CHAPTER 6

BORDER TROUBLE, PART 2

On a warm summer afternoon nearly a decade ago, on August 3, 2005, to be exact, a man named Spyro Contogouris sat down at a computer in the office of a New York City hedge fund and began to type out an email. Short, fit, and handsome ("like a retired middleweight or lightweight boxer" is how one acquaintance described him), the colorful Contogouris was just over a year away from being arrested for felony embezzlement in a real estate scam he'd been involved with years before. But he had no way of knowing about that that afternoon. Now he was thinking only about how to provide reassurances to his current employer, a noted hedge fund hotshot who happened to be one of the world's leading patrons of modern art.

Along with a number of other Wall Street billionaires and millionaires, the art patron had hired Contogouris to do a little side job. His task was to destroy a Canadian insurance company called Fairfax Financial Holdings. The hedge fund wanted the company bankrupted, and they wanted its Indian-born CEO, a diminutive, soft-spoken Canadian immigrant named Prem Watsa, publicly disgraced. Despite nearly two years of constant trying, the job hadn't been done yet, and this particular hedge fund employer was becoming impatient.

Sensing this, Contogouris sent a message, assuring his employer that Fairfax was indeed doomed.

> IT IS GOING TO GIVE IF IT IS THE LAST THING I DO

"It" being Fairfax. Contogouris then added an attachment, a news story about a corporate executive going to jail. To the attachment, Contogouris added another comment:

> PREM NEXT

Meaning that Prem Watsa, the CEO of Fairfax, would be the next CEO to go to jail.

Contogouris sent the email to his billionaire employer, then waited. Soon a series of replies came. The hedge fund manager was clearly pleased by Contogouris's email. Inspired by the thought that Watsa might soon be publicly shamed, he sent back a joyous fantasy "headline" about the future that awaited the little-known Canadian insurance executive:

> PREM BREAKS RECORD FOR CUM SWALLOWED AT SING SING

The hedge fund wizard who wrote that line is to this day a darling of high society, a man who owns more than one thousand works of art, patronizes the likes of Keith Haring and Cindy Sherman, and has been celebrated by journalists for both his "devotion to Ashtanga Yoga" and his nose for finding "the very best work." You can find news of him attending all sorts of cheery cultural events, like the time he invited society scribes into his five-thousand-square-foot

Miami home, which had been refashioned into a kind of museum—with Matthew Barney's take on Johnny Cash giving the finger perched atop his staircase and "Richard Prince's treatment of a Gary Gross photograph showing a naked, 10-year-old Brooke Shields" hanging on a wall in a child's bathroom.

Even now, the hedgie is considered one of the beautiful people by almost everyone who matters in the financial community. But he's apparently not always smiles and Miami sunshine. On that August day in 2005, he wrote this, continuing his thoughts about Fairfax and Prem Watsa:

> I HEAR THAT FUKS VOICE IN MY HEAD AT NITE
> MAKES ME SICK.
> I WANT HIS HEAD IN A BOX

The lines were written by Adam Sender, the CEO of Exis Capital. Why did Adam Sender want Prem Watsa's head in a box? Because nearly two years before, Sender had, along with half a dozen of some of the richest and most influential men in America, men with names like Loeb, Cohen, and Chanos, billionaires who were often collectively known as the "Masters of the Universe," placed a massive short bet against the company. If Fairfax went bust, they all stood to gain tens or hundreds of millions.

So beginning in late 2002 and early 2003, they tried to kill the firm the good old-fashioned way, with a simple insider trading scheme, massively shorting the company ahead of a fake negative research report that they knew was coming long before the public did. But when the company didn't die, they were forced to resort to extraordinary measures.

It's here that the Fairfax story became one of the more sordid and disturbing tales in the annals of Wall Street. The handful of hyper-aggressive billionaires who targeted this relatively small Canadian insurance company resorted to tactics that at first blush will seem unreal. Indeed, the targets of the scheme, the Canadians themselves, were initially paralyzed for a critical period of time by their utter inability to believe what was happening to them. In fact, many journalists, myself included, stayed away from this story for a long time, because even the baldest recitation of the facts sounds too much like bad conspiracy theory.* "It was the kind of thing you'd only expect to see in inelegantly written fiction," says Roddy Boyd, formerly of the *New York Post,* who became a character in the story in the mid-2000s.

The Fairfax fiasco is a tale of harassment on a grand scale, in which the cream of America's corporate culture followed executives, burgled information from private bank accounts, researched the Canadians' sexual preferences for blackmail purposes, broke into hotel rooms and left threatening messages, prank-called a cancer-stricken woman in the middle of the night, and even harassed the pastor of the staid Anglican church where the Canadian CEO worshipped on Sundays. They worked tirelessly to instigate phony criminal investigations in multiple countries, tried relentlessly to scare away investors and convince ratings agencies to denounce the firm, and in general spread so many lies and false rumors to so many people using so many different false names that they needed a spreadsheet to keep track of their aliases.

Sender, by the way, wasn't the only millionaire to commit his bloodlust to paper. DIE PREM DIE, wrote the to-this-day well-respected hedge fund manager Dan Loeb, adding:

* The Fairfax story is often included in with other legendary bear-raid stories involving companies like Overstock.com, Dendreon, Afinsa (a Spanish collectibles company), and Biovail, another Canadian firm, all of which were targeted by some of the same hedge funds described in this story, many of which ended up out of business and/or mired in scandal. Many of those tales revolve around the issue of naked short selling, a type of financial counterfeiting that allows short investors to artificially depress the stock prices of target companies. Whether naked short selling is a serious social contagion or meaningless conspiracy theory is a passionately debated topic on Wall Street, and to even broach the subject inspires strong emotions: right or wrong (and I believe wrong), in some quarters, if you bring it up at all, eyes roll automatically. One of the reasons I originally shied away from the Fairfax story was that it has a naked short-selling angle that makes some serious observers dismiss it out of hand as nutty conspiracy. So even though naked short selling was actually a factor in the Fairfax case, I've left it out of this narrative, because it's the *other* craziness that went on in this case that's really interesting.

PREM WATSA BEND OVER THE HEDGE FUNDS HAVE SOMETHING SPECIAL FOR YOU.

The campaign to destroy the Canadian insurance company was protracted and complex and ingenious and involved a lot of behavior that was almost certainly illegal, in some cases obviously so. And as in almost all these cases, the nasty/antisocial behavior of Wall Street crooks went almost completely unpunished; the system failed due to a combination of corruption, regulatory capture, pusillanimity of government officials, structural biases in the civil courts, and other factors. But for all that, the issue of legality is of secondary importance in the Fairfax case.

"Almost everyone has the same reaction when they're first exposed to this story," says Michael Bowe, the lawyer who ended up representing Fairfax in its lawsuit. "They're like, 'I don't know if this is illegal, but it's definitely fucked up.'"

What happened with this Canadian company goes far beyond the merely cynical mechanisms of insider trading and market manipulation and takes us down into an even darker place in the national psyche, into the netherworld of pure violence and aggression that rules modern Wall Street. This is where the drive for money and conquest is so intense that it crosses over into a kind of hatred and bloodlust, where the payoff stops being about money at all and becomes a search for something more desperate and seminal. It's about winning, in the ultimate sense of the word.

Not many people in America have the stomach to really explore what that term means. But it's all here in the Fairfax case. Thanks to the miracle of legal discovery, which turned this into the most extensively documented bear raid in history, we now know the secrets of some of America's biggest winners. Like that they're crazy.

Before January 2003, Prem Watsa was known in Canada as an immigrant success story of mild renown, a twenty-first-century-

Toronto version of a Horatio Alger tale. He had come to his adopted country as an almost literally penniless Indian back in 1972. According to firm legend, he had just eight dollars in his pocket and six hundred dollars in the bank to cover tuition when he arrived as a business student that year in London, Ontario, at the University of Western Ontario. His South Asian education had left him with a chemical engineering degree, but in Ontario in the early 1970s, he made ends meet by selling air conditioners and furnaces, even selling greeting cards door to door.

Then, when he graduated from business school in 1974, a professor helped Watsa get a job with Confederation Life, an insurance company in Toronto. Over the course of the next ten years, managing funds in the insurance business, Watsa learned about investing and became obsessed with the buy-and-hold long-term investment strategies that would eventually come to be associated with the likes of John Templeton and Warren Buffett.

But it was exposure to popular economics writer Ben Graham's book *Security Analysis* that Watsa calls his "road to Damascus" moment—he was so enthralled with Graham's ideas that he eventually named his first son Ben.

A small, carefully dressed man with a distantly beatific manner and deep cocoa-brown skin covering his almost perfectly round bald head, Watsa seems almost religiously devoted to the ideas of Graham and other value investors. When I flew to Toronto and met him in person, he came across as a True Believer of the first order. The CEO was actually rattled momentarily when I confessed I'd never read Ben Graham, and as if concerned for my welfare, he urged me to read his books as soon as possible.

Graham's ideas stress the simple practice of finding the right price for a company, waiting for that price to fall a little to the point of being undervalued, and then buying and holding that stock with the attitude that you are now part owner of a business, one in whose success you should be invested for the long haul.

By 1985, Watsa was a proponent of these stock-picking methods and was sure he could do something with them on a grand scale.

But he still had almost no money of his own. He did, however, have a reputation in the Canadian insurance business and a few influential friends, including executives at the first firm he worked for, Confederation. That year those friends and former employers helped him put together a $5 million stake to buy out a small trucking insurance company called Markel Insurance, which proved a big success.

In the late 1980s they changed the company name from Markel to Fairfax—short for "Fair and Friendly Acquisitions." This seemingly trite homage to the firm's self-professed Canadian niceness had me groaning, until I actually met the company leaders and realized the earnestness wasn't an act. Under the surface, Fairfax may be all business, and ethically speaking, it's certainly had its problems, but on the surface, the firm has an ostentatious corporate culture that stresses piety, politeness, and old-fashioned rectitude.

Which would be meaningless, except that the Fairfax name and company culture would later stand in stark, humorous contrast to the ethos of the expletive-tossing pirates who tried to attack and seize Watsa's company. Attacking "Fair and Friendly" Fairfax would be corporate killers whose firm names would recall death metal bands, one of whose company culture would be symbolized by the giant, rotting shark that its owner purchased for tens of millions of dollars.

All that was still yet to be revealed. By the mid-1990s, Fairfax was becoming a major umbrella company in the North American insurance business. It was acquiring interests in everything from casualty to professional liability to trucking to home insurance.

Its stock soared on the Toronto Stock Exchange, moving from under 70 Canadian dollars a share, when it first listed in 1995, to highs of above $605 in 1999. The rocketing share price was due in large part to Fairfax's decision to pursue two major investments in U.S.-based insurance companies in the late 1990s, the American subsidiary of a Swedish firm called Skandia Re (later renamed OdysseyRe), and a Morristown, New Jersey–based company called Crum & Forster.

Watsa, who just a dozen or so years before had had no money of his own and had to court rich friends and former bosses to buy a tiny trucking insurance company, bought Crum & Forster in 1998 for the sizable sum of $680 million.

But both OdysseyRe and Crum & Forster turned out to be more problematic than many of Fairfax's other operations. For several years the company struggled to reorganize both firms successfully, leading to a dramatic fall in Fairfax's Canadian share price. Old asbestos claims and a string of disasters (including storms in Europe and 9/11) led to massive payouts that for a time made both American acquisitions seem like potentially crippling albatrosses. The company in 2001 lost money for the first time, and Watsa was forced to explain an 11.9 percent drop in shareholder equity to his investors in a year-end letter.

But by the middle of 2002, the company claims, things began to stabilize a bit in both operations. "We were just starting to turn things around," says Paul Rivett, Fairfax's president, "when all this craziness began."

That was when Fairfax made the fateful decision to list the company on the New York Stock Exchange for the first time. It was going to be a major new source of funds and also a major step up in international status. When the firm was finally listed on the NYSE on December 18, 2002, the event was celebrated with cheers and champagne in the company's Toronto offices. The troubles began a month later.

For a few weeks after the firm listed on the NYSE, during the Christmas holiday, things were quiet. Then, shortly after the New Year, Watsa became aware that something was, well, if not wrong exactly, a little bit odd.

"It was in the second week in January," Watsa says now. "On the Toronto Stock Exchange, Fairfax usually would trade, I don't know, maybe ten thousand shares a day, twenty thousand shares a day. But suddenly, on the New York exchange, we're trading two hundred thousand shares a day. Half a million shares a day." He shrugs. "I thought to myself, 'Well, this must be the great New York Stock Exchange.'"

In what looked at the time like an incredible coincidence, the massive run-up in the trading of Fairfax stock (listed on the NYSE as FFH) immediately preceded a string of sharply negative published reports.

The first report to come out, on January 15, was by *The Street*'s Peter Eavis, who today writes for the *New York Times* business news service, DealBook. Although he didn't throw out specific numbers, Eavis, in a piece called "Unsure Times for Insurer Fairfax Financial," wrote that Fairfax's American acquisitions "look deeply underreserved."

The substance of the Eavis article was that Fairfax, despite its claims of Buffett-style investing conservatism, was engaging in wide-scale smoke-and-mirrors accounting, using its offshore acquisitions, particularly its reinsurance subsidiaries, to make the bottom line of the parent company look better. Reinsurance is essentially insurance bought by insurance companies, as a hedge against cripplingly large numbers of claims. Insurance companies must have a certain amount of capital in reserve to cover claims. If an insurer has bought reinsurance, however, more of the insurer's capital is freed up, and the insurer's reserves look better.

