The Columbia School of Journalism is our nation's finest. They grant the Pulitzer Prize, and their journal, The Columbia Journalism Review, is the profession's gold standard. CJR reporters are high priests of a decaying temple, tending a flame in a land going dark.

In 2006 a CJR editor (a seasoned journalist formerly with Time magazine in Asia, The Wall Street Journal Europe, and The Far Eastern Economic Review) called me to discuss suspicions he was forming about the US financial media. I gave him leads but warned, "Chasing this will take you down a rabbit hole with no bottom." For months he pursued his story against pressure and threats he once described as, "something out of a Hollywood B movie, but unlike the movies, the evil corporations fighting the journalist are not thugs burying toxic waste, they are Wall Street and the financial media itself."

His exposé reveals a circle of corruption enclosing venerable Wall Street banks, shady offshore financiers, and suspiciously compliant reporters at The Wall Street Journal, Fortune, CNBC, and The New York Times. If you ever wonder how reporters react when a journalist investigates them (answer: like white-collar crooks they dodge interviews, lie, and hide behind lawyers), or if financial corruption interests you, then this is for you. It makes Grisham read like a book of bedtime stories, and exposes a scandal that may make Enron look like an afternoon tea.

By Patrick M. Byrne, Deep Capture Reporter
May 4, 2008

The Story of Deep Capture

By Mark Mitchell, with reporting by the Deep Capture Team

Introduction - by Mark Mitchell

I began working on a version of this story in January 2006, while serving as an editor for the Columbia Journalism Review, a publication tasked with upholding the standards of the American media. In November 2006, a hedge fund that was at the center of the scandal I was investigating offered the Columbia Journalism Review a great deal of money. Shortly before CJR accepted the money, I left my job, so I do not know if my editors, whom I believe to be honest people, would have allowed me to persevere. But I have no doubt that the hedge fund's "beneficence" was aimed at preventing the publication of stories like this one.

And it might well have succeeded if Patrick Byrne had not approached me with an idea. Why not combine forces and spearhead a whole new approach to investigative journalism? Most media content is produced by rumpled journalists (i.e., people like me), working alone under tight constraints. Deep Capture *could be something different - a power team circumventing the traditional media and pushing limits to uncover the truth.*

When I entered the picture, this team had already established that a small number of law-breaking hedge funds had put the American financial system at risk of collapse. Indeed, the hedge funds are employing the same tactics that contributed to the stock market crash of 1929 and the Great Depression that followed. If you want to understand the current turmoil in our financial markets, you could do no better than to read the material in Deep Capture: The Analysis*.*

The lengthy (40,000 word) story that follows should help you to understand how - and why — Patrick came to embark on this project. I am the author of the story, and attest to its accuracy, but it benefits substantially from the work of the Deep Capture *team: freelance researchers, bloggers, gonzo computer hackers, economists, and even a one-time foreign intelligence agent.*

Some mainstream journalists will not like this story. They will perhaps disapprove of our methods or decry the advent of vigilante journalism. But most of all, they will not like this story because it is largely about them - *a tale of reporters who seek to be players, but instead become pawns - a tale of prominent journalists who help cover up a massive financial crime while toadying to some of Wall Street's slimiest operators.*

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And it all starts when Patrick Byrne gets a phone call from the Easter Bunny. Really, that's what the guy calls himself - the *Easter Bunny* - and he talks like the Bee Gees on fast forward, a nasally frantic falsetto, on and on about some kind of conspiracy involving big time Wall Street operators, the Mafia, and a bunch of famous journalists. Somebody's got to stop these people, the Bunny says, or the American financial system is going to come crashing to its knees. Also, the bad guys might put a bullet between the Easter Bunny's ears.

Now, Patrick Byrne is just a CEO in Utah — he sells toasters. He doesn't see what this has to do with him, and the Easter Bunny seems pretty weird, so he says, uh-huh, uh-huh, okey-dokey, and thinks maybe he'll hang up the phone and go for a pastrami sandwich.

But the Easter Bunny persists. He says it's a conspiracy, the biggest financial heist in history…look, he says, don't believe it, but he's going to make some predictions–and Patrick can see for himself whether they come true…

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August 12, 2005…the proudest day of Patrick Byrne's life. Some months have past since the Easter Bunny got in touch, and now Patrick is on a conference call with 500 blue chip investors and a few journalists. He tells his telephone audience that he's been talking to this fellow named Bob (which is another Easter Bunny alias), and Bob seems like he lines his hat with tinfoil, he really does, but he's laid out this scheme, he's made some predictions…so everybody please download Patrick's computer generated slide show and follow along from home.

The first slide reads, "The Miscreants' Ball." Patrick says the miscreants are selling billions of dollars of stock that simply does not exist - phantom stock. They have destroyed hundreds of public companies for profit. Some journalists, meanwhile, are "crooked." They're "lickspittles." They are famous journalists and they cover up the miscreants' crimes. They attack all who oppose them. One reporter has been terrorizing a little old lady in Vegas, purported to be the Easter Bunny's mother. Another reporter, she's French — she's been telling people that Patrick is running some kind of criminal cabal out of a gay bathhouse in San Francisco.

And that's not all, follow along please with the slides — they show how the miscreants and the journalists have ties to government agencies and private investigators, maybe the Mafia, and also an arms dealer, an undercover mole, a corrupt law firm, and Eliot Spitzer. There's mention, too, of a "master criminal from the 1980s" — call him "the Sith Lord," like in *Star Wars* - he might be orchestrating all this, and Patrick can't just sit on his hands, he's not cut out for it, it's his black Irish temper, so he's going to say to the Sith Lord, to the miscreants, to the journalists: "Did I stutter? Did I stutter, or did I say I was going to take this fight to you?

"Well, now you know what I mean."

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Patrick is the CEO of Overstock.com and, truth be told, his company sells more than just toasters. It is a discount retail outlet that sells all sorts of stuff - one of the fastest growing companies on the Web and a company that seemed, at least for a while, like it might become a serious competitor to Amazon. But in the time since the "Miscreants' Ball" presentation, Patrick has been better known for his fight against Wall Street - and for embracing something called the Market Reform Movement.

The Market Reform Movement is an uprising born of a new era - when you don't have to be entirely normal to make a positive difference in the world. It is a loose coalition of eloquent ranters and the ingeniously unhinged - internet lurkers, lonely muckrakers, and apocalyptic visionaries. They battled in obscurity for years before Patrick lent a sympathetic ear to the Easter Bunny, who was among the movement's chief agitators.

Note: *Deep Capture* has met the Easter Bunny (who also uses the alias Bob O'Brien) on several occasions. We think he's brilliant, and consider him part of our team, but we maintain a pledge never to ask for his real name because he fears for his safety. Shortly after the Easter Bunny's initial call to Patrick, a clique of journalists with close ties to the miscreants begin a two-year campaign to unmask him. Throughout, they suggest that the Easter Bunny is somehow suspicious - a criminal, maybe. Then, finally, in September 2005, The New York Post publishes the sinister, hot-off-the-presses news that the Easter Bunny is, in fact, a used medical equipment salesman named Phil.

Whatever. The Bunny and his fellow town criers have what is surely the world's largest database of Wall Street malfeasance. Patrick examines their data with an open mind. He lends some structure to their efforts. He funds an expanded investigation. And gradually, he comes to see, clear as day - there *is* a crime. It is a financial heist of monstrous proportions, and Patrick believes it threatens the stability of the American financial system. He decides to fight the criminals.

And then, something amazing happens: the Market Reform Movement goes mainstream. Members of Congress, brave individuals inside the Securities and Exchange Commission, the U.S. Chamber of Commerce, famous trial lawyers, respected economists and recovering stock brokers all reach the same conclusion: hundreds of companies have been victimized by the very crimes that Patrick laid out in his "Miscreants' Ball" presentation - the ones that the Easter Bunny and his band of blogging oddballs have been describing for years.

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The crimes are the work of Wall Street hedge fund managers and brokers who engage in a common trading strategy known as short-selling. A short sale is a way of making money when the price of a stock goes *down*. You borrow shares from someone else and immediately sell them off. If the price drops, you buy the shares back and return them to the original owner, pocketing the difference. If a company goes out of business, short-sellers hit the jackpot.

This is perfectly legal and unobjectionable. But some short-sellers do not play by the rules. A small group of powerful hedge fund managers stop at nothing to annihilate the companies they sell short. Their tactics include: blackmail, smear campaigns, espionage, fraud, harassment, extortion, bribery, rumor-mongering, sabotage, off-shore money laundering, political cronyism, frivolous lawsuits, witness tampering, biased financial research, false identities, bogus credit ratings, bribery, libelous blogs, bad science, forgery, wiretapping, counterfeiting, collusion, lying, cheating, threats and theft.

Their most egregious trick is to sell "phantom stock." By exploiting a glitch in Wall Street's computerized trading system, and a loophole in federal regulations, some hedge funds sell virtually unlimited amounts of stock that they have not yet borrowed or purchased. This is often referred to as "naked short selling." Hedge funds use this tactic to flood the market with supply and drive down prices - which is blatantly illegal.

Patrick has written a blog explaining how this works in laymen's terms. An economist has written a detailed history of "failures to deliver" (i.e. stock sold and not delivered, because it is phantom stock) for *Regulation* magazine, published by the Cato Institute. A former SEC Chairman has spoken extensively against the problem. Many other researchers, several professors, a former SEC economist, and a former deputy secretary of commerce have also written papers on the subject. If you are interested in the mechanics of the crime, read some of those papers here, here, here, here, here, and here.

But it is enough to know that by the time Patrick gives his "Miscreants' Ball" presentation, the Securities and Exchange Commission has published a list of more than 300 companies whose stock has been sold but never delivered in excessive quantities. In other words, a significant fraction of the stock sold in more than 300 companies is phantom stock. If you think you own shares in one of these companies, the chances are that a broker has sold you air to satisfy a crooked hedge fund client. The computer might say that you own stock, but in reality, you do not.

In addition to the 300-plus companies on the SEC's list, as many as 1,000 companies have already been wiped off the map by illegal short-selling, according to some experts.

Short-sellers' collusive behavior and dubious tactics might have contributed to the demise in March, 2008, of Bear Stearns, America's fifth-largest investment bank. The Chairman of the SEC recently told the U.S. Senate that the SEC is investigating precisely this possibility. The consensus among economists is that if the Federal Reserve had not intervened, the fall of Bear Stearns would have triggered the collapse of the American financial system. Similarly collusive "bear raids" contributed to the great crash of 1929.

SEC officials fail to prosecute the criminals even as they suggest that miscreant short-sellers have put the American financial system at morbid risk.

Clearly, this is a scandal of epic proportions.

Which raises the question: Where the hell is our media?

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February 27, 2006… Herb Greenberg is leaning forward on his stool. His arms are flapping and his eyes are popping. His face has gone hot-purple, stark against the red-blue television glow. It is six months since Patrick's now-legendary "Miscreants' Ball" presentation, and, Herb, the famous journalist, is live on CNBC. He is pretty sure there is a conspiracy. It is a conspiracy to get Herb. Yes, "What's really going on is there's a conspiracy. There's another conspiracy, there is a conspiracy-the real conspiracy, if there is a conspiracy, is a conspiracy…it's aaaall tied to the same thing, this whoooole concept of trying to make sure, make it so *this guy* [Herb] can't do his job anymore."

Sitting next to Herb, nodding in agreement, is Jim Cramer, host of "Mad Money." This program is all that keeps CNBC out of the ratings quicksand, and it is easy to understand its appeal. Cramer is manifestly chimpanzee-like in both comportment and worldview–a fully arresting specimen of unsated mammalian appetition–a self-styled "journalist" who grunts and growls and snorts and says funny things like "Booyah!" while jumping up and down, smashing chairs, and telling people how to make shitloads of money gambling on the markets. Good TV!

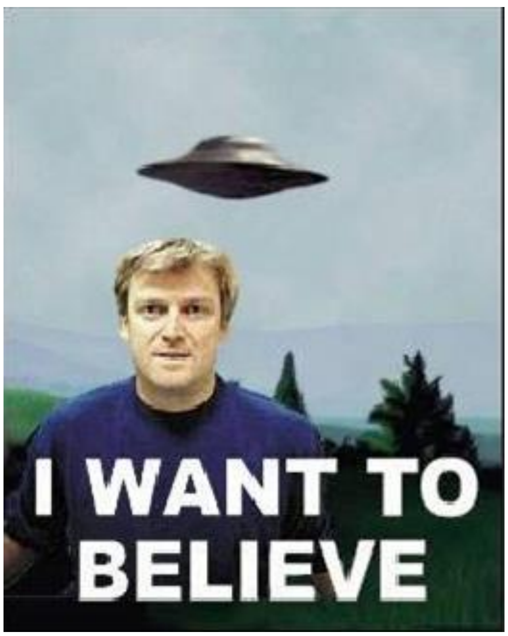
It is impossible to overstate the effect that these characters have had on our public discourse. It is not just that they have propagated a style of "journalism" that sees short-term stock flipping (rather than long-term investment) as the holiest of all business endeavors. It is that close associates of Herb and Cramer have seized control of a vast swath of the American financial media. Indeed, if you have seen a negative story about a public company in recent years, the odds are greater than even that it was written by a friend-of-Cramer.

Many of Cramer's friends are former employees of TheStreet.com, a financial news website substantially owned by Cramer. They have included the editor and top columnists for The Wall Street Journal "Money

& Investing" section, top business writers for The New York Times, reporters at Fortune magazine and BusinessWeek, the editor of The New York Post business page, the editor of MSN Money, and others. Herb, a CNBC commentator and a star columnist for MarketWatch.com, was among the founding editors of TheStreet.com - "Murderers Row," they called themselves.

I have analyzed well over a thousand stories written by this clique of journalists. The vast majority of them were sourced from a small group of short-sellers who are also friends of Cramer. Other popular sources for this group of journalists include convicted felons, mobsters, dubious private investigators, crooked lawyers, hired stock bashers, and gun-toting goons - most of whom are tied to the Cramer constellation of short-sellers.

Some of the stories written by these reporters are accurate enough. But many are not. The journalists misconstrue data with seemingly purposeful intent. They exaggerate and obfuscate. They publish innuendo or merely repeat, *Deus Optimus Maximus*, the words of their hedge fund and criminal friends.A single negative story by one of these reporter-thugs can send a company's stock tumbling by more than 50% — pure profit for their hedge fund sources, who of course sell the company short (often right before the articles are published). Meanwhile, an overwhelming majority of the companies targeted by these journalists will also be the victims of phantom stock selling and other shenanigans. The journalists do not mention this in their stories, and in fact go out of their way to deny that phantom stock exists.



Anyone who says otherwise is subjected to a vicious media smear.

So it was that Patrick's "Miscreants' Ball" presentation provoked a barrage of media coverage. Setting the tone was a next-day story in The New York Post business section, written by Roddy Boyd and edited by Dan Colarusso, formerly of TheStreet.com. The story was accompanied by a large photograph that showed Patrick in a tight t-shirt, arms spread, slightly bug-eyed. Hovering over his head, there was a big, multicolored flying saucer.

Patrick Byrne "is not currently under any psychiatric care," reported the Post, "and [a company spokesman confirmed] he was sober when he gave the presentation."

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Patrick is unfazed. He works tirelessly, criss-crossing the nation, gathering evidence - telling all who will listen that the hobgoblins of finance and their snickering note-takers are destroying companies and putting the American financial system at risk. But these miscreants–they control the airwaves, they've seized control of the whole gosh darn media machine and the message they keep on delivering, unchallenged, over and over, is that Patrick Byrne is an incontrovertible psychopath. They say he's a wacko. They say he's a liar, too. And a creep. A menace. A crook, even! They says his company is the next Enron. Hell, they say, he's got *a nudie bar dancer running the place*!

A nudie bar dancer? Yes, that's what some journalists say. The story first appears in November, 2005, on a blog authored by Jeff Matthews, a former writer for TheStreet.com. Patrick has to go to great lengths to demonstrate that the story is false - that his vice president of marketing is not and never was a stripper.

This, he says, is not to disparage the profession–he's friends with a few "wigglers" and they're all finer human beings than certain New York hedge fund managers and financial journalists.

Which, by February 2006, seems to me an awful lot like wisdom - a view supported, anyway, not only by the noble spirit and perspicacity of your average wiggler, but also by the spectacle that is unfolding live on CNBC.

Herb the famous journalist is yammering about a conspiracy - a conspiracy to get Herb. He is angry. He is perhaps also scared. He is downright *hysterical* because the government is investigating. This investigation will soon be derailed - the victim of cowardice and strange events - but for now, in February 2006, the Securities and Exchange Commission would like to know whether a financial research shop called Gradient Analytics conspired with short-selling hedge fund managers, including a man named David Rocker, to disseminate false information about public companies as part of a scheme to manipulate stock prices. The investigators believe that Jim Cramer and Herb are central to this conspiracy and have issued them both with subpoenas. TheStreet.com got a subpoena, too.

Herb thinks this is an outrage-a conspiracy to destroy Herb. He says he has no special relationship with Rocker or Gradient. Cramer says he's never heard of Gradient and he's met Rocker only once - in a grocery store.

So Herb and Cramer have commandeered the CNBC television network. For several days, the endless lead-ins: Coming Up Next: We'll hear from Herb! Coming Up Next: Herb and Cramer tell the world that Patrick Byrne and his band of blogging freaks orchestrated the "whoooole" thing - the whole government investigation. Patrick Byrne is rich. He's suspicious. He's a menace. He orchestrated the "whoooole" investigation to silence the free press - the free press as epitomized by Herb and Cramer. Coming Up Next: It's an outrage! Coming Up Next: It's a conspiracy!

Coming Up Next: More on this conspiracy.

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Cramer, who is a sociopath, owns TheStreet.com with Marty Peretz, who is an aristocrat. Peretz is also the former editor of the New Republic magazine. He dabbles in high finance and Harvard professing, which has resulted in his entrusting a large portion of his family fortune to a close-knit group of hedge fund managers, several of whom were his students. For example, Cramer was his student. Then Cramer was destitute. He lived in a car with a loaded gun hidden under the seat. Eventually, though, Peretz gave Cramer some money to start a hedge fund, which Cramer managed with celebrated ruthlessness until he resolved to seek spiritual enlightenment as a TV news host.

Cramer had originally planned to run his hedge fund out of the offices of Ivan Boesky. Shortly before he was to move in, however, the feds busted Boesky for insider trading, making him one of the most famous criminals of the 1980s. (This is not necessarily to suggest that Boesky is the "Sith Lord" mentioned in Patrick's "Miscreants Ball" presentation. Some people have wagered that Patrick was referring to Michael Milken, a business colleague of Boesky known as the "junk bond king," who also went to prison in the 1980s. Patrick has since modified the analogy, saying that the crime has multiple masterminds - "like Al Qaeda").

When Boesky went to prison, Cramer worked instead with hedge fund manager Michael Steinhardt. The media portrays Steinhardt as a financial wizard, a deep thinker and an all-around swell guy. The truth is, he's a thug who perfected the concept of trading on privileged information, and pounded it into the heads of his employees. "What's your edge!?" he'd shout, pacing his trading room floor. "What's your fucking edge!?" After one of Steinhardt's tirades, a top employee (and the godfather to Steinhardt's children) had a heart attack. It is said that Steinhardt showed no remorse.

Indeed, Steinhardt has one of the most fearsome reputations on Wall Street. Which is perhaps unsurprising given that Steinhardt's father, Sol "Red" Steinhardt, was a mobster once described by a Manhattan district attorney as the biggest Mafia fence in America. Steinhardt Sr. worked for the Genovese organized crime family, with goons like Meyer Lansky and Vinnie "Blue Eyes" Alo, before he was sentenced to a number of years in Sing-Sing prison.

By Steinhardt Jr.'s own account, the principal partners in his first hedge fund were the Genovese Mafia, Ivan Boesky, Marty Peretz (the aristocrat who funded Cramer), and a man named Marc Rich. Rich is closely connected to Ronald Greenwald, described in the authoritative book *Red Mafiya* as the man who, along with the Genovese family, brought the Russian Mob to America.

In 1983, Rich was indicted for trading illegally with Iran while Islamic revolutionaries were holding the American embassy hostage in Tehran. Along with his associate, "Pinky" Green, he fled to Switzerland. In 2001, Steinhardt, a big-time operator in Democratic circles, convinced Bill Clinton to give Rich a scandalous presidential pardon, but Rich remains in Switzerland to avoid paying his tax bill.

In the early 1990s, Steinhardt shut down his hedge fund after he was implicated in a scheme to corner the U.S. treasuries market - a horrendous infraction with serious implications for the U.S. economy.

So this is a rough crowd. Says one Wall Street trader: "It was the day the bad guys came to town — when Steinhardt and his people arrived."

One of Steinhardt's people is Jim Cramer. Another is Cramer's wife, who was known as the "Trading Goddess" when she worked as Steinhardt's head trader. Maria Bartiromo, a CNBC anchor known as the "Money Honey," is married to the top partner in Steinhardt's newest hedge fund. (A former employee of Cramer's hedge fund has written that Cramer often fed tips to the Money Honey, trading ahead of her stories, and it is rumored that she recruited him to CNBC.)

And then there is David Rocker, the short-selling hedge fund manager believed to be scheming, along with Cramer and Herb, with Gradient Analytics, the financial research shop under SEC investigation in 2006.

Cramer says he's met Rocker only once - apparently while squeezing the grapefruit at some grocery store. But the truth is, Cramer knows Rocker well. Rocker is a former employee of Steinhardt's hedge fund. He worked there at the same time as the Trading Goddess.

And, until recently, Rocker was the largest outside shareholder in Cramer's website, TheStreet.com. Cramer sometimes quotes the hedge fund manager on his television show, and once interviewed him live. Rocker is also a regular writer for TheStreet.com, where he bashes stocks that Cramer subsequently also bashes in multiple stories on both the website and CNBC.

In February 2006, the SEC is investigating Gradient Analytics for disseminating false information about public companies. The agency has affidavits from former employees who say that Gradient's "independent research" is produced by recent University of Arizona graduates who know little to nothing about finance and essentially take dictation from hedge fund managers, including David Rocker.

One of these employees says that Herb conspired with Rocker to hold his negative stories (premised on Gradient's false information) until Rocker could establish short positions. This is called front-running - a jailable offense. It is reasonable to suspect that Rocker had similar relationships with TheStreet.com (of which he has owned a substantial portion) and other media.

Not long before Cramer announced his SEC subpoenas, Rocker sold all of his shares in TheStreet.com. Cramer sold around $2 million of his own shares. If Cramer knew about the SEC investigation before he sold his shares, which was almost certainly the case, he was trading on insider information - another jailable offense.

But Cramer don't know nothin' about nothin'. And Herb thinks the SEC investigation is an outrage. So Herb and Cramer have commandeered CNBC. They are live on CNBC. Herb has jabbered something about a conspiracy - a conspiracy to get Herb.

And now Cramer is going to show us something.

He's pulled out a big, red magic marker. Veins are popping, rope-like, from his bald cranium. And he's snarling. Cramer is actually snarling while he uses the big red magic marker to scribble something on a piece of paper.

He holds the paper up to the camera.

It's…it's his government subpoena…Cramer has *vandalized* his government subpoena! On live TV… in big red letters…

It says, "BULL!"

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Nobody in the media seems bothered by this. To the contrary, the Media Mob rises to Cramer and Herb's defense. For example, Joe Nocera of The New York Times, who is an old friend of Herb, writes a column attributing the SEC investigation to Patrick Byrne's "Campaign of Menace." Wall Street Journal columnist Jesse Eisinger, formerly of TheStreet.com, writes that the SEC investigation violates freedom of speech. He says that Patrick's theories about short-seller crimes make ""Da Vinci Code" look like "Where's Waldo?" Other journalists - along with the Society of Professional Journalists (SPJ) and the Society of Business Editors and Writers (SABEW) — dutifully line up behind the Journal, the Times, and CNBC.

Meanwhile, these journalists continue to use Gradient and Rocker as sources in negative articles. MSN Money's stock rating feature, which gives "buy" and "sell" recommendations to the website's readers, is based entirely on Gradient's analysis. CNBC's stock picking tool also comes from Gradient.

This is pretty appalling given that the journalists have good reason to believe that Gradient produces bogus research. They know that its supposedly "independent" financial researchers are kids who take dictation for Rocker. And they know that Herb and Gradient have been accused of committing serious crimes. They know because they have the affidavits from Gradient's former employees.

A few other key facts, known to many journalists, but so far unreported:

- Cramer claims never to have heard of Gradient, but a former Gradient employee says that Cramer's colleague, Becky Quick, has confirmed in emails and on the phone that "Cramer loves Gradient's research," and that he has requested their research on specific stocks.

- Herb claims to have no special relationship with Gradient, but he had access to its computer system and regularly logged in.

- Herb's research assistant, Brian Harris, spent a significant amount of time working out of Gradient's office. (Herb claims that Harris was trying out for a job there).

- A guy named Jon Markman was for some time running a hedge fund out of Gradient's back office. So-called "independent" research shops aren't supposed to run hedge funds. If Markman was trading in advance of Gradient's research and Herb's stories, as the firm's former employees claim he was, this is yet another jailable offense.

- Markman is one of Herb's close friends. He was, along with Herb, a top editor of TheStreet.com. After that, and prior to starting a dodgy hedge fund in Gradient's back office, Markman was the managing editor of MSNMoney.com (which explains why MSN Money continues to use Gradient's research).

