the SEC as well as in investigations conducted by securities regulators.

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