



# American Board of Criminal Lawyers

## THE ROUNDTABLE

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Vol. MMIV, No. 2 **New York Review of Books** February 2014

January 9, 2014 Issue

### The Financial Crisis: Why Have No High-Level Executives Been Prosecuted?

#### COMMENTARY



**REQUIRED READING BEFORE YOUR NEXT FRAUD SENTENCING—**  
The Financial Crisis: Why Have No High-Level Executives Been Prosecuted? by Jed S. Rakoff  
— *New York Review of Books*, January 9, 2014



"WHO STOLE THE PEOPLE'S MONEY?" — DO TELL. NYTIMES.

Five years have passed since the onset of what is sometimes called the Great Recession. While the economy has slowly improved, there are still millions of Americans leading lives of quiet desperation: without jobs, without resources, without hope.

Who was to blame? Was it simply a result of negligence, of the kind of inordinate risk-taking commonly called a "bubble," of an imprudent but innocent failure to maintain adequate reserves for a rainy day? Or was it the result, at least in part, of fraudulent practices, of dubious mortgages portrayed as sound risks and packaged into ever more esoteric financial instruments, the fundamental weaknesses of which were intentionally obscured?



**Mobile man found not guilty of murder, guilty of lesser offense in 2011 death of a 2-year-old**  
January 16, 2014

**MOBILE, Alabama** — A jury has found a 23-year-old man guilty of criminally negligent homicide in the 2011 death of a 2-year-old boy who was suspected of drowning to death.

After deliberating for an entire day, jurors found Kevin Rashad Guy guilty of a misdemeanor in the death of his girlfriend's son, LaDarius Lucas.

"We're disappointed that the jury returned a verdict of guilty on a lesser-included charge of criminally negligent homicide," said Mobile County District Attorney Ashley Rich, noting that the charge is a misdemeanor that carries up to one year in jail.

"This child was not just drowned," Rich said. "This child was beaten with a belt multiple times."

Guy was charged with murder in 2012 after Dr. Eugene Hart, a medical examiner with the Alabama Department of Forensic Sciences, ruled LaDarius's death a homicide. The ruling was made in light of a 911 call placed by Guy after the child's death, after Hart found there was no other explanation for LaDarius's death.

"It was a key point of contention in the trial and one which defense attorney **Jeff Deen** credited for helping the jury find Guy guilty of criminally negligent homicide as opposed to murder.

"I can see why the jury would reach such a verdict," Deen said. "Of course, we wanted it to be not guilty. The jury found that if he (Guy) had been more attentive, then we could have avoided this tragedy."

**BUSTED IN VEGAS?  
GOTTA CALL DAVID CHESNOFF**



If you're a celebrity in hot water, this is the profile you want to see by your side.

(for the rest of this 7-page article, go to:  
<http://vegasmagazine.com/personalities/articles/busted-in-vegas-gotta-call-david-chesnoff>)

**BBC News: Row over 'agonising' Ohio execution of killer Dennis McGuire (17 January 2014)**

**US lawyers are preparing to challenge Ohio's choice of death-penalty drugs after a murderer took 25 minutes to die from a new cocktail of chemicals.**

Dennis McGuire, 53, suffered an "agonising" death in violation of his constitutional rights, lawyers said.

McGuire family lawyer **Jon Paul Rion** says he intends to launch a legal challenge against the new drug. Witnesses said McGuire, who raped and killed a pregnant woman in 1989, gasped for at least 10 minutes before he died. "He gasped deeply, there was kind of a rattling, guttural sound, there was kind of a snorting through his nose," said one unidentified witness.

"A couple of times he definitely appeared to be choking."

Ohio was forced to change its lethal injection to a new two-drug cocktail after the Danish maker of the previous execution drug refused to allow its use in capital punishment.

Mr Rion said the execution amounted to "cruel and unusual" punishment that violated the Eighth Amendment of the US constitution. He said he would hold a news conference later to announce a legal challenge. Analysts said it was one of the longest executions since Ohio resumed capital punishment in 1999. McGuire's defence lawyer Allen Bohnert said his death was "a failed, agonising experiment". "The people of the state of Ohio should be appalled at what was done here today in their names," he said.



Fellow **Gerry Goldstein** at his 70<sup>th</sup> Birthday bash on top of Aspen Mountain. Also present ABCL members **Ed Garland, Victor Sherman, Raymond Brown** and me (**Richard Hirsch**). First Lady Jenny Mika also in attendance.

Hirsch for TMZ.

# Follow the e-mail trail

By Steve Young

When the Internet first came to fruition, who could have imagined that it could be a conduit of anything other than rapidly delivering photos of your cat to untold numbers of strangers or replacing paper copies of National Geographic aborigine nudes with highly developed porn? But today technology serves an even greater societal good: It reveals self-centered, often illegal, scandalous behavior. An even larger bombshell: So-called intelligent politicians have yet to recognize that their electronic communications are accessible. Perhaps power supersedes common sense.

