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Sharlene A. McEvoy
Fairfield University, samcevoy@fairfield.edu

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TEACHING LEGAL PRINCIPLES BY USING THE MOVIE
“TREASURE OF SIERRA MADRE”

by

Dr. Sharlene A. McEvoy*

*Dr. Sharlene A. McEvoy is a Professor of Business Law at the Charles F. Dolan School of Business Fairfield University, Fairfield, CT

ABSTRACT

The 1948 movie “Treasure of the Sierra Madre” can be a useful tool for teaching legal principles. This paper analyzes the movie and offers suggestions for using the film in a business law class in exploring such concepts as employment law, contracts, partnerships, and joint ventures.

INTRODUCTION

“Treasure of Sierra Madre”¹ is a story of three men who pursue their dream of finding gold in the mountains of Mexico. There are numerous conflicts that arise among the trio but the film can be viewed on another level: as a primer on the principles of business law.

The principal characters are Fred C. Dobbs (Humphrey Bogart), a middle-aged down-on-his-luck American who finds himself penniless in Tampico, Mexico, resorting to panhandling to buy food and a place to sleep. Little better off is Curtin (Tim Holt) who meets Dobbs while sitting on a park bench where Dobbs offers him a cigarette.

With no place to sleep, Curtin and Dobbs spend the night at a men’s shelter where they overhear Howard (Walter Huston), an elderly down and outer, talk about gold to be mined in the nearby mountains. While he piques their interest by the lure of potential riches, they think little about it because they lack the wherewithal to finance such an expedition.

Dobbs is still panhandling when he meets Pat McCormick (Barton MacLane), who offers him a job on a construction project which will pay \$8.00 per day. Among the men boarding the ferry is Curtin so the men are reunited.

This development presents the first legal issue presented in the movie. Students can be asked to analyze the exchange between McCormick and Dobbs. Clearly McCormick is the offeror and the latter the offeree. The rules of common law contracts apply since this is an employment/services agreement. The per diem payment is low for what turns out to be backbreaking construction work under sweltering conditions. The question to ask is whether Dobbs was under duress when he accepted McCormick’s offer since he had no alternative other than begging to survive. Second, did McCormick misrepresent the nature of the work to lure Dobbs and other desperate men to join the construction crew?

While the work is continuing, Dobbs demands to be paid the money that he is owed. McCormick promises to pay “as soon as the ferry docks.” McCormick tells Curtin and Dobbs that they would have no use for the money while they are still working, that they would only gamble it away.

When the ferry docks, Curtin and Dobbs are not paid. McCormick assures the men that he will meet them later and gives Dobbs \$10.00 to pay for some liquid refreshment after Dobbs admits he is penniless.

Curtin and Dobbs spend considerable time at the bar and have only \$2.50 left after several hours of drinking. McCormick never appears with the rest of the money and the bartender tells them that only the most naïve would believe McCormick’s lies and go to work for him.

The two men are back to where they started: finding a rooming house to spend the night.

Some time later, Curtin and Dobbs stumble upon McCormick and a young woman. He asks “Where have you been keeping yourselves? I’ve been looking all over for you.” The men repair to a bar when McCormick makes more excuses about not being able to pay them. A fight ensues and both men knock McCormick out. Dobbs searches his wallet and takes out the money they are owed. Curtin says that they should leave before the law comes. Clearly, McCormick intended to defraud the men out of their money but students should discuss the illegal means used to collect it.

Shortly thereafter, with their money dwindling, they return to the possibility of prospecting for gold. They find Howard who proposed the idea in the first place. He tells them that they will need more money to buy the supplies they will need for the venture.

Dobbs and Curtin have only \$300 between them and Howard is willing to contribute \$200.00. As they are lamenting their penurious state, a young boy approaches Dobbs

with news that he has won a prize on a portion of a lottery ticket that he had purchased several weeks earlier. Now Dobbs has the money and the men form a partnership. But does their arrangement constitute such a business entity based on a handshake only? Students can be asked to analyze the men's conversation as to whether it meets the elements of a general partnership. The three men are not making identical contributions to this project.

Is this a joint venture since its object is to explore and mine gold? The relationship does not anticipate a continuing business. Of the three men, Curtin is contributing the least. He only has \$150 and admits he knows of gold only what he has seen in jewelry stores and in people's mouths. Howard has \$200 that he is willing to contribute and the knowledge of how to mine gold. His expertise surfaces once the expedition begins. When Curtin and Dobbs misidentify "fools gold", Howard corrects them. He also tells them that gold will be found at the highest elevation but that the camp should be placed several hundred yards away so that if they are discovered, they can say that they are hunters. He also advises them that someone else might come forward with a claim to the land that they are mining. Clearly Dobbs and Curtin are heavily dependent on his knowledge so his value to the enterprise far outweighs the money he has contributed.

Because Dobbs has contributed the most money; his \$150 has been supplemented by his lottery winnings, he has the upper hand in the enterprise.

As Howard had predicted, the search for gold sows the seeds of dissention among those who look for it. The first crack in the relationship comes once the trio has mined several thousand dollars' worth of gold and they discuss whether the "goods" as they refer to it, should remain in a common pool or be split up at the end of each day's work. After some discussion, Dobbs demands, that they split the profits on a

daily basis which requires that each man find a hiding place that will prevent the others from finding his share. When Howard opines that he is the most honest of the three, Dobbs takes umbrage at the remark.

