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Bringing Freud to Fraud: Understanding the State-of-Mind of the C-Level Suite/White Collar Offender through "A-B-C" Analysis

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BRINGING FREUD TO FRAUD:

UNDERSTANDING THE STATE-OF-MIND OF THE
C-LEVEL SUITE/WHITE COLLAR OFFENDER THROUGH "A-B-C" ANALYSIS

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Synopsis

In this paper we use a primarily "behavioral lens" (cf. Ramamoorti, 2008; Ramamoorti & Olsen, 2007) to try to understand the state-of-mind and motivations of the C-level suite/white collar offender before, during, and after the perpetration of management fraud. We offer a useful conceptual approach called "A-B-C Analysis" to understand the incidence of fraud from individual and group perspectives, as well as more macro-oriented, cultural/contextual levels. It is our hypothesis that fraud occurs either because of an individual criminal's calculated/intentional betrayal of trust, a duo or team of "bad boys" who push ethical envelopes, and/or an organizational/social/national culture of passivity, indifference or accommodation that is tantamount to condoning such behaviors. We have called it the Bad **A**pple, Bad **B**ushel, or Bad **C**rop Syndrome: the so-called ABCs of white collar crime. Our interdisciplinary review of the literature, spanning (social) psychology, sociology and criminology, psychoanalysis and psychiatry, and anthropology, as well as our collective experience as practicing fraud examiners, investigators and consultants, have yielded some rich insights including that:

(1) *Motivation for Fraud is Under-Hypothesized in Extant Literature:* The motivation for fraud is under-hypothesized by the so-called "fraud triangle" consisting of perceived opportunity, perceived pressure, and rationalization (ACFE *Fraud Examiners Manual*, 1995; Cressey, 1953), and that there exist other motivations such as those based on "fraudster's emotions" (e.g., revenge, social status comparisons, "crimes of passion" etc.), mastery of a situation or technique (e.g., a "catch-me-if-you-can" game), "self-interest or group interest," "noble cause corruption," etc. This expanded set of cognitive, conative, affective, and other motivational variables underlying the perpetration of fraud is better accounted for by psychologist Michael Apter's reversal theory (Apter, 1997, 2001, 2007a & 2007b). Fraud is frequently committed by manipulating human emotions.

(2) *Standard Legal Definition of Fraud is Undesirably Narrow*: The present legal definition of fraud as including "intent" or "scienter" as a key element may be undesirably narrow and constraining in adequately addressing the fraud problem; after all, you cannot "improve a (fraud detection) process without first understanding it." This finding has potentially significant future consequences for not only re-appraising the standard definition of fraud (e.g., Black's Law Dictionary, 1979) but also for criminology and law enforcement. We need a richer vocabulary and a deeper understanding of the underlying behavioral motivations for white collar crime.

(3) *Unpacking "Greed" has Explanatory Value*: There is considerable value to unpacking the common sense explanation for fraud, viz., greed, pure and simple. Without further delving into the meaning of the folk psychology term, "greed," why it manifests itself in different ways, in different times and in different cultures, it can only be called "labeling" and naming something does not and cannot constitute a valid and credible explanation. In this connection, the research stream in social psychology on "counterfactual thinking and reasoning" appears to have considerable explanatory promise and must be further explored (see Roese & Olson, 1995).

Towards the end of the paper we provide a list of research questions that could be useful to academic researchers in crafting a responsive research agenda that exploits insights from the behavioral sciences. Two appendices deal with special topics: Appendix 1 illustrates the value of taking an evolutionary psychology approach; Appendix 2, "Greed Takes the Blame," is a provocative editorial that explores "greed" as the prevailing conventional wisdom in accounting for fraud; and Appendix 3 suggests that academia is recognizing there may be more to finance than just rigorous economic foundations, incorporating behavioral insights is inexorable.

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OUR CURRENT UNDERSTANDING

"If everything seems under control, you're just not going fast enough."
-Mario Andretti

This quote, from the legendary Formula One race car driver, may be appropriate for competitive motor sports, but can present significant dangers when applied to the world of corporate finance and corporate governance.

Frauds, especially large corporate misdeeds, have broad impact through our economy. We therefore expect a lot from top executives in corporations and quasi-governmental institutions. We expect them to be stewards of the financial assets in their care and, at the same time, to be alert to the profit potential that might reside in a new product or service (i.e., value creation and value preservation). When this balance becomes tilted, the negative consequences can be severe.

At the time of our writing this paper in late-2009, a number of "bad things" have happened and are happening. The U.S. economy, and influenced by it, even the global economy is in a downward tailspin. Name firms on Wall Street have collapsed, are going bankrupt, and being acquired by their more prudent, and cautious, competitors. Government bailouts (e.g., AIG in the U.S., UBS in Switzerland) and intervention in sums of tens of billions of dollars is being debated and trillion-dollar stimulus packages and "Troubled Asset Relief Programs" (TARP) have been set in motion. The executives in question appear to have been masters in the art of spinning their stories, and especially their financial results in the best possible light, including by lobbying for a suspension of "mark-to-market" accounting.[1],[2]

[1] For excellent discussions of the use of language to influence public perception, see *Political Language*, Murray Edelman, NY: Academic Press, 1977; *Manufacturing Consent: A Propaganda Model*, Herman & Chomsky, NY: Pantheon Books, 1988; and Understanding Media: The Extensions of Man, by Marshall McLuhan, NY: McGraw Hill, 1964. See also "Crazy Eddie" Samuel Antar's website, http://www.whitecollarfraud.com/1583432.html, where he describes white collar crime as one involving persuasion and deceit, gentle and subtle intimidation, and the "art of spinning."