And maybe Herb, Markman, Eisinger, Nocera, Cramer and all the other journalists who think Gradient is a credible source–and who call Patrick Byrne a wacko, a Waldo and a menace–can tell us why at least one Gradient manager has used multiple aliases and IDs to hide his activities.

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There was a time, before Rocker and Gradient came along, that Patrick Byrne was a darling of the financial press. In 2002, Fortune magazine called him "The Renaissance Man of E-commerce". The article noted that Patrick is an admired protégé of celebrity investor Warren Buffett. It added that Patrick has a black belt in tae kwon do, "has bicycled across the U.S. three times, studied moral philosophy at Cambridge as a Marshall fellow, and briefly pursued a career in boxing. Byrne also speaks Mandarin-not to mention four other foreign languages-and translated Lao Tse's Way of Virtue…He has a nearly photographic memory [and can study] a deck of cards for a couple of minutes [and] recite them back, one by one…six months later." Byrne also survived a three-year "bout with seminoma, a cancer that reduced his 6-foot-5-inch frame from 240 pounds to 164…[and left] his body scarred with the marks of 20 surgeries."

There were no short-sellers behind the Fortune story, but short-sellers do often pump stocks up before they trash them. If they take their short positions at a peak price, they make more money on the way down. This might explain why, in December 2003, Cramer couldn't say enough good things about Patrick and Overstock. "We really like this guy," Cramer said on Kudlow & Cramer, the CNBC show he was then hosting. Yes, Cramer was very impressed by Overstock's growth. He said it was a really great company. He said he was gonna go to Overstock.com and buy Mrs. Cramer a Christmas present.

Soon after, David Rocker took his initial short position in Overstock. The first sign that this might affect the media coverage of the company came in January 2004, when Patrick was invited to appear again on Kudlow & Cramer. Only a few weeks had passed since Cramer's initial extolments, but now the mood was entirely different. Now Cramer and his co-host, Larry Kudlow, seemed to be casting aspersions on Patrick's character.

In his quarterly earnings statement Patrick had cited Overstock's gross profits, which had increased nicely. There was nothing at all unusual about this - Patrick also cited net profits and many other figures - but Kudlow and Cramer hinted that it was somehow suspicious, that maybe mentioning gross profits was a slippery thing to do, and maybe Patrick was trying to overstate his success.

"You talk about something called gross profits," said Kudlow, "Why are you - is this a confusion thing, an ambiguity thing, or what point were you trying to make?"

Yeah, said Cramer, "You don't need to….You don't need to - I know that you don't regard that as spin. But…"

Patrick was visibly baffled. "Gross profit is an accounting term," he said. "It's an accounting term…on an income statement…I described each line on the income statement…"

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“You saw what just happened, didn’t you? It was a set-up. This is what these guys do - they try to make CEOs look like they’re cooking the books. It’s pure smear. They take their cues from short-sellers. Watch out, these people don’t mess around. They’re dirty players.”

It’s a Wall Street broker on the phone, and Patrick has just left the studio where he was blindsided by Kudlow and Cramer. He still doesn’t know anything about the Wall Street cabal, but it *was* a strange interview, and he’s had some other warnings.

Like just recently, he got two calls, from two different hedge fund managers. The hedge fund managers told Patrick that one of their brokers, a guy who handles short-sellers’ orders for Bear Stearns, a major investment bank, had sold 300,000 shares in Overstock that he didn’t have - phantom shares. The broker registered the sale on his computer - which created a sort of I.O.U. - but he had no intention of finding real shares to buy or borrow and then deliver to the purchaser.To justify this action - and perhaps to put some additional downward pressure on the stock - the broker circulated a rumor that Patrick was using some kind of offshore synthetic instrument to sell his stock while hiding this from the public. This was completely false.

In January 2004, Patrick doesn’t know it yet, but short-sellers are preparing to take down Overstock. Soon, the company will come under attack from multiple directions. Millions of phantom Overstock shares will be sold into the market. And the media - led by Cramer, Herb and affiliated journalists, will orchestrate an unprecedented smear, all the while insisting that phantom stock is not a problem.

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On January 23, 2004, just a few days after Patrick hears about the sale of 300,000 non-existent Overstock shares, Carol Remond, a reporter for Dow Jones Newswires, publishes a story about a recent decision of the National Association of Securities Dealers (NASD). Members of the self-regulating body (later renamed the Financial Industry Regulatory Association) have long had to abide by the requirement that they deliver the stock they have sold within three days. It is not just a NASD rule - it’s U.S. law. But some brokers have bypassed this rule by selling, and never delivering, phantom stock through foreign brokerages that do not belong to the NASD. Now the NASD has announced that it will try to close this loophole.

Preventing traders from breaking the law seems hardly controversial, but Remond, the French-Canadian reporter who will later try to establish that Patrick is running a criminal enterprise out of a gay bathhouse (she will also later get a government subpoena along with Herb and Cramer) apparently thinks the NASD should keep out of the way. “Taking most market participants by surprise,” she writes, “the National Association of Securities Dealers has drastically tightened its rules governing short-selling” by closing the loophole allowing sales of phantom stock. The “market participants” think - and Remond agrees - that this is no good because “it’s impossible to borrow the shares of…overvalued development stage companies.”

So Remond - siding with her sources - thinks that if it is impossible to borrow shares of a company, hedge funds should nonetheless be able to sell, sell, sell. Create unlimited amounts of illegal phantom stock to drive down prices and never deliver it. This is Remond’s standard position: if a company is deemed “overvalued” by short-sellers, then the short-sellers should be allowed to destroy it. This position is shared by every journalist affiliated with Cramer, David Rocker, and a crew of dirty players.

How dirty? Well, the only “market participant” named in Carol’s story is Pacific International, a brokerage in Canada. As Remond surely knows, more than 15 American criminal indictments have targeted Pacific International clients. It is widely suspected as a favored broker for sellers of phantom shares. Five of the indictments mention Pacific International as a conduit for money laundering and stock fraud.

In one court case, Sasha Angus, the director of enforcement for the British Columbia Securities Commission, describes this scene: "Jean Claude Hauchecorne, one of the top revenue producers at Pacific International, was summoned to New York…Phil Abramo and Phil Gurian, entered the room with two other men. These men were armed… ….Abramo and Gurian were apparently high-ranking members of the Mafia."

On that day, Abramo and Gurian, of the Gambino crime family, threatened to kill Hauchecorne because he had funneled money to a stock promoter linked to the rival Bonanno and Genovese Mafia clans.

According to Carol, Pacific International is a credible source - just your average "market participant."

Most of the Cramer crowd of journalists would agree.

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Fortunately, there is a wild-eyed guy in Massachusetts named Dave Patch. Dave is an engineer. He spends his days building parts for jet airplanes. At night, though, he is a revolutionary firebrand, churning out searing entries on his blog, which is called InvestigateTheSec.com, and firing off cantankerous letters to government officials and mainstream journalists about the problem of phantom stock.

In September 2006, SEC Director of Trading and Markets James Brigagliano referred to Dave Patch and his fellow crusaders as "bozos." For years prior, the SEC said that there was very little phantom stock in the system. Then, one day, it said there was *so much* phantom stock in the system that it couldn't force the sellers to deliver real stock because it would cause "excessive volatility" - a euphemism for "total market chaos."

A couple of years ago, Dave began invoking the Freedom of Information Act to compile reams of trading data. This data, combined with research published by the securities industry itself, suggests that there is now around $12 billion of phantom stock in just one corner of the system. There is an unknown amount - perhaps $100 - $150 billion - in a part of the system that is not monitored by any regulatory body. Just as a spill of $1,000 of radioactive waste costs much more than $1,000 to clean up, a certain dynamic of the stock market (named, "short squeezes") means that to clean up $100 billion of phantom shares would cost much more than $100 billion: it could easily cost over $1 trillion.

Dave puts this information on his blog. He receives back-up from a crew of anti-phantom stock fanatics who live on the internet. Meanwhile, the Easter Bunny takes on the role of chief PR man, publishing his own fiery - and often hilarious - blog, which he calls TheSanityCheck.com. One day, the Easter Bunny calls Patrick Byrne, who launches an unprecedented public campaign against phantom stock sellers and the journalists who support them.

Then, on March 26, 2008, as the markets are melting down, the SEC invites Dave Patch to brief the agency on the phantom stock problem. The Counsel to the Inspector General of the SEC writes a letter to investors who have complained about naked short-selling.

It says that the SEC Inspector General has "met with Mr. David Patch…at which time he gave us an extensive briefing on this topic. We understand the seriousness of the concerns about naked short selling and have begun looking into potential audit issues related to this matter."

Says a former SEC attorney: "It wasn't until Dave Patch started firing off FOIA requests that anyone started taking this seriously."

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In mid-April, 2004, millions of shares of Overstock.com have been sold and never delivered - phantom stock. FOIA data later proves this. But in April 2004, Patrick doesn't yet know Dave Patch or the Easter Bunny. He doesn't know anything about phantom stock. Nor does he know that a clique of journalists protect the hedge funds that sell phantom stock - and that these same journalists will stop at nothing to smear the targets of their short-selling friends.

So Patrick makes the mistake of appearing again on Kudlow & Cramer.

"But once again, once again, you are confusing the heck out of me and everybody else with your arguments about gross," says Kudlow. "I'm not really sure why you continue to do this and what it is you're trying to hide."

Gross profits again? Patrick can't believe it. "No good deed goes unpunished," he says. "I've tried to explain the economics of our business. I wrote a three-page letter this time. Last quarter, I wrote a 12-page letter. Maybe it is confusing. I thought I'm trying to do a good thing."

"But what is it that you're hiding on this?…Are you trying to say to us you're not making as much in sales revenue or that you will have a better future? I mean, it's utterly confusing to me."

"Well," says Patrick, "first of all, I'm all about GAAP." [GAAP stands for Generally Accepted Accounting Principles--the accounting system that is..."generally accepted."]

"So," says Kudlow, "if you say GAAP profit–GAAP gross profit is up 83 percent, isn't that misleading, this idea of GAAP gross profit?"

"Larry, that's…"

"Quick answer."

"…That's…"

"Quick answer."

"Quick answer is that's a silly question. GAAP has a concept called revenue, a concept called gross profit, a concept called net profit. Those are GAAP–a basic accounting course teaches that."

"I don't understand it. I don't understand it. Anyway, thank you for coming back."

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While CNBC's top television personalities are suggesting that it is some kind of crime for Patrick to cite a standard accounting term, a man named Amr Ibrahim Elgindy is attempting to board an airplane in Islip, New York, using a fake ID with the name Manny Velasco. In his possession are four cell phones, a suitcase full of cash, and $40,000 worth of jewelry. Elgindy would normally be carrying his .380 colt handgun, but he's left that at home. Too risky carrying it in airports - especially when you're fleeing the country.

Elgindy is hoping to get to Lebanon, where his remaining assets are stashed, but today he isn't going anywhere. The woman at the counter has looked at him askance. She has looked at his ID, and looked again, and now she's disappeared behind a curtain. She calls the cops, and before long they are hauling Elgindy away as he cries and pleads and says, "No really, I'm Manny Velasco - Elgindy is just some guy I met in New York!"

Amr Elgindy got his start working for Blinder, Robinson, nicknamed "blind 'em, rob 'em," a Mafia-linked brokerage whose founder, a gold-chain and diamond-crusted-pinky-ring wearing goon named Meyer Blinder, eventually went to prison for securities fraud. Amr, who also goes by the names Anthony Elgindy and Anthony Pacific, later set up his own operation, establishing himself as one of Wall Street's most flamboyant short-sellers - and a favored source to one segment of the financial media.

The FBI began investigating Elgindy after receiving a tip from a Solomon Smith Barney broker who said that on September 10, 2001 (that is, the day before the terror attacks on the World Trade Center), Elgindy had placed a call to Smith Barney instructing them to liquidate his kids' trust funds. He also said, "Tomorrow the Dow is going to drop to 3,000 points." (It was at 9,600 at the time.) The government spends months investigating whether Elgindy has connections to terrorists and advance knowledge of 9-11.

Ultimately, prosecutors indict him for the more demonstrable crimes of racketeering, conspiracy and securities fraud. (He gets 9 years for those crimes, and another 2 years for trying to flee the country.) Elgindy's many offenses include bribing an FBI agent to provide him with information on agency investigations of public companies (the agent also gave Elgindy information on an on-going 9-11 investigation: Elgindy's own), manipulative short-selling, and extortion. If the companies paid Elgindy off, he'd agree to stop disseminating false information about them.

A lot of people lost money on stocks that Elgindy attacked, and many of those people began investigating him long before the FBI did, often posting their findings on the internet. Gary Dobry, for example, is a Chicago boxer, artist and street busker who spent the better part of a year writing long screeds about Elgindy's crimes. He also created pretty good acrylic Epaintings of Elgindy, and sold them at art shows.

Dobry's obsession with Elgindy ended when he received death threats, and somebody threw a pair of garden shears through the window of his boxing gym (this, we will see, is a standard threat from mobsters in the securities business). But *Deep Capture* has recruited other Elgindy foes to its team. One of them is a former businessman whose company was destroyed by Elgindy, and who has made it his life's mission to expose short-sellers' crimes.

The businessman prefers to remain anonymous because he fears a Mafia hit, but he's accomplished a great deal. For example, he traveled, undercover, to Costa Rica to meet Jonathan Curshen, a former trader for the Mafia-infested Pacific International and current proprietor of Red Sea Management, an offshore money laundering outfit. On multiple occasions, Curshen admitted to our undercover vigilante that he sells phantom stock — and threatened to kill anyone who revealed this. Curshen also described a special debit card that cannot be traced to its user. This, he suggested, could be used to pay off government officials and journalists.

But the undercover businessman's biggest coup was in gaining membership to an online short-selling discussion board that Elgindy ran before he went to prison. Seeing that Elgindy was openly discussing crimes on the site, the businessman began taking screenshots of every page, so that his garage is now piled high with boxes of transcripts (which *Deep Capture* has scanned and stored somewhere safe).

In these transcripts, Elgindy and other short sellers make hundreds of references to certain journalists - most of them friends-of-Cramer. The reporters frequently mentioned include Herb Greenberg and David Kansas, both then editors of TheStreet.com (Kansas later becomes editor of The Wall Street Journal "Money & Investing" section), Carol Remond, and Dave Evans, a reporter for Bloomberg News. (When Federal agents raided Elgindy's office, they found 2,000 hours worth of recorded phone conversations. According to a source knowledgeable about the investigation, "Herb Greenberg and Jim Cramer are all over those tapes.")

Here's one fairly typical comment, from a hedge fund manager on Elgindy's online discussion board: "maybe when thestreet.com folds, we can hire Herb to work exclusively for us."

At another point, a hedge fund manager calling himself "Peter" says: "Dave Evans gave us SPBR for free-been very profitable."

A key member of this online community is Dan Loeb, a hedge fund manager who uses the screen name "Mr. Pink" (a reference to a criminal character in the Quentin Tarantino film *Reservoir Dogs*).

Mr. Pink says, "Dave Evans is a Made Man."

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The short-sellers on Elgindy's website talk a lot of nonsense (at one point they debate whether Elgindy and Dave Evans "swapped spit," or merely engaged in a "loogie spitting" contest), so it's possible that they are merely boasting about paying off journalists. But the comments on Elgindy's website were so numerous that one can't help but suspect that the relationships between these journalists and the short-sellers was beyond normal. At a minimum, the reporters must have known that hedge funds were trading ahead of their stories.

The reporters should also have known that Elgindy's information was suspect - and that his target companies were often victims of short-seller crimes. Data obtained under the Freedom of Information Act shows that massive amounts of phantom stock were sold in the companies that Elgindy and his cohort shorted. As Carol Remond and others surely knew, Elgindy was also among the dubious clients of Pacific International, the Canadian brokerage that has catered to Wall Street operators connected to the Genovese crime family. "Let's remember," says one member of Elgindy's website, "because of CANADA we can NAKED SHORT!"

Elgindy also brags on his website of having supplied the SEC and other government agencies with negative information. The SEC, especially, would helpfully open investigations into the companies targeted by Elgindy, precipitating huge declines in their stocks. One former SEC official interviewed by *Deep Capture* admits to having worked often with Elgindy. "I'd send his information up my up-line," he says. "My superiors would tell me to open an investigation." In most cases, the SEC never filed charges against the targeted companies.

But the investigations left the companies' stock and reputations in tatters. Contributing to this, Herb and the rest of the Media Mob would write multiple negative stories about the companies Elgindy shorted. "These were good companies. A lot of them were pharmaceutical companies that had made important medical advances," says the former SEC investigator. "Elgindy hurt them badly. He stopped new cures. And the SEC helped. The media helped."

Elgindy is in jail, but the short-sellers who were members of his website, and who joined him in his "bear raids" on innocent companies, are still in business. One of them is John Fiero, who went by the screen name of "Bond," and whom the NASD fined $1 million for selling phantom stock in companies that had the misfortune of being underwritten by Hanover Sterling, a brokerage that has been linked to the Genovese Mafia clan.

Fiero has yet to pay that fine. Quite to the contrary, a member of Elgindy's website wrote at one point that the NASD had given Fiero an office and a set of trading computers — inside the NASD's headquarters. If this was true, the NASD was either deeply corrupted, or it was using Fiero as an informant in ongoing investigations of phantom stock trading.

And then there is Dan Loeb, a.k.a. Mr. Pink. Loeb is a short-seller best known for hurling vitriol at his "enemies," and for maintaining a high profile relationship with Fab 5 Freddy, the gangsta rapper. He is also very much a part of the Cramer constellation of hedge funds. And give him this: he stands by his boys.

Once, a respected hedge fund manager named Kenneth Griffin hired someone away from a hedge fund run by Loeb's crony David Einhorn, who is also a friend of Cramer. [In an email](), Mr. Pink accused Griffin of running a "gulag," and wrote: "Let me be clear that…should you attempt to hire people from [my friends], I will consider it an…act of war."

Now, with [Elgindy in prison](), Mr. Pink's friends are at "war" with Patrick Byrne and Overstock.com.

The generals in this war are David Einhorn, David Rocker, and the Media Mob led by Herb and Jim Cramer (who met Rocker once, in a grocery store).

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Cramer has a *shtick* whereby he [brags about the crimes he has committed](), perhaps so that he can later claim that his openness suggests a certain innocence. That might be why, [in a semi-private discussion on his website](), Cramer advocates breaking the law to drive down stock prices.

"Maybe you need $10 million capital to knock [a stock] down," he says. "It's a fun game and it's a lucrative game…By the way, no one else in the world would ever admit that, but I don't care…That's right, and you can say that here, and I'm not gonna say it on TV…it's really important to use a lot of your firepower to knock that [stock] down… Now, you can't foment. That's a violation of…You can't create yourself an impression that a stock's down. But you do it anyway cause the SEC doesn't understand it…This is just actually blatantly illegal….But I think it's really important to foment…You get [the CNBC reporter]…talking about it as if there's something wrong [with the stock]. Then you would call the [Wall Street] Journal and you get the bozo reporter…if you're not doing it, maybe you shouldn't be in the game."

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Nobody understands "the game" and "bozo reporters" better than David Rocker. He is one of the most popular sources ever to use the business media to his advantage. His information has appeared with near-constant regularity on CNBC and TheStreet.com, and he has been a favored source for Cramer's friends at The Wall Street Journal, Fortune magazine, and MSN Money. Herb Greenberg has written negatively about nearly every company that Rocker has sold short, usually repeating Rocker's analysis verbatim.

The information in these stories is often bogus. Much of it has come from Gradient Analytics, the financial research shop that the SEC has subpoenaed, along with Herb, Cramer and Carol Remond, in 2006. In addition to the three affidavits that the SEC received, several other former Gradient employees are willing to testify that the place is staffed by kids who take dictation from Rocker or other hedge fund managers, and then produce phony negative research designed to cause stock prices to collapse.

Rocker routinely takes this "independent research" to the SEC, suggesting that his target companies are committing accounting fraud - that they're the next Enrons. The Rocker constellation of hedge funds is pretty tight with the SEC - much as Elgindy was. The government agency will investigate just about any company named by these people. In return, Rocker has employed at least one high-level SEC employee who investigated his target companies. No doubt, others wonder whether they, too, might get lucrative jobs.

Some of the companies that the SEC investigates at the behest of these hedge funds have actually done something wrong. But often, the SEC eventually has to announce that the companies are beyond reproach. That, however, can take several years, by which time, news of the investigations - dutifully circulated by the Media Mob - will have inflicted mortal damage on these companies' stock prices and business operations.

Around the same time that these SEC investigations begin, and usually right after a friend-of-Cramer publishes a negative article, a slippery law firm will file a class action lawsuit alleging that the target company has defrauded its investors. The law firm that has been most often responsible for these suits - the firm that has sued almost every company shorted by the Rocker constellation of hedge funds - is Milberg Weiss. This same law firm was on close terms with Amr Elgindy and his government cronies. "FBI and SEC will be here soon," Elgindy said to a hedge fund manager on his website, "as will class [action] Milberg Weiss guy."

Patrick Byrne warned people about this firm in his "Miscreants' Ball" presentation. The Media Mob ridiculed him. Less than a year later, Milberg Weiss was indicted and its founding partner was sentenced to prison for racketeering, mail fraud and bribery. The firm paid off its plaintiffs to induce them to sue companies targeted by affiliated hedge funds. According to court documents, Milberg Weiss instructed people to buy stock in target companies, "anticipating that the securities would decline in value, in order to position themselves to be named plaintiffs in securities fraud class actions and to obtain kickback payments."

Anticipating that the securities would decline. How in the world could they have known that the securities would lose value? Well, soon after the phony plaintiffs bought shares in a company, somebody would flood the market with massive amounts of phantom stock. And while Milberg was preparing its law suits, Gradient and similar outfits would release bogus financial research. Indeed, a Gradient employee time sheet obtained by *Deep Capture* has a line-item tagged "Milberg Weiss" - suggesting that Gradient's employees were concomitantly working for the crooked law firm.

With phantom stock flooding the system, and the SEC preparing to investigate, and dubious financial research shops releasing bogus information, the Media Mob would attack with biased, negative stories. As the stock plummeted, Milberg filed its pre-fabricated lawsuits (inserting the media stories as evidence) alleging that the target company had ripped off its investors by causing its own stock prices to plummet. The lawsuits, of course, caused the stock prices to plummet even more, at which point the Media Mob would write more stories blaming the companies for their falling stock price.

The Media Mob avoids questions about Milberg's dubious practices - and certainly never reports on them.

And, in February 2006, when Gradient comes under investigation, the journalists go berserk. The investigation is a violation of free speech, they say - and the "whoooole" thing was orchestrated by Patrick Byrne and the Easter Bunny.

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Back in April 2004, while Elgindy was posing as Manny Velasco, and Cramer's television partner was grilling Patrick on gross profits, and phantom stock was flooding the market, and a pack of journalists affiliated with Cramer and Gradient Analytics were attacking every company that Rocker shorted - when all of this was happening, the Easter Bunny thought, gee, there might be a pattern. He first gained notoriety among the Media Mob by starting a blog that chronicled the travails of a little mortgage lender in Kansas City, MO called NovaStar Financial.

There is no particular reason why anyone would be interested in this obscure company, but it had been given national exposure by a certain segment of the financial press. On April 12, 2004, The Wall Street Journal "Money & Investing" section (edited by David Kansas, formerly of TheStreet.com) published a negative article by Jonathan Weil (who later went to work for a financial research shop that caters to short-sellers and law firms that file class action lawsuits). The Journal, depending on information from hedge funds linked to Cramer, suggested that NovaStar had licensing problems in multiple states, when it did not.

During that month, Herb also attacked NovaStar in more than a dozen separate stories - many of them containing false information. His analysis appeared on MarketWatch.com, CNBC and MSN Money. TheStreet.com followed suit. NovaStar's stock plunged by more than 30%, and on April 15, crooked law firm Milberg Weiss, with amazing alacrity and foresight, filed a class action lawsuit (using the Journal article as its principal evidence) alleging that NovaStar's "investors" had been grievously harmed by the falling share price. The next day, the SEC, no doubt at the behest of short-sellers, opened an investigation of NovaStar, inflicting yet more damage.

In the midst of all this, the Easter Bunny sent Herb a detailed analysis that showed that Herb had completely misread an important line on NFI's financial statement. Herb blithely responded with, "You're free to interpret the data any way you want" - which is his standard answer.

Now, it is fair to say that in 2008 subprime mortgages have become a risky business. But that is different from saying, in 2004, that a specific mortgage company has done something wrong. Even as NovaStar continued to post strong profits well into 2006, short-seller games - including the sale of phantom shares — kept the stock price in the mud. SEC data obtained under the Freedom of Information Act shows that millions of shares of NovaStar had been sold but not delivered on April 11, 2004 - the day before the Journal article. The number of phantom NovaStar shares in the system increased steadily over the next three years.

Today, the stock price is too low even to trade on NASDAQ. It has been reduced to the pink sheets - reserved for penny stocks.

The SEC's investigation of NovaStar remains open, but as of early 2008, it had yet to announce an investigation into hedge funds that trade phantom stock.

As of April 2008, Herb was still covering NovaStar. Lately, he'd been dancing on its grave.

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Not long before NovaStar came under attack, Michael Milken, the "junk bond king," appeared in the offices of Allied Capital, a DC-based financial company that shares certain financial characteristics with NovaStar. There, he told an Allied executive, "You know, I already am quite a large shareholder of your stock - but my name will never show up on any list *you'll* see."

