

June 28, 1983

Mr. Justice:

From: Dave Van Zandt

Re: Dirks v. SEC, No. 82-276

Upon further reflection, I came to the conclusion that the third paragraph added to LFP's footnote 27--which suggests that insider trading harms no one--is egregious and is a foot in the door to doing away with the insider trading prohibition entirely. I understand that LFP really is quite extreme in his view that insider trading causes no harm and should not be prohibited. The opinion was written moderately to obtain JPS' and BRW's votes. I brought the offending paragraph to the attention of Jeff Lehman, JPS' clerk, and to Bernie Bell, BRW's clerk. Jeff called me back to say that he spoke to JPS, and JPS might ask LFP by a private letter to remove the paragraph. As it stands, the dissent answers the paragraph; I am not sure there is much else you can do about this problem in dissent.