

## White Collar Update: Supreme Court Rejects Second Circuit's Narrow Interpretation of Insider-Trading Law

December 8, 2016 | Client Update

To be guilty of insider trading, a tipper of inside information must receive a “personal benefit” in exchange for his tips. On December 6, 2016, the Supreme Court unanimously held in *Salman v. United States* that a tipper receives a “personal benefit” when he gifts inside information to a trading relative or friend. *Salman* reaffirmed *Dirks v. SEC* and partly overturned the [Second Circuit's decision in \*United States v. Newman\*](#), which interpreted “personal benefit” to require more than a friendship or familial relationship between the tipper and tippee. *Newman* instead required a close personal relationship “that is objective, consequential, and represents at least a potential gain of a pecuniary or similarly valuable nature.” The *Salman* decision is a win for prosecutors, including U.S. Attorney Preet Bharara, who [said](#) that the *Newman* ruling made it “very hard if not impossible to bring a certain kind of insider trading case.” Even so, the Supreme Court acknowledged that “determining whether an insider personally benefits from a particular disclosure, a question of fact, will not always be easy for courts.” And the Supreme Court left untouched the other holding in *Newman* that a tippee must *know* that the tipper disclosed the information for a personal benefit to be liable. *Salman* therefore decided a narrow issue on distinct facts.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

**Greg D. Andres**

+1 212 450 4724  
greg.andres@davispolk.com

**Martine M. Beamon**

+1 212 450 4262  
martine.beamon@davispolk.com

**Angela T. Burgess**

+1 212 450 4885  
angela.burgess@davispolk.com

**Neil H. MacBride**

+1 202 962 7035  
neil.macbride@davispolk.com

**Denis J. McInerney**

+1 212 450 4477  
denis.mcinerney@davispolk.com

**Lawrence Portnoy**

+1 212 450 4874  
lawrence.portnoy@davispolk.com

**Neal Potischman**

+1 650 752 2021  
neal.potischman@davispolk.com

**James P. Rouhandeh**

+1 212 450 4835  
rouhandeh@davispolk.com

**Linda Chatman Thomsen**

+1 202 962 7125  
linda.thomsen@davispolk.com

*This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.*

## Related materials

[Read the full update](#)