

IMAGINING WALL STREET

*Larry E. Ribstein**

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ABSTRACT

The 1987 film *Wall Street* is one of the most popular films dealing with business, and for many people provides an enduring image of capitalism. The film is therefore a good illustration of filmmakers' portrayal of business, and how this portrayal can influence public perceptions and misconceptions. This is important as public misconceptions of business, in turn, can contribute to the regulatory environment. This article discusses the view of business presented in the film, contrasts this view with an alternative, and more realistic, narrative, and shows how the film may have influenced subsequent regulation.

* Richard W. and Marie L. Corman Professor of Law, University of Illinois College of Law. Thanks to Henry G. Manne for helpful comments and for inspiring the ideas in this article.

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Oliver Stone's 1987 film *Wall Street* offers a particularly good lens through which to view Hollywood's treatment of business. The powerful images and characters in the film, combined with the timing of its production and release, illustrate the potential political consequences of cinema in general, and movies dealing with business in particular. A documentary included on the DVD presents significant insight into the filmmakers' views. What emerges is a picture of a cultural phenomenon that was both perversely misguided about the business it portrayed and able to exert a powerful influence on that business.

Wall Street was the third film as director for Oliver Stone, who had just won four Academy Awards (including best director and best picture), for his first film, *Platoon*. Although *Wall Street* was not nearly as successful as *Platoon*, selling only about a third as many tickets, its main character, Gordon Gekko, played by Michael Douglas in an Academy Award winning performance, has become an icon of capitalism. The film has been particularly important in the legal academic literature, mentioned in at least 90 articles in the Westlaw database. This is not surprising, since its literate and nuanced script¹ penetrates deeper into the firm than any other major film.

Wall Street follows the rise and fall of Bud Fox (Charlie Sheen), from low-level cold-calling broker to a brush with money and power as sidekick to the big-time wheeler-dealer takeover artist Gordon Gekko, to defendant in a criminal case. Along the way he rejects the advice of his older father figure, fellow broker Lou Mannheim (Hal Holbrook), and his movie and real-life father, salt-of-the-earth airline mechanic and union leader Carl Fox (Martin Sheen).

The plot focuses on Gekko's attempted takeover of Blue Star, Carl's airline, aided by information that Bud gets from his unwitting father. Gekko connects Bud with his erstwhile girlfriend, interior designer Darien (Daryl Hannah), who instructs Bud on how to spend the money he's making and why he should want more. Bud has a moral awakening and foils Gekko's Blue Star bid with the help of Gekko's nemesis, British takeover king Larry Wildman (Terrence Stamp). Bud is arrested for insider trading and cooperates with the government to snag Gekko. The movie ends with Bud riding to the courthouse with his dad to meet his moral and legal judgment.

¹ Stanley Weiser and Oliver Stone, "WALL STREET" screenplay, Third Draft, rev. 4/23/87, available at <http://www.imsdb.com/scripts/Wall-Street.html>.

Part I of this discussion examines the historical and economic background of the film. This part presents what might be called an alternative “narrative,” or story the filmmakers might have told building on the same recent events as those featured in the movie. This helps explain the film’s own narrative – the theories and assumptions that appear to be driving the film, and the artful way the film conveyed its particular view of business.

Part II examines the filmmakers’ motivations in taking the particular approach they did in the movie. It sorts out the natural impetus of the need to tell a dramatic and appealing story, the personal perspective of the Oliver Stone and filmmakers, and the general incentives and perspectives of the artists who make films.

Part III includes observations about the film’s political impact. Although the film was to some extent a reaction to earlier events, it almost certainly shaped later ones, including the fall of Drexel Burnham, the prosecution of Michael Milken and other prominent takeover specialists of the 1980’s, and the significant weakening of the market for corporate control. Some of these effects continue to reverberate today. Less directly, the film continues to influence political debate as it has become part of how the public imagines Wall Street.

Part IV offers concluding remarks.

I. MIKE MILKEN AND IVAN BOESKY

This part discusses the events on which the film was based – how, during the 1980’s, the mergers and acquisitions game was radically changed largely because of one man – Mike Milken. The point here is not to suggest that this is necessarily the “correct” interpretation or perspective, though I believe that it is soundly based on the historical record and economic theory. Rather, this telling provides a backdrop for the discussion of the alternative narrative presented in the film by demonstrating that the film’s narrative is not the only possible one.

The story discussed here involves two key elements. Subpart A discusses the role of takeovers and “junk” bonds in the governance of large corporations. Subpart B discusses the “arbs,” or “arbitrageurs,” and the issue of insider trading that the arbs’ activities stirred up.

A. TAKEOVERS, JUNK BONDS AND CORPORATE GOVERNANCE

The film’s deep economic background focuses on the central

problem of corporate governance – the so-called separation of ownership and control first highlighted by Adolf Berle and Gardiner Means in their 1932 book, *The Modern Corporation and Private Property*. The problem they saw is that Adam Smith's "invisible hand" does not work in a market dominated by large corporations. Smith thought that the selfish interests of property owners interacting in robust markets would guide resources to their highest and best uses. But the shareholders of a publicly held corporation each own too small a share to be willing to learn much about how the corporation's assets are used or to actively participate in making the decisions. Even if an individual owner did accomplish something, he would have to share the gain with thousands of others, so why bother? The Securities and Exchange Act of 1934 was partly a response to Berle & Means' concerns. But all this Act did was promise the shareholders more information that Berle & Means' theory predicts the shareholders will not read and cannot use.

The basic conundrum is that, while shareholders are ineffective because they are passive and many, this is also a strength of our financial system. Holding diversified portfolios of small investments in many firms better enables shareholders to bear the substantial risks of modern large-scale business than if they owned enough stock in individual firms to make them pay more attention. So, it seems, we could not kill the goose of separation of management and control without stopping the flow of golden eggs produced by the modern corporation.

So what can a shareholder do about bad management? He can vote against the directors when they run for reelection. But the directors do not need a majority of the shareholders. Usually they only need a majority of the shareholders who are *voting*. Unless a corporation adopts rules requiring a high quorum to validate an election, directors do not need much support to be elected. Dissatisfied shareholders need to come up with their own slate of directors they can run against the incumbents, and they have to sell this slate to their fellow shareholders. The typical shareholder owning a small piece of the firm is unlikely to want to go to this trouble.

A dissatisfied shareholder can always sell at the current market price, but this is little consolation if the market price is far lower than it would be under managers who cared more about the shareholders' interests. The law could require the board to include a minimum percentage of non-executive directors, and require these directors to approve transactions where the executives' interests conflict with those of the corporation. But it is easy for corporate executives to buy the support of "independent directors" with goodies and perks.

The shareholders could sue managers who do not act in the corporation's interests. The law provides a device called the "derivative" suit which allows an individual shareholder to sue on behalf of the corporation. Should we expect a shareholder to take an interest in a lawsuit when he lacks the incentive even to concentrate on voting? This may not be completely unrealistic, because lawyers are willing to be paid solely out of the winnings, without much personal expense to the plaintiff. The shareholder who must share his winnings with his lawyer and his fellow shareholders really has no interest in the case.

The only one who cares is the plaintiff's lawyer, who gets a chunk of the recovery. But can we trust the lawyer? He might be suing for a quick settlement, paid out of the corporation's funds. If the claim lacks merit, then it is a disruption and a waste of resources. If the suit has merit, the lawyer might sell it out for less than its worth in order to take the sure settlement in hand rather than going for the judgment in the bush. And even if the lawyer prosecutes to the hilt, there is a good chance he and the shareholders will lose because of the "business judgment rule" – the legal doctrine that makes a showing of an egregious mistake or a clear conflict of interest a prerequisite for recovery. The doctrine is based soundly on the idea that even the best judges may be worse at making business decisions than the worst executives.

Finally, we could forget about the shareholders and decide that the people who are really motivated to care about the corporation are workers, customers and others who have a significant stake in the firm. But even if these people care enough to get involved, they may care about very different things than the shareholders do, like high wages and soft work. Those concerns may be perfectly legitimate, except that it will be hard to get shareholders to invest in or customers to buy from a firm that is run mainly for the workers. We have to decide on a mode of operation all of the firm's stakeholders can live with. It is not easy to come up with an alternative to one that focuses on the shareholders' interests. The shareholders care about profits, and a firm must please all of its constituencies to some extent in order to earn those profits.

This description suggests that there is little alternative to giving managers a free rein, even if they typically own only a small share of the company and have significant incentives to help themselves. Ross Johnson, then chief executive of RJR Nabisco, is a virtual composite of the perversity of corporate management in the early 1980's, as detailed in Burrough and Helyar's 1990 book, *Barbarians at the Gate*. When the corporate jets were not ferrying Johnson's dogs, they were available for the directors who supported him unhesitatingly.

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More subtly, corporations got bigger than they needed to be through “conglomerate” mergers with unrelated businesses. The rationale for these acquisitions was murky. Combining ownership of a group of firms helped the firms withstand risk better than stand-alone firms. But why should the firms do this when their shareholders can buy diversified portfolios of shares and save the extra costs of running these unwieldy behemoths? Perhaps there were gains from giving especially good managers more assets to manage. In other words, maybe conglomerates “leveraged” management expertise. But there was no assurance that this was actually happening.

Managers used their power in other questionable ways. They might keep drilling for oil even if new barrels could not be sold for enough to recoup drilling costs. Or they might buy fleets of jets, endow university chairs in their name, or build fancy new headquarters that do nothing for the shareholders. Was this all just an inevitable cost of capitalism?

One way around this problem of non-owner managers and indifferent owners is for outsiders to challenge incumbent managers by taking their case directly to the shareholders through a proxy contest – that is, a campaign to get the shareholders to turn over their votes. But, again, why would a shareholder make the effort to oust incumbent managers only to share any gains with all the other shareholders? The motives of anybody who tried might well be open to doubt. Were they just going for “greenmail” – that is, a bribe to go away? Shareholders might be excused for comparing these operators to the squeegee-men who used to plague New Yorkers at every stoplight. And even if the contestants were serious, they faced an uphill battle. These full scale contests were costly and one-sided. The current managers had all of the advantages of incumbency, from the tangible – the ability to charge some of their defense to the corporation – to the intangible of shareholder trust. It doesn’t pay for the typical shareholder with a diversified portfolio of small investments to do a lot of research, particularly if the incumbents are being labeled “buccaneers” or “raiders. So shareholders will be inclined simply to return management’s proxies.

