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Celebrity Not the Issue in Martha Stewart Case, Says IWU Business Law Expert

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Celebrity Not the Issue in Martha Stewart Case, Says IWU Business Law Expert

BLOOMINGTON, Ill. — The case against Martha Stewart for conspiracy, obstruction of justice, and securities fraud would likely be prosecuted even if she weren't a celebrity, says a business law expert at Illinois Wesleyan University.

David Marvin, assistant professor of business administration, disagrees with those who have argued that charges against Stewart would not have been pursued if she did not have such a high profile. Nor does Marvin think that the climate surrounding business scandals like Enron or WorldCom is a primary factor in the case, as some have suggested.

Stewart is accused of lying to government investigators about her 2001 sale of shares in ImClone Systems, a biotechnology company. She was investigated for illegal insider trading but was not indicted criminally on that charge. However, the Securities and Exchange Commission filed a civil complaint alleging that Stewart received advance warning from her broker, Peter E. Bacanovic, and sold her stock on the basis of that warning.

"Despite all the attention given it, this is a really simple case," said Marvin. "The entire case turns on no more than about an hour's worth of conversations back and forth with only two or three people involved. Based on everything that I've read about the charges, I do think that the CEO of any other relatively small, publicly traded company would have been prosecuted just as Stewart is being prosecuted."

On the other hand, Marvin acknowledges that Stewart's name may have initially called attention to her stock sale.

"People may not realize that the Securities and Exchange Commission routinely examines transactions that precede big news about a company and its stock," Marvin notes. "With the computerization, it's relatively easy for the SEC to determine who traded significant shares in advance of news such as the Food and Drug Administration's turning down a drug approval. So Stewart's sale of the ImClone stock would have shown up in such a routine check. Now, the fact that it was Martha Stewart and not somebody else might have been more likely to raise eyebrows when the SEC was reading through the transactions."

Although Marvin says that it is likely Stewart did sell her ImClone stock based on information that she should not have received from her broker, he thinks that Stewart's explanations are not implausible and that the prosecution may have difficulty convincing a jury. "I don't think that this will be a slam dunk for the prosecution," said Marvin. "I would not be surprised at all if a jury heard all this and thought that her version of the facts could be true and therefore she didn't obstruct justice or make false statements."

To discuss the Stewart case with Professor Marvin, contact either Jeffery Hanna or Ann Aubry at 309/556-3181.