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Einhorn and Greenlight fined £7.2m

By Brooke Masters and Sam Jones

David Einhorn, one of the world's highest profile hedge fund managers, and his firm, Greenlight Capital, have been fined £7.2m by UK regulators for trading ahead of a 2009 equity fundraising by Punch Taverns.

Mr Einhorn, who will personally pay £3.6m, is the most prominent figure to be ensnared by the UK Financial Services Authority, which has traditionally lagged behind US enforcers in tackling market abuse. His fine is the second largest ever handed down by the FSA to an individual for market abuse and will send a chill through the City.

According to the watchdog, Mr Einhorn, 43, participated in a phone call on June 9 2009 with Punch's broker and management in which he was told the pub company was in the advanced stages of issuing new equity, a step that would almost certainly drive down its share price.

Over the next four days, Greenlight sold 11.65m shares of the firm, reducing its stake in the pub company from 13.3 per cent to just under 9 per cent When the transaction was announced, Punch shares fell 29 per cent, so Greenlight's funds avoided a loss of £5.8m.

The case is a key step in the FSA's campaign to hold market professionals to account and to tackle the high rates of suspicious trading ahead of mergers and rights issues. In 2009, abnormal trading patterns preceded 30 per cent of UK takeovers. But it also highlights the difficulties of enforcing UK standards in an increasingly global marketplace.

Mr Einhorn specifically told Punch's broker at Bank of America Merrill Lynch that he did not want to be "wall crossed" – that is to say given confidential information that would prevent him from trading. In the US, that request could well have protected him from charges of insider dealing.

But the UK has a much broader definition of market abuse, and the FSA concluded that Mr Einhorn, as an experienced trader who should have known he was being given "confidential and price-sensitive information" that posed a regulatory risk.

A youthful-looking, T-shirt wearing, poker player, Mr Einhorn – who won $650,000 in the 2006 World Series – is one of the hedge fund industry's most well-known figures. As president and co-founder of Greenlight, which has $7.2bn under management, he has responsibility for all of its investment decisions.

The FSA said it recognised that the trading was not deliberate or reckless. But the watchdog said it "considers Mr Einhorn's error of judgment to be a serious failure to act in accordance with the standards reasonably expected of market participants".

The fines include £6m in penalties and disgorgement of £638,000 in losses that Mr Einhorn personally avoided and disgorgement of £650,000 in higher fees that Greenlight reaped.

Mr Einhorn said in a statement: "We believe that this action is unjust and inconsistent with the law and with prior FSA enforcement precedent. However, rather than continue an arduous fight, we have decided to put this matter behind us and concentrate on managing our business."

He told investors in a letter they would be given a "one-time" opportunity to redeem from Greenlight's funds on March 1, ahead of the usual schedule if they so wished. "We want every partner to be comfortable and excited to be invested with us," he said.

Bank of America Merrill Lynch declined to comment. The broker involved has resigned. The FSA investigation is continuing.

"This is a really big case for the FSA. The onus is on individuals to know whether something might or might not be inside information," said Ruth Gevers, a former FSA official now with Promontory consultancy.