There was no reason in theory why insurgents could not go beyond soliciting votes to buying shares. Of course, for this strategy to work, the buyer needs control, or else is stuck as a minority shareholder with a substantial investment at risk. The solution is for the insurgent to make a “tender offer,” which involves essentially an advertisement in the newspaper offering to buy at least a controlling share. If one person can pull this off, the separation of ownership and control problem goes away. In other words, as Henry Manne

theorized in the mid-1960's,² there is a "market for corporate control" that can address at least some of the problems caused by the separation of ownership and control.

A tender offer is, however, an expensive and risky proposition. In order to attract enough shares into the market a bidder has to offer more than the current market price. Shareholders have no incentive to sell at the market, and might not even sell at a premium because they might think a better bid is coming. Moreover, in a hostile deal, the bidder lacks important information about the company that could significantly affect the price. Indeed, this is why the bidder might take "greenmail" to go away – the bidder takes the easy way out once it learns the takeover is going to be more costly or less valuable than it originally thought.³ The bidder might minimize the cost with what were called "Saturday night raids" – offers with quick expiration dates that gave managers little opportunity to respond and either fight off the bid.

Assuming someone with enough money can pull off this risky stunt, where does the money come from? If it is put up by one person, the "separation" problem might go away, but the risk problem comes back. And if you solve the risk problem by raising money from many people, you are just replacing one large group of uncaring owners with another one. The insurgent bidder might try to get financing from a large financial institution. But this institution has to be responsible to its own shareholders and therefore, like an individual, would not want to commit too much to one company. The bidder might put together a syndicate of banks, but the more people who are involved, the bigger the chances of a leak, which could lead to a costly bidding war. And big Wall Street banks will not want to offend the managers they had to do business with by siding with outsiders who threaten their tenure.

As hard as tender offers were in their inception, they got harder by the end of the 1960's. "Saturday night raids" created unease in corporate suites which was quickly communicated to Congress. The result was the Williams Act, enacted in 1968, which created a minimum period for tender offers, imposed disclosure obligations on bidders, required potential bidders to give a sort of "early warning" to target managers if they bought as little as a 5% stake in the firm, and broadly empowered the SEC to regulate fraud in tender offers.⁴ These rules significantly increased target managers'

² Henry G. Manne, *Mergers and the Market for Corporate Control*, 73 J.POL.ECON. 110 (1965).

³ See Jonathan Macey & Fred McChesney, *A Theoretical Analysis of Corporate Greenmail*, 95 YALE L.J. 13 (1985).

⁴ Securities Exchange Act of 1934, Sections 13(d)-(g), 14(d)-(e), 15 U.S.C.A. Sections 78m(d)-(g), 78n(d)-(e).

opportunity to use the advantages of incumbency under state law to fight off hostile bidders. This temporarily ended the hostile takeover as a potent force in corporate governance.

Hostile takeover activity heated up again in the early 1980's. Bidders dealt with the extra costs the Williams Act imposed on hostile bids by making "two-tiered" bids –first seeking bare control for cash, then eliminating the remaining shareholders in a "second step" merger, paying them high-yield/high-risk (i.e., "junk") bonds instead of cash. The target shareholders did not want to be stuck with the booby prize, so they had to jump at the "first tier," maybe even if they thought their stock was worth more.

The leading corporate jurisdiction of Delaware put a stop to that maneuver in the *Unocal* case,⁵ in which it allowed the target company to respond to Boone Pickens' two-tier bid for the company with a two-tiered bid to its own shareholders that excluded Pickens. The upshot of the move was that Pickens' own stake in the company was significantly devalued, and he found himself in the unenviable position of either paying much more for the company than he had planned, or exiting the company with his losses. *Unocal* implied that the managers could, in effect, detonate a nuclear device if they wanted to rid themselves of a pesky hostile bidder.

The *Moran* case,⁶ decided at about the same time as *Unocal*, not only confirmed the *Unocal* holding but had the additional importance of confirming the validity of a very effective device invented by Wall Street lawyer Martin Lipton. This entailed distributing securities to the target shareholders that allowed these shareholders to buy securities in the *bidder* for a greatly reduced price if the bidder took over the target. In other words, the "winning" bidder would have to swallow a costly "poison pill." A variation on the "pill," which more closely resembled *Unocal* in economic effect, was to distribute securities in the target company to target shareholders, again excluding the bidder, for a much lower price than the bidder was paying. This effectively raised the price the bidder would have to pay for the target – another kind of "bidder pill" to swallow.

Reinforced by these decisions, target managers had other potential tricks up their sleeves. Most importantly, if they couldn't stop ownership from changing hands, they could at least make sure that their preferred "white knight" would win the battle by luring the "knight" into the contest with special favors. These favors included the "lock-up" option, in which the white knight gets to buy target

⁵ *Unocal Corporation v. Mesa Petroleum Co.*, 493 A.2d 946 (Del. 1985).

⁶ *Moran v. Household Int'l Inc.*, 500 A.2d 1346 (Del. 1985).

shares for less than the hostile bidder has to pay.

The hostile bidders again were stymied and the managers were secure in their fiefdoms. This was the situation that Mike Milken and his firm, Drexel Burnham Lambert, encountered in the early 1980's. Milken was a very smart and phenomenally hard-working Wharton graduate who lacked the social connections that were necessary to make it with a top Wall Street firm. So he joined the more obscure firm then known as Drexel Firestone and started working with bonds. There that he applied his knowledge of a study he had learned about in college at Berkeley that showed that over the long period of 1900 to 1943 (later updated to 1965), high-yielding bonds had higher yields than was warranted by their level of risk.

When Drexel merged with Burnham & Co. to become Drexel Burnham, Milken got the capital and freedom to create a semi-autonomous unit for trading high-yield bonds. Here he accumulated the clients – including savings and loan institutions newly freed to invest in corporate securities – that would eventually move with him and high-yield bonds into financing takeovers. By 1983 Milken had developed the California operation of what was by now Drexel Burnham Lambert into a financial juggernaut.

According to Connie Bruck's *The Predator's Ball* (1988, at 101), the breakthrough came in a meeting in November 1983 in which Milken and others at Drexel discussed how to apply their financing prowess. They decided the answer was hostile takeovers. The high-yield bonds Drexel and Milken specialized in had been used for friendly "leveraged buyouts" of smaller companies. This business took off with William Simon's LBO purchase of Gibson Greetings from RCA in 1982. Milken had already done some "mezzanine" financing of acquisitions, providing the slice between senior debt and equity. After 1983 he was ready to try hostile takeovers. With Milken's network of buyers of high-yield bonds, Drexel could issue letters stating that it was "highly confident" the financing would be in place when needed. This, in turn, encouraged target shareholders to take the deal seriously. Milken could do this while maintaining the secrecy that was important to a successful bid and the flexibility to engage in fast-developing takeover battle.

Milken was successful not just because of the client network he had assembled, but because the nature of the instrument he was using. Milken had already developed a theory of the management functions of high-level debt in a paper he wrote with James E. Walter in 1973 at Wharton, which discussed "opportunities for profit enhancement. . .in the financial end of the business."⁷ High debt

⁷ James E. Walter and Michael R. Milken, *Managing the Corporate Financial Structure*, WP 26-73 1973, Rodney L. White Center for Financial Research, Wharton.

capital structures were particularly advantageous in the firms that were most ripe for hostile takeovers because the value of new management was especially obvious – it was the “low-hanging-fruit” of the takeover business. The problem in many of these firms was not the want of a brilliant management strategy but the presence of a stupid one – drilling for cheap oil, running groups of companies that would do better on their own, reinvesting earnings in a slow-growth business that could be reinvested in more promising firms. Simply replacing current management could not assure investors that the right changes would be instituted and followed through. Yet those with the money did not want to be the active managers themselves, and the managers who were willing to jump into the fray and engage in hostile takeovers then had no track record. The solution was for the target to take on so much debt that making the payments and avoiding bankruptcy would focus the managers’ attention on the economizing and restructuring that needed to be done. As Milken had understood a decade before, financial structure could create value.

With his pools of investors and high-yield bonds Milken could find and unlock value in new places. Moreover, unlike the hostile takeovers of the past, which had relied on visible takeover artists like Carl Icahn, Milken’s scheme was all technique and financial theory. And so Milken’s instrument in the most important deal of the era was the then obscure Ron Perelman. With Milken’s help, Perelman’s little MacAndrews & Forbes investment company pulled off the coup of buying Revlon over the bitter resistance of its CEO, Wall Street blue blood Michel Bergerac, and the best takeover defenses money could buy. Milken could give Perelman enough money to do the deal without the tricks like two-tiered bids that might have justified use of stronger defensive tactics.

Bergerac dug himself in with the help of two “white knights,” Forstmann Little and Adler & Shaykin, that he had brought in to save the company from what the cultured Bergerac regarded as “undesirables” (Bruck at 220). As the bidding escalated from the low forties to above \$56, Perelman pledged to top any additional bid by a quarter. The price was getting to levels neither party could afford, and it was beginning to look like Perelman, like a character in a horror movie, would simply never stop. Moreover, the Revlon side had been forced to make concessions that hurt its ability to stay in the game – most importantly, taking off debt covenants to allow Forstmann to borrow some of the price against Revlon’s assets. The note holders had threatened to sue, and the Revlon board was now nervous about losing not only their jobs but also their shirts in court.

In order to induce Forstmann to agree to make one more bid, and not incidentally to promise to take care of the noteholders so they would get off the managers’ backs, Revlon gave Forstmann a

“lockup option” in the form of a right to buy two of Revlon’s divisions for below market value. This lowered the potential value of the deal for Perelman, who was already stretched thin at the price that was on the table. Perelman challenged the option in court and was handed a victory by the Delaware Supreme Court. The court said, in *Revlon v. MacAndrews & Forbes*,⁸ that when the board finds itself in an auction as opposed to a contest over their management strategy, it has a duty to run the auction to get the highest possible price, which means not unduly favoring one of the bidders.

Revlon was a landmark in hostile takeovers. Unknown barbarians had successfully waged a take-no-prisoners war against a superbly defended and determined old-line company. The club members had the strong feeling that the Goths had entered the sanctuary, that civilization itself was threatened. Bruck quotes (228) old-line investment banker Felix Rohatyn of Lazard Freres that Revlon had been taken over by “a group of people tearing at a carcass – a group of people interested in numbers on pieces of paper, and nothing having to do with people, customers, quality, is this good, bad, or indifferent.”

