

April 3, 2009

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Insider Dealing

The Financial Services Authority ("FSA") completed its first insider dealing criminal prosecution this week, under the Criminal Justice Act 1993, which resulted in prison sentences for the individuals involved in the case.

The FSA accused Christopher McQuoid, a lawyer, of leaking confidential information relating to a proposed takeover bid to James Melbourne, his father-in-law. Mr. McQuoid, who was formerly general counsel at TTP Communications ("TTP"), learnt in May 2006 that Motorola was planning to takeover TTP. He then tipped off Mr. Melbourne who used the inside information to buy 153,824 shares in TTP at 13 pence per share, two days before the takeover was made public. As a result of the increase in the share price following the takeover, Mr. Melbourne made a profit of £48,919.20. Three months later, Mr. Melbourne gave Mr. McQuoid a cheque for exactly half the amount of profit made from his trade in the TTP shares. Mr. McQuoid and Mr. Melbourne were both found guilty of insider trading and on 30 March 2009 they each received eight-month custodial sentences, although Mr. Melbourne's sentence was suspended.

The FSA, by pursuing a criminal prosecution in this case, has shown that it is taking a tougher approach to tackling market abuse and insider dealing, in an attempt to protect the integrity of the financial markets. Its tough stance is reinforced by the recent appointment of David Kirk as its first Chief Criminal Counsel, who will join the FSA in June 2009 from the Fraud Prosecution Service. His role will be to concentrate on criminal prosecutions for insider dealing and other market offences.

Although the facts in the present case were relatively straightforward, the FSA has predicted that cases against City professionals, repeat offenders and more organised insider-dealing rings will follow. The FSA is currently in the process of prosecuting three other insider dealing criminal cases, whilst just this week it has carried out a further series of raids across Greater London, which included the arrest of one senior corporate finance adviser. The outcomes of these prosecutions, as they come to trial, will be of importance to anyone with an interest in the financial markets.

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