Eavis reported that Fairfax was paying the reinsurance premiums for struggling subsidiary insurers like TIG, which were buying their reinsurance not from independent firms but from other Fairfax subsidiaries like Swiss Re and the Dublin-based ORC Re. To put it in less headache-inducing language, Fairfax was allegedly paying one group of subsidiaries to reinsure its other subsidiary insurers.

All this looked from the outside like global shell-game stuff, hiding liabilities by ginning up cloudy transactions between subsidiary companies. Furthermore, it was all going on not long after the world's largest insurer, AIG, had faced similar questions about its reserves and about some suspicious transactions that it had entered into with a Warren Buffett–owned reinsurance company called Gen Re. It looked bad.

Still, there was no proof of impropriety, just a lot of questions. "Of course, the sniping on the Swiss Re deal may turn out to be groundless," Eavis wrote, "but investors still need to focus hard on Fairfax's habit of using its own offshore entities to reinsure its onshore business."

Two days after Eavis's article, on Friday, January 17, a report by the Memphis-based investment bank Morgan Keegan came out. It was similar to the Eavis article, only far more aggressive. Written by analyst John Gwynn, it echoed the Eavis claim that Fairfax was "under-reserved" but put a concrete number on its assertion, saying the company was undercapitalized by as much as $5 billion. That meant that it had $5 billion less than it would need, in a worst-case scenario, to pay its insurance claims and other liabilities.

The report floored the Canadians. Fairfax wasn't that big a company. If it was really underreserved by $5 billion, that would mean it was insolvent. Gwynn was asserting that Fairfax was the next Enron, a massive accounting fraud posing as a thriving publicly traded company.

Watsa—in retrospect, naïvely—paid no attention to the report. "We laughed," he says. "We thought, 'It must be a joke. Nobody will take it seriously.'"

Watsa was wrong. On the following Monday, the New York Stock Exchange was closed, due to Martin Luther King Day, but trading was open in the Canadian exchange. That day the firm's Canadian stock began plummeting.

"It went down like twenty-five percent in one day," Watsa recalls. "Like a stone it went."

By 10:30 that Monday morning, January 20, the Canadian authorities were calling Watsa in a panic. Both the Ontario Securities Commission (the province's version of the SEC) and the Toronto Stock Exchange called Fairfax, demanding to know if there was some sort of "event" going on at the company that justified the mass sell-off of the firm's stock. When Watsa insisted that there wasn't, the TSX told him that he had to issue a statement to try to address investors' concerns.

So they did. Later that afternoon Fairfax issued a press release essentially saying that the analyst reports were false, that the company was not underreserved, and that there was no reason for alarm.

Hardly isolated in the investment community, Watsa called some influential friends on Wall Street, who told him his company was under attack by short sellers. But the credulous and devout Watsa was characteristically slow to digest the meaning of this news.

In fact, early in 2003, when first told he was under attack by short sellers, Watsa thought the only reason anyone would be shorting his company was that investors for some reason genuinely believed his company was a loser and that its stock was overvalued, in which case Watsa says he was convinced the firm was not in serious danger. If anything, he thought, the short attacks and the resultant plummeting stock price would provide opportunity for smart investors to buy low.

"I thought, in a way, this was good news for them," he says now. According to the classical economic theory he believed in, it was those smart investors who would ultimately win out.

"I kept insisting that all we had to do was do well, and we'd be fine," he says now. "I kept telling everyone at the firm, 'Results will out.'"

So the company moved aggressively to improve its "results," engaging in a series of maneuvers designed to reassure investors about the strength of the company's reserves. Some of those transactions would later come under scrutiny (more on that later), but the key here is that the firm did not yet know that it was in an alley fight with an organized group of aggressors who had moved outside the usual realm of quarterly results and analyst reports and SEC disclosures.

Watsa would deny the existence of such attacks and cling tenaciously to his "results will out" mantra for years, having no clue that he was playing right into the hands of his antagonists. Until it was almost too late, he had absolutely no idea what was really happening to his company.

Wall Street in 2003 was a very different place from the world Ben Graham had written about in his 1934 *Security Analysis.* A more definitive portrait of modern finance would probably be the movie *Wall Street,* which had a profound effect on the city's business culture, although probably not the effect its heavy-handed lefty director Oliver Stone expected. While the rest of America understood Michael Douglas's iconic Gordon Gekko character as a villain, and saw his famed "greed is good" speech as incisive satire, many aspiring Wall Street traders sincerely thought—and still think—that Gekko was the movie's hero.

In the early 1990s, Wall Street saw a massive influx of young Gekko wannabes who thought waiting any amount of time to get fabulously wealthy was for losers, or at the very least for people who had never read Sun Tzu. Many of these new world-beaters eschewed the old Wall Street career path of being a broker at a major investment bank and climbing the ladder to a partnership. Instead, they reached for a more direct path to the top.

They started hedge funds.

Hedge funds, basically big pools of money managed by professional traders, are almost totally unregulated. A fund often begins as a one-man operation, run by a smooth-talking Wall Street front man who trolls the very rich, hustling for seed money. There are no real regulatory audits of hedge funds, and no government body checks hedge funds' trades or verifies their claims. It even came out, in the famous Bernie Madoff case, that despite numerous complaints to the SEC over the years from reputable sources, nobody in the government even checked to make sure Madoff's hedge fund even *made* trades at all. Madoff actually went more than thirteen years without making a single stock purchase and yet somehow survived several SEC investigations—that's how flimsy government regulation of hedge funds has been and still is.

Thus the right kind of fast-talking operator can quickly find himself managing hundreds of millions of dollars just by having the right rap and boasting high enough returns. Many, like Madoff, or the similar but less-well-known character Sam Israel of the infamous Bayou Fund, secured gigantic investments by promising that they had a secret system to outperform the market. In Israel's case, the "system" he had actually learned, as a trading apprentice to early hedge fund pioneer Fred Graber, mainly revolved around a series of high-speed insider trading schemes. From the book *Octopus,* about Israel:

> As a velocity trader, Graber constantly bought and sold the same stocks. . . . He talked about the stock he traded with intense passion, passing around made-up gossip, false speculation, and occasionally real news—anything to stir up action. One of Graber's abilities was to "paint the tape," the illegal practice of trading with the sole purpose of moving the price of a stock. The agribusiness giant Archer Daniels Midland was one of the stocks Graber fooled with relentlessly. To paint the tape on ADM, Graber and Israel would call eight different brokers and put in buy orders simultaneously to run up the price—at a time when Graber was holding lots of the stock ready to sell into a rising market. It was a racket the Securities and Exchange Commission was hopelessly ill-equipped to stop.
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> "The SEC questioned Freddy all the time," Phil Ratner recalled. "But they couldn't catch him. He traded so much that it was impossible to say he'd traded on inside information."

Israel ended up abandoning that velocity trading method and actually got in real trouble only when he tried to earn his money honestly, with a half-baked computer investing program that tried to automate a *Moneyball* approach to stock picking. When the losses mounted from his failed attempts at an honest system, Israel resorted to outright accounting fraud to hide his financial condition from investors.

Just as Sam Israel once had, many of the other big shots in the hedge fund revolution that gripped the Street in the early 1990s operated using some form of high-velocity trading system—not necessarily an illegal system, like the one Fred Graber taught Israel, but one based on speed and volume nonetheless. The result was a generation of traders who exemplified an ethos completely opposite that preached by Buffett, Graham, and, well, Prem Watsa: people who didn't invest in companies for the long haul but instead invested in stock positions and sometimes held those positions for just a few seconds.

These people did not think of themselves as part owners of companies. They boarded this or that ship only for a few minutes, raped and robbed as much as possible from the hold, and then took off back out into the open ocean.

If there's any one person in the global business community who represents the total polar opposite of Warren Buffett–style value investing, it's Stevie Cohen.* (Well, it might also be Warren Buffett, but that's another story for another day.) In the late 1970s, Cohen was a young arbitrage trader working for a middling firm called Gruntal & Co., where he quickly rose to a job most young men would be happy with, managing six traders and a $75 million fund.

But in 1992 Cohen broke off and founded SAC Capital, a secretive hedge fund whose awesomely rapid rise in that decade roughly paralleled the rapid growth of Watsa's Fairfax up north. But it wasn't long before the compensation numbers Cohen was putting up made Watsa look like a McDonald's franchisee by comparison.

Within ten years of branching off on his own, Cohen was person-

* Buffett himself, it should be said, has seemed to go against his own principles. The legendary investor has been heavily criticized in the postcrash era for his investments in companies that seemed to violate his business principles, most notably a large share of the ratings agency Moody's; Buffett had previously criticized the industry.

ally earning $350 million a year. A few years after that, Cohen had nearly tripled his compensation and was earning a billion a year. Less than a dozen years after founding SAC, Cohen was one of the top forty richest people in America, and he made a major statement to the rest of America's elite by building an obscene 35,000-square-foot mansion in the capital of Rich America, Greenwich, Connecticut.

The mansion shocked even the Greenwich crowd with its sprawling grounds and its Versailles-like architecture, complete with an often-visible Zamboni machine tending to a 6,000-square-foot skating rink. A *Vanity Fair* writer said Cohen's home "resembles Buckingham Palace.... One billionaire, whose name I've promised not to reveal here, said his jaw dropped the first time he visited." A physical transformation followed, as the no-longer-young fund manager adopted a severe, shaven-headed Lex Luthor look that perfectly fit his garishly enormous financial empire and supervillainish estate.

Where did the money come from? SAC had quickly become one of the world's largest hedge funds through its mysterious, impossible-sounding performance record. In the first fifteen years of its existence, SAC claimed an incredible 43 percent annual return for its clients. Somehow Cohen was beating the average growth of the stock market by four, five, or six times over, every single year for more than a decade.

For such incredible performance, Cohen's clients paid a premium that went beyond enviable into being outright suspicious. The standard fee for a hedge fund manager is a formula known on Wall Street as "two and twenty." If you give a hedge fund manager $10 million, he gets a 2 percent management fee for the ten mil, plus 20 percent of any profits he makes for you.

But Cohen, incredibly, charged his clients 50 percent for the profits he earned them, which is a little like paying five thousand dollars to get a one-hour massage from a Swedish coed. If you're paying that much, you're probably getting more than a massage. And with Cohen, what you paid for was guaranteed impossible profits.

"Some people in this business are dirty, definitely," says one hedge fund manager, who incidentally would end up being short Fairfax for a time. "Look at Cohen. It's a little like juicers in baseball—when a guy hits that many home runs every single year, and never has a down year, you just know."

That no one can post 40 percent returns for fifteen years without cheating is blatantly obvious to everyone on Wall Street, but instead of sounding the general alarm, the almost universal reaction of the world financial media has been to celebrate the genius of such miracle investors with worshipful profiles. (At least until Cohen was finally nailed by regulators many years after the Fairfax episode.) Early in his career, Cohen got to explain his "system" over and over again to starry-eyed reporters, and what they heard was the exact opposite of the Buffett/Graham value investing concept.

Cohen claimed to be making money based on minute-to-minute calculations made as he was monitoring trading flow, or "watching the tape." This was eerily similar to the "painting the tape" process that Fred Graber taught Sam Israel.

When he felt stock prices were wrong, as *The Wall Street Journal* explained, "Mr. Cohen would pounce, and then he would bail as soon as they ticked in the right direction." His huge profits, he said, were derived from the fact that his bets were so enormous and the volume of his trading so obscene. By the mid-2000s, SAC's trading all by itself accounted for as much as 2 percent of all trading activity on any given day on the New York Stock Exchange.

SAC grew so big so fast that, like a Bill Parcells or a Bill Belichick, Cohen quickly saw his coaching tree start to bloom. A number of former SAC traders branched off and created their own funds. Adam Sender was a sort of mini-Cohen who split off from his mentor in 1998 to form his own fund, Exis Capital Management. Like Cohen, Sender quickly began turning in impossible-sounding results. (He claimed a 53 percent return after fees in 2006.) And like Cohen, Sender couldn't wait to show the world how rich he was. Within a decade or so after founding Exis, he had a personal collection of more than one thousand works of modern art that were collectively valued at over $100 million.

Cohen and Sender were part of a new class of hedge fund conquerors who used their instant millions and billions to buy places in the pop-culture limelight, usually by patronizing modern artists. Cohen shocked the art world in 2005 when he gave $12 million—the highest sum ever paid to a living artist for a single piece of work—to the awesomely pretentious Englishman Damien Hirst for his *The Physical Impossibility of Death in the Mind of Someone Living.* This preposterous sculpture was a fourteen-foot pickled shark suspended in a formaldehydelike solution. The notion that Cohen had paid $12 million for a kind of schlock monument to his own self-image as a financial killing machine is a long-standing joke on Wall Street, right down to the fact that the dead animal started to rot almost immediately: shortly after purchase, Cohen had to hire the artist to refurbish the creature.

Another in the curator club was Dan Loeb, the billionaire head of a fund called Third Point, who by the early 2000s had become famous not just for being a dick but for being a very particular *kind* of dick. Loeb's favorite activity was to invest heavily in a big company (he at one point owned more than 5 percent of Yahoo!) and then write blisteringly insulting public letters to management, berating them for not making him enough money. When he spotted the CEO of one company courtside at the U.S. Open, he publicly attacked him for "hobnobbing and snacking on shrimp cocktail" when he should have been out making Loeb money. He launched a similar assault on the head of Star Gas Partners, Irik Sevin, urging him to step aside and "do what you do best: retreat to your waterfront mansion in the Hamptons where you can play tennis and hobnob with your fellow socialites." Loeb *loves* the word "hobnob."