More importantly, Bruck adds her own sinister gloss: “these newcomers, in their desperation to break in, seemed to flout not only social values, but the law. Revlon’s defenders had alleged and then failed to prove violations of the law, but they remained convinced that it was true.” Then she quotes an anonymous participant in the deal (230):

we have to have detectives in to make sure our rooms aren’t bugged and our phone lines aren’t tapped, and that they aren’t sending electronic beams into our offices, and we have to look for hidden cameras when we go into and out of meetings. They have ruined my life. You feel like you’re in the gutter, like they’re piling shit on you and you have to keep struggling to get up from it. And it’s all been made possible by Drexel. Without Drexel, none of it could have happened.

We are now at the intersection of two possible narratives about the takeover wars. On one side there is the awkward underdog upstart, incredibly smart and hardworking but not accepted by the existing power structure, who creates a big and socially valuable business from nothing but a theory. Merton Miller, a 1990 Nobel laureate, said in his Nobel lecture that, while Mikhail Gorbachev (who won the Peace Prize that year) popularized “perestroika,” Russian for economic restructuring, “the LBO entrepreneurs of the

⁸ 506 A.2d 173 (Del. 1986).

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1980s actually did it.”⁹ The LBO restructurings of the 1980’s may have paved the way for the extended bull market of the 1990’s.

There was not only a hero in this narrative, but also a villain – the corporate managers who lived privileged and fabulously wealthy lifestyles at the shareholders’ expense while their jobs were protected by an impenetrable barrier of complex poison pills and lockups, complacent shareholders, venal outside directors and helpless courts. These managers truly created nothing, and simply lived off the fat of the land. The true value was created by the workers, and by the capitalists who bought but could not effectively control the assets. This was the situation portrayed in the 1950s film *Solid Gold Cadillac*, a fairy tale featuring an improbable takeover by a lone shareholder played by Judy Holliday. In real life, it took an awkward but brilliant nerd from California to derail the gravy train.

The problem for Milken and company is that there was an alternative narrative that seems easier to sell to an unsophisticated public. Corporate managers were at least engaged in hands-on activities that we observe every day – hiring and firing people, selling and advertising products. Milken did finance, which takes place on paper or computer screens, in numbers rather than words, and doesn’t need people – indeed, the strategy works even with nobodies like Perelman. Milken himself argued that what he was doing was just what every other businessman of the time was doing:

Walton used retailing technology to create value; Drexel used financial technology to create value, build businesses and jobs and consumer services by enabling entrepreneurs to raise money far more efficiently than they could have done without us.¹⁰

But the public could not walk into a Drexel deal room and watch this value being created the way it could walk into a Wal-Mart and get what it wanted for less than at the mom-and-pop store down the block.

So, then, if you could not see the wealth being created, where was it coming from? Even if Milken was creating some wealth by selling a new kind of paper or shuffling assets, how much money could there be in that sort of business? This kind of thinking came to a head when the public learned that Milken was paid \$550 million in salary and bonuses in 1987 – or \$107,000 an hour based on a 14-hour day, more than 100 times the combined 1987 salaries of the chairmen of ITT, IBM and Chrysler, more than three times the SEC’s annual

⁹ Dallas Morning News, December 13, 1990, at 1.

¹⁰ Forbes, March 16, 1992 at 97.

budget, \$100 million more than Guyana's gross national product, ten times the total pay for all members of Congress, and more than 2/3 the value of Pablo Picasso's life work. Milken was not the only one at Drexel making that kind of money, and others, like Perelman, were making plenty of money off of Drexel. Where was it all coming from?

The quotes from Bruck indicate what people suspected. The money was coming at the expense of "people, customers, quality," as Felix Rohatyn said. People thought, in particular, that LBOs caused job loss. A Wall Street Journal reporter won a Pulitzer Prize for telling that story about the Safeway LBO. But while there was a credible theory about how LBOs created social value, there was never any theory to explain how LBOs destroyed jobs, and the data contemporaneous with Revlon showed otherwise.¹¹ How could anyone make money firing valuable workers and terminating valuable businesses? And if the firms and jobs were not valuable, in a competitive market they would end sooner or later, with or without LBOs. By creating more efficient firms, LBOs actually forestalled job loss or helped create jobs.

People also suspected dishonesty. Milken and company were trafficking in information. So there was a zero-sum information game in the financial markets, with the target shareholders the losers. Where there is smoke there is fire – if there is this much money lying around, they thought, somebody must be cheating.

Finally, in order for a particular narrative to succeed, you need storytellers. And there were plenty of powerful people who had both a strong incentive to tell the anti-Milken story, and the ability to get people to listen to them. Most importantly, there were the incumbent managers like Michel Bergerac who saw their world get torched by the likes of Perelman and Milken. They could tell a story about what was happening to the fine old companies these "junk bond" "buccaneers" were dismantling.

Incumbent managers got story-telling help from the finance people at the old line Wall Street firms. Milken's success came from the structure he had been able to set up at Drexel. There were hardly even any crumbs left over for the previous stars in the field. As Milken pointed out after the government put him out of business, "in 1991 alone probably \$1.5 billion went to other firms that would have gone to Drexel. A lot of clients have gone to Salomon and First Boston."¹²

¹¹ Kenneth Lehn & Annette Poulsen, *Leveraged Buyouts: Wealth Created or Wealth Redistributed?*, in PUBLIC POLICY TOWARD CORPORATE MERGERS (M. Weidenbaum & K. Chilton, eds., 1987).

¹² Forbes interview, 99-100.

These were the forces arrayed against Milken after the Revlon deal exposed the full extent of his power. But it was not obvious how to approach regulating Milken. Delaware, the leading state corporate jurisdiction, while it had helped the incumbents in the *Unocal* case, had dealt them a blow in *Revlon*. The states had already gone through two rounds of state anti-takeover statutes. In 1982, in *Edgar v. MITE Corp.*,¹³ the Supreme Court had struck down an early version that had attempted to regulate tender offers in states where target shareholders lived. Such a law might have crippled firms' ability to make takeovers by potentially permitting 50 different regulations of one corporate transaction. But the Court held that the law was unconstitutional under the commerce clause and, ironically, because it conflicted with the Williams Act.

In 1987 the Court, in *CTS v. Dynamics Corporation*¹⁴ provided a glimmer of hope to anti-takeover forces by upholding an anti-takeover statute that applied only to firms incorporated in the enacting state. But this ruling effectively required takeover opponents to take their case to the Delaware legislature, the home of most large corporations, which was reluctant to enact a stringent law that could threaten its dominance in corporate law. Congress had already tried regulating takeovers in the Williams Act, and that had not worked. As a last ditch effort Congress considered increasing taxes on takeover gains in October, 1987. But the mere suggestion was followed by a disastrous stock market decline – so swiftly that it was hard to ignore the possibility of a causal connection, and therefore a warning about how the market would react to other takeover regulation and taxes. As with Al Capone, the government was going to have to be creative if it was going to put this modern-day hoodlum out of business.

B. THE ARBS AND INSIDER TRADING

The logical answer to the problem of regulating takeovers seemed to be to avoid a frontal assault on takeovers and try an end run through the use of information that was so essential to the takeover business. Arbitrageurs, or “arbs,” provided an opening for this move.

The arbs became important because of the risks and costs the Williams Act created both for target shareholders and bidders for control. Before the Williams Act, bidders could swoop in and swiftly acquire control. The Williams Act established a prolonged period of uncertainty while incumbent managers formulate and execute their defensive strategy. This was a problem for hostile

¹³ 457 U.S. 624 (1982).

¹⁴ 481 U.S. 69 (1987).

bidders who might have to make a very risky investment in a big block of target stock without knowing whether they would be stymied by target management. It was also a problem for target shareholders wanting to know whether to tender, sell or hold onto their stock. If the shareholders either hold onto their stock or tender, they get the benefit of escalating bids under the Williams Act and associated rules. But they lose if the bid falls through and the tender offeror does not accept the shares. At this point, the stock price may fall back to the price before the bidding contest introduced the possibility of better management. If the shareholder plays it safe and sells, he may be sure of at least getting the current price, but he loses the benefit of any higher bids.

The arbs deal with both the bidder's and the target shareholders' problems. The arbs can absorb the risk that the tender offer will fail and the shares will plummet by diversifying over many takeover contests and by acquiring information as to whether the takeover will go through. Also, when a bid is made, the arbs can quickly buy stock from the target shareholders. These purchases cause the target stock price to quickly reflect the likelihood that the bid will either fall through (in which case the market price is significantly lower than the bid price) or that higher bids will be made (in which case the market price is higher than the current bid price). This helps the target shareholders by enabling them to sell at a price that reflects this information. Many in fact do so, meaning that the arbs themselves own the company and can decide the bidder's fate. In short, the arbs take much of the burden of being uninformed off of the backs of the target shareholders, as well as relieving the bidder of the risk of buying and holding target stock until the tender offer can be completed.

In order to perform these functions with the least risk and cost, the arbs need information as to the bid's prospects. And the best source of information is, of course, the bidder, which has every incentive to help arbs accumulate the target stock. So while the risk arbitrage market helped solve the uncertainty problem created by the Williams Act, it also helped create a demand for more laws, specifically laws dealing with the arbs' possible use of "inside" information. In the 1960's the SEC had decided in *Cady, Roberts & Co.*¹⁵ that the general antifraud section of the Securities and Exchange Act prohibited a director from trading on company information with other shareholders. But the Supreme Court had held in 1980 that merely trading on non-public information did not breach that duty (*Chiarella v. U.S.*¹⁶). In 1983 it held that that there was no violation even if the information came from a company

¹⁵ 40 S.E.C. 907 (1961).

¹⁶ 445 U.S. 222 (1980).

insider if the leaking insider was not breaching his duty to the company (*Dirks v. S.E.C.*¹⁷). It was only after Milken had left the stage that the Supreme Court would hold that stealing information and using it to trade violated federal law.¹⁸

In order to regulate or prosecute inside information in takeovers the SEC had to use rules other than the general anti-fraud provision that was the basis for the above cases. The tipping of information might be part of a collaboration or partnership between the bidder and the arb that violated rules requiring filings upon acquisition of a 5% stake. Also, the SEC passed a rule under the general antifraud provision of the Williams Act that prohibits trading on non-public information in tender offers, and that explicitly bars the bidder from “warehousing” shares with arbs by passing information that encourages them to buy. However, it was not clear that this rule was a legitimate exercise of SEC rulemaking power. Moreover, it must be kept in mind that these were just violations of tender offer legislation, and therefore did not earn the moral taint the public has ascribed to “insider trading.”

