'Wolf of Wall Street' Viewed Through a Litigator's Lens

Litigators gathered to share insights into the legal story of the 'The Wolf of Wall Street' at Cardozo Law School Wednesday night. On the first panel were, left to right: Theodore E. Tsekerides, a partner with Weil, Gotshal & Manges; Steven B. Caruso, a partner with Maddox, Hargett & Caruso; Jonathan Henes, a Kirkland & Ellis partner and moderator of the panel; Josephine Wang, general counsel of the Securities Investor Protection Corporation, and Matthew Cantor, chief general counsel and executive vice president of Lehman Brothers. NYLJ/Rick Kopstein

Despite outrageous displays of greed, wealth and excess, "The Wolf of Wall Street" movie "played down the sex and drugs" at Stratton Oakmont and portrayed the inexperienced young brokers who ran the shuttered investment firm's illegal pump-and-dump scheme as more innocent than they actually were, its former attorney said.

"They surely knew what was going on," said Ira Sorkin, a partner at Lowenstein Sandler who represented Stratton Oakmont through years of investigations and litigation.

Sorkin spoke at Benjamin N. Cardozo School of Law Wednesday night at a panel discussion that was a de facto reunion of lawyers who participated in the case from all sides. One panel focused on how the Long Island brokerage firm, which defrauded investors of $200 million, was investigated and prosecuted. Another explored the company's liquidation under the Securities Investor Protection Act.

Moderators were Kirkland & Ellis partners Jonathan Henes, who focuses on restructurings, and Robert Khuzami, a former enforcement director for the Securities and Exchange Commission.

Sorkin said he got a call from Stratton Oakmont founder Jordan Belfort—portrayed by Leonardo DiCaprio in the film—as early as 1989, when the brokerage firm had just 10 employees. Sorkin briefly sent a colleague to Long Island to advise Belfort on regulatory compliance, he said, then didn't hear from Belfort again until Stratton Oakmont's dealings appeared in the news in the early 1990s.

"He is a very smart individual, a tremendous salesman, very bright," Sorkin said. "He was able to influence all the young, inexperienced people and promise them riches beyond their wildest belief."

See sidebar: Belfort Agrees to Boost Restitution Payments

Unlike traditional recruitment on Wall Street, where firms seek to hire people with an established client base, Belfort wanted young people so he could teach them his methods, said Gregory Coleman, a special agent with the Federal Bureau of Investigation who investigated the company.

The pump-and-dump scheme worked like this: the firm controlled the supply of shares by selling a stock offering to friends of the firm at, say, $4, then buying it back at $5. Brokers would then make their pitch to clients, creating demand and artificially driving prices higher. Finally, they would dump all the firm's shares, dragging prices back down and hurting stockholders.

"If you can control the supply, you can control the demand," Sorkin said. "And once they control the supply, they also control the price. They've created a market. That's where the fun starts."

The "big break," in the investigation, Coleman said, came when Belfort violated federal securities laws by setting up offshore accounts—which Sorkin called a "terrible mistake."

"The mere issuance of stock to an offshore account was the fraud," Coleman said. "Every single transaction from that point forward was a money-laundering violation."

In 1999, when a judge set Belfort's bail at $10 million, trucks pulled up at a Brooklyn courthouse to drop off $7 million in jewels and $3 million in cash, recalled Joel Cohen, a patner at Gibson Dunn & Crutcher, who prosecuted the Stratton Oakmont case as an assistant U.S. attorney for the Eastern District.

Belfort was sentenced to four years in prison for money laundering and securities fraud and served 22 months. His first book, "The Wolf of Wall Street," came out in 2007 with a follow-up, "Catching Up with the Wolf of Wall Street," in 2009.

His firm had closed years earlier, in 1996. In the liquidation discussion, panelists criticized the movie for ignoring the swindled investors. Stratton Oakmont was "set up in order to steal from people," defrauding customers through unauthorized trades or by not executing the trades they requested, Henes said.

SIPA was unable to recover much money for Stratton Oakmont investors because the stocks left in their accounts were worthless. Lawyers argued that their clients deserved to get back the value of their stock on the day of the unauthorized trades. They won their case in the Bankruptcy Court but lost at the district court level, and the Second Circuit Court of Appeals upheld that decision.

Steven Caruso, a partner at Maddox Hargett & Caruso who represented about 500 Stratton Oakmont clients, said some began questioning if SIPA actually protected investors.

"People said, 'Excuse me? I'm getting back a stock that is worthless? What does SIPA do?'" Caruso recalled.

Josephine Wang, general counsel of the Securities Investor Protection Corporation, countered that the courts interpreted SIPA as written.

"The other side of the coin is if the stock has become very valuable, you're getting it back," she said. "We can't discriminate. The statute says you get the stock back in kind, and the courts agreed with us on this."

Southern District U.S. Attorney Preet Bharara closed the event by saying that even though Belfort's exploits were glorified in an Academy Award-nominated movie, regulators have become better at stopping future Stratton Oakmonts.

"Do the bad guys always win? And the answer is, I don't think so," he said. "Fortunately, there are lots of folks … who are getting more and more organized and doing more and more every day to make sure people's accounts are safe."

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