[2] **"**We would prefer to see the financial statements (using "mark-to-market accounting") reflect real economic volatility rather than a false sense of stability." –Credit Suisse Team in *Focusing on Fair Value Report* in June 2008.

Thus far, there are only minor allegations of fraud such as against the managers of a hedge fund at Bear Stearns, but the book is only open to the first page. Federal agencies, led by the FBI and SEC, have already begun probes at companies such as AIG that might take years to complete. We do know, of course, about the massive Ponzi schemes run by Bernard Madoff ($65 billion) and Sir Allen Stanford ($8 billion). More recently, the largest insider trading ring on Wall Street, with billionaire Mr. Raj Rajaratnam of Galleon Group at the center of it, has surfaced. Nevertheless, a historian of markets can easily scroll back but a few years and highlight clear examples of fraud in what is now called the "Enron era".

Much like "Watergate," Enron and "Enronitis" have become synonyms for the series of spectacular accounting misstatement frauds that littered the landscape with failed firms and billions of dollars of lost stockholders' and retirees' equity. Enough time has passed that the investigations are over, the trials are completed, and more than a few former stars of corporate finance are in jail. Scroll back a decade or more, and you encounter the "S&L" crisis and the "HMO" mess. Again, huge sums were lost, massive investigations were conducted, and people went to jail.

It is intriguing to consider whether we can revisit these earlier times to see what was of value in improving our understanding of the current issues we face.[3] Do longitudinal studies offer promise in understanding current issues? Could using a behavioral lens help us arrive at a superior understanding of fraud, which is, in the ultimate analysis, a human endeavor? (cf. Ramamoorti, 2008).

This backdrop highlights questions predicated on a central theme: Why do well-educated, well-paid, apparently "nice" people indulge in such conduct? Why does an individual commit fraud? Clearly, some of these C-level suite white-collar criminals are so wealthy that they would not appear to need the money. To understand their state-of-mind requires understanding fraud. Fraud is perhaps best defined by *Black's Law Dictionary* (Black, 1979) as:

> *All multifarious means which human ingenuity can devise, and which are resorted to by one individual to get an advantage over another by false suggestions or suppression of the truth. It includes all surprise, trick, cunning, or dissembling, and any unfair way which another is cheated.*

As compact as Black's definition is, "fraud" still encompasses a huge range of human activity. The word itself is malleable. Standing alone, "fraud" is a noun, as in "A fraud was committed." If we add "de" in front of it to form "defraud," it comes a verb, as in "Sam defrauded Bill." If we add "ulent" to the end of it, it becomes the adjective "fraudulent," as in "Dan engaged in fraudulent behavior." A multi-headed hydra in its diverse manifestations, even the word "fraud" appears capable of morphing itself as different parts of speech to suit the occasion.

Indeed, frauds take on a dizzying variety of forms, from the corporate frauds mentioned above, to the welfare recipient selling his or her food stamps at a discount to gain cash to buy alcohol or drugs, to the scam artist calling old people at home to sell them overpriced or worthless goods, to the person filing an inflated insurance claim.

[3] See, for example, *The Dialectics of the Savings and Loan Crisis and the Case of Silverado Banking, Savings, and Loan*, by Davita Silfen Glasberg, *The American Journal of Economics and Sociology*, October 1998. Also see *The Best Way to Rob a Bank is to Own One*, by William K. Black, Austin, TX: The University of Texas Press, 1995. (Note: Dr. William K. Black, also a lawyer but no relation to Henry C. Black, was the former Executive Director of the Institute for Fraud Prevention (IFP), which funded the current study).

This paper will focus on occupational fraud. According to Wells (1997), "occupational frauds" refer to:

> *The use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets*.

To narrow the focus further, for business-oriented reasons that will be explained, it is important to note this occupational fraud can be committed by a wide variety of people. Individuals have the potential to choose to steal in various ways from the organizations that employ them, from the warehouse worker who claims overtime he did not work, to the executive who produces inflated financial results to cash in his stock options at a better price.

FOCUS AT THE SENIOR MANAGEMENT LEVEL

This paper will concentrate on the activities of those at the top echelons of organizations: the "C" suite[4] executives who perpetrate fraud, often, and rather surprisingly, for no discernible reason. As noted before, such executives hold good positions, make good money, and have high standing in the community. Why do they risk it all by committing fraud, thereby putting their reputations and very freedom at risk, endangering their families, and causing harm to hundreds or many thousands of employees, retirees, and stockholders who trust them?

