

SHREDDDED JUSTICE

Is the SEC destroying evidence and covering up Wall Street crimes?

By MATT TAIBBI

IMAGINE A WORLD IN WHICH A MAN WHO IS REPEATEDLY INVESTIGATED FOR A STRING of serious crimes, but never prosecuted, has his slate wiped clean every time the cops fail to make a case. No more Lifetime channel specials where the murderer is unveiled after police stumble upon past intrigues in some old file – “Hey, chief, didja know this guy had *two* wives die falling down the stairs?” No more burglary sprees cracked when some sharp cop sees the same name pop up in one too many witness statements. This is a different world, one far friendlier to lawbreakers, where even the *suspicion* of wrongdoing gets wiped from the record. ★ That, it now appears, is exactly how the Securities and Exchange Commission has been treating the Wall Street criminals who cratered the global economy a few years back. For the past two decades, according to a whistle-blower at the SEC who recently came

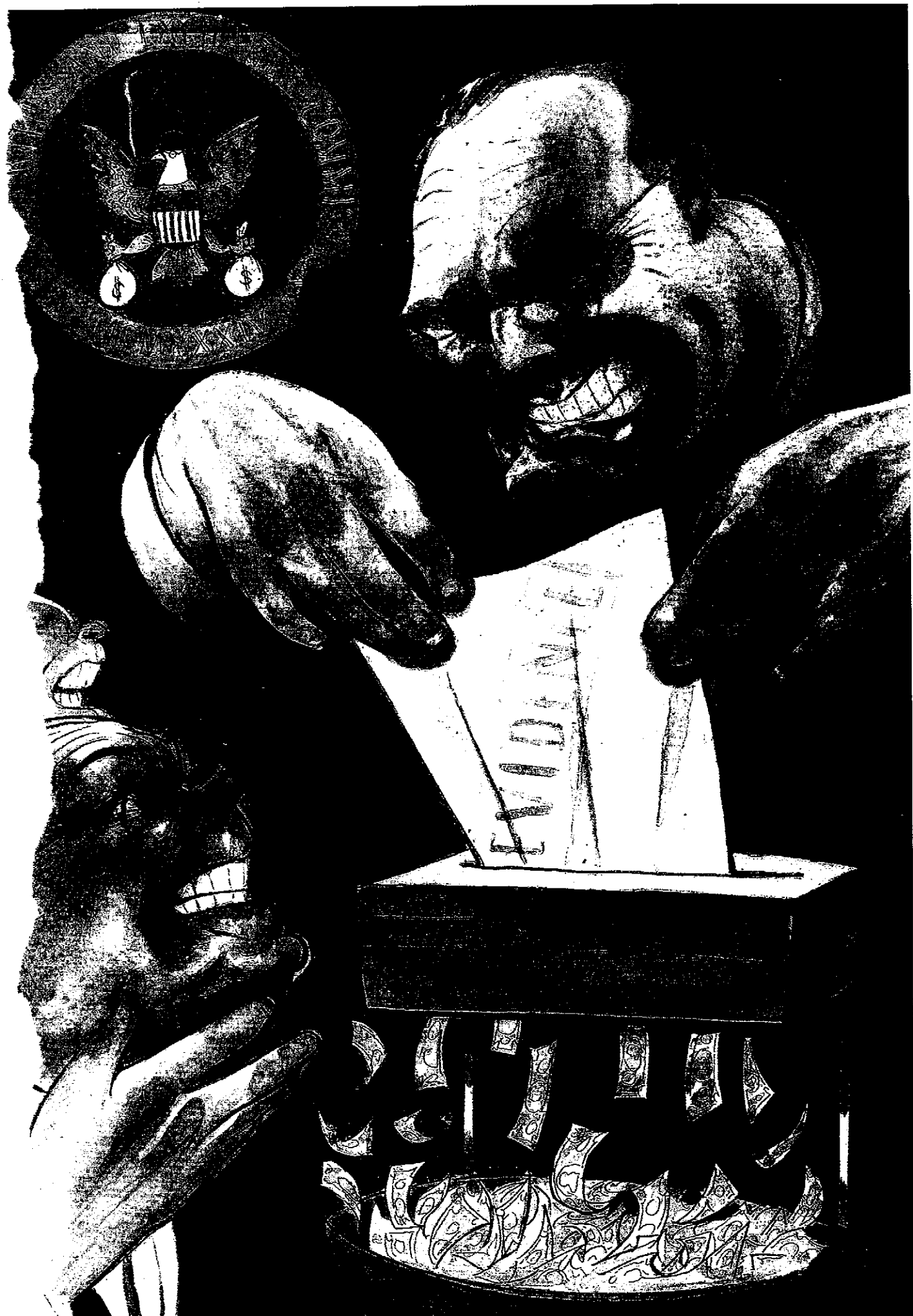
forward to Congress, the agency has been systematically destroying records of its preliminary investigations once they are closed. By whitewashing the files of some of the nation’s worst financial criminals, the SEC has kept an entire generation of federal investigators in the dark about past inquiries into insider trading, fraud and market manipulation against companies like Goldman Sachs, Deutsche Bank and AIG. With a few strokes of the keyboard, the evidence gathered during thousands of investigations – “18,000...including Madoff,” as one high-ranking SEC official put it during a panicked meeting about the destruction – have apparently disappeared forever into the wormhole of history.