All of this leads to the events that were the immediate backdrop for *Wall Street*. In November, 1986, Ivan Boesky, the most famous of the arbs, pleaded guilty to a felony for agreeing with Dennis Levine, a Drexel, Burnham trader, to exchange money for tips about Drexel’s deals. Boesky was a flamboyant character, had amassed fabled wealth from betting on takeovers, and was a tireless self-publicist. In words similar to those later used by the fictional Gordon Gekko, Boesky told Berkeley graduates on May 18, 1986 that “greed is all right, by the way. I think greed is healthy. You can be greedy and still feel good about yourself.”¹⁹ In another reminder of the film to be, Boesky agreed to wear a wire in conversations with Mike Milken, who was the real target of the probe. Boesky’s plea bargain involved a \$100 million fine but allowed Boesky to sell the stocks in his fund before disclosure of the guilty plea.

Although Boesky’s plea bargain seemed to go a long way toward providing the smoking gun the anti-takeover forces had been looking for, the plea masked several problems that were lost in the media hype.²⁰ The government would have had to have proved the existence of an agreement based solely on the testimony of the unreliable Dennis Levine, who appeared to have turned in Boesky to save his own skin. Boesky’s supposedly tipped trades – some profitable, some not – did not fit the pattern of someone with inside information. Moreover, as discussed above, this was not insider

¹⁷ 463 U.S. 646 (1983).

¹⁸ U.S. v. O’Hagan, 521 U.S. 642 (1997).

¹⁹ Daniel Fischel, *Payback* at 105.

²⁰ *Id.* at 109-11.

trading under the Supreme Court's then definition because it did not involve breach of an insider's duty. The trading would be illegal under later Supreme Court cases, but only because it involved theft of information from Drexel Burnham – that is, Levine was selling information in violation of his duty to that firm. Indeed, Drexel was the main victim, because if Boesky was trading on inside information his trades were tipping the market about Drexel takeover moves and thereby making these takeovers more expensive. While the general public might miss these details, they would not be lost on judges and juries.

Obviously the anti-takeover campaign needed more convincing smoking guns, and more public support. Just as *Wall Street* owed much to the events and characters connected with the rise of Mike Milken and Drexel Burnham, so the film itself would spur the campaign against takeovers that heated up following the film.

II. THE ECONOMICS OF WALL STREET

While *Wall Street* is based on the events of the mid-1980's described in Part I, the film's "narrative" is distinct from these events. Part I presents a story of a hard-working and brilliant entrepreneur, Mike Milken, finding a way to squeeze billions of dollars of additional value out of business enterprises. Like other underdogs, Milken challenged the status quo. This exposed him to the wrath of those he sought to displace. The incumbents ultimately found a way to put him out of business by prosecuting him under the laws intended to insulate corporate managers from the market for corporate control.

The film presents a very different story. Mike Milken, underdog foe of the flawed status quo and creator of social wealth, becomes Gordon Gekko, pushy apostle of greed and immorality. The film promotes its narrative by conflating Mike Milken, the genius who figured out how to squeeze value out of companies, with Ivan Boesky, the arb who trafficked in inside information. Moreover, takeovers themselves come out badly in the film because the centerpiece takeover is not an efficiency-enhancing LBO, which creates value by imposing discipline on errant corporate managers, but rather an attempted job-destroying liquidation of a going concern accomplished by deceit and underhandedness.

The makers of *Wall Street*, particularly the director and co-writer Oliver Stone, skillfully sell their message, creating for the audience a vivid world on screen. This Part shows how *Wall Street* portrays a Manichean struggle pitting Gekko, the evil apostle of greed, easy money and immorality whose success is built on shady

dealings, perverse values and questionable valuations, against the workers and builders, the paragons of down home values, honesty and integrity.

All makers of feature films start with inherent advantages in persuading the audience. Particularly in their traditional theatrical form, films can create a persuasive illusion on a screen that dominates the audience's minds for two hours or more. The audience leaves the familiar surroundings of home, makes an investment in time and money in the film, and sits in a darkened theater, its attention focused on larger-than-life images, exposed to sound blasting from huge speakers all around them, and participates in a communal response to the film with the other strangers in the audience. Even at home, films can be more powerful than books because, unless the audience does something affirmative to stop them, the sound and images move forward, propelling the audience along without the opportunity to analyze what they are seeing they would have with a book.

Most importantly, as Walter Benjamin understood in *Art in the Age of Mechanical Reproduction*, a filmmaker has the opportunity to take control of the viewer's mind. While a reader must fill in the inevitable blanks in a book with his own imagination, the filmmaker supplies the actors, makeup, sets, lighting, and camera angles. The editor can force the viewer's attention to snap quickly from one image to another and make particular mental connections. A reader retains the power to linger over an image or make a different connection. While a book supplies the dialog, film actors supply the inflections and the body language and the editors and photographers supply the reaction shots. Yet while a film can do more than a book in some ways, in other ways it can do less. There is only so much a film can tell about the conflicts that are really going through a character's mind.

The following analysis discusses, first, the film's general narrative and, second, the particular techniques the film uses to "sell" its narrative.

A. GOOD AND EVIL IN WALL STREET

The film tells a story of powerful forces contending for the soul of the stockbroker Bud Fox. The film's narrative begins with its cast. While a very skillful actor should be able to create almost any character, he or she will portray some more convincingly than others. A star's impersonations are helped along by the associations the audience brings with them from viewing the actor's prior performances. So consider what casting brings to the main characters in *Wall Street*.

Gordon Gekko/Michael Douglas: Douglas was seemingly an odd choice for a heavy, or personification of evil, since he had previously played protagonists or romantic heroes, often with a weakness that the Gekko character lacks. His major success, released a few months before *Wall Street*, was as the errant but basically moral co-star of *Fatal Attraction*.

But Douglas had at least three qualities that made him ideal for the particular points Stone wanted to make in *Wall Street*. First, he could use the same seductive qualities that made him a romantic hero in the 1984 film *Romancing the Stone* on Bud Fox, whose soul was at stake in *Wall Street*. Second, as Oliver Stone noted in the documentary about the film, Douglas has a “smirk” that can convey contempt for his victims’ values.

Third, and most importantly, Gekko’s protagonist roles help sell the apparent intellectual authenticity of the film. The film is persuasive because it presents itself as a kind of debate between the pros and cons of the corporate raiders of the 1980’s. The audience is supposed to make up its mind after it has seen the “evidence” presented in the film. Gekko has scenes in which he presents his case so convincingly we might almost believe him. This is important for developing Bud’s character, since he would not be worth much if he were taken in by a blatant fraud. We are all the more sold on the filmmaker’s point of view because Michael Douglas’ Gekko does not enter our imagination as a villain, but rather as the heroic iconoclast of *The China Syndrome*. His character traits are then twisted into Gekko. Viewers see how they can be duped by the forces of evil, and learn to distrust those forces when they confront them in real life.

The film does not rely just on Gekko’s own words and actions in the film to judge his character. Before we even meet Gekko, Marv, Bud’s co-worker, has already described him as having had “an ethical bypass at birth.” Later, Wildman, the “good” capitalist, tells Gekko he is a “two bit pirate and a greenmailer, nothing more, not only would you sell your mother to make a deal, you’d send her COD.”

Bud Fox/Charlie Sheen: Bud is the innocent over whom bad Gekko and good Carl Fox contend. While Carl is Bud’s father in the film, Bud has a kind of father-son relationship with Gekko as well. As Gekko says in their last confrontation at the end, “I look at you and see myself.”

The basic point and dramatic tension in *Wall Street* is how Charlie, like Pinocchio, develops a character – what you see when you look into the “abyss,” as Lou tells him. Carl tells Bud early in the film that “it’s yourself you need to be proud of,” and at the end of

the film that Bud can be proud of what he's done in turning Gekko in. The audience needs to know that the good guys have won Bud's soul. Charlie Sheen has the sort of boyish openness and charm coupled with innocence and vulnerability that can pull this off.

More importantly, Charlie Sheen brings with him into *Wall Street* the same character he had created in the blockbuster *Platoon*, released the previous year. In the documentary packaged with the *Wall Street* DVD, Charlie Sheen explicitly compares the battle between good and evil for Charlie's soul to the similar contest in *Platoon*. Just as his *Platoon* character was torn between the good soldier Elias, who seeks to survive the war with his decency intact, and the bad soldier Barnes, who sees the war as a chance to unleash his baser instincts, so Charlie sees Bud as being seduced by "quick gains." In other words, by a juxtaposition in viewers' minds, many of whom are likely to have seen and remembered *Platoon* when they walk into *Wall Street*, sadistically killing innocent Vietnamese villagers equates with earning fast money on Wall Street.

Carl Fox/Martin Sheen: Sheen is a talented and versatile actor who had played a variety of roles, including his breakthrough part as a crazy mass murderer in *Badlands* (1973) and, more importantly and recently, the lead in *Apocalypse Now* (1979), Benjamin Willard. In that film he conveyed Coppola's moral indignation at the Vietnam war. This prepared the audience to see Sheen as Stone's voice of moral indignation at the world of late 1980's Wall Street, which Oliver Stone himself saw as an extension of his own Vietnam experience portrayed in *Platoon*. As Sheen pointed out in the documentary, "I've been accused of being moralistic." Carl is the voice of sensible values. He tells Bud

Problem with money is you never have enough or you got too much --and when you got it you're never happy 'cause somebody's always trying to take it away from you. Money's one giant pain in the ass y'ask me.

According to the documentary, Jack Lemmon was also considered for the Carl Fox role. He might have been a more obvious choice as one who was appalled by the morals of the business world in films like *The Apartment*, *Save the Tiger* and *China Syndrome*. But casting Sheen had two advantages. Like Michael Douglas, he adds a little ambiguity to the role. More importantly, he is Charlie Sheen's real father, a point that is never lost on the audience. This tells the audience who should win the fight for Bud's soul. When Carl tells Bud after his climactic confrontation with Gekko that he won't "go to sleep with no whore," we know that Gekko is a "whore" that Bud's father is trying to protect him from. More dramatically, the scene in the hospital in which Bud tells Carl he's "the only honest man I know" plays more convincingly than we

might expect from this sort of sick bed confession because in real life Charlie Sheen had rushed to Martin's bedside after the latter's heart attack during the filming of *Apocalypse Now*.

As with Gekko, Carl's character is built in part by details, including the comments of and interactions with the other characters. Here is how the script describes the scene when we first meet Carl:

In the background, a 747 ascends into the night sky, climbing over the roof tops of weathered brick tract houses. Bud, coat collar pulled up against the wind, crosses the street, entering a neighborhood bar. We see an old maroon Honda behind him. Dimly-lit, noisy, blue-collar airline bar. Machinists and mechanics still in their overalls at the bar, drinking, watching ESPN FIGHT NIGHT, on TV. Bud searches the crowd. A group of middle-aged men wave him over, Bluestar Airlines insignias on the pockets . . .

