

## BEST OF THE LAW BLOG

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Lesson From Bear Case:  
Have Faith in Your Instincts

BY DAN SLATER

One lesson that may emerge from the indictment last week of two former Bear Stearns hedge-fund managers: Trust your instincts.

The indictment, filed in federal court in Brooklyn, N.Y., alleged that former Bear Stearns fund managers Ralph Cioffi and Matthew Tannin misled investors about the health of their funds and their interests in the portfolios. Both men pleaded not guilty.

Allegations in the indictment suggest Mr. Tannin at least at one point felt torn over his options. He used his personal email, rather than his work email, to raise doubts about the market to Mr. Cioffi. He raised the issue of whether to approach company executives or a lawyer about market concerns. He suggested the possibility of closing the fund. "If we believe the [CDOs report is] ANYWHERE CLOSE to accurate I think we should close the funds now," he wrote in an email to Mr. Cioffi.

After Mr. Tannin wrote the email, he met with Mr. Cioffi at Mr. Cioffi's home. There Mr. Cioffi told him that, while no one could ever predict market events with certainty, Mr. Tannin had reason to feel confident, according to people familiar with their version of events. Also, people familiar with the matter say Mr. Tannin used his personal email because parts of the email were personal in nature.

What might the apparent doubt mean for Mr. Tannin's case? Paul Fishman, a defense lawyer at Friedman Kaplan Seiler & Adelman LLP, says that, in white-collar cases, a defendant's actions are often clear-cut—for example, the person sold stock at a particular time, or made a certain statement to investors. The



Former Bear Stearns fund manager **Matthew Tannin** was indicted last week. He has pleaded not guilty.

challenge for the government is proving fraudulent intent. Mr. Fishman surmises the allegations about Mr. Tannin's doubts could help the government make its case. "The government is likely to argue... that he had a choice, knew he had a choice, and made the wrong choice."

Could evidence of hand-wringing work in Mr. Tannin's favor? Possibly, say both Mr. Fishman and white-collar defense lawyer Bradley Simon. Mr. Simon says Mr. Tannin's defense team could argue that the emails show "confusion, panic, that things have spiraled out of control, as opposed to being 100% committed to perpetuating a fraud."

## The Two-Year Plan

Northwestern University's law school last week unveiled a new plan: a two-year J.D. program. A handful of other schools already have abbreviated programs, but Northwestern's effort represents one of the first by a top-tier school.

David Van Zandt, dean of the law school, which will continue to offer its usual three-year program, says the new program is designed to "appeal to people who have at least two years of work experience and realize the opportunity cost to a three-year program." The "opportunity cost" is a third year away from the work force.

The school has yet to price the two-year program, which will kick off in May next year, but Mr. Van Zandt didn't rule out making it the same total cost as the three-year program, for which annual tuition is now \$42,672 a year.

While the two-year option will have the same curriculum as the traditional program, two-year students will be the first to take two new required courses: quantitative reasoning, including accounting, finance and statistics; and the dynamics of legal services behavior, including skills such as teamwork, leadership and project management.

Mr. Van Zandt says the curriculum changes were made in part at the suggestion of law-firm leaders and other potential employers, gathered through a lengthy research project. "I want employers to say 'this is a Northwestern student. I know he or she can do the job.'"

Reaction to the two-year plan was mixed. "NWU Law is going to attract applications from all the experienced, motivated students who want their elite J.D. degrees in two years versus three," wrote William Henderson, who teaches at Indiana University Law School, on a legal blog. "Then it is going to give them...business training that will bridge the traditional gap between lawyers and their M.B.A. clientele. Why would an employer prefer a 25 year-old fresh out of another elite law school?"

Some readers of this blog were less approving. "This move will significantly devalue a Northwestern law degree and make it harder, not easier, for NU grads to get jobs, including judicial clerkships," wrote one. "Employers [judges included] know a watered-down law degree when they see one."

—Ashby Jones  
contributed to this article.

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