Under a deal the SEC worked out with the National Archives and Records Administration, all of the agency’s records – “including case files relating to preliminary investigations” – are supposed to be maintained for at least 25 years. But the SEC, using history-altering practices that for once actually deserve the overused and usually hysterical term “Orwellian,” devised an elaborate and possibly illegal system under which staffers were directed to dispose of the documents from any preliminary inquiry that did not receive approval from senior staff to become

a full-blown, formal investigation. Amazingly, the wholesale destruction of the cases – known as MUIs, or “Matters Under Inquiry” – was not something done on the sly, in secret. The enforcement division of the SEC even spelled out the procedure in writing, on the commission’s internal website. “After you have closed a MUI that has not become an investigation,” the site advised staffers, “you should dispose of any documents obtained in connection with the MUI.”

Many of the destroyed files involved companies and individuals who would later play prominent roles in the economic meltdown of 2008. Two MUIs involving con artist Bernie Madoff vanished. So did a 2002 inquiry into financial fraud at Lehman Brothers, as well as a 2005 case of insider trading at the same soon-to-be-bankrupt bank. A 2009 preliminary investigation of insider trading by Goldman Sachs was deleted, along with records for at least three cases involving the infamous hedge fund SAC Capital.

The widespread destruction of records was brought to the attention of Congress in July, when an SEC attorney named Darcy Flynn decided to blow the whistle. According to Flynn, who was responsible for helping to manage the commission’s records, the



SEC has been destroying records of preliminary investigations since at least 1993. After he alerted NARA to the problem, Flynn reports, senior staff at the SEC scrambled to hide the commission's improprieties.

As a federally protected whistle-blower, Flynn is not permitted to speak to the press. But in evidence he presented to the SEC's inspector general and three congressional committees earlier this summer, the 13-year veteran of the agency paints a startling picture of a federal police force that has effectively been conquered by the financial criminals it is charged with investigating. In at least one case, according to Flynn, investigators at the SEC found their desire to investigate an influential bank thwarted by senior officials in the enforcement division – whose director turned around and accepted a lucrative job from the very same bank they had been prevented from investigating. In another case, the agency farmed out its inquiry to a private law firm – one hired by the company under investigation. The outside firm, unsurprisingly, concluded that no further investigation of its client was necessary. To complete the bureaucratic laundering process, Flynn says, the SEC dropped the case and destroyed the files.

Much has been made in recent months of the government's glaring failure to police Wall Street; to date, federal and state prosecutors have yet to put a single senior Wall Street executive behind bars for any of the many well-documented crimes related to the financial crisis. Indeed, Flynn's accusations dovetail with a recent series of damaging critiques of the SEC made by reporters, watchdog groups and members of Congress, all of which seem to indicate that top federal regulators spend more time lurching, schmoozing and job-interviewing with Wall Street crooks than they do catching them. As one former SEC staffer describes it, the agency is now filled with so many Wall Street hotshots from oft-investigated banks that it has been "infected with the Goldman mindset from within."

