

First Custodial Sentence for Insider Dealing

The Financial Services Authority has recently shown its teeth by securing a custodial sentence for an in-house lawyer who used market-sensitive insider knowledge to share in an illicit gain.

The charges arose after the father-in-law of the general counsel of a telecoms company was found to have dealt in its shares, making a profit of nearly £50,000, when the company was the subject of a takeover bid in 2006. The father-in-law subsequently paid the lawyer a cheque for half of the profit.

The trading was noted as suspicious and investigated by the FSA. Both of the men were convicted of insider dealing offences under the Criminal Justice Act and both were sentenced to 8 months' imprisonment. In the case of the in-house lawyer, this was a custodial sentence. In the case of his father-in-law, the sentence was suspended for a year.

An appeal against sentence was rejected.

A person commits insider dealing if he or she obtains information which they know is insider information and which, if it were made public, would be likely to have a significant effect on the price of the securities of the company and deals in, or encourages someone else to deal in, the securities of the company or discloses the information to a third party other than in the proper performance of his or her employment, office or profession.

It is often considered that such crimes are 'victimless', but the FSA has indicated that it will seek criminal convictions and custodial sentences where such cases warrant them. Under the Proceeds of Crime Act, the profits of criminal activity are subject to confiscation.

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