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THE WALL STREET JOURNAL

Trump on His Favorite Topic

**Latest Book Offers a Primer On Becoming More Like Him;
Rise Early, Read Socrates**

By **DAN ACKMAN**
March 30, 2004; Page D1

Who among us -- ex-wives, former mistresses and spurned business partners excepted -- does not love The Donald? He first entered our world, and allowed us into his, more than 20 years ago, and he has never left. Now the idea of Donald J. Trump not being around seems difficult to imagine. Mr. Trump always saves us the trouble of having to try.

Though he has declined to serve as our president -- he considered a run in 2000 but decided against it, partly because of his aversion to shaking hands -- he is now more iconic than ever, the star of his own reality television show, "The Apprentice." It's a tremendous success, as Mr. Trump will tell you. There is probably no truth to rumors that Mr. Trump will appear in a Broadway musical, "Trump!" But if it doesn't happen, it's because Mr. Trump doesn't want it to happen.

For now, Mr. Trump has returned to an earlier love, literature. His new book is called "Trump: How to Get Rich." It's not exactly the sequel to his first book, "Trump: The Art of the Deal" (1987), because there have been a couple of sequels already. His first book was an autobiography -- how Mr. Trump built the Grand Hyatt Hotel and Trump Tower. His second was about how he succeeded some more; the third was about how he briefly faltered, then succeeded even more. It was Trump, Trump and more Trump. This time Mr. Trump is focused on you: How can you be more like him?

He begins by quoting "The Art of the Deal": "I don't do it for the money. I've got enough, more than I'll ever need." It sounded good in 1987; it

sounds good now. "I could have written these words yesterday," Mr. Trump says. Then why go on to write so many new words today? Mr. Trump says that he wrote "How to Get Rich" because "whenever I meet people, that's usually what they want to know from me." While how-to-get-rich books by millionaires are a dime a dozen, he notes, "billionaire authors are harder to find."

What does he advise? Command your employees like a general, he says. Stay focused, he adds. Get a great assistant. (Mr. Trump employs Norma Foederer, whom he calls "indefatigable.") Other lessons: Don't equivocate; when you present an idea, make sure it's the right idea; keep your door open; play golf (especially at one of his courses); think big and live large. Certainly Mr. Trump embodies the last lesson. "I am the creator of my own comic book, and I love living in it."

Some of Mr. Trump's advice is what you might expect: "Subtlety and modesty are appropriate for nuns and therapists, but if you're in business you'd better learn to speak up and announce your significant accomplishments to the world -- nobody else will."

But other advice is more surprising. Mr. Trump tells his readers that they should budget quiet time: For Mr. Trump it's between 5 a.m. and 8 a.m., when he reads seven newspapers and catches up on the dozen magazines he receives daily. He also says that you should read books a lot. Mr. Trump does it "in the evening, after a black tie dinner," while munching pretzels. He enjoys biographies. But "now and then I like to read about philosophers -- particularly Socrates, who emphasizes you should follow the convictions of your own conscience, which basically means thinking for yourself, a philosophy I tend to agree with."

I am not a name-dropper, but my good friend Donald Trump is. The book's longest chapter is a week in the life of the author, which he includes because his fans expect it. It's rich in references to Mr. Trump's friends and business associates, from Regis Philbin (perhaps his favorite) to Woody Allen and Arnold Schwarzenegger. But he is not above mentioning names not in his life that week. When he tells of a photo session with a photographer named Platon, it reminds him of an earlier time with Richard Avedon. He leaves the office early on Friday, reluctantly, to play golf with Bill Clinton.

The book reads as if it had been dictated in the back of a limousine on the way to a helicopter, which is exactly what you'd want from a Trump production. (Meredith McIver, one of his executive assistants, is his co-author.) And he generally delivers the goods, which he summarizes as "some good advice, some wisdom, a little bit of gossip, and a glimmer of fame." He sometimes comes up short: The chapter on gossip has sex -- but

no names. And the stuff on "The Apprentice" seems tacked on.

Should you read this book? You could read Socrates instead, but he was never as rich as Mr. Trump and not as much fun.

Mr. Ackman is a senior columnist for forbes.com.



Top Of The News

Closing On Kozlowski

Dan Ackman, 05.27.05, 9:04 AM ET

The big difference between the prosecutors' closing arguments in the last **Tyco** Trial and the one winding down this week is that this time the arguments were coherent. That's good for jurors trying to follow the case, but it's not necessarily good for the Manhattan district attorney's chances of securing a conviction.

Last time around, the case was such a mess that the jurors may well have assumed there was something there--and statements by the jurors attested to that possibility. This time, Assistant District Attorney **Owen Heimer** carefully explained the nature of the alleged thefts and delivered a theory about how the defendants, **Dennis Kozlowski** and **Mark Swartz**, covered their tracks.

Entering the second day of his summation, Heimer focused for two hours on a single transaction, the alleged theft of \$37.5 million in loan forgiveness that occurred in the summer of 1999. Heimer first outlined how a legitimate bonus was recorded in board minutes, in payroll records and in tax filings. "This is how it works when nobody is stealing," he said.

But the 1999 transaction had no such records. Swartz told an underling to make an entry in Tyco International's (nyse: [TYC](#) - [news](#) - [people](#)) books reversing so-called key employee loans by \$25 million for Kozlowski, Tyco's former CEO, and by \$12.5 million for Swartz, its former CFO. The defendants say the loan reversal was an early payout of a bonus legitimately earned.

The way the record was made, the amounts were never known to Tyco's payroll department and never wound up on the defendant's W2 forms or their tax returns. The lack of paper trail "shows you criminal intent," Heimer told the jury. "It shows you the intent to steal."

The defendants have argued that the bookkeeping was simply an error. But the \$37.5 million in income--unlike most of the other bonuses at issue in the case--was not recorded in Tyco's proxy statement either. Why not? Swartz and others determined that the loans and their forgiveness was part of a "broad-based" relocation plan. The plan though affected just a half-dozen employees and no one actually relocated, Heimer said.

Heimer went on to mock the defense's claim that Kozlowski, 58, and Swartz, 44, simply didn't notice the missing millions from their tax filings. The defendants were both accountants, both of vast financial experience, and were both "obsessed by taxes," Heimer said, offering several examples of that obsession.

The 1999 loan reversal may be the most powerful charge in the case, as it was the most casual alleged theft of all. The prosecutors allege also that Swartz admitted the wrong--calling it a mistake--in a conversation with **David Boies**, the lawyer whose law firm's investigation led to the indictment by the Manhattan

district attorney.

But the Boies' conversation is also the foundation for the strongest defense. Even after Boies' confrontation with Swartz, where one of the alleged thefts was highlighted and even allegedly admitted, the company did not fire him. Tyco kept him on as CFO for two more months, made him the principal spokesman on investor calls, had him certify the company's financial statements and agreed to pay him more than \$50 million in severance. This conduct suggests that Tyco itself, even after it launched an investigation, did not consider even the shadiest of the bonuses to be stealing.

Heimer and Assistant District Attorney **Ann Donnelly** attacked the overall defense that Tyco knew and approved by arguing that those who were complicit in the crimes had been bought off with their own huge bonuses and perks or lacked power to challenge the CEO. Many of these employees testified at the trial and said that neither Kozlowski nor Swartz had asked them to hide or conceal anything. The prosecutors mocked those statements as "meaningless" defenses from loyalists and co-conspirators. This charge led to a strong objection from the defense lawyers, as Heimer himself had called these witnesses and had never named them as part of a conspiracy.

Several former directors also testified that they did not know about the bonuses and never authorized them. "One of the most powerful weapons at [the defendants'] disposal was the trust the directors portrayed in them," Donnelly told the jury. Though they might have asked questions, the directors had no reason to ask about bonuses they never knew were paid, she said.

Kozlowski testified he often discussed the bonuses with **Phil Hampton**, the former head of Tyco's compensation committee, who died in 2001. Donnelly called the reliance on Hampton an "outrageous story" and "despicable."

Apart from the key employee loan bonus larceny charge, the defendants face 30 additional charges, including 12 more larceny charges. Donnelly will continue her closing arguments today and perhaps into next week. Many of the charges have distinct aspects. There are hundreds of exhibits and thousands of pages of testimony the jury may wish to sort through.

But if the jury believes that even the 1999 loan forgiveness was legitimate, the entire case could fall--leading to an acquittal on all counts. If the jury believes that the 1999 deal was simply the most brazen act in a series of acts that no one knew enough about to question, the counts could fall the other way, leading to a pile of convictions.

THE WALL STREET JOURNAL

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The Muppets Come Home

By DAN ACKMAN

In "The Muppet Movie," a 1979 minor classic produced by Jim Henson, Kermit the frog is pursued by the rapacious Doc Hopper (Charles Durning), who would force him to shill for his chain of fast-food frog's leg restaurants. Kermit and his fellow Muppets elude Hopper and his henchmen (including an evil German scientist played by Mel Brooks), make it to Hollywood, and become stars on their own terms.

Something like that happened in real life last week when the Henson family bought back Jim Henson Co. from EM.TV & Merchandising AG, a German media firm. The deal is a cause for joy for the Hensons, and for everybody else.

