

UNIVERSITE PARIS 1 PANTHEON-SORBONNE
Ecole de Management (UFR 06) & Département des Langues
BI-LICENCE DROIT / GESTION, Semestre 4

Partiel d'anglais appliqué au droit

Enseignant: J.T. Pindi, Maître de conférences

Date : 30 avril 2014

Durée : 2 heures

No documents allowed. Write your answers on the official answer sheets provided.

PART 1: READING

A. Read the following text and address the ensuing vocabulary and comprehension exercises

Judges Consider What Defines Insider Trading

A panel of federal appeals-court judges signaled that prosecutors may have taken too broad a view of insider trading, saying there needs to be more a “bright line” for Wall Street about what constitutes a crime. The comments came Tuesday during arguments of an appeal brought by two former hedge-fund managers that could threaten some of the convictions won by prosecutors in their yearslong crackdown on insider trading.

At issue is whether a trader, to be guilty of insider trading, must have known a tip had been illegally disclosed in exchange for a reward. Prosecutors have argued they need only show that people who used insider information knew it had been disclosed in breach of a fiduciary duty.

Two members of the three-judge panel of the U.S. Court of Appeals for the Second Circuit in Manhattan expressed concern that prosecutors’ approach is too vague. “We sit in the financial capital of the world, and the amorphous theory you have gives precious little guidance to all these financial institutions and all these hedge funds out there about a bright-line theory as to what they can and cannot do,” Judge Barrington Parker said.

The appeal is being pursued by Todd Newman and Anthony Chiasson, two portfolio managers convicted in 2012 of participating in a \$72 million insider-trading scheme. The two men, free on bail pending the appeal, are seeking to have their convictions overturned.

The original trial judge told jurors that Messrs. Chiasson and Newman could be convicted of insider trading if they knew there had been a breach of duty, but didn’t instruct them that the defendants had to have known that the person who leaked the information had done so in return for a “personal benefit.”

Lawyers for Messrs. Newman and Chiasson said Tuesday that prosecutors must show their clients knew the tippers were somehow compensated for the tips. Therefore, they said, the judge’s instruction was erroneous. The tips in question made their way through a network of analysts before reaching analysts who worked for Messrs. Chiasson and Newman, the lawyers said. Their clients didn’t seek out or knowingly use inside information, they said.

Assistant U.S. Attorney Antonia Apps said Tuesday that even if the judge’s instruction was erroneous—and she didn’t believe it was—the jury would have concluded the two men inferred the

information was given in exchange for a reward. She said the “bright line” on what constitutes insider trading has been clear for decades.

If the court sides with Mr. Chiasson, who founded Level Global Investors, and Mr. Newman, once a Diamondback Capital portfolio manager, the two will either be granted a new trial or a judgment of acquittal. The appeals panel didn’t issue a decision Tuesday.

The Wall Street Journal, April 22nd, 2014

B. Vocabulary (5 points)

I. Who’s who in the text ? (1.25 points)

Find the word in the text which is described or defined in the sentences below. Use the singular or plural form of the word if warranted. Give its paragraph and line references.

1. In the court, Messrs Chiasson and Newman are, while Assistant US Attorney Antonia Apps is a
2. People arguing on behalf of Messrs Chiasson and Newman are, while those members of the court who are not necessarily law professionals are
3. People who leak the inside information are
4. But those who process this information are
5. People consulting law professionals in return for a fee are

II. legal phrases (1.25 points)

Which legal expression used in the text is explained or defined in each of the sentences below. Give the paragraph and line references of the phrase you have found.

1. A clearly defined rule or standard in law :
2. Buying or selling the stock of a company by persons on the basis of confidential information derived from their connection with the company or people they know in it : ...
3. Failure to satisfy ethical, legal or moral obligations :
4. Use for serving the interests of an individual : ...

5. Released from prison or police custody after an amount of money has been deposited as a pledge or guarantee that the person will indeed appear in court at a later time when ordered to do so :

III. Definitions (2.5 points)

Define or explain the meaning of the word or phrase in italics used in each of the sentences below.

1. Two portfolio managers *convicted* in 2012.
2. What constitutes a *crime*.
3. Two members of the three-judge panel of the *US Court of Appeals* for the Second Circuit in Manhattan expressed concern.
4. The *appeal* is being pursued by Todd Newman and Anthony Chiasson.
5. The two will either be granted a new *trial* or a judgment of acquittal.

C. Comprehension (5 points)

Answer the questions below briefly. Quote the text if necessary.

1. What do we learn about Messrs Newman and Chiasson in the newspaper article ?
2. On which ground was the original court ruling based ?
3. Why have the two individuals made an appeal ?
4. What reason is being put forward to justify their appeal ?
5. What suggests that the two individuals might have a sympathetic hearing in the court of appeals ?
6. What could be the outcome if the court agrees with the argument they are putting forward ?
7. How would a favourable appeals court decision impact on previous lower court rulings on similar cases?
8. Are the two individuals in custody while waiting to be heard by the court of appeals ?

9. Do you see a point of agreement or a point of disagreement between the views expressed by one member of the appeals court and those maintained by the law professional representing the state ?

10. What is it then ?

PART 2. GRAMMAR (5 points)

Tenses

Select the correct tense that completes each of the sentences in the text below.

