

Federal Judges Overturn Insider Trading Convictions

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The 2nd US Circuit Court of Appeals in New York dismissed charges Wednesday against Anthony Chiasson, founder of Level Global Investors, and Todd Newman, a former trader at Diamondback Capital Management.

Newman and Chiasson had received prison sentences of four and six years, respectively, after allegedly collecting more than \$70 million in profits by soliciting insider information about technology firms Nvidia and Dell.

According to the prosecution, Newman and Chiasson were members of a “corrupt circle” of financial agents. A federal judge sentenced SAC Capital portfolio manager Michael Steinberg to 3.5 years in prison in May for involvement in the same circle of financial operations.

In their ruling Wednesday, the panel of federal judges found that previous standards for conviction of “insider trading” were too strict. Agents involved in financial operations based on secret information should only be convicted if it can be shown they knew the information was coming from “inside” sources, and if it can be demonstrated that the information provider received direct compensation.

“We conclude that, in order 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,” the judges wrote.

Experts say that the ruling marks a major defeat for already limited efforts to prosecute insider trading and other financial crimes. The ruling represents a signal from the federal judiciary that prosecutions against traders have already “gone too far,” Jill Fisch, law professor at the University of Pennsylvania, told *Fortune* magazine.

Fisch defended the ruling, arguing that Wall Street investors are constantly gathering information from numerous sources, making it very difficult to distinguish between legal and illegal forms of information.

“What basis could you possibly have for determining which information you can use and which you can’t?” she asked.

While intended to defend manipulative financial schemes, Fisch’s question points to the difficulty of distinguishing between illegal “insider trading” and much of the operations that are carried out daily by all of the major banks and hedge funds.

Financial firms constantly seek to gain an edge on their competitors by acquiring more and better information about market fluctuations. In theory, “insider trading” laws are supposed

to regulate the limits of this process, punishing agents who effectively steal wealth through transactions based on information that is not available to the entire market.

In reality, financial directors develop investment strategies by soliciting “non-public”, “privileged” and “inside” information of every type available. Increasing numbers of “expert network” companies have sprung up to meet the demand for information, cultivating connections with insider sources and then selling their “advice” in consultation sessions for hundreds of dollars per hour.

All major financial firms straddle the shifting legal margins separating “inside” from “public” information. Private equity firms specialize in seizing control of companies through leveraged buyouts, stripping and restructuring their assets, and “flipping” them back onto the market. In the process, they gain access to large pools of secret business information as they restructure the asset portfolios of targeted firms.

Powerhouse private equity firms built on the basis of these methods have flourished, paying only symbolic fines. Over a period of two decades, SAC Capital Advisers, a wealthy private equity firm whose agents worked with Newman and Chiasson, reaped annual average returns on investment of some 30 percent through speculative operations largely based on information sources later ruled to be illegal.

In 2013, SAC reached an agreement to pay \$1.2 billion—a small fraction of the total assets held by the company and its leadership—to end US government prosecutions against the firm. SAC was allowed to remain in business, and its founder Steven A Cohen remains free, retaining the vast majority of his \$9 billion fortune.

Since the 1970s, an American financial aristocracy increased its wealth enormously, based largely on the criminal looting of the whole economy.

While millions of working class youth languish behind bars for insignificant offenses, the wealthiest layers of American society enjoy complete immunity from prosecution despite orchestrating illegal financial schemes that have wrecked tens and hundreds of millions of lives.

The largest Wall Street banks themselves operate on the basis of systematic swindling. The activities of Goldman Sachs and JP Morgan, which have reaped untold billions by manipulating key commodities and other markets, without facing any substantial penalties, make clear that finance capital will not shy away from any method to maximize its bottom line.

Aside from being completely shielded from prosecution, the financial elites have been hugely enriched as a direct result of US government policies, including continuous pumping of billions into the major financial institutions and the open-ended bailouts coordinated jointly by the Bush and Obama administrations.

Far from a neutral arbiter, the US government operates at the behest of Wall Street. The US political and legal establishments are inherently incapable of even considering serious prosecutions against financial criminality, which is in fact the main vocation of the US ruling class as a whole.

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