For the Henson family, it is a homecoming. "Emotionally and psychologically we feel something has been put right," said Lisa Henson, who started running the Henson production company just after the original sale. Family patriarch Jim Henson created the Muppets in the mid-1950s, later invented the Sesame Street characters, and was the voice of Kermit before he died in 1990 at age 53.

Family members say they rallied and decided to bid just 16 days before the deal was announced. A big part of the motivation was the chance to honor their father's legacy. Meanwhile, the Muppets will be repatriated from a land whose most famous children's stories are from the Brothers Grimm.

Press reports on the sale focus on the price: The Hensons paid just \$78 million for the company they sold in February 2000 for about \$680 million in cash and EM.TV stock. But the two numbers standing alone are misleading. First, before it sold the company back to the Hensons, EM.TV unloaded the Sesame Street characters and Henson Co. stakes in three cable networks for a total of \$293 million. Second, about half the original price was paid in EM.TV stock. Those shares soon lost most of their value as EM.TV imploded. Deduct the Sesame Street and cable sales and account for the decline in EM.TV shares, and the 2000 and 2003 sale prices come out fairly even.

Henson Co. still includes film and licensing rights to the Muppet characters -- Miss Piggy, Fozzie Bear and Dr. Bunsen Honeydew among them -- as well as The Fraggles, Bear in the Big Blue House and others. It also holds a library of 450 films and TV episodes; the Jim Henson Creature Shop, which builds puppets and creates special effects; and a top music-recording studio in Hollywood.

With assets like that, \$78 million does seem awfully cheap. Why didn't a media conglomerate, **Walt Disney** in particular, snap it up? The answer is part of the good news, too.

First, EM.TV itself is in awful straits. The Haffa brothers, who controlled the company when it bought Henson, were forced out soon after. Once globe-straddling, race-car-owning multibillionaires, their fortune is all but gone. Other German media moguls have suffered similar fates. "Three or four years ago, the vogue was to sell to the Germans. They were going to control Europe," says Porter Bibb, a New York investment banker who specializes in media properties. That process has reversed itself, with the Germans conducting a fire sale.

Other processes are moving in reverse, too. Three years ago, media giants like **AOL Time Warner Inc.** and **Vivendi Universal SA** were triumphant. Since then, their share prices have fallen 75% -- not as bad as the Germans, but not good. Other media companies like **Viacom Inc.** and **News Corp.** are still buyers, but not like the old days.

When the big companies were getting bigger, smaller outfits were running scared. Join a major or die -- that was the fear. Media titans "wanted to deal with a company they owned 100% of," says Brian Henson. Why broadcast a show (like the Muppets) when they could choose some other show and own the merchandising and everything else? Today cable and broadcast networks are more ready to deal. The change leaves more room for niche players.

When they bought the company, the Haffas promised to invest \$150 million on marketing to build the brand. "It never happened at all," says Mr. Henson. Instead the company has been for sale nearly continuously since 1999. That state of affairs wreaked havoc on operations.

If the company has been on the block for four years, Walt Disney Co. and CEO Michael Eisner have been trying to buy it off and on for three times as long, since before Jim Henson died. In March, Mr. Eisner suggested he was near a deal "finally culminating years of romance."

Mr. Eisner, Doc Hopper come to life, was left at the altar, but why? Sources close to Disney blame Allen & Co., the investment bank, for the

way it conducted the sale. They also say that the vagaries of German bankruptcy law made closing the deal too risky. It's highly unlikely Disney would have been dissuaded by such trivia back in the day.

What happens next isn't certain. The Hensons will have to maneuver among giants, and while the Muppets are a global franchise, Henson isn't Disney. Of course, in showbiz nothing is ever a given. As Kermit himself said when he and his friends were stranded in the desert on the way to Hollywood, "I never promised we'd make it; I never promised anything." Kermit was a dreamer. So are the Hensons, and they like their chances.

Mr. Ackman, a writer at Forbes.com, last wrote for the Journal on Frank Quattrone.

Management & Trends

How Big Is Porn?



© Newsmakers
Is this the face of big business? Actually, no.

Recently, much attention has been lavished on the pornography industry--as a business--and many have claimed it is large and profitable, especially on the Internet. Many of the claims are cut from whole cloth, but are accepted without question by the legitimate press.

Skepticism is in order, though, because as David Klatell, associate dean of the Columbia Graduate School of Journalism notes, "[Pornography] is an industry where they exaggerate the size of everything." The fact is pornography, or "adult entertainment," is as marginal now as it ever was.

Take for instance the *New York Times Magazine*: It ran a cover story on May 18 called "Naked Capitalists: There's No Business Like Porn Business." Its thesis: Pornography is big business--with \$10 billion to \$14 billion in annual sales. The author, **Frank Rich**, suggests that pornography is bigger than any of the major league sports, perhaps bigger than Hollywood. Porn is "no longer a sideshow to the mainstream...it is the mainstream," he says.

The idea that pornography is a \$10 billion business is often credited to a study by **Forrester Research**. This figure gets repeated over and over. The only problem is that there is no such study. In 1998, Forrester did publish a report on the online "adult content" industry, which it pegged at \$750 million to \$1 billion in annual revenue. The \$10 billion aggregate figure was unsourced and mentioned in passing.

For the \$10 billion figure to be accurate, you have to add in adult video networks and pay-per-view movies on cable and satellite, Web sites, in-room hotel movies, phone sex, sex toys and magazines--and still you can't get there.

According to *Adult Video News (AVN)*, an industry trade magazine, Americans spent just over \$4 billion to buy and rent adult videos last year. This figure is [baseless and wildly inflated](#). From there, the numbers get even more obscure.

Tossing in the Internet will add less than \$1 billion to the total porn pie. The 1998 Forrester report pegs the online adult content market at \$750 million to \$1 billion, which was an increase from its initial estimate of \$150 million. When a study admits that its initial result was off by at least 80%, it's hard to be confident in the new result. In any event, Tom Rhinelander, a Forrester research director, says

they have given up trying to put a price on porn--either on the Internet or otherwise.

Its rival research outfit, **Net Ratings**, tracks the number of visitors to porn Web sites. It says that in April 2001, there were 22.9 million unique visitors to porn sites. This says nothing about how long each visitor stayed or whether they spent a dime. In any event, the number of visitors is less than the number who visited news sites (41.1 million), finance sites (34.2 million) or greeting card sites (25.5 million). When was the last time you heard anyone talk about how greeting card sites dominate the Net?

The Business Of Smut: What Is It Worth?Sources: Adams Media Research, Forrester Research, Veronis Suhler Communications Industry Report, IVD Adult Video	\$500 million to \$1.8 billion
Internet	\$1 billion
Pay-Per-View	\$128 million
Magazines	\$1 billion
Total	\$2.6 billion to \$3.9 billion

It is often said that pornographers are the only ones making money on the Internet. Certainly, there are a lot of porn sites and many assume that they wouldn't be there if they weren't profitable. But that assumption is baseless.

Playboy (nyse: [PLA](#) - news - people), which calls itself a men's magazine rather than an adult magazine, lost money last year, as did **New Frontier Media** (nasdaq: [NOOF](#) - news - people). There are thousands of e-commerce sites that still exist despite never having made a profit. There are millions of personal sites and fan sites whose publishers have no intention of ever profiting. Why are porn sites, of which there are an untold number competing fiercely with each other, necessarily any different?

What about pay-per-view? The entire legitimate "a la carte" movie business, including satellite and cable pay-per-view, was just \$642 million last year, says Tom Adams, president of Adams Media Research, which tracks video sales for the industry. If sex movies get 20% of the legitimate movies, that adds \$128 million to pornography's gross.

Adding pay-per-view to the Internet and video sales and rentals, the sum total is about \$2.9 billion. Is it possible that adult magazines add another \$7 billion--which would have to come in sales since they have minimal advertising? Hardly, when you consider that the entire consumer magazine market in 1999 grossed \$7.8 billion (sales plus advertising), according to the Veronis Suhler Communications Industry Report.

The *Times Magazine* concludes there may be no other product in the entire cultural marketplace that is more explicitly American, going so far as to call it "mainstream." We have no idea how "explicitly American" it is, though we suspect men in other countries like to look at naked women, too.

What pornography lacks is cultural resonance, it also lacks in financial clout. The industry is tiny next to broadcast television (\$32.3 billion in 1999 revenue, according to Veronis Suhler), cable television (\$45.5 billion), the newspaper business (\$27.5 billion), Hollywood (\$31 billion), even to professional and

educational publishing (\$14.8 billion).

When one really examines the numbers, the porn industry--while a subject of fascination--is every bit as marginal as it seems at first glance.

[How Grown Up Is Adult Video?](#)

How Grown Up Is Adult Video?

Does the adult video market have \$4 billion in sales? Not even half that.

This figure comes from *Adult Video News*, an industry trade paper--not from *Variety*, the Hollywood trade paper, which Rich cites. How *Adult Video News* gets this number is not clear. We asked *Adult Video News*' managing editor, **Mike Ramone**. "I don't know the exact methodology," he said, "It's a pie chart." Asked to break the figure down into sales versus rentals, a standard practice among those who cover the video industry, he said he didn't think it was available and suggested we call the editor-in-chief, who didn't return our calls.