The camaraderie of Carl's co-workers contrasts with the cold, hierarchical relationships between Gekko and his underlings and the competitive tension between Bud and his co-workers. When Carl has his heart attack near the end of the film, anxious workers gather around him. When Bud is led out of the office in shackles, his officemates watch in silence.

Lou Mannheim/Hal Holbrook: Lou is the market's conscience who tells us what the Gekkos have taken from it. He represents the capital markets as honest builders, contrasted with the dishonest shenanigans of the modern Gekko. The script first describes Lou as "a dignified looking older broker in his late 60's, wearing an old brown brim hat with button down white shirt, narrow tie, very much a picture from another era... a kind humor in his eyes." His first words to Bud are "stick to the fundamentals, that's how IBM and Hilton were built." Lou remembers "when we got the money for Bluestar [Carl Fox's airline] to build those first planes, back in the fifties." He describes another of Gekko's takeover plays as "a crap company, sure you'll make money on the takeover rumor, but what's being created. Nothing. No substance behind it." When Bud gives him another tip on a "sure thing," Lou says:

No such thing Bud - 'cept death and taxes. . . . Remember there're no short cuts son, quick buck artists come and go with every bull market but the steady players make it through the bear markets. . . . You're part of something here, Bud. The money you make for people creates science and research jobs. Don't sell that out.

Lou admonishes Bud, "the problem with money--it makes you do things you don't want to do."

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Imagining Wall Street

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Lou's sententious Greek chorus might have been absurd spoken by anyone else. In fact, on the DVD documentary, Charlie Sheen called him "the voice of morality; I didn't get his scenes." But no one could have spoken the words more authoritatively than the actor who had already played Abe Lincoln several times, as well as John Adams, and some fictional presidents.

Marvin/John C. McGinley: Marvin is Bud's officemate in his brokerage firm. He is Lou's opposite number – wheedling, callow and corrupt. Marvin is small time, willing to sell anything to his customers, take the easy way out. He tells Bud, "forget charts! We're not fund managers, churn 'em and burn." He was last seen as the racist soldier in *Platoon*.

Sir Larry Wildman/Terence Stamp: This is Gekko's opposite number who speaks for the forces of good in capital markets, interested in building rather than destroying, though he has dabbled in both. Wildman says Gekko "doesn't know the difference between raiding and insider trading. I do." Unlike the slick Gekko, Wildman has some depth, imparted by his British accent, his title (scorned by Gekko) and the fact that some might remember him as *Billy Budd*.

Building on its cast, the film contrasts the superficiality and get-rich-quick nature of Gekko's business with the down-home substance of Carl's working class environment. Bud's two "good" fathers, Carl and Lou, continually remind him to resist, and ultimately he does.

Our first meeting with Gekko seamlessly presents both his Boesky and Milken sides, as if there is no difference between the two. Bud has finally gotten access to Gekko's office by, of course, exploiting an information advantage – he knows Gekko's birthday, and has read that Gekko likes cigars. So Bud arrives at Gekko's office on his birthday with cigars. The DVD documentary describes this scene as carefully constructed to show how the big money people like Gekko supposedly operate. Michael Douglas said that they went to the Wall Street players and saw how they "intimidate" people. The office setup took two days and 58 setups to film.

As Bud is ushered into the office, Gekko is making a deal in his ruthless style:

I just saw 200,000 shares move, are we part of it, we better be, pal, or I'm gonna eat your lunch for you . . . Sorry, love it at forty. It's an insult at fifty. Their analysts don't know preferred stock from livestock . . . wait for it to head south, then we'll raise the sperm count on the deal . . . Look, Jerry, I'm looking for negative control . . . just enough to block anybody else's merger plans and find out from the inside if

the books are cooked. If it looks as good as on paper, we're in the kill zone. We lock and load pal . . . check the arbs for McDonald's. Yeah, I'm having a Mac attack. 20,000 shares. For about 30 minutes. . . . Call Geneva and the Bahamas for me, will ya? . . . [his assistant asks "what about tipping off Yurovich"] If I ever need surgery, get me the heart of an arb like Yurovich, it's never been used . . .

In other words, Gekko is basically looking for information – he wants enough control to get “inside” to see if the “books are cooked.” He is working with the arbs, taking quick positions. Meanwhile, Bud has been looking at the tombstone ads on the wall commemorating Gekko’s deals. But Gekko is *not* Boesky – that’s “Yurovich,” another Russian name, whose “heart [has] never been used.”

Bud tries to sell Gekko a deal, but Gekko is not buying despite Bud’s claim that “the breakup value is twice the market price.” Gekko says, “not bad for a quant, but a dog with different fleas.” In other words, Gekko is not interested in creating value from restructuring, but in information – “come on, tell me something I don't know.” Bud blurts out “Bluestar Airlines.” He starts out with fundamental information about the company (“a comer. 80 medium-body jets. 300 pilots, flies northeast, Canada, some Florida and Caribbean routes... great slots in major cities”) but Gekko says “don't like airlines, lousy unions.” Then Bud spills the beans he just got from his father the airline mechanic: “There was a crash last year. They just got a favorable ruling on a lawsuit. Even the plaintiffs don't know.”

Now that Gekko sees Bud can be of some use, he invites him to lunch and then to racketball, where, after learning that he has lost money on one of Bud’s recommendations, Gekko says, “the most valuable commodity I know of is information.” Later, in the locker room, Gekko says:

Don't count on Graham and Dodd to make you a fortune, everybody in the market knows the theory, ever wonder why fund managers can't beat the S&P 500? 'Cause they're sheep - and the sheep get slaughtered. I been in the business since '69. Most of these high paid MBAs from Harvard never make it. You need a system, discipline, good people, no deal junkies, no toreadores, the deal flow burns most people out by 35. . . . I got twenty other brokers out there, analyzing Charts. I don't need another one.

Bud assures Gekko that “I'll go the extra yard for you.” Gekko says, “you want one more chance? Then stop sending me information and start getting me some.”

By this time we know that Gekko makes money by finding out things other people do not know, sometimes by illegitimate means. In explaining his philosophy, Gekko puts down the value of what the Milkens of the world do. Gekko is skeptical whether you can make money from restructuring – creating a “dog with different fleas.” Gekko’s criticism of the traditional Wall Street model is subtle but misleading. He correctly notes that fund managers are “sheep” and therefore cannot beat the S & P 500. There is solid evidence, well recognized in Gekko’s day, that stock markets cannot be beaten by the sort of research a typical mutual fund manager does.²¹ Moreover, Gekko, like Milken, rejects traditional valuation theories, like that of Graham and Dodd. But Milken made money not just by having more information, but by finding a new way of creating value. Gekko draws the very different conclusion that you cannot create value, you can only get more information than the “fund managers” have.

But the film does seem to give Gekko a chance to prove himself. The film presents both dark and light sides of Gekko, and very briefly leaves us wondering which is more accurate. This is an effective rhetorical device: by presenting both sides, the film at least gives the impression of reaching a reasoned judgment rather than simply drawing a cartoon.

The good Gekko picture is presented at the Teldar Paper stockholders’ meeting. Cromwell, the incumbent manager tells the shareholders their

company. . . is under siege from Gordon Gekko. Teldar Paper is now leveraged to the hilt, like some piss poor South American country...instead of using our cash to build plants, build our business, all this man really wants is to get paid to withdraw his tender offer and that will cost us approximately another \$200 million in greenmail which will be passed on to the consumer. . . . The original fundamental reason for Wall Street was to capitalize American business, underwrite new business, build companies, build America. The "deal" has now succeeded goods and services as America's gross national product and in the process, we are undermining our foundation. . . . Greed and speculation have replaced long-term investment. Corporations are being taken apart like erector sets, without any consideration of the public good.

Gekko takes the floor and states his case:

[L]adies and gentlemen, we're not here to indulge in

²¹ Michael Jensen, *The Performance of Mutual Funds in the Period 1945–64*, 23 J. FIN. 389 (1968).

fantasies, but in political and economic reality. America has become a second rate power. Our trade deficit and fiscal deficit are at nightmare proportions. In the days of the 'free market' when our country was a top industrial power, there was accountability to the shareholders. The Carnegies, the Mellons, the men who built this industrial empire, made sure of it because it was their money at stake. Today management has no stake in the company. Altogether these guys sitting up there own a total of less than 3% and where does Mr. Cromwell put his million dollar salary? Certainly not in Teldar stock, he owns less than 1%. You own Teldar Paper, the stockholders, and you are being royally screwed over by these bureaucrats with their steak lunches, golf and hunting trips, corporate jets, and golden parachutes! Teldar Paper has 33 different vice presidents each earning over \$200,000 a year. I spent two months analyzing what these guys did and I still can't figure it out. . . . The new law of evolution in corporate America seems to be 'survival of the unfittest'. Well in my book, you either do it right or you get eliminated. Teldar Paper is doomed to fail. Its diversification into casualty insurance has not worked. Its crown jewels are its trees, the rest is dross. Through wars, depressions, inflations and deterioration of paper money, trees have always kept their value, but Teldar is chopping them all down. Forests are perishable, forest rights are as important as human rights to this planet, and all the illusory Maginot lines, scorched earth tactics, proxy fights, poison pills, etc. that Mr. Cromwell is going to come up with to prevent people like me from buying Teldar Paper are doomed to fail because the bottom line, ladies and gentlemen, as you very well know, is the only way to stay strong is to create value, that's why you buy stock, to have it go up. . . . [I]t's you people who own this company, not them, they work for you and they've done a lousy job of it. Get rid of them fast, before you all get sick and die. I may be an opportunist, but if these clowns did a better job, I'd be out of work. In the last seven deals I've been in, there were 2.3 million stockholders that actually made a pretax profit of \$12 billion. . . . I am not a destroyer of companies, I am a liberator of them. The point is, ladies and gentlemen, greed is good. Greed works, greed is right. Greed clarifies, cuts through, and captures the essence of the evolutionary spirit. Greed in all its forms, greed for life, money, love, knowledge, has marked the upward surge of mankind – and greed, mark my words -- will save not only Teldar Paper but that other malfunctioning corporation called the USA. . .

The speeches at this meeting present the arguments on both sides of the LBO-restructuring debate. The incumbent managers say they want to create long-term value, unlike the greedy speculators.

