



## Case & Project Experience

### NERA's Role in *Securities and Exchange Commission v. Cuban*

#### Overview

Mark Cuban, a businessman and owner of the Dallas Mavericks NBA team, was a 6% owner of the Canadian Internet company Mamma.com. In 2008, the US Securities and Exchange Commission (SEC) brought a civil lawsuit against Mr. Cuban, alleging that he had traded on non-public information. The SEC alleged that the company CEO had confidentially told Mr. Cuban information about a planned private investment in public equity ("PIPE") offering. Mr. Cuban sold his shares in Mamma.com prior to the closing date of the offering.

The case was heard by Judge Sidney Fitzwater of the US District Court for the Northern District of Texas. Judge Fitzwater dismissed the case in 2009, ruling the SEC had failed to show both that Mr. Cuban agreed to keep the information confidential and that he would refrain from trading. The SEC filed an amended complaint and the Fifth Circuit appeals court revived the suit in September 2010, finding that the SEC had presented "plausible" evidence of an agreement not to trade.

#### NERA's Role

NERA was retained by Mr. Cuban's legal team to provide economic analysis relating to materiality and the public availability of information about the PIPE offering. A NERA team led by Senior Vice President Dr. Patrick Conroy and Senior Consultant Dr. Jordan Milev examined the market for trading Mamma.com stock and conducted an econometric analysis of materiality. Analysis on issues including securities lending, short selling, and intraday trading were important aspects of the arguments at trial.

#### The Result

On 16 October 2013, a federal jury found Mark Cuban not liable for insider trading.

#### About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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