In fact, there is no chance that the adult video business has revenues of even \$2 billion. This hardly compares to the sales and rentals of legitimate videos, which were roughly \$20 billion last year, both according to Adams Media Research and *Variety*. (Neither Adams nor *Variety* track porn sales.)

No one tracks the adult video business with any rigor or precision, Adams says. But his "most generous" estimate is that sales and rentals combined are no higher than \$1.8 billion. Adams starts with the mainstream video business, which he says had rental income of \$10.3 billion and sales of \$10.8 billion (both of which far exceed box office grosses, which amounted to \$7.67 billion last year, according to the National Association of Theater Owners).

On the rental side, at least half the video stores nationally, including industry leaders **Blockbuster** (nyse: [BBI](#) - [news](#) - [people](#)) and **Hollywood Video** (nasdaq: [HLYW](#) - [news](#) - [people](#)), carry no porn titles. Of the 50% (at most) of the stores that do, retailer surveys report that no more than 20% of revenue is from porn. Thus, porn rentals amount to no more than \$1 billion.

As for video sales, much of the trade is through outlets like **Wal-Mart Stores** (nyse: [WMT](#) - [news](#) - [people](#)) and **Kmart** (nyse: [KM](#) - [news](#) - [people](#)), who stock no porn titles. There are, of course, the traditional adult video and bookstores mostly in big cities, but this is a fringe distribution channel at best. Internet and mail order may add to the total, but these channels account for just 10% of legitimate sales. Overall, "There's no way it could be 10% of the legitimate market," Adams says. His top estimate for adult video sales is \$800 million.

Adams calls his \$1.8 billion aggregate generous. Some of the industry's own numbers suggest a much lower figure. **IVD**, based in Hightstown, N.J., the nation's largest distributor, said that there are as many as 13,000 video releases per year. (There are many niche markets--boy-boy, fat people, transvestites, freak shows--which add to the total, according to an IVD spokesman.)

A typical release may sell 1,000 to 2,000 units. Using the high-end figure, the industry sells about 26 million units. If the average unit sells either directly or through rentals for \$20--a high-end estimate given the fact that the number of

titles makes the product a commodity--that means the adult video business grosses at best \$520 million, not \$4 billion.

All told, the adult video business takes in anywhere from one-tenth to one-half the figure proffered by Adult Video News. Certainly, self-interested statements by pornographers merit a second look.

Power Brokers

Enron The Incredible

Dan Ackman, Forbes.com, 01.15.02, 12:00 PM ET

Most of the attention paid to **Enron's** finances has focused on its balance sheet--in particular how it hid debt by allocating it to supposedly independent private partnerships. But the jet engine of Enron's share-price rise was not its asset and liability picture, but its otherworldly increase in revenue: Between 1996 and 2000, Enron reported an increase in sales from \$13.3 billion to \$100.8 billion.

To put Enron's (nyse: [ENE](#) - news - people) 57% five-year sales growth rate in perspective, during that same period, **Cisco Systems** (nasdaq: [CSCO](#) - news - people) enjoyed a 41% sales growth rate. **Intel's** (nasdaq: [INTC](#) - news - people) rate was 15%. In its creation of revenue, if not profit, Enron was truly the corporation from another planet.

Enron more than doubled its reported sales between 1999 and 2000. Before it declared bankruptcy, Enron said it was on track to double revenue again this year. Had it done so, it would have become the second-largest corporation in the world in terms of sales. It might even have edged **Exxon Mobil** (nyse: [XOM](#) - news - people) (2000 sales: \$206 billion) for the number-one slot.

Is it possible that Enron, a relatively obscure energy-trading company until six months ago, could be the world's largest by revenue?

No.

Enron's reported revenue was based on its exploitation of a loophole in accounting rules that allowed it to book revenue from huge energy-derivative contracts at their gross value, not their net value as is done with other securities transactions. To be fair, Enron's competitors such as **Dynegy** (nyse: [DYN](#) - news - people) account for revenue the same way. The tactic may be legal, but few investors--and few Wall Street analysts--understood how Enron was booking revenue, even though the distorting technique is what allowed Enron to be billed as the "seventh-largest company in America."



Andrew Fastow, Enron's former CFO, reported numbers that were out of this world.

Compare Enron's method to other traders: When Wall Street sells shares, it books only a tiny fraction of the revenue Enron and other energy traders would book. For instance, if a **Merrill Lynch** (nyse: [MER](#) - news - people) customer sells 10,000 shares of **Wal-Mart** (nyse: [WMT](#) - news - people) stock through Merrill Lynch for, say, \$500,000, Merrill would book the commission on

the sale or the spread between the bid price and the ask price--perhaps \$500. But an energy trader doing the same thing with an energy contract would book the full half-million, a difference of a thousand fold!*

How Enron appeared to outperform the world remains shrouded in mystery. Enron earned more than 90% of its revenue from a business it calls "wholesale services," Enron's euphemism for trading. Here is how its 2000 annual report describes that activity: "Enron builds wholesale businesses through the creation of networks involving selective asset ownership, contractual access to third-party assets and market-making activities."

The statement is characteristic. Enron's discussion of its finances reads like something written in German, translated to Chinese and back to English by way of Polish.

Enron's reported performance is even more incredible in context. As of 2000, Enron had 19,000 employees. Per employee, Enron says it generated \$5.3 million in revenues. This figure more than triples **Goldman Sachs** (nyse: [GS](#) - [news](#) - [people](#)), which generated \$1.7 million per employee. The men and women of Enron made the monopolists at **Microsoft** (nasdaq: [MSFT](#) - [news](#) - [people](#)) (revenue per employee: \$610, 256) look like slackers. They put the workers of **Citigroup** (nyse: [C](#) - [news](#) - [people](#)) (\$469,748 per employee) and **IBM** (nyse: [IBM](#) - [news](#) - [people](#)) (\$283,333) to shame.

Company	2000 Revenue (In \$Billions)	Employees	Profit	Revenue Per Employee	Hours To Produce \$1Million
Enron (nyse: ENE - news - people)	100.8	19,000	\$979 million	\$5,235,800	377
Exxon Mobil (nyse: XOM - news - people)	206.0	103,000	16 billion	\$1,996,000	1,000
Citigroup (nyse: C - news - people)	111.8	238,000	13.5 billion	\$470,800	4,258
Phillip Morris (nyse: MO - news - people)	63.3	140,000	8.5 billion	\$450,600	4,423
AT&T (nyse: T - news - people)	65.4	151,000	7.7 billion	\$417,600	4,618
General Electric (nyse: GE - news - people)	129.6	312,000	12.7 billion	\$416,900	4,815
IBM (nyse: IBM - news - people)	88.4	312,000	8 billion	\$283,500	7,059

A comparison of Enron with other companies with a similar number of employees also indicates that Enron was, if its reports are not misleading, in a class by itself. Its revenue per employee was more than four times **Chevron** and more than 13 times chipmaker **Micron Technology** (nyse: [MU](#) - [news](#) - [people](#)).

Company	2000 Revenue (In \$Billions)	Employees	Profit	Revenue Per Employee	Hours To Produce \$1 Million
Enron (nyse: ENE - news - people)	100.8	19,000	\$979 million	\$5,235,800	377
Microsoft (nasdaq: MSFT - news - people)	23.8	39,000	10 billion	609,800	3,277
Dell Computer (nasdaq: DELL - news - people)	31.9	38,000	2.2 billion	833,700	2,382
Chevron	46.5	36,000	5.2 billion	1,308,900	1,548
Computer Associates (nyse: CA - news - people)	4.9	21,000	211million	234,700	8,571
Airborne (nyse: ABF - news - people)	3.3	21,000	14 million	156,400	12,727
Texaco	50.1	19,000	2.5 billion	2,682,000	758
Goldman Sachs (nyse: GS - news - people)	33.0	19,000	3.1 billion	1,737,400	1,152
Micron Technology (nyse: MU - news - people)	7.6	19,000	1.5 billion	403,400	5,000

Enron generated huge revenue numbers--but relatively scant profits--by buying and selling the same goods over and over. "A lot of it is from buying and selling the same [gas or electricity] multiple times. They might resell to one customer the same electricity they sold to another," says Charles Fischman, an analyst at A.G. Edwards who covers Dynegy. Some of this trading was done between Enron and its supposedly independent partnerships. Each individual trade was accounted for as revenue at its full value.

But beyond the trading of energy futures contracts back and forth--all with huge notational values--Enron's sales grew because it was a "market maker," serving as the middleman on deals. It would put a buyer together with a seller, take "delivery" of the contract for one fleeting moment and book the entire "sale" as revenue to Enron.

Enron was allowed to do this because a task force of the Financial Accounting Standards Board (FASB) could not decide how energy contracts should be accounted for, explains Douglas Carmichael, the Wollman distinguished professor of accounting at Baruch College. The board finally decided that each company had a "free option" as to how to account for the deals. Enron, of course, opted for the bigger numbers.

This action by the FASB was "a complete abdication of responsibility," Carmichael says. It violates a cardinal principal of accounting called representational faithfulness. "The notion in accounting is that similar economic circumstances should be treated the same way," Carmichael says. This notion was not widely respected at Enron.