What do we know?

There is a fair amount of information known about these people, largely through the many media reports and books that massive frauds tend to spawn, but mainly through the work of the Association of Certified Fraud Examiners (ACFE).[5]

For over a decade, ACFE has compiled and published au useful resource for understanding the scope of fraud: the "Report To The Nation," (RTTN) which is a "where we are" analysis of occupational fraud in the United States. The numbers, discussed below, have been amazingly consistent over this ten year period—although such longitudinal consistency does not, *per se*, vouch for their accuracy.

Regarding methodology, RTTN is compiled by asking CFEs in the field to report their most significant or interesting fraud case in the past year. A number of questions must be answered, and these are compiled into the data that supports that year's RTTN. The CFEs are, for example, to estimate the percentage of revenue their employer loses to fraud. This number has ranged from 5 to 7 percent over a ten year period, and usually settles near 6 percent. ACFE then takes this percentage and applies it to the Gross National Product (GNP) of the United States for the given year, thus producing an estimate of the amount of occupational fraud (the only category

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[4] "C-suite" as a substitute for the suite of the CXOs, viz., CEO, COO, CFO, CIO, etc.

[5] ACFE, formed by Joseph T. Wells and a handful of colleagues in 1989, has made tremendous strides in the space of a little less than two decades. It now has over 50,000 members throughout the world, and its designation of "Certified Fraud Examiner," gained by passing a rigorous test, is recognized and prized by many individuals and institutions. Joseph Wells is the Chairman of the Board of Directors of the Institute for Fraud Prevention (IFP) that funded this study.

measured) for that year. In 2008, the most recent year reported in 2009, that figure began to approach $1 trillion.

From a methodological perspective, this survey data is weak. It is not objective. It cannot be verified by independent analysis. It relies on the "estimates" of CFEs, and it assumes the fraud rates being reported apply evenly to all organizations, etc. ACFE is forthright in agreeing with all these criticisms, noting it is the best they can do. Furthermore, no one else, including the U.S. Government, has any better methods to estimate the numbers.

To tackle corporate fraud is to fight a beast of a size and dimension that remains ill-defined. It is fairly certain it is a big beast. Despite the imprecision there is fairly firm data from the reports provided in the RTTN: the nature of the offender. From RTTN data, a great deal is known about who commits these frauds. This data is firm, in the sense that it has been investigated and some action was taken against the perpetrator. Their titles, positions, educations, genders, lengths of service, and the like are matters of company records. This is solid data and, it is important to underscore, <u>has tended to remain consistent over the decade RTTN has been published</u>. In other words, for all its self-acknowledged methodological weakness, the ACFE's RTTN data shows a surprisingly robust longitudinal consistency that is difficult to quarrel with.

Here is what ACFE has found[6]:

- Males account for a little more than half of all incidents, which means females are also active in such activities.
- As one progresses up the corporate ladder, the percentage of males increases, possibly because they tend to hold higher corporate positions. This is one data point that is changing with time.
- Well over 60 percent have college degrees. In a "white collar environment" formal education often equates to organizational position.
- There is solid evidence of proportionality. If an employee steals a dollar, holding all other variables constant, a manager steals 4 dollars, and an executive steals 16 dollars. Again, this "makes sense." The higher one goes, the more access to assets and spending authority they have, and the less supervision they are subject to.
- On average, the fraud scheme lasts eighteen months. These are not "moment of impulse" crimes. They typically tend to continue until they are discovered.
- They also tend to get bigger with time. Obviously, the longer the scheme remains undetected, the greater the loss to the organization.
- The average tenure in the organization defrauded is between 10-15 years. These are not recent "hires" that see a quick opportunity and seize it. They are "loyal," long-term employees. Hence, we must pay heed to the "violation of trust" angle.
- The most common age range of offenders is from 45 to 55 years. These are the people often viewed as the pillars of the community.
- Over 90 percent have no criminal record. Pre-employment background investigations are a vital tool to keep dishonest people out of an organization, assuming assessments are done correctly, but we seem to be seeing supposedly "good people go bad."

[6] See *Report to the Nation*, 2008, available online at the ACFE Web site, www.acfe.com

While the ACFE statistics are highly useful, there are still gaping holes in our understanding of this problem. Simply put, "Why do "good" people go "bad?" With the assistance of ACFE data, the criminals can be described, but they cannot be explained.

In the not too distant past, criminology in the United States took a revolutionary step. Those in law enforcement came to realize that "locking up bad guys and throwing away the key" wasn't solving very many problems. The focus turned from solving crimes to preventing crimes. This change in strategy towards crime is generally believed to be successful, even in cities as large and complex as New York. Generally referred to as "community policing," it took the joint efforts of many outsiders to pull together – sociologists, urban planners, psychologists, statisticians, and numerous other disciplines. It required about 30 years, but it seems to have worked.[7]

There exists a trap this paper will revisit. A bias was aptly described early on by Alison (1971) in his discussion of the Cuban missile crisis, as "organizational routine." Alison noted team members tend to see only what they have been trained to see despite good intentions and professional credentials, to approach an issue as complex as executive misbehavior in the manner "prescribed" by various professions. Such observed frailties in human cognitive behavior falls under the description "selective perception" and is a form of "confirmation bias" long studied by psychologists (e.g., Kahneman, Slovic & Tversky, 1982).

