Introduction to the Goodwin Seminar: Securities Regulations

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INTRODUCTION TO THE GOODWIN SEMINAR: SECURITIES REGULATIONS

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In the early planning stages of this most recent Goodwin series,1 the financial collapse of Enron occupied center stage in corporate America. The prospect of a symposium that focused solely on the Enron debacle held the promise of an enlightening and topical program. However, as planning progressed, Enron was joined, and ultimately upstaged, by scandals that rocked WorldCom, Tyco, Health South, Global Crossings, and a host of other high-profile companies. Our subject matter, while appropriate to the rigor of a law school symposium, suddenly held a much broader appeal.

The legal dimensions of the scandals were of unquestionable interest. Commentators and other market professionals were interested in the effects and the effectiveness of the congressional response, namely the passage of the Sarbanes-Oxley Act of 2002, which President Bush signed into law on July 30, 2002.2 Yet as the Goodwin series approached, what might have once been of interest primarily to academics and securities law scholars, had adversely impacted the financial interests of millions of Americans and touched a nerve in the public at large.3 Thus, in addition to the legal issues, questions just as pressing loomed large about the broader moral and societal issues raised by these financial crimes.

Against this backdrop, the Goodwin symposium emerged as an unqualified success. While in residence, the four Goodwin Scholars—Gretchen Morgenson, Aulana Peters, David Boies, and Joel Seligman—shared their expertise by addressing our law students, engaging them in discussions, lead-

1. We are very grateful for the generosity of the Goodwin Foundation for allowing us to host national experts at the law school. Over the years, the Goodwin Foundation has funded the annual Goodwin Seminar at the NSU Law Center on a wide variety of contemporary legal topics. This generous program was established with an initial gift from the late Leo Goodwin Sr., founder of GEICO, and an entrepreneur and visionary who was committed to the advancement of education and research.


3. In the wake of the corporate scandals thousands of jobs had been lost. Retirement savings had been decimated and entire segments of the market had been weakened. It was clear that investor confidence had been shaken. It also became evident that the topic had entered the public lexicon when the scandals became the brunt of jokes on programs such as The Daily Show with Jon Stewart.
ing faculty colloquia, and participating in more informal events. Our visiting scholars were tasked with the great challenge of analyzing and giving shape to events that were, and are, unfolding. In a sense, they were asked to take aim at a moving target, and they responded brilliantly. Their keen insights inured to the benefit of the Goodwin Seminar students, the faculty, and our extended law school community. The publication of their commentaries in this commemorative *Nova Law Review* Goodwin book captures some of their observations.

The articles published here provide the wider legal community with an insight into the unique and varied perspectives of our Goodwin scholars. Gretchen Morgenson, a Pulitzer Prize winning journalist and columnist with *The New York Times*, focused her keen eye on the failings of the financial press in the events leading up to Enron and the other corporate failures. She was one of the few voices in the financial press that had seen the writing on the wall before the bust, and had dared to question the “new economy gurus.” Ms. Morgenson brought these lessons home with an engaging and dynamic classroom presence.

Aulana Peters, a revered former Securities and Exchange Commissioner, a former partner at Gibson, Dunn & Crutcher, and a highly respected board member of several Fortune 500 companies, addressed the role of board members in corporate governance. In the classroom, Ms. Peters fostered discussions on the distinction between companies truly embracing “best practices” or accepting them. Those of us fortunate enough to see her lead a law school class—and elicit serious responses through thoughtful questioning—got a glimpse of the talent she brings to corporate boardrooms.

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4. Our alums and members of the South Florida community were invited to various events, including a special reception in the Miami offices of Morgan, Lewis & Bockius, LLP, as part of the Goodwin program.

5. We are grateful to the editors of the *Nova Law Review* for their participation during the program and for their editing efforts in producing this special Goodwin book.


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For a litigator’s perspective, we sought a renowned attorney who had represented both plaintiff investors and corporate defendants. David Boies, of course, had very successfully done both. Moreover, he had served as independent investigator for Tyco International. Thus, he had yet a third perspective. Mr. Boies’ riveting address to the Goodwin students ended with an exhortation to not lose sight of our broader roles in society and to adhere to the highest ethical standards.

To complete the program we turned to Dean Joel Seligman, a securities law scholar of the highest order. In the classroom and in faculty colloquia Dean Seligman was asked how the recent corporate and accounting scandals fit into the history of our financial markets. Dean Seligman deftly discussed the significance of the recent corporate and accounting scandals and helped position them into historical context. Dean Seligman also provided a truly nuanced assessment of the impact of Sarbanes-Oxley. For his article, Dean Seligman has chosen to examine issues not limited to Sarbanes-Oxley. He suggests new approaches to the Security and Exchange Commission’s budgetary process and the mechanisms for selecting Commissioners. Dean Seligman’s proposals are thoughtful and provocative.

Finally, on a personal note, I would like to thank each of our Goodwin Scholars for their participation in our ambitious program. They were asked to lead numerous events during their residency, many back to back. In addition to handling difficult policy and securities issues expertly, I can attest that they were also tireless and very gracious. Each was clearly dedicated to enlightening our law students and serving the broader legal community. It was an honor to have ceded my classes to and to have spent time with Gretchen Morgenson, Aulana Peters, David Boies, and Dean Joel Seligman.

9. David Boies is chairman of the law firm of Boies, Schiller & Flexner, LLP. The firm has represented both plaintiff investors in high profile securities cases, including Caiola v. Citibank, N.A., 295 F.3d 312 (2d Cir. 2002), and numerous corporate defendants, including Adelphia and Quest.

10. Dean Joel Seligman is Dean and Ethan A.H. Shepley University Professor at the Washington University School of Law in St. Louis, Missouri. Dean Seligman is the author or coauthor of nineteen books and over thirty articles on legal issues related to securities and corporations. Securities Regulations, the eleven-volume treatise coauthored by Dean Joel Seligman and the late Louis Loss, is the premier treatise in the field. Dean Seligman is also the author of the leading casebook, Corporations: Cases and Materials, and the coauthor of the casebooks Fundamentals of Securities Regulations and Securities Regulation. His book The Transformation of Wall Street: A History of the Securities and Exchange Commission and Modern Corporate Finance, is widely regarded as a classic in its field.