Conversations with Wall Street analysts who covered Enron indicate they had little or no understanding of how Enron reported such huge numbers. Asked to compare how Enron or Dynegy book revenue with other businesses, most analysts say Enron was a trading business and that revenue was not important. Asked to compare the energy traders to securities firms, who are also engaged in trading, one stumbled for an answer and finally said, "You know, that's a really good question."

But the answer to the question, while not widely known beyond elite accounting circles is simple enough. It played its game by dint of trading for its own sake and accounting rules. This is why Enron's bankruptcy would have, in the words of Treasury Secretary **Paul O'Neill**, no "spillover effect."

An uncritical reading of Enron's inscrutable reports indicates it was running so much faster than everyone else. If an Olympic track coach hears a report that an unknown runner had broken the world record for the mile by two seconds, he might be skeptical or wonder if the runner was on drugs. But if he had heard that the runner had run a mile in three minutes flat, 45 seconds faster than everyone else, he'd refuse to believe it. He'd say it was impossible. Or he'd say the watch was broken. When Enron made equally unlikely pronouncements no one seems to have asked a question or thought twice.

** A prior version of this story reported the figure in terms of a percentage.*

THE WALL STREET JOURNAL

COMMENTARY

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Whistleblower?

By **DAN ACKMAN**

Time magazine's "Person of The Year" has a checkered history. Hitler was named in 1938. Stalin won twice, Khomeini once. These choices are perhaps defensible, in that these men had the biggest impact on world events -- Time's criterion -- in "their" year. But by what criteria did Time pick Sherron Watkins? A former vice president at Enron, she was selected as part of a trio of "whistleblowers," along with Coleen Rowley, an FBI staff attorney, and Cynthia Cooper, an accountant at WorldCom. But Ms. Watkins was no whistleblower and she had no impact. In fact, she looks like Time's worst choice ever.

What Time calls "the black comedy of corporate fraud" had many authors. Managers, board members, stock analysts, bankers, lawyers and accountants all played a part. But whistleblowers? They were most conspicuous by their absence. Take Enron. As it burned, analysts and auditors fiddled. To be sure there were accountants inside Arthur Andersen who questioned Enron's books. But they stayed inside -- as did Ms. Watkins. Time notes that she "wrote a letter to chairman Kenneth Lay in the summer of 2001 warning him that the company's methods of accounting were improper." But she remained in the shadows until 2002. That's when her "warnings" were unveiled, not by her, but by congressional investigators.

A whistleblower is someone who spots a criminal inside a bank and alerts the police. That's not Sherron Watkins. What she did was write a memo to the bank robber (Mr. Lay) suggesting he was about to be caught and warning him to watch out. In response, he met with her, told her he didn't think he was robbing the bank, but assuring her he'd launch an investigation. Mr. Lay put his law firm, Vinson & Elkins, on the case. The lawyers didn't talk to Mr. Lay or to Jeffrey Skilling, the departed CEO. On Oct. 15, 2001, Vinson & Elkins issued a report concluding that the facts didn't warrant an investigation. A day later, Enron restated its financials, the first step in the chain of events that led to bankruptcy. Through it all, Ms. Watkins said zip. Many others did nothing as well, but none of them are "Person of the Year."

After her warnings became famous, Ms. Watkins was hailed as a "whistleblower" by the press and members of Congress, hungry for a hero in a story littered with villains. But when called to testify she provided cover for Mr. Lay, who she said was duped. And she heaped blame on Arthur Andersen, Vinson & Elkins, and Mr. Skilling, whose resignation in August 2001 was more of a warning than any ever uttered by her.

"Has Enron become a risky place to work?" Ms. Watkins asked Mr. Lay. From this foreboding, many assume she was fired. She wasn't. She stayed on the job until last month, when she quit to become a consultant on corporate governance. Oddly enough, in her new job she joins the Person of the Year for 2001. Rudolph Giuliani is a consultant, too.

Mr. Ackman writes for Forbes.com

Management & Trends

Top Of The News: There Is No Energy Crisis

Dan Ackman, Forbes.com, 05.02.01, 6:10 PM ET

Vice President **Dick Cheney**, in a speech yesterday in Toronto, said energy is a "storm cloud over the horizon...that has lately taken on an urgency not seen since the 1970s." He suggested the rolling blackouts in California could "[foretell] a national trend."

Cheney's solution to the "potential crisis," which he blamed largely on the Clinton Administration, is to drill more, mine more, generate more and build more nuclear plants. He nodded to "conservation," but essentially mocked it as "a sign of personal virtue"-- Jimmy Carter in his cardigan.

In fact, there is no energy crisis and there is little reason to expect there will be. Conservation is a big part of the reason why. While California's blackouts are in the headlines, the Golden State's problems are local and, indeed, do not even cover all of California. Los Angeles, for example, is unaffected because it has its own municipal power service.

"As a country, we have demanded more and more energy. But we have not brought online the supplies needed to meet that demand," Cheney said.

But the facts are something different. Between 1980 and 2000, despite a 90% increase in real gross domestic product (GDP), energy consumption increased by just 25.6%. The massive decline in energy use relative to economic output was not a function of price increases. Indeed, during that time energy prices rose by 44.8%, and most of that price rise was in the last two years. The energy price increase was tiny compared to nonenergy prices, which rose by 119%.

Even with the price increase of the past two years, the price of a gallon of gas in real terms has fallen 41% since 1980.

"There is no energy shortage," says **R. Martin Chavez**, chief executive of **Kiodex**, which supplies software to companies for managing their exposure to energy costs. "There is so much oil and natural gas in the ground. There are more known reserves now than there ever has been."

Conservation has played the critical role in managing demand, says John Byrne, director of the Center for Energy and Environmental Policy at the University of Delaware. "The vice president says conservation is a sign of personal virtue and says we can't rely on that. But that's not what conservation is about," Byrne says.



Gas lines are a relic of the '70s and will stay that way.

Conservation, Byrne says, "is not about turning off the lights or unplugging the refrigerator. It is a story about better technology." Industry and economics, not virtue or government control, are the driving forces.

The reason Americans have become so much more energy efficient is because of appliances, buildings and factories. Refrigerators, lamps, air conditioners and pulp and paper plants have all become far more energy efficient.

The most important exception to this trend is in transportation. While fuel mileage in cars continues to improve, the fuel efficiency of U.S. automobiles has actually declined since the mid-1990s. That's because many drivers have switched from ordinary cars to light trucks or so-called sport utility vehicles.

Between 1980 and 1998, U.S. petroleum consumption hardly increased at all, from 34.2 quadrillion Btus to 37.39 quadrillion Btus. The reason here is Americans used to get 44% of their energy from oil, including foreign oil. Now the figure is 39%, though more than half is imported. Coal supplies a greater share of U.S. power. Nuclear energy accounted for 3.6% of power in 1980. By 2000, it was supplying 8.1%.

One of the hot-button issues in energy policy is whether to drill for oil in the Arctic National Wildlife Refuge. Whatever the merits of this plan environmentally, the case remains that just slight increases in automobile fuel efficiency would conserve far more oil than the U.S. could ever hope to extract from the Alaskan preserve.

No amount of drilling in Alaska or anywhere else is likely to have any impact on the crisis in California, a product not of fuel shortages but of a half-baked attempt at deregulation. Almost none of the electricity in California is produced by oil, Byrne notes. Mostly it's from natural gas, more than 80% of which is produced domestically.

Also, most of the oil drilled in Alaska is now exported to Japan, which is far more exposed to world energy markets than the U.S.

"No one is likely to make the same mistakes to the extent California did," says Severin Borenstein, director of the University of California Energy Institute.

The idea that there is a crisis or a "situation [that] will take years for us to overcome" was a "stunner," Byrne says. "The objective evidence is just against it."

Year	Nonenergy Price Index (1982-84=100)	Energy Price Index (1982-84=100)	Price Of A Gallon Of Gas (1982-84=100)	Energy Consumption (Quadrillion Btus)	GDP (In Billions Of 1996 dollars)
1980	81.9	86.0	\$1.48	78.435	4,901
2000	178.6	124.6	0.91	98.520	9,319

Sidebar: [A Hog No More](#)

A Hog No More

Is the U.S. an energy hog? Maybe it once was, but no more.

Energy efficiency, also called "intensity," is often measured by the amount of energy used per unit of gross domestic product (GDP). Between 1973 and 2000, the U.S. economy became 42% less energy intense, meaning it took much less power to produce the same amount of goods and services, according to the Department of Energy's *Monthly Energy Review*. After some stagnation, the trend increased between 1996 and 2000, when the economy's energy intensity dropped more than 3% per year.

In 1998, Americans consumed just less than 25% of the world's energy. This is much more than the U.S. share of world population, about 4.5%. But the U.S. produces almost 28% of the world's product, according to World Bank data, so it can reasonably claim to be energy efficient. The U.S. "has kept pace with the rest of the world," Byrne says.