That Loeb himself had been at the U.S. Open final, and also has a $15 million estate in East Hampton far bigger than Sevin's, is beside the point. Loeb's letters set him up as an inspiration to day traders and "outside investors" everywhere, a self-proclaimed populist hero who made his living publicly beating the hell out of America's decadent CEO class.* His act is a kind of living tribute to the legendary scene in *Wall Street* when Gekko-Douglas undresses the executives from Teldar Paper at a shareholder meeting, urging investors to defy the fat-cat "bureaucrats with their steak lunches, their hunting and fishing trips" who paid themselves big salaries but lacked the balls to buy stock in their own firms. Like Gekko, Loeb pitches himself as the guy who *does* have the balls, who puts his money where his mouth is. Known as the "Angry Investor," he's made a public career as a kind of investors' ombudsman.

Lastly, there's Jim Chanos, another billionaire who was Buffett's (or the mythical Buffett's) opposite for another reason: he almost exclusively bet against companies, not on them. Known as "the Catastrophe Capitalist" and elevated to fame on Wall Street for having helped uncover the Enron disaster (he had a huge short on against Enron, and his research is said to have essentially exposed the fraud), Chanos could move markets just by signaling that he was betting against this or that company.

Humorously, and appropriately, Chanos named his hedge fund Kynikos, which is Greek for "cynic." He described his campaigns against target companies as "jihads" and became well known for his withering, devastating criticisms of just about anybody who fell within his field of view. He sneered, for instance, at traders who blindly rode the tech boom while he was doing real work, seeking out bad companies like Enron. "The marginal people on the trading desks, there's no skill set," he chirped. "The next stop [for them] is driving a cab."

On one hand, Chanos represented everything that was good about short sellers. In an investment community policed by weakling regulators and a mostly blind press, it's often left to short sellers

* I myself experienced Loeb's legendary epistemological style in the fall of 2013, after I wrote a *Rolling Stone* article about hedge funds like his that received indefensibly high fees from state pension funds. The piece had been out only about three minutes when I started receiving angry emails from the "Angry Investor" about my literary irrelevance.

to spot and correct even the most blatant corruption, which Chanos apparently did in the Enron case.

But the high-roller shorts like Chanos almost by necessity have to be psychologically a little unhinged. An investor who bets on companies to succeed, a so-called long investor, always at the very least knows the worst-case scenario when he invests in a company. If you buy a share of IBM for $10, the most you can lose is that ten bucks. But a short's losses can be infinite. Every time you put a big short on, you risk your entire neck.

"You have to have titanium balls" is how one trader explains it. The reason has to do with the mechanics of the profession. When you short a stock, you first borrow shares in the company, then sell them off immediately for cash. Then, after the stock's value has dropped, you go out and buy the same amount of shares in the open market and return them to the original source.

So say you borrow a share of IBM at 10. You sell it immediately for that ten bucks, then wait for something bad to happen (IBM forced to announce a product recall, say). The stock drops to 9. You can then go out and buy a share of IBM on the open market, return that share to your original source, and pocket a one-dollar profit.

But what if IBM goes up? What if there is no product recall, and the next product IBM comes out with puts the iPad out of business? What if the stock goes past 10—to 15, 20, 40, 50 dollars?

You still eventually have to return the stock. The higher the stock climbs, the more money you owe. And there's no zero down there to stop the bleeding. You could pick wrong, bet against Google or Microsoft in its infancy, and end up beyond broke, hurtling down a bottomless financial pit.

Another factor is that short sellers have to pay fees to borrow stocks before they can short them, which means that if you're shorting IBM at 10, you probably need it to drop below 9, maybe to 8 or even 7, to actually make a profit. It depends on how hard the stock is to borrow, how high those borrowing fees are. (This issue would come into play in a big way in the Fairfax case.) So if you're putting a big short on, you usually need to see a serious drop to make a buck, not just a tick or two in the right direction.

This is why the big short sellers tend to be wired differently from other Wall Street players. These men (and they're mostly men) live for the thrill of the chase and the high of conquest when the target of their short finally rolls over and dies.

Chanos perfectly embodies that spirit. "I'll always understand the Schadenfreude aspect to short-selling," he said early in his career. "I get that no one will always like it."

By the early 2000s, just those four men—Loeb, Chanos, Cohen, and Sender—collectively managed tens of billions of dollars and exerted enormous influence on the daily trading flow of the New York Stock Exchange.

And here's what we know. Sometime in 2002 this collection of high-profile, belligerent, letter-writing, art-collecting millionaires and billionaires, along with hotshots from a few other prominent hedge funds, began talking to one another about a new stock they might want to target: Fairfax Financial Holdings.

An important thing to understand about short sellers is that they can play not just a legitimate role in finance but an urgently necessary one, being as they are the world's best-funded researchers of corruption and inefficiency in the markets, far surpassing the press and federal regulators. When they're right, and they often are, they provide a valuable service.

Jim Chanos was famous for being right. His biggest claim to fame, of course, is Enron. But the short that actually made his career involved an insurance company. The firm was called Baldwin-United, and back in the Reagan years, it looked like one of the hottest companies in the world. The Ohio-based company used to make pianos but had switched to insurance and was making a killing selling a product called single premium deferred annuities, or SPDAs. By 1981, the firm had $24 billion in assets and was being lauded in *Fortune* magazine.

Within a year, though, the company went into bankruptcy—the largest bankruptcy of all time at that point. The firm went bust largely because a little-known trader at a Chicago-based firm called Gilford Securities, Jim Chanos, had exposed the company's financials as a sham. In an eerie preview of Enron, Baldwin had been using accounting tricks to book five and six years of income at a time, and Chanos, who was less than a year removed from graduating from Yale, didn't like the way the financials looked. "I've never seen financials that looked so cloudy," he said. When the company went bust, Chanos became a star, and the model for his victory was interesting: while places like *The Washington Post* and *The Wall Street Journal* were skeptical of his analysis, *Forbes* magazine believed Chanos's analysis and published an aggressive story against the firm. It was enough to bring the company down. The media were an essential weapon in the short campaign.

Years later Chanos would repeat this same technique, again to apparent social good, by attacking Enron's financials with the aid of Bethany McLean of *Fortune* magazine.

Now it was a few years after the Enron story, and Chanos, as he had in 1982 with Baldwin, got a tip about another insurance company with supposedly dicey financials.

Fairfax in many ways was similar to Baldwin. It was roughly the same size, in the $20-billion-to-$30-billion-in-assets range. When Chanos first heard of Baldwin in the early 1980s, it had just swallowed another huge company called MGIC. In 2002 Fairfax was still digesting its Crum & Forster and OdysseyRe acquisitions. And Chanos didn't like the look of the relationships among Fairfax's many subsidiaries. He was sure self-dealing was going on, just as there had been with Enron.

Chanos was the first of the really big hedge fund magnates to make a big short bet against Fairfax, in mid-2002. And the fact that it was Chanos targeting another insurance company swayed some other funds. "Jim knew about insurance," says Marc Cohodes, the former head of Copper River Partners, a hedge fund that would eventually short Fairfax. "He had made his name with the Baldwin thing. It carried a lot of weight."

The billionaire that summer evangelized his decision to short Fairfax all over town. Many were more than willing to bet down the stock. For all its positive press in Canada, Fairfax didn't have the greatest reputation in New York. "A third-rate insurer with crappy underwriting standards" is how one analyst put it. "Plus they were Canadian, and run by an Indian. In retrospect, that probably played into it, too. There were a lot of reasons to pile on."

By the end of 2002, nearly a dozen major hedge funds—including SAC, Kynikos, and Loeb's Third Point—had taken short positions against Fairfax and were trading information with one another about the stock. That's when the analysts came in.

The key player was Gwynn, the Morgan Keegan analyst. Fairfax was the first company he would ever cover as an analyst for Morgan Keegan. This was his first task after coming to the bank from the Trinity hedge fund, which, in an amazing coincidence, was one of the funds that would put a huge short on against Fairfax.

So the former hedge fund employee Gwynn joined a major investment bank and immediately began preparing a research report on a Canadian company that operated in a business he knew very little about. The report wouldn't be published until January 17, 2003, but well over a month before that, it mysteriously began circulating among the traders at many of these big hedge funds.

We know this because traders for Chanos and Cohen and others sent one another reams of emails and texts blithely bragging about their access to this nonpublic information. For instance, on December 21, 2002, an analyst for Chanos sent a note to a trader at another hedge fund about a new report on FFH, Fairfax Holdings:

> Last night John Gwynn at Morgan Keegan faxed over to me an outline detailing the issues at FFH, basically those he will be publishing on. He has been a huge help and

> even offered to talk to me from his home today. We can look at these and talk to him next week. . . . On the major issue of reserve deficiencies . . . the entire company deficiency is shown to be \$2.6 BN without tail, and \$5.0 BN with tail.

Nearly a month before the analyst report came out, then, someone at the Kynikos fund knew the entire substance of the Morgan Keegan research and was sharing it with another hedge fund.

As it happens, this sort of behavior—bank analysts sharing their research with hedge fund clients—was so common at the time that it ultimately became the centerpiece of the so-called Global Settlement arranged by Eliot Spitzer and the SEC with big Wall Street banks like Goldman Sachs, Lehman Brothers, Bear Stearns, and Piper Jaffray.

There's nothing unethical about a private company doing research, and there's nothing unethical about a bank researching a firm and selling that research to clients. But a major bank releasing a major report on a publicly listed company can have a material impact on the movement of a stock, and here's where we get into unethical and/or illegal territory. Tipping off a hedge fund that your analyst is going to give a "buy" rating to a stock weeks before that research is made public can be enormously valuable to the hedge fund, for the obvious reason that the fund now has a pretty good idea of a concrete date and time when the stock is going to tick upward. If the release of the research will have a material impact on the value of the stock, it becomes illegal and improper to trade on knowledge of such a report ahead of time.

What Spitzer's investigation uncovered was that banks in the 1990s and early 2000s were routinely trading such valuable inside information in return for promises that the funds would choose their companies to do their investment banking work. It was straight quid pro quo: information for business. For instance, when asked in a questionnaire what his three most important goals were for the year 2000, a Goldman analyst replied, "1. Get more investment banking revenue. 2. Get more investment banking revenue. 3. Get more investment banking revenue."

The way the game evolved, big hedge fund clients had access to investment banking research far ahead of everyone else, creating a two-tiered investment environment. There was one market for insiders, and one for everyone else. As the former hedge fund manager Marc Cohodes explains, "Joe Sixpack has zero chance to succeed here."

Morgan Keegan in this case tried blatantly to secure the investment banking business of funds like Kynikos by handing out Gwynn's research report like Halloween candy to anyone and everyone capable of throwing it banking business.

Ten days before Gwynn's report came out, for instance, a Morgan Keegan salesman named Bill Hinckley berated an SAC Capital trader for not putting a bigger bet down against Fairfax. "Did you short that FFH on the listing?" he asked. When the SAC trader hemmed and hawed, Hinckley got impatient:

> DAMN IT. DRINK FROM THE WATER, YOU HORSE.

The day before the report came out, Chanos himself was informed about Gwynn's research. One of his analysts briefed him:

> Just got off the phone with Gwynn at Morgan Keegan—his piece that rips FFH is supposed to be published tomorrow.

By mid-January 2003, employees at nearly a dozen major hedge funds, many of which were already trading Fairfax stock or were about to, had either directly seen the unpublished Morgan Keegan report or had learned the substance of it. The email record detailing these communications between the hedge funds and the bank analysts during this time is surreal.

In the email record, both bankers and traders talked openly about the info-for-biz quid pro quo.

For instance, one of Dan Loeb's traders at Third Point, a certain Jeff Hires, sent an email to a Morgan Keegan rep named John Fox congratulating him on Gwynn's "damn good report."

"Kudos to your analyst," Hires told Fox in a cheery email.

Fox, in response, cravenly asked Hires for a handout:

> Thank you, Jeff. Please try to keep Morgan Keegan in mind for commission payments to our analyst. A small 50,000 share trade goes a long way. We go out of our way to hire individuals of the caliber of our John Gwynn. Looking forward to working with you. Thank you.

In any case, virtually all the hedge funds that saw the Gwynn report acted on it, deciding to place short bets against Fairfax. Chanos's fund, Kynikos, had actually started to pull its bets against Fairfax, but when it saw the Gwynn report, it doubled down and put about $5 million down on a short against the Canadians, about half of that on the day before the report came out.

And it wasn't just Heiman or some other minor Kynikos operative doing an end run. The billionaire Chanos himself was intimately involved in these trades. In fact, on January 16, 2003, the day before the Gwynn report came out, "Catastrophe Capitalist" Chanos and "Angry Investor" Loeb—two of the great icons of the hedge fund era—had an instant-message text conversation about Fairfax, in which Loeb asked Chanos if he should short the firm. Temporarily at least, the pair showed a little discretion:

LOEB: should short one more?
CHANOS: CAN'T COMMENT.
LOEB: understood.

Days later, after the report came out and Chanos had made a bundle on the damage done to Fairfax's stock, he and Loeb had another exchange:

LOEB: Just read the Morgan Keegan report which is one of the best and most extraordinarily good pieces of work I've ever read.

CHANOS: I KNOW. THAT'S WHY I COULDN'T TALK TO YOU LAST WEEK.