Despite the fact that Curtin pulled an unconscious Dobbs from a mine collapse, he is suspicious of his companions. He says that because he put in the most money he would be well within his rights to demand more of the proceeds. The students should discuss how this business relationship should have been better structured to avoid the conflicts that would inevitably arise. Some of the problems could have been anticipated like whether to divide the results of the work as they mine it or to wait until the project was completed. There is also some dispute among the men about how long to work. What should be the maximum profits from their efforts? Dobbs again takes the most contentious approach. He wants to work for more, while Curtin and Howard would be content with less. Students should be asked if the amount of profits they would seek should have been settled before they began. The prospectors would conduct their exploration and be satisfied once they reached the agreed upon goal.

A more serious threat to the business relationship is one that the partners could not have anticipated. When Curtin goes to a village for supplies, he meet an American, Jim Cody (Bruce Bennett), who asks what Curtin is doing in that part of the world. Curtin tries to minimize his contact with the inquisitive stranger and tells him that they are hunting big game, a claim that Cody does not believe. Despite Curtin's cool attitude, Cody follows him to the camp where the trio try to convince him that they are hunters but Cody determines that they are mining gold. Dobbs demands that Cody leave immediately but is willing to share supper.

Cody wants to become a partner in their exploration but Dobbs resists the idea. Cody makes it clear that he wants no

share of what they have found so far but only what they find going forward.

When the partners retreat to discuss his offer, they discuss three alternatives: Admitting him as a partner on the terms he proposed, rejecting his offer and sending him away, which raises the specter of his telling others about their strike or officials because they have no legal claim, or disposing of him. The latter choice is Dobbs' solution but Howard cautions that the one who does the killing will forever be under the control of the others. The decision is made: All three load their guns to cooperate in shooting Cody until they are interrupted by an attack of bandits. A bullet from the invaders solves the problem of whether to admit Cody as a new partner to this venture.

Eventually the gold strike plays out and the men are eager to cash in their gold which comes to \$35,000 each but Howard insists that they must put the mountain back the way they found it.

Eventually the men leave but are waylaid by natives who want help reviving a child who has been drowned. When Howard succeeds and the child recovers, the natives insist that he stay on but that Dobbs and Curtin can leave. They do so taking with them Howard's "goods" with his reluctant approval.

Curtin and Dobbs get into an argument. When the latter threatens to take over Howard's share and not meet him in Durango as planned, Curtin objects. This scene should prompt a discussion among students as to the duties that partners have to each other. Chief among them is the fact that partners owe each other a duty of good faith (fiduciary) and a duty to act in the best interests of the business. Students should also be reminded that partners are also agents for each other. Clearly Dobbs is in violation of all of those requirements. Dobbs shoots Curtin and takes off with all the gold. Now Dobbs is in possession of everything for which the three had

worked. He plans to go north to cash in but encounters the remnants of the band of bandits who had attacked their camp.

After all their hard work none of the partners have any gold left to redeem and one of them is dead.

The instructor need not show students the entire film. What can be done is to show first the portion of the movie up to the point where Curtin and Dobbs are hired by McCormick for the construction job. Students can discuss the elements of that employment contract and the failure of McCormick to compensate them as agreed.

The next important legal aspect of the movie is the partnership created by the three men. A class project would divide the students into three groups. Each group would represent one of the men to negotiate a partnership agreement. The instructor can review what each partner has to offer to the relationship and ask each group to make the best possible deal for its client. The topics that should be included in the agreement are the following:

- What is each partner's contribution to the project?
How should Howard's expertise be valued?
- How should the proceeds of the exploration be divided?
Should it be divided equally among the three even though Dobbs contributed more money than the other two and Howard has more to offer in the way of expertise?
- Should Howard and Dobbs then enjoy larger shares since they have more to contribute?
- How are decisions to be made? Unanimity or majority rules? In deciding to split the proceeds on a daily basis, Howard was neutral, Curtin wanted to wait until the end but Dobbs wanted the yield divided each day. How should such disputes be resolved?
- What would happen in the event of the injury, death or insanity of one of the partners? Dobbs thought that

Howard was crazy. Dobbs betrayed evidence of mental illness.

Would the remaining partners have a duty to give the deceased partner's share to his family or would the surviving partners just split the goods between them?

There was capital investment made by the partners' tools, lumber, weapons etc. How should those items be distributed once the project ends?

Students should be asked if this partnership agreement needed to be in writing and if any part of the Statute of Frauds is involved. What about admitting a new partner? Usually such decisions require a unanimous vote by the partners. There was no unanimous agreement on allowing Cody into the venture but there was agreement to eliminate the threat that he posed to the project. That decision was illegal. Jim presented a threat to the project after many hours of work involved. What other alternatives might the three men have explored to counter the problem? Could the partners have hired him as an employee to help with the work and compensate him for his labor?

That approach would have ensured that their find would not have been compromised and the partners would have benefited from his services. This would have been a lawful solution to their dilemma. Also, were the three partners put in economic duress by Jim's demand to join them since there was an implicit threat that he might reveal their presence.

Students should also examine Curtin's suggestion that they make Cody a partner posthumously. He proposed giving a quarter share to Cody's widow and child. Dobbs refused to contribute but Curtin and Howard promised to contribute a portion of their "goods" because had Cody not warned them about the bandits' approach, they would have been killed.

CONCLUSION

In teaching legal concepts, films can be a helpful tool to piquing student interest in applying these principles to fact situations. In an adventure movie like “Treasure of Sierra Madre”, the facts are presented in the context of a story of lust for wealth, jealousy and greed.

One of the challenges in instructing 21st century students is that they are a visually-oriented group who respond better to dramatic action than to conventional pedagogy.

Use of film can stimulate discussion among students about the practical problems confronting people who enter a business relationship.

ENDNOTE

¹ Warner Bros. First National Picture NR Running Time 2hrs 6min. 1948.