Had the U.S. not improved its energy efficiency, it would have had to use about 171 quadrillion British thermal units (Btus) instead of the 99 quadrillion Btus it did use, at an additional cost of "at least \$430 billion," according to an report by the American Council for an Energy-Efficient Economy, a Washington-based organization. Being more efficient was not tree-hugging.

It was not the government forcing Americans to do without. It was smart business.



Top Of The News

Oil Crises Now And Then

Dan Ackman, 03.11.05, 9:30 AM ET

As recently as six months ago, almost no one on Wall Street was forecasting higher oil prices, though there were some outsiders in the so-called Peak Oil crowd who did see much higher prices down the road. Now with oil again trading at over \$52 per barrel, the conventional wisdom seems to be that high prices are here for a while.

If prices stay where they are, Americans will spend \$330 billion on oil this year. That would be a record in real terms, although, adjusted for inflation, the U.S. oil bill was higher in the early 1980s. Of that \$330 billion, \$221 billion will be for imported oil, the money funneled overseas. The overall bill projects to be 30% higher than just a few months back (see "[America's Quarter-Trillion-Dollar Oil Bill](#)").

Bills for oil and imported oil are both double the figures paid as recently as 2002. Adjusted for inflation, the total price is still not as high as it was in the peak years of the oil crisis, though it is getting close. Since the early 1980s, however, the U.S. has come to import a much higher percentage of its oil. As a result, even adjusted for inflation, the total cost to Americans for imported oil should be at an all-time high.

Oil Prices Through The Years

Year	Price (\$ per barrel)	Total Oil Consumption (in thousands of barrels)	Bill For Imported Oil (\$billions)	Total Oil Bill (\$billions)
1981	\$38	5,100,020	\$74.9	\$193.8
1999	17.51	5,764,789	63.4	100.9
2000	28.26	5,944,083	107.8	167.9
2001	22.95	6,096,130	91.3	139.9
2002	24.1	5,946,585	92.8	143.3
2003	28.5	6,195,461	116.9	176.6
2004	39	6,462,057	170.4	252.0
2005*	52	6,333,470	221.1	329.3

* projected

Sources: U.S. Energy Information Administration; Federal Reserve Bank of Minneapolis.

Adjusted For Inflation

Year	Price (\$ per barrel)	Total Oil Consumption (in thousands of barrels)	Bill For Imported Oil Adjusted For Inflation (\$billions)	Total Oil Bill Adjusted For Inflation
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				(\$billions)
1981	\$38	5,100,020	\$161.1	\$416.7
1999	17.51	5,764,789	74.1	118.1
2000	28.26	5,944,083	121.8	189.8
2001	22.95	6,096,130	100.4	153.9
2002	24.1	5,946,585	101.1	156.2
2003	28.5	6,195,461	123.9	187.2
2004	39	6,462,057	175.5	259.6
2005*	52	6,333,470	221.1	329.4

* projected

Sources: U.S. Energy Information Administration; Federal Reserve Bank of Minneapolis.

In real terms, oil prices were higher in 1981 than they are now. But they had fallen by half by 1986. As the early 1980s prices were caused by OPEC and politics, they eventually fell. Many oil prognosticators today say oil is more likely to stay high as the price is a function of ordinary supply and surging demand, especially in India and China. Indeed, this morning, the International Energy Agency raised its forecast for China's oil demand this year by 100,000 barrels per day to 500,000 barrels.

This surge has led to rises in oil stocks like **Exxon Mobil** (nyse: [XOM](#) - news - people), **BP** (nyse: [BP](#) - news - people) and **ChevronTexaco** (nyse: [CVX](#) - news - people). They have all risen by about 40% in a year. Oil service stocks like **Halliburton** (nyse: [HAL](#) - news - people), **Schlumberger** (nyse: [SLB](#) - news - people) and **Transocean** (nyse: [RIG](#) - news - people) are up by 20% to 60%.

But the good news is that, for the U.S., overall economic growth has left the nation spending a much smaller percentage of its income for oil in particular and for energy overall than it did in the oil crisis era. In 1981, the U.S. was spending 13% of gross domestic product on energy, according to the U.S. Energy Information Administration. Energy costs could be around 8% of gross domestic product this year. That's where the U.S. was in the early 1970s.

Oil's Share

Year	Price (\$)	Gross Domestic Product (\$billions)	Oil Bill As % of GDP	Imported Oil Bill As % of GDP
1981	\$38	\$3,218	6.02	2.33
1999	17.51	9,268	1.09	0.68
2000	28.26	9,817	1.71	1.10
2001	22.95	10,128	1.38	0.90
2002	24.1	10,487	1.37	0.88
2003	28.5	11,004	1.60	1.06
2004	39	11,734	2.15	1.45
2005*	52	12,086	2.72	1.83

* projected

Sources: U.S. Energy Information Administration; U.S. Bureau of Economic Analysis

The share of GDP used to pay for oil is likely to double from 2002 levels. But it's still less than 3%, half the 1981 share. To be sure, much smaller increases have touched off recessions (or have at least been factors) (see: "[Is Oil The Third Whammy?](#)"). But the larger economy can probably take the hit better than it could a generation ago.



Top Of The News

The Case Against Credit Suisse

Dan Ackman, 04.22.04, 8:05 AM ET

Frank Quattrone sent one e-mail and there is no solid evidence any documents were destroyed as a result. Still, Quattrone is on trial in a Manhattan federal court for obstruction of justice. Meanwhile his colleagues at **Credit Suisse First Boston**, who presided over systemic document destruction, walk free.

Quattrone, the former chief of **Credit Suisse Group's** (nyse: [CSR](#) - news - people) CSFB technology unit, sent his e-mail on Dec. 5, 2000, endorsing the suggestion Dec. 4 of **Richard Char**, a senior banker in the group, that it was "time to clean out the files." Char's e-mail came after CSFB had been under investigation for six months concerning allegations that it accepted kickbacks from hedge funds in exchange for the allocation of lucrative initial public offering shares. The National Association of Securities Dealers, the U.S. Securities and Exchange Commission and the U.S. Attorney were all on the case.

During that time, the bank's own document retention policy--better described as a document destruction policy--was to trash any nonfinal deal documents, including all drafts, notes and memoranda. These are precisely the documents more likely to contain evidence of fraud or wrongdoing. Thus, every banker in the firm was working under a standing order to destroy documents. Thousands of documents subject to an SEC subpoena could have been obliterated.

CSFB lawyers never sent out a blanket notice to preserve documents that might have been relevant to the mounting inquiries. They never told the bankers about the scope of the investigations. Instead, according to testimony by Kevin McCarthy, a senior lawyer in CSFB's general counsel's office, they sent a notice about just two IPOs, the record-setting **VA Linux**--now **VA Software** (nasdaq: [LNIX](#) - news - people)--and **Selectica** (nyse: [SEL](#) - news - people).

Investigators for the NASD, the SEC and the U.S. Attorney also testified they never relaxed the so-called document preservation requirement that applies whenever a lawsuit or an investigation has been filed. McCarthy acknowledged that none of the investigators ever limited that requirement.

The bankers were not told about the subpoenas, CSFB lawyers have testified. But the lawyers knew. With this knowledge, "A duty would arise in the lawyer, who would in turn notify the client," testified Robert Khuzami. Khuzami, now a lawyer for **Deutsche Bank** (nyse: [DB](#) - news - people), was the assistant U.S. attorney in charge of the CSFB investigation in 2000.

But the CSFB lawyers never acted on that duty until after Quattrone sent the e-mail that led to his indictment. Indeed, had Char and Quattrone not sent their e-mails, the CSFB lawyers might not have acted even then. It was Char's "reminder" to follow a policy long in place that encouraged the bank's lawyers to countermand it and to send out a document retention notice--though not until

Dec. 7, three days after Char's e-mail.

Unlike Quattrone--who was finally told in December--Char had not been told about the grand jury subpoena. But his e-mail was expressly designed to keep potential evidence out of the hands of class-action attorneys. McCarthy, likewise, characterized these lawyers, who represent the people who bought into the busted CSFB IPOs, as "lawyers who make their living by suing companies based on a fall in stock price."

But how would you describe the work of the CSFB lawyers? Some of their efforts were probably legal, such as when David Brodsky, CSFB's general counsel for the Americas, advised Quattrone to channel his communications through him, which Brodsky testified he did to preserve claims of privilege.

But standing by oblivious to the destruction of subpoenaed documents is not clearly legal. Indeed, it could be criminal. "If there is a pending proceeding, the fact that they didn't have to produce it immediately doesn't mean they had a right to destroy it. It seems highly improper and under the rules of most jurisdictions could be criminal obstruction of justice," says Deborah Rhode, director of the Ethics Center and a law professor at Stanford University.

Stephen Gillers, a legal ethics expert at New York University Law School, is more circumspect. For CSFB's inaction to be a crime, its mindset must be guilty, its motive corrupt. One needs to ask why the bank's lawyers failed to send out a document retention notice.

That's a good question, and it's one that Quattrone's lawyer John Kecker has tried to ask repeatedly. Each time, U.S. District Court Judge **Richard Owen** has sustained objections, on the grounds that the bank's actions are irrelevant to Quattrone's state of mind. But it's very relevant to a larger question of what CSFB was doing in failing to tell its bankers to stop shredding.