How much more quickly could we have resolved misdeeds of the past if e-mail technology were available?

**From: Richard Nixon**

**Subject: Petty break-in**

Bob, John, as I have told you, I continue to know nothing about the details of the Watergate break-in that you've been updating me about for the past few weeks. But if I did know about it, which I don't and never did, I think it might be a good time for a cover-up.

Dick

**From: Bob Haldeman**

<coconspirator@flatop.com> Got it. I'll let Dean know. They'd have to kill his firstborn to get anything out of him.

Bob

**From: Chief Crazy Horse**

<CCH@notsocrazy.com> Subject: Custer's Soon-To-Be-Last Stand

Time for a little traffic jam at Little Bighorn. You're not going to believe this, but General Dimwad thinks we're only bringing 800 warriors to the party. How about we



KRT Photo

bring about 1,000 more? You know, for laughs. What say you, SB?

CCH

**From: Sitting Bull**

<SB@siouxme-siouxyou.com>

ROFLMAO. Break treaties, will they? I'm thinking 2,000 more. But don't send any smoke signals. Buffalo hides have ears.

Bull

**From: John W. Booth**

**Subject: Too Theatrical?**

Hey, Mary. Instead of running a rock-solid oppositional nominee against Abe to debate the issues, let's find another way to take care of a beloved sitting president while his horrified wife sits by his side. Your thoughts?

Boothy

**From: Mary Surratt**

<owner@surrattsb&b.com>

OMG. Such a well-thought-out plan. Just try to do it where they would least expect it. You know, in front of hundreds of people who can identify you and where you'd have to leap a great enough distance that you could break your leg.

Mar

**From: High Priest's Office**

<headguy@renderuntocesar.com>

**Subject: You could already be a 30-silver-coin winner**

Judas, my friend, we'd like to ask the J-man a few questions. No big deal. Really, the boys here would love to find out how to do the water-into-wine thing. Maybe teach some of us how to walk on water.

If you could just kiss and tell for us, we'd be eternally thankful. And who couldn't use an extra 30 silver coins?

Read but not signed, Morty

**From: Judas Iscariot**

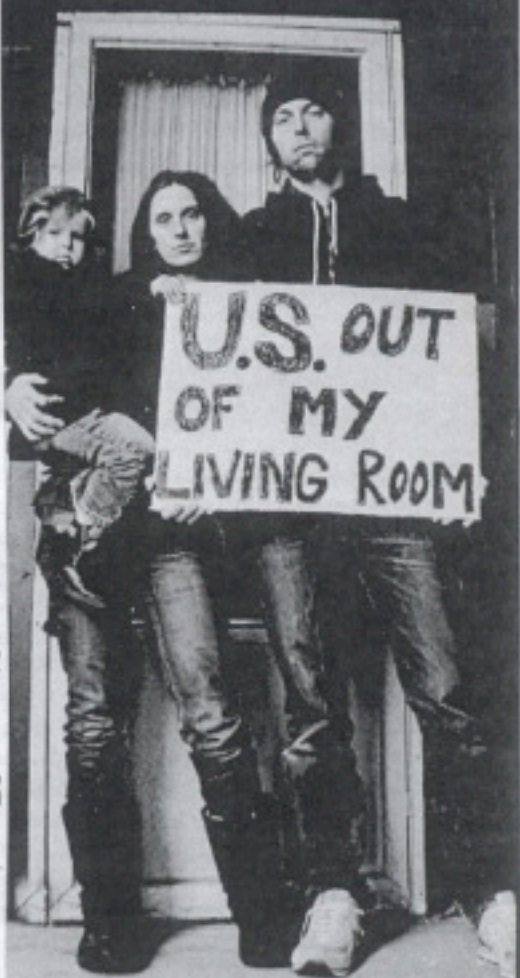
<HeyJude@12Apostles.com>

If you're sure you will let him go after talking to him. He's a good guy, but if his dad finds out —

Judas

Steve Young is the author of "Great Failures of the Extremely Successful: Mistakes, Adversity, Failure and Other Steppingstones to Success" @ theothersteveyoung@juno.com

"Plus ça change..."



