The New York County District Attorney's Office

Press Releases

Cyrus R. Vance, Jr.
District Attorney, New York County

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DA VANCE: CHAIRMAN, CFO AND EXECUTIVE DIRECTOR OF DEWEY & LEBOEUF INDICTED ON GRAND LARCENY AND FRAUD CHARGES

Firm's Historic Collapse Left Thousands Unemployed, Creditors Owed Hundreds of Millions

DA Vance: Fraud Is Not an Acceptable Accounting Practice

Manhattan District Attorney Cyrus R. Vance, Jr., today announced the indictments of STEVEN DAVIS, 60, STEPHEN DICARMINE, 57, JOEL SANDERS, 55, and ZACHARY WARREN, 29. The first three defendants were, respectively, the Chairman, the Executive Director, and the Chief Financial Officer at the now-bankrupt law firm Dewey & LeBoeuf LLP; the fourth defendant was a Client Relations Manager at the firm. The indictment alleges that the defendants defrauded and stole from the firm's lenders, investors, and others. This case is the result of a nearly two-year investigation by the DA's Major Economic Crimes Bureau and the Federal Bureau of Investigation. The Securities and Exchange Commission conducted its own parallel investigation, and also is bringing charges today.

DAVIS, DICARMINE, and SANDERS are charged with Grand Larceny in the First Degree, Scheme to Defraud in the First Degree, Martin Act Securities Fraud, Falsifying Business Records in the First Degree, and Conspiracy in the Fifth Degree. WARREN is charged in two indictments with Scheme to Defraud in the First Degree, Falsifying Business Records in the First Degree, and Conspiracy in the Fifth Degree.

"Fraud is not an acceptable accounting practice," said District Attorney Vance. "The defendants are accused of concocting and overseeing a massive effort to cook the books at Dewey & LeBoeuf. Their wrongdoing contributed to the collapse of a prestigious international law firm, which forced thousands of people out of jobs and left creditors holding the bag on hundreds of millions of dollars owed to them. Those at the top of the firm directed employees to hide the firm's true financial condition from creditors, investors, auditors, and even partners of the firm, until the scheme unraveled and resulted in the largest law firm bankruptcy in history. Seven of the firm's employees have already pled guilty to crimes related to their roles in the scheme. My Office's Major Economic Crimes Bureau will continue to work with our law enforcement partners to prosecute accounting fraud and other economic crimes – regardless of the target company's size or status."

FBI Assistant Director in Charge George Venizelos said: "As alleged, rather than speaking openly with creditors about mounting debt and shrinking revenue, the defendants deliberately manipulated the firm's financial statements. In the height of the crisis, the defendants used every trick in the book in an elaborate attempt to cover-up the increasingly dire situation. But as bad went to worse, the defendants doubled down, and continued to exaggerate, manipulate, and downright lie in a vain attempt to right a sinking ship. It is incumbent on people and the institutions where they work to do the right thing, to follow the law, and not just when the FBI is watching."

SEC Division of Enforcement Director Andrew J. Ceresney said: "Investors were led to believe they were purchasing bonds issued by a prestigious law firm that had weathered the financial crisis and was poised for growth. Dewey & LeBoeuf's senior-most finance personnel used a grab bag of accounting gimmicks to create that illusion, and top executives green-lighted the decision to sell $150 million in bonds to investors as a desperate grasp for cash on the basis of blatantly falsified financial results."

Background

Dewey & LeBoeuf LLP ("Dewey"), an international law firm headquartered in New York City, was formed in October 2007 through the combination of Dewey Ballantine LLP and LeBoeuf, Lamb, Greene & MacRae LLP. At its height, approximately 1,300 partners and employees worked in Dewey's Manhattan office, and nearly 3,000 partners and employees worked for the firm worldwide. In May 2012, Dewey collapsed, resulting in the largest law firm bankruptcy in history.

From Dewey's formation through its bankruptcy, DAVIS was the firm's Chairman and later member of the Office of the Chair; SANDERS was the firm's Chief Financial Officer; and DICARMINE was the firm's Executive Director. WARREN was the firm's Client Relations Manager in 2008 and 2009, when he left the firm.

