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U.K. Fines Einhorn in Trading Case

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The U.K. Financial Services Authority fined hedge fund Greenlight Capital Inc. and its owner, David Einhorn, a total of about \$11.2 million for alleged insider trading in connection with a planned equity raising by Punch Taverns PLC in 2009.

Mr. Einhorn's £.6 million share of the £.2 million fine is one of the highest leveled on an individual in the history the FSA, which has undergone a drive in recent years to get tough on white-collar crime.

The fine against Mr. Einhorn is also one of the most high-profile moves that the regulator has made, ensnaring a hedge-fund owner who is prominent in London and on Wall Street. At the World Economic Forum in Davos, Switzerland, participants from the world's financial community were abuzz with the news.

The FSA said Mr. Einhorn received information on a conference call in June 2009 that pub operator Punch Taverns was close to launching a substantial equity raising. Mr. Einhorn subsequently gave instructions to sell all of Greenlight's holding in Punch, at the time 13.3% of the company's equity.

Greenlight then sold 11.7 million Punch shares, reducing its holding in Punch to 8.89%. Two days later, Punch announced a fund raising of £75 million, after which its shares fell by 30%. By selling part of its holding Greenlight had avoided losses of some £.8 million for its funds, the FSA said.

Mr. Einhorn said in a letter to investors, "We believe the FSA's actions are unjust and in contradiction to the law and the facts." He added that "we completely disagree with the FSA's findings that we committed market abuse and we are confident that the record supports our view," noting that the FSA said the "purported market abuse was inadvertent."

In the letter, Mr. Einhorn says he did not believe "we had any inside information. I didn't believe in 2009, and I don't believe now, that there was anything wrong with our conduct and our actions."

Mr. Einhorn noted that Greenlight is offering its investors "a one-time opportunity" to redeem on March 31, provided they notify the fund by March 1. He said he will open the fund, which has been closed for years, to existing and new investors in an attempt to replace any capital lost due to redemptions.

A spokesman for Punch Taverns had no comment Wednesday.

The fine is split just about in half between Mr. Einhorn and his company, the FSA said; Greenlight said the fine won't be paid from Greenlight funds.

Although the FSA accepted that Mr. Einhorn didn't believe he had received inside information, the regulator said that it was a serious case of market abuse and fell below expected standards, especially having regard to his position as president of the hedge fund.

"Einhorn is an experienced professional with a high profile in the industry. We expect someone in his position to be

able to identify inside information when he receives it and to act appropriately. His failure to do so is a serious breach of the expected standards of market conduct," said FSA enforcer Tracey McDermott.

"It is highly damaging to market confidence when privileged shareholders commit market abuse, and the high penalty reflects the seriousness of his breach," she added.

The corporate broker on the Punch Taverns conference call was Andrew Osborne, an employee of Bank of AmericaMerrill Lynch at the time, according a person familiar with the matter. Mr. Osborne has also been investigated by the FSA, said this person and another person close to the matter, but it isn't clear if he will face actions related to the case. Mr. Osborne, who is no longer with the bank, couldn't immediately be reached for comment.

People familiar with the FSA said that the regulator believed it wouldn't have been able to win a criminal case because there was no explicit confidentiality agreement between those on the call and Mr. Einhorn.

An FSA spokesman said that other investigations relating to the case are ongoing.

Yet the fine of Mr. Einhorn is significant because it puts the responsibility on the individual to determine whether or not certain actions violate market rules.

"It raises the issue of an experienced investor needing to know these types of things are inside information," said Ruth Gevers, a former FSA market-abuse official at the FSA who is now a

director at Promontory Financial Group LLC.

It is also the first major action of the FSA that focuses on "wall-crossing"—the disclosure of potentially market-moving information to people not authorized to hear it, according to people familiar with the regulator.

New York-based Greenlight manages \$9.2 billion in assets, according to a regulatory filing this month. In recent years, Mr. Einhorn had become one of the most public faces in an industry that known for its secrecy. He played in The World Series of Poker's main event in Las Vegas, winning thousands, and wrote a book called "Fooling Some of the People All of the Time" that criticized Congress, auditors, boards of directors and investigative reporters.

In the U.K., insider trading only became a crime in 1980; in the U.S., it has been illegal since the 1930s.

The recent activity is unparalleled in the FSA's history. Since its creation 11 years ago, the agency has mostly deployed gentle tactics. It rarely challenged management decisions at the companies it oversaw. In cases of alleged financial wrongdoing, FSA investigators would invite suspects to stop by with their lawyers.

For the past two years, the FSA has been projecting a tougher image: staging raids, seizing computers and hauling suspects to police stations for questioning. It also is seeking prison time and stiffer fines for wrongdoers.

David Enrich contributed to this article.