## Betting on Vegas

*Oscar Goodman L'64 is known for many things, most notably his career as a high-profile mob lawyer and his three terms as the (extremely) colorful mayor of Las Vegas. But urban planner? Not so much. In his recently published autobiography, Being Oscar: From Mob Lawyer to Mayor of Las Vegas—Only in America (co-written with George Anastasia, published by Weinstein Books), he discusses his efforts to revitalize the downtown area of Sin City.*

**I was still obsessed with the idea of revitalizing the downtown, particularly the area**

east of the railroad tracks, and even after [Steve] Wynn [C'63 Hon'o6], [Jackie] Gaughan, and some other early supporters backed away, I pushed forward. The city's inner core is separated by railroad tracks. The west side was basically an old railroad yard that had sat fallow for over a quarter of a century. The east side had Fremont Street and what was left of a financial district. It had no energy, and it bred lethargy.

Part of my thought process was preserving the city's history. Las Vegas hadn't done much of that; implosion was the first thought when it came to redevelopment. Blow up the old buildings and put up new ones. That's how we lost classic casino-hotels like the Dunes, the Stardust, the Sands, the Hacienda, the Landmark, and the Desert Inn. When I took office, the old post office and courthouse building, where I had tried my first federal case, were sitting empty down the street from City Hall. It was a great old structure and I didn't want to see it go. I figured it could be a cornerstone for the downtown's revitalization, and eventually it was.

But first I had to build my river. Las Vegas is in the middle of the world's driest desert, so you don't need to tell people how important water is. But water is also symbolic; it's nurturing, replenishing, and a source of life and of energy. I decided the way to get life back to the downtown area was to build a river, so I got the city engineers involved.

There was a vacant piece of city-owned land between Fourth Street and Las Vegas Boulevard near the new federal courthouse and an abandoned former elementary school that had been a police substation. That was where I wanted my river, and the engineers made it happen. Now, "river" may be a bit of an exaggeration. "Man-made rivulet" is probably more accurate. The water is re-circulated, cascading along a culvert that is about three feet wide. But the area along both banks has been cleaned up, and there are plants and trees and benches where people can sit and relax, eat their lunch, read the paper. A plaque on an adjoining wall calls it "Oscar's River." I wanted it to be a place that had life. What I had in mind for the old police substation and the area around it was to convert it into an agora. The ancient Greeks used to have open spaces in the middle of the city that would serve as meeting places for citizens. I pictured Plato and Socrates meeting and talking with people, debating, philosophizing.

They were more than just places; they were a way of life, a way to communicate, to interact. The great European cities have something



### Excerpt

when I began promoting the idea. "What's Goodman doing, building a monument to himself?" they asked. "He's glorifying his old killer clients."

Then the Italian-Americans weighed in. They were certain that I was going to vilify them. I faced a lynch-mob-like crowd in a packed room at the Justinian Club, and tried to assure them that they had no fear of defamation.

"The mob I was thinking of being featured in the museum," I told them, "came from Bugsy Siegel, Meyer Lansky, Mo Dalitz, Gus Greenbaum, Frank Rosenthal, and Oscar Goodman. It was the Jewish mob, and if this museum turns out the way I think it will, you'll be begging me to let some Italians in."

I was joking, of course, but it didn't do much to assuage their feelings. I pulled a brilliant move, though, which cooled off all the naysayers. I was able to persuade Ellen Knowlton, who had just retired from the FBI, to become chairperson of the museum board. She went back to the Hoover Building in Washington, D.C., and convinced the folks back there that this was a worthwhile project. As a result, we're able to display legitimate law enforcement memorabilia along with organized crime artifacts. We've got state-of-the-art lie-detector equipment and we've got the barber chair where Albert Anastasia was killed. And we have the wall from the St. Valentine's Day Massacre, bullet holes and all. ...

The museum has made a big difference, but so have many of the other downtown developments. One of the first new buildings was a modern bank building that went up. The bank had been proposed, but then there was talk that it was going to be scuttled. I convinced the developer to stay in town and to build as originally planned.

We made the agora a cultural center, and it's now a place where we have poetry readings, plays, small concerts. It's an intellectual marketplace where they give music lessons to youngsters. I walk by and I hear music wafting out onto the street. People sit by the urban river or they sit in the park nearby and they see children walking by with violin cases. I joke about that, comparing it to the old Las Vegas. Anytime I'm having a discussion about what's happened, I'll say, "This is not the first time violin cases have been seen on the streets, but this time the cases contain violins." ♦

Excerpted from *Being Oscar: From Mob Lawyer to Mayor of Las Vegas—Only in America*. Copyright © 2013 by Oscar Goodman. Excerpted by permission of Weinstein Books, a member of the Perseus Books Group. All rights reserved.