This may have been a reference to a practice called "parking stock" (owning stock but "parking" it in the accounts of friends with whom one has made under-the-table arrangements), a practice that figured in the high-count indictment that sent Milken, along with Boesky, to prison in the 1980s.

Milken returned on several occasions and seemed intent on ferreting out every detail of Allied's business. Then, the interrogations came to an abrupt end.

A couple of months later, Cramer's friend David Einhorn was at a hedge fund luncheon. Sitting next to him was corporate raider Carl Icahn. Halfway through the meal, Einhorn stood up and told the hedge funds assembled in the room, "Allied Capital is going to zero!"

On April 26, 2004, Dan Loeb (a.k.a. Mr. Pink, the guy who once promised to go to "war" for Einhorn) posted a comment on a Yahoo message board, saying: "ALD [Allied] turd getting flushed, swirling down the toilet."

At the same time, reports on Allied's supposed misdeeds, created by the Kroll Investigative Agency and a politically connected Texas businessman named Jim Brickman, were delivered to the SEC and the Department of Justice, which began investigations. These inquisitions became so onerous that Allied had to create what one employee calls the "Department of Investigations" just to satisfy the government requests that poured in, year-after-year.

The Kroll Investigative Agency seems to have developed a unit tasked specifically with manufacturing dirt on companies shorted by the Cramer constellation of hedge funds. Einhorn and his cronies commissioned the report that was submitted to the DOJ, and it should be unsurprising that most of its allegations were groundless.

After four years of ongoing investigations, and countless media stories alleging wrongdoing, charges have been brought against one person - an ex-employee of a company that represents less than 5% of Allied's portfolio of investments.

Meanwhile, the SEC and DOJ have yet to investigate claims that Allied is the victim of illegal phantom stock selling. So *Deep Capture* has done it's own investigation. This took all of five minutes - the time we needed to write and send a Freedom of Information Act request to the SEC. The SEC wrote us back, providing data showing that there have at times been 3.5 million phantom Allied shares. That is, somebody had sold at least 3.5 million shares that were never delivered because the shares did not exist.

And again, that number represents phantom shares in just one corner of the system. The number of phantom shares in the rest of the system is thought by most observers to be many times greater. However, the SEC refuses to release data about the number of phantom shares in other layers of the system. In fact, Patrick, Dave Patch and others have suggested that the SEC might not even know.

In any case, the SEC has the power to prosecute the sellers of phantom stock, but it has so far refused to do so.

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And what if Overstock, Allied Capital, and NovaStar were not the only victims. Suppose there were a clique of hedge funds and reporters who descended upon hundreds of public companies, mocking and harassing them, driving their CEOs to conniptions or barricaded silence. Suppose further that billions of dollars worth of phantom stock in these companies had been sold into the market.

Suppose we know this because people like the Easter Bunny and Dave Patch have devoted large chunks of their lives to exposing the crime. But we also know it because Leslie Boni, a resident economist at the SEC has published a seminal report, "Strategic Failures to Deliver," which identifies phantom stock as a major problem. We know it because former Undersecretary of Commerce Robert Shapiro has done his own study, concluding that naked short sellers have vaporized as many as 1,000 companies.

And we know it because in January 2005, the SEC begins publishing a list of more than 300 companies whose stock has been sold, but never delivered, in excessive quantities. There is some initial muttering about the phantom stock being the result of "clerical errors," - maybe the real stock is sitting under a mattress somewhere, or the dog ate it - but this is so much gobbledygook, as evidenced by the huge amount of undelivered stock and the SEC's later admissions that phantom stock is a "serious problem."

We also know from Leslie Boni's statistical analysis that high volumes of phantom stock are concentrated in very specific companies. We know from our own analysis that there is a wildly high probability that those same stocks have been targeted by Milberg Weiss lawsuits and in hatchet jobs by the Media Mob. The stock-eating dog must have friendly relations with Herb, Carol Remond, Jim Cramer and their friends.

Peter Chepucavage, the SEC attorney who drafted the so-called Reg SHO rule requiring the SEC to begin listing victimized companies, has told us that its enactment was preceded by an unprecedented lobbying effort spearheaded by Wall Street. The result, he says, is watered down enforcement. While the SEC listed the victim companies, for example, it stipulated no way of helping them - which is like publishing the names of rape victims while refusing to prosecute rapists. (Indeed, the stock prices of many of the companies on the list dropped significantly in the days after the list first appeared.)

But, anyway, there it is: a list, supplied by the SEC — unequivocal evidence that hundreds of companies are victimized by a stark financial crime.

Now, suppose that one CEO fights back. He fights back because of what short-sellers' illegal tactics are doing to the shareholders of his and other companies, and also, because he is worried that the creation of phantom stock will have systemic implications.

Maybe this CEO gives [a presentation]titled "The Miscreants' Ball," identifying a group of journalists who are the eager stooges of rule-bending hedge funds. Maybe, for a while, government investigators begin to take an interest in some of the CEO's allegations - and maybe important politicians, economists and even a few objective journalists began shaking their heads and saying things like, Holy bejeezers, Byrne and that Easter Bunny character are right. Not in every respect, maybe, but clear as day: this is one of history's great financial heists.

Well, in this case, the journalist-stooges might become somewhat agitated. Suppose they set out to defend themselves and their Wall Street friends-to disparage the CEO and others who question the tactics of some short-sellers and their value as media sources.This, one can imagine, is a battle that the journalists are keen to win. Maybe some, like Herb, go more or less bonkers. And for others, perhaps, there are few limits inviolable–no filth unbearable.

Imagine that.

What would happen then?

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What?… "Ehhhhhhhh."

Roddy Boyd, The New York Post, has just had an idea.

It's a hunch. Yeah, he's Roddy-Boyd-The-Post, and now he's, "ehhhhh," sticking his head in a garbage can. Yeah, his head is in the garbage can, and he's just hypothesizing here, but he's pretty sure, pretty sure, "ehhhhh" those are used - "yeah, they're used condoms."

And twenty of them!

It is January 2006, five months after Patrick Byrne filed a lawsuit against David Rocker and Gradient Analytics and then held a famous conference call putting Rocker at the center of a massive financial crime dubbed "The Miscreants' Ball." Heaps of evidence implicating these people - affidavits, testimony from victim companies, the SEC's data - has been given to the media, but now Roddy-Boyd-The-Post is, "ehhhhh," *doing a favor for Gradient Analytics*.

A couple of days ago, Donn Vickery, Gradient's managing partner, called Roddy, who takes his marching orders from Post business editor Dan Colarusso, formerly of TheStreet.com. What Vickery needed was this: There had been a couple of private investigators parked outside of Gradient. They'd been eyeballing the place, talking to employees. Maybe Roddy could snoop around, see what he could find out.

So Roddy begins working the phones. He is, "Ehhhhh… Roddy-Boyd-the-Post, here, investigating the aggressive tactics used by Patrick Byrne and Overstock's private investigators."

Patrick has not sent any PIs to talk to Gradient's employees. The investigators (eminently polite, according to some Gradient employees) are working for another company, a Canadian pharmaceutical manufacturer called Biovail. Biovail is later sued by the SEC for inflating its numbers, and perhaps it did something wrong, but there is no question that Gradient has published research about the company that is blatantly false. There is, indeed, enough of this misinformation to fill an encyclopedia, but as a very typical example, consider that Gradient claimed in a report that Biovail's growth "slowed dramatically" at a time when it had *increased* by more than 35%. (Really, this is a standard Gradient "mistake.")

Gradient is working on the Biovail case with a group of hedge fund managers, including David Rocker. Among other tricks, people working for these hedge funds have paid doctors to get them to say that Biovail bribed them to prescribe one of its drugs. These questionable bribery charges have instigated a federal investigation into Biovail and quotes from the doctors (who admit that they were paid by hedge funds to say they were bribed by Biovail) have appeared in a Wall Street Journal "Money & Investing" section story titled, "Biovail is Paying Doctors Prescribing New Heart Drug," and in a story in Barron's magazine, written by Bill Alpert, a close friend of Herb. (While Roddy is doing a favor for Gradient, the SEC has just subpoenaed Herb as part of its investigation into Gradient, and Alpert has just written, bizarrely, that he wishes he could get a subpoena, too, because he quoted those paid-off doctors and getting a subpoena is "terrific publicity.")

Roddy knows about the bribed doctors and he knows about Gradient's phony research. He knows about short-seller tactics, including the use of phantom stock. But Roddy isn't interested in all of that. Instead, he's doing a favor for Gradient. And now he's got his head in a garbage can.

The garbage can is outside the home of Jerry Treppel, a Banc of America analyst whom Biovail accuses of helping disseminate Gradient's false research with the hedge funds that are accused of driving down Biovail's stock price.

Roddy-Boyd-The-Post has figured out that, "ehhhhh," Treppel is more than fifty years old. Treppel is also a financial analyst who has been married for a long time.

He is more than fifty years old.

A financial analyst.

Married.

"Ehhhhhhhh."

"Twenty condoms!?"

"This ain't Jerry Treppel's garbage."

That's when I knew I was on to something," Roddy-Boyd-The-Post later tells me, "A fifty year old married financial analyst couldn't, ehhhhhh - you know, he couldn't be getting that much action. That's how I knew that Biovail's investigators must've stole the garbage and replaced it with someone else's garbage. They were looking for stuff about Gradient. I figured it out - you know, ehhhhh, I did some real enterprise [investigative] work here. I busted them, man. Nobody helped me."

Yes, as a favor to Gradient and its hedge fund clients, Roddy figured it all out. Then he filed the big news.

"TRASH STALKERS," read the headline. "Biovail's investigators… repeatedly took the trash of former Banc of America Securities analyst Jerry Treppel…"

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So now we have Roddy with his head in a garbage can, and Herb on CNBC saying there's a conspiracy to get Herb, and Cramer vandalizing his government subpoena, and Herb's friend Joe Nocera writing about "Overstock's Campaign of Menace" in The New York Times, and Cramer's former employee Jesse Eisinger comparing Patrick to "Where's Waldo" in The Wall Street Journal, and Herb's friend Bill Alpert saying he'd like to get a subpoena, too - for publicity.

But that's not all — we also have a very peculiar former BusinessWeek reporter named Gary Weiss firing off friendly emails to a crooked mortgage broker and financial flimflammer who is so unambiguously bad that he sent his father to an early grave.

Deep Capture has come to possess a great number of emails between various journalists and miscreants. In one, the former BusinessWeek reporter brags to the crooked mortgage broker of influencing the contents of Nocera's "Campaign of Menace" article in The New York Times. "This is totally my doing," Gary writes. "Yuk. Yuk. Yuk."

In another email, Gary recounts his successful campaign to keep a reporter named Liz Moyer from getting a job at BusinessWeek because she has written favorably of companies victimized by short-sellers. Moyer, who is now with Forbes, is one of the few journalists who have accurately described the phantom share problem.

Gary left BusinessWeek in 2004 under circumstances that remain a closely guarded secret. From January 2006 until today, his primary occupation has been to author a blog devoted entirely to badmouthing Patrick Byrne and pooh-poohing the notion that phantom stock is a problem. His arguments are not so much arguments as personal attacks. Anybody who utters the words "phantom stock" is a "crackpot" or a member of the "Baloney Brigade."

Gary regularly suggests, meanwhile, that Overstock is some kind of fraud. He provides not a single scrap of evidence for this, but instead makes vague accusations and then instructs anyone wanting details to visit another blog - this one authored by Sam Antar, former chief financial officer of a family-owned electronics firm called Crazy Eddie. In the 1980s, Crazy Eddie ("Our prices are…..INSAAAAANE") perpetrated a $145 million swindle involving receipt skimming, bogus inventory and international money laundering. When Sam was busted, he ratted out his two cousins in return for a reduced sentence of six months house arrest.

According to a recent court case, Sam has funneled at least $250,000 to Barry Minkow, who is also a criminal. Minkow served seven years in prison for his role in ZZZZ Best, a fraudulent carpet cleaning company that cost investors $100 million. Minkow now runs an outfit called the Fraud Discovery Institute out of the Community Bible Church in San Diego, where he is a preacher. In one of the financial world's great ironies, The Fraud Discovery Institute specializes in identifying companies that have supposedly cooked their books - though no reputable investigator has ever concurred with any of its analysis.

Both Sam and Minkow hold themselves out as reformed criminals who can shed light on corporate crime. But it is clear they have merely found a new scam: publishing false information for short-sellers. Utah

Attorney General Mark Shurtleff, who has had dealings with Sam, has written a public letter warning investors that, “in light of Mr. Antar’s background as a convicted white collar criminal, we believe that the public should carefully scrutinize and objectively examine any public statements that Mr. Antar makes.”

Invariably, Sam and Minkow attack the same companies as the Cramer constellation of hedge funds, and, unsurprisingly, that is where they derive at least part of their income. Court documents show that Minkow has received at least $10,000 from Whitney Tilson, a friend of Cramer who has shorted companies along with David Einhorn, for whom Dan Loeb, a.k.a. Mr. Pink, vowed to go “to war.”

Mr. Pink, meanwhile, contracts with an outfit called Magic Consulting - owned by convicted stock manipulator Michelle McDonough (formerly Michelle Sarian). McDonough’s job is to coordinate a stable of internet stock message board posters and complicit journalists who bash stocks shorted by Loeb and his friends. McDonough was herself a fairly prolific message board basher, prior to going to prison in 2000.

One message board poster in McDonough’s stable is the crooked mortgage broker and financial flimflammer who is frantically emailing back and forth with former BusinessWeek reporter Gary Weiss in the winter of 2006, soon after Gary established his blog devoted to bashing Patrick Byrne and denying that phantom stock is a problem.

The flimflammer is named Floyd Schneider — a former employee of Amr Elgindy, the gun-toting goon, a.k.a. Manny Velasco, who plotted short strategies with Mr. Pink before instructing his Smith Barney broker to liquidate his kids’ trust funds on the day before 9/11, causing him to get caught in a giant stock manipulation scheme. Floyd has a long history of credit card fraud and stealing money from customers, and once he even filched $20,000 from his own uncle. On his death bed, Floyd’s father said to several associates: “My son - he is a liar and crook. Floyd is the reason that I am dying.”

Floyd has posted tens of thousands of messages smearing Patrick Byrne, Overstock, and many other companies–all, coincidentally, swimming in phantom stock. Meanwhile Sam Antar of Crazy Eddie, who is delivering large sums of money to convicted fraudster Barry Minkow (paid, in part, by Whitney Tilson, colleague of Mr. Pink and Cramer) has posted thousands of his own false and defamatory statements about Overstock, both on message boards and on his blog.

A number of journalists are on strangely good terms with these crooks. Fortune magazine, for example, has written a positive profile of Sam Antar. Roddy-Boyd-The-Post has written an email to a known conman in which he refers to Michelle McDonough as “our mutual best friend.”

But few journalists are closer to this cast of swindlers than Gary Weiss, the former BusinessWeek reporter.

And who, exactly, is this Gary Weiss character?

Well, this is where the story gets really weird.

* * * * * * * *

Gary Weiss is a journalist best known for penning the 1996 BusinessWeek cover story, “The Mob on Wall Street,” which documented Mafia involvement in stock brokerages, including Hanover Sterling, run by the Genovese clan.

In 2003, he published a book, “Born to Steal,” which tells the story of Louis Pasciuto, a Genovese-linked criminal who worked for Hanover. Pasciuto cooperated extensively with Gary, so it is fair to say that the two are friendly. When Pasciuto was later sentenced to prison, Gary wrote an article in his defense.

Now, remember, Hanover Sterling, Pasciuto's employer, was at the center of one the biggest phantom-stock selling scandals of all time. The NASD eventually fined John Fiero (a.k.a. Bond — a member, along with Mr. Pink, of Amr Elgindy's online short-selling discussion group) for naked shorting Hanover stocks in cahoots with several mobsters from the Gambino crime family. Their phantom stock selling destroyed a number of companies, and put Hanover out of business, probably with the acquiescence of Hanover's Genovese handlers. The naked shorting also destroyed Adler Coleman, then one of Wall Street's largest clearing firms.

That was in 1995 — one year before publication of "The Mob on Wall Street" — but Gary's story makes no mention of phantom stock or illegal naked short selling. Indeed, Gary paints Fiero as the victim of Mafia harassment.

Since 1995, one of Gary's most important sources has been Manuel Asensio, a short-seller who for many years was a hero to a certain clan of journalists. Several reporters, including Gary, have written worshipful profiles of Asensio, heralding his supposed expertise at identifying overvalued public companies. None of these stories allude to Asensio's mysterious past, which seems to have included stints at a number of dubious brokerages.

In 2000, the NASD fined Asensio for failing to make an "affirmative determination" that stock could be borrowed before he sold it. (In other words, he sold phantom stock). In 2006, Asensio was barred from associating with any NASD member (think of the securities industry's equivalent of Hannibal Lecter in straitjacket and mask) after he failed to respond to charges that he published false information in financial research reports. Before that, he worked extensively with Mike Wilkins, a short-seller and part-time screenwriter of Hollywood B-movies.

A fellow named Ed Manfredonia, who was the primary source for a story Gary wrote about corruption on the American Stock Exchange - the longest investigative report ever published by BusinessWeek–says he was sitting in Gary's office when the BusinessWeek reporter received a fax from Wilkins' hedge fund containing negative information about a company called Hemispherx BioPharma. Manfredonia says he told Gary that he had information from Asensio's clearing firm, Spear Leads & Kellogg, that Asensio had sold 300,000 phantom shares in Hemispherx. But Gary ignored this information and wrote a negative story about the company, helping its stock to plunge by more than 50% — pure profit for Wilkins and Asensio.

Now, Ed is quite the character. A former stock broker who has been living on welfare for years, he says he's been unable to get a job ever since making allegations that major players on the American Stock Exchange were committing all sorts of heinous acts - like smuggling cocaine from Columbia, and laundering money for Imelda Marcos.

Ed is a compact man and his eyes bulge behind Coke-bottle eyeglasses. He once came to my office at the Columbia Journalism Review and spent three straight hours delineating the "crimes" of Gary Weiss. During these three hours, I uttered maybe a couple dozen words. When I left the room to get a glass of water or use the restroom, Ed just kept right on talking. He has filed countless lawsuits (which he writes himself) against Gary and others, and spent a considerable amount of time following Gary around, asking why Gary lied in his stories. In January 2005, BusinessWeek filed a restraining order against Ed.

But Ed is, in certain respects, credible. A New York district attorney's office once wired him as part of a large-scale investigation into some of the very allegations that he leveled against the American Stock Exchange. In a story titled, "Offering Credence to the Crank," Gary wrote that, "In talking to his friends, current and former Amex officials and traders, I kept hearing the same thing: Ed gets too excited, but he is telling the truth."

I think Gary was right to use Ed as a source (he's certainly an improvement over the cast of crooks with whom Gary is currently collaborating) and it wasn't very nice of him to call Ed a "crank." Ed is different, a bit stressed-out perhaps, but he's obviously had an inside look at corruption on Wall Street. Some of his information is solid. For example, his claims that Asensio sold phantom stock in Hemispherx BioPharma were later repeated in a report by expert court witness Robert Lowry, who spent 23 years in the SEC's division of market regulation.

There is also this: In 1999, somebody entered the New Jersey mansion of Albert Alain Chalem, told him to kneel on his marble floor, and shot him in the head. The killers fired several more bullets into Chalem's face, and then, in a manner less gruesome, killed his companion, Maier Lehmann.

Chalem and Lehmann were involved in various pump and dump schemes, but they were also short-sellers and to a certain group of journalists, popular sources of negative information about public companies. (One gets a sense of the sorts of people to whom some journalists turn for information). Chalem and Lehmann were also heavily involved in the production of phantom stock.

At the time of the murders, Ed offered to introduce Gary to Chalem's bodyguard, who had good information that the killings were the work of the Russian Mob. Chalem had lost a bundle of money through a brokerage that was controlled by the Russians, and on the night before his murder, he and his bodyguard had met and argued with some Russian thugs. Threats were exchanged.

Deep Capture has looked into Ed's story - and it checks out. There is every reason to suspect that the Russians (and, by extension, the Genovese crime family) were involved in the murders of Al Chalem and Meier Lehmann.

But Gary would not meet with the bodyguard. Indeed, the BusinessWeek reporter was adamant - he would not talk to anyone who intended to accuse the Russians of committing this, or any other crime. Nor would he mention Chalem and Lehmann's involvement in selling phantom stock.

Instead, he wrote a story suggesting that Chalem and Lehmann died because they were pumping stocks with members of the Gambino crime family. As Gary knew, the Gambinos were at the time in a bitter feud with the Genovese and their Russian allies. (Gambino mobsters, remember, had threatened to murder the top revenue earner at Carol Remond's source, Pacific International, because he had funneled a large amount of money to a Genovese-linked stock promoter). So it was no small decision to ignore information that the Russians had ordered the murders.

Ed suggests that Gary pinned the murders on the Gambinos because he was trying to get movie producers interested in his book, and movie producers find the Italian Mob more compelling than the Russians. Either that, or Gary's favorite sources had a beef with the Gambinos.

In an email to me, Gary's source Manuel Asensio wrote, "I don't know anything at all about Al Chalem and Meier Lehmann. I don't know who they are and have never read or heard anything about them, or spoke to anyone, including Gary, about it." In another email, he said he has never talked to Gary about the Mafia, he has never read Gary's articles about the Mob on Wall Street, and he has no interest in the subject.

I called Asensio to ask about a lawsuit that had claimed that he had previously worked for First Hanover, a Mob-linked brokerage run by a guy who later became a crack addict and a homeless person. I also wanted to know about Asensio's experience in selling phantom stock.

He said he never worked for First Hanover. He said there is nothing wrong with selling phantom stock - it should be legal. He listened as I described some of the information I had gathered for this story.

And then he offered to put me on his payroll.

* * * * * * * *

So, in November 2006, I was working on this story at the Columbia Journalism Review, and I had two large diagrams on the wall above my desk. One of these diagrams showed the multiple links between hedge fund manager William Ackman, a friend of Cramer who was funded by the aristocrat Marty Peretz, and Gene Philips, a real estate magnate who was arrested in 2000 along with around 150 stock brokers from the five New York Mafia families - the largest securities fraud bust in history. (Philips was later acquitted).

The other diagram had, written on the top, inside a box, the name of a hedge fund: Kingsford Capital. This hedge fund, I had learned, specialized in short-selling and was managed by Mike Wilkins, the Hollywood screenwriter who had extensively collaborated with Manuel Asensio. So “Asensio” and “Wilkins” were written on the diagram.

I had also learned that another manager of Kingsford Capital was Cory Johnson, who, along with Herb and Jim Cramer, was one of TheStreet.com’s founding editors - a member of “Murderers’ Row.” (Johnson had previously earned his financial creds as the editor of a hip-hop basketball magazine.)

At the time, Kingsford was also paying consulting fees to Justin Hibbard, who had just left his job at BusinessWeek. Since Kingsford and Asensio were favored sources of that other former BusinessWeek reporter, Gary Weiss (whose only employment at the time was writing a blog smearing Patrick Byrne and denying the existence of phantom stock), I had put his name on the diagram, too. And finally, I had noted on the diagram that several companies shorted by Kingsford Capital and Asensio happened to have been victimized by phantom stock.

So there they were - these diagrams.

And then, one day in November 2006, there was a man.

He walked into the offices of the Columbia Journalism Review, strolled up to my desk, glanced at the diagrams, and smiled. Then he went into our conference room with an editor of the Columbia Journalism Review.

After a short time, the editor invited me into the conference room to meet this man. The man was very cordial. He smiled and presented me with his business card.

The card said, “Mike Wilkins, Kingsford Capital.”

Mr. Wilkins had a proposal for the Columbia Journalism Review.

And this proposal involved a large sum of money.

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Meet Judd Bagley, crack technologist and *Deep Capture* investigator. He’s at his desk, which is half-covered with a tangled mess of wires and hard drives–his hands are up in the air, fingers fluttering like the wings of a hummingbird, and he’s in the midst of a gorgeously long sentence that begins with something about Spartan war tactics, then segues into thoughts on Tennessee Williams and the origins of the marble in the Parthenon, and now seems finally to be ending with a lengthy explication of his “methods” for exposing the obsessions and transgressions of a former BusinessWeek reporter named Gary Weiss.

“…and using my methods,” he concludes with an adjustment of his spectacles, “I’ve been able to deduce that Gary Weiss is…”

..that Gary Weiss is, in essence, a charlatan and a scoundrel.

It is owing to Judd's work that we know, without a shadow of doubt, that the hedge fund manager who calls himself Mr. Pink pays Gary's friend, the flimflammer Floyd Schneider, through his intermediary Michelle McDonough, a convicted stock manipulator formerly known as Michelle Sarian. Hedge funds affiliated with Mr. Pink, meanwhile, are paying convicted fraudster Barry Minkow, who is receiving large wads of money from the crook Sam Antar, who spends most of his time working with Gary to smear Patrick Byrne and Overstock.

In appreciation of Judd's efforts in delineating these connections, Sam Antar the Crook has issued some nasty threats, at one point posting the names of Judd's two young daughters on the internet.

So, right–these (along with Manuel Asensio and Kingsford Capital) are Gary Weiss's friends. He's probably been working with at least some of them since 1995, when he published "The Mob on Wall Street" and another story, "The Secret World of Short-Sellers." In the latter story, Gary provided a sympathetic account of a short-seller who wasn't named, but whom we know to be Asensio. The short-seller is painted as something of a hero for attacking a small oil company called Solv-Ex.