Gekko is an interloper (Cromwell even uses the line “have you no sense of decency,” Judge Welsh’s famous ejaculation in the Army-McCarthy hearings). But the managers are also portrayed literally as “fat” cats (the script describes them as “bulky”) wasting shareholder resources on diversification just like the conglomerate mergers that Milken sought to undo, preserving a doomed business model, their takeover defenses as useless against the crusading Gekko as were France’s Maginot line against the heroic Allied forces in World War II. Teldar is a classic example of the separation of ownership and control – the managers own nothing, the shareholders own it all.

The next episode in the film’s analysis of Gekko comes when Gekko buys into a steel company that Bud learns is also being bought by Wildman, Gekko’s British nemesis with whom Gekko has tangled before. In a confrontation in Gekko’s place in the Hamptons, Wildman tells Gekko that he is going to invest for the long term. So we see that takeovers can be good if done right. But the dominant theme of the scene is how two big egos face off to manipulate the stock of a company, a battle in which the other shareholders, employees, and everybody else do not matter. Stone says in the DVD documentary that he wanted to show “how stocks are manipulated for big money.” Gekko and Wildman quickly throw dollars around as if they are bidding for an object at an auction (for comparison, there is an art auction scene later in the film), and Gekko finally agrees to bow out of a fight he know he’ll lose, justifying Wildman’s epithet of “greenmail artist.”

Gekko is still looking pretty good when Bud later apparently sells him on a Wildman-type plan to buy Blue Star and turn it around. The plan involves taking \$75 million out of over-funded pensions and negotiating down the unions, for which Bud can use his father’s influence. Bud lays out the plan at a meeting at his apartment with union representatives whose support he needs. Bud and Gekko’s plan is to save the airlines with inventory management, advertising and expansion of hubs to compete with the majors. Gekko says:

You got losses of 20 to 30 million dollars, dividends cut to zero, you're getting squeezed to death by the majors. Present management may not be the worst scum of the earth, but they're the ones who've put you on a kamikaze course, and pretty soon everybody's going to be scrambling for the parachutes. Only there aren't enough to go around. Management has them. You don't. If they throw Bluestar into Chapter 11--which I think they will—then they can use bankruptcy laws to break your unions and your contracts and throw you guys off the property.

Carl, however, warns his colleagues:

The rich have been doing it to the poor since the beginning of time. The only difference between the Pyramids and the Empire State Building is that the Egyptians didn't have unions. I know what this guy is about--greed--he's in and out for the buck and he don't take prisoners.

Carl says that the present management "built this company up from one plane in thirty years, they made something out of nothing," compares Gekko to a "rat," and stalks out of the apartment. Bud follows him, calling him "a jealous old machinist who can't stand that his son's become more successful than himself." Carl says "What you see, son, is a man who never measured success by the size of a man's wallet." (Martin Sheen explained in the DVD documentary that when he shouted the word "wallet," he intended to evoke George C. Scott, the venal promoter in *The Hustler*, when he said to Eddie, "you owe me MONEY.") The argument spills out onto the street, and Carl concludes: "I don't sleep with no whore and I don't wake up with no whore. That's how I live with myself, Buddy. I don't know how you do." This is the other side of Gekko's high-minded criticism of incumbent managers at the Teldar Paper meeting.

Carl's warning soon proves accurate, as Bud learns that Gekko plans to liquidate the airline, sell the planes and gates and give Gekko a fat profit by cashing in the over-funding of the pension plan (which seems ludicrous in light of modern events). Bud stumbles into a meeting to which he had not been invited. The script says the meeting has "three lawyers, two investment bankers, three commercial bankers, sleeves rolled up, ties askew. A blackboard with Bluestar's assets diagrammed." In other words, the money men are carving up the company. Investment Banker says "Gekko's got 12%. Everybody on the street knows the stock's in play. By next week the street's gonna own Bluestar and management won't be able to do anything but poison their own pill. Our firm's gonna guarantee 25% of the total debt structure in long-term junk bonds, now you guys either sign this piece of paper right now or we're gonna pull and head for another bank for the 75."

Commercial Banker says that 30 banks are "ready to participate in a 4 year revolving credit line but we have to have your assurance to pay back most of the loan in the first 6 months, and the only way we can see this happening is liquidating the hangars and the planes."

Investment Banker says, "no sweat. We already got the Bleezberg brothers lined up to build condos where the hangars are, we can lay off the planes with Mexicana, who are dumb enough to buy 'em and Texas Air is drooling at my kneecaps to get the slots and the routes. What's the problem? it's done." After somebody hands

him “the price tag on the 737s, the gates, the hangars, the routes, we got it all nailed right down to the typewriters,” Investment Banker says, “course the beauty of it is the over-funded pension fund. Gekko gets the 75 million in there. Fifty million buys him the minimum annuities for 6,000 employees and he walks away with the rest. All in, he'll net 60 to 70 million. Not bad for a month's work. Now he'll really start believing he's "Gekko the Great."

Meanwhile, according to the script, “Bud sits there numbly, a sickening feeling taking hold of him as the camera and music track and trap him tighter and tighter. The lawyers' voices distorting in the background.”

This scene paints a rather muddled picture of what is going on at Blue Star. Since Gekko owns only 12%, it is not clear how “Gekko the Great” is going to end up walking away with the over-funding of the pension. Also, who is running the airline? Apparently Bud is president, but how? Who elected Bud? And who are the other managers? Are they still calling the shots? Blue Star still has a poison pill, but it seems to be a much less effective form of this device than we usually see. The “investment banker” seems to be in charge and is engaging in an unusual financing strategy – a “junk bond” “guaranteed” by the investment banking firm for 25%, while the banks are going to loan the rest of the debt structure. Not only are these not really “junk bonds,” but it's not clear how the investment banker got into this deal, since Gekko owns 12% and the “street” is going to own the rest.

Most importantly, why is the airline being liquidated? Apparently the assets are being sold to pay debt that the airline has not even incurred. In other words, the banks are loaning the money *in order for* the airline to be liquidated. This makes no sense. In an LBO the money loaned the company provides for its *continuation* under more disciplined management. But the sleazy atmosphere at the “carve up” meeting, and Bud's reaction to it, are all the audience needs to know as the film reels relentlessly on, forestalling any opportunity for financial analysis. For example, although I have been teaching corporate law for thirty years, much of the above never occurred to me through several viewings of the film until I sat down and read the script.

Bud confronts Gekko at his office with what he has learned, and asks him, “why do you need to wreck this company? If these people lose their jobs [they have] nowhere to go. My father worked at Bluestar for twenty-four years. I gave 'em my word.” Gekko eliminates any doubt we might have about him, along the way revealing the film's Marxist disdain for capitalists, when he responds:

[I] t's all about bucks, kid, the rest is conversation. Buddy, it's not a question of enough. It's a zero sum game, sport. Somebody wins and somebody loses. Money itself isn't lost or made, it's simply transferred from one perception to another. Like magic. That painting cost \$60,000 10 years ago. I could sell it today for \$600,000. The illusion has become real. And the more real it becomes, the more desperately they want it. Capitalism at its finest. The richest one percent of this country owns half the country's wealth: 5 trillion dollars. One third of that comes from hard work, two thirds of it comes from inheritance, interest on interest accumulation to widows and idiot sons and what I do -- stock and real estate speculation. It's bullshit. Ninety percent of the American people have little or no net worth. I create nothing; I own. We make the rules, Buddy, the news, war, peace, famine, upheaval; the cost of a paper clip. We pull the rabbit out of the hat while everybody else sits around their whole life wondering how we did it. You're not naive enough to think we're living in a democracy are you, Buddy? It's the free market.

Now that Bud knows right from wrong, he knows what he should do. He has an emotional hospital reconciliation scene with his father, who has just had a heart attack, telling him "you're the only honest man I know." He breaks up with Darien and the materialism she represents. Then, pretending to play along with Gekko, Bud makes a deal with Wildman in which Bud first runs up the price of Blue Star, and then threatens sabotage of the airline unless Gekko gives them an "iron clad agreement." When Gekko predictably refuses, the union pulls out, sending the stock plummeting. Gekko takes his losses, only to learn that Wildman has bought the company at a reduced price.

Though the "good" takeover artist has won the company, the evil of takeovers has left it doubtful whether we should tolerate any member of the breed. Moreover, the plot is carefully devised so that this is no victory for the market. Wildman does not win because he is the highest bidder, but because he, Bud and the unions manipulated the market.

So let us take stock of the differences between the film's narrative and the one described in Part I. The film sees Gekko as a greedy destroyer of companies and jobs, a parasite rather than a creator, a manipulator and abuser of inside information, and a winner in life's zero sum game. A plausible and at least equally compelling story could be constructed from the real events on which the film was based. In this alternative narrative, Gekko is the brilliant hard-working outsider who figures out how to create billions of dollars of value out of moribund companies, who crashes through barriers

elaborately constructed by greedy and complacent managers and the politicians who serve their interests, and who is finally undone by these interests and by his competitors by being unfairly tarred and jailed as an insider trader. In other words, the filmmakers have chosen to tell one of several possible stories.

Apart from the details of Gekko's deals, the movie taints Gekko by tying him, directly and through Bud, to immoral insider trading, just as regulators sought to do with Milken and others like him. Many of Bud's actions, such as tracking Wildman to see what he is up to, are perfectly legal. But Bud also does a couple of troubling things – the tip from his father about the Blue Star litigation, and buying information about deals from his lawyer friend, similar to Boesky's alleged deal with Levine. Even these activities may not have been illegal at the time. Carl was acting innocently and probably not breaching a duty to the company. The deal with the lawyer involves a kind of theft of information from the lawyer's client, to whom the lawyer owes a duty of confidentiality, but that might not have been a breach of federal law until well after the film was made. But the film deliberately obscures these subtleties about right and wrong by wrapping all of Bud's efforts to get information in a shroud of moral questionability. For example, Lou tells Bud, "you can't be a little bit pregnant." Gekko buys the stock through "offshore accounts," thereby indicating that he has something to hide.

B. THE TECHNIQUE BEHIND THE STORY

In addition to convincing us of Gekko's evil and Carl's and Lou's rightness, the movie wants to show us how the forces of evil can seduce innocents like Bud over to the dark side by the force of Gekko's personality, and the allure of quick money and what it can buy. As Michael Douglas describes it in the DVD documentary, "how do you get off the money go round"?