The destruction of records by the SEC, as outlined by Flynn, is something far more than an administrative accident or bureaucratic fuck-up. It's a symptom of the agency's terminal brain damage. Somewhere along the line, those at the SEC responsible for policing America's banks fell and hit their head on a big pile of Wall Street's money – a blow from which the agency has never recovered. "From what I've seen, it looks as if the SEC might have sanctioned some level of case-related document destruction," says Sen. Chuck Grassley, the ranking Republican on the Senate Judiciary Committee, whose staff has interviewed Flynn. "It doesn't make sense that an agency responsible for investigations would want to get rid of potential evidence. If these charges are true, the agency needs to explain why it destroyed documents, how many documents it destroyed over what time frame and to what extent its actions were consistent with the law."

HOW DID OFFICIALS AT THE SEC WIND UP WITH A faithful veteran employee – a conservative, mid-level attorney described as a highly reluctant whistle-blower – spilling the agency's most sordid secrets to Congress? In a way, they asked for it.

On May 18th of this year, SEC enforcement director Robert Khuzami sent out a mass e-mail to the agency's staff with the subject line "Lawyers Behaving Badly." In it, Khuzami asked his subordinates to report any experiences they might have

had where "the behavior of counsel representing clients in... investigations has been questionable."

Khuzami was asking staffers to recount any stories of *outside* counsel behaving unethically. But Flynn apparently thought his boss was looking for examples of lawyers "behaving badly" anywhere, including *within* the SEC. And he had a story to share he'd kept a lid on for years. "Mr. Khuzami may have gotten something more than he expected," Flynn's lawyer, a former SEC whistle-blower named Gary Aguirre, later explained to Congress.

Flynn responded to Khuzami with a letter laying out one such example of misbehaving lawyers within the SEC. It involved a case from very early in Flynn's career, back in 2000, when he was working with a group of investigators who thought they had a "slam-dunk" case against Deutsche Bank, the German financial giant. A few years earlier, Rolf Breuer, the bank's CEO, had given an interview to *Der Spiegel* in which he denied that Deutsche was involved in *übernahmegespräche* – takeover talks – to acquire a rival American firm, Bankers Trust. But the statement was apparently untrue – and it sent the stock of Bankers Trust tumbling, potentially lowering the price for the merger. Flynn and his fellow SEC investigators, suspecting that investors of Bankers Trust had been defrauded, opened a MUI on the case.

A Matter Under Inquiry is just a preliminary sort of look-see –

a way for the SEC to check out the multitude of tips it gets about suspicious trades, shady stock scams and false disclosures, and to determine which of the accusations merit a formal investigation. At the MUI stage, an SEC investigator can conduct interviews or ask a bank to send in information voluntarily. In the Deutsche case, Flynn and other SEC investigators collected sworn testimony and documents indicating that plenty of *übernahmegespräche* indeed had been going on when Breuer spoke to *Der Spiegel*. Based on the evidence, they sent an "Action Memorandum" to senior SEC staff, formally recommending that the agency press forward and transform the MUI into a full-blown fraud case against Deutsche. Bumping a MUI up to a formal investiga-



WHO'S THE BOSS?

The SEC's top enforcement official, Robert Khuzami, came to the agency directly from Deutsche Bank.

tion is critical, because it enables investigators to pull out the full law-enforcement ass-kicking measures – subpoenas, depositions, everything short of hot pokers and waterboarding.

Breuer responded to the threat as big banks like Deutsche often do: He hired a former SEC enforcement director to lobby the agency to back off. The ex-insider, Gary Lynch, launched a creative and inspired defense, producing a linguistic expert who argued that *übernahmegespräche* only means "advanced stage of discussions." Nevertheless, the request to launch a formal investigation was approved by several levels of the SEC's staff. All that was needed to proceed was a thumbs-up from the director of enforcement at the time, Richard Walker.

But then a curious thing happened. On July 10th, 2001, Flynn and the other investigators were informed that Walker was mysteriously recusing himself from the Deutsche case. Two weeks later, on July 23rd, the enforcement division sent a letter to Deutsche that read, "Inquiry in the above-captioned matter has been terminated." The bank was in the clear; the SEC was not launching a fraud investigation. In contradiction to the agency's usual practice, it provided no explanation for its decision to close the case.

On October 1st of that year, the mystery was solved: Dick Walker was named general counsel of Deutsche. Less than 10 weeks after the SEC had refused to investigate the bank,

the agency's director of enforcement was handed a cushy, high-priced job at Deutsche.