From Dewey's formation to early 2010, the firm had both term and revolving debt. By the end of 2008, Dewey had more than $100 million in term debt outstanding and available lines of credit of more than $130 million. In April 2010, Dewey refinanced its debt with a $150 million private placement with 13 insurance companies and a $100 million revolving line of credit with a syndicate of banks.

Overview of the Fraudulent Scheme

Dewey's various credit agreements with financial institutions, and later the note purchase agreement governing the private placement, contained a cash flow covenant (the "Cash Flow Covenant") that required the firm to maintain a minimum year-end cash flow. Because of its poor financial performance, Dewey was unable to meet this covenant in 2008. The Defendants and others at the firm feared that the failure to meet the Cash Flow Covenant during the 2008 credit crisis could be harmful to Dewey.

According to the indictment and other documents filed in court, from approximately November 3, 2008, to approximately March 7, 2012, the Defendants engaged in a scheme to defraud the firm's lenders, and later investors, by, among other things, falsely reporting compliance with the Cash Flow Covenant in 2008 and falsely reporting compliance with the Cash Flow Covenant and other covenants in future years. To conceal and advance their fraudulent scheme, the Defendants, directly and through others, lied to, withheld information from, and otherwise misled the firm's auditors and partners, including members of the firm's Executive Committee. DAVIS, DICARMINE, and SANDERS are also alleged to have stolen nearly $200 million from 13 insurance companies and 2 financial institutions.

To make it appear that Dewey had complied with its covenant requirements, DAVIS, DICARMINE, and SANDERS caused others at the firm to make tens of millions of dollars of fraudulent accounting entries beginning in late 2008. This conduct continued into 2012. WARREN helped plan the fraudulent entries and took part in covering them up while he was at the firm.

In addition, at the direction of DAVIS, DICARMINE, and SANDERS, individuals at the firm made intentional misrepresentations to investors and financial institutions involved in Dewey's 2010 refinance. Among other things, they provided these investors and financial institutions with intentionally falsified financial statements, falsely represented that Dewey had complied with its prior debt covenants, and lied about Dewey's policies for returning capital, its total outstanding debt, the compensation owed to partners, and about certain payments owed to retired partners.

The Fraudulent Methods

The indictment alleges that near the end of 2008, SANDERS, WARREN, and an individual working under SANDERS' direction, identified fraudulent adjustments that could be made to Dewey's accounting records falsely to demonstrate compliance with the Cash Flow Covenant. These adjustments were memorialized in a document named the "Master Plan." These fraudulent adjustments, as well as others, were employed from year-end 2008 to 2012 to make it appear that Dewey had either increased revenue, decreased expenses, or limited distributions to partners.

Some of the fraudulent adjustments and acts included the following, as described in the indictment:

Reversing disbursement write-offs: From 2008 through 2011, individuals at the firm improperly reversed millions of dollars of write-offs of client disbursements, that is, costs the firm had incurred on behalf of clients, that Dewey had no intention or reasonable expectation of collecting. This fraudulently made it appear that expenses were lower than they actually were.

Reclassifying disbursement payments: From 2008 through 2011, individuals at the firm

improperly reclassified as fee payments millions of dollars of payments that had originally and properly been applied to client disbursements. When SANDERS first devised this adjustment in late 2008, he told DICARMINE, "We came up with a big one. Reclass the disbursements." DICARMINE responded, "You always do in the last hours. That's why we get the extra 10 or 20% bonus." This fraudulently made it appear that revenue was higher than it actually was.

Reclassifying Of Counsel payments: From 2008 through 2011, individuals at the firm improperly reclassified as "equity partner compensation," millions of dollars of compensation to "of counsel" lawyers. Historically, "of counsel" compensation had been treated as an expense in Dewey's financial statements. This fraudulently made it appear that expenses were lower than they actually were.