Other than ACFE's work, we have mainly anecdotal "evidence" as to what motivates offenders, often in the form of "biographies" of their lives and misdeeds (e.g., Wells, 2000). Some researchers and theorists have attempted to cast a very wide net in attempting to "explain" all crime (Gottfredson & Hirschi, 1990). In the end, it is a human act in the complex environment of the workplace, with significant financial impact. A multi-disciplinary team is essential. The paper will focus on senior corporate executives as they have the potential to do the most harm in terms of undermining governance and oversight as well as outright theft themselves.

EXPLAINING C-SUITE FRAUD REQUIRES THE BEHAVIORAL SCIENCES

Bringing Freud to Fraud: Fraud is a Human Act.

The most fundamental question towards understanding the crime is "Why did they do it?" This is where we will focus in this paper. Along the way, we will draw attention to A-B-C Analysis, tracing and linking actions back to individual motives, group influence, and generational/cultural/societal antecedents.

Let us start with Sigmund Freud. Freud pioneered the "science of the irrational," and demonstrated in a compelling way how unconscious processes not only exist, but can be seen in concrete and observable phenomena such as neurotic symptoms, dreams, and the small acts of daily life (e.g., the eponymous Freudian slip). Fromm (1951) describes Freud's seminal contribution as introducing the concept of the "unconscious" as referring to those feelings, and wishes that motivate our actions and yet of which we have no awareness. Further, Freud posited that a powerful "censor" protects us from becoming aware of our unconscious strivings, e.g., we fear losing the approval of our parents and friends, and we repress such strivings, the awareness of which would make us feel guilty or afraid of punishment. Similarly, we have a natural

[7] One detailed discussion of such efforts, see *Turnaround: How America's Top Cop Reversed The Crime Epidemic*, by Peter Knobler and William Bratton, New York: Random House, 1998.

tendency to suppress unpleasant memories. He challenged human consciousness as the ultimate datum of psychic experience, arguing instead that "most of what we are conscious of is not real and that most what is real is not in our consciousness" (Fromm, 1970).

In addition to tracing the unconscious/subconscious origins of individual human motives, Freud (1921) discussed the influence of group psychology in terms of the "primitive sympathetic response of the group." He intuitively commented, "Something is unmistakably at work in the nature of a compulsion to do the same as others, to remain in harmony with the many." Subsequently, he referred to concepts such as "collective neuroses" and of the "pathology of civilized communities" (Freud, 1935). We will discuss group psychology and influence in a later section.

There is another question just beneath the surface that the behavioral sciences have already uncovered: Why does fraud bother us so much? Why is it that we are disturbed so much by the events of a theft by senior officers?

From research into trauma victims, it is well known that it is harder to understand, forgive and adapt when we believe we have been wronged by another human being (North & Smith, 1990; Solomon & Green, 1992). This research has shown that when a natural disaster wipes out lives and causes the loss of hundreds of millions of dollars we are not as troubled as when the loss results from dishonest human beings cheating honest others. It becomes a question of fairness and the hard-wired, human/primate tendency for "inequity aversion" gets forcefully exhibited.[8] Being a victim of a crime is one of the most unsettling of all traumas, and when the leaders are accomplices it rocks us to our core.

Behavioral Economics and Evolutionary Psychology: Expanding the Fraud Triangle

Ramamoorti (2008), the first author of this paper, has argued that because fraud is a human act it must have solutions from many fields that seek to understand human behavior. He notes that the professions of accounting, finance, and economics have been rather myopic and lacking a strong behavioral science foundation (see Devine, 1960 for an especially harsh critique in accounting). Ramamoorti (2008) further observes that fields in parallel to fraud are becoming curious about the concepts of social engineering (cf. Hinson, 2008) and the science of persuasion (Cialdini, 2001, 2007). Yet, it may be this is new syntax for old patterns seen in other forms of criminal acts. Greed is more of a "label" and does not constitute a valid, causative scientific explanation and is certainly not the final answer. Greed is the symptom, but as researchers we are seeking the cause. White-collar criminals who have ascended to the C-level suite are not stupid people; they are intelligent, well-educated, and knew what they were doing. The operative issue is why did they do it (why do people already rich by most standards break the rules)? Could it be their penchant for extreme risk taking, bordering on danger? (cf. Apter, 2007b). (See also the provocative editorial, "Greed Takes the Blame," by David M. Freedman, reproduced in its entirety in Appendix 2, with permission from Mr. Freedman).

More must be done to understand the problem, and this paper, written to support the education of (forensic) accountants and fraud examiners, makes an effective and elegant argument that we must return to the root cause: the human mind. In this paper we will begin to do that.