As Gary knew (because he mentioned it in passing in "The Mob on Wall Street"), Solv-ex had alleged at the time that a group of Mafia-linked investors were playing games with its stock. This was never proven. But a federal grand jury later looked into suspicious short-selling of Solv-ex, and the company sued Asensio, along with Michelle Sarian (a.k.a. Michelle McDonough) and Deutsche Bank's Morgen Grenfell Asset Management. (Separately, Peter Young, a Morgen Grenfell fund manager who had set up secret accounts to invest in the oil company, was prosecuted in England. Peter showed up in court wearing a floral dress, bright red lipstick, and high heels - and then plead insanity).

In any case, we know that Michelle Sarian (a.k.a. Michelle McDonough) is now helping Mr. Pink pay Gary's friend, Floyd the Flimflammer, to smear public companies on the internet. And thanks to Judd's methods (pure genius, these methods) we have concrete proof that Gary has himself used a variety of fake names to post thousands of messages on internet stock discussion boards, such as Yahoo! The messages either defame people who believe that phantom stock is a problem, or contain negative information about companies shorted by Mr. Pink and other hedge funds affiliated with the Cramer constellation.

And, really, Gary's efforts go way beyond the call of duty. By tracking the IP footprints left by Gary's computer, Judd has been able to observe the former BusinessWeek reporter posting, non-stop, for stretches of 24 hours and longer, his writing becoming more and more garbled as time goes by.

Gary also spends time on Amazon.com, writing anonymous reviews of his own books. As soon as this habit was exposed on Judd's blog, Antisocialmedia.net, Gary scrambled to erase the reviews, but we preserved a few nice examples. Here is Gary's review of Gary's book about the Mob on Wall Street:

"Why? BECAUSE YOU CAN'T PUT IT DOWN!!!!! I took this book to the beach during the July 4th weekend and made the mistake of starting to read it in the afternoon. There I was as the sun was setting at 8, and I was still reading it. Everyone was gone and I was squinting as the sun went down. That's how electrifying this book is."

Man, that's a good book.

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For further insight into the character and tactics of Gary Weiss, consider the story of how Gary plotted to destroy a fellow journalist named Ian Williams, a reporter for *The Nation* who was president of the United

Nations Correspondents Association (UNCA). Apparently, Gary's wife wanted a position in the UNCA that was held by Williams' wife, a BBC World Service journalist and a native of Uzbekistan. So Gary tried to drive Mrs. Williams out of the country by accusing her of lying in order to get a U.S. visa.

Gary's allegations proved absolutely false. Instead, it emerged that Gary's wife, a citizen of India, had herself forged a bunch of documents to secure UN press credentials. For example, as part of her application, Mrs. Weiss submitted multiple stories that she had purportedly written for The Pioneer, an Indian newspaper, and a letter confirming her appointment to that newspaper, signed by the Pioneer's editor. The stories were fakes –later proven to have been photo-shopped on a computer — and the Pioneer's editor, Chandan Mitra, stated that Gary's wife had "never been engaged by The Pioneer for any purpose." He added that the signature on the letter was "an outright forgery". The UN revoked Mrs. Weiss's credentials and escorted her from UN premises under armed guard.

Days later, Gary was on Amazon, anonymously trashing Ian Williams' books. Then he founded "Mediacrity," a blog supposedly devoted to media criticism, but actually focused, at least initially, on heckling Ian Williams and circulating unfounded rumors about Williams' wife.

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It would be possible to dismiss Gary as a marginal creep. But his strange views on phantom stock are widely cited. Herb Greenberg and other journalists regularly promote his blog. Meanwhile, Gary and his crook friends do more than post lies on blogs and internet message boards. They have also seized control of Wikipedia - one of the most important (though certainly not accurate) sources of information on the internet.

That's right, Gary Weiss was until recently the sole (anonymous) author of multiple Wikipedia pages, including the blatantly distorted entries on naked short selling (phantom stock), Overstock, and Patrick Byrne. (Gary Weiss is, of course, also the author of the glowing Wikipedia page on Gary Weiss.) And though Wikipedia claims that it can be edited by anyone, the truth is that until this scandal broke, the pages authored by Gary Weiss were given special protection. Nobody other than Gary Weiss could touch them.

Judd put together proof of what Gary was doing, and submitted it for review to a high-ranking Wikipedia administrator known only by the screen name, "SlimVirgin." Rather than examine this evidence, SlimVirgin immediately forwarded it to Gary Weiss. One of Judd's "methods" allowed him to determine this immediately.

Judd also quickly learned that Gary's privileged status on Wikipedia was, in fact, the result of SlimVirgin's interventions. For months, anytime a user attempted to edit a page controlled by Gary, SlimVirgin would step in and restore Gary's preferred version.

Wikipedia allows its administrators to remain anonymous, and they would if it weren't for clever internet sleuth Daniel Brandt. Brandt unmasked the man who edited the Wikipedia entry of one-time government official John Seigenthaler to suggest that Seigenthaler had a role in the assassinations of both JFK and RFK. Brandt also revealed that a Wikipedia administrator who had claimed to be a professor of theology with two doctorates was, in fact, a 24-year-old college drop-out. These two incidents became the basis for critiques of Wikipedia in the New Yorker and other mainstream media.

For his third act, Brandt discovered that SlimVirgin's true identity is one Linda Mack, a woman who was suspected of working as a British intelligence agent. It turns out that Linda Mack also studied philosophy with Patrick Byrne at Cambridge University, where, for a time, they had a close if somewhat odd relationship. Patrick wrote a public letter describing this relationship. The letter has literary merit. Check it out here.

Meanwhile, John Cooley, a former correspondent for ABC News, wrote a public letter describing how Mack had once worked as a research assistant for ABC. His former boss, Pierre Salinger, fired SlimVirgin when he began to suspect that she was spying on ABC for MI5, the British intelligence agency.

Soon after Cooley sent this letter, I interviewed a man named Edwin Bollier, who was once accused of supplying the suitcase bomb that blew up Pan Am Flight 103 over Lockerbie, Scotland, in 1988. SlimVirgin's boyfriend was on that plane, so that could explain her interest. But Boiller says that SlimVirgin once showed up in his office and identified herself as an agent for MI5.

When Judd reveals that Gary Weiss is the anonymous editor who has conspired with the supposed one-time MI5 agent called SlimVirgin to hijack the Wikipedia pages on phantom stock, Wikipedia founder Jimbo Wales and SlimVirgin dismiss it all as "conspiracy theory." Wales announces that Gary Weiss has nothing to do with those pages. Gary himself flat out denies that he has ever edited a Wikipedia page.

When Judd continues to present his evidence, and persists in making this an issue, Wikipedia administrators begin to debate an Orwellian "Bad Sites" policy which would prohibit a certain website from being mentioned on Wikipedia. This online debate generates more words than are contained in the New Testament (literally, Judd has done a comparison) and is focused entirely on Judd's blog, Antisocialmedia.net, as the one "Bad Site." Things get really strange when Wikipedia's administrators decide that their discussion about this "Bad Site" must continue without mention of the site itself.

So now, websites advertising child pornography and other evils are regularly mentioned on Wikipedia, but a single utterance of "Antisocialmedia.net", a blog devoted largely to describing the strange attempts of Gary Weiss and SlimVirgin to whitewash the problem of phantom stock, is enough to have an administrator removed from his position and banned forever from Wikipedia.

Then Wikipedia takes the unprecedented step of blocking the IP addresses of Overstock and 1,000 homes in Judd's neighborhood in Traverse Mountain, Utah. One should not underestimate the significance of this: Judd and his neighbors, and the employees of Patrick Byrne's Overstock.com, become the only people on the planet who cannot access the Wikipedia edit function. *The Register*, an internet publication (something like a British version of Wired Magazine), does a story about this, titled, "Wikipedia Black Helicopters Circle Utah's Traverse Mountain."

Meanwhile, Jimbo Wales and SlimVirgin continue to vehemently deny that Gary Weiss has anything to do with the "Naked short selling" Wikipedia entry.

But then several of Wales's contributions to a very small and private email list are leaked to Judd. One of these - a September, 2007 email from Wales — alluding to Mantanmoreland, the on-line alias of the author of the Wikipedia "Naked short selling" entry - reads as follows:

From: jwales@wikia.com (Jimbo Wales)

I just want to go on record as saying that I believe the reason for this is that Mantanmoreland is in fact Gary Weiss.

When Wikipedia administrators see this, they rise up against Wales. For months, Wales and SlimVirgin have been assuring them that Gary is not the editor of the entries on naked short selling - that Judd isn't credible, that he's a conspiracy nut and author of the world's only "Bad Site." Now, here is clear evidence that Wales and SlimVirgin had duped the other administrators.

Meanwhile, dozens of Wikipedia users submit amazingly detailed and academic studies (one employs phraseology to demonstrate language-use similarities between Gary and his on-line aliases) that help prove that Gary Weiss is indeed the anonymous, conflict-laden editor who controls, with the support of

SlimVirgin, every Wikipedia entry having to do with naked short selling, phantom stock, Patrick Byrne, Overstock.com, and Gary Weiss himself.

Wales dissembles, saying that "believing" that Gary Weiss is Mantanmoreland is "not the same as knowing for sure." But as the scandal spins out of control, more evidence emerges of coordinated distortion of Wikipedia pages. It appears, for example, that Wales wangled changes to the entry on a Canadian newscaster in exchange for sex. And The Register reveals that a cabal of Wikipedia administrators have hijacked the entry for a religious cult leader, Prem Rawat, who refers to himself as the "Lord of the Universe."

Then Jeff Merkey, a former top scientist at software development company Novell, writes Wales an email that says, "I just sent ***ALL*** of your emails to the associated press, exposing your lies and deceit." The Associated Press, in turn, reports that Wales gave special protection to the Wikipedia article on Jeff Merkey in exchange for a substantial donation to the Wikimedia Foundation.

As of April, 2008, a veritable revolution is underway at Wikipedia. Its administrators are demanding explanations-especially about Wales' relationship with Gary Weiss and SlimVirgin. The Wikipedia founder, backed into a corner, has become ever more defensive, though he is agreeing to look into the Gary Weiss allegations.

"I support that this investigation continue," Wales writes on a message board, "and request that it be done in a kind, thoughtful, loving way."

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The importance of Wikipedia entries should not be underestimated. If you do a Google search for "naked short selling," the all-important number-one result is the Wikipedia entry that says in no uncertain terms that phantom stock does not exist.

Did Jimbo Wales give special protection to Gary Weiss and SlimVirgin, allowing them to hijack this and other Wikipedia pages? It is perhaps too early to say for sure, but it is worth understanding a little bit about Jimbo Wales' prior career.

To summarize: Before founding Wikipedia, Wales owned a soft core porn site. Before founding a soft core porn site, Wales was a key player in the precise area of the Chicago options market where naked short sales are often negotiated.

For a good explanation of how phantom stock is created in league with options market makers in Chicago, read this paper.

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It is also important to recognize the role of The Depository Trust and Clearing Corporation (DTCC), an organization headquartered in New York City. DTCC is where stock trades are processed — more than *$1.5 quadrillion* worth of them every year. That's *30 times* larger than the *entire gross product of the entire planet*. According to the Wikipedia entry on the DTCC, authored largely by Gary Weiss, the DTCC "streamlines processes that are critical to the safety and soundness of the world's capital markets."

Indeed, the DTCC is one of the world's most important financial institutions. But what the Wikipedia entry does not mention is that the DTCC is also among the least transparent organizations on earth. No joke: America's founding fathers would take up arms if they knew that anything like the DTCC could exist in this country. There are funds exceeding *30 times global output* flowing through a sealed black box that is not understood even by the SEC officials who are supposed to regulate it.

One former SEC official describes his colleagues visiting the DTCC and asking, "So, what is it you guys do here, again?" A former DTCC employee confirms that the SEC would occasionally send junior people, and summarizes their oversight as follows: "The SEC staffers would say, 'What do you do?' and 'How do you do it?' After we would explain to the SEC folks what the DTCC did, the SEC people would say, 'OK, are you doing it?'" These meetings would occur about once per year, and take no more than two or three hours. That was the oversight provided by regulators to the sealed black box corporation through which 30 times the economic output of the entire world flows.

Because the DTCC processes every short sale, it knows which brokers have hedge fund clients that are selling stock and not delivering it. The organization also knows precisely how much phantom stock is circulating in at least one part of the system (additional phantom stock is created outside the DTCC, or "ex-clearing"). Yet, perhaps because it is "user owned" - that is, it is owned and operated by the very Wall Street brokerages that sell the phantom stock - the DTCC refuses to release any information.

Meanwhile, the organization leads an energetic public relations campaign denying that phantom stock is a problem. It sics lawyers and a pit bull flack named Stuart Z. Goldstein on journalists who attempt to report on the subject. The few journalists who have managed to secure an interview with a DTCC official describe having to pass through a security cordon of machine-gun wielding guards, X-ray machines, and written questionnaires.

Yet, oddly, one journalist might have been given open access not only to the DTCC's premises, but also to its computer system. Judd Bagley says this journalist is none other than…Gary Weiss.That is correct: Judd Bagley's "methods" show that Gary Weiss-liar, message board maniac, Wikipedia hijacker, forger, fraud, and friend of crooks - has used a computer inside the DTCC's offices to post on the internet.

If so, this would suggest that Gary is a cog in the DTCC's public relations machine. Which, along with his close allegiance to Manuel Asensio, Kingsford Capital, and an array of convicted felons, might explain his intransigent and equivocating blog-rants identifying all critics of naked short selling as wackos and worse.

When I asked Gary about this, he had a nervous breakdown. Really, I've never heard anybody (except, perhaps, Herb) blow their top in quite this manner. Not only did Gary deny working for the DTCC, but he launched, totally unprompted, into a lengthy tirade, saying nobody has evidence, and he's never talked to the DTCC's public relations chief-or he has talked to him, but only about that nut Patrick Byrne-and he's never set foot in the DTCC, nobody has seen him in there, or maybe somebody has seen him, but if they saw him, it was only because he was going in there to use an ATM machine-yeah, an ATM machine, maybe he went into the DTCC building to use an ATM machine or something.

Yeah, an ATM machine….or something.

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But back in the summer of 2004, Patrick Byrne doesn't know Judd Bagley or Gary Weiss, he hasn't yet been contacted by the Easter Bunny, and he certainly doesn't know anything about a coordinated effort to pollute America's public discourse. All he knows, really, is that he's become the target of some hedge fund guy named David Rocker.

During a visit he and a colleague make to a Minneapolis-based money manager, the money manager asks Patrick who is shorting his stock.

"I hear some guy named Rocker has it in for me," Patrick says.

The money manager goes ash white, and tells Patrick about a colleague at Piper Jaffray who once had a "buy" rating on a stock that Rocker had shorted. Rocker called the analyst and said, "You don't understand. I will have you killed, I will have you *killed*, if you do not take your 'buy' rating off this stock."

Clearly it was hyperbole, but even in the context of Wall Street Speak, it was over the line. An executive in Piper Jaffray's research department used a speaker phone to call Rocker and demand an apology.

Another hedge fund manager says to Patrick: "Do you know who Rocker is? Do you know who you are locking horns with?"

When Patrick says he does not, the hedge fund manager says, "You better look into who Rocker is connected to."

So Patrick starts calling around in the New York hedge fund community. The story he is given is, "Rocker is Mob. Or at least, he spent the last 20 years on Wall Street insinuating to people that he is Mob."

Now, again, let us be clear that the stories people tell on Wall Street sometimes carry a whiff of hyperbole. We mean here only to convey the sorts of tales that are very regularly told about David Rocker. We are not asserting that Rocker is in the Mafia.Young men like to act like rock stars. Maybe David Rocker is just an older guy who saw too many episodes of the Sopranos, and goes around acting like he is Mob. That's probably it.

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On July 18, 2004, Cramer (probably right after sniffing melons with Rocker in the grocery store) went on CNBC to serve as proxy for Rocker's opinions. He said, "David Rocker, who says that he would - that you chose not to take his call on the conference call, so I'll ask the question he wanted to ask, which is [Cramer picks up a piece of paper and quotes Rocker directly]: `Is there a business model that works here? With all the excitement regarding better sales, the net net is that revenues have tripled from last year's second quarter, yet operating losses have doubled.' That doesn't seem to be good."

Nobody prohibited Rocker from asking his question on the Overstock conference call. And the truth is, in the summer of 2004, Overstock had tripled its revenues, while spending a total of only $70 million. At a similar point in its development, Amazon had burned through $3.5 billion. Rocker had a right to his opinion, but it was the media's job to present the other side of the story. It's called "balance."

Instead, Rocker's stable of journalists lined up behind him. First, TheStreet.com gave Rocker a column in which he presented his biased interpretation of Overstock's prospects. Then, Cramer wrote his own column, mimicking Rocker's views, on TheStreet.com. Other reporters for the website followed suit. And by August, 2004, Patrick was getting calls from a number of journalists affiliated with Cramer who all repeated the same questions, always premised on the same misinformation, supplied to them by Rocker and Gradient Analytics, the firm that is employing Herb's friend from TheStreet.com to run a dodgy hedge fund out of its back office - the firm that had at least one manager with strange habits regarding aliases and ID's.

One reporter who called with Gradient's information was Karen Richardson of The Wall Street Journal. She had been working in New York for only a few weeks, after a long stint in Asia, so she was probably unaware that her boss, David Kansas, formerly of TheStreet.com and now editor of the Journal's "Money & Investing" section, had a strangely cozy relationship with David Rocker and Gradient.

Halfway through the interview, Patrick interrupted the reporter.

"Karen," he said, "you don't really understand what you are asking, do you?"

“No,” she admitted, “not really.”

“Let me guess, Dave Kansas gave you these questions.”

“Yes,” she giggled, “Just twenty minutes ago.”

When, in August 2004, Richardson’s story appeared in The Wall Street Journal, it noted that “analysts have been comparing Overstock’s lack of earnings against Byrne’s rosy projections…earlier Byrne had forecast revenue of $2 billion by 2006.”

Patrick had made that “rosy projection” on Overstock’s most recent quarterly conference call - the one from which Rocker had supposedly been barred. On that conference call, Rocker’s minion, Carr Bettis of Gradient Analytics, had the following exchange with Patrick:

Bettis:…looking at the $2 billion sales mark…

Patrick:…that is, *if* we’re at $2 billion, I can tell you what my income is going to be…

Bettis:…$2 billion, I think, is the mark you guys have set…

Patrick…the question is, even *if* we do get to $2 billion , three years out the decision will then be what - what do you want us to do four years out. It’s going to change what I tell you if you want us to do $4 billion four years out.. ..

Bettis:…Do you think you can do $4 billion?…That’s great… you fire away.

Patrick:…Ok, I think we’re on different wavelengths.

Gradient went ahead and told The Wall Street Journal that Patrick was making “rosy predictions” of $2 billion. As the damage from the story spread, Patrick wrote to Richardson, wondering whether her source “might not be entirely trustworthy on every matter.”

Richardson replied that she had contacted her sources again and they had confirmed the $2 billion number.”This is what the analysts said,” she wrote, “according to their notes, anyway.”

She added: “I hope this doesn’t keep you awake at night!”

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Keep him awake at night!? Well, it did of course. Especially when more reporters called with lists of questions supplied to them by Rocker and Gradient. And these reporters-they were different from the others. They were exceedingly smug. They sneered. They *snarled*. They were altogether exasperating, like Soviet interrogators, weirdly oblivious to all expurgatory evidence, completely unmoving, always waving those gosh-darn-friggin’-half-witted-imperious-little denunciations — *Do you deny that you are an American spy? What, he dares to deny it? Ah-ha! Proof that the American spy is hiding something!* –over and over until, finally, Patrick came to that brittle point of utter torment when it was, God forgive, time to stand up and *pimp-slap* these people.

That’s when the Easter Bunny called.

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It was in October 2004, and the Easter Bunny sounded like a wack-job, he really did, but he made some predictions. He said that Gradient would continue to publish outrageous information at Rocker's behest. He said the same information that had ended up in The Wall Street Journal, would soon get into the hands of specific reporters at Fortune, Forbes, MarketWatch.com, Barron's magazine, and TheStreet.com - all of whom would call in the coming weeks. And he said that Overstock would soon become the target of a nonsensical federal investigation.

The Easter Bunny also laid out the mechanics of something called "naked short selling." He predicted that Overstock would suddenly be listed, without its authorization, on a bunch of foreign stock exchanges- making it easier for hedge funds to sell phantom stock. And he predicted that Overstock would appear on the SEC's Reg SHO list of victim companies, scheduled to appear for the first time in January, 2005.

Over the next two weeks, Patrick received calls from precisely the predicted journalists at Forbes magazine, Barron's, The Wall Street Journal, The New York Post, and Fortune magazine - all of them reading the same list of questions supplied to them by Gradient. (To her great credit, the Forbes reporter spent a week investigating Gradient's information, and determined it lacked credibility; the other journalists merely transcribed the information into their stories.)

Within a few weeks, the Federal Trade Commission in San Francisco began a bizarre investigation into Overstock that went nowhere. Within a couple of months, Overstock had mysteriously appeared on exchanges in Stuttgart, Munich, Frankfurt, Berlin, and Australia. And come January, the company was indeed on the SEC's victim list (along with three other companies that Rocker had just hammered in a column for Barron's magazine).

"The power of any theory is its ability to make predictions," Patrick later says in his "Miscreants' Ball" presentation. "It doesn't matter how wacky a theory sounds, if it makes predictions that are confirmed, you've got to pay attention to it."

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The day after the Miscreants' Ball presentation, there is a photo in The New York Post showing Patrick with a flying saucer over his head. A clique of journalists with ties to short-sellers write multiple stories that are no less flattering. They all say that phantom stock is not a real problem. Only bad CEOs of bad companies complain about short-sellers. Only crazy people believe that hedge funds sell phantom stock.

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Four days before wacky-Patty's "Miscreants' Ball" presentation, officials arrived at an elegant apartment building in the heart of the embassy quarter in Vienna, Austria. It had taken two years, but they had finally located Thomas Badian, a hedge fund manager who fled the United States after criminal charges were filed against him in New York.

Federal prosecutors place Badian at the center of a scheme to sell massive amounts of phantom stock while trying to destroy a Pennsylvania-based software developer called Sedona. Their case describes Badian at one point standing on his office desk and ordering his traders to sell Sedona's stock with "unbridled aggression" - even though they had not borrowed or purchased any stock to sell. When the stock price collapsed, he said "good job," and instructed the traders to be "merciless" about selling fake stock on the following day.

While Badian was living life as a fugitive, a big, swaggering Texan named John O'Quinn was preparing cases on behalf of more than a dozen companies that had been similarly victimized. O'Quinn is one of the lawyers who took on the big tobacco companies - and won. He is a billionaire several times over. He's not in this for the money. He's battling the phantom stock problem because he thinks it's the biggest scandal going. He tells his clients that they don't have to pay him if they don't win their cases.

At the time of Patrick's "Miscreants' Ball" presentation, O'Quinn has learned that Badian conducted his phantom stock trades through a brokerage called Refco. The lawyer says that he has identified more than fifty companies that have been driven into the ground by Badian and other hedge funds who sold phantom stock through this brokerage. Indeed, on Refco's last balance sheet, filed with the SEC in May 2005, there is a line item, "securities sold, not yet purchased." The declared value of those securities is $10.5 billion, and it is safe to assume that a large chunk of that stock was never delivered.

On October 10, 2005, news emerges that Refco has fraudulently hidden $430 million in bad debt. Much of this debt, it turns out, relates to Refco's relationship with Badian, the phantom stock seller, and an Austrian bank called Bawag. The scandal leads to Refco's demise–the largest brokerage collapse in history.

So selling phantom stock is implicated in one of Wall Street's greatest-ever cataclysms.

And where is the media?

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While officials are closing in on Badian, the people who control the financial media (i.e., the friends-of-Cramer) are hunting down the Easter Bunny.Yes, one of America's biggest brokerages is about to collapse after being implicated in massive phantom stock selling scheme, and if you believe a former deputy secretary of commerce, naked short sellers have annihilated perhaps as many as 1,000 companies - but rather than write about this scandal, our leading financial journalists are engaged in an increasingly hysterical - and illegal — effort to unmask and discredit an obscure blogger who calls himself the Easter Bunny.

First, there are stories by Herb Greenberg, Carol Remond and The Wall Street Journal "Money & Investing" section — all of which suggest that the Bunny is somehow suspicious. Perhaps it is no coincidence that Carol's story appears right after a Congressional hearing at which Senator Bob Bennett described the case of a small company called Global Links. As an experiment, the owner of that company bought up 100% of its shares. This should have made it impossible for anyone to trade the stock, but the next day *37 million* shares of Global Links were sold into the market. Of course, none of that phantom stock was ever delivered - because it didn't exist.