Reversing credit card write-offs: In 2008, Dewey initially and properly wrote off more than $2.4 million in charges from an American Express card associated with SANDERS. The charges were not chargeable to clients. For year-end 2008, however, individuals at the firm fraudulently reversed the write-off, and recorded the charges as an unbilled client disbursement receivable. Each subsequent year, they wrote this amount off during the year, but fraudulently reversed the write-off at year-end. The amount remained on Dewey's books as an unbilled client disbursement receivable at the time of the bankruptcy. This fraudulently made it appear that expenses were lower than they actually were.

Reclassifying salaried partner expenses: In 2008, individuals at the firm improperly reclassified as equity partner compensation millions of dollars in compensation paid to, and amortization of benefits related to, two salaried, non-equity partners. Similar amounts had previously been treated as expenses on Dewey's financial statements, so the reclassification had the effect of reducing the firm's expenses. This fraudulently made it appear that expenses were lower than they actually were.

Seeking backdated checks: During at least two year-ends from 2008 through 2011, individuals at the firm sought backdated checks from clients to post to the prior year. At the end of each year, they tried to hide the date on which checks had been received, so that Dewey's auditors would not discover that December checks received in January, including backdated checks, were being posted to the prior year. Applying backdated checks to the prior year would fraudulently make it appear that revenue was higher than it actually was.

Applying partner capital as fee revenue: For year-end 2009, more than $1 million that had been contributed by a partner to satisfy the firm's requirement that partners contribute capital to the firm, was applied as a fee payment for the client of a different partner. This amount was backed out of fees and applied to the partner's capital account during 2010, but for year-end 2010 it was again fraudulently applied as a fee payment for the same client. This fraudulently made it appear that revenue was higher than it actually was.

Applying loan repayments as revenue: In 2008, pursuant to DAVIS's authorization, Dewey took on $2.4 million in bank loans that benefitted DICARMINE and SANDERS. In early 2012, DICARMINE and SANDERS repaid Dewey the final $1.2 million owed under the loans but structured the transaction so the loan repayment would fraudulently make it appear that revenue was higher than it actually was.

In addition to these and other adjustments, and as part of the scheme, individuals at Dewey intentionally failed to write off amounts that they knew should have been written off. For example, in 2011 a Dewey lawyer notified SANDERS and DICARMINE that the firm had failed to write off millions of dollars in receivables on a client that was in receivership. The lawyer notified SANDERS and DICARMINE that Dewey had represented to a federal district court judge that these amounts had been written off. Maintaining these invalid receivables, however, helped support Dewey's borrowing base on its debt and the private placement. SANDERS wrote to two employees, "We need to hide this [without] actually writing it off."

The Cash Flow Covenant Misstatements

According to court documents, in February 2009, Dewey reported to its lenders that it had satisfied its Cash Flow Covenant at year-end 2008 by a little more than $4 million. In fact, Dewey was able to achieve this result only by making tens of millions of dollars worth of fraudulent accounting entries, including, among others, some of those described above.

Dewey's fortunes did not improve in future years. To misrepresent compliance with the Cash Flow Covenant and other covenants, individuals at the firm, at the direction of DAVIS, DICARMINE, and SANDERS, continued to make fraudulent accounting entries like those described above, as well as other fraudulent entries.

In fact, Dewey's financial condition was so poor in 2009 that DAVIS, DICARMINE, and SANDERS realized that, despite planning millions of dollars in fraudulent adjustments for that year, they would be unable to come up with enough fraudulent adjustments by year-end to show compliance with the Cash Flow Covenant. As a result, SANDERS sought a waiver of the covenant from the banks. The Cash Flow Covenant floor was reduced, but the banks placed additional conditions on Dewey, which caused additional financial pressure.

When Dewey was unable to meet even the reduced Cash Flow Covenant level in 2009, individuals at the firm, under the direction of DAVIS, DICARMINE, and SANDERS, again made fraudulent adjustments to Dewey's accounting records falsely to show compliance with this and another covenant. In 2010 and 2011, they continued making additional fraudulent adjustments

falsely to show compliance with covenants, to reduce the impact of a covenant breach, and to hide Dewey's true financial condition.

