

From the desk of Jeanne M. Kerkstra, Esq., CPA

**Viewpoint
Wall Street Part 2**

With all that has happened over the past 2-3 years, it seems the perfect time to hear that Michael Douglas and Charlie Sheen are getting back together to do a sequel to their 1980's movie "Wall Street". The fall of Lehman Brothers and Bear Stearns and the collapse of the financial market showed as clear a view as ever into the Wall Street culture and mentality. Previously the government pressed criminal charges against 2 traders from Bear Stearns for not letting their investors know that the market was tanking due to the toxic mortgage assets. A jury found the traders not guilty. A criminal indictment is difficult to achieve. The standard of proof is high. Also, the criminal indictment of Arthur Andersen seemed to teach us that only the lower level employees and perhaps clients get hurt when an institution is indicted.

Now it's the actions and inactions of Goldman Sachs that is in the news. It appears that Goldman Sachs (and most assuredly others) made money on shorting the mortgage market - in other words betting that it would tank. There is a congressional investigation right now. However, it seems more like it is simply dramatics in mid-year elections. The reality is that Wall Street may not have broken any accounting laws when they placed bets on both sides of the mortgage market gamble.

However, another question will be whether the Wall Street firms breached any fiduciary duties. Those arguments are coming out in regards to the Paulson & Co. Hedge Fund. Investors lost allegedly about \$1 billion. Goldman Sachs said it lost \$90 million on the transaction. The question is whether the top Goldman Sachs executives involved in structuring the investment in the Paulson & Co Hedge Fund breached their fiduciary duties with the investors when they failed to disclose how they were also betting on the investment tanking.

If Goldman Sachs is found to have breached its fiduciary duties, it could be the start of a wave of similar litigation against other Wall Street firms. It will be interesting to see how it turns out, stay tuned.

As an attorney and CPA for nearly 2 decades, my experience heavily is in dissecting fraudulent plans. We examine business conduct with an eye towards determining liability. We work side-by-side with our commercial and banking litigators to prove professional liability against D&O's. There is a strong uptick in breach of fiduciary litigation. We bring our vast experience to the table to ensure the highest possible recovery against wrongdoers. Give me a call so we can help.

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