The case is reminiscent of **Arthur Andersen**, Gillers said. In that case an indictment of the firm led to its going bust. In this case, CSFB bought its peace with the government by paying a \$100 million fine in January 2002. It admitted no wrong.

A year later, a newspaper report published Quattrone's e-mail, and the Justice Department indicted him, calling CSFB's lawyers as witnesses. CSFB still faces massive civil suits about its IPO practices, along with **Morgan Stanley** (nyse: [MWD](#) - news - people), **Merrill Lynch** (nyse: [MER](#) - news - people) and the rest of Wall Street. Its document destruction policy may come before another jury. But for now, the wrong guy may be on trial.

THE WALL STREET JOURNAL

A Raw Deal

By Dan Ackman

29 April 2003

Frank Quattrone is in a curious pickle. The defrocked investment banker from Credit Suisse First Boston now stands as the lone criminal defendant in the government's widespread investigation of abuses in the IPO market. He has been charged with "obstruction of justice." But he hasn't been charged with any crime the investigation of which he allegedly obstructed, and neither has anybody else.

Mr. Quattrone and CSFB were both central to some very shady business during the Internet IPO boom. Their sins, first revealed by The Wall Street Journal, included the receipt of kickbacks from the favored few who were allocated shares in oversubscribed IPOs. The prices of these shares were certain to rise in the aftermarket. For its sins, CSFB paid the Securities and Exchange Commission \$100 million in civil fines. But it admitted no fault, and Mr. Quattrone was not a party to the SEC deal. (The Street yesterday settled a somewhat related case with the SEC and others and agreed to pay \$1.4 billion.)

Last week, the federal government filed new charges, both personal and criminal. The three counts all pertain to three days in December 2000 when lawyers and bankers at CSFB exchanged e-mails concerning pending regulatory and grand jury investigations into its IPO practices. The e-mails focus on CSFB's "document retention policy," which would be better termed a document destruction policy. While several were addressed to Mr. Quattrone, only one of note came from him. In it he endorses to his group the company policy: "[H]aving been a key witness in a securities litigation in south texas i strongly advise you to follow these procedures." That's it. That's all he did.

The case against Mr. Quattrone is pretty thin. In a way it calls to mind the obstruction of justice indictment (and conviction) of Arthur Andersen for its role in the Enron affair. But at least in the Enron/Andersen situation, underlying crimes had pretty clearly been committed, even if they had not yet been alleged. Here, there is an alleged cover-up, but nothing criminal underneath. Also, with Andersen, the firm was indicted for pursuing a firm policy. Here the U.S. Attorney Jim Comey gave CSFB a pass, crediting it with full cooperation. And then he charged Mr. Quattrone.

The California-based investment banking star is a millionaire many times over, and he will no doubt mount the best defense money can buy. (Besides, CSFB will pay his legal fees.) But the charges raise a red flag nonetheless. It appears that Mr. Quattrone was charged for refusing to cooperate. Others at the firm remain unindicted, despite the criminal complaint's revelation that company lawyers in New York laid down the policy that Mr. Quattrone simply endorsed. This may be routine criminal justice, but that's the point.

It's not enough to note that someone is part of a sleazy business or that his actions are against the best interest of the public. To put a man in jail there must be a clear line crossed. Here the government searched for lines, found muck, and indicted anyway.

Mr. Ackman is a writer at Forbes.com.



Top Of The News

Retirement Doomsday

Dan Ackman, 05.04.05, 10:07 AM ET

According to **Ben Stein**, the fault lies not with Social Security but with ourselves.

Stein is on a crusade to warn Americans about the coming retirement crisis. It has less to do with Social Security or its reform, and more to do with the dramatic decline in U.S. savings and the absence of individual retirement planning.

"This is the greatest crisis facing the country that people can do something about," Stein says. The crisis is that they are not.

Stein, 60, is a paid spokesman for the National Retirement Planning Coalition, a group that includes nursing homes and sellers of annuities and other financial products. But he says his advocacy arises from his work as an author and journalist, and from the fate of people he knows, including some of his rich Hollywood pals, some of whom are now in financial deep water.

With less than 20% of U.S. workers now in employer pension plans (many of those plans are on shaky financial footing) and with Social Security typically replacing less than 40% of pre-retirement income, personal saving has never been more important.

But savings rates have never been lower. In 1999, the national savings rate dipped below 3% for the first time since 1959, according to the U.S. Commerce Department. It has been declining further since then, and in 2004 it was at a mere 1%. The low savings rate, coupled with large deficit financing by Asian banks, is dangerous for the U.S. But it's more dangerous for individuals.

The nest eggs are cracked. Nearly 28 million U.S. households--37% of the total--do not own a retirement savings account of any kind. Among the households who owned a retirement savings account of any kind as of 2001, according to a 2004 report by the Congressional Research Service, the average value of all such accounts was \$95,943. That number was distorted by the relatively few large accounts, and the median value of all accounts was just \$27,000.

The median value of the retirement accounts held by households headed by a worker between the ages of 55 and 64 was \$55,000 in 2001, the CRS says. To that, Stein adds that just 11% of all Americans have retirement savings of \$250,000 or more.

He figures that in order to replace an income of \$100,000, most retirees would need savings of \$1.5 million, and very few people have that. The median net worth of U.S. households where the head of the household is between 55 and 64 was just \$181,500 as of 2001, the CRS reports. No, not everyone is a millionaire.

The problem persists up and down the income scale. Even among households

with incomes of \$75,000 or more, 23% had no retirement savings account or pension plan. Stein notes that someone who makes \$1 million a year needs savings of \$15 million to maintain his or her pre-retirement income. Stein, who lives in Malibu, Calif., knows more than his fair share of these folks, and he says they don't have it. Even the minority who do have employer pensions are not immune, as companies like **United States Steel** (nyse: [X](#) - news - people) and **UAL** (otc: [UALAQ](#) - news - people) and many others are looking to the federal Pension Benefit Guarantee Corp., itself wobbly, to back their plans.

Microsoft's (nasdaq: [MSFT](#) - news - people) **Bill Gates**, **Dell's** (nasdaq: [DELL](#) - news - people) **Michael Dell** and even CEOs with lavish retirement packages, like **General Electric's** (nyse: [GE](#) - news - people) former chief **Jack Welch**, don't have a problem. Most everyone else does.

It's a fair bet that many people figure the equity in their homes will bail them out. And it is true that some people will be able to sell large homes and take cash out in their old age. But it's not likely to be enough, Stein says, and you can't rely on home prices rising ad infinitum. He cites Stein's law, which was coined by his economist father, **Herbert Stein**: "If something can't go on forever, it will stop."

Stein, the greatest lawyer-actor-economist-journalist-game-show-host that the U.S. has yet produced, does offer some solutions. He has just published a new book with **Phil DeMuth**, *Yes, You Can Be a Successful Income Investor*, a sequel of sorts to [Yes, You Can Time the Market](#), which emphasizes strategies for later-in-life investors. He likes the Cohen & Steers Quality Income Realty Fund and other real estate investment trusts. But they all start with one solution: "Save more money."

OK, so how does one do that? "I really don't know where to start. I really don't," Stein admits. But it must be done.

The New York Times

New Yorkers & Co.:

The Big Man in Shrimp

By DAN ACKMAN

07/02/00

YEARS ago, Donald Julich Sr. was eating lunch at Sweets, the famous South Street restaurant, now defunct, when a man came up behind him and said, "Excuse me, I understand you're the shrimp king of the Fulton Fish Market, and I'd like to shake your hand." The voice was familiar, and when Mr. Julich looked up, so was the face. Burt Lancaster was smiling at him.

"I'm happy to shake your hand," Mr. Julich recalls saying. "But as far as I'm concerned, you're the king. I'm just a peasant."

A king he may not be, but Donald Julich does have a throne, albeit a modest one, and a crown. The crown is Crown Fish Inc., his seafood business at the Fulton Fish Market. His throne is a bar stool on the sidewalk on South Street where for 52 years this square-shaped man with a hawkish face has presided over Crown Fish, buying shrimp and shellfish by day and negotiating with customers by night.

The Fulton Fish Market dates from 1869, when the first permanent building was erected on South Street. While fish that used to come in by boat is now trucked and flown in, the buying and selling continues as it has for decades. Fish is displayed in the open air on stands and in boxes that spill onto the sidewalk. Buyers and sellers meet face to face, without a fax machine or Internet connection in sight.

Mr. Julich, 70, the big man in shrimp, has witnessed as much of the market's history as any man alive. With the city considering plans to move the market to Hunts Point, in the Bronx, it is a history that may be coming to an end. Mr. Julich, though, is less concerned with history — "Don't put me down as an adviser to Abe Lincoln" — than with his part in what the city estimates is a billion-dollar industry.

His employees arrive about midnight to display the shrimp in sidewalk stalls. Mr. Julich shows up about 4 a.m., when the buyers start arriving.

On one recent morning, he faced off with a customer named John Kim, who owns a fish store in Queens. They spent a half hour haggling over a box of lobster tails. Mr. Kim wanted to pay \$17.25 per pound. Mr. Julich held his ground at \$17.50.