[8] *Monkeys Reject Unequal Pay*, by Sarah F. Brosnan & Frans F. de Waal (2003), a paper from the Yerkes Primate Research Center at Emory University, Atlanta, Georgia. A brown capuchin monkey (Cebus apella) will toss a cucumber to the ground if she is offered the inferior item at the same time that her partner is unfairly favored with a more delectable grape. The experimenters concluded that aversion to inequities—a hard-wired sense of fairness--is probably innate not only to humans but to other species.

The original fraud triangle of incentive, or pressure, opportunity, and attitude or rationalization has been compared by Albrect et al. (1995) to the three elements needed to start a fire (oxygen, fuel, and heat). Another less well known triangle is the "triangle of fraud action" (act, conceal, or cover-up, then conversion to another story). In understanding the act, there is potential insight into why but also how fraud is perpetuated without discovery. This model helps frame the need to understand fraud as a human act that happens multiple times, not just once. Cressey's (1973) idea of rationalization in the fraud perpetrator's mind to justify their acts to themselves and others finds expression in the fraud triangle. Psychologist Leon Festinger (1957) has labeled this cognitive dissonance, and philosopher Eric Hoffer (1951) articulates it as follows: "A doctrine insulates the devout not only against the realities around them but also against their own selves. The fanatical believer is not conscious of his envy, malice, pettiness and dishonesty. There is a wall of words between his consciousness and his real self." Consider also Sinclair's (1903) insight: "It is hard to make a man understand something when his living depends on his not understanding it."

Lynn Brewer, a former Enron employee, and now of the Integrity Institute, Seattle USA, argues that fraud has sadly become a large part of the history of capitalism, and yet unfortunately may actually be part of the glue that is holding the global economy together. In fact, she argues the global economy depends on fraud. So much so that if you'd ask Enron employees whether it was a highly ethical or highly unethical company, 90 percent would have said "highly unethical." But if those same employees were asked if they themselves were highly unethical individuals, they would have denied the claim, implying unconscious disconnect between the individuals and the corporation which proved to be the greatest threat to the company's sustainability. This illustrates the concept of cognitive dissonance which is the driving force that compels humans to acquire or invent new thoughts or beliefs, or to modify existing ones, to minimize the amount of conflict between their actions and their values.

There are strong currents moving the field inside and out to broaden the study of fraud away from the classical economic models of how markets work and what drives capitalism, and more into the world of human behavior and the behavioral sciences. In the study of markets, the focus has been traditionally large groups of people, and when economists speak to behavior their thinking is in terms of averages and aggregates like "the corporation", an "industry", or in macro-economics, entire countries or geographical trading blocs or regions. Beneath this is an assumption that *homo economicus* is rational. Fraud is typically understood to be motivated by greed and an aberration of the underlying models of accounting and economics. In the wake of the Wall Street financial crisis of fall 2008, in widely publicized Congressional testimony, even a humbled Alan Greenspan admitted that he had put too much faith in the self-correcting power of free markets and had failed to anticipate the self-destructive power of wanton mortgage lending.[9]

From outside the field comes the need. It has been reported that the FBI is overwhelmed and understaffed because of other agency demands. In addition the complexity of managing an organization is escalating exponentially. The AICPA has also highlighted the unique challenge caused by senior officers simply overriding of controls in professional guidance devoted specifically to this subject.[10] At the same time, senior leaders are neither aware nor apparently

[9] "Those of us who have looked to the self-interest of lending institutions to protect shareholders' equity, myself included, are in a state of shocked disbelief," Alan Greenspan told the House Committee on Oversight and Government Reform. (Reported on October 23, 2008 in the *New York Times* by Edmund L. Andrews).

[10] Audit Committee and Oversight of Financial Reporting. *Management Override of Internal Controls: The Achilles' Heel of Fraud Prevention.* American Institute of Certified Public Accountants. 2000.

concerned—not wanting to face the harsh glare of public criticism, perhaps they simply do not want to know. Bethany McClean, frequently discusses the common factors that led to the disaster at Enron. When asked how concerned are they about the same thing happening at their organization, she says "They're not – none of them think it will happen to them, despite the fact they believe it is common, happening in other organizations and urgently needs attention![11] Ramamoorti & Olsen (2007) have referred to this misplaced confidence and feelings of relative invincibility as the Lake Wobegon Effect: "where all the women are strong, all the men are good looking, and all the children are above average." (quip attributed to radio talk show host, Garrison Keillor).

Yet new thinking is influencing the models. The concept of the rare and unexpected but still occurring "Black Swan" (Taleb, 2007) is an example of new concepts influencing human risk perceptions and their dominant impact in history. Because these events are high-impact, hard-to-predict, but rare and beyond the realm of normal expectations, they have been of particular interest to economists and those who study the financial markets. In addition, Grazioli et al. (2006) present a comprehensive view on the cognitive side of fraud detection and offer specific actions that can be taken by the auditors, which results in the discovery of fraud. Donald Cressey (1973) long pursued an expanded role of fraud studies to understand the human factor. Gil Geis has added in the understanding of white collar crime as well. Neil Roese has conducted research on counterfactual thinking ("would have, could have, should have") that may have great relevance to better understanding how white –collar criminals go about rationalizing their behavior to themselves (see Roese & Olson, 1995). And Robert Hare, working with Paul Babiak, has begun to apply his model of psychopathy onto the leadership of organizations using stories in the media and extrapolation based more broadly on his work on criminal behavior (see Babiak & Hare, 2006).