Dear Steve: Each Xmas, as you will recall, the judges of the SDNY perform a skit and song, written by me, as part of a Courthouse Follies show put on the SDNY courthouse for the private amusement of all courthouse staff possessing an adolescent sense of humor. In the past, you have been foolish enough to publish the results in The Roundtable, thus reducing that publication to new depths. In furtherance of that dubious endeavor, I take the liberty of enclosing the judges' skit and song from the 2013 Courthouse Follies. All best, **Jed**

[Judges's skit and song, 2013 Courthouse Follies, by  
**Jed Rakoff**]

("RLE" = Ron Ellis; "JSR" = Jed Rakoff;  
"LMS" = Lisa Smith; "LTS" = Laura Swain)

RLE: [with exasperation] I hear we got *another* new judge on our court.  
LMS: [upbeat] Yes, isn't it great?  
LTS: [more cynical] Some of them are even out of diapers.  
JSR: Some have made it past their bar mitzvah.  
RLE: And some were even confirmed.  
LMS: You're not being fair. Remember when we all came on the court, and the older judges called us the "Clintonista's?"  
LTS: So what should we call these new judges?  
RLE: I've got it: the "Obama-nations."  
JSR: Let's face it: these new judges are smarter, shrewder, and tougher than we ever were.  
LMS: Yes, but not as good looking.  
LTS: Look, they may be talented; but they'll never compare with the giants of the past.  
RLE: You mean?  
LTS: Yes, Moses, Solomon, Jubilation T. Cornpone – they all sat on this court.  
JSR: And then there was the greatest of them all: Hieronymus Duckbill!  
All [reverentially]: Oooh!  
LTS: The only judge who ever read the parties' briefs.  
RLE: The only judge who understood ERISA.  
JSR: The only judge who sat for 5,000 years - and never closed a case.  
LMS: And whenever in the history of the law there was a major new development, Ducky was there, doing his part.  
LTS: You mean he is immortal?  
LMS: It's true. Ducky never died. He's was just sequestered.  
RLE: And all over the world, they still tell of his exploits. Listen, here:

"HIERONYMOUS DUCKBILL"

(Sung to the tune of "Jubilation T. Cornpone" by Johnny Mercer and Gene De Paul, from the musical "Li'l Abner")

LTS: God gave ten commandments, but  
Those tablets sure were a mass.  
So to bring them down the mount  
Who served as Moses's ass?  
Why it was Hieronymus Duckbill,  
All sweaty and muck filled,  
Hieronymus Duckbill,  
The judge who was an ass.  
JSR: John was such an evil King,  
The Barons had to respond.  
As they asked for Magna Carte,  
Who asked to use the King's john?  
ALL: Why it was Hieronymus Duckbill,  
JSR: All covered with yuck-fill.  
ALL: Hieronymus Duckbill,  
JSR: The baron of the john.  
LMS: Down in Philadelphia,  
Our nation took its first bow.  
As John Hancock signed his name,  
Who wiped the sweat from his brow.  
ALL: Why it was Hieronymus Duckbill,  
LMS: Just down on his luck still.  
ALL: Hieronymus Duckbill,  
LMS: He really was low brow.  
RLE: Duck was there when Rosa Parks,  
Refused to give up her place.  
As they led her off to jail,  
Who grabbed the open free space.  
ALL: Why it was Hieronymus Duckbill,  
RLE: Her seat he could just fill.  
ALL: Hieronymus Duckbill,  
RLE: His mind's an open space.  
ALL: Please don't think his days are gone,  
His ship has found a new port.  
You will see him sitting as  
A member now of our court.  
For we've got Hieronymus Duckbill:  
You think that our luck's ill?  
Hieronymus Duckbill,  
A member of our court.  
ALL: Yes, here's to Hieronymus Duckbill,  
His Honor, the schmuck still,  
Hieronymus Duckbill,  
A member of our Court.

P.S. from Joe Beeler:

Our Fellow, officially known as Hon **Jed Rakoff**, Senior United States District Judge, Southern District of New York, has just been appointed to the newly created National Commission on Forensic Science. His selection is another honor. Moreover, his acceptance bodes well for the improvement of forensic science.

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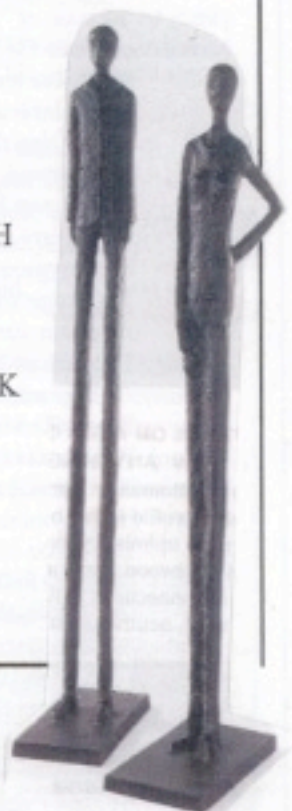
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### Future Meetings

February 7-8, 2014: Key West, FL

June 12-15, 2014: Aspen, CO

October 10-12, 2014: San Francisco, CA



*The RoundTable*

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