

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

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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.

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