Again, this is one of the richest men in America, and one of the most respected figures on Wall Street, blithely admitting, in writing, that he'd read a crucial piece of insider information about a stock he was trading before its publication. Neither Chanos nor Loeb responded to requests for comment about any of this.

All these communications seem to account for the remarkable surge in trading activity that Watsa noticed in the days preceding the publication of the Morgan Keegan report. Subsequent analysis revealed that trading in the stock was at levels fourteen times higher than usual. When the Morgan Keegan report finally came out, the impact was predictably devastating: Fairfax's stock plummeted 25 percent in a single day.

Within a short period of time, in fact, the Canadian listing plummeted 32 percent, to an eight-year low. At Morgan Keegan, the news that Fairfax was in a death spiral was met with celebration. An internal bank memorandum circulated at the end of January said it all: "Gwynn—tremendous call on FFH sent the stock down 18 points!"

To recap quickly: in the summer of 2002, Jim Chanos, an investing legend who had made his bones disentangling bad accounting at an insurance holding company in the 1980s, decided there was something wrong at Fairfax and decided to wager against the firm. Chanos evangelized his belief in Fairfax's shortcomings, and other hedge funds also bet against Fairfax at the end of 2002. One of those funds, Trinity, seems to have played a role in getting an analyst hired at an investment bank. That analyst then came up with a negative research report on Fairfax that was passed around to other hedge funds and to journalists before it became public. The report came out, and like clockwork, the stock price of Fairfax plummeted.

The hedge funds may have genuinely believed that Fairfax was a corrupt and/or incompetently run company, and some of the hedge fund employees and their supporters will insist to this day that the initial bet against Fairfax was righteous. But the record suggests that their collective belief that enough bad press and negative market momentum would crater the firm was even stronger than their belief in Fairfax's actual problems.

And indeed, Fairfax's fate seemed to have been sealed when the Morgan Keegan report sent the stock down 32 percent. Under normal circumstances, this might have been enough to kill a company, particularly a financial company like Fairfax, whose business is entirely dependent upon public confidence. As Fairfax's lawyers would later repeatedly point out, Chanos himself once openly explained this dynamic. "With a financial services company like Fairfax, it can all be self-fulfilling," he said in a 2005 interview. "If the market finally decides the glass isn't half full any more, the trouble starts . . . you can see the stock go into a waterfall."

That was probably what was supposed to happen with Gwynn's report, but it didn't, because Gwynn screwed up and overplayed his hand. Almost immediately after issuing his report, questions began to surface about the accuracy of his $5 billion calculation. Moreover, in early February 2003, Fairfax issued a positive financial report, causing the market to start to doubt the rumors of Fairfax being the next Enron. As a result, the stock price began to tick menacingly upward: in one day, it went up ten dollars a share.

The hedge funds pressured Gwynn and Morgan Keegan to continue dumping on the Canadians.

For instance, on February 10, 2003, a day after Fairfax released its positive financial report and the stock ticked upward, Jeff Hires, Dan Loeb's trader at Third Point, reached out to John Fox at Morgan Keegan:

> Where's the new report on FFH????

Fox stalled, telling Hires a full day later that the report was in the "editor's process" and wouldn't be out until the next day, February 12. At that, Hires sharply shot back:

> Just make sure it's really negative.

On that same day, February 11, Morgan Keegan salesman Bill Hinckley urged a hedge fund manager named Eduardo Tomacelli to place another bet against Fairfax, telling him that the second report was coming out the following day and would be devastating.

> WE SAY FFH RESULTS WERE WORSE THAN EXPECTED. . . . PUT THE SHORT BACK ON. . . . YOU NEED TO TALK TO JOHN GWYNN AND SLAP THAT DOG.

And slap the dog they did. Ultimately, over the course of three years John Gwynn would issue an incredible sixty-four reports about Fairfax, every single one negative to one degree or another. It's unclear exactly what his motivation was. Though some of the discovery shows the bank cravenly trying to extract business from hedge funds that seemed to relish Gwynn's conclusions, the bank also would eventually fire Gwynn (years later, it is true) for leaking information to those same funds. "Gwynn was discharged from Morgan Keegan for violation of a firm policy relating to his apparent advance disclosure of his pending research coverage of Fairfax Financial Holdings," a Morgan Keegan spokeswoman would say a full five years later, amid the chaos of September 2008.

Although negative press and analyst reports and high volumes of carefully timed short selling can definitely exert downward pressure on a stock, and can even "waterfall" a company into collapse, a firm with a solid enough foundation can stick it out for a good long time.

But the shorts didn't have time. The game these major hedge funds were playing was a high-stakes, high-risk *totaler Krieg* where there's no room for patience, compromise, or pyrrhic victories. When you bet $50 million, $100 million, $200 million against a certain type of company, inflicting minor damage—like moving its stock down a few percentage points here and there—is not sufficient. You have to sink the boat, or else you yourself will be drowned.

Why? Because shorting a stock becomes more and more expensive the longer the short bet is on. Remember, in order to bet against a company, you have to borrow shares of that stock. But so many people may be clamoring to short a certain stock that the number of shares available for borrowing may not be sufficient to meet the demand. In that case (and it can happen for other reasons as well), a stock becomes "hard to borrow," and the cost to borrow a single share for any length of time can become exorbitant.

Short sellers talk about the price of "the borrow" when they figure their costs. And in the case of Fairfax, the borrow was through the roof. Between 2003 and 2006, the cost to borrow Fairfax stock skyrocketed, to the point where a short seller had to pay a surcharge of 30 percent or more just to borrow a share. Years later, when all this got aired out in court, Andy Heller—the chief operating officer of Adam Sender's Exis Capital—explained in a deposition why hedge funds like his needed Fairfax not just to wobble but to fall over completely. "Fairfax had an enormously expensive borrow," he said:

HELLER: If Fairfax didn't go out of business in three years, the trade was a loser.
Q: Automatically?
HELLER: Automatically. If I'm paying 35 percent a year to borrow the security, just do the math.

The short sellers had done a pretty fair job of battering Fairfax with the crude, old-school trade-ahead-of-negative-research scheme.

But when Fairfax didn't collapse after the first Morgan Keegan reports and the accompanying negative press from journalists like Peter Eavis, the shorts flipped out. In a text conversation, Loeb and a then-SAC trader named Jeff Perry reacted to a positive financial report released by Fairfax. In Loeb's mind, the good news coming from Fairfax meant they were both going to take it up the ass—literally.

LOEB: This is surreal
PERRY: WHAT?
LOEB: bend over and get your bungus grease. FFH

Moments later Loeb had a text conversation with Jeff Hires, one of his own cohorts at Third Point. At this crucial moment, Loeb realizes that the first blow wasn't enough and suggests that the shorts might need to look elsewhere for ways to drive Fairfax's stock downward.

LOEB: Holy shit . . . look at the FFH indication.
HIRES: Indeed
LOEB: This is insane.
HIRES: ugh
LOEB: We need to speak to the ratings agencies today . . . they could provide the downside catalyst.

Thus began the second stage of the attack on Fairfax, the search for an elusive "downside catalyst"—some outside force that would drive the stock down.

The usual weaponry wasn't working. They needed to think outside the box. They had to find some other way to bring Fairfax Financial Holdings all the way down.

A quick aside. Stories like this at first blush seem to have little relevance outside Lower Manhattan. Had Fairfax gone out of business, sure, thousands of jobs would have been lost, many in the metro New York area. (Morristown, New Jersey, alone would have lost thousands.) But for the most part, insider trading is a crime of fractional violence.

You steal from uninformed investors all over the world, a few pennies or dollars at a time. The damage fans out evenly across a vast geography, and it's hard to see. It's because of this that lots of Wall Street people genuinely think of insider trading and naked short selling as victimless crimes. People get hurt, sure, but the victims are mostly sophisticated investors who should know better, and it's not like you're hitting them in the head with a brick or anything. It's not a real crime. At least it doesn't look like one.

That may once have been true. But in the Fairfax case, the principals in this "victimless" scheme started to mimic the gangster aesthetic.

Like most privileged, overeducated Americans who try it, they would suck at being real tough guys. They tried, however, and here's the crazy thing: in a city where police in some neighborhoods define crime as standing on the sidewalk the wrong way, these idiots took their stock-trading act-like-a-thug life, screwed it up a hundred different ways, and not only couldn't get arrested, they couldn't even get police of any kind to notice.

On November 9, 2005, Barry Parker, pastor at St. Paul's Anglican church in Toronto, received a curious FedEx package at his office. Having for over a decade headed this, one of the largest Anglican churches in North America, he knew a thing or two about famous churches, and he immediately sensed something odd about the return address, 460 Madison Avenue in New York.

"I remember thinking the address looked familiar," he recalls today. "When I looked it up later, I realized the package was 'sent' from St. Patrick's Catholic Cathedral."

Parker opened the package. Inside, there was a letter addressed to him. It read:

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 P.riest 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. Watsa as the Chairman of the investment committee of the church. More interesting are the similarities in 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

Along with the bizarre letter was a thirty-page article about the real-world insurance scam artist Marty Frankel, a corporate huckster who had bilked some $200 million out of a variety of marks, including the Catholic Church. The article was complete with lurid descriptions of Frankel's obsessions with sadomasochism and group sex, as well as descriptions of a brothel apparently being run out of Frankel's home.

The brazenness of sending such material to one of Canada's most high-profile religious figures, coupled with the breathless, faux-Nabokovian fictional flourishes in "P. Fate's" letter (in ham-fistedly telling of losing his "dear" friend, the Catholic priest "Father Richard Bourgeois," is the author not so subtly calling Parker a bourgeois dick?), suggested that whoever sent the package had taken fiendish pleasure in the entire enterprise, and that was unsettling in itself.

Parker read the letter in a daze. He had known Prem Watsa for a very long time. The Fairfax CEO had in a sense helped hire Parker, having been chairperson of the selection committee that endorsed Parker's candidacy to become pastor of St. Paul's sixteen years before. In those sixteen years, Parker had come to know Watsa well. "Very faithful" is how Parker describes him.

And yet now someone was telling him that the man was a swindler, literally out to abscond with the church funds. Parker never took the accusation seriously, but the fact that someone had bothered to send him this outrageous letter seriously unnerved him. Wherever this had come from, it wasn't a universe he spent a lot of time in. "All I knew was that something was happening that I knew nothing about," he says now.

At exactly the same time that the package sent by "P. Fate" was arriving at Parker's office, the same documents were being emailed to Watsa himself, this time under the alias "Monty Gardener." Watsa was understandably rattled. Church activities took up virtually all the space in his life not claimed by his family and his business, and now someone was trying to convince his congregation that he was an embezzler and perhaps a pervert, too.

Before Watsa could think of what to do, Parker was calling him on the phone, telling him about the letter. "I had to explain to my priest what was going on with the company," Watsa recalls now. "He's a good man, but it was hard to explain."

The letter to his priest would be merely one of dozens of attempts to intimidate and frighten Watsa's friends and coworkers, in an effort to isolate him psychologically. Just days after the "P. Fate" letter, for instance, Watsa's personal assistant, Joan Cheos, who had worked for him from his earliest days in the insurance business, received by email a pair of similar letters from the same "Monty Gardener," with the same Marty Frankel accusations, only this letter came with a twist: they implied that Watsa was about to be criminally indicted, and so would his assistant, if she didn't leave the firm quickly.

"The attached documents are being sent to you out of concern for your unwitting participation in possibly very serious federal crimes committed by Mr. Prem Watsa," the letter began. It went on to outline a theory that Fairfax was an Enronesque maze of accounting deceptions that would eventually be unraveled by avenging authorities.

"Please understand that this behavior will not stand," the letter continued. ". . . A person such as you has a lot to lose. No doubt you are aware that those that don't help Prem end up leaving after years of service with the severance afforded those that work at a Burger King drive thru."

Note the eerie resemblance between this Burger King comment and Jim Chanos's line about those who have "no skill set," for whom the "next stop is driving a cab." It's the same sneering, losers-suck sentiment, where the worst thing in the world is to be an ordinary schmuck with an ordinary job.

"Be aware," the letter went on, "[Watsa] will be held accountable."

Watsa's assistant soon began to get phone calls in the middle of the night, warning her that she was about to be implicated in Watsa's crimes. "Get out now," the voice would say. "Fairfax is a fraudulent company. Save yourself!"

Joan Cheos was actually sick with cancer during the time she was getting these calls. She would die about a year afterward. To hear Fairfax employees (whose eyes light up with anger at the mention of her name) tell it, the constant barrage of calls and letters frightened her to her core. She especially began to dread the end of the workday, between five and six p.m., when inevitably unfamiliar phone numbers with 212 area codes would ring up and ask for Watsa. "I'm a friend of Prem's, it's okay," the caller would say. Every time she asked for a name, the callers would hang up. This happened repeatedly, multiple times per week, by the end of 2005.

Strange and upsetting messages began to appear on the Internet. In December 2005 a site called premwatsa.com appeared, showing the familiar Enron logo, only with the "E" changed to an "F" and the word "Fairfax" substituted for "Enron." Showing an impressively thorough approach, the site designers created two additional mirror sites, a premwatsa.net and a premwatsa.co.uk, in case anyone in England missed the message.

Then, on a financial website, someone posted a comment about Watsa's son, who was living in New York at the time. "Anyone know the name of prem's son?" the message read. "I am 5'2", 110 lbs, red hair (the drapes match the blinds). I am interested in young indian boys, especially those with their own private jet. . . . I like dancing under palm trees while throwing macadamia nuts in the air."

