

SEC Enforcement Case Summary SEC Dismisses Hedge Fund MNPI Insider Trading Policy Case

In April 2025, the Securities and Exchange Commission (**SEC**) dismissed a December 2024 enforcement case against hedge fund manager, [Silver Point Capital L.P.](#), who was charged with failing to establish, implement, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information (**MNPI**) relating to its participation on creditors' committees. The SEC did not specify why the case was dismissed and warned in the joint stipulation that was filed that the decision "does not necessarily reflect the Commission's position on any other case."

Former SEC enforcement lawyers have noted that the case had substantial litigation risk. The case centered around an outside consultant who served as the firm's private side representative in confidential negotiations. The consultant, a now deceased lawyer, was expert in bankruptcy law and reportedly well aware of his contractual, ethical and legal obligations not to disseminate confidential information learned in the course of his participation in creditors' committees. This combination of facts would make it difficult for SEC to obtain the evidence it needed to successfully litigate the case. Moreover, the SEC's lead investigator reportedly left the SEC the same day the case was dismissed.

Both Democrat and Republican Commissioners have historically backed insider trading cases and agreed that the misuse of MNPI is a problem in the investment management industry that should be pursued. Accordingly we do not believe that the dismissal is an indication that the SEC will no longer pursue cases under Section 204A of the Investment Advisers Act for failures with respect to insider trading policies and procedures. In fact, we believe insider trading is one of the perennial issues on which the SEC will focus heavily in the coming years. However, we do think that the SEC will likely bring cases more cautiously where there are litigation risks.

See SEC Summaries - <https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26281> and <https://www.sec.gov/newsroom/press-releases/2024-209>