Deutsche's influence in the case didn't stop there. A few years later, in 2004, Walker hired none other than Robert Khuzami, a young federal prosecutor, to join him at Deutsche. The two would remain at the bank until February 2009, when Khuzami joined the SEC as Flynn's new boss in the enforcement division. When Flynn sent his letter to Khuzami complaining about misbehavior by Walker, he was calling out Khuzami's own mentor.

The circular nature of the case illustrates the revolving-door dynamic that has become pervasive at the SEC. A recent study by the Project on Government Oversight found that over the past five years, former SEC personnel filed 789 notices disclosing their intent to represent outside companies before the agency – sometimes within *days* of their having left the SEC. More than half of the disclosures came from the agency's enforcement division, who went to bat for the financial industry four times more often than ex-staffers from other wings of the SEC.

Even a cursory glance at a list of the agency's most recent enforcement directors makes it clear that the SEC's top policemen almost always wind up jumping straight to jobs representing the banks they were supposed to regulate. Lynch, who represented Deutsche in the Flynn case, served as the agency's enforcement chief from 1985 to 1989, before moving to the firm of Davis Polk, which boasts many top Wall Street clients. He was succeeded by William McLucas, who left the SEC in 1998 to work for WilmerHale, a Wall Street defense firm so notorious for snatching up top agency veterans that it is sometimes referred to as "SEC West." McLucas was followed by Dick Walker, who defected to Deutsche in 2001, and he was in turn followed by Stephen

AFTER THE DEUTSCHE FIASCO OVER BANKERS Trust, Flynn continued to work at the SEC for four more years. He briefly left the agency to dabble in real estate, then returned in 2008 to serve as an attorney in the enforcement division. In January 2010, he accepted new responsibilities that included helping to manage the disposition of records for the division – and it was then he first became aware of the agency's possibly unlawful destruction of MUI records.

Flynn discovered a directive on the enforcement division's internal website ordering staff to destroy "any records obtained in connection" with closed MUIs. The directive appeared to violate federal law, which gives responsibility for maintaining and destroying all records to the National Archives and Records Administration. Over a decade earlier, in fact, the SEC had struck a deal with NARA stipulating that investigative records were to be maintained for 25 years – and that if any files were to be destroyed after that, the shredding was to be done by NARA, not the SEC.

But Flynn soon learned that the records for thousands of preliminary investigations no longer existed. In his letter to Congress, Flynn estimates that the practice of destroying MUIs had begun as early as 1993, and has resulted in at least 9,000 case files being destroyed. For all the thousands of tips that had come in to the SEC, and the thousands of interviews that had been conducted by the agency's staff, all that remained were a few perfunctory lines for each case. The mountains of evidence gathered were no longer in existence.

To read through the list of dead and buried cases that Flynn submitted to Congress is like looking through an infrared camera at a haunted house of the financial crisis, with the ghosts of

The destroyed files involved some of the biggest players in the financial meltdown: AIG, Lehman, Goldman Sachs.

Cutler, who now serves as general counsel for JP Morgan Chase. Next came Linda Chatman Thomsen, who stepped down to join Davis Polk, only to be succeeded in 2009 by Khuzami, Walker's former protégé at Deutsche Bank.

This merry-go-round of current and former enforcement directors has repeatedly led to accusations of improprieties. In 2008, in a case cited by the SEC inspector general, Thomsen went out of her way to pass along valuable information to Cutler, the former enforcement director who had gone to work for JP Morgan. According to the inspector general, Thomsen signaled Cutler that the SEC was unlikely to take action that would hamper JP Morgan's move to buy up Bear Stearns. In another case, the inspector general found, an assistant director of enforcement was instrumental in slowing down an investigation into the \$7 billion Ponzi scheme allegedly run by Texas con artist R. Allen Stanford – and then left the SEC to work for Stanford, despite explicitly being denied permission to do so by the agency's ethics office. "Every lawyer in Texas and beyond is going to get rich on this case, OK?" the official later explained. "I hated being on the sidelines."