Meanwhile other employees at Fairfax began to receive P. Fate-style letters and similar late-night phone calls, all from callers who were either anonymous or bearing ridiculous pseudonyms, warning them to resign from Fairfax before the arrests began.

From there the behavior escalated to people showing up and knocking on the doors of houses belonging to Fairfax employees. Watsa's own wife, Nalini, was visited at their suburban Toronto home during the daytime by a stranger pounding on her door. The man didn't say anything, just knocked on the door and left. "My wife went through a very tough time," Watsa recalls.

While all this was going on, Fairfax was constantly being besieged with new and unexpected commercial difficulties. A wave of accusations had come from, well, somewhere, many of them having to do with fraud, many of them sent to ratings agencies, regulators, even Fairfax's own business partners. One particularly damaging set of accusations had to do with one of its American acquisitions, OdysseyRe.

Someone had sent letters to Fairfax's auditors at PricewaterhouseCoopers, claiming that there were serious irregularities in OdysseyRe's accounting dating back four years. The letters went all the way to the top. "They actually sent a letter to the chairman of PwC in New York," Watsa now recalls. Because of these letters, Fairfax had to take the extraordinary step of delaying the release of OdysseyRe's annual audited accounting statements.

To deal with the OdysseyRe mess, Watsa in the early months of 2006 traveled to Stamford, Connecticut, the location of the firm's headquarters, to help the company's executives handle the crisis. He was in Stamford for more than ten days dealing with this accounting nightmare.

On one of the last nights, he exited OdysseyRe's offices, crossed the street to his hotel, and upon entering his room, met with a surprise. "I came back at ten-thirty or eleven o'clock at night," he says. "And there was a book, a little package in a plastic bag. . . . It was on the shelf, you know, the thing next to the television. . . . The book was called *The Tipping Point.*"

The CEO stood there, staring at the book and trying to digest what it meant. The immediate objective facts were that someone had entered Watsa's hotel room while he was gone and left a Malcolm Gladwell book next to his television. His first thought was to search for some innocent explanation. "I called down to reception and asked if anyone had been let into my room. They said no," he remembers.

He stared at the book again. The implication of the *Tipping Point* title seemed obvious enough, given what Fairfax was going through with OdysseyRe, but the deeper message was clearly that even Watsa's personal space was no longer safe. For the first time, he found himself genuinely freaked out on a personal safety level.

"I was a little worried, yes," he says now.

Soon the neighbors near the suburban Connecticut home of

OdysseyRe's chief financial officer, Charles Troiano, began to get knocks on their doors. Standing outside were real-life FBI agents, asking where Troiano was.

In truth, the executive had gone to the Caribbean on vacation. But the FBI had been told by sources it apparently considered reliable that the CFO had fled the country after committing massive financial fraud. When neighbors asked why the agents were asking, they were told bluntly, "We're investigating him for fraud."

The Troiano incident sent Paul Rivett, at the time Fairfax's general counsel, over the edge. "The FBI staked out Troiano's house for a week," he says. "That's when I knew this was really serious."

The young sandy-haired Canadian Rivett was a relative newcomer at Fairfax, a corporation where most of the inner circle had been with the firm, and with Watsa, for twenty years or longer. Rivett, on the other hand, had until recently been an outside counsel, hired by Fairfax for certain specific jobs. He'd helped the company when it wanted to list itself on the NYSE, for instance, and had assisted on some bond financing deals.

When the company started having troubles, however, Watsa asked Rivett to look into the matter. Almost from the outset, Rivett's attitude differed from that of the other Fairfax executives. While most in the Fairfax inner circle believed implicitly that the best way for the company to beat back its problems was to perform better, work harder, and not to dignify the attacks by fighting them, Rivett suspected early on that the situation was more serious than those executives knew, and that a response would be needed.

One of his first moves was to try to gather evidence for his supposition that all Fairfax's troubles had an organized origin. He began to keep a chronological record of every weird thing that happened to the firm—every late-night phone call, every oddball query from a ratings agency or a journalist, every home visit, everything. In late 2005, he sent out a general letter to everyone in the firm asking them to report to him immediately if anything out of the ordinary occurred.

"Right away, I started getting responses," he says now.

One of the first came from the London-based office of one of Fairfax's subsidiaries, RiverStone, which had had a curious visit from a person posing as a journalist. The individual managed to sweet-talk his way past security and get into the building, where he met with executives and pressed them for secrets about Watsa and Fairfax, using the ludicrous pretense that Watsa had secretly sold the subsidiary without cluing in the firm's leaders. When he was finally tossed from the building, the man left behind a card that read "Special Situations Research Consultant, MI4 Reconnaissance." The phone number on the card, oddly enough, belonged to a real New York hedge fund called Exis Capital.

Other employees told Rivett about other letters they'd gotten, other calls. On the same day that Parker got the "P. Fate" letter, for instance, someone called Fairfax and left a message: "Tell Watsa that when he goes to jail next year we will visit him and bring him some treats."

Rivett himself was the subject of constant prank calls, and here we must digress for an interesting detail: whoever was doing this was customizing the harassment for each of Fairfax's employees. Although many received calls, each executive got different types of calls. Whoever was responsible for Rivett, for instance, had decided to harass him by reading excerpts of Harry Potter books in each call. Why Harry Potter? Who knows, but that was Rivett's personal albatross.

The attorney put the chronology together and became convinced that everything—the analyst reports, the negative press stories, the harassing phone calls and letters, and, most ominously, the apparent new interest in the company by the Justice Department and other regulators—was all connected and part of some kind of organized campaign. "It was the only explanation," he says.

Rivett had already been convinced that action needed to be taken after the Troiano incident, but what really spooked the other leaders in the company was an incident that summer. Beginning on June 22, 2006, the firm became the subject of rumors all over the globe, the substance of which was that Prem Watsa had sold his home and fled the company and that officers from Canada's Royal Canadian Mounted Police were occupying Fairfax's offices.

"The call log from that day shows sixty-five different calls to our CFO," says Rivett. "Everyone from ratings agencies to shareholders to Goldman Sachs, and they were all basically asking the same thing." They wanted to know if the RCMP was indeed camped out in Fairfax, and if Watsa had indeed sold his house. "They were like, 'Uh, by the way, is Prem in the office?'"

Rivett, Watsa, and the rest of the Fairfax executives had no way of knowing it at the time, but *all* this activity had been orchestrated by millionaire and billionaire hedge fund managers with bets against Fairfax, men who had gotten together and hired the aforementioned shadowy fixer extraordinaire Spyro Contogouris to commence a wide-ranging campaign of harassment against the firm. A hundred different antagonists with a hundred different names seemed to be descending upon the firm from all over the globe, but they were almost always just Spyro Contogouris, and a pseudonym, pretending to attack in force. The "P. Fate" letter had been written by one of Contogouris's buddies, and Contogouris apparently had also dreamed up the late-night phone calls, specifically targeting Watsa's secretary. The London journalist was Contogouris. He was Monty Gardener. He was everybody.

Who was this man? The charismatic Contogouris was something like the Zelig of the market-manipulation era, a kind of backroom wet man who ran mysterious errands for powerful hedge fund investors. In a stock market that was increasingly based on movements in public confidence, Contogouris was the perfect operational figure, a man who had no fixed job but was living out a kind of inspired homage to the very idea of a "confidence man." He was supremely confident in every role he played, and he played a hell of a lot of them.

Michael Bowe, Fairfax's lawyer, talks with awe about Contogouris's ability to answer difficult questions. "You'd catch him in some lie and press him on it," says Bowe, who would eventually depose Contogouris, "and he'd just start talking more and more loudly,

LIKE THIS, LOOKING YOU RIGHT IN THE EYE, and whatever he said, HE WAS ABSOLUTELY SURE ABOUT." Bowe laughs, remembering. "You'd get so distracted listening to the way he talked," he says, "you wouldn't realize that nothing he said made any sense."

What little early record there is of Contogouris shows him to have been a kind of celebrity hanger-on in L.A. in the early 1990s, when his brother Chris owned a nightclub called the Mint. Spyro was involved with some charities then, including a camp for low-income kids called the Bony Pony Ranch, where he sat on the board and, according to Bloomberg, "rubbed elbows" with the likes of Lionel Richie and Renée Zellweger.

Then in the mid-1990s, a Greek shipping magnate named Dimitri Manios hired Spyro to renovate a brownstone property in Manhattan for him. This sent him down two different career paths, one in real estate development and one as the involuntary subject of litigation. He seemed to founder as a developer but proved highly adept at getting sued. The two paths converged in 2002, when his real estate career ended with Manios firing him and his career as a defendant began with the Manios family suing him for having embezzled millions from a series of real estate deals, including several big ones in Houston. In a detail that reveals Contogouris's mania for multiplicity, for being everywhere at once, the suit accuses Contogouris of boosting money from Manios through no fewer than 130 different bank accounts.

While Contogouris was in Houston, he seems to have gotten involved with a company called Hanover Compressor, which was based in that city. The company at the turn of the millennium was pushing a scheme to build a natural gas compression barge in Africa and was trawling the country for investors. Contogouris, the man whose last known job had been a glorified houseboy for a Greek shipping magnate, suddenly appeared as one of those "investors," claiming to have put $3.75 million into the African gas-barge project.

Where did he get that kind of money? Well, the retiree medical benefits trust of the Pirelli Armstrong Tire Corporation claimed he never had it. The retirees, who claimed they were fraudulently induced to invest in Hanover, sued Hanover and claimed that Contogouris was paid a secret sum of $1 million by the company to make what was actually a fully refundable $3.75 million investment in the barge deal, as a scheme to inflate the value of the project.

Are you confused yet? You should be. But what happened next begins to put all this background in perspective: Contogouris became acquainted with Jeff Perry, who at the time was working for SAC Capital, and began a new career, in high finance.

Perry, who out of all the characters in this story seems to be the most universally despised—"a bad guy, a constant compliance problem, incapable of staying on anywhere long" is how one hedge fund manager described him—is unique in that he actually worked for all three of the major funds in this case, SAC, Kynikos, and Third Point, at various times during the Fairfax campaign. According to Fairfax's lawyers, Contogouris approached Perry when Perry was at SAC and "sold" him inside information about Hanover's fraudulent barge scheme. He had this inside knowledge to sell, they claim, because he had participated in the fraud himself. SAC from there placed a short bet on the company, a bet that later turned out to be profitable. Contogouris here was playing the role of Bud Fox in *Wall Street,* selling the one piece of insider information he had—his own life—to get in with the big boys. And it worked.

Around the same time that Contogouris was making his first contact with Perry at SAC, he showed up in the press, in a news article in *The Street,* posing as an outraged investor determined to tell the world about the fraud that was Hanover Compressor.

In the piece, Contogouris claims that Hanover didn't have access to enough natural gas to make the deal work and knew as much all along. Boldly, he implies in the article that the entire deal was a scam to bilk Hanover's partners back home.

"[Hanover] had to know they couldn't perform and if they knew that, then they must have had other motives for proceeding with the sale of the barge and guaranteeing a 2001 startup date to the partnership," he told *The Street.* The same article noted that the SEC had begun to investigate the company, and it's not hard to read between the lines and see that the investigation might have been instigated by Contogouris.

Man accuses company of being secretly underreserved/undercapitalized, man nudges regulators into investigating, man leaks news of investigation to journalist. Contogouris was developing a literary method. He was becoming a professional reality creator. And he liked the job.

After the Hanover experience, in which he proved his ability to move the needle on a stock, Contogouris was aided by SAC employees in getting a series of unpaid internlike jobs at a number of hedge funds around New York. From there he created a number of "independent research" firms, including one company with the international-man-of-mystery-sounding title "MI4."

Then when Perry moved from SAC to Kynikos in the early 2000s, he decided to hire Contogouris again, paying him $25,000 per quarter to subscribe to his "research" service. In early 2005 Chanos asked Contogouris to focus on Fairfax, which Contogouris told others would be like "another Hanover situation." Shortly afterward, in the spring of 2005, Contogouris was also hired by Sender at Exis, who also gave him space inside the Exis offices, his own telephone, and so on. Within months, Perry moved his operation again, this time to Dan Loeb's Third Point Capital, and Perry convinced Loeb to become a "subscriber" to Contogouris's service as well.

This was the crucial turning point in the story. Chanos, Loeb, and Sender were now all invested in crazy-ass loose cannon Spyro Contogouris—more than investors, they were his patrons, his bosses. Their decision to unleash this man on Fairfax was the moment when the fund managers went from being merely bent to being antisocial maniacs.

To aid in his efforts to "research" companies like Fairfax, Contogouris hired a New Jersey storefront accountant named Raymond Rekuc. Until he became the mastermind of what Contogouris pitched to the world as some of the most important research in the global investment community, Rekuc had just been an ordinary joe who did business tax returns for walk-in customers. His profile seems very much like David Friehling, the strip-mall accountant whom Bernard Madoff used for years to sign off on his bogus non-trades, with the only major difference being that Rekuc was from suburban New Jersey instead of suburban New York.

It would later come out that Rekuc forgot to file his own federal tax returns for four consecutive years, and he would be convicted of that offense in 2010, but nobody knew about it at the time. Instead, for much of the mid-2000s Rekuc played the part of high-powered international forensic accountant, and it was he, in conjunction with Contogouris, who helped craft the specifics of Contogouris's central theory, that Fairfax was the next Enron.