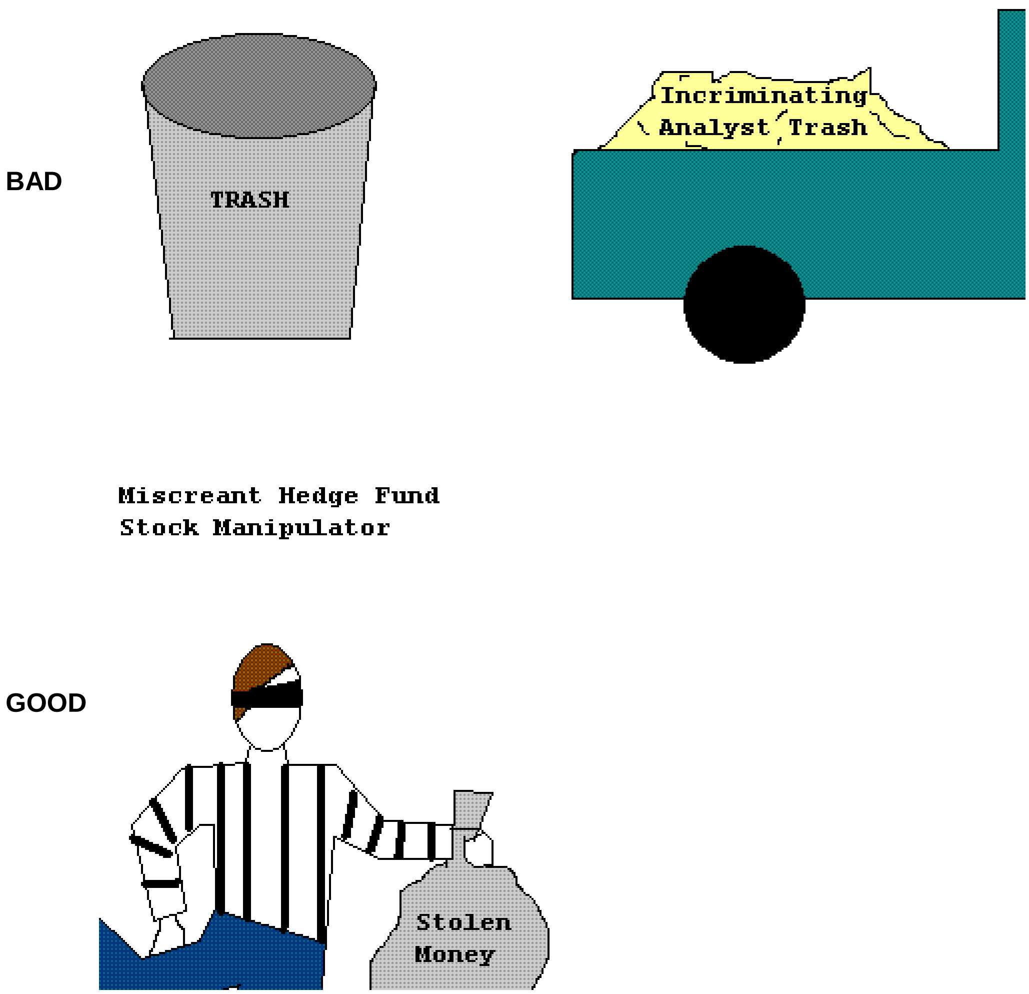
But some influential journalists insist that there's no such thing as phantom stock, they say the Bunny and Patrick are crazy, and just a few days before Patrick's "Miscreants Ball" presentation, while the authorities are closing in on a fugitive phantom-stock seller who helped bring about the collapse of a giant brokerage, Jesse Eisinger, formerly of Cramer's website, TheStreet.com, and now star columnist for The Wall Street Journal, is in Las Vegas, notebook in hand, sniffing after the Easter Bunny. He's going to stop at nothing to prove that the Bunny is untrustworthy. Only a villain would say that phantom stock is a problem.

The Easter Bunny is, of course, loving this. He mocks Eisinger at every step. "Jesse…Stay away from the girls at the Cheetah," the Bunny writes on his blog, TheSanityCheck.com. "I know you will be expensing a fact finding trip there, if you have any sense." The Bunny has registered his blog using the address of the Cheetah, a Las Vegas strip club. (Topless servers, internet servers - get it? Bunny humor.)

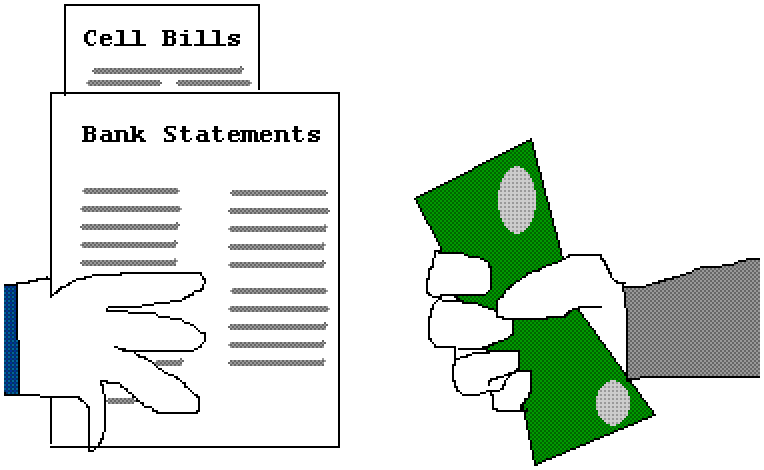
The strippers have no information about the Bunny, so the reporter gets help from criminals who work for his hedge fund sources. The criminals illegally steal the phone and banking records of the National Coalition Against Naked Short Selling, a little lobbying outfit founded by the Easter Bunny. When Jesse starts calling everybody listed in the phone records, the Easter Bunny asks The Wall Street Journal if it is concerned that its reporter (or at least that reporter's source) has committed a felony. The Journal responds indifferently.

Meanwhile, the stolen phone records take Eisinger to the home of a little old lady whom he suspects to be the Easter Bunny's mother. The little old lady gets scared and calls security. A guard issues Eisinger with a citation and as he hauls Eisinger off the little old lady's property, the reporter kicks and screams: "You can't do this! Don't you know my fucking name? I'm Jesse Eisinger. I work for The Wall Street Journal!"

The Easter Bunny is one of the blogosphere's finest (and funniest) writers. But after Eisinger's arrest, and then Roddy-Boyd-The-Post's big garbage story, the Bunny makes a cartoon. It summarizes what we know so far about the mentality of our most powerful financial journalists.



GOOD



GOOD

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After the Journal's editors take Eisinger off the Bunny story, it is handed to Carol Remond of Dow Jones Newswires. Carol spends a few weeks trying to prove that the Easter Bunny is a paid stock promoter or some other force for evil, but unable to do so, she gives the story to Roddy-Boyd-The-Post who begins telling people he knows the Easter Bunny's identity because the Bunny's voice matches that of someone he heard on a conference call. When the Easter Bunny points out that, unlike the Bunny, the person on the conference call sounds like a chain-smoker in his late 40s, Roddy-Boyd-The-Post posits that the Bunny has been using real-time voice altering technology.

Then Roddy writes his big story - to be surpassed only by his garbage story five months later - that the Easter Bunny is, in fact, a used equipment salesman named Phil.

Remond's Bunny work is at least a step above her earlier effort to describe a Mafia-infested brokerage in Canada as a legitimate "market participant." It also beats her madcap scramble to prove that Patrick Byrne was running a criminal operation out of a gay bathhouse. "I'm going to shred this guy to bits," she declared to a former SEC lawyer, and then ran around asking people whether they knew anything about a financial swindle Patrick was conducting with a cabal of gays in San Francisco.

Patrick admits some responsibility for Carol's confusion. Suspecting that Rocker was obtaining privileged information about Patrick and Overstock, but not sure how, Patrick created two controlled leaks: one was that he was gay, one was that he used cocaine. Neither story was true, but if somebody were to believe these tales, that would be OK with Patrick. Meanwhile, he'd be able to map where information was leaking, depending on which story reached David Rocker.

A few days later, somebody had delivered the gay news to Carol Remond, who in the course of trying to "rip Patrick to shreds," allowed the story to metastasize into something about a cabal and a bathhouse.

Patrick caught the mole, or the person he strongly suspects of being a mole, and was provided evidence that she co-owned two shell corporations under a different name with another Overstock employee. The shell corporations had no discernable business other than owning one cell phone. It appeared to those around the mole that her assignment was to figure out who Patrick knew at the Motley Fool, an internet financial news publication that had yet to be infiltrated by Rocker, and was thus the only publication still giving favorable coverage to Overstock.

Patrick confronted the suspected mole, who denied having ever heard of that other Overstock employee or having any shell corporations. He pointed out that the other employee's file showed that she, specifically, had arranged for him to be hired, that they lived in the same apartment building, and that in fact, they lived next door to each other. At that point she remembered that she knew him, but denied having any dealings with him. Patrick pointed out that she co-owned two shell companies with him. At that point she remembered that she owned two shell companies with him. At that point Patrick fired her.

The alleged mole now works for the governor of Utah.

Soon after she left, a journalist at the Motley Fool began trashing Overstock - with help from David Rocker.

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November 2005….So three months have passed since Patrick sued David Rocker and placed him at the center of a financial scheme dubbed "The Miscreants' Ball." And now, Bethany McLean of Fortune magazine has published a story called "Phantom Menace," which ridicules Patrick for suspecting short-sellers of using dubious tactics.

The day "Phantom Menace" hits the newsstands, a pastor at a Catholic church in Canada receives a package with the return address, "P. Fate." Inside, there is a letter concerning Prem Watsa, the CEO of Fairfax Financial, a reputable financial services company in Canada. The letter reads:

Dear Father, The attached documents are being sent to you out of my concern for the Church's finances. I am extremely sensitive to this as a result of losing a dear friend, Father Richard Bourgeois, an enlightened Benedictine Priest formally of the Collegio D'Anselmo, which as you may know is the Cardinal College of the Vatican. On September 4, 1999 the fugitive Marty Frankel, who perpetrated a massive fraud on the Catholic Church, was arrested at the Hotel Prem in Germany. Interestingly, a review of your most recent, "Talk in the Pews" shows Mr. [Prem Watsa] as the Chairman of the investment committee of the church. More interesting are the similarities in the facial features between Mr. Marty Frankel and Mr. Prem Watsa. While these coincidences are surprising, they do not compare to the similarities between the massive money-laundering schemes perpetrated by Marty Frankel and the massively convoluted paper shuffle created by Mr. Watsa through his public vehicle Fairfax Financial Holdings Ltd…the pattern of activities of Mr. Prem are too similar to the course of conduct of Marty Frankel to be overlooked by a person such as yourself, who is responsible ultimately for the funds of the congregation. Be aware Father, be skeptical and ask Mr. Watsa to make confession.

God Bless, P. Fate.

Attached to this note is a 30 page document entitled “Marty Frankel: Sex, Greed and the $200 Million Fraud,” which provides information about Frankel’s exploitation of the Catholic Church, and a vivid description of his adventures in sadomasochistic and group sex.

Mr. Watsa is an honest CEO. He is often referred to as “the Warren Buffett of Canada.” He has absolutely nothing to do with a sadomasochistic church scammer named Marty Frankel.

But Mr. Watsa, his family and friends will receive many more notes in the weeks to come. They will also be harassed, threatened and followed by goons in black vans. At one point, Mr. Watsa’s secretary will receive a letter signed by “Dick Tracy,” accusing her of being involved in a financial crime. The general counsel of a Fairfax subsidiary will receive a similar letter reading, “I am reading about you in the Lawer [sic] News and am stunned by the fact that you are posing next to the largest nose I have ever seen. Being so close to such a nose, one would think the sense of smell would rub off on you. In particular can you smell the very serious negative issues that are facing runoff for Fairfax.”

All of this is the work of a man named Spyro Contogouris. This fellow’s business card identifies him as working for an outfit called “MI4 Reconnaissance.” Sometimes, he holds himself out as an FBI agent. Other times, he claims to have connections to government officials at the highest level. In a note to Fairfax’s former chief financial officer, Contogouris writes: “Take just a minute, sit back and try to view what the world will look like for Fairfax and its former officers three years from now given the current level of regulatory scrutiny. I can help…” In another note, Contogouris promises to “bring a former Special Agent of the Secret Service and FBI…uniquely qualified to communicate to you a depiction of how the government works…”

When the former CFO agrees to meet, Contogouris changes his name to Martin Gardener, explaining, “I do not stay in hotels under any Christian name when meeting insiders at companies. You can use your imagination why. Clearly it leaves my options open in telling my story in the event I am ever subpoenaed. Capisce?”

Contogouris is a con artist who later goes to jail for ripping off a Greek shipping magnate. Prior to his imprisonment, he serves as a favored source to Bethany McLean, author of “Phantom Menace,” Roddy-Boyd-The-Post, Carol Remond, and Herb Greenberg - all of whom write negatively about Fairfax. Cramer, TheStreet.com, and The Wall Street Journal’s “Money & Investing” section, edited by Dave Kansas, formerly of TheStreet.com, also publish negative stories that mimic Contogouris’s “analysis.”

Contogouris’s business card may read “MI4 Reconnaissance,” but it should be no surprise that he is, in fact, employed by a hedge fund that is linked to David Rocker and Mr. Pink, both of whom are short-selling Fairfax stock. The hedge fund that employs Contogouris is run by a former employee of a man named Steve Cohen, who is also shorting Fairfax stock.

Cohen has achieved fame for keeping a $12 million stuffed shark in his living room. He is also the most powerful individual player on Wall Street. His trades account for more than 3% percent of daily volume on the New York Stock exchange.

In 2003, these high-powered hedge fund managers launched what they called “The Fairfax Project” - a plan to destroy Fairfax Financial. The hedge funds, working with MI4 Reconnaissance, have provided information to the SEC and the Department of Justice, which launched investigations that have so far gone nowhere.

Meanwhile, Fairfax has received a listing, without its authorization, on the Berlin Stock Exchange-making it easier for hedge funds to sell phantom stock.The company has appeared on the Reg SHO list of companies victimized by phantom stock almost every day since the list began publishing in 2005.

And on the same day that Mr. Watsa's pastor receives that bizarre letter from MI4 Reconnaissance - the day that Bethany McLean publishes "Phantom Menace," which ridicules Patrick Byrne for saying that some short-sellers use dirty tricks - on that day, hundreds of millions of dollars worth of stock in both Fairfax Financial and Overstock had been sold into the market and never delivered.

A simple Freedom of Information Act request to the SEC confirms this.

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Bethany McLean is one of America's most respected financial journalists. She is famous for being the first reporter to raise concerns about Enron, the energy company that later proved to have orchestrated a large accounting fraud. She has authored a best-selling book about the scandal called "The Smartest Guys in the Room," which was made into a documentary movie with funding from Mark Cuban, the owner of the Dallas Mavericks basketball team.

Bethany deserves credit for her work on Enron. But it is worth noting that the primary source for her stories was Jim Chanos, who owns a hedge fund that is aptly named Kynikos ("Cynicism," in Greek). Chanos was funded by Dirk Ziff, a billionaire heir to the Ziff-Davis publishing empire (and one time guitarist for Carly Simon), at the recommendation of Marty Peretz, Cramer's partner in TheStreet.com. The cynical hedge fund manager regularly shorts the same companies as Rocker and other members of the Cramer constellation of hedge funds.

It is also worth noting that in Enron's dying days, a massive amount of its stock was sold into the market and never delivered. Certainly, some of Enron's executives were crooks, but this was a multi-billion dollar company - a key market participant with thousands of employees and some of corporate America's most valuable assets. Would the company have gone under if hedge funds hadn't saturated the market with phantom stock in order to drive the stock to zero? No one will ever know. And the SEC has pointedly refused to release any information on naked shorting in Enron stock.

Either way, the hedge funds' success with Enron does not excuse their other activities. This crowd has attacked dozens of companies - polluting the media with misleading negative information, employing criminals to harass CEOs, orchestrating SEC investigations, bribing witnesses, and filing phony lawsuits. Almost always, these companies appear on the SEC's list of phantom stock victims. Often, these companies have done no wrong, but always the hedge funds label them as frauds - "the next Enrons!"

Journalists swallow this information as if it were the elixir of everlasting life. In the seven years since Enron, Bethany McLean has yet to write a story that was not sourced from the Cramer constellation of hedge fund managers and crooks. Even in the face of the most glaring evidence that the hedge funds are wrong - even when she knows full well that her sources are using dubious tactics and employing criminals - she simply will not contradict these people. As a result, a number of her stories are gross distortions.

For example, in March 2007, she writes a story about Fairfax Financial. In this story, she mentions that Spyro Contogouris has been arrested, and notes that Fairfax has accused him of working for a cabal of hedge funds engaged in dirty tricks. But she offers little information about Contogouris's tactics (one of which, by the way, was to create a website that falsely compared Fairfax to Enron and advertised a copy of Bethany's book).

Instead, Bethany's story describes Contogouris as an "independent research analyst" who "proved himself" on an earlier project involving an unnamed stamp company's "Ponzi scheme." (The stamp company is called the Escala Group. This was a big target of Kingsford Capital, the hedge fund that offered a large sum of money to the Columbia Journalism Review after it discovered that I was working on this story).

Bethany's story quotes an analyst who has concluded that Contogouris's claims are bogus - that Fairfax's financial statements are "not unusual" and certainly not portending the "next Enron." She notes that even Contogouris admits that he "couldn't connect all the dots." But, amazingly, she proceeds to give credence to this criminal's analysis, and his completely unfounded claim that Fairfax is the "greatest known insurance fraud of the 21st century."

In an attempt to bolster this claim, Bethany refers to the work of a firm called Institutional Credit Partners, which apparently also suspects wrongdoing at Fairfax. The reporter presents this firm as completely independent - a disinterested source who objectively confirms the claims of Contogouris. She writes that "ICP executives provided Fortune with access to unedited research because they are deeply disturbed by the possibility that legitimate research may be being [sic] suppressed."

What she did not mention is that ICP's director had just bailed Contogouris out of prison. This hardly constitutes objectivity, and Bethany knew it, because as she wrote her story, she had, quite literally sitting on her desk, a copy of Contogouris's bail documents.

Finally, Bethany also makes a vague reference in her story to a real FBI agent whom she suggests has his eye on Fairfax, when the truth is that he has been looking into other issues, such as the criminal behavior of Spyro Contogouris, whom he subsequently arrests.

There is "the distinct possibility that Watsa and his company are not, in fact, victims," Bethany writes. "After the last round of corporate scandals [read: Enron], regulators and the public cried out for more hardheaded analysis. Where were the skeptics, they asked? Now, just a few years later, there are skeptics aplenty about Fairfax, and they have taken their suspicions to regulators, rating agencies and others."

The "others" being a clique of compliant but powerful journalists like Bethany McLean. The "skeptics" being a small group of hedge funds and criminals who have captured America's most important institutions.

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It is tempting to catalogue each of the many falsehoods that these journalists have entered into the public discourse, but that is perhaps a job for the lawyers. Permit me, though, to provide a couple more examples of the deceit that has been foisted upon us by Fortune magazine's most prominent reporter and her dubious sources.

In May 2005, Bethany published a story in which she compared MBIA, the bond insurer, to Enron. Today, this company has run into some difficulty owing to the subprime mortgage crisis, but the company is certainly no Enron. It retains its AAA rating from Moody's and Standard & Poor's, and none of the issues raised in Bethany's story have proven to be germane.

Which shouldn't surprise. The story served primarily to air the opinions of a single short-seller, William Ackman, who is a friend-of-Cramer - a fellow Harvard graduate who was attacking MBIA along with David Einhorn (Mr. Pink's war ally) and Whitney Tilson (financer, along with the crook Sam Antar, of convicted felon Barry Minkow). Ackman has also worked closely on various deals with Gene Philips, an old Boesky crony who was arrested in 2000, along with 100 stock brokers from the five New York Mafia families.

Bethany knows that Ackman is not an objective observer, so she supports her assumptions about MBIA with information from several analysts whom she describes as "independent". For example, she quotes Sean Egan, the manager of a small credit rating agency that holds itself out as an alternative to the gold standards, Moody's and Standard & Poor's, and apparently believes that MBIA deserves less than a AAA rating. Bethany portrays this guy as credible, while failing to mention that Egan is paid by short-selling hedge funds, and refuses to meet anybody in a real office. Instead, he meets reporters and arranges secret document drop-offs in the Philadelphia train station.

The other "independent" analysis in the story comes from Glass, Lewis, a firm that specializes in producing negative research for hedge funds (and that now employs Jonathan Weil, the Journal reporter who wrote the falsehood-laden story about NovaStar; Weil has also been credited with "breaking" the Enron story along with Bethany).

Meanwhile, another source for the MBIA story-a source who was positive on the company–says that Ackman heavily pressured him to change his views. Then Bethany intentionally twisted the source's words to suit her purposes.

In an email, the source says: "Bethany McLean cited me inaccurately (in several respects)."

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Shortly before Bethany's MBIA story came out, New York's then-Attorney General Eliot Spitzer was obligated (because of the sheer volume of evidence) to investigate Bethany's source, William Ackman, for stock manipulation and publishing false information. But characteristically, Spitzer quickly dropped that investigation. Then he did a complete 180, and began investigating *MBIA*. That investigation went nowhere. But then Spitzer became governor of New York. Before the FBI caught Spitzer with a hooker while investigating allegations of money laundering and bribery, the governor continued to push for legislation that would have done damage to MBIA's stock price.

As Kimberly Strassel bravely wrote on The Wall Street Journal editorial page (which operates independently of the captured "Money & Investing" section), "Mr. Spitzer's main offense as a prosecutor is that he violated the basic rules of fairness and due process: Innocent until proven guilty; the right to your day in court. The Spitzer method was to target public companies and officials, leak allegations and out-of-context emails to a compliant press, *watch the stock price fall*…Most of Mr. Spitzer's high-profile charges have gone up in smoke…The press was foursquare behind Mr. Spitzer in all these cases, and in a better world they'd share some of his humiliation."

The italics are mine. If it all sounds familiar, it will not surprise to learn that Eliot Spitzer is Cramer's best friend. They were college roommates. Cramer's constellation of hedge funds were Spitzer's biggest campaign donors, and the Cramer clique of journalists were the very journalists who were "four square behind Mr. Spitzer."

And Spitzer didn't just attack public companies so that his short-selling friends could make more money. He also manufactured the "independent research" racket. As attorney general, he sued the big Wall Street banks for publishing financial research that supposedly overstated companies' prospects. This opened the doors for the "independents" - like Sam Antar, Spyro Contogouris, Barry Minkow, the folks at Gradient Analytics, and others who make their living harassing public companies and *understating* their prospects for short-selling clients.

Spitzer was the most aggressive attorney general Wall Street has ever known. But perhaps in deference to Cramer and his friends, he almost never went after hedge funds. Indeed, one of the only hedge funds he ever prosecuted was Millennium Partners, founded by Israel Englander and John Mulheren, who died of a heart attack in 2003.

Englander and Mulheren were not friends of Cramer. To the contrary, Mulheren was once arrested while driving to the home of Cramer's friend, Ivan Boesky, with a trunk full of high-powered weaponry. As is recounted in *Den of Thieves* (the classic account of Mike Milken, Ivan Boesky, and Carl Icahn), when faced with prosecution, Boesky ratted out everyone who had done business with him (and even wore a wire on Milken), in return for a lighter sentence. Mulheren's involvement was minimal, but he was among those ratted out. So one day Mulheren snapped, and drove to Boesky's house, planning to assassinate him.

In an ugly world, Boesky or his friends would seek revenge by trying to kill Mulheren and Englander.

Kill them, or call in the Attorney General and the Media Mob.

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It is said that Bethany McLean has a system with gentlemen of a certain age. She has Midwestern looks, but a voice like red velvet –.and she stops at nothing for a peak behind the kimono. Downright cozy with Wall Street, a real life Media Mata Hari, she has beguiled many a CEO into giving her information that ended up in her stories - and also in the hands of her short-selling friends.

In October, 2005, she attended, uninvited, a Saturday lecture Patrick Byrne gave at the Columbia Business School, and asked him to a nearby restaurant. Later that day and several times the next, she left messages on the voicemail of a friend of Patrick's in the mistaken belief that it was Patrick's phone. That friend says, "She left Patrick her home and cell numbers and asked him to come over to her place for a drink, 'even around midnight would be fine.'"

Patrick accepted an offer to meet her in a darkened bar under her apartment, where she mentioned, "I was briefly married, getting divorced."

Patrick, who had been warned of Bethany's system, declined her invitation to come by again, or call her at home. It was hard to believe that she would be so bold considering that she had previously published a story about Overstock, noting that "skeptics abound."

Those "skeptics" again.

The skeptics, of course, were Rocker and the scoundrels at Gradient Analytics, then called Camelback Research Alliance. They suggested that Overstock's growth paled in comparison to Amazon's - neglecting again to note that Amazon had burned through $3.5 billion at the same stage of development. There is no evidence that Bethany did anything in this story other than regurgitate the misleading analysis of Rocker and Gradient - while portraying them as two separate entities in order to show that skeptics "abound."

As if to more forcefully demonstrate her allegiance to these "miscreants," Bethany had published another hatchet job for them - right after Patrick's "Miscreants' Ball" presentation. Patrick told the world that Gradient and Rocker were at the center of a massive financial crime, and a few days later, he opened Fortune magazine and saw the story - an attack on video game maker Take-two Interactive, quoting (as if they were offering analysis independent of each other) David Rocker and Gradient Analytics.

Then, in November 2005, shortly after Patrick did not call her at home (not even before midnight) Bethany published "Phantom Menace." Rather than describe in detail the allegations that Patrick had leveled in his "Miscreants Ball" conference call, Bethany quoted Mark Cuban, the guy who financed her Enron documentary. She wrote: "As Mark Cuban, the billionaire investor, later wrote on his blog, 'Never before in the history of Wall Street has a single conference call mentioned the following topics: miscreants, an unnamed Sith Lord he hopes the feds will bury under prison, gay bathhouses, whether he is gay, does cocaine, both or neither, and an obligatory 'not that there is anything wrong with that,' phone taps, phone lines misdirected to Mexico, arrested reporters, payoffs, conspiracies, crooks, egomaniacs, fools, paranoia, which newspapers are shills and for who, payoffs, money laundering, his Irish temper, false identities, threats, intimidation, and private investigators. All in 61 minutes."