"Go on, get out of here," Mr. Julich said in an accent that betrayed his Newark roots. "Come back tomorrow and you'll pay \$18 and feel lucky to get it." When Mr. Kim left, he said, "Don't worry, he'll be back." Sure enough, he was, an hour later. He paid \$17.50 and groused when Mr. Julich told him he had just one box left to sell him.

Mr. Julich and Mr. Kim both finished with the deal, Mr. Julich's son, Donald Jr., marked the box with a black crayon and alerted a journeyman, as they are called, who grabbed the box with a cargo hook and hauled it to the parked trucks. In a concession to modernity, some of the journeymen use forklifts, which whiz by at a frightening pace.

By dawn, buyers are gone back to their stores and restaurants and Mr. Julich and his men are cleaning up and making calls to make sure that they have fish to sell the next morning.

Mr. Julich's father, Fred, once a restaurateur, started the family in this day-for-night existence in 1946. The son joined a year later after graduating from high school. In 1955, he took over the company, and the next year, his brother, Richard, joined him after a stint in the Navy. They worked as partners until Richard retired in 1992. When Donald sells his last shrimp, Crown Fish will go to his son and nephews, David and Richard, who joined in their late teens and who are now in their mid-30's. Dynasties of this sort are the norm on South Street, where businesses tend to stay in families for three and even four generations.

From the beginning, the Julichs specialized in shrimp, which has become "the No. 1 seafood item in the world today," Mr. Julich said. It is also, pound for pound, one of the most expensive, an important consideration in a business where sales space is at a premium.

OVER the years, Mr. Julich has expanded the line to include oysters, clams, scallops and lobster tails. Crown Fish has never dealt in fish, though, and the company name remains a mystery. "Why he called it Crown Fish, I'll never know," Mr. Julich says. Asked how much shrimp he sells in a week, Mr. Julich says, "Ask the I.R.S." Mr. Julich doesn't look rich. But then maybe people who work in the dead of night surrounded by the smell of fresh fish rarely do.

Buying and selling small marine crustaceans may seem a simple thing, but it is not without complexity. The 15 to 20 varieties of shrimp Mr. Julich

sells come not just from the southern United States but from a dozen countries in Central and South America, along with other types of shellfish from as far away as Australia. In addition to knowing from where to buy at a given time of year, Mr. Julich has to anticipate what size shrimp his customers may want.

One of the major changes on South Street is the emergence of Asians like John Kim as a buying force. Depending on which owner is doing the estimating, Koreans and Chinese make up 60 to 80 percent of the buyers. One thing hasn't changed: the market remains a man's world. Almost no women work there. "Would you want your girl to work with these animals, these gorillas?" he says.

Mr. Julich and his fellow merchants complain that margins have shrunk in recent years. Since 90 percent of his sales are on credit, it's crucial that he know his buyers and keep after them for payments. For that reason, he says he has many acquaintances in the business but just a few friends.

"If they're a friend and you have a problem, it's harder to fix it," he says.

While the Fulton market looks a lot as it always has, Mr. Julich has seen it, like other central markets, decline in importance in the industry. He says that more buyers buy direct from sellers at the piers, sidestepping the market. Mr. Julich acknowledges the change and doesn't begrudge it when the buyer is making a substantial order. But he shows some anger at dealers who sell mostly to wholesalers like him but will sell a single box of shrimp or a single bag of clams direct to a restaurant. "I know why they do it, but in the end they're hurting their own business," he says.

While the market may not be the hub it once was, Mr. Julich agrees with his friend Dan, a fellow merchant, who says that it still sets the tone for the whole country.

Dan would not give his last name. People at the market are circumspect, knowing as they do that nearly every writer who visits focuses on its supposed domination by the Mafia. Mr. Julich says he has never had a problem with organized crime and adds, as do most people interviewed there, that allegations of mob rule are way overblown.

"I've been here 50 years and I've gotten to know pretty much everybody," he says. At other times, though, he cautions, "Be careful what you say because people could get annoyed."

The city has announced it is considering moving the fish market to Hunts Point. To Mr. Julich, the move would be a disaster. "You can't have the market behind a locked gate where you need a badge to get in and out," he

said. "Buyers have to be able to walk around and look at what they want. This is an open market." He concedes that conditions at the market are primitive, but insists that they are sanitary.

There used to be a half-dozen stalls specializing in shrimp at the Fulton Fish Market, Mr. Julich says. Now there are just two. Does that mean he is now the king, as Burt Lancaster said? "Well, Lancaster's dead, so maybe that moves me up a notch. But I'm still a peasant."



Top Of The News

The End Of Toys

Dan Ackman, 03.17.05, 9:45 AM ET

A few months back I was researching the model shops in Manhattan accompanied by a brilliant toy industry analyst. One shop that was in the yellow pages was no longer in business, replaced by a tacky discount clothier. Another that I remembered from years ago was also gone. Finally, we learned of one in an out-of-the way part of town and on the way over I wondered about the others' demise.

The analyst, who happens to be my nephew, was ready with an explanation. The types of toys that were offered for sale a generation ago, whether model cars or building sets or board games, have essentially not improved. Meanwhile, videogames get better dramatically every year. If the traditional toys have simply made a few gains, kids would show more interest.

He suggested that instead of selling a remote control car, sell one with a video camera mounted on the hood that kids could drive around and shoot movies. While they're at it, maybe they should find a way to make a remote control car that works for more than a week. Without new ideas, why would kids stick with older products when they could get something new?

This is the phenomenon, I suspect, that has driven the decline and now the sale of **Toys "R" Us** (nyse: [TOY](#) - news - people).

Today, the long-rumored sale of the toy giant has ended with consortium of private equity and real estate firms buying the entire company for about \$5.7 billion, according to The Wall Street Journal and The New York Times. The buyers are **Bain Capital**, **Kohlberg Kravis Roberts** and **Vornado Realty Trust** (nyse: [VNO](#) - news - people), the reports say, and the plan is to continue the operation of some stores and mine the rest for real estate.

The apparently imminent demise of Toys "R" Us has been linked to competition from **Wal-Mart Stores** (nyse: [WMT](#) - news - people), whose share of the toy retailing industry has supposedly been increasing compared to a decline for Toys "R" Us. It also faces competition from online retailers. Toys "R" Us stumbled early in that area, and wound up having **Amazon.com** (nasdaq: [AMZN](#) - news - people) run its online operations. Selling toys online proved to be an even tougher racket than selling them in stores, as the rapid [demise of eToys in 2001](#) (remember that one?) demonstrated.

But the numbers behind the decline of the Wayne, N.J.-based toy giant are curious. While Toys "R" Us sales have been basically flat since 1999, they have not dramatically declined as a declining market share would indicate. According to the Toy Industry Association, the entire toy business, which it pegs at \$20 billion declined slightly between 2003 and 2004.

In November 2003, Toys "R" Us announced plans to close all 146 free-standing Kids "R" Us stores and all 36 of its free-standing Imaginarium stores, which sold educational toys, the only area of the industry that has shown a marked increase overall, according to the Toy Industry Association. This suggests that the larger problem might not be in the toy business, but in some of its secondary businesses. At the same time, though, its Babies "R" Us unit continues to expand.

Whatever the case, Toys "R" Us announced last summer that it was tired of toys. As mom-and-pop sellers will tell you, the toy business is increasingly cutthroat and a trip to the annual Toy Fair, which should be fun, is depressing indeed. Even iconic independents like **FAO Schwarz** have faltered, shrinking to just two stores. One problem is that all toy stores pay rent for 12 months, but they make most of their sales in one--hence the Toys "R" Us real estate play.

The irony is rich since it oversaw the decline of so many independent retailers over the years. A 2004 story in New York magazine about the closing of one neighborhood store quoted a Toy Industry Association spokesman on the "inevitable retail consolidation" in the industry, which now has affected Toys "R" Us, too. It also mentioned that kids today have gone digital, which means toy stores also compete with **Best Buy** (nyse: [BBY](#) - news - people), **Circuit City Stores** (nyse: [CC](#) - news - people) and **Radio Shack** (nyse: [RSH](#) - news - people). Kids today are spending, according to one study, [six-and-a-half hours a day consuming electronic media, their rooms filling with computer and television screens](#). With the lure of electronic media growing stronger, it may be that we have seen the end of toys.

THE WALL STREET JOURNAL

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LEISURE & ARTS

The Other Wrestling

By Dan Ackman

New York -- For years, he was invincible. In college at Iowa State, he won and won again, trashing records in his wake. On his way to four NCAA wrestling championships, he won 101 straight matches, breaking the record for consecutive wins set by the sport's icon Dan Gable. Then he kept going, winning another 58. His final record -- 159 victories, zero defeats -- made Cael Sanderson arguably the most successful college athlete in any sport ever.

But when Mr. Sanderson competed internationally after his 2002 graduation, something new happened: He lost, not often, but often enough to notice. Mr. Sanderson lost twice to Cuban world champion Yoel Romero and twice more to Russians. Each loss was by a single point, but still, there were pockmarks on the Mona Lisa. Prior to the World Freestyle Championships, the most important wrestling competition other than the Olympics, Mr. Sanderson was in an unusual position: underdog.

