

January 9, 2014, 1:06 pm

Ex-SAC Trader Was Expelled From Harvard Law School

By MATTHEW GOLDSTEIN and ALEXANDRA STEVENSON

A federal jury will decide whether Mathew Martoma, the former hedge fund manager, cheated when he worked at SAC Capital Advisors, but there's no denying he cheated when he falsified his grades at Harvard Law School some 15 years ago.

In 1999, Mr. Martoma was expelled from Harvard for creating a false transcript when he applied for a clerkship with a federal judge, court papers unsealed on Thursday showed. Mr. Martoma used a computer program to change several grades from B's to A's, including one in criminal law, and then sent the forged transcript to 23 judges as part of the application process.

Then, during a Harvard disciplinary hearing to determine whether he should be expelled, Mr. Martoma tried to cover his tracks by creating a fake paper trail that included fabricated emails and a counterfeit report from a computer forensics firm that Mr. Martoma had created to help conceal his activities.

After Harvard expelled him, Mr. Martoma, who at the time was known as Ajai Mathew Thomas, legally changed his name to Mathew Martoma.

Nearly a decade after he was kicked out of Harvard, federal prosecutors contend, Mr. Martoma carried out one of the largest insider trading schemes while working at Steven A. Cohen's hedge fund. He is charged with using inside information to help SAC avoid losses and generate profits totaling \$276 million

by recommending the firm sell all of its holdings in two drug companies, Elan and Wyeth, in July 2008.

The disclosure of Mr. Martoma's expulsion from Harvard came as a jury of seven women and five men was seated for his trial after two days of selection. Lawyers for the prosecution and defense are expected to deliver opening statements on Friday in a Lower Manhattan federal courtroom. The trial is expected to last four weeks.

It is not clear whether the bizarre twist in the case will ever be introduced into evidence, because Mr. Martoma is unlikely to testify in his own behalf. Negative character evidence can generally be used at trial only to impeach a person's testimony or rebut a line of argument raised by the defense as a potential alibi.

The prosecution argues in court papers that Mr. Martoma's deception is relevant to show that he has the technical knowledge to alter computer files. That could be relevant, prosecutors say, if Mr. Martoma's lawyers seek to argue he never received a copy of a confidential report that discussed problems with a clinical trial for an experimental Alzheimer's drug being developed by Elan and Wyeth.

Prosecutors charge that Mr. Martoma recommended that SAC sell its shares in Elan and Wyeth after receiving the report from a key cooperating witness in the case, Dr. Sidney Gilman, and then flying to Ann Arbor, Mich., to discuss the results of the trial with him.

Mr. Martoma's lawyers at Goodwin Procter, in the run-up to the trial, have raised questions about the government's failure to find any email evidence that Dr. Gilman sent Mr. Martoma a copy of the report. Dr. Gilman, 81, who received a nonprosecution agreement from the government, is expected to testify that he sent the report to Mr. Martoma and discussed the findings both on the phone and when the two men met a few days before SAC began selling the companies' shares.

Prosecutors have conceded they have not found any email evidence to support Dr. Gilman's contention that he sent a copy of the report to Mr. Martoma. But they said Mr. Martoma's pattern of deception at Harvard is "evidence of the defendant's capacity to destroy or fabricate electronic forensic evidence."

Lou Colasuonno, a spokesman for Mr. Martoma, said: "This event of 15 years ago is entirely unrelated to, and has no bearing on, this case." He added that the prosecution, in raising the issue, was trying to "unduly influence the ongoing court proceedings."

James M. Margolin, a spokesman for Preet Bharara, the United States attorney in Manhattan, declined to comment.

When he was at Harvard, Mr. Martoma told the law school administrators that he had falsified his transcript as a joke and did it mainly to impress his parents.

A Harvard Law School spokeswoman said on Thursday that the university had no record of Mr. Martoma's graduating but could not comment further. She could not confirm whether he had attended or was expelled.

In the weeks leading up to the trial, Mr. Martoma's lawyers had sought to keep their client's expulsion from Harvard quiet, arguing the issue had nothing to do with the charges he faces.

But Judge Paul G. Gardephe rejected that argument and in a Dec. 28 decision ordered that the court papers be unsealed. The filings remained sealed until Thursday while Mr. Martoma's lawyers appealed unsuccessfully.

It is not clear whether SAC knew about Mr. Martoma's expulsion from Harvard or the reason he changed his name when he was hired as a health care portfolio manager in 2006. An SAC spokesman, Jonathan Gasthalter, declined to comment.

Erik M. Gordon, a professor at the University of Michigan Law School, said

SAC had to be given the benefit of doubt that it did not know about Mr. Martoma's expulsion. But he said the fact that Mr. Martoma landed a job at SAC would seem to justify the government's contention that the firm has been a "magnet for bad people who do bad things."

To date, eight people, including Mr. Martoma, have been criminally charged with insider trading while working for Mr. Cohen. Except for Mr. Martoma, all of them have either pleaded guilty or been convicted at trial.

The jurors who will sit in judgment of Mr. Martoma come from the Bronx, Manhattan and Westchester and Rockland Counties. They include the chief executive of an apparel and accessory company, and a New York City bus driver.

Some of the jurors have training in law and finance. One juror said she was an insurance underwriter for the American International Group, while another has a law degree and works at the accounting firm PricewaterhouseCoopers. Another juror is an employment and labor lawyer who said his firm's work included internal investigations for corporations related to the Foreign Corrupt Practices Act.

This post has been revised to reflect the following correction:

Correction: January 13, 2014

An earlier version of this article misspelled, using information from court documents, Mr. Martoma's original given name. It is Ajai, not Ajay.

A version of this article appears in print on 01/10/2014, on page B1 of the New York edition with the headline: SAC Trader Falsified His Grades At Harvard.