In addition to making it seem as if Patrick's words had been blurted out by a sufferer of Tourette's syndrome, Bethany went to lengths to ensure readers that Rocker had taken a "routine position" in Overstock. She noted that Gradient had published negative information about Overstock and argued (again without mentioning Gradient's connection to Rocker, or alluding to any alternative point of view) that this information had merit. Moreover, she described the Easter Bunny as a wacky conspiracy theorist, suggested that phantom stock was not a real problem, and said that Patrick's behavior was so "over the top" that he should be fired from Overstock.

Before she wrote this story, Bethany had three affidavits from former Gradient employees alleging that Gradient was in the business of producing false information for Rocker. One of those affidavits stated plainly that Gradient had colluded with at least one famous journalist–Herb Greenberg, a friend of Bethany–to illegally front-run media stories.

When Patrick asked if she had bothered to read these affidavits, Bethany said she didn't see any reason why she should do so. "It would just open up a whole can of worms," she told him, "and I'd have to get into whether they were telling the truth, or were just disgruntled ex-employees. I don't want to get into that."

Patrick then sent an email to Bethany, asking again whether she was going to write her story without reading those affidavits. Bethany now claimed to have read them, but said she wasn't going to mention

them - again, because she didn't know if the former employees were disgruntled. She made no attempt to interview the employees or do any other reporting that would establish their credibility or lack thereof, so Patrick again inquired as to her unique understanding of what it meant to be a journalist.

Bethany's emailed reply revealed the depths of her cynicism - the extent to which she views herself not as a detached and unbiased journalist, but rather as a battle-scarred warrior for the pillaging hedge funds that made her career.

She said she'd stick with her sources.

She said she'd do this because, "History is written by the victors."

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There was one accurate paragraph in Bethany's "Phantom Menace" story. It described some comments that Patrick made to Bethany and Gradient.

"In the fall of 2004, I wrote a FORTUNE story title "Is Overstock the Next Amazon?" After the piece came out, Byrne sent me an e-mail saying "Fair. And balanced." Two days later he wrote another e-mail: 'I actually thought it was crap…So why exactly did you become a reporter? Giving Goldman traders blowjobs didn't work out?' Around the same time, after Gradient released another report questioning board members' independence, Byrne wrote to [Gradient's Donn Vickery]: "Donn, you make a living toadying to bully hedge funds…you deserve to be whipped, f-d, and driven from the land."

Patrick responds, "I agree that the comments were a little salty. But Bethany knew that the email to Gradient had nothing to do with their 'questioning a board members' independence.' I sent it because Gradient was derisive and personally disrespectful, over the telephone and then in print, to Gordon Macklin, a board member and a 78 year-old lifelong friend. This was crystal clear in my email, but Bethany's strategically placed ellipsis obscured it."

Here's Patrick's email to Vickery, in full: "Donn - You make a living toadying to bully hedge funds. In this role you insulted Mr. Macklin, a friend, a lifelong mentor, and a decent and wonderful man. You deserve to be whipped, fucked, and driven from the land. Little punctilious submissive rejoinders such as your letter cannot change this or recalibrate our relationship on other terms."

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Two weeks after Fortune magazine suggested that Patrick was nuts, the North American Securities Administrators Association (NASAA) held a conference on naked short selling. During the conference, Susan Trimbath, a former employee of that Big Black Box known as the Depository Trust and Clearing Corporation, provided a detailed description of how the DTCC aids the sale of phantom stock. Other panelists, including Peter Chepucavage, the author of the SEC's Reg SHO rule on naked short selling, stated that phantom stock is a huge problem that the SEC is failing to control.

The host of the conference was Ralph Lambiase, president of the NASAA and director of securities enforcement for the state of Connecticut, where many hedge funds are based. In a letter to Dave Patch, the engineer and blogger-revolutionary, Lambiase announced that he was setting up a multi-state task force to probe phantom stock sellers and the DTCC. Dave noted the letter and covered the conference on his blog.

The Wall Street Journal, by contrast, did not cover the conference. Instead, while the panelists were describing one of history's biggest financial crimes, the Journal published a front page story commiserating with the wife of Amr Elgindy, a.k.a. Manny Valasco, the Mob-linked phantom stock seller who'd been indicted for stock manipulation and bribing FBI agents, and who got caught when he gave his Smith Barney broker an order to liquidate his childrens' trust funds on the day before 9-11.

Elgindy was about to be sentenced, and the Journal was begging for leniency. It glossed over the details of Elgindy's crimes, and instead described how Mrs. Elgindy cried when agents raided their home, and how Mrs. Elgindy was sad because the paint on her $4 million mansion was pealing. "She has battled with the government over money," the Journal reported.

Then this: "All the while, she has struggled with her own terrors [which] more than once have woken her up in the night."

And this: "Mrs. Elgindy says she doesn't know what she will do if her husband receives a lengthy sentence. 'He was the first person who gave me the courage and strength to question what I had been taught,' she says."

And finally: "The situation has been particularly tough for their youngest son, Samy. On a recent family visit to the New York jail, Samy sat on his father's lap and told him, 'Daddy, if I could stay here with you, I would.'"

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A few weeks later, Elgindy appears in court for sentencing. It is noticed that he is missing one finger. He is asked about it, and claims it happened in a beach barbequing accident. The prosecutor points out that he has been under house arrest. Elgindy changes his story, maintaining that it was a home accident. However, sources familiar with the investigation inform *Deep Capture* that they believe Russian mobsters did it as a warning not to talk while he was in prison. One even maintains, "The Russians went to his house and forced Elgindy to saw off his own finger, to help him better remember the experience. They also told him that if he talked they would skin [a member of Elgindy's family] alive."

While Elgindy is sawing, a church pastor named Jeff Matthews is writing on his blog that Overstock's vice president of marketing works in a nudie bar. In addition to his church duties, Matthews is a former writer for TheStreet.com and a hedge fund manager who once worked for David Rocker. He claims to be writing "without having a dog in this fight" even though he owns "puts" in Overstock - which is another way to bet that the stock price is going to fall.

As a mob of journalist-thugs try to confirm that Overstock is run by a stripper (the story is false, like most everything else written about Overstock) Patrick gives up on the mainstream media and appears on a radio program broadcast by the Christian Financial Radio Network - motto: "prosperity for God's people."

This outfit manages to air a mostly accurate story about phantom stock.

By contrast, shortly after pastor Matthews says Overstock is run by a nudie bar dancer, and now four months after Patrick's Miscreants Ball presentation, and a few weeks after the sad-story about Elgindy's wife, The Wall Street Journal publishes a highly *positive* profile of David Rocker. The author is Karen Richardson, the journalist who hoped Patrick wouldn't "lose any sleep" over the bold lies of Rocker's minions at Gradient.

Richardson praises Rocker for his "aggressiveness and nose for troubled companies." She says we should take pity on Rocker because, notwithstanding his 50% return for the year, it is really tough to be short-seller. "We don't get any respect. We're the Roger Dangerfield of the investment community," Richardson quotes Rocker as saying.

The reporter does not describe Rocker's tactics. She does not note that Rocker's minions have previously fed her false information. And amidst all her assurances that short-sellers are good for the market, she does not once mention the words "phantom stock" or "naked short selling."

Meanwhile, Patrick has bought 50,000 shares of Overstock and made a simple request - that real stock be delivered. After weeks of equivocation, a broker at Wells Fargo writes Patrick an email. "It would seem that [Lehman Brothers, the Wall Street brokerage] did not have the shares when they sold them to us…Since Overstock is a 'hot' [i.e. manipulated] stock they are finding it just about impossible to find shares to borrow or buy…Talking with my traders they feel that…no one seems to have enough of the shares to deliver."

So, it seems, Patrick has bought 50,000 shares of air - phantom stock.

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Around this time, Rocker sells his shares in TheStreet.com. A month later Cramer sells a bunch of his own shares. Then it is announced that the SEC is investigating Gradient, and has issued subpoenas to Herb, Cramer, Carol Remond, and TheStreet.com.

Our "financial media" goes ballistic. Cramer scribbles "Bull!" on his subpoena. Herb commandeers CNBC to holler about a conspiracy to get Herb. Jesse Eisinger, Herb's former co-worker at TheStreet.com, who has spent the months since his foiled Bunny hunt writing hatchet jobs for David Rocker, now writes in The Wall Street Journal that the SEC is violating the First Amendment right to free speech by investigating a research shop and giving a subpoena to Herb. The New York Times' top business columnist, Joe Nocera, who is one of Herb's oldest friends, writes that Patrick is "loony beyond belief." As evidence for this, Nocera quotes Roddy-Boyd-The-Post as saying that Patrick is, in essence, loony beyond belief.

Following these leading lights, other journalists write similar stories. Not one of these journalists interview Gradient's former employees, or seriously investigate Patrick's allegations.

In the midst of all this, the San Francisco-based investigator who had issued the subpoenas (with the approval of the SEC's D.C.-based head of enforcement, Linda Thompson) is summoned back to Washington to meet with the SEC chairman. The investigator, Mark Fickes, is a slight, bespectacled man - but he has an iron will. He argues that Gradient is worthy of investigation - and the journalists are central to his case. Ultimately, though, the SEC caves under the media pressure. It announces that it is not going to enforce the journalists' subpoenas (and ultimately drops its investigation of Gradient).

Herb breathes a brief sigh of relief, and then he takes the offensive. He calls my editor and demands that the Columbia Journalism Review stop work on this story. Indeed, he practically has a nervous breakdown on the phone, pleading his innocence and saying no editor could possibly allow a story like this to happen.Then Joe Nocera calls my editor - just to say that he has it on authority that Herb is innocent.

After that, Fortune magazine's Carol Loomis, the grand dame of financial journalism, starts making calls to the Columbia Journalism School, asking questions about this story. (Recently, I asked Loomis whether she was trying to have the story killed. First, she said she couldn't remember the circumstances - maybe she was calling on behalf of someone else. The next day, she told me that she remembered that she had heard that Columbia University was going to kill the story and her "journalistic instincts" led her to investigate).

With Herb, Nocera, and Carol Loomis making calls, the lawyers at The Wall Street Journal forbid its employees from speaking to me (so much for freedom of speech).

I send a list of questions to CNBC about Herb, Cramer, their connections to hedge funds, the network's unbalanced coverage of phantom stock, the SEC investigation, and Patrick Byrne. A public relations man rushes to my office and says, "now let's talk about this, maybe there is something we can do about this…Can we just hold off on this story for a while?" Just a "short while," he says — he needs some time, but he'll get answers to my questions, he promises.

A few days later, he says, "sorry," he couldn't get answers to the questions because he was on vacation. After that, he can't get answers because Cramer is busy. Then it's Friday, and it's hard to get answers on Fridays. After that, he's been ill, then he's on another vacation, then he's still trying to find the information. But he promises– he's going to get me the answers really soon.

That was two years ago. I'm still waiting for the answers.

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As the media whines about the SEC's investigation of Gradient being a violation of the First Amendment right to free speech, Rod Young, CEO of a telecom company called Eagletech, argues that the SEC has violated Fifth Amendment property rights by "grandfathering" the undelivered stock of all the companies on the SEC's Reg SHO victim list. At this point, phantom stock is "pervasive" or "under control" depending on which SEC official is speaking. Either way, the agency has listed more than 300 companies whose stock has been sold and not delivered in excessive quantities.

And to add insult to injury, it has "grandfathered" much of that stock, saying that anything sold before January 2005 doesn't have to be delivered - ever. The SEC says it is allowing this phantom stock to remain in the system because forcing delivery of real stock would cause "excessive volatility from large preexisting open positions." So on the one hand, the official policy of the SEC is that it has naked short selling under control. On the other hand, it seems to believe there is so much phantom stock in the system that there would be market chaos if it were to actually do something about it.

This seems pretty outrageous to the 300-plus CEOs currently affected (not to mention the 1,000-plus CEOs whose companies might already have been obliterated), so in February 2006, Rod Young writes an open letter to the SEC.

In this letter, he describes how Solomon Smith Barney arranged a so-called private placement in public equity (PIPE) to invest in his company. PIPEs, sometimes referred to as "toxic financing," have been a key weapon of hedge funds and brokers wishing to illegally naked short companies out of existence. Sometimes companies hard up for cash have sold discounted shares (PIPEs) to unscrupulous hedge funds. The hedge funds know that news of the fire sale will cause the stock price to drop. So they naked short the stock in the knowledge that the PIPE will deliver them shares with which to cover, creating virtually guaranteed profit. Under certain conditions, this act (which is illegal) can cause a company to go into a "death spiral" and collapse.

In a February 2007 story, "Sewer Pipes," Nathan Vardi of Forbes magazine provides details of the Genovese Mafia family's involvement in PIPES.

Thomas Badian, the fugitive in Austria, gave toxic financing to companies he naked shorted through Refco. Solv-ex, the company Gary Weiss highlights in his first big story, "The Secret World of Short-Sellers," might have received toxic financing from Mafia-connected investors. And now, Rod Young of Eagletech is describing in an open letter to investors how his own company fell prey to a similar, Mafia-led scheme.

He notes that ten days after Solomon Smith Barney brokered Eagletech's toxic financing, Amr Elgindy "and his short-selling cartel appeared on chat boards claiming that Eagletech was a scam." He adds that FBI agents later explained to him that a New Jersey labor racketeering investigation had revealed that Eagletech's first investment banker was selling phantom stock through a mobster from the Colombo crime family (which, according to multiple federal cases, usually does its illegal stock trading in league with Genovese and Russian mobsters). Then, in August 2004, at an Eagletech luncheon, an agent from a different federal agency showed up unannounced, looking for information on Jonathan Curshen, the same money launderer who was cased in Costa Rica by *Deep Capture*'s operative.

In his open letter, Young writes that, in a perfect world, the SEC would face "a silent lynch mob of aggrieved shareholders, the 13 State Securities Regulators (who unlike fed regulators are taking an interest in phantom stock)…CEOs of other victim companies, the media, congressional staff assistants, and our rock star advocates Byrne, Burrell, Patch, O'Brien (with or without the rabbit suit) Faulk, DeWayne, and Ferrara."

The "rock stars," with the exception of Patrick Byrne, are all bloggers and stock message board aficionados. They are now the only "media" covering the phantom stock problem with any degree of seriousness. Only one journalist shows up at Young's meeting with the SEC. His name is Hugo Cancio, and he is a documentary film maker for a new company, Fuego Entertainment, which so far has made one film — about Cancio's father, a Cuban musician.

Fuego Entertainment, meanwhile, has announced that it also has an agreement to distribute "Dr. Joe Vitale's Revolutionary Sugarless Margarita Mix, Fit-a-Rita."

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The crusading bloggers–or "pajamahadeen," as they are sometimes called–have worked hard to get the mainstream media interested in the phantom share problem. In April 2005, the Easter Bunny even scored an invitation to have lunch at the Forbes mansion with a group of Forbes journalists and Kip Forbes himself.

The Easter Bunny and the journalists spoke for an hour in a living room. At first things did not go smoothly. The Bunny got lost in the twists and turns of hiding in South America with a backpack to avoid getting whacked, and people began rolling their eyes.

But then everybody moved to a private dining area. The Forbes journalists were open-minded. They were not hostile. At the end, Kip Forbes held up a 1987 Forbes magazine that had a cover story about naked short selling.

A year later, Forbes begins running a series of stories highlighting the travails of companies victimized by phantom stock. Correspondent Nathan Vardi gets the Mafia angle. And other stories are written by Liz Moyer, whom Gary Weiss (friend of crooks, hijacker of Wikipedia, liar) had prevented from getting a job at BusinessWeek.

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While the Bunny was soliciting Forbes, Gayle Essary was cheering on NBC's "Dateline" program, which was rumored to have plans for a big expose on phantom stock. Essary, who has since passed away, was the son of an evangelical preacher who spent his formative years traveling to ministries throughout Texas. He retained in his own language a bit of the doomsday flourish, and in 2004, this short, slightly rotund man, who wore square eyeglasses and frumpy suits, launched a news service, FinancialWire, which for a while offered general business information, but was soon occupied almost entirely in churning out regular dispatches on "Stockgate: The Biggest Financial Scandal in History."

In June 2004, Mark Faulk, a song-writer and playwright, broke the news of the Dateline story on his blog, "The Faulking Truth." Gayle followed up with one of his first stories on FinancialWire.

StockGate: Dateline Could Blow Lid Off 'Stockgate,' says Website.

"FinancialWire learned several months ago that 'Dateline,' the investigatory TV program aired by General Electric's (NYSE: GE) NBC unit, has been preparing a blockbuster expose of 'Stockgate,' the term coined by FinancialWire to encompass the massive naked shorting scandal, that could cause the entire financial community to implode…"

In April 2005, while the Bunny was addressing Forbes, Gayle was still waiting for that Dateline story, and FinancialWire was still churning out the headlines:

StockGate: 5 Days To Dateline…

StockGate: 4 Days to Dateline…

StockGate: 3 Days to Dateline…

StockGate: 2 Days to Dateline…

Then, on April 12, this story:

StockGate: Dateline NBC Cancelled…

"No one is talking, but Dateline is reportedly blaming the Pope's death, the Prince Ranier death, and the Prince Charles Wedding and other events as causing the delay. However, a desk person at the network revealed that the story is actually being replaced by an Al Roker interview with Ruben Studdard of American Idol fame…"

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FinancialWire speculated that the Depository Trust and Clearing Corporation might have quashed the Dateline story, and Gayle had good reason for his suspicions. The Big Black Box of Wall Street had recently unleashed its imperious public relations machine on Euromoney, a prestigious European publication, which had published a powerful story on naked short selling. (Unlike the captured American financial media, European publications have provided extensive coverage of the phantom stock problem).

“We will not accept silently this type of sloppy, one-sided journalism whether in print or broadcast,” DTCC first deputy general counsel Larry Thompson wrote in a letter to Euromoney. The word “broadcast” could only have been a reference to the impending Dateline story.

Meanwhile, the Big Black Box had turned its sites even on Gayle’s little news service. In April, 2005, DTCC officials demanded that the publishers of Investors Business Daily remove FinacialWire from IBD’s news feed, which had delivered Gayle’s stories to Yahoo! News and other internet outlets.

FinancialWire hired an attorney and celebrated the event in a headline.

StockGate: Dateline NBC Cancelled and Attorney Accuses DTCC of Cheap Thuggery

“Is it possible that now, NBC has also fallen victim to a halt-the-media conspiracy that has outgrown even Financial Wire?”

But one of the best measures of any DTCC public relations campaign is Carol Remond. Whenever the DTCC faces bad news, the Dow Jones reporter can be depended upon to rush to its defense. That is why, in April 2005, as the Easter Bunny was lobbying Forbes, and Euromoney and Dateline were preparing to run exposes on naked short selling, Carol published a story noting that Patrick Byrne had become a “crusader and benefactor of conspiracy buffs” who believe Wall Street firms are illegally selling phantom stock.

Carol suggested that it was somehow suspicious of Patrick to publish an ad in the Washington Post encouraging the government to take action against phantom stock sellers. She said it was strange that Utah Senator Bob Bennett had taken an interest in the issue - that it must be because Patrick had contributed to Republican political causes.

On the day of that story hundreds of millions of dollars worth of Overstock shares that had been sold into the market remained undelivered. Several dozen other Utah companies were on the SEC’s list of companies victimized by phantom stock.

Also on that day, the Washington Legal Foundation, a prestigious legal advocacy group, published its own ad in The New York Times. It ridiculed the SEC for pursuing Martha Stewart for insider trading while failing to investigate “truly serious allegations of stock manipulation by plaintiffs’ class action attorneys and short sellers.” The prestigious lawyers said that the criminals have “behind-the-scenes contacts” with “friendly media…”

And, it added, “it’s all being done right under the noses of SEC regulators.”

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Over the next couple of months, Congressmen on both sides of the aisle sent letters to the SEC and the DTCC inquiring about the failure to stop illegal naked short selling. In June, 2005, William Donaldson resigned as chairman of the SEC, and the word from inside the agency was that he was actually fired when he began talking about addressing the problem of phantom stock.

This was shortly after Donaldson confirmed for the first time the existence of a Presidential working group "to address market issues for private pools of capital" (the "pools" being hedge funds). The pajamahadeen quickly discovered that the committees of this group were stacked with Cramer-connected short-sellers, including Jim Chanos, of Cynicism (Kynikos) Capital.

Carol Remond and other journalists, of course, picked up on none of this.

So the pajamahadeen took matters into their own hands. They held protests in Washington and New York. "National Counterfeit Conspiracy Days," they called them.

There weren't a whole lot of people at these protests, but they stood tall — on Capitol Hill, then at Times Square, and finally in front of the offices of the DTCC - hollering into loud speakers and waving banners. "I paid for real shares BUTT…," read one banner. "The government knows but is covering it up," read another. One protestor had a bare bottom ("naked shorts" - get it?). Another was wearing a purple business suit, and it wasn't a costume.

The mainstream media didn't cover the protests but Hugo, of Fit-a-Rita Margarita, was there.

He was making a documentary.

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So in the absence of honest media, these are the people left to fight the fight. And Patrick embraces them. He recognizes that they are underdogs. He knows that he'll be ridiculed. But he embraces them anyway. He does it because he knows they are right.

His conviction only grows in the month before his "Miscreants' Ball" conference call. That's when his investigation reveals that Kevin Ingram, a convicted arms dealer, is mixed up in these events. A former trader at Goldman Sachs and Deutsche Bank, Ingram left to form his own dot-com in the late 1990's, got short of cash, and went to Miami to deal arms. He made a deal to sell Stinger missiles to Pakistani Inter-Services Intelligence agents (even promising to work on obtaining a nuclear trigger), but they proved to be undercover FBI agents.Ingram got nabbed while boarding a chartered Lear jet bound for Europe with a million dollars in a duffel bag. He did a stint in federal penitentiary, then went to work on anonymous internet message boards, where the stocks he bashed mirrored the positions of Rocker - and of Herb, Bethany McLean, Jon Markman, The New York Post, Cramer, Gary Weiss, Floyd the Flimflammer, Carol Remond, TheStreet.com, and the Journal's "Money & Investing" section.

At the same time that he learns of Ingram's involvement, Patrick discovers the mole in Overstock. With Rocker putting out feelers for other Overstock employees who might be willing to spy for him, Patrick asks Stormy Simon, his vice president of marketing, to meet the hedge fund manager and "show some leg." Stormy quickly gets a phone call from Rocker (which she plays on her office speaker phone, with Patrick, an attorney, and a recently retired US Army Colonel present as witnesses). Rocker is very excited, and presents ways in which he and Stormy can exchange information. He insists she come immediately to seem him, and tells her that he has ways he can "protect her." When she hesitates, he becomes adamant.

Meanwhile, Patrick comes to suspect that the Kroll investigative agency has him under surveillance. Kroll employs former agents from the FBI and other federal agencies to dig up dirt for clients - and seems to have a special unit that serves hedge funds linked to Jules Kroll's Rye, New York neighbor, David Einhorn. To determine whether he is under investigation, Patrick goes to Kroll's offices and asks if he can hire them. He figures if they are investigating him then they will neither take him as a client, nor tell him that they will not take him as a client (because if they tell him they will not take him as a client, they'll know that *he* will know that they must be surveilling him already). Sure enough they hem and haw and make a lot of excuses why it might take some time to file the paperwork.

Meanwhile, an independent security consultant tells Patrick that Kroll is preparing a report that a hedge fund is going to deliver to the Department of Justice. The private eye says that this report will accuse Patrick of funding international terrorism. It remains unclear whether the private eye's bizarre information is accurate - but by this stage, anything seems possible.

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In any case, a small group of hedge funds are illegally destroying public companies with the help of convicted felons, mobsters, and captured regulators - and the only journalist on the case is Hugo of Fita-a-Rita Margarita.

Hugo, and NBC's Dateline.

That's right, Dateline is back on the case. FinancialWire announces the news.

StockGate: Travesty of Our Time: Naked Short Selling Finally to be Exposed on Dateline NBC?

Then, on July 29, 2005 the day *does* come. After nearly two years of investigation, Dateline airs its expose on phantom stock. Gayle, the Easter Bunny, and the rest of the pajamahadeen sit in front of their televisions in states of pure excitement.

Then Gayle's story on FinancialWire: **StockGate: Dateline Finally Aired. Yawn.**

"The now infamous and previously postponed General Electric (NYSE: GE) Dateline NBC expose aired Sunday night to cacophony of yawns and disbelief…

"Leading up to the program, the producers refused to respond to questions about whether the program had been interfered with in the postponement and reediting process. There was no mention at all, for example, of the Depository Trust and Clearing Corp."

Indeed, Dateline's "expose," which was supposed to be an hour long, had been reduced to a ten-minute non-story of the form, "Some say this is happening, others deny it, and all we can say is, 'Be careful out there.'"

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A few days later, Patrick gives his "Miscreants' Ball" presentation. Immediately afterwards, he appears on a CNBC program hosted by Ron Insana, who was the producer of the Dateline program. Patrick says that as many as 150 to 230 million shares remain failed-to-deliver each day on NASDAQ and the New York Stock Exchange. Insana begins aggressively to cast doubts–the standard CNBC formula of attack journalism. Then Patrick becomes the first person ever to flip this formula on its head.He becomes an attack *guest*.