In fact, Contogouris in the summer of 2005 managed to get an audience with the FBI and dragged Rekuc along with him, presenting him as an expert forensic accountant who had done a detailed analysis of Fairfax and discovered a sizable fraud. Years later Rekuc in a deposition would cheerfully admit that he wasn't a forensic accountant, hadn't done a forensic examination of Fairfax, and in fact had discovered no evidence of fraud at Fairfax or at Crum & Forster when he met with the FBI. But he helped Contogouris argue to the FBI for the need to issue subpoenas anyway.

These oddball characters—Contogouris, Rekuc, another "MI4" operative named Max Bernstein, and a few others—were apparently responsible for virtually the entire covert campaign against Fairfax. The letters, the phone calls, the FBI surveillance, the problems with PricewaterhouseCoopers, the spate of negative press stories, the weird visit by the phony reporter in London—virtually all of it had come from one of these specimens.

They had promised Chanos, Sender, Loeb, and others to bring down Fairfax. "Where Spyro crossed the line is that he actually promised these guys he would bring down the company," says Roddy Boyd, the former *New York Post* reporter. "It's like a reporter promising to win the Pulitzer prize. You can't promise results." Contogouris's strategy would be to sink Fairfax by "closing access to the capital markets"—cutting off its access to funding by undermining its reputation. This was old-school Sun Tzu stuff, isolate-and-destroy tactics, "attacking by stratagem": General Contogouris would cut off his enemy's supply lines by, among other things, sullying the firm's standing with ratings agencies and shareholders and others in a group he termed "FoF," for "Friends of Fairfax." He wanted to "get them where they eat," cutting off their credit lines, particularly going after their ratings by agencies like A. M. Best.

All this Contogouris promised to Chanos, Loeb, Sender, and others from the start. He pledged to "get the message of what I think is a massive fraud to these long term value holders" by creating a "crisis of confidence" that would frighten investors and "shake them out of the stock."

In time, Contogouris would deliver regulatory attention, negative press scrutiny, and lots of doubt and hesitation among the "FoF." But the middleman offered more than that to the hedge funds. He also offered the purely sadistic service of just plain old wreaking havoc on Fairfax's employees, among other things with the late-night calls, for which Contogouris had a colorful descriptive term.

"We have to make this a rattle-his-cage ritual every night before we go to bed," Contogouris explained to Sender, who out of all the hedgies seemed the most interested in this particular part of the operation.

According to Fairfax's lawyers, Sender loved the cage-rattling phone calls so much, he asked Contogouris to conference him in, so he could listen while "Monty" or "P. Fate" made his after-midnight calls to Watsa's cancer-stricken personal secretary. Contogouris, apparently moved by some obscure con man's code of honor, refused, instead sending Sender the phone numbers so that he could make his own prank calls to Watsa's inner circle.

The email records between Sender and Contogouris are twisted and disturbing. During the key period of the case, the spring of 2006, the two corresponded either by email or Bloomberg message service or by telephone five times a day, on average. The pair loved speculating about bad things that might happen to Watsa, whom neither had ever met. At one point, for instance, Contogouris asked Sender if he wanted Watsa's marriage to fall apart:

> Is it good if Prem Watsa's wife divorced him?

To which Sender, the art patron, replied:

> She probably can't stand his nasty Paky smell.

But Sender wasn't the only hedge fund titan to be enthralled by Contogouris. Chanos, too, spent an inordinate amount of time personally communicating with the man.

In fact, Chanos actually helped disseminate Contogouris's work. Chanos personally sent the business school at the University of Toronto a Contogouris-penned "report" on Fairfax and, as Contogouris had done with Watsa's priest, warned the university to be wary of interacting with the Fairfax CEO. "I am sending you this note on Fairfax because the author, who is doing the best work on this company (and believes it to be an Enron-like fraud) is Greek," Chanos wrote. "I would just like to make two observations: First, if we are right, it would be wise to get Mr. Watsa's future pledges or future gifts in cash. Also, keep in mind that no amount of support is worth besmirching a university's reputation."

That a New York billionaire would take time out to harass a Canadian business school with threats about its reputation would be surprising, except that the hedge funds seemingly had left no stone unturned in their efforts to intimidate anyone connected with Fairfax. At their direction, Contogouris stole confidential information from Fairfax executives and delivered dossiers to the Wall Street gamblers showing private bank account info, credit card information, cell phone records, brokerage account information, any private material you can possibly steal. They researched sexual habits and preferences and religious beliefs and even investigated a woman one executive met for dinner.

The hedge funds hired a former FBI agent, Gregory Suhajda, to conduct these "investigations." The clear objective of researching things like sexual orientation was to try to smooth the way for blackmail. Suhajda explicitly outlined this idea in an email to Exis Capital's Andy Heller in May 2006 that contained a background report on a Fairfax executive, explaining that possessing compromising information might lead to "an informal interview which would allow for the highest probability of success."

And indeed, Suhajda and Contogouris tried repeatedly to "informally interview" current and former Fairfax executives. In one incredible episode that demonstrates the lunatic, fourth-rate *Spy vs. Spy* stupidities that Contogouris and his hedge fund buddies stooped to in an attempt to wrest inside information out of Fairfax employees, they targeted a Fairfax executive named Trevor Ambridge, who at the time was working for a Fairfax subsidiary in London.

Before approaching Ambridge, Contogouris and Suhajda had managed to get themselves registered as FBI informants. Again, they used real questions about Fairfax's accounting and a paucity of public information about the relationships among the many subsidiaries of the umbrella company to pique the interest of authorities. Particularly in the wake of the superficially similar Gen Re/AIG case—which by the mid-2000s had developed into a full-blown Justice Department investigation (with another prominent insurance CEO, AIG's Maurice "Hank" Greenberg, as the central prosecutorial target)—the government had a genuine interest in Fairfax. Nobody on either side of this story disputes that Contogouris for a time was genuinely working with the FBI in some capacity.

And Contogouris used that status to entice Fairfax employees like Ambridge to come forward and spill secrets to the authorities. Showing off his familiarity with intelligence/cop lingo, or at least with cop movies, Contogouris boasted to Ambridge that while he couldn't guarantee Ambridge immunity, he might be able to have a word with someone about getting him a "queen for a day" deal with the Justice Department—a one-day off-the-record agreement where nothing he said could be held against him. Contogouris urged Ambridge to come to a secret meeting at a hotel room in London, where he would meet with authorities.

Impressively, he managed to convince real FBI agents to come to the would-be meeting with the would-be inside whistle-blower, upon whom Contogouris constantly impressed the need to cooperate. "Believe me when I tell you that it is my best interest to try to insulate you from prosecution," Contogouris told Ambridge. "The person who is first to cooperate usually gets the best deal and gets it put behind him."

Contogouris had no idea of this at the time, but Ambridge was working with Fairfax security personnel. Fairfax by then had hired a New York law firm, Kasowitz Benson Torres & Friedman, to investigate its situation. One of the firm's lawyers, the aforementioned Michael Bowe, traveled to London along with a former NYPD investigator to observe the would-be meeting with the strange character who was approaching one of Fairfax's executives. "We wanted to see who this guy was," Bowe says, laughing as he recalls the story. In the end, Ambridge, at their instruction, canceled the secret meeting when Contogouris refused to accede to a demand that it be conducted in a public place.

But the episode wasn't a total loss for the Fairfax lawyers, who later discovered extraordinary exchanges between Sender and Contogouris about this would-be London spy meeting. As registered informants with the FBI, Contogouris and Suhajda had both had to sign confidentiality agreements with the government, promising not to disclose anything about their activities or, particularly, make any trades based upon their knowledge of the investigation.

But Contogouris was so constitutionally incapable of containing his excitement at all the hubbub that he blew off the confidentiality issue and continued emailing and texting Sender throughout the entire episode. On the very day Contogouris was supposed to meet with Ambridge, he sent Sender a preposterous coded message in which he described an upcoming government action against Fairfax using the metaphor of a hurricane about to hit the Gulf of Mexico. In the message, he describes Ambridge as the "Gulf of Mexico guy," and while expressing disappointment that "GOM guy" isn't showing up for the meeting, he still bubbles over with excitement about a coming "storm" being predicted by "U.S. meteorologists"—in other words, a raid by the FBI:

CONTOGOURIS: GOM guy acting finicky, can't reach him. I got three peolpe [*sic*] trying its bad news. The good news is though the U.S. meteorologists confirm a hurricane coming. you get me . . . ?*

SENDER: When the hurricane comes its going 2 be nasty regardless.†

CONTOGOURIS: Fuccckkk Ya. Its going to make Katrina look like a sneeze‡

Sender and Contogouris at one point in the middle of this dialogue realize that they can't understand each other's half-baked codes, and they have to email each other asking to clarify what the hell they're both talking about. Sender sheepishly admits he's not sure what Contogouris means by his message about the "GOM guy"—is it good news or bad news? After all, he's got a ton of money shorted against Fairfax . . . er, his drilling in the Gulf was very large:

SENDER: Im a bit confused. Is the GOM Guy talking 2 u or not. Our position in Energy, driling [*sic*] is very large as u know. Not worried about this one, one second just curious?§

CONTOGOURIS: He' is very talkative but is very worried about some current hurricanes. executives from all over the world have flown

* A279 [Jul. 17, 2006, email from SpymI4 to Sender, EXIS-0001312].

† A282 [Jul. 17, 2006, email from Sender to Contogouris, EXIS-0001316].

‡ A283 [Jul. 17, 2006, email from Contogouris to Sender, EXIS-0001317].

§ A520 [Jul. 18, 2006, email from Sender to Contogouris, EXIS-0095883].

in for emergency meetings and he can't get out to talk to me. My meteorological crew can't be in the field and in the open indefinitely waiting. Scheduling is the problem, but the gom guy appears to want to come in and tell my guys what he knows about these hurricanes that are due in August*

SENDER: I wish it was Aug.†

CONTOGOURIS: me too.‡

After this exchange, Contogouris exploded with a series of threats against Ambridge for not showing, promising to spill secrets about his communications with him. "Just think what I could do with your emails," he hissed, adding that he, Spyro, was going to "consider all my options as maintaining our confidentiality," and that if the executive didn't cooperate, he could "no longer rely on my discretion."

Contogouris seemed to be playing a triple game. First, he was genuinely trying to deliver an informant to the FBI and set himself up as an FBI informant. Second, he was trying to deliver confidential information to the hedge funds, to whom he had set himself up as an expert at information retrieval. And third, he was playing secret source to "reputable" journalists, to whom he had promised to deliver stunning exposés. Contogouris even referenced one of those contacts in his adolescent coded emails to Sender sent from London that day:

CONTOGOURIS: We have been rapping here about the postman. He's going to deliver mail. The senders want a message delivered§

"The postman" here was Boyd of the *New York Post*, with whom Contogouris had been working to prepare a major "exposé" on Fair-

* A284 [Jul. 18, 2006, email from Contogouris to Sender, EXIS-0001320].

† A3763 [Jul. 18, 2006, email from Sender to Contogouris, EXIS-0063838].

‡ A3764 [Jul. 18, 2006, email from Contogouris to Sender, EXIS-0063839].

§ A281 [Jul. 17, 2006, email from Contogouris to Sender, EXIS-0001315].

fax. Boyd in the late spring of 2006 had spoken to Chanos himself, who introduced him to Contogouris, who in turn began working with the journalist on a series of exposés about Fairfax's supposed Enron-like machinations in offshore accounts.

Like others who met Contogouris, Boyd says he was initially impressed by the man's energy and magnetism. "He's a different kind of guy," Boyd says now. "Unbelievably obsessive and driven. A very hard worker." Boyd says he met with him four or five times, and although he denies that Contogouris was an important source for the stories he would ultimately write about Fairfax (Boyd claims he had already begun pursuing a different theory about Fairfax, a tax-evasion angle, than the one Contogouris was pushing), he was initially receptive to Contogouris's information. At the very least, the two were in contact before Boyd ran a story about Fairfax that summer, and Contogouris could plausibly tell his bosses that a devastating exposé from a prominent journalist was coming.

Thus throughout July 2006, Sender, Chanos, Loeb, and others were joyously writing to one another about the imminent demise of Fairfax, among other things because they knew that Boyd was planning an exposé on Fairfax that would accuse the company of self-dealing. Contogouris would even tell them the publication date of the first piece: July 22.

And in the days before that piece ran, the hedge funds gnashed their collective teeth in orgiastic expectation. As always, the men wrote to one another in ghastly pidgin English, full of bad sex jokes and comic misspellings. Contogouris wrote to Chanos:

> Oh ya . . . FFH just about rapped up like a skandanavian mistress love slave

The billionaire wrote back:

> I bet Prem is a nervous as a goat in a Greek monastery . . . lol

Nothing like a little goat-fucking humor between Greek stock scammers. While that conversation was going on, Sender was joking to Loeb:

> SOUNDS LIKE WHAT'S GOING TO HAPPEN TO PREM IN SING SING

The next day, however, Fairfax's stock disappointingly went up, prompting Sender to write:

> MAKES ME SICK, BUT . . . PREM DOESN'T HAVE MUCH MORE TIME 2 FUK AROUND SO I HOPE HE IS HAVING FUN WITH HIMSELF

The *Post* story came out as planned on July 22, but the stock didn't crater. Contogouris blamed Boyd, among other things for not getting the story up on the Web fast enough. "Stocks up a dollar," he whined to Boyd. "Your guys really fuk you with this not on the internet BS."

It was around this time that Boyd started to have a change of heart about Contogouris. He says the Fairfax story came out while he was on a vacation, and when he came back, he found certified letters from Spyro jamming up his mailbox, and his answering machine lit up with messages. "There were like nineteen messages. It was crazy. He was getting increasingly more difficult," says Boyd, who decided to freeze out Contogouris for a while.