The April 2010 Private Placement and Revolving Line of Credit

In April 2010, Dewey refinanced its debt with a $150 million private placement of securities with insurance companies and a $100 million revolving line of credit with banks. To obtain this financing, individuals at the firm, including DAVIS, DICARMINE, SANDERS, and others acting at their direction misrepresented Dewey's financial condition to potential investors and lenders. Among other things, they provided potential investors and lenders with financial statements that falsely represented that the firm had complied with its covenants.

Additionally, as part of the private placement process, individuals at Dewey provided potential investors with an offering memorandum that contained numerous misstatements, including:

- The offering memorandum purported to disclose all of Dewey's debt. It did not.
- The offering memorandum stated, in substance, that departing partners received their capital during the three years following their departure from Dewey. But in fact, individuals at the firm fraudulently reclassified draws and distributions paid to departing partners during their final year of employment as returns of capital, in order to enable Dewey to appear to meet another of its covenants.
- The offering memorandum stated that "[c]lient disbursement receivables are written-off when deemed uncollectible. . . . ." In fact, as described above, millions of dollars in client disbursement receivables that had been deemed uncollectible and written-off during 2008 were fraudulently reversed and put back on Dewey's balance sheet in order to reduce 2008 expenses. These amounts were budgeted to be written off in 2009 instead, but millions of dollars' worth of client disbursement receivable write-offs were reversed for year-end 2009.

Acknowledgments

Assistant District Attorneys Peirce R. Moser and Steve Pilnyak are handling the prosecution of this case, under the supervision of Assistant District Christopher Conroy, Principal Deputy Chief of the Major Economic Crimes Bureau; Assistant District Attorney Polly Greenberg, Chief of the Major Economic Crimes Bureau; Executive Assistant District Attorney David M. Szuchman, Chief of the Investigation Division; and former Chief Assistant District Attorney Daniel R. Alonso. They were assisted by Law Fellow Katherine Gora, Investigative Analysts Elizabeth Daniels and Bonita Robinson, Trial Preparation Assistants Michal Gallinari and Samantha Hall, and Investigator Gregory Dunlavey.

District Attorney Vance thanked the Federal Bureau of Investigation for their assistance in the investigation, particularly Special Agent Sylvia Hilgeman.

Defendant Information

STEVEN DAVIS, D.O.B. 5/17/1953

Charges:

- Grand Larceny in the First Degree, a class B felony, 15 counts
- Scheme to Defraud in the First Degree, a class E felony, 1 count
- Securities Fraud, NYS Martin Act, a class E felony, 1 count
- Falsifying Business Records in the First Degree, a class E felony, 47 counts
- Conspiracy in the Fifth Degree, a class A misdemeanor, 1 count

STEPHEN DICARMINE, D.O.B. 10/19/1956

Charges:

- Grand Larceny in the First Degree, a class B felony, 15 counts
- Scheme to Defraud in the First Degree, a class E felony, 1 count
- Securities Fraud, NYS Martin Act, a class E felony, 1 count
- Falsifying Business Records in the First Degree, a class E felony, 44 counts
- Conspiracy in the Fifth Degree, a class A misdemeanor, 1 count

JOEL SANDERS, D.O.B. 3/10/1958

Charges:

- Grand Larceny in the First Degree, a class B felony, 15 counts
- Scheme to Defraud in the First Degree, a class E felony, 1 count
- Securities Fraud, NYS Martin Act, a class E felony, 1 count
- Falsifying Business Records in the First Degree, a class E felony, 88 counts
- Conspiracy in the Fifth Degree, a class A misdemeanor, 1 count

ZACHARY WARREN, D.O.B. 10/05/1984

Charges:

Scheme to Defraud in the First Degree, a class E felony, 1 count

Falsifying Business Records in the First Degree, a class E felony, 6 counts

Conspiracy in the Fifth Degree, a class A misdemeanor, 1 count

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