He says, "Now you worked on this for two years, Ron. And people expected a lot, and I have to say the piece you did, I thought, was rather anodyne."

Insana appears taken aback. "Well," he says, "you know, listen, we're all subject to criticism and we're all subject to he limitations of the medium in which we work…This story is not an easy one to tell, by the way, on television, if you want to get into the rigors and all the details of how a naked short-selling scheme is undertaken. When you see the allegations …they have included that individuals from Middle East entities, offshore companies, the Mob, and a whole host of other people have been involved in this…despite everybody's expectations of an expose like that, you've got to be able to prove it before you say it on TV."

Days later, at a Connecticut country club, hedge fund manager William Ackman - who was funded by the aristocrat Peretz and is connected to Gene Philips, who was rounded up with 120 mobsters in history's biggest securities bust, is overheard talking about the "Miscreants' Ball" presentation and allegations of short-seller crimes.

"The game is over," Ackman says. "This is all going to get shut down."

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March 14, 2006….Six months after the "Miscreants' Ball" presentation, The Wall Street Journal is comparing Patrick to "Where's Waldo," and Jeffery Thorp of hedge fund Langley Partners has just agreed to pay an $8 million settlement to the SEC after he was found to have provided fraudulent death-spiral financing to 22 companies. As is typical in such cases, Thorp sold massive levels of phantom stock, making a net profit by intentionally destroying the companies he had financed.

Thorp is the son of Edward Thorp, who teamed up in the 1960s with a Genovese family mobster, Manny Kimmel, to develop a system for cheating Las Vegas gambling dens. Thorp Sr. authored a seminal book, "Beat the Dealer," which outlines a method for counting cards in blackjack, and went on to run a successful hedge fund called Princeton-Newport. The younger Thorp followed his father into the hedge fund business, collaborating with the Mob-linked Amr Elgindy, who is now serving an 11-year prison sentence.

A few days after Thorp agrees to his fine (a rare enforcement action), the SEC files a lawsuit against several Refco brokers who helped the fugitive Thomas Badian sell phantom stock.The Thorp case is covered sporadically by the newswires - though with rare mention of phantom stock. The Philadelphia Inquirer runs a story describing Badian and Refco's role in naked short selling. Some months earlier, Time magazine ran a fine story describing Refco's role in selling phantom stock.

But from the financial media proper, there is quite literally not a word.

Barron's magazine, for example, has yet to mention phantom stock or naked short selling. Perhaps more amazingly, it has failed to publish a single story about the collapse of Refco. Barron's is Wall Street's publication of record. It is read by everybody who matters in the financial world. But a giant brokerage implodes in one of the financial industry's greatest-ever fiascos - and Barron's runs not a single story.

It's as if it never happened.

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But America's leading financial journalists have been busy. In January 2006, just days after The Wall Street Journal's glowing profile of David Rocker, Tim Mullaney of BusinessWeek emails Patrick with a list of "Just admit it - you slit your girlfriend's throat" style questions provided to him by David Rocker. There are plenty of misinformed inquiries into Overstock's financial condition (and a snide reference to the "non-existent illicit" past of Overstock's VP of marketing, who is now known never to have been an exotic dancer), but Mullaney dismisses all evidence of illegal short-selling tactics. He asks whether Patrick has "ever sought care or diagnosis for any mental incapacity."

It is pretty clear this reporter isn't going to write a balanced story, so Patrick posts answers to Mullaney's questions on the internet. This is the first time that a CEO has ever done such a thing - and it is about time. Why not, for once, even the playing field? But Mullaney will have none of it. He goes into a mad rage, calling Overstock and telling a receptionist that posting answers to his questions is unacceptable and that Patrick will regret it. He calls the receptionist a "bitch" and employs the c-word. To

BusinessWeek's credit, the magazine's ombudsman/ethicist interviews the receptionist, pulls Mullaney off the story, and mails a written apology, which now hangs on Patrick's office wall.

Then the news hits that the SEC is investigating Gradient. Herb and Cramer and all their friends flood the media with stories suggesting that this is a violation of free speech - that Rocker is a hero, a market vigilante who helps journalists uncover bad companies, that Patrick is a nut and short-sellers are good for the market. None of these stories, of course, note that phantom stock is illegal or allude to other short-seller shenanigans.

At the beginning of March, 2006, right after Herb has a nervous breakdown about the conspiracy to get Herb, Patrick gets on CNBC. He tries to tell his side of the story, but he's shouted down by announcer Becky Quick, who previously worked as Cramer's producer. She simply won't let Patrick speak, so with the cameras running, Patrick holds up a handwritten sign.

It says, "TheSanityCheck.com" - the Easter Bunny's website.

A couple days later, Patrick is back on Christian Financial Radio News - "Prosperity for God's People" - where he at least is allowed to speak uninterrupted.

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Later that week, The Wall Street Journal's Karen Richardson, author of the glowing profile of David Rocker, is at the bar of the Mandarin Oriental Hotel in New York, nervously picking at a bowl of peanuts and attempting to convince Patrick that she is not, in fact, a "quisling." Really, she says, she is different from the other reporters, she'd like to write a *nice* profile, multidimensional, get to know the *real* Patrick-for the *front page*, like the piece on Warren Buffett. And, ha ha ha, about Patrick's battle with Wall Street…she *hardly pays attention to it*.

This follows two earlier incidents with reporters working for Dave Kansas, formerly of TheStreet.com, then editor of the Journal's "Money & Investing" section. The first occurred a year earlier when Justin Lahart, formerly of TheStreet.com, did an interview with Patrick, and then claimed that his tape recorder had broken. Patrick posted a blog noting that this was a common strategy - and, indeed, Warren Buffett had just complained about another Wall Street Journal reporter who had written a false story after claiming that his "taping equipment wasn't working." Lahart ran his negative story, but it read as if it had been sanitized by a lawyer.

Then, in the Summer of 2005, Jesse Eisinger, formerly of TheStreet.com, and then the "Money & Investing" section's top columnist, appeared unannounced at a conference where Patrick was speaking. Patrick sent out word that he would agree to be interviewed, but only if Eisinger used a tape recorder. The reporter stated that he did not have a tape recorder. Patrick sent a friend to Radio Shack to buy one. In the interview, the reporter bragged about having the Easter Bunny's phone and banking records. But he seemed nonplussed about having his conversation committed to tape, and did not write a story.

Patrick knows that Dave Kansas has sent Richardson on this latest mission. He listens patiently while Richardson picks at her peanuts and promises to be fair. Then he says "goodbye" and rushes back to his room to compose an email which is commendable for the fluency of its melancholy prose.

It says: "Someone could write that Byrne is a porcupine molester who snorts coke out of the navels of underage Thai hookers chained to tree stumps, and it would be more balanced than what The Wall Street Journal will write…"

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Patrick told Richardson that he would not cooperate with any reporter working in league with Dave Kansas and David Rocker. But Richardson, apparently intent on doing her “nice” profile, was soon calling everybody Patrick has known, including a doctor at a hospital where Patrick was treated for cancer. In yet another brush with a felony by a member of Dave Kansas’s staff, the reporter lied in an effort to gain access to Patrick’s medical records.

A hospital administrator was concerned enough to send Patrick an email.

“Dear Mr. Byrne,” it read, “As you probably know, I called your assistant, Pat, this morning in response to several (7) calls that…our chairman of the Department of Medicine received from Karen Richardson…She said…she has been working with you on this story and has several ways to reach you. She gave me your office number and said your assistant was Pat. She also gave me your cell phone number. The implication being that this was for a story/profile about you that was being done with your consent and cooperation…”

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So now Richardson is trying to commit a felony, and the Journal’s Jesses Eisinger, who stole the Easter Bunny’s phone records, has just compared Patrick to “Where’s Waldo,” and Herb is hollering about a conspiracy to get Herb, and Herb’s friend at The New York Times is writing that Patrick is “loony beyond belief,” and Cramer is vandalizing his government subpoena and continuing to bash companies shorted by Rocker, and convicted criminals affiliated with Mr. Pink and other friends-of-Cramer are smearing Patrick on the internet, and Spyro of MI4 Reconnaissance is still executing all sorts of schemes to terrorize the folks at Fairfax Financial, and Eagletech’s CEO has sent an open letter to the SEC about mobsters trying to take down his company, and the son of a Mafia-connected blackjack card counter has just been shown to have sold millions of dollars in phantom stock, and a BusinessWeek reporter working with Rocker has recently called an Overstock receptionist a “c&nt,” and Roddy-Boyd-the-Post has been sticking his head in the garbage as a favor to Gradient Analytics……

And that’s not all. Roddy-Boyd-The-Post has also just called Patrick a liar because Roddy asked how much cash Overstock had, and Patrick told him how much cash Overstock had. (Really, it is that bizarre. Listen to the voice mail.)

Patrick posts this voice mail on the internet, and a few hours later, Roddy-Boyd-the-Post calls back and issues an “apology” that is meant in fact to reinforce his earlier assertion. He says, “I want to, ehhhhh, personally and professionally apologize for calling you ehhhhh…*FUCKING LIAR*.”

This seems in contrast to Roddy’s assertion to me that “the problem with Patrick Byrne is that he’s a boy scout. I mean, he might be right, but why does he have to be such a boy scout. Yeah, ehhhhh, that’s the problem. Byrne’s a boyscout.”

But never mind. At the same time that Roddy-Boyd-the-Post is calling Patrick a “fucking liar,” he is sending email messages to Floyd the Flimflammer saying he needs “dirt” on Take-two Interactive, another company that Rocker has shorted - a company that has also been bashed by Cramer, Herb, and Bethany McLean, all the while appearing on the SEC’s list of companies victimized by phantom stock sellers.

And while all this is happening, Gary Weiss, the creepy former BusinessWeek reporter who has hijacked Wikipedia with a one-time MI5 agent, is orchestrating another one of his smears. In an email to Floyd the Flimflammer, he notes that I am working on this story.

He writes, “this guy [at the Columbia Journalism Review] really has me (and others of us a lot more than me) worried.”

Then Gary emails Floyd asking for some dirt on Susanne Trimbath, the former DTCC employee who has described how the Big Black Box facilitates phantom stock sales.

Just 24 hours after Gary asks for dirt on Susanne Trimbath, the DTCC issues a press release trashing Susanne Trimbath. The Big Black Box admits that Trimbath was a mid-level manager at the DTCC, but tries, in a perfectly mealy-mouthed way, to suggest that she had no knowledge of one of the DTCC's principal functions - processing short-sales.

Was Gary on the phone with the DTCC, helping its PR goon craft this smear?

Maybe he was just looking for an ATM machine.

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There are a few journalists whom we have not yet mentioned.

One is Chris Byron, a columnist for The New York Post. Byron has insisted that phantom stock is not a problem. He has accused Patrick of being a conspiracy theorist. And he has written a column, "Gagging the Market," in which he argues that Amr Elgindy's prosecution for bribing FBI officials and manipulating stocks is a threat to the free speech of short-sellers and their media allies.

In April 2006, while the Media Mob is at the height of its anti-Patrick Byrne hysterics, Byron publishes a story alleging that a "CIA front operation continues to funnel agency money into penny stock and micro-cap companies in Wall Street's murkiest back alleys."

The only source Byron names in his story is the "tireless complainant," Tony Ryals.

Tony Ryals lives in a hut in Guatemala. On most mornings, he walks to a nearby internet café and begins writing - sometimes for stretches of more than 24 hours. He has, indeed, become one of the most widely published human beings on the planet. It seems almost impossible to achieve such prolificacy - thousands of long-winded screeds, most of them posted on Indymedia, a collection of websites that publish anything by anybody.

The vast majority of Ryal's rants concern Patrick Byrne. Depending on his mood, he writes that Patrick is linked to stock frauds, boiler room operations, the death of Vince Foster, Skull & Bones, Osama bin Laden, or the Israeli government.

"To see my latest," Ryals says in a recent message board post, "You can google 'israeli prime minister ehud olmert stock fraud orthodox jews gay prostitutes.'"

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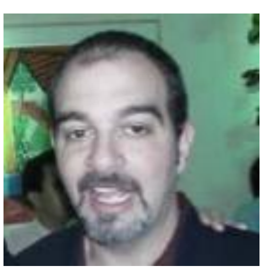

At the end of April 2006, the Media Mob gathers for the annual conference of the Society of American Business Editors and Writers (SABEW). In response to the accusations leveled by the Easter Bunny and Patrick Byrne, the journalists hold a panel titled "High-Tech McCarthyism?: Dealing with Today's New Business Journalist Bashers." The panel is chaired by Herb, Herb's friend Joe Nocera, and Dan Colarusso, who worked with Herb at TheStreet.com before he became Roddy Boyd's boss at The New York Post.

A Deep Capture team member infiltrates this meeting, and gets it all on tape. The journalists are furious that we have this tape, and it is easy to understand their concern. It couldn't do a much better job of exposing the arrogance and willful obstinacy of the nation's most "prominent" financial journalists.

Colarusso sets the tone. Referring to Patrick and the Easter Bunny, he says, “The more they attack us, you know, we have barrels of ink and stacks of money, and all the resources in the world at our disposal, legal, and via our media, to *crush them*…”

Sounds like an objective journalist to me.

Then Herb says, “When it comes to naked shorting, it’s not my issue…It doesn’t relate to what I do, what Joe does, what Carol Remond does, even what Cramer does.”

And Joe Nocera says “naked short selling…makes my eyes glaze over…So I asked Patrick Byrne exactly this question…I said, ‘Well why do you…why are you in this naked shorting fight since it’s not really what you are litigating?’ And he said, ‘Well, it’s like supporting education; it’s a good thing to do.”

At this, there is uproarious laughter from the journalists in the room. It should be said that most of the journalists in the room are Herb’s friends. Dave Kansas, formerly of TheStreet.com, is there. So is Dave Evans, the Bloomberg reporter who, along with Herb and Kansas, worked closely with the online short-seller group led by Amr Elgindy, who is now in prison. So these journalists - these creeps who think it is hilarious that Patrick has embraced what he believes to be a good cause - are by no means typical journalists.

They just happen to be the journalists who control the financial media.

“So,” continues Nocera, The New York Times’ top business columnist, “it’s hard to take [Patrick] seriously on that issue when you hear him say something like that. Having said that, you know, I think it probably would be worth somebody’s time to say, Is there something to naked shorting or not? What is naked shorting? What does it mean? What is the problem here? But, you know, life’s too short. I don’t want to do it.”

At this, the journalists in the room laugh even harder.

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A few weeks later, SABEW elects Dave Kansas as its president and Joe Nocera writes a column describing Patrick as a “conspiracy-mongering trash-taking lawsuit-filing chief executive.”

He writes, “What is naked short selling? So glad you asked…except for a few fellow-traveling websites, where Mr. Byrne is viewed as a heroic figure, most people who understand the issue or have looked into it think it’s pretty bogus.”

Perhaps life really was too short, and Nocera couldn’t be bothered to look into the issue. That would be the kind assessment - certainly better that the possibility that he is a prostrated scrivener for hedge fund managers who would like the world to think that phantom stock is a non-issue.

Fortunately, there is one journalist who is doing some real reporting. His name is Gary Matsumoto, and he’s one of America’s best investigative reporters, famous for breaking the news that thousands of young American soldiers have been used as unknowing guinea pigs in government medical experiments.

Previously, Matsumoto was with NBC and Fox News, and now, in June 2006, he is working for the Bloomberg business news television network. He meets me at a Thai restaurant on New York’s Upper West Side. By this time, Matsumoto is convinced that Patrick is right - phantom stock is an epic scandal. He thinks for a moment about the difficulties he’s faced in reporting this story. He reckons with the prospect of going up against conventional wisdom and the mainstream financial media’s most powerful journalists.

Then he leans back in his chair, resigned, and says: "Shit."

"Shit," he says, "I just want to do the right thing."

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During this week — the week in which Nocera calls Patrick a "conspiracy-mongering, trash-talking lawsuit-filing chief executive" — the law firm Milberg Weiss is indicted for bribing witnesses in phony class action lawsuits against public companies. Remember, according to the DOJ's indictment, Milberg told its bribed witnesses to buy stocks, *knowing that their prices would decline*. Many of those stocks were Rocker shorts. Most of them were sold, and never delivered, in massive quantities. And nearly all of them were the subjects of negative media stories, released at around the same time as the phony lawsuits. Nocera's friend, Herb, has written negatively about almost every Rocker short-his stories always coming out around the same time as the Milberg Weiss lawsuits, the massive phantom stock selling, the release of false information by questionable research shops like Gradient, and the execution of an array of other dirty tricks.

None of Herb's friends mention the indictment of Milberg Weiss. Instead, they continue to serve the interests of Rocker and associated hedge funds. All of Herb's stories still come from these people. Cramer is still bashing stocks shorted by them. TheStreet.com is still publishing stories for them, as is The Wall Street Journal "Money & Investing" section, and MSN Money.

And also this week, Carol Remond is busy circulating another rumor about Patrick. She has called former SEC lawyers and several others with information - given to her by people working for her hedge fund friends - that Patrick is using off-shore accounts to secretly sell shares in Overstock. This, like every other rumor Carol has pursued with rabid enthusiasm, is entirely, 100% false.

Roddy-Boyd-the-Post, meanwhile, is working with the criminal Spyro Contogouris, along with a group of hedge fund managers, including Rocker, to take down Fairfax Financial. He leaves a voicemail message with Fairfax, telling its CFO, "You've got some explaining to do, pal." Then he writes a false story accusing the company of accounting shenanigans. A source at the Post tells *Deep Capture* that the paper decided not to put Roddy's Fairfax stories on the internet because they would not stand up against foreign libel laws (which are stricter than those in the U.S.).

Soon after Roddy's stories appear, Contogouris sends more threatening emails to Fairfax employees, and arranges a secret meeting with a former Fairfax CFO, saying he can arrange immunity from government prosecution. (Helpfully, Roddy-Boyd-The-Post later publishes a story claiming that "forensic accountant" Contogouris "was actually working for the Federal Bureau of Investigation"- and that an FBI spokesperson has confirmed this. The FBI announces that this is completely false, which makes sense considering that the FBI will later put Contogouris in jail).

And also this week in June 2006, Gary Weiss has just been exposed as the specially protected, anonymous editor of the Wikipedia entries on "Naked short selling," "Patrick M. Byrne," "Overstock.com," "Depository Trust & Clearing Corporation," and "Gary Weiss." But Gary denies having ever touched Wikipedia.

So Judd Bagley publishes additional information proving that multiple Wikipedia accounts are attached to Gary's IP address. Gary's online alias responds that if somebody edited Wikipedia using his IP address, it might have been his visiting uncle.Then Judd releases information proving that Gary, hoping to cover up his activities, has begun editing Wikipedia using yet *another* phony identity (or "sockpuppet," in Wikipedia parlance).

Gary's sockpuppet responds to this by saying that the other sockpuppet belongs to his nephew. Gary adds that he had no idea that his nephew shared his interest in naked short selling. Yes, he was really surprised to learn that his nephew edited the Wikipedia entries on naked short selling.

But it wasn't Gary. Gary never edits Wikipedia.

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Something else happens in June 2006: a former SEC investigating attorney named Gary Aguirre writes [an 18-page letter to Congress](). If the contents of this letter are accurate - as they are later proven to be - this is the biggest scandal in the SEC's seventy-plus years of operation.

Aguirre writes, "I believe our capital markets face growing risk from lightly or unregulated hedge funds just as our markets did in the 1920s from unregulated pools of money - then called syndicates, trusts or pools. Those unregulated pools were instrumental in delivering the 1929 Crash. …There is growing evidence that today's pools-hedge funds-have advanced and refined the practice of manipulating and cheating other market participants."

Aguirre then describes an investigation that he led at the SEC. "The investigation was two-pronged," he writes. The first prong concerned allegations that the head of a major investment bank provided an illegal inside tip to a large hedge fund. "The second prong of the investigation…market manipulation…involved two classes of suspected violations: wash sales and naked shorts."

That is, this investigator was investigating phantom stock sales by hedge funds.

He writes, "Some of my colleagues believed [the naked short] prong held a greater potential to severely injure the financial markets."

Unfortunately, Aguirre continues, this investigation was "stopped in its tracks" because the investment banker in the insider trading prong had "political connections." In later media stories, it is revealed that the investment banker was John Mack, head of Morgan Stanley. The hedge fund that Aguirre was investigating was called Pequot Capital.

In the summer of 2005, Aguirre's supervisor wrote that "Gary has an unmatched dedication to this case (often working well beyond normal work hours) and his efforts have uncovered evidence of potential insider trading and possible manipulative trading by the fund and its principals." On August 21, 2005, the SEC approved Aguirre's merit-pay increase based on his work on this investigation.

But when it came time to issue subpoenas, the supervisor told Aguirre to lay off because Mack's attorneys had "juice." When Aguirre pressed the issue, he was shut out of meetings where the case was discussed by high-level SEC officials and lawyers for the accused. Then, just two weeks after receiving his merit pay increase, Aguirre was fired.

Meanwhile, one of Aguirre's supervisors, Paul Berger, then the SEC's associate director of enforcement, was expressing interest in getting a new job - at Debevoise & Plimpton, the law firm that was representing John Mack. This is not at all unusual. SEC staff regularly seek jobs with the very people whom they are supposed to be investigating.

After a lengthy inquiry, the [U.S. Senate Judiciary Committee has ruled]()that everything in Aguirre's letter was true. It says that Pequot was selling phantom stock and that it is "deeply troubled" by the SEC's failure to properly investigate Aguirre's allegations.

"At worst" the Senate Committee says, "the picture is colored with overtones of a possible cover-up."

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The Aguirre scandal leads to the resignations, in August 2007, of the SEC's inspector general, its chief economist, and two of its five commissioners.So it is interesting to review the Media Mob's initial response to Aguirre.

On June 28, 2006, the Senate held hearings on hedge funds at which Aguirre was the star witness. In a hallway outside the hearings, a group of journalists gathered to plot ways to smear Aguirre and also fight critics of David Rocker and other short-sellers.

Roddy-Boyd-The-Post was there, his baggy pants failing to conceal the entirety of his ass.

Mop-haired Jesse Eisinger, the Journal's Easter Bunny hunter, also participated in this conversation, as did Bill Alpert, the Barron's magazine reporter and friend-of-Herb who had written that he wished he could have a government subpoena for "publicity."

Nearby, Karen Hinton, Gradient Analytics public relations consultant, was working her Blackberry, updating Gradient's Donn Vickery on the proceedings.

That morning, Dave Kansas' Wall Street Journal "Money & Investing" section had already published a front page interview that was *flattering* to John Mack, the Morgan Stanley CEO at the center of the Aguirre scandal. "`Old Macky's Back' at Morgan," it read. "In an interview Monday… Mr. Mack reviewed highlights of the past year, offering thoughts along the way on his nickname "Mack the Knife," and why he once rented a shark suit to sing a karaoke version of the song."

The Dave Kansas "Money & Investing" section asked Mack the hardball question, "What do you consider your biggest accomplishment?" But there was not one question about Gary Aguirre, phantom stock, or the SEC's stymied investigation into Mack and Pequot Capital.

That afternoon, Eisinger went on CNBC to slag Aguirre and defend short-sellers. A few days later, Bill Alpert wrote in Barron's that "the cloud that's fallen over [Pequot] seems to contain little substance."

Meanwhile, Gary Weiss, wrote on his blog that Aguirre's allegations were "flimsy."

By contrast, Gretchen Morgenson of The New York Times took Aguirre's allegations seriously. Long before the Senate concluded that Aguirre had exposed the biggest scandal in SEC history, Morgenson published multiple stories demonstrating Aguirre's credibility.

As Morgenson prepared these stories, the Media Mob attempted to destroy her. Roddy-Boyd-the-Post called me at the Columbia Journalism Review. He said, "ehhhhh," he had a hot tip for me. Yeah, there was a guy on Wall Street - he had some good dirt. This guy on Wall Street could tell me that Gretchen Morgenson fabricated the story that won her a Pulitzer Prize a few years ago. And maybe, if I wanted to take a break from this short-seller story, Roddy could, "ehhhhh," you know, hook me up with this guy. It could make my career - a big story proving that Pulitzer-prize winning Morgenson is a fraud.

Nice try, Roddy.

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On September 15, 2006, the SEC holds a roundtable to discuss phantom stock and Regulation SHO, the law that is supposed to prevent it. Given the Gary Aguirre scandal, one might expect the SEC to give closer scrutiny to this issue. And maybe a few reporters would come to ask the tough questions.

Instead, the panelists all present the party line that short-selling is good for the market, that the law is working, that phantom stock is only a small problem - never mind that list of 300-plus victim companies.

There is one journalist at this event. His name is Floyd Norris, and he's an old friend of Herb and the chief financial correspondent for The New York Times. Floyd has been an ardent critic of Patrick and those who decry phantom stock. (One wonders how Floyd and Nocera interact with Morgenson in the Times newsroom.)

Today Floyd is in the back of the room, looking bloated and pale, like a green grape. He seems to have ignored every word said by the panelists. But now his jowls are quivering as he snarls into the phone. Is he phoning in a story-perhaps an account of the SEC's refusal to prosecute a massive financial crime?

No, Floyd is confirming a prescription.

Meanwhile, James Brigagliano, director of the SEC's division of trading and markets, is standing on the side of the proceedings, laughing. "Gee," he says to a colleague. "I thought the anti-naked short-selling bozos like Dave Patch would be here."