The day after the story ran, July 23, Sender's nerves were so raw that he exploded at Contogouris. Spyro had texted him that he was working on another project that day, because his "brain is fairfax fried."

"NOOOOOOOOOOOOOO," Sender moaned in an instant message. "FAIRFAX #1 UNTIL WE C THE CORPSE."

By that third week of July 2006, the war between the hedge funds and Fairfax had already been going on for three and a half agonizingly long years. Over that extended period of time, the argument against the company being put forward by its short investors and its allies in the investment banking world and in the press had evolved dramatically.

The original complaint made in early 2003 by analyst John Gwynn, remember, had been that Fairfax was undercapitalized by $5 billion. By the spring of 2006, the new story being put out by Contogouris to reporters like Boyd was a brilliantly involved tale of conspiracy and international intrigue. In his sales pitch about Fairfax's problems, Contogouris would bring with him a gigantic, conference-table-size poster purporting to show the structure of Fairfax's accounting.

The scam depicted in the chart was an Enronesque maze of phantom revenues and hidden budget holes, an ingenious robbing-Peter-to-pay-Paul scheme in which Fairfax was essentially borrowing billions against its European assets and capitalizing its subsidiaries with shares in other subsidiaries, a complex and indecipherable bookkeeping merry-go-round. Far different and more complex from the original charge of simply being undercapitalized, the new charges were a lurid and compelling suspense tale, complete with all the bells and whistles of great storytelling that had been absent from the original dry Gwynn report.

It was a story that seemed too complex and idiosyncratic to be made up, and that was Fairfax's problem. There were just too many amazing details out there for it not to be a little bit true. At the very least, the markets seemed to feel that way. By that critical period in late July, Fairfax really was on the verge of collapse. Its stock price was declining, long-loyal shareholders were slowly departing, it was being besieged by questions from ratings agencies, its executives were under surveillance by the FBI, and it was receiving subpoenas from the SEC.

Beginning in late 2005, Rivett tried to get every regulator he could find to listen to his story of being mass-fragged by mysterious hedge fund gamblers. He got no help at all.

"I went to the New York Stock Exchange first," he says. "I went to the Ontario Securities Commission [the province's version of the SEC], I went to the Royal Canadian Mounted Police. . . . They all look at you like you're crazy." The Canadian regulators, like everyone else, had seen the news stories and heard the rumors, which of course had mainly been generated by the hedge funds. "Their attitude was, where there's smoke, there's fire."

Rivett traveled to Washington and New York. He met with members of Congress and the Senate. He tried the FBI, tried the SEC, but had no luck, particularly with the latter crew. "They were hostile because they were investigating us," Rivett explains. As for the congressmen and the other regulators, they weren't interested. "I was like, 'Jobs will be lost, everything will be lost, will you help us?' But there was nothing."

By late spring of 2006, Fairfax's situation was desperate. There was a great internal debate in the company over what to do. Many Fairfax executives were fearful of taking any kind of action against the likes of Chanos and Cohen. "These guys were the Masters of the Universe," says Rivett. "People were like, 'They'll crush us.'"

But Watsa by then had come to a conclusion. "We had no choice," he said. He believed that if the company didn't act, it was going to be destroyed anyway. Rivett was worried that unless the firm fought back, the story would end in some kind of Justice Department action, an arrest, something, and that would destroy the company and its eight thousand jobs.

Moreover, the law firm it had retained to investigate its problems, Kasowitz Benson Torres & Friedman, had told the Canadians that they were in deep trouble—so deep that the funds were already planning a blowout victory party on the occasion of Fairfax's bankruptcy. Like any financial firm, an insurance company can quickly implode in a run-on-the-bank-like crisis of confidence, and Fairfax was not only facing real regulatory inquiries but the possibility of mass defections by investors. If it didn't answer its detractors soon, the law firm explained, the company's share price might crater, and the firm might go out of business.

So Fairfax ultimately made the only move it had left to make: it sued. It hired Kasowitz to draw up an extensive complaint that answered in detail all the accusations of fraud leveled by the hedge funds. Both sides in this war were racing to put their version out before the public in bold type at more or less exactly the same moment, at the end of July 2006.

Boyd's exposé came out on July 22, 2006; Fairfax filed its suit against the hedge funds four days later, on July 26.

The filing of the lawsuit—not *winning* a lawsuit, but merely filing it—was what saved the firm. The detailed response spooked some short investors who had jumped on the bandwagon with Chanos and Sender and the rest. Jonathan Kalikow of the hedge fund Stanfield Capital, for instance, responded angrily when the Fairfax suit was filed. According to the discovery materials, Kalikow had been all but assured by people like Andy Heller at Exis Capital that Fairfax was about to be busted by authorities at any moment and was sure to go out of business. He had also been briefed about Boyd's *New York Post* story ahead of time.

So when he saw Fairfax file its suit, he was shocked that the Canadians had gone into such detail about all the allegations and was also displeased that the company appeared to be gearing up for a long battle instead of simply rolling over and/or surrendering to the authorities. It wasn't the behavior of a guilty company.

"It's all out in the open," Kalikow emailed Heller. "[The suit] mentions the Luxembourg sub, the Gibralter [*sic*] sub . . . why would they disclose their own fraud in such a way? Ans: they wouldn't."

"No one can explain to me the fraud," Kalikow continued. "Is money actually missing or not? Not even your experts know," he barked at Heller. "Now this trade is a disaster. All the news that was supposed to take this lower hasn't."

In depositions later on, Kalikow explained that the lawsuit was "the final straw . . . in believing that there wasn't going to be any fraud disclosure, the way I assumed it was going to occur." He explained in the deposition how he subsequently pulled out of his bet:

Q: Did you exit the positions sometime after the lawsuit started?
KALIKOW: Absolutely.
Q: And did you take a loss?
KALIKOW: Yes.
Q: Do you remember how much?
KALIKOW: Probably $60–70 million.

Kalikow, relatively speaking, was only a minor player in the team of short sellers, yet he lost $70 million. In the deposition, Kalikow shrugged off the loss of such a sum, as if it were no big deal.

Simultaneous to the filing of the suit against Cohen, Loeb, and the others, Fairfax issued a restatement, admitting to accounting errors in the 2001–2005 period. Under normal circumstances, admitting to a serious accounting problem in the middle of a swarming short attack would be disastrous, but the Fairfax restatement had the opposite effect. Instead of disclosing billions of hidden losses and off-balance-sheet transactions of the Enron type—the rumored problems—the restatement disclosed a serious but straightforward error in its accounting treatment of an old reinsurance contract with its subsidiary Swiss Re. The total impact of the error was around $240 million, less than the rumors guessed at.

The combined impact of the lawsuit and the restatement convinced some investors like Kalikow to bail on their short bets. The simple decision to fight back proved to be a key to the company's survival; other short targets were often vaporized and bankrupted before they could even get into court. "The anomaly is that Fairfax was one of the only companies that went out and defended itself," says Bowe.

Unquestionably, the filing of the suit stabilized the company's share price in the summer of 2006, but what really turned the tide for Fairfax was a second event that year. In September 2006, in a story entitled "FBI's Secret Source," the *Post*'s Boyd reported that Contogouris, whom he described only as someone who "analyzes companies' balance sheets"—not as someone who had been introduced to him by one of the world's biggest short sellers—had been "deputized by the FBI" to approach a Fairfax executive as part of an investigation.

As one government source explained it, "The FBI went ape-shit" when they saw the Boyd piece. The sheer embarrassment of having a prank-calling *Matchstick Men* wannabe like Contogouris claiming in public to be a deputized FBI operative was a terrible black eye for the Bureau, which was eventually forced to answer questions about the incident in a Senate Judiciary Committee hearing. Asked about the *Post* story, and Contogouris specifically, FBI director Robert Mueller answered icily, "The FBI does not deputize members of the general public."

The writing was on the wall. About a month after the Boyd piece, Contogouris was fired by the hedge funds, which seemed anxious to leave a written record of their displeasure. "Not kicking a dog while he's down, but I have to say how disappointed I am personally in the research," Exis Capital's Andy Heller wrote to Contogouris. "I just don't think you're qualified to be making the assumptions you make."* He added, referring to Contogouris's *Dumb and Dumber* "MI4" compadre Max Bernstein, "You should not be taking opinions from Max. U cant explain it. Don't have Max try and make things up."

Contogouris, quite sensibly it would seem, exploded in response—*now* they tell him not to make things up? "Now you're saying I'm not qualified?" he wrote back. He added (with his usual tortured spelling), "I didn't have Max make up anything, are you accusing me of having MAX MAKE THINGS UP? Are you fukking kidding?"

Within six weeks after the *Post* piece, on November 14, 2006, Contogouris was arrested in federal court on unrelated charges, apparently for defrauding his old Greek employer Manios out of

* A4128–A4143 [Nov. 6, 2006, email from Heller to Contogouris, EXIS-0064564]; A4138–A4143 [Nov. 6, 2006, email from Heller to Sender: ("[Contogouris] tells me he told us FFH would lose 22 a share. Like he has any clue about their #s. but ep fcx and mmr he wiffed"), EXIS-0093214–EXIS-0093219].

$5 million. It was a curiously ancient offense, and people familiar with the case almost universally believe that Contogouris's real crime was running his mouth in the *New York Post* in the Fairfax matter. "The Feds wanted to send a message to any idiot who goes around blabbing about being an FBI informant," says Marc Cohodes.

The complaint in that case was humorous:

> Even after CONTOGOURIS was fired in April 2002 due to CW's concerns over the management of the Companies' funds, CONTOGOURIS collected three tax refund checks, totaling over $770,000, that were issued to the Companies. Shortly after he received each check, CONTOGOURIS opened bank accounts into which he deposited the money. Then, CONTOGOURIS completed the fraud by wiring the funds to other accounts that he or his associates controlled.

It had nothing to do with the company at all, but Spyro Contogouris getting busted for boosting tax refund checks from his old boss was the single most important thing that happened to Fairfax in the entire decade of the 2000s. Overnight the company's stock jumped about 10 percent.

In all, in the eight months after July 26, 2006, Fairfax regained about $2 billion in stock value. The two critical events, the filing of the lawsuit and the arrest of Contogouris, said absolutely nothing about the company's performance as an insurer. The only thing that changed in that time was the attitude of the global investing community toward the company. It had nothing to do with justice, the regulatory system, or the wisdom of the good old-fashioned Adam Smith capitalist marketplace. Instead, what began as a confidence game ended as a confidence game. The entire thing was a battle of public relations. It had nothing to do with real economics.

Morristown, New Jersey, early on a Friday afternoon in January 2012. There is complete silence in the small, well-kept, windowless courtroom. The place is teeming with lawyers. Up in the front of the courtroom, I can see Bowe, the lead counsel for Fairfax. An Irishman from northern New Jersey, Bowe doesn't look like a white-shoe lawyer; he was probably a homicide detective or a bartender in an Irish saloon in another life. When he talks, he sounds more like an assemblyman from Monmouth or Cherry Hill than a corporate mouthpiece. He's got a couple of other lawyers with him, but otherwise the plaintiff's table is pretty spare.

On the other side, however, the defendants' table is crowded with what looks like dozens of lawyers. The lead dog is a Texan named Bruce Collins, a drawling, dark-haired hotshot corporate defense lawyer who made *The Best Lawyers in America* three years running, from 2011 to 2013. As it happened, I'd seen Collins in court before, back when he was Ken Lay's lead attorney in the Enron criminal trial. Surrounding Collins, who is here on behalf of Morgan Keegan, is a small army of associates and cocounsel. The gallery is filled with clipboard-carrying men and women in suits and ties, most of them lawyers for the many hedge funds that are, were, or potentially still could be part of the historic lawsuit filed by Fairfax against its short attackers.

In the entire courtroom I count two reporters—myself and a *Bloomberg* man—plus three plaintiff's attorneys and roughly three dozen defense lawyers. There are no civilian spectators. The court junkies who show up and hang out in the back rows of murder and rape trials do not come to high-powered civil trials about market manipulation by hedge funds. In big-time civil trials of this type, virtually all the participants are paid to attend, and it's obvious which side has more money to spend to pack the room.

It's been eight full years since Fairfax was first besieged, and nearly six years since Fairfax first filed suit. But the company is still miles away from gaining any relief. The Fairfax lawsuit would prove to be a textbook example of how hard it is to use America's civil court system to stave off market manipulation.

Although the key players in the case brazenly used emails and other written communications to discuss the various lowball moves against Fairfax, the Canadians found that it wasn't easy even to keep the actual perpetrators of the scheme in the lawsuit. The hedge funds' high-powered lawyers appealed to technicality after technicality to try to sever their clients from the case, and over and over again, judges accepted their arguments.

By the fall of 2012, Steve Cohen's SAC had been dismissed from the case by New Jersey Superior Court judge Stephan Hansbury, who accepted SAC's argument that it couldn't possibly have been part of a scheme to destroy Fairfax, since it was not short Fairfax for "most of 2004" and had no position at all in the company in 2005. In his ruling, Hansbury restricted his definition of "shorting Fairfax" to simple short bets against the parent company. Despite the fact that shorting subsidiaries like OdysseyRe had the identical effect, Hansbury dismissed evidence that SAC had done exactly that as irrelevant. The judge was also unmoved by the fact that SAC was a major investor in Exis Capital, which Hansbury himself ruled was indeed consistently short Fairfax during the time period in question.