Small wonder, then, that SEC staffers often have trouble getting their bosses to approve full-blown investigations against even the most blatant financial criminals. For a fledgling MUI to become a formal investigation, it has to make the treacherous leap from the lower rungs of career-level staffers like Flynn all the way up to the revolving-door level at the top, where senior management is composed largely of high-priced appointees from the private sector who have strong social and professional ties to the very banks they are charged with regulating. And if senior management didn't approve an investigation, the documents often wound up being destroyed – as Flynn would later discover.

missed prosecutions flashing back and forth across the screen. A snippet of the list:

PARTY	MUI #	OPENED/CLOSED	ISSUE
Goldman Sachs	MLA-01909	6/99 - 4/00	Market Manipulation
Deutsche Bank	MHO-09356	11/01 - 7/02	Insider Trading
Deutsche Bank	MHO-09432	2/02 - 8/02	Market Manipulation
Lehman Brothers	MNY-07013	3/02 - 7/02	Financial Fraud
Goldman Sachs	MNY-08198	11/09 - 12/09	Insider Trading

One MUI – case MNY-08145 – involved allegations of insider trading at AIG on September 15th, 2008, right in the middle of the insurance giant's collapse. In that case, an AIG employee named Jacqueline Millan reported irregularities in the trading of AIG stock to her superiors, only to find herself fired. Incredibly, instead of looking into the matter itself, the SEC agreed to accept "an internal investigation by outside counsel or AIG." The last note in the file indicates that "the staff plans to speak with the outside attorneys on Monday, August 24th [2009], when they will share their findings with us." The fact that the SEC trusted AIG's lawyers to investigate the matter shows the basic backwardness of the agency's approach to these crash-era investigations. The SEC formally closed the case on October 1st, 2009.

The episode with AIG highlights yet another obstacle that MUIs experience on the road to becoming formal investigations. During the past decade, the SEC routinely began allowing financial firms to investigate themselves. Imagine the LAPD politely asking a gang of Crips and their lawyers to issue a report on whether or not a drive-by shooting by the Crips should be brought before a grand jury – that's basically how the SEC now handles many preliminary investigations against Wall Street targets.

The evolution toward this self-policing model began in 2001, when a shipping and food-service conglomerate called Seaboard aggressively investigated an isolated case of accounting fraud at one of its subsidiaries. Seaboard fired the guilty parties and made sweeping changes to its internal practices – and the SEC was so impressed that it instituted a new policy of giving “credit” to companies that police themselves. In practice, that means the agency simply steps aside and allows companies to slap themselves on the wrists. In the case against Seaboard, for instance, the SEC rewarded the firm by issuing no fines against it.

According to Lynn Turner, a former chief accountant at the SEC, the Seaboard case also prompted the SEC to begin permitting companies to hire their own counsel to conduct their own inquiries. At first, he says, the process worked fairly well. But then President Bush appointed the notoriously industry-friendly Christopher Cox to head up the SEC, and the “outside investigations” turned into whitewash jobs. “The investigations nowadays are probably not worth the money you spend on them,” Turner says.

Harry Markopolos, a certified fraud examiner best known for sounding a famously unheeded warning about Bernie Madoff way back in 2000, says the SEC’s practice of asking suspects to investigate themselves is absurd. In a serious investigation, he says, “the last person you want to trust is the person being accused or their lawyer.” The practice helped Madoff escape for years. “The SEC took Bernie’s word for everything,” Markopolos says.

AT THE SEC, HAVING REALIZED THAT THE AGENCY was destroying documents, Flynn became concerned that he was overseeing an illegal policy. So in the summer of last year, he reached out to NARA, asking them for guidance on the issue.

That request sparked a worried response from Paul Wester, NARA’s director of modern records. On July 29th, 2010, Wester sent a letter to Barry Walters, who oversees document requests for the SEC. “We recently learned from Darcy Flynn... that for the past 17 years the SEC has been destroying closed Matters Under Inquiry files,” Wester wrote. “If you confirm that federal records have been destroyed improperly, please ensure that no further such disposals take place and provide us with a written report within 30 days.”

Wester copied the letter to Adam Storch, a former Goldman Sachs executive who less than a year earlier had been appointed as managing executive of the SEC’s enforcement division. Storch’s

appointment was not without controversy. “I’m not sure what’s scarier,” Daniel Indiviglio of *The Atlantic* observed, “that this guy worked at an investment bank that many believe has questionable ethics and too cozy a Washington connection, or that he’s just 29.” In any case, Storch reacted to the NARA letter the way the SEC often does – by circling the wagons and straining to find a way to blow off the problem without admitting anything.

Last August, as the clock wound down on NARA’s 30-day deadline, Storch and two top SEC lawyers held a meeting with Flynn to discuss how to respond. Flynn’s notes from the meeting, which he passed along to Congress, show the SEC staff wondering aloud if admitting the truth to NARA might be a bad idea, given the fact that there might be criminal liability.