"Oh we were there," Patch later writes on his blog, "You just didn't see us."

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Patch also notes that while the SEC was calling him a bozo, billions of dollars worth of phantom stock was floating around the system. He gives the example of Escala, a company that auctions postage stamps and other collectibles. In May, Kingsford Capital and the criminal Spyro Contogouris of MI4 Reconnaissance convinced the Spanish constabulary to raid the offices of Afinsa, a Madrid-based company that owns a majority stake in Escala. Spyro and Kingsford (which, remember, I was investigating when its manager offered a large sum of money to the Columbia Journalism Review) accuses Afinsa of operating a pyramid scheme because it sells stamps as investments. A journalist working with Kingsford has also circulated rumors that the collectibles company is smuggling cocaine through the port of Cartagena.

By now, the reader should be able to assess the validity of these rumors.

Either way, at the moment that Brigagliano called Patch a "bozo," 3.5 million phantom shares of Escala had been sold into the market, but had not been delivered to their presumed owners.

Meanwhile, a Toronto brokerage called Research Capital had just sent a letter to the SEC complaining that it had, despite 42 separate attempts, failed to gain delivery of a large number of Overstock shares that it had purchased months previously.

The "bozos" rightly suspect that Research Capital has purchased phantom stock.

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A week later, I'm at a party on a large balcony overlooking the Manhattan skyline. Spotlights criss-cross the black night; the perimeter is patrolled by giant men with shaved heads and earpieces in their ears. Everywhere there are beautiful women, Armani suits, and the accents of Staten Island.

Attending this party are the most powerful players in the so called "stock loan" business. These are the brokers responsible for borrowing (or failing to borrow) the stock that traders sell in order to create short positions. It is a close-knit community of mostly Italian Americans who have controlled this corner of the market for decades. The Russians are moving into the hedge fund and brokerage business, but the Italians still control stock loan.

The Johnny Walker is flowing, and the guys from Staten Island talk openly.

“Yeah there’s naked shorting. It happens all the time,” says one. “Who’s going to stop it? You?”

This party, though, is a grand opening for a company that is betting that the days of naked short selling are coming to an end. The company specializes in locating and borrowing real stock for traders who want to go straight - who don’t want to break the law by selling phantom shares. Everybody is here because the owner of this new company is a friend - one of the family. But there’s some anger. The owner has sided with Patrick Byrne because he will profit if Patrick’s crusade against illegal naked shorting is successful, but his friends, who are still selling stock that doesn’t exist, stand to lose money in equal measure.

On the balcony, I hear this comment: “What’s he doing with that guy Byrne?…What do you think? Is it over for us?”

And later: “Hey, Lou, I sent you an email!”

And Lou says: “What are ya doin’ sending emails? You can get indicted for emails….”

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But as of September, 2006, short-sellers are still getting a free ride. Certainly, the SEC’s investigation into Gradient is not going well. As we know, the lead investigator in the case - the man who issued subpoenas to Herb, Cramer and Carol Remond - was brought back to Washington and reprimanded. In June, another investigator on the case was hired away by Kroll, the private-eye outfit with close ties to Cramer’s friend, David Einhorn. Disgust and low-morale has crippled the SEC’s San Francisco office, where the investigation was hatched.

On October 6, 2006, The New York Times publishes an op-ed that sings the praises of short-sellers. Echoing the party line of our favorite financial journalists, the author of this op-ed, Richard Sauer, writes that the “first line of defense” against corporate frauds “has not been the S.E.C., which acts slowly when it acts at all, but rather the much disdained short seller. By putting their money where their mouths are, short sellers are the only market participants with an incentive to deflate bubbles and inject pessimistic information into the market.”

Richard Sauer is a former administrator in the SEC’s enforcement division. And during his tenure he did not act at all “slowly.” To the contrary, he was quick to launch many investigations - into companies shorted by David Rocker. Indeed, he seems to have spent most of his career sniffing down trails laid by Rocker and affiliated hedge funds.Unsurprisingly, many of Sauer’s investigations at the SEC led nowhere.

The bio at the bottom of Sauer’s op-ed notes that just “this week,” he has “joined the management of a short-biased hedge fund…” Days later the “bozo” pajamahadeen discover and reveal that the “short biased hedge fund” is the one run by - you guessed it — David Rocker.

The SEC is full of employees waiting for high-paying hedge fund jobs. This might explain its reticence to prosecute hedge funds for selling phantom stock. It might also explain why, a few months before Sauer joined Rocker Partners, the SEC backed off its investigation of Rocker’s minions at Gradient Analytics, and opened an investigation into — you guessed it — Overstock.com.

Rocker, of course, instigated this investigation. Patrick says he “welcomes” it. Indeed, he goes on the radio and says that he is ready to meet the SEC in any court in the land - and put *the SEC* on trial.The miscreants say this is another example of Patrick being “Whacky Patty.”

Others say that Patrick has exposed the “deep capture” of America’s regulatory bodies.

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One day in the Fall of 2006, Senator Orrin Hatch called Patrick to his home. He does that sometimes - they take walks together, discuss politics and the state of the nation. But this time, the senator wanted to talk about something else.

When Patrick entered the building, the senator pulled him into a corner of the lobby. “I am going to tell you something,” he said. “But I cannot tell you more than this. You are up against some really nasty, vicious people. *They will not hesitate to kill you.*”

The senator took a deep breath and continued. “I want you to do something for me. I want you, the next chance you get, to go on TV or radio and say the following. Say that if anything happens to you, Orrin Hatch says that he’s never going to rest until the United States government has gotten the people who did it. Now I’m not kidding, Patrick, I want you to do that tomorrow if you can.”

The senator repeated this several times. And he made Patrick repeat it back to him.

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A couple of days later, Mike Wilkins from Kingsford Capital appeared in my office. This was one of the hedge funds at the center of the scandal that I was investigating - a hedge fund that Wilkins managed along with Herb’s friend, Cory Johnson, who was a founding editor of TheStreet.com — a hedge fund whose principals had collaborated with Manuel Asensio and the creepy former BusinessWeek journalist, Gary Weiss, to malign companies that were the victims of phantom stock selling — a hedge fund that was now attacking the same small stamp company as Spyro Contogouris, the proprietor of MI4 Reconnaissance also known as “Martin Gardner,” “P. Fate,” and “Dick Tracy.”

This was early November 2006, a couple weeks before Spyro went to jail for ripping off a Greek shipping magnate.

The Columbia Journalism Review was in serious financial trouble. Wilkins of Kingsford Capital offered to make that trouble go away.

I can only assume that he intended to make this story go away, too.

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The editors of the Columbia Journalism Review are honest people who did, after all, let me work on this story for nine months. I resigned from my job days after Kingsford appeared in my office, before I could raise a fuss, so the editors were perhaps unaware that this hedge fund was engaged in a cover-up.

That said, Kingsford must be pleased with my successor - who is now called “The Kingsford Capital Fellow.” CJR’s “Kingsford Capital Fellow” has been remarkably favorable towards short-selling hedge funds and their friends. He has written an article sympathetic to Jim Cramer and recently, he slammed the CBS News program, 60 Minutes, for running a story pointing out that Gradient Analytics is a tool of market-manipulating hedge funds.

The Kingsford Capital fellow, Dean Starkman, argues that since Biovail, the company highlighted in the 60 Minutes segment, has since been sued by the SEC, this proves that “Gradient was right.”Meanwhile, says the Kingsford Capital Fellow, short-sellers are “a vital counterpoint to the Wall Street hype machine” and helpful sources to financial journalists.

This is standard party line. If a target company is ill, the short-sellers are “right” - vital, even. Never mind if the short-sellers are all the while publishing false research, churning out phantom stock, working with the Mob, spreading malicious rumors, hiring criminals, bribing doctors, using false identities, colluding with journalists to front-run false media stories, giving kick-backs to witnesses in bogus legal cases - and now, funneling large amounts of cash to the one publication that was going to suggest that some of this might be illegal.

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A few weeks after I left CJR, a pair of metal garment shears were thrown through the window of a restaurant owned by a woman who is very close to Patrick. Earlier, somebody broke in to the restaurant, messed things up a bit, and stole nothing. It seemed as if somebody had been monitoring the restaurant’s phone and heard that the alarm would be left off that night.

Around the same time, Patrick’s lady friend learned that copies of her cell phone bill were being sent to an address that was not hers. A *Deep Capture* investigator checked out that address and discovered that it belonged to a Russian man named Semyon Faivinov. Further investigation revealed that the man’s son, Elliot Faivinov, worked as a vice president for Goldman Sachs Execution and Clearing (formerly Spear, Leeds & Kellogg).

A few months later, the New York Stock Exchange and the SEC implicated Goldman Sachs Execution and Clearing in a massive phantom stock scheme (Goldman paid a $2 million fine). Previously, Spear, Leeds, & Kellogg had been accused of catering to known phantom stock sellers, including Kingsford Capital collaborator Manuel Asensio.

I called Faivinov and asked him why he had the phone records of Patrick’s lady friend. He said, “That wasn’t me…I’m not the right person to ask about that.”

When Patrick called him (with me on the line), Faivinov said “I am aware of who you [Patrick] are,” but denied having the phone bills. Goldman subsequently did its own investigation. One of its PR men told me that Goldman had concluded that Faivinov did nothing wrong and “has no idea who Patrick Byrne is.”A few days later, the PR man changed course and said that Goldman was going to “explore this matter further.”

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In January, 2007, Patrick accepted an invitation to meet an offshore investor in a greasy spoon diner in Long Island. They had never met, but over the previous year the man had fed Patrick bits and pieces of information about the workings of the phantom stock scam, and the hope was that he might have something more to say in person.

But that day at the diner, all he had was a message.

“I’ll make this quick,” he said, with two other witnesses present. “I have a message for you from Russia. The message is, ‘We are about to kill you. We are about to kill you.’ Patrick, they are going to kill you. If you do not stop this crusade, they will kill you. Normally they’d have already hurt someone close to you as a warning, but you’re so weird, they don’t know how you’d react.”

In a later phone conversation with an associate of Patrick's the man described how he received this message. He said he returned home one night and his wife told him there was a package on his desk. "And there was a beautiful little box, and inside was a matryoshka."

Matryoshkas are those lacquered Russian dolls - the kind with multiple dolls of decreasing size inside of them.

"And I opened up the last matryoshka," said the man, "and inside is an `F' with a cross on it — which is from Felix."

That's Felix Sater, a Russian immigrant described in a federal complaint as an "unindicted co-conspirator" in a money laundering and stock fraud ring involving organized crime figures from four Mafia families. The New York Times has reported that Sater was once also "embroiled in a plan to buy anti-aircraft missiles on the black market … in either Russia or Afghanistan…." Apparently, Sater offered to buy the missiles from Osama Bin Laden in exchange for amnesty in his Mafia fraud case.

Also, according to the Times, Sater once "grabbed a large margarita glass, smashed it on the bar and plunged the stem into the right side of [a] broker's face. The man suffered nerve damage and required 110 stitches to close the laceration on his face."

Sater seems to have been involved in the feud that raged between the Gambino and Genovese crime families in the mid-to-late 1990s. A soldier in the Gambino family once tried to extort money from Sater, and Sater got a Genovese soldier to intervene on his behalf. This is the same feud that embroiled Carol Remond's source, Pacific International, and the two stock promoters who were murdered in 1999. It is the same feud that possibly inspired a cast of criminals, some linked to the Genovese (and by extension, the Russians) to develop relationships with that peculiar BusinessWeek reporter, Gary Weiss, who wrote stories pinning various crimes on the Gambinos.

Gary Weiss, a demonstrable liar and creep whose only job for the past two years has been to author a blog devoted to badmouthing Patrick Byrne and denying that phantom stock is a problem - a former BusinessWeek reporter whom Judd Bagley has shown to have posted on the Internet from within the Black-Box DTCC, a reporter who is a close friend of known crooks, and who controls several phantom stock-related Wikipedia entries with the support of a one-time British intelligence agent who calls herself SlimVirgin - this unconscionably bizarre character has *defended* Felix Sater on his blog. He wrote, "Sater has every right to turn his life around, as apparently he has done. Good for him."

In January 2007, Sater was turning his life around by putting a note in a Russian matryoshka doll. Apparently, Sater had discovered that the man in the greasy-spoon diner had been in contact with Patrick. So Sater sent a message in a doll. Then he delivered a verbal message. "He said, tell [Patrick] if he doesn't….we're going to fucking take it private," the man from the diner says. "You know, they're not going to mess about with this."

"These things don't happen anymore to me," the man continues. "I mean, I've been out of that world for a dozen years or more. These….there are defined signals here that lead me to believe they [the Mob] have been disturbed. The only way they coulda been disturbed is if they own Rocker or if he is using them for leverage."

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The month that followed was perhaps the lowest point in Patrick's life. Overstock's operations had been going through a rough patch for a year. As Patrick put it, "In five years we grew from $2 million to $800 million on a shoestring, and in 2006 the shoestring broke." Patrick struggled to fix the company, but intrigues swirled around him, and he now had armed security details following those close to him. One of Overstock's board members, meanwhile, had just left the company after trying to get Patrick fired over

Patrick's crusade against Wall Street. Two other board members - including, even, Patrick's father - had already resigned, citing similar reasons.

All this hassle and grief - and for what? It seemed like Patrick's crusade wasn't making much progress.

Indeed, it suffered one of its worst blows in February, 2007, when the Utah legislature voted to repeal a law making it illegal to sell phantom stock in Utah-based companies. This had been an effort to bypass the SEC, which was doing nothing to enforce federal laws.

The previous May, the Utah law had been passed almost unanimously - and in the face of considerable pressure. At one point, Utah State Senator Curt Bramble received a call from Morgan Stanley's general counsel, who yelled into the phone with such vengeful fury that Bramble slammed the phone on his desk and left the room. The state governor, meanwhile, was holed up in his mansion, taking similar abuse from the SEC's general counsel and a cast of seething lawyers representing the securities industry.

For a while, Bramble and the governor vowed not to cave in to the pressure. But that was before state legislators were treated to the most elaborate lobbying campaign ever to hit Salt Lake City. First, the governor agreed to delay implementation of the law for a year, to see whether the SEC would begin enforcing its own laws against selling phantom stock.Then, suddenly, Bramble, who'd been the law's most fervent supporter, jumped ranks. In February, he led the state legislature in overturning it in a late-night action that bypassed all the normal committee processes.

The Securities Industry and Financial Markets Association had hired a lobbyist specialized in greasing the machine for the local real estate industry. Bramble is a tax accountant with a small accounting firm. In the months leading up to February 2007, when the Utah legislature made one of its most dramatic reversals ever, Bramble's firm received a considerable amount of new business from the local real estate industry.

That lobbyist did a really good job.

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A lot of people bowed out of the fight, but Patrick did not relent. In answer to the threat from the Russians, Patrick asked for a week "to think about things."

During the week, the man from the diner called to ask one of Patrick's colleagues, "Is it going to take Byrne having a gun in his mouth before he backs down?"

At the end of the week, Patrick received a phone call: "The Russians want to know your answer." Patrick said he needed just another few days to think.

Two days later, he filed a $3.5 billion lawsuit against the entire brokerage industry, which he accused of helping hedge funds sell phantom stock.

Patrick received one last email from the Russians' intermediary: "Nice raise. LOL."

Meanwhile, he continued to hammer Herb, Cramer, Eisinger, Nocera and the other journalists who refused to acknowledge phantom stock and short-seller crimes. He got his message out any way he could - rallying the pajamahadeen, meeting U.S. senators, posting missives on stock message boards.

He was sustained by the knowledge that he had some supporters. There were the Easter Bunny and the other oddballs. But there were also some mainstream journalists. Liz Moyer of Forbes magazine had written a number of stories highlighting the plight of companies victimized by phantom stock. Charles

Gasparino, a CNBC anchor, had called Patrick a “hero” for bringing this issue to the forefront. (For that, it is said that Gasparino drew a lot of flak from the powers-that-be at CNBC).

There had also been some victories. Like that time that Patrick called Senator Richard Shelby (R - Alabama) a “gangster.” It was in October 2006, and Shelby, the chairman of the Senate banking committee, was spending a lot of time on television defending hedge funds accused of selling phantom stock. When the Senate held hearings on hedge funds, Shelby stacked the panel with friends of David Rocker.

So Patrick went on a radio program and called Shelby a “gangster.”

Shelby invited Patrick to meet him on Capitol Hill. Patrick made the trip. He waited in an ornate conference room for an hour. Then Shelby entered. The Senator referred to himself in the third person: “The Chairman of this Committee believes that you are trespassing on matters that are under *his* jurisdiction.” Then he just sat there and stared Patrick down. It was as if…well, it was as if Shelby were a gangster.

So Patrick said good bye, and went on another radio program. This time he called United States Senator Shelby “an ignorant cracker.”

That was fun.

So Patrick had these memories to sustain him.

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Then, in March 2007, Patrick got a break. Gary Matsumoto of Bloomberg Television did “the right thing.” He ran his expose on naked short selling.

The half-hour piece was a year in the making, and the DTCC’s lawyers bombarded Bloomberg with threats aimed at killing it. For a while, it seemed as if the documentary might not happen at all. Then for many months it was on-again off-again. But at the end of January, 2007, at cocktail party in Washington, D.C., Patrick was introduced to Michael Bloomberg, the mayor of New York and founder of the Bloomberg news service. When Patrick suggested that Bloomberg look into the documentary, the mayor stiffened, pulled out an index card, and wrote down the details.

A week later, the documentary was again given the green light. The General Counsel of the DTCC was threatening the General Counsel of Bloomberg until just a few hours before it ran.

So it happened - the first major news story about the phantom stock problem. And, really - the documentary says pretty much all you need to know. It has been nominated for an Emmy for Long Form Investigative Journalism. Watch it here.

The same month, Dave Kansas, formerly of TheStreet.com, left the Journal’s Money & Investing Section. Jesse Eisinger, formerly of TheStreet.com, also left the Journal. Perhaps as a result, in June 2007, the “Money & Investing” section was able to publish a tepid story, “Blame the `Stock Vault’” about phantom stock and the DTCC.

“There is no dispute that illegal naked shorting happens,” the Journal reported.

A month later, the American Stock Exchange levied a big fine on a trader named Scott Arenstein and his brother, Brian, for selling massive levels of phantom stock in several companies - including Overstock.

So even Carol Remond had to admit that phantom stock exists. But she did her best to soften the news.

“Turns out that one guy did, in fact, illegally trade shares in [Overstock],” Carol wrote on the Dow Jones newswire. “[But the] improper trading doesn’t come close to amount to [sic] the massive conspiracy alleged by Overstock.”

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The other journalists — Herb, Nocera, Floyd Norris, Gary Weiss, Roddy Boyd, Bethany McLean, Barron’s magazine - continue to ignore phantom stock while toadying to miscreant hedge funds and their criminal associates.

In March 2007, right at the time of the Bloomberg expose, Nocera writes that “most people on Wall Street, or most regulators, for that matter, don’t believe that there is much naked short selling going on.”

Gary Weiss, with characteristic understatement, writes on his blog that Nocera’s article is “a seminal piece that will be cited by market scholars for years to come.” Meanwhile, Nocera is nominated for a Pulitzer prize for columns including “Campaign of Menace,” in which he ridicules Patrick for his stance on naked short selling.

And in the year that follows, these journalists grow only more energized, viciously attacking anybody who even mentions the words “naked short selling” or “phantom stock.” For example, in January 2008, Citigroup analyst Heather Hunt writes in a report that she believes that naked short selling might be depressing the stock price of MBIA, the company that Spitzer investigated and Bethany McLean maligned with help from William Ackman. Floyd Norris, the green grape at The New York Times, writes a column dismissing Hunt. Gary Weiss smears Hunt, too, writing that “all the naked shorting conspiracy theories and scare-mongering, promulgated by Byrne…and a motley assortment of internet crackpots-and now a Citigroup analyst-are sheer hooey.”

Herb, who has recently written about a lunch he had with the crooks Sam Antar and Barry Minkow, also jumps on Hunt. In his column, Herb thanks Whitney Tilson (the Cramer friend who is shorting MBIA with Ackman, and who recently paid $10,000 to the criminal Barry Minkow) for notifying him that Heather Hunt had committed the atrocity of mentioning “naked short selling.”

“Earth to Heather,” Herb writes. “Watch out for UFOs.”

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Days later, something very remarkable happens. For years, the SEC has insisted, along with a crew of quisling journalists, that phantom stock isn’t much of a problem. Commissioner Annette Nazareth famously declared that the only people who care about phantom stock are CEOs of failing companies. The SEC’s director of markets and trading referred to Dave Patch and his blogging cohorts as “bozos.”

But something remarkable happens. On March 4, 2008, Christopher Cox, Chairman of the SEC, gives a talk at an open meeting of SEC officials. During this talk, for the first time, he lays it all out - the precise dimensions of the phantom stock problem.

He says, “today’s elaborate system of electronic net settlement [read: DTCC] has enabled a particularly pernicious form of fraud called naked short selling… Illegal naked short selling is an especially serious threat to smaller public companies, whose relatively thin market capitalizations can be more easily manipulated. And in the same way, it threatens the savings and investments of many retail investors in these smaller companies. There are many legitimate reasons that a trade might fail to settle, but the extreme abuses that are reflected in securities being chronically listed on Reg SHO’s Threshold Security

List for months and years at a time is ample evidence that there is also fraud in the market that needs to be arrested. Periodically there are reports that following a legitimate purchase of 100% of the outstanding shares of a microcap company, millions of phantom shares continue to be traded by naked short sellers…"

That, folks, is precisely what the Easter Bunny and Patrick Byrne and all the other "bozos" and "crackpots" and UFO-ducking freaks have been saying all along.

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Less than a week later, short sellers come close to toppling the American financial system. They do this by taking down Bear Stearns, the country's fifth largest investment bank.

On March 10, 2008, Bear's chief executive, Alan Schwartz, says that the firm's "balance sheet, liquidity and capital remain strong." But a small group of hedge funds circulate rumors that Bear Stearns is in crisis. At the same time, they pull their money out of the bank in order to *create* a crisis.

Days later the stock is plummeting and money is exiting the bank at such an accelerated rate that it appears that it might have to declare bankruptcy - which would send shockwaves through the entire financial system.To prevent this, the Federal Reserve, for the first time since the Great Depression, invokes a law allowing it to lend money to banks. JP Morgan, a rival bank, steps in to swallow Bear Stearns' mangled remains.

Perhaps to distance himself from the scandal, Jim Cramer goes on CNBC to decry the antics of short-sellers. He says, "a bunch of hedge funds come in to do a gang tackle…is that capitalism? I don't regard that as capitalism. I regard it as the destruction of capitalism"

The SEC, meanwhile, launches an investigation into hedge funds who may have coordinated the attack on Bear Stearns. SEC Chairman Christopher Cox tells Congress (just a couple of days after the Inspector General's meeting with "bozo" Dave Patch) that he is "very aggressively" pursuing "the market manipulation and the kinds of illegal naked short selling that have been very publicly alleged in this case."

In other words, the chairman of the SEC tells the Senate that it is investigating the possibility that phantom stock contributed to the demise of Bear Stearns and the near collapse of the US financial system.

But this does not deter short-sellers from launching a similar attack on Lehman Brothers, an investment bank that is even larger than Bear Stearns. Richard Fuld, Lehman's chairman, tells lawyers and the SEC that he has information proving that hedge funds orchestrated the demise of Bear Stearns - and that they have similar intentions for his bank.

And so, on April 2, 2008, Herb is on CNBC, along with CNBC reporter Charles Gasparino, who has called Patrick a "hero," and Dennis Kneale, the managing editor of Forbes magazine, one of the few news organizations to report accurately on the phantom stock problem.This is two weeks before Herb announces that he is leaving journalism to found an "independent" financial research shop that will cater to short-sellers.

Herb is live on CNBC. His arms are flapping and his eyes are popping. Herb is doing all he can to defend the short-sellers. He is saying that Bear Stearns and Lehman got what they deserved - only bad companies blame short-sellers.

But it is clear that Gasparino and Kneale might finally have had enough of Herb.

Kneale says, “Herb, you know short-sellers better than almost anyone here, you know their secret handshakes, you go to their club meetings…”

And Gasparino says, “If you look at the way Bear Stearns imploded…it didn’t go down in a couple of months, it went down in a week. And if you look at what happened, it’s clients, which were hedge funds - these are the people that…trade with the firm. They precipitously started pulling cash *while* - *while* they were going short…”

Herb bounces in his seat: “But, but, but…”

“Herb let me finish,” says Gasparino. “That was a precipitous demise…and let me say one other thing, it could be completely legal, short-sellers are good for the market in many cases, but this was a run on the bank…and would you concede–on the Monday before the whole thing blew up, Bear Stearns wasn’t illiquid at that point?”

“Did the short sellers cause there to be crisis of confidence issue?” Herb asks, incredulously.

“Yes they did,” says Gasparino. “They did”

“How do you know!?” Herb shouts. “How do you know!? How do you know!!?”

“I’m going to tell you,” says Gasparino.

“How do you know!? How do you know!!”.

“I’m going to tell you.”

“How do you know!!?”

“I’m going to tell you. I’m going to tell you. I’m going to tell you. I’m going to tell you….”

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THE END

At least, we wish that were the end.

But the SEC has yet to actually prosecute a hedge fund for illegal short-selling.

Hedge funds continue to use dirty tricks to take down public companies.

They might have brought our financial system to the brink of collapse.

And Charlie Gasparino was cut off before he could tell Herb how he knows.