The film combines script, editing, music, photography to portray the Wall Street world as a feeding frenzy, beginning with the opening titles. As the script says:

The morning rush hour crowds swarm through the dark, narrow streets like mice in a maze, all in pursuit of one thing: MONEY. . . We hear the ROAR of the trains pulling out of the station. Blurred faces, bodies, suits, hats, attache cases float into view pressed like sardines against the sides of a door which now open, releasing an outward velocity of anger and greed, one of them BUD FOX. [Bud enters the elevator.] . . . The elevator finally comes to a slow stop... They wait, plead, beg, screech with the eyes. The door at last opens.

None of them acknowledging each other, they all stampede out the door with an audible gasp of release, a collective sign akin to making it to a urinal after a punishing wait. . . [In the office] Brokers mill by their desks, gulping coffee, scanning the papers, the quotrons. The digital clock by the big board counter clicks to 9:26 am -- four minutes until the market opens. You can smell the hunger.

In the brokerage firm

the room rises to a subtle but new energy level with the clatter of the ticker, speakers, teletype machines, newsprinters' Dow Jones and Reuters, phones ringing off the hook. Brokers are shouting orders, running for tickets, dodging each other; it's a controlled riot.

Later we see a similar frenzy in the pursuit of money as we follow a runner on the floor of the American Stock Exchange:

[H]e weaves through a crush of traders crammed around horseshoe-shaped kiosks, cathode-ray tubes slung above them, displaying the latest prices in bright, green letters and numbers. Intermittent shrieks and howls, calls to buy and sell, issue from the far reaches of the labyrinthian room.

Bud is seduced into Gekko's world by both Gekko himself and the allure of big money. He tells his father he needs more money despite his good income because "I gotta live in Manhattan to be a player, Dad." Bud lives in an expensive but cramped Manhattan apartment, desperate for more.

When Bud finally uses Cuban cigars to buy access into Gekko's office, he sees his paradise:

Furnishings in hypermodern gray and black lacquer, Modern Art ranging from black field paintings by Ad Reinhardt to the smashed dishes of Julian Schnabel. Nautilus equipment, hi-tech gadgets are in evidence, including a splendid Howard Miller World Time Clock, and a world map. . . [Gekko] dressed in a custom English suit. . . attached to his blinking 130 line silver-plated telephone.

And then there's Gekko's personal power. In the first scene in Gekko's office

"tombstones" from the Wall Street Journal commemorating Gekko's successful deals. . . hang like scalps from the walls. Gekko. . . has genuine charm in his manner and though ultrafast verbally, projects calm and confidence at the center.

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A man who obviously loves what he does, to some small degree is flashing his stuff for the outsider.

When Gekko asks Bud to “tell me something I don't know” and Bud “blurts” out “Bluestar Airlines,” the script says, “[t]he camera moves on him now, sudden, more intense, in a sense *trapping him* (emphasis added).” Back at the office, immersed in the rat race of petty trading, Bud gets a call from Gekko to buy Bluestar. “The camera tracks around and in on him climactically as the Music Theme rises to *ensnare him* (emphasis added).”

In a West Side bar, Bud overhears, “Marty Wyndham. netted \$650,000 out of that merger. 26 years old, the guy's Rambo. Got himself a Porsche Turbo Cabriolet about 75 thou, got a house in Westhampton, penthouse on Second Avenue, gets up at 2:30 in the morning, he's in the office at 4, guy never sleeps.” Bud tries to pick up a classy woman at the bar, but she ends up leaving with a man who, according to the script, “looks as if he stepped out of the pages of GQ.”

The Blue Star tip comes through and Gekko invites Bud to 21 for lunch, gives him a million dollar check to trade with and an admonition to “buy yourself a decent suit.” That night Gekko sends a beautiful woman to Bud's apartment and in a limousine they have drugs and sex while talking about stocks. The next morning, the script says, Buddy, “in an obviously new Mort Sills suit,” struts past the receptionist desk.

Bud visits Gekko's Hamptons house, with its “immense slanted ceilings, a vast clean modern space filled with dozens of contemporary art objects, junk sculptures, floor to ceiling windows radiating light.” There Bud sees the woman he had tried to pick up in the bar – the beautiful Darien (spelled like the suburb), played by Daryl Hannah, an interior designer who instructs him in the art and real estate he could buy if he makes the right business moves. As Gekko tells Bud, “I'm gonna make you rich enough you can afford a girl like Darien.” Darien will be expensive, as she later tells Bud that she only wants “a Turner, a perfect canary diamond, a Lear jet, the best of everything.”

After Bud makes a wrong call on a stock, Gekko calls him to his club, pummels him in an exhausting game of racketball, and tells him how he bought his way into this bastion of Ivy League types despite being a City College boy:

Most of these high paid MBAs from Harvard never make it. . . . Give me PSHs -- poor, smart and hungry. And no feelings. You don't win 'em all, you don't love 'em all, you keep on fighting, and if you need a friend, get a dog, it's trench

warfare out there sport. . . . Money never sleeps pal. When I came in in '69, they traded six hours a day, now the clock don't stop, London's deregulated, the Orient is hungrier than us. Just let the money circle the world, sport, buying and selling, and if you're smart it comes back paying.

In keeping with the ambiguity about Gekko that persists until the end, we are meant to admire his hard work and persistence, the fact that he is a social underdog, an example of social mobility. At the same time, we are wary of Gekko's will to dominate and ruthlessness. By the end, the film will tell us which aspects of Gekko's character are most important.

In a scene in Gekko's limousine, the camera is set up inside the car, creating a claustrophobic environment, similar to the earlier tight shots in which Bud was "trapped" and "ensnared." Gekko tells Bud to follow his adversary Wildman and find out what he is doing. Bud thinks that would be illegal inside information, although that is clearly not the case – it is not stolen and does not come from an insider tip. But whatever the law, we are meant to think that Bud is being sucked into a downward moral spiral ("inside information," Gekko says, "you mean like when a father tells his son about a court ruling on an airline?"). Gekko tells Bud that this is what he has to do to get really rich, to avoid dying young and poor like Gekko's father. Then he drops Bud off, telling him: "when it comes to money, sport, everybody's of the same religion." Bud knows he has to decide on his true religion. As Gekko is about to drive off, Bud says, "all right, Mr. Gekko, you got me." We know that Bud has gone over to the dark side.

Bud gets information from tracking Wildman, Gekko buys into a Wildman takeover and gets to greenmail the stock back to Wildman for a profit. With Gekko's business, Bud gets the window office and a million dollar Upper East Side apartment overlooking the Park with two walk-in closets, health club on the roof, and wood floor. In a montage, Darien decorates the apartment in what she calls "the demolished look," "already ahead of its time." The music is the Talking Heads' *This Must Be the Place*:

Home is where I want to be/Pick me up and turn me round/I
feel numb - burn with a weak heart/(So I) guess I must be
having fun/The less we say about it the better/Make it up as
we go along/Feet on the ground/Head in the sky/It's ok I
know nothing's wrong.

The script describes the music as "geared to speed, money, triumph and just plain material fun."

But the film tells us that Bud has sold his soul for a mess of

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porridge. As alluring as he might think this world is, it is filled with superficial people and things. At Gekko's Hamptons house we overhear some of the conversation:

there I am in St. Kitt's in my new Kamali leopard skin V-cut bikini which is going to turn back the clock on our marriage five years, you know what I mean, and I can't even fit into it, my skin's all pink and inflamed, and I look like a walking social disease all because this Ukranian bitch botched the wax on my bikini line . . . So, I had to sit around the beach wearing a moo-moo for 10 days, my whole vacation ruined..

At home with the Gekkos is also not a picture of family values. We have a scene outdoors with wife Kate (Sean Young) and son (played by Oliver Stone's son). Kate says,

it's so tough to get into a good nursery school now. They even visit your home to make sure your paintings and furnishings are acceptable. [It costs] \$5,000 just for the tuition (Talking to the au pair) play with him till he gets tired. We're going out tonight but we like to see him at, let's see, six; give him a bath and put that cute little black suit on him. (to Bud and Gordon) Black clothes are the newest things, so chic and milk stains, carrot juice stains just don't show up. Kids -- boy, can they take it out of you! (and son is dragged off screaming).

Even at the height of his glory, in his new apartment, with his beautiful decorator, Bud broods "Who am I?" When Darien asks what makes him tick, he says "fear. The fear of being poor."

In the end, it all comes crashing down. Bud finds out that Gekko was planning to sell out the airline, and breaks with Darien, who has learned her own truth from Gekko that "you and I are the same, Darien. We're smart enough not to buy into the oldest myth running: love – a fiction created by people who got nothing to keep them from jumping out of windows."²² Bud has his dramatic hospital scene with Carl.

Bud is arrested for insider trading and led out of his office by federal marshals, in handcuffs, weeping and disgraced. This scene deliberately evokes the highly publicized scenes involving Giuliani's arrests of three arbitrageurs, Timothy Tabor, Richard Wigdon and Robert Freeman, in February, 1987.

In the denouement, Charlie meets Gekko in Central Park wearing a wire in an attempt to get Gekko to incriminate himself,

²² In the film, we never know what happens to Darien. But in the script, Darien leaves Gekko and is with Bud in the last scene at the courthouse, promising to wait for him.

like Boesky did with Milken in real life. The FBI assures Bud that he “did the right thing.” The film ends with Bud on his way to the courthouse, apparently to be sentenced. Carl consoles him: “You told the truth, you gave the money back. It's gonna be rough on you but maybe in some screwed up way, that's the best thing that can happen to you – stop trading for the quick buck and go produce something with your life, create, don't live off the buying and selling of others.”

In the final shot, according to the script the camera lifts “past the Federal Building²³ to a panorama of Wall Street in all its icy magisterial splendor...and thus ends our tale.”

III. CHOOSING THE NARRATIVE

The above discussion shows that *Wall Street* is far from a straightforward historical account of its era, but a very deliberate decision by the filmmakers, particularly Oliver Stone, to tell a particular story. What accounts for the filmmakers' narrative choices? This Part presents three possibilities: the personal background of the main storyteller, Oliver Stone; the need to tell a compelling cinematic story; and incentives arising from the filmmaking process.

A. OLIVER'S STORY

Wall Street reflects the artistic vision of Oliver Stone, its director and co-writer. Before *Wall Street*, Stone had had major success with his screenplay for the 1983 *Scarface* and his first two films as director, *Salvador* and the highly acclaimed *Platoon*, which won four Academy Awards, including best picture and best director.

Wall Street most closely resembles *Platoon*, to the point that it could almost be considered a Wall Street version of Vietnam. Both films featured a young man played by Charlie Sheen, torn between multiple role models – in *Platoon*, the good and bad sergeants, and in *Wall Street* Gekko and Carl Fox. *Wall Street* and *Platoon* also both had the actor John C. McGinley in similar supporting roles as a person with clearly the wrong values.