RIGOROUS SCIENTIFIC FOUNDATION TO BEHAVIORAL STUDY

Understanding fraud behavior in order to deepen our capacity to prevent and deter fraud will require a sound theoretical framework. The framework enables us to generate a set of testable hypotheses concerning behavioral responses and psychological mechanisms and then confirm or challenge them using empirical data through observation and experiment (Dubar, Barrett & Lycett, 2007). Specifically, we use the classic "Tinbergen Four Whys" strategy to eliciting a satisfactory answer to the fundamental question: why does an animal display a particular trait, or, why do people in high places seem to violate trust and perpetrate fraud?

What is the behavior we seek to study?

In this paper, we have defined fraud and directed the focus to the C-suite. To understand "why" requires a precise description of the behavior. We know:

- Fraud occurs in plain sight
- Fraud is deception
- Fraud leads to (monetary) gain for the perpetrator and (monetary) loss to the victim(s)
- Fraud is theft with permission of the victim
- Folk psychology terms such as "Greed" (or "arrogance" or a combination of the two) as the all-encompassing explanatory variable(s) shuts down exploration of motivation of the fraudster

[11] Personal Communication. Bethany McLean was a guest of the Group for the Advancement of Psychiatry, Committee on Work and Organizations in Fall 2007.

- New models of motivation will enhance understanding the behavior
- Using a scientific methodology and a rigorous approach will turn up credible cause-effect explanations

We suspect:

- Fraud requires impaired judgment in the victim (e.g., consider fraud on vulnerable senior citizens)
- Emotions in the victim are manipulable, and are brazenly manipulated by the fraudster
- Fraud in the C-suite is a combination of individual and group action
- C-suite fraud generally requires cooperation of the CFO, the CEO, and sometimes, even Board members (COSO 1999 Fraud Study)
- C-Suite fraud occurs with complacent boards and retained accounting firms—wherever serious conflicts-of-interest seem to be involved

See Appendix 1 for further thoughts on how the concepts in this paper fit with the Tinbergen four whys, attributed to Nobel Laureate Niko Tinbergen.

FRAUD BEHAVIOR IS MULTIFACTORIAL BUT CAN BE PARSED FOR ANALYSIS

The ABC Model: A Backbone upon which to place a new model for Fraud.
It is our hypothesis that fraud occurs either because of an individual criminal's intent, a duo or team of "bad boys" who push ethical envelopes, and/or a culture of passivity, or worse a criminogenic culture like ENRON's. We have called it the Bad **A**pple, Bad **B**ushel, or Bad **C**rop Syndrome: the so-called ABCs of white collar crime. We have in our experience seen the bad apple, the bad bushel, and if you stretch the metaphor, one of us has an in-depth understanding of the bad crop in the last three decades working in consultation to Arthur Andersen. Duane Kullberg retired managing partner of Andersen in the 1980s noted[12] he frequently saw problems with overly proud partners and would warn them "when you start believing your own BS is when the trouble starts." A recent book by Bruce Bueno de Mesquita (2009), titled "The Predictioneer's Game" also provides a fascinating look at the Andersen/Enron fraud scenario using a game-theoretic approach. It appears that a careful analysis of self-interest can indeed reap rich dividends in terms of observed behaviors.

Fraud happens out in the open so it is fundamentally a problem of perception.
Ironically, fraud is the only crime in which the victim cooperates with the criminal. All who invested directly with Bernie Madoff did so willingly. There are several tools that criminals use to distract, the classic being the physical bump to distract from the pickpocket. The pickpocket takes advantage of the physical bump garners more attention than the sensation of having our wallet lifted. But a pickpocket victim is not cooperating with the thief. In the case of fraud, the fraudster deploys diversionary tactics similarly by taking advantage of the task-focused nature of the work place.

Fraud is deception, fooling another's perception.
Andy Fastow used Special Purpose Entities (SPE's) in an openly mocking way, giving them names like "Raptors," "Chewco" etc. As he did, he was fraudulently presenting Enron's finances right out in the open. It took a major article and a whistleblower for it to be exposed finally.

[12] Personal Correspondence

How did that happen? To understand this we must address how an individual makes a decision. In order for a person to make a decision they must make a judgment first.

THREE RECOMMENDED TOOLS:
JUDGMENT MODEL, EMOTION, REVERSAL THEORY

Impaired Judgment Plays a role in Fraud

Perception is the first step in one model of what makes judgment. Leopold Bellak (1975) argues there are three steps in judgment: the first is to discriminate, the second is to anticipate, and the third is to behave accordingly to what would be best. Bellak's model has been adapted for assessing executive judgment. Over 30 years, Daven Morrison et al. (2008) have evaluated executives for their ability to:

1. Collect the data
2. Boil it down to its essence
3. Act

Good judgment requires an executive to: first, perceive what is relevant in the world; then, weigh what is most important; and finally, use that information to inform his or her actions. In contrast to those managers who fail, those who are most successful tend to have a robust tolerance for ambiguity. Specifically this means that strong executives—that is, those possessing high levels of integrity--have perceptions that remain accurate when the environment is ambiguous.