Hansbury also accepted SAC's argument that much of SAC's trading was done in so-called quant funds, in which trades were executed not by day-to-day decisions of human beings but automatically, by computerized formulas. Thus while SAC might have had positions shorting Fairfax, its lawyers argued, those investments had not been birthed in the mind of Stevie Cohen or anyone else at SAC, but by computerized formulas. Therefore, the lawyers argued successfully, there could not have been manipulation.

A month or so after that decision, Hansbury bounced Chanos and Loeb from the case. Why? Mainly because they worked out of New York, not New Jersey.

"One must establish that the defendants purposely availed themselves of the State of New Jersey," he wrote, "and that the alleged improper conduct was expected or intended to be felt within the State of New Jersey." Hansbury was apparently not impressed by the fact that Fairfax's biggest American subsidiary, and its fifteen hundred or so jobs, was headquartered less than a few miles from where he sat in judgment, in the very city of Morristown, New Jersey.

Fairfax had chosen to sue in the state of New Jersey for two reasons. One was that it was where Crum & Forster was located. Second, a corporate citizen based in New Jersey like Crum & Forster had a perfect legal avenue to pursue—a private racketeering claim. Unlike the state of New York, which doesn't allow such lawsuits, New Jersey allows plaintiffs to file lawsuits under the Racketeer Influenced and Corrupt Organizations (RICO) statute. A RICO suit is a powerful tool for a company in Fairfax's position, because it theoretically prevents short sellers from dumping the whole of their legal responsibility on a low-level middleman like Contogouris.

Under RICO, the leaders of a criminal syndicate are responsible for the actions of the people they hire to do their dirty work. In criminal law, it covers a mobster who orders a hit but doesn't pull the trigger himself. In civil law, RICO is a perfectly appropriate net for use in catching a stock manipulator who hires a thug to depress a company's share price artificially.

The problem, however, is the one that confronts financial regulators everywhere. Since modern finance is an almost completely global enterprise, the major players can make a habit of regulator shopping. A large number of financial companies base their trading operations in London, for instance, because the regulatory framework there for certain kinds of trades (particularly derivative trades) is even weaker than in the United States. Other companies place subsidiaries in tax havens or other foreign locales and park profits there.

In one sense, the maneuverings by Contogouris and Morgan Keegan and the hedge funds occurred everywhere—in New York (where many key emails and phone calls originated), in Toronto (where executives were followed and prank-called), in Washington (where key figures attempted to involve the SEC in investigations), in New Jersey (where Crum & Forster was located and a number of defendants kept offices), in London (where Contogouris met with FBI agents), and really all over the world, where potential investors received false information and moved the value of Fairfax stock by buying and selling shares.

In another sense, though, the crime occurred nowhere in particular. If a hedge fund magnate in Westchester or Long Island sends an email to a bank analyst in Tennessee (where Morgan Keegan keeps its headquarters) to discuss the manipulation of the stock of a Canadian insurance company that's listed on the New York Stock Exchange but retains a major subsidiary in New Jersey, where did the offense take place? It depended, entirely, on how you looked at things.

Here again we have a major difference between the prosecution of ordinary street crime and the regulation of global finance. If you jump a fare on East 125th Street in Harlem, there's no question which police force and which city's set of laws apply to you. No lawyer is going to stand up in court and make the pseudometaphysical argument that the bus was actually built in Conway, Arkansas, or that the injured parties were actually the Chinese buyers of a transportation bond issued by the city of New York. No, you jump a fare in Manhattan, and it's Manhattan cops who will knock you on the head and throw you in jail. And no judge will excuse you from the New York City dock because your home address happens to be Paterson, New Jersey.

But this sort of thing happens all the time in global financial crime. Crimes happen everywhere and nowhere, and unless a major federal regulator asserts jurisdiction, defense lawyers can keep their clients from ever going near a courtroom simply by challenging the venue. This is exactly what happened in the Fairfax case.

After he stripped Chanos and Loeb from the case, Hansbury held his next hearing in January 2012. This was the one where I sat watching as Bowe faced off against Collins and the rest of the lawyering multitude defending Morgan Keegan and the remaining hedge funds (Sender's Exis Capital, for instance) still in the suit. This next hearing was to decide an even bigger metaphysical question—whether Fairfax was entitled to use New Jersey's RICO statute to make its case.

If Bowe and Fairfax could not use the RICO statute to sue, they had little chance of winning a case in which most of the bad acts had technically been committed by middlemen and stooges. Like mob cases in the days before racketeering laws, the big shots would get off without ever seeing the inside of a courtroom.

Hansbury showed up in court that January afternoon looking bored. His Honor is a frowning, thin-lipped, narrow-shouldered man with Bob Newhart's balding head and laconic delivery. He yawningly asked Collins to begin his presentation, and the hotshot Texan lawyer complied by entering into the legal version of a *Sesame Street* counting game. Collins proceeded to list each of the major players in the case, then note their addresses and locations at the time of their alleged involvement. After each entry, he would argue to the judge about whether that person's conduct could really be said to have occurred in New Jersey.

In some cases, he would mention a player like Contogouris's ridiculous accountant Rekuc, whose office was in New Jersey, and he would generously "give" that player to Bowe despite the fact that Rekuc only ever met with the other defendants in New York.

Using this generous math, Collins actually calculated, down to the percentage point, how much of the crime had taken place in New Jersey. Even if you conceded every possible New Jersey connection to Bowe and Fairfax's lawyers, Collins said, less than 8 percent of the crime had taken place there. "So giving them all that, what do you end up with?" Collins asked. "You get 7.6 percent, doing the right comparative analysis, using their statement of facts . . . 7.6 percent."

Collins went on, explaining that even some foreign countries could claim more ownership of the crime alleged in the lawsuit. "Your Honor, they're barely beating Australia, barely beating Australia here," he deadpanned.

Around the courtroom, all the lawyers in the gallery were frantically entering that 7.6 percent number into their notepads. Nobody laughed at the absurdity of calculating what percentage of a crime took place in what state. In my mind, the matter was much simpler: if a crime took place in New Jersey at all, be it 7 percent of the overall scheme or 1 percent of it, and the ostensible victims lived in New Jersey, then any law officer in that state should want to see the local laws applied. Why did it matter if the crime also took place in New York, and Toronto, and Australia, and wherever else?

Bowe tried frantically to make the same argument when Collins finally finished and Hansbury gave him a chance to respond. "We're talking about a New Jersey statute," Bowe said. "And if the intent of that New Jersey statute was to apply to the conduct in this case then the New Jersey Court should apply it without doing a balancing test to determine whether or not some other state has a bigger interest or not."

Hansbury shrugged, seeming unimpressed. When speaking to Bowe, he acted like a man taking a sales call from a telemarketer.

I'd seen the same phenomenon at more than one white-collar fraud case. If judges in regular criminal courts treat everything that comes out of the mouth of a defense lawyer like a ploy to get some definitely guilty scoundrel out of trouble, in civil trials involving financial companies, they treat plaintiff's counsel like parasites trying to use the courts to wrangle money out of hardworking, successful people.

Throughout the Fairfax case, this seemed to be the main preoccupation with the judges. Were the Fairfax lawyers engaged in some elaborate ambulance-chasing effort, trying to use the civil code of the state of New Jersey as a weapon to take down their target? The fact that the democratically elected state legislature of New Jersey had in fact passed a tough civil RICO law for, quite possibly, precisely this sort of case seemed secondary to the possibility that someone was trying to use a New Jersey judge to suck money out of a bunch of New York hedge funds.

It was obvious that the latter possibility greatly troubled Hansbury as he repeatedly interrogated Bowe. "Isn't that a significant policy difference," he asked, "that in New York you can't bring a private RICO claim, but in New Jersey you can?"

Bowe, caught off guard, hesitantly tried to argue that it wasn't a significant difference in the sense that both states have a RICO statute and bar the same conduct, but there was just a "procedural" difference in that while in New York the state has to file those charges, in New Jersey the people are explicitly allowed to "bring private rights of action."

"But if I accept your argument," the judge said, wincing, "is that not going to open the flood gates to New Jersey every time somebody is unhappy with an outcome in New York under a RICO claim? If they can touch New Jersey, they file it here? Isn't that what's going to happen?"

Bowe tried to argue. "The fact of the matter is, if the New Jersey statute so provides, it so provides," he sighed. "And the fact is the New Jersey statute provides."

It was a valiant effort, but everyone in the room could tell Bowe was toast. Every question the judge asked him was a laser blasted right into the heart of his case. When addressing Collins, meanwhile, the judge was more often asking, collegially as it were, what the Texan's opinion was on a matter of law. In fact, the judge didn't interrupt Collins at all during his entire argument and bothered to ask him a question or two only toward the end of the hearing, as though it wouldn't look good if he didn't challenge him at all.

As I was walking out of the courtroom, the other reporter covering the case chuckled. "Those guys are dead," he said, referring to Fairfax.

He was right. A year later, on September 12, the entire case was dismissed, this time by a different judge, Donald Coburn. This was despite the fact that Hansbury that spring had agreed that Fairfax had "suffered massive pecuniary/economic loss in this case" and that Coburn himself agreed that "it's clear here that there was evidence of intent to adversely affect the actual business dealings." Toward the end, Coburn even seemed to signal his belief in the underlying claim of the suit. "If someone says an insurance company doesn't pay its debts and doesn't settle its claims, that could certainly affect its ability to sell its product," he said. "There is sufficient evidence on which a jury could find there is an intention to harm their interests."

But Coburn disallowed the testimony of one of Fairfax's expert witnesses, whose main function was to calculate the amount of damage the attacks against Fairfax had caused. Among other things, the company had been forced to borrow money and liquidate assets at disadvantageous prices during the most desperate period of its war with the hedge funds, and the company claimed it suffered losses of up to $6 billion through these transactions. Coburn didn't buy Fairfax's arguments and allowed the company to proceed with a suit only for $19 million against the two remaining defendants, Morgan Keegan and Exis.

Rather than go to court over $19 million, Fairfax decided not to fight a motion to dismiss and elected to appeal the case later on and try to bring all the defendants back in. Who knew? Maybe there would be news of some kind that would change the landscape a little.

A few months later news broke that the federal government was pursuing what it called "the most lucrative insider trading scheme ever charged" against SAC Capital. The complaint asserted that an SAC employee, Mathew Martoma, had obtained inside information about a failed trial for an Alzheimer's drug that was being tested by a pair of companies SAC was invested in. According to the Feds, Martoma passed that information to "Portfolio Manager A," the "owner" of the hedge fund, who in turn liquidated the firm's $700 million position in the two companies and then turned around and shorted them. According to the complaint, the two moves saved the firm from $194 million in losses and then earned it about $83 million on the short trade. News reports confirmed the obvious, that the unnamed coconspirator was Cohen.

Another SAC vet, Noah Freeman, told the FBI that "you were expected to provide your trading ideas to Cohen" and that doing so meant providing insider information. "At SAC Capital you were paid a percentage of Cohen's trade if Cohen placed a trade based on your tip," Freeman said. Another SAC analyst, Jon Horvath, pleaded guilty to being part of a "criminal club" that swapped nonpublic information about technology companies.

For a while, it looked as if Cohen himself might get away. In March 2013 the SEC settled insider trading charges with Cohen for $616 million, and Cohen was so depressed by the paltry fine (which was only a fraction of his rumored $8 billion personal fortune) that he immediately went out and bought a $155 million Picasso (*Le Rêve*) and a $60 million, Gordon Gekko–style beach house in the Hamptons (right next to his existing $18 million house on the same beach). But later in the year, SAC itself was criminally indicted on insider trading charges, and Cohen was also charged civilly by the SEC for failure to supervise in the Martoma case. As of this writing, it appears that at the very least, SAC will be shut down. Meanwhile ten former SAC employees have been charged or implicated in illegal trading, and five have admitted guilt.

But none of the charges had anything to do with Fairfax, and no action has yet been taken against any of the others in the case. Anyone who took the extremely belated action against Cohen as proof that the state actually polices the stock markets in a meaningful way would be missing the point.

When Harlem residents Michael McMichael and Anthony Odom drove down 161st Street in a new-looking Range Rover, police immediately profiled the car as being bought with illegal income. But when Stevie Cohen claimed to be 400 percent more efficient than the entire investing world fifteen years running, talked publicly about his billion-bucks-a-year income, and bought a 6,000-square-foot, Zamboni-treated skating rink for his mansion just a few years after opening his own business, nobody blinked until decades had passed and multiple companies had been destroyed.

Put it this way: If someone is breaking into your home, you call 911 and the cops show up right away, sirens blaring. You don't have to put in any work convincing anyone you're really in trouble, no matter who you are.

But if someone tries to destroy your company with an insider trading scheme, getting regulatory help is a delicate political matter. Unlike street crime, where there are always enough officers to pound on a door, the resources devoted to policing financial markets are so meager that allocating any of them is a major political decision. And the issues are confusing enough that if one side hires enough lawyers and analysts and presses the case aggressively enough, the victim could end up being investigated before the aggressor, which is a serious problem in a business where the mere announcement of an inquiry can result in huge amounts of money being won or lost.

What happened with Fairfax was the opposite of Justice by Attrition. An offense takes place, the perpetrators are identified, but over a period of years the whole thing just goes away in a cloud of paperwork. Regulators used the fine print not to lean on a suspect or whittle away his right to a speedy trial but to avoid claiming jurisdiction; the courts used it to avoid imposing punishment, and defense lawyers used it to disappear the case altogether.