

## Insider Trading Requirements: Second Circuit Case could have Major Consequences for Prosecutors

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In the context of insider trading cases involving tippers, the personal benefit test is most controversial. To hold a tippee liable, prosecutors are required to prove the tippee's knowledge of the personal benefit of the tipper when revealing the tip. [On December 10, 2014](#), the United States Court of Appeals for the Second Circuit [heightened](#) the benefit requirement, which could have a major impact on insider trading cases to come.

[In May 2013](#), two hedge funds managers, Todd Newman and Anthony Chiasson, were convicted of insider trading after allegedly receiving tips from insiders at Nvidia and Dell. The hedge funds managers traded on the basis of those tips and [earned around \\$72 million](#), leading to their conviction. On appeal, though, the Court found that Newman and Chiasson were [too remote](#) from the insiders in that the Government [failed to prove](#) that the hedge fund managers knew of the original tippers' personal benefit from providing such information. Relying on this interpretation of the rule's requirement, the Court [overturned](#) the convictions.

In a landmark case on insider trading, [Dirks v. SEC \(1983\)](#), the U.S. Supreme Court laid down the [requirement](#) to prove [beyond a reasonable doubt](#) that the tipper received a benefit for exchanging the tip, and that the tippee knew of this benefit conferred to the tipper. Otherwise, the tippee cannot be convicted. In the case at hand, the Court held that the personal benefit received in exchange for confidential information must be of some consequence and, therefore, [things such as friendship or family relationship are insufficient](#) to prove that a benefit was conferred.

This new interpretation of the personal benefit requirement could jeopardize future insider trading prosecutions. U.S. Attorney Preet Bharara has petitioned the Court for a rehearing en banc, in which the same three-judge panel would then reexamine the case. [This process rarely results in an overruling](#), but U.S. Attorney may also petition for a writ of certiorari to have the judgment reviewed by the Supreme Court.