Judgment, as individuals and as groups of individuals, is perhaps the fundamental area to understand in order to understand fraud. The factors undermining judgment will help the next generation of those seeking to prevent or deter fraud and create healthier corporate cultures. There are some who believe that ethical mistakes are not due to "bad morals," but rather systematic errors in decision making (Bazerman & Messick, 1996). Consider that rather remarkable conjecture by the former CEO of Barclays, that "bankers were innumerate" and that any industry that pays out in cash colossal accounting profits that are largely imaginary will go bust quickly."[13] (Taylor, 2009)

Related to fraud, there are only a small subset who were evaluated and later found to have been involved in fraud. Relative to their judgment, one evaluated executive who was stealing had gaps in his ability to collect the data. Specifically he had a measurably poor capacity to tolerate ambiguity. Two others were strong in collecting the data, but were part of a powerful "brotherhood" who had hatched plans to commit a crime. Their shared vulnerability was hypercompetitiveness which impacted all three steps of judgment.[14]

EMOTIONS

Emotions can be understood and can be an important part of problem solving.

Damasio (1994) has shown the critical role feelings play in making decisions and adapting to the world. His elegant examples illustrate how the brain, when devoid of feelings is inaccurate and limited in its ability to problem solve. His model challenges fundamental assumptions about the

[13] Taylor (2009) caustically concludes: "How depressing the shame and folly of it all is, when one considers that the system was brought down not because risk management was deficient (though it was), nor because greed was rampant (though it was), but because bankers could not count."

[14] The Institute for Fraud Prevention (IFP) is currently studying these factors in more depth. Greg Trompeter and Ann Norris are the primary investigators using over 2000 executive assessments.

primacy of rationality and intellect, and parallel assumptions of the relative uselessness of emotions or feelings. He takes as his focus the writings of Descartes who split philosophically the human being into mind and body, idealizing the former and denigrating the latter. Yet Damasio has his error, too, as he infers that all emotion comes merely from the body and does not see the role emotions play independent of the body. Joseph LeDoux, a renowned expert on fear and the brain, is closer as he notes: “emotions are things that happen to us rather than things we will to occur” (LeDoux, 1996).

Beginning in the 1950s Sylvan Tomkins explored emotion as the center of a field of study. He rejected the drive theory as explaining all behavior. As Ledoux and Damasio have done, affect theory illuminates the role of emotion in decision making and is a theory that “carves nature at its joints.”

Tomkins’ theory of affect postulates that human emotion has a biological function just as our heart and lungs do. The functions are twofold: to communicate (Darwin, 1872) an unmet need, and to provide motivation for action (Tomkins, 1963; Basch, 1988). Tomkins successfully argues that as people navigate their lives they are constantly receiving stimulation. This stimulates *affect* (what psychiatrists, psychologists and neurologists have used for “emotion”). The affect then results in action. His refined work on the human face identified nine core emotions common to all people (Basch, 1988):

1. Interest
2. Enjoyment
3. Surprise
4. Anger
5. Fear
6. Distress
7. Shame
8. Disgust
9. Contempt

Nathanson (1987) refined it further: Stimulation leads to Affect leads to Reaction: S-A-R. An example would be while driving on ice a person would hit the brakes. The intersection would rush up at the driver quickly and that stimulation would produce the core emotion fear. This then would cause the rider to react and hopefully produce a safe stop on the road’s shoulder. Another example would be finding a mass on our bodies. The distress of not knowing if it is cancer would cause our reactions to seek help.

Both functions of emotion – communication and motivation to take actions relate to Fraud.
At birth and shortly thereafter, humans are unable to use any spoken language. No newborn baby has ever said (nor ever will) “I am hungry”, or “It is cold in here.” However, all newborns have the capacity to communicate; they do so through their emotions. This continues from birth into adulthood and throughout life. Emotions are primary and exist in time before thought. Basch (1976) has shown the rapid communication of affect (emotion) to be virtually instantaneous everywhere and aided his work in understanding patients on the analysis couch.

Emotions also serve as motivation to take action. Tomkins was the first to show the primacy of emotions for motivation. Without the emotional component, most human beings would end up becoming wards of the state. Why? Although they would retain their intellectual ability to solve high-level problems, they cannot prioritize. It is the emotion that provides value to different pressures. Here's an example, no matter how much you like reading this paper, you may at some point have to stop to attend to the next pressing matter – emotion is the fundamental factor.

Fraud is a human act in which emotions are manipulated.