US court accepts \$1.8bn SAC insider trading settlement

A US court *accepts / accepted / has accepted* (1) a \$1.8bn (£1.07bn) settlement for insider trading by US hedge fund group SAC Capital Advisors. As part of a plea deal, SAC Capital and other companies to which it *is related / was related / has been related* (2), *will cease / would cease / will have ceased* (3) operating as investment advisers, the FBI *says / said / has said*.(4)

The firms, plus any successors, *have to put / had to put / have had to put* (5) measures in place to identify insider trading. The deal *includes / included / has included* (6) \$1.184bn in financial penalties, on top of \$616m that SAC Capital *will pay / would pay / will have paid* (7) US regulators.

"Today *marks / marked / has marked* (8) the day of reckoning for a fund that *is riddled / was riddled / has been riddled* (9) with criminal conduct," Manhattan US attorney Preet Bharara *says / said / has said* (10) on Thursday.

Between 1999 and 2010, a number of SAC employees *trade on / traded on / have traded on* (11) inside information for more than 20 companies, the FBI *says / said / has said*.(12) Eight employees *have previously / had previously / have previously had* (13) either pleaded guilty or been found guilty of insider trading. For example, in December 2013, portfolio manager Michael Steinberg of SAC company Sigma Capital Management *is found / was found / has been found* (14) guilty of insider trading in the securities of technology firms Dell and Nvidia.

SAC Capital Advisors *is founded / was founded / has been founded* (15) by billionaire Steven A Cohen.
BBC news 11th April 2014

PART 3 : ESSAY WRITING (5 points)

Is Insider Trading a civil or a criminal case ? Discuss in about 300 words.

Your discussion should include a definition of the concepts of civil and criminal cases. You should show the similarities and differences, if any, that exist between both concepts as well as the way in which these can apply to Insider Trading, which must also be defined. If possible, support your arguments with real life business examples. Provide a word count at the end of your essay.

Key to answers and guidelines for marking

PART ONE : READING

B. Vocabulary (5 points)

Answers

I. Who's who in the text ? (1.25 points)

1. defendants (paragraph 5, line 2), prosecutor (paragraph 1, line 1)
2. lawyers (paragraph 6, line 1), jurors (paragraph 5, line 1)
3. tippers (paragraph 6, line 2)
4. analysts (paragraph 6, line 3)
5. clients (paragraph 6, line 4)

II. Legal phrases (1.25 points)

1. bright line (paragraph 1, line 2)
2. insider trading (title)
3. breach of duty (paragraph 5, line 2)
4. personal benefit (paragraph 5, last line)
5. free on bail (paragraph 4, line 2)

III. Definitions (2.5 points)

1. *convicted* : declared guilty at the conclusion of a trial
2. *crime* : an act that the state considers harmful to itself or its citizens and which is punished by law
3. *US Court of Appeals* : one of the 12 higher courts in the US called « circuit courts » which hear appeals against decisions made by lower courts, called « district courts ».
4. *appeal* : request for a counter examination of a case made to a higher court by a party losing a case in a lower court, in order to have the lower court's decision reversed or modified.

5. *trial* : the stage in civil or criminal proceedings at which the evidence is examined and judgement is delivered

Marking. Quarter of a mark for a good answer to items sought in sections I and II. Half a mark for a good and well written definition sought in section III. Quarter of a mark if the definition is good but written with spelling mistakes. Nothing to be awarded for a wrong answer.

Part 2 : Comprehension (5 points)

Answers :

1. Messrs Newman and Chiasson are former hedge-fund managers who were convicted in 2012 of participating in a \$72 million insider-trading scheme.
2. They were convicted on the ground that the inside information or « tips » was given in exchange for a reward, and that was a breach of duty.
3. They have appealed in order to have their convictions overturned.
4. Their lawyers contend that there was no evidence that Messrs Newman and Chiasson used inside information knowingly. They therefore wanted the prosecutors to show to the appeals court that their clients knew there had been a breach of duty; i.e they knew the tippers were somehow compensated for the tips.
5. Two of the three-judge panel of the US Court of Appeal for the Second Circuit in Manhattan have signalled that the prosecutors' interpretation of insider trading as a crime was too broad or vague.
6. If the court sides with them, the two will either be granted a new trial or a judgement of acquittal.
7. A favourable appeals court decision would threaten some of the convictions won by prosecutors in their years long crackdown on insider trading.
8. No. Not all. They are free on bail.
9. Judge Barrington Parker and Assistant US Attorney Antonia Apps seem to be at odds on the clarity of a bright line theory on insider trading.

10. The judge thinks that the existing legislation or bright line on insider trading does not help much financial institutions and other investors on what they can or cannot do, while the attorney thinks that the legislation has been clear to everyone for a long time.

Marking: Half a point for a good and well written answer. Quarter of a mark for a good answer with grammatical or spelling mistakes. Nothing to be awarded otherwise.

PART 2 : GRAMMAR (5 points)

Answers

1. has accepted 2. is related 3. will cease 4. said 5. have to put 6. includes
7. will pay 8. marks 9. was riddled 10. said 11. traded on 12. said
13. have previously 14. was found 15. was founded

Marking :

Divide the number of good answers by 3. Round up to the nearest 0.25 mark.

PART 3. ESSAY WRITING (5 points)

Marking

- **1 point for adequate length** (290 – 310 words), provided that the student has actually counted the number of words used in the essay. This point is to be withheld if : a) the student has not provided the word count of the essay or has provided a word count which is not genuine ; b) the number of words falls short of or exceeds the requisite length.
- **Up to 1 point** for a good discussion of the concepts of civil case, criminal case and insider trading.
- **Up to 1 point** for a good use of examples of documented cases of inside trading
- **Up to 1 point** for a fairly balanced argument
- **Up to 1 point** for the standard of English