Moreover, both *Wall Street* and *Platoon* were very close to Stone's personal story, in both cases with Charlie Sheen as his alter ego. *Platoon* shows Sheen/Stone as a privileged young man confronted with the horrors and choices of war, obviously reminiscent of Stone's experience as a decorated Vietnam war veteran. *Wall Street* had three father characters, all clearly modeled after Stone's father or suggesting Stone's relationship with his father.

²³ Actually, the shot is of the New York state court.

Lou Mannheim, the old-line broker, uttered aphorisms similar to those Stone says in the DVD documentary were characteristic of his own father Lou, also a stock broker, to whom *Wall Street* was dedicated. Gekko battles for Bud's loyalty with Bud's real father in the movie and in real life, Carl Fox/Martin Sheen.

Stone's relationship with his father, his Vietnam experience and the themes do not fully explain all of *Wall Street*. But given the then-current interest in takeovers and insider trading, it is not surprising to see Stone's concerns translated into the setting of the high-stakes takeover game. However, because there are alternative specific scenarios that might have played out in this general setting, it is worth exploring other possible influences.

B. DRAMATIC IMPERATIVE

Even if Stone had personal reasons for wanting to make a film about Wall Street, takeovers and insider trading, and these personal reasons meshed with the kind of subject that was likely to sell in late 1987, it does not necessarily follow that Gekko would emerge so clearly as the villain. In other words, Stone could have followed several possible paths within the general terrain he had chosen.

It is tempting to use narrative constraints to explain the details of *Wall Street*. As Michael Douglas said in the DVD documentary, the film needed a clear, strong "villain" to cut through the complexities of the takeover business. Similarly, the film needed a good guy for Gekko to contend with, here Carl Fox. For a satisfying conclusion, we needed to know that the good guy won the prize, namely Bud's soul. Stone's personal narrative becomes relevant in producing a natural sympathy for the traditionalists on Wall Street whom Gekko opposes, represented by Lou Mannheim. Moreover, it helps to show how this battle matters to the audience. The battle for Bud's soul might alone have been enough, as long as the audience is convinced Bud is worth saving. But it cannot hurt to increase the stakes. We may care in any event whether Hamlet kills his stepfather, but we care more if we believe that he is fixing something rotten in Denmark. So *Wall Street* gets some of its drama from showing how people like Gekko hurt the working stiffs in the audience. Debating the pros and cons of the market for corporate control is not a prescription for a box office success.

Consider, however, an alternative possible story that would have met all of the above qualifications. Gekko rises from his lower middle class milieu to challenge both the complacent Ivy League types on Wall Street and the venal incumbent "fat cat" managers in executive suites. We could even make Gekko a Jew, contending

against the wasp power structure, just as Milken did (and playing off the fact that Michael Douglas is Jewish). Now we like the fact that Gekko is “poor, smart and hungry,” rather than seeing it as a reason for his nastiness and aggression. Surely supercilious wasps in their private clubs and fat, lazy and devious managers make worthy antagonists. Moreover, the audience cares about the outcome, because the fat cats are ruining their companies and jeopardizing their jobs. In the end, Milken/Gekko meets a tragic end for challenging the status quo when he is jailed for insider trading instead of rewarded for his efforts.

This story has been told. For example, in Martin Scorsese’s *The Aviator* (2004) Howard Hughes bucks the government and the airline industry. Francis Ford Coppola’s *Tucker: The Man and His Dream* (1988) is based on the true story of Preston Tucker (Jeff Bridges) who wants to make the world’s best cars and who allies with capitalist Abe Karatz (Martin Landau), only to be crushed, again by competitors and the government. In Orson Welles’ *Citizen Kane* (1941) the protagonist creates a news empire, and in the same director’s next film, *The Magnificent Ambersons* (1942), an entrepreneur helps create the automobile industry.

The alternative narrative might be too ambiguous to be dramatically compelling – box office considerations for a big money film require a bad guy who is really bad, not a Greek or Shakespearean hero with a tragic flaw. But the alternative narrative is probably at least as compelling as the story *Wall Street* in fact told. As discussed in Part I, Gekko is a somewhat ambiguous character. He gives convincing speeches both at the Teldar shareholders’ meeting and to the union representatives at Bud’s apartment. Bud himself effectively reinforces the latter speech in his fight with his father. We also see the striving and the hunger for success that the audience can identify with. Even in the final scene in Central Park, after we know how bad Gekko can be, he still comes across as a somewhat pathetic figure who has lost his true “son” – his biological son in the film (and in real life) having been shown to be a spoiled brat. Given those aspects of Gekko, he is not a Freddy Kruger who drives the audience’s attention by inspiring its loathing.

In short, Stone intended to make a complex film, not one with a two-dimensional villain. As Stone said in the DVD documentary, he wanted to do “reality,” even though the reality of high finance is not particularly compelling for mass audiences. This may be why the film was so much less successful than *Platoon*, doing only about a third of the box office of the earlier film. While *Platoon*, too, was complex, the audience could readily understand the back story about war and Vietnam. A film about Wall Street probably needed to be simpler than the film was to attract a large audience. Thus, narrative considerations do not seem to be a particularly compelling

explanation for *Wall Street's* perspective.

C. THE ARTISTS' PERSPECTIVE

A final explanation for *Wall Street* lies in the particular view of business shared by those who make films. As discussed in my paper, *Wall Street and Vine*,²⁴ films' portrayal of business reflects the tension between filmmakers and the capitalists who finance them. More specifically, the artists resent that the capitalists on whom they depend demand that the film succeeds by market rather than artistic standards – that they must sometimes compromise their art.

If the artists are expressing resentment against the capitalists, why do the capitalists let the artists get away with it? The reason, in brief, is that even if capitalists do not particularly like this message, it is not worth it to them to alienate the artists even more by refusing to let them smuggle a little of it in as long as this is not likely to hurt the box office. As discussed throughout this paper, there are alternative possible narratives that can play out in a film like *Wall Street*, and these narratives may have roughly comparable dramatic possibilities. The people who finance films are not likely to care whether the anti-capitalist narrative is the one that prevails, as long as it is not significantly less entertaining than the other possibilities.

To be sure, other types of artists also have an anti-capital bias, since under a different economic system they might be able to pursue their art without concern for market pressures. Consider, for example, George Gissing's *New Grub Street* (1891) about an artist who starves because he cannot sell his work. More fundamentally, all artists see themselves as searching for what is important in life rather than for wealth. But filmmakers face qualitatively different problems from other artists in getting funding. While other artists can create as long as they are willing to live uncomfortably, a filmmaker needs money to produce his work. This includes not only directors, but every artist who is responsible for films' intellectual content, including the screenwriters whose scripts go through an assembly line on which they are tweaked for a mass audience.

This anti-capitalist bias is obvious in *Wall Street*, particularly near the end when Gekko says, "the richest one percent of this country owns half the country's wealth," "I create nothing; I own," and "you're not naive enough to think we're living in a democracy are you, Buddy? It's the free market." The DVD documentary reveals that this is a deeply felt message and not just a dramatic ploy. Stone discusses how "companies are bought and sold . . . it should

²⁴ U Illinois Law & Economics Research Paper No. LE05-010, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=563181 (February 27, 2005).

never have been allowed,” about how “many people lost their jobs,” and how the workers can see their jobs sold out from under them like by the shareholders. This process was dramatically portrayed in the boardroom scene Bud stumbles onto, where the creditors and investment bankers are carving up the company.

Was this just a personal view of Oliver Stone? *Wall Street and Vine* discusses more than 150 films that touch on business that consistently portray this anti-capital bias, even where the subject seems far from Wall Street. For example, in *Robocop* (1987), released the same year as *Wall Street*, the evil capitalist creates a crime-infested world that he can police with inhuman robots. *Wall Street* is just one of many examples of the anti-capitalist bias that pervades U.S. films.

IV. POLITICAL IMPACT

Although *Wall Street* was to some extent a product of the anti-takeover and anti-insider trading environment that was beginning to heat up in 1987 at the time it was made and released, it also may have played a role in creating an environment that became increasingly unfriendly to takeovers.

In the year following the film’s release, Drexel and Milken were prosecuted, eventually culminating in the fining and jailing of Milken along with many others in the takeover game, and the demise of Drexel Burnham. Milken pleaded guilty and was sentenced to ten years in jail. The sentencing judge (Kimba Wood) was later nominated to be attorney general, at least demonstrating that the sentence had not hurt her reputation. The public generally thought that Milken got what he deserved for his part in creating the decade of greed. It is hard to say how much of that attitude was based on actual events reported in the media, and how much on the fiction *Wall Street* helped create. Milken was prosecuted not for insider trading, but rather for technical violations of the Williams Act – that is, using Boesky to accumulate non-disclosed positions in target shares. The convictions of the Wall Street arbs whose highly public arrests had served as the model for Bud’s being led off in handcuffs were reversed in 1991.

There were other anti-takeover developments soon after *Wall Street*. John Dingell held hearings in Congress in April, 1988, the ostensible purpose of which was to probe whether Drexel’s employees were getting special deals on high yield bonds through employee partnerships, but whose real purpose was to condemn Drexel’s basic business, and the high yield bond market in general.²⁵

²⁵ See Fischel, Payback at 130-131.

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And, perhaps most importantly, Congress passed 410-0 the Insider Trading and Securities Fraud Enforcement Act of 1988, which increased penalties and fines for insider trading and clarified a civil cause of action for outsiders who trade during insider trading.

Wall Street was not the only thing going on during this period. For example, soon after *Wall Street* was released, Connie Bruck published the best-selling *The Predator's Ball*, which painted an unflattering portrait of Milken and Drexel. Four years later, James Stewart published *Den of Thieves*, dealing with the same subject. All of these may have combined with the vivid portrayal of Gordon Gekko and the battle for Bud's soul to tilt public opinion against takeovers. Public sentiment, in turn, could play a role in determining a political victor if other forces were equally balanced.

V. CONCLUDING REMARKS

Wall Street illustrates what determines a film's message, how this message is delivered, and the influence the message might have. These subjects are important given the significant economic effects of regulation of business. Films have influenced public perception of matters like products liability and corporate social responsibility. It would not be surprising to see a *Wall Street* of the aughts, with a Mike Milken type as a hedge fund manager. The best antidote to regulatory overreaction is an understanding of the popular cultural documents that contribute to the public's understanding, or misunderstanding, of business, and the real economics that these documents obscure.