

## Best practices to hamper age-old SEC hot-spot, insider trading

Hollywood glamorized insider trading in the movie *Wall Street*. For decades, the SEC has battled it and many observers report the Commission's turning up the enforcement heat on it - reason enough to reflect on ways to prevent it.

Consider these enforcement cases, which broke in the last few weeks, that symbolize two types of insider trading, each of which rely on using "material," non-public information for personal gain:

1. **Obtaining insider information from a friend or relative.** Last month the SEC charged **Christian De Colli** ☐ of Rome with "highly suspicious purchases" of **DRS Technologies'** stock and options in April and May. The buys came just before a *Wall Street Journal* article May 8 reported on a possible sale of DRS to an Italian company. DRS's stock surged and the SEC alleges De Colli pocketed \$2.1 million. De Colli's brother formerly worked for the Italian company that reportedly pursued DRS.

2. **Gaining insider information on the job.** **Alexander Yaroshinsky** ☐ once served as Vice President of Clinical Operations and Biostatistics for a California-based company called **Connetics Corporation**. He allegedly learned about a preliminary analysis by the FDA and used that information to instigate profitable trades. He agreed to pay fines exceeding \$700,000.

The SEC doesn't consider insider trading a victimless crime. It has stated that studies suggest it "reduces liquidity, increases volatility, and may increase the cost of capital."

But it is a crime that is proven largely upon circumstantial evidence. So you have to assemble the pieces like a puzzle. The SEC may examine "innocuous events," such as meetings in restaurants, telephone calls, trading patterns, and relationships among people, for opportunities to acquire and use material, non-public information for trading purposes.

Your fight against this crime begins with having a policy and educating your colleagues about it. View a couple of policies ☐ on the **IA Watch** Web site.

Post your policy to your company's web site,

recommends attorney **Bill Leone**, partner, **Faegre & Benson**, Denver. **Robert Heim**, partner at **Meyers & Heim** in New York, urges you have employees acknowledge receipt of the policy with a signature and by attending annual training.

"Often employees may not be aware that certain information they receive in their jobs can be inside information," says Heim. Be clear on what types of information constitutes the insider variety.

CCO **Scott Koeber**, **Performance Equity Management** in Greenwich, Conn., invites staff to bring him questions about insider training. Every firm should have such a person, says Heim.

"Constantly remind [employees] of what illegal insider trading is and how it's detected," says **W. Anthony Turner**, principal of **Financial Tracking**, Greenwich, Conn. His company sells a database that helps detect insider training.

Inventory your employees' relationships, he adds. "Who do they know that might possess material, non-public information that could be shared with them and that they could take advantage of?"

CCO **Christina Sears**, **American Beacon Advisors** in Fort Worth, Texas, sends a questionnaire to employees involved in investment decisions. It asks about certain family and professional relationships. She uses the data to create a matrix, which she consults when reviewing personal trading records, to detect any suspicious patterns.

*(Insider Trading, continued on page 4)*

### Mark your calendar: Sept. 22, the 8th Annual IA Week Fall Compliance Conference

The City of Brotherly Love, Philadelphia, again plays host to our fall conference. Make your plans now to come hear keynote speaker **Mark Schonfeld**, Regional Director, N.Y. Regional Office, SEC.

Sessions range from compliance program testing to SEC exams, advertising & marketing to preventing insider trading, and much more.

You'll hear from noted speakers, such as the SEC's **Gene Gohlke**, **John Walsh** and **Marianne Smythe**, among others. And register for our post-conference Sept. 23 on Form ADV, Part 2.

To register, go to [www.iawatch.com/conferences.aspx](http://www.iawatch.com/conferences.aspx). ■