But the annual Worlds were held in the U.S. this past weekend -- at New York's Madison Square Garden. And Mr. Sanderson was still the main event. Whenever he stepped on the mat at the Garden, fans turned from other matches, and observers -- even Alexander Medved -- crowded around. Mr. Medved, who won three Olympic Gold Medals for the old Soviet Union, is considered the greatest wrestler of the modern era. His assessment: "He's a very talented boy. He's very powerful and has internal guts."

If Mr. Sanderson, 24, who wrestles at 85 kilograms (185 pounds) is the latest thing, Kerry McCoy is U.S. wrestling's touchstone. Mr. McCoy, a heavyweight, is the longest-serving member of the U.S. team and its unofficial spokesman. In eight years, Mr. McCoy, 29, had never won a world medal, though he had come close, placing fourth at the world championships in 1998 and in 2001. Indeed, the U.S. team had only one world medalist going into the championships, 163-pounder Joe Williams.

Still, having missed last year's tournament, which was held in Iran, due to a security threat, and wrestling one day after the anniversary of 9/11, the team was confident of great things.

The first day promised just that. The U.S. men won 13 matches. The one loss was Mr. Williams's; he fell to Hadi Habibi of Iran 3-1 in overtime. Mr. Habibi, also 24, was a reminder that other countries have their Cael Sandersons, too. He had never wrestled in international competition, but he beat a reigning world champion just to make his national team.

The Iranian team itself won the team title on its home turf in 2002 and in New York was backed by passionate Iranian-American fans who occupied a small corner of the Garden, but who often accounted for half the noise. As one fan, Kayhan Sarab, a restaurateur from Great Neck, Long Island, explained, the entire Caspian Sea region is wrestling mad. In Iran it's not just the national sport; it is also deeply "spiritual." Before a match, Iranians show their devotion by kissing the mat or looking skyward. They figured to be tough competition for the U.S., as would the always-formidable Russian squad.

After the promise of the first day for the Americans, the wheels started to come off on day two. Jamil Williams lost by a technical fall to Serguei Pedroso of Cuba. Three more defeats were punctuated by displays of poor sportsmanship. First, at 60 kilograms (132 pounds), Eric Guerrero, wrestling in a tie match against Damir Zakhartdinov of Uzbekistan, twisted his opponent's knee, injuring him. While the hold was not illegal, the Uzbek was in obvious agony.

John Smith, Mr. Guerrero's coach and himself a former Olympic gold medalist, screamed at the referee, "He ain't hurt! Make him wrestle!" When the Uzbek did just that, he gained two points on a disputed call to win 5-3. Mr. Guerrero refused to stop his protest, and U.S. national coach Kevin Jackson had to push him from the mat.

Soon after, Daniel Cormier, coming off a spectacular pin a round earlier, faced Ali Reza Heidari, a world champion from Iran at 96 kilograms (211.5 pounds). Though Mr. Cormier was behind the whole way, he blamed Mr. Heidari, a former world champion, for stalling and violently shoved him after the match. "I made a big mistake," Mr. Cormier said later.

The U.S. still had Mr. McCoy and Mr. Sanderson wrestling for gold in the finals. Mr. Sanderson faced a Russian, Sajid Sajidov, age 23, who had beaten Mr. Romero en route. With the match tied at one, Mr. Sanderson attacked. Though he had a firm hold on the leg, Mr. Sajidov countered and threw him. The referees paused, apparently to consider whether to award

the Russian one point or two.

This time the American got the benefit of the doubt: The referee awarded each wrestler two points, stunning the crowd into silence, and keeping the match tied. With 15 seconds remaining, the American tried another trademark ankle pick. Mr. Sajidov countered with an ankle pick of his own, to win 4-3. It was Russia's third gold medal of the night, out of a total of seven. (Little Uzbekistan, population 26 million, won two golds, part of a clean sweep by Russia and the former Soviet Republics; Georgia won the men's team title, followed by the U.S. and Iran. Japan won the women's tournament with five gold medals.)

In the heavyweight final, the sculpted Mr. McCoy was tied 1-1 with the equally chiseled Artur Taymazov of Uzbekistan. But just 12 seconds into overtime, Mr. McCoy lost his footing and found himself on his back and on the wrong side of a 4-1 score. He would have to settle for the silver medal and a chance to wrestle again next year at the Olympics in Athens.

Mr. Sanderson will in all likelihood be in Athens, too. A takedown short this weekend, for U.S. wrestling he remains the future. Mr. Sajidov and the Russian middleweights, though, are the worldbeaters right now.

Mr. Ackman, a senior columnist for Forbes.com, last wrote for the Journal about the decline of shooting in the NBA.



Hack Justice: **One Lawyer-Journalist's Cab Ride Through a Land the Law Forgot**

By **DAN ACKMAN**

As an associate for a major Wall Street law firm, I had deposed Donald Trump. I had also litigated in landlord-tenant court. So I thought I knew something about blowhards and a little about due process. But I knew nothing, nothing until I encountered the New York City Taxi and Limousine Commission.

In a career shift, I was attending the Columbia University Graduate School of Journalism and was spending a lot of time in taxi garages, asking immigrant cabbies about their lives in America and behind the wheel. Some drivers would talk; others walked away. But when the conversation turned to the TLC, I got an earful every time. At turns, the cabbies described the TLC and its court as Kafkaesque, Stalinist, kangaroo. That's what you should be writing about, they said.

I decided to take them up on it. So in early January, I called Allan Fromberg, the TLC public relations chief. Fromberg told me he thought the agency's administrative hearings were closed. Why don't you interview a lawyer instead, he suggested.

Closed? This was odd. Weren't judicial proceedings in America supposed to be open?

I went next to Rector Street in downtown Manhattan where certain hearings are held. I asked to see a judge for permission to sit in. The receptionist asked if I had spoken to Fromberg. I admitted I had. "What did Mr. Fromberg say?" she asked. I told her I was confident that if it was OK with the judge it was OK with Fromberg.

Instead of a judge I got Fromberg again. Arriving red-faced from his office three floors below, Fromberg dictated that the judge had no say. He, Fromberg, set the policy for the TLC, and his policy was that the TLC hearings are closed.

"But why are the courts closed?" I asked.

"Because it's agency policy," Fromberg said.

"Is this policy in writing?"

"Yes."

"Can I see it?"

"Yes. But not now."

"What's the reason for it?"

"Because it's agency policy."

"But why is it agency policy?"

"Because the courts are closed."

I was getting nowhere.

My next step was to go to the agency's facility in the Long Island City section of Queens, where most of the hearings are held. There I met Assistant Chief Administrative Law Judge Joe Eckstein. Eckstein reiterated that actually seeing a hearing was out of the question. But he did invite me to interview him or any of the drivers lawyers waiting for their cases to be called.

I was doing that when Eckstein reappeared an hour later. This time he had his boss with him, TLC director of adjudications Joe McKay. New hour, new rule: McKay said the waiting area was, like the hearing rooms, off limits to people like me "not conducting business before the commission."

"But I do have business. I'm talking to these drivers."

"Look, unless you're a lawyer you're really not supposed to be here," McKay said. So I told him I was a lawyer and that I thought he was crazy. I also told him that, short of being arrested, I was staying.

When I arrived home that night, I learned from the dean of the journalism school that Fromberg had called not once, but several times, to complain about me, charging me with a variety of offenses.

I told the dean that in my view, as a journalist and as a lawyer, I had done nothing wrong and much right. I also said that the TLC's policy regarding the courts was probably illegal.

The TLC, as I would learn, conducts more than 100,000 hearings against taxi drivers annually. More than 95 percent of the cases are based on charges by TLC inspectors or the NYPD taxi squad, and are decided by administrative law judges working for the agency on a per diem. The hearings had been open until 1994. Since that time, the New York Times, Newsday, and the NYCLU had all been turned away.

On my next visit to Rector Street I tried to interview lawyers outside the hearing rooms. This time, Fromberg and TLC chief-of-staff David Hind not only barred me from the courts, but had security bar me from the waiting area. When I asked for the names of the judges-- the names of the judges!-- Fromberg told me to file a Freedom of Information request.

I told Hind that I had checked the law and found, that their entire policy was illegal, and I'd sue if I had to. "That may be, but until that suit is heard and decided," Hind said, all information would flow through Fromberg.

In other words, sue me. So I did.

I filed an action in New York State Supreme Court seeking an order requiring that the TLC hearings be open to the public. I relied not U.S. Supreme Court cases relating to press access to criminal trials, but on New York common law relating directly to administrative tribunals. The agency's defense was, in essence, that allowing the public access would impede its swift administration of justice.

Two weeks after papers were submitted, Justice Stanley Parness, ruled that the agency had no shown no reason why it should be exempt from the state's "strong public policy" that administrative trials must be open.

The problem was they were still closed. Even after the judge ruled, the TLC continued to bar the public, including a reporter from The New York Times, from its tribunals on the ground that the court's decision was "not final" and that they "might appeal."

Finally, a month later, armed with a judgment implementing the earlier decision, I got in, along with a legal affairs reporter from the BBC in London. Our view of several hearings confirmed the drivers' view: kangaroos jumping all over the place. Just how high is a story for another day.