In their paper on ethics and decision making, Bazerman and Messick (1986) argue that certain information is ignored that then becomes a slippery slope towards ethics lapses. They point to problems in decision making. It is possible that the error is ignoring the emotion in the message, as the rational or verbal part of the brain is "peacemaker" which makes sense of something even when it is not logical or even bizarre (Gazzaniga, 2000; Cooney & Gazzaniga, 2003).

Popular uses of emotion to manipulate decisions are well known. Not all are criminal. People in marketing use emotions to excite us about a product that might not be particularly exciting, for example, laundry detergent. Others are clearly criminal in their use of emotions. "Social engineering" in the worlds of computer technology to access personal information or protected passwords is a popular subject currently for IT security, but the tactics used are as old as crime itself (Hinson, 2008). They use a sense of distress, ("I'm lost I can use your help.") or anger ("I'm a powerful person and you will be in trouble if you don't comply."), and it is a step away from the Nigerian princes of email scams. Serial killers are infamous for playing helpless to seduce their victims.

Fraudsters use fear to frighten us about losing our money. For example, there have been frequent email scams where a threat is quickly amplified, but by giving out personal information they will help us by taking our fear away.

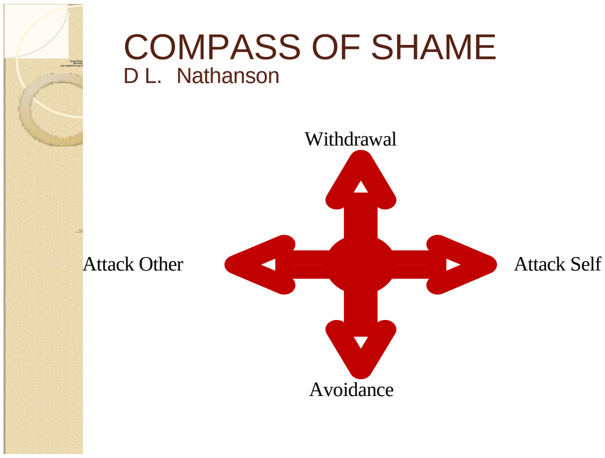
Fraud is a manipulation of emotions.

Restating, fraud is a human act that is not hidden. The fraud itself happens openly in the "books". We believe that part of the distraction similar to the bump of the pickpocket is the manipulation of emotions in key gate-keepers. From the supervisor who assumes the salesman is being honest with his expense report, to the senior auditing partner who assumes the CEO and CFO are sharing all the relevant information.

Like email frauds, senior officers may use the negative emotions of fear and distress that are readily recognized in the "Nigerian Prince". They also may use the positive emotion of excitement at large bonuses or raises to distract and cajole. In addition, given their experience with power, it is likely in order to commit white collar crimes in a more complex way they are using shame and related emotions, contempt and disgust.

The C-Suite fraudster manages to distract those who would discover the crime by essentially dismissing questions as "small minded", or dismissing the entire profession as "bean counters". The specific tactics used on the governance or audit committee is bypassing or forcing the processes to go too fast to do a proper job. Their tactic is to shame the function. To make the entire leadership team, function, business unit or even the whole organization turn against the audit committee. They use their power to attack.

And this is due to the power of embarrassment or the affect, shame. In our experience, shame is a critical emotion if not <u>the</u> critical emotion that disrupts all workplaces. Freud described shame "as the shortest fuse with the longest burn". When the threat of shame is greatest, that is when the most aggressive attacks will come. All three of the authors are familiar with this when confronting some who has committed a crime and is avoiding capture.



Enron used this tactic on Andersen. Internally, Andersen did it in turn on their own governance. One common defense against experiencing shame is going on the attack, this can become a pattern which is perceived as arrogance or hubris. Jeffrey Skilling and Andy Fastow were arrogant. Skilling famously remarked on an open call recorded on videotape: "What is the difference between Southern California and the Titanic? The Titanic had its lights on when it went down" (McLean & Elkind, 2003). While perhaps even more tellingly, Andy Fastow brazenly stole answers to his introductory finance course at Continental Bank.[15]

This begins to explain the actions of Enron, but what of the silence of others? What is happening with their judgment? Emotions still play a role in the problem. As with decisions, an inattentive or distracted C-Suite will allow the environment to become ripe for fraud, and also for fraud to go on longer than if the leaders were vigilant.

Emotions play a critical role in fraud, yet are not part of the perceptions of executives.
Despite the importance of emotions in decision making and the clear evidence of their importance in survival, the average executive is not aware or knowledgeable of them. Not only are these leaders out of touch, they do not understand how to use them as data to problem solve. One of the subtests of the Wechsler Adult Intelligence Scale (WAIS) is the Picture Arrangement. The WAIS is a proven IQ assessment tool and the Picture Arrangement measures a person's ability to understand and organize their social environment. Clinically, it provides insight on how well the executive can predict the impact of his or her personality on a group and the reciprocal impact of the group on the ability to read the executive. An important part of doing this well is the ability to read the emotions. On this section of the WAIS, generally executives do quite poorly. This emotional ignorance also correlates to interviews also done in consultation.

The minds of Senior Executives perpetrating fraud are difficult to study.
In reviