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SEC v. Cuban: The Fifth Circuit Reverses

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You may recall that last year a federal district court in Texas dismissed the SEC’s insider trading case against Mark Cuban, on the theory that a simple confidentiality agreement without an agreement not to trade did not create the basis for a Rule 10b-5 enforcement action. Our memo at the time cautioned against undue reliance on that decision pending further developments, including the SEC’s appeal. That appeal was decided today by the Fifth Circuit, which reversed the lower court decision.

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