“We could say that we do not believe there has been disposal inconsistent with the schedule,” Flynn quotes Ken Hall, an assistant chief counsel for the SEC, as saying.

“There are implications to admit what was destroyed,” Storch chimed in. It would be “not wise for me to take on the exposure voluntarily. If this leads to something, what rings in my ear is that Barry [Walters, the SEC documents officer] said: This is serious, could lead to criminal liability.”

When the subject of how many files were destroyed came up, Storch answered: “18,000 MUIs destroyed, including Madoff.”

Four days later, the SEC responded to NARA with a hilariously convoluted nondenial denial. “The Division is not aware of any specific instances of the destruction of records from any other MUI,” the letter states. “But we cannot say with certainty that no such documents have been destroyed over the past 17 years.” The letter goes on to add that “the Division has taken steps... to ensure that no MUI records are destroyed while we review this issue.”

Translation: Hey, maybe records were destroyed, maybe they weren’t. But if we *did* destroy records, we promise not to do it again – for now.

The SEC’s unwillingness to admit the extent of the wrongdoing left Flynn in a precarious position. The agency has a remarkably bad record when it comes to dealing with whistleblowers. Back in 2005, when Flynn’s attorney, Gary Aguirre, tried to pursue an insider-trading case against Pequot Capital that involved John Mack, the future CEO of Morgan Stanley, he was fired by phone while on vacation. Two Senate committees later determined that Aguirre, who has since opened a private practice representing whistle-blowers, was dismissed improperly as part of a “process of reprisal” by the SEC. Two whistle-

FROM PIT BULL TO LAP DOG

The SEC’s past five directors of enforcement have all left to work for Wall Street banks and law firms



Gary Lynch
1985-89

Left SEC to join Wall Street law firm Davis Polk. Personally lobbied the SEC to drop a fraud inquiry against the CEO of Deutsche Bank.



William McLucas
1989-98

Stepped down to work for WilmerHale, a Wall Street law firm so notorious for hiring federal regulators that it’s called “SEC West.”



Richard Walker
1998-2001

Named general counsel of Deutsche Bank just 10 weeks after his SEC division shut down a fraud investigation against the bank’s CEO.



Stephen Cutler
2001-05

As general counsel for JP Morgan Chase, got inside signals from the SEC that it was unlikely to hamper Morgan’s bid to buy Bear Stearns.



Linda Thomsen
2005-09

Followed Gary Lynch to Davis Polk, where she advises Wall Street firms on “matters related to the enforcement of the federal securities laws.”

blowers in the Stanford case, Julie Preuit and Joel Sauer, also experienced retaliation – including reprimands and demotions – after raising concerns about superficial investigations. “There’s no mechanism to raise these issues at the SEC,” says another former whistle-blower. Contacting the agency’s inspector general, he adds, is considered “the nuclear option” – a move “well-known to be a career-killer.”

In Flynn’s case, both he and Aguirre tried to keep the matter in-house, appealing to SEC chairman Mary Schapiro with a promise not to go outside the agency if she would grant Flynn protection against reprisal. When no such offer was forthcoming, Flynn went to the agency’s inspector general before sending a detailed letter about the wrongdoing to three congressional committees.

One of the offices Flynn contacted was that of Sen. Grassley, who was in the midst of his own battle with the SEC. Frustrated with the agency’s failure to punish major players on Wall Street, the Iowa Republican had begun an investigation into how the SEC follows up on outside complaints. Specifically, he wrote a letter to FINRA, another regulatory agency, to ask how many complaints it had referred to the SEC about SAC Capital, the hedge fund run by reptilian billionaire short-seller Stevie Cohen.

SAC has long been accused of a variety of improprieties, from insider trading to harassment. But no charge in recent Wall Street history is crazier than an episode involving a SAC executive named Ping Jiang, who was accused in 2006 of enacting a torturous hazing program. According to a civil lawsuit that was later dropped, Jiang allegedly forced a new trader named Andrew Tong to take female hormones, come to work wearing a dress and lipstick, have “foreign objects” inserted in his rectum, and allow Jiang to urinate in his mouth. (I’m not making this up.)

ing their response,” says Laurence Brewer, a records officer for NARA. For its part, the SEC is trying to explain away the illegality of its actions through a semantic trick. John Nester, the agency’s spokesman, acknowledges that “documents related to MUIs” have been destroyed. “I don’t have any reason to believe that it hasn’t always been the policy,” he says. But Nester suggests that such documents do not “meet the federal definition of a record,” and therefore don’t have to be preserved under federal law.

But even if SEC officials manage to dodge criminal charges, it won’t change what happened: The nation’s top financial police destroyed more than a decade’s worth of intelligence they had gathered on some of Wall Street’s most egregious offenders. “The SEC not keeping the MUIs – you can see why this would be bad,” says Markopolos, the fraud examiner famous for breaking the Mad-off case. “The reason you would want to keep them is to build a pattern. That way, if you get five MUIs over a period of 20 years on something similar involving the same company, you should be able to connect five dots and say, ‘You know, I’ve had five MUIs – they’re probably doing something. Let’s go tear the place apart.’” Destroy the MUIs, and Wall Street banks can commit the exact same crime over and over, without anyone ever knowing.

REGULATION ISN’T A PANACEA. THE SEC COULD have placed federal agents on every corner of lower Manhattan throughout the past decade, and it might not have put a dent in the massive wave of corruption and fraud that left the economy in flames three years ago. And even if SEC staffers from top to bottom had been fully committed to rooting out financial corruption, the agency would still have been seriously hampered by a lack of re-

“This could lead to criminal liability,” a top SEC official fretted at a panicked meeting about the destroyed case files.

Grassley learned that over the past decade, FINRA had referred 19 complaints about suspicious trades at SAC to federal regulators. Curious to see how many of those referrals had been looked into, Grassley wrote the SEC on May 24th, asking for evidence that the agency had properly investigated the cases.

Two weeks later, on June 9th, Khuzami sent Grassley a surprisingly brusque answer: “We generally do not comment on the status of investigations or related referrals, and, in turn, are not providing information concerning the specific FINRA referrals you identified.” Translation: We’re not giving you the records, so blow us.

Grassley later found out from FINRA that it had actually referred 65 cases about SAC to the SEC, making the lack of serious investigations even more inexplicable. Angered by Khuzami’s response, he sent the SEC another letter on June 15th demanding an explanation, but no answer has been forthcoming.

In the interim, Grassley’s office was contacted by Flynn, who explained that among the missing MUIs he had uncovered were at least three involving SAC – one in 2006, one in 2007 and one in 2010, involving charges of insider trading and currency manipulation. All three cases were closed by the SEC, and the records apparently destroyed.

On August 17th, Grassley sent a letter to the SEC about the Flynn allegations, demanding to know if it was indeed true that the SEC had destroyed records. He also asked if the agency’s failure to produce evidence of investigations into SAC Capital were related to the missing MUIs.

The SEC’s inspector general is investigating the destroyed MUIs and plans to issue a report. NARA is also seeking answers. “We’ve asked the SEC to look into the matter and we’re await-

sources that often forces it to abandon promising cases due to a shortage of manpower. “It’s always a triage,” is how one SEC veteran puts it. “And it’s worse now.”

But we’re equally in the dark about another hypothetical. Forget about what might have been if the SEC had followed up in earnest on *all* of those lost MUIs. What if even a handful of them had turned into real cases? How many investors might have been saved from crushing losses if Lehman Brothers had been forced to reveal its shady accounting way back in 2002? Might the need for taxpayer bailouts have been lessened had fraud cases against Citigroup and Bank of America been pursued in 2005 and 2007? And would the U.S. government have doubled down on its bailout of AIG if it had known that some of the firm’s executives were suspected of insider trading in September 2008?

It goes without saying that no ordinary law-enforcement agency would willingly destroy its own evidence. In fact, when it comes to garden-variety crooks, more and more police agencies are catching criminals with the aid of large and well-maintained databases. “Street-level law enforcement is increasingly data-driven,” says Bill Laufer, a criminology professor at the University of Pennsylvania. “For a host of reasons, though, we are starved for good data on both white-collar and corporate crime. So the idea that we would take the little data we do have and shred it, without a legal requirement to do so, calls for a very creative explanation.”

We’ll never know what the impact of those destroyed cases might have been; we’ll never know if those cases were closed for good reasons or bad. We’ll never know exactly who got away with what, because federal regulators have weighted down a huge sack of Wall Street’s dirty laundry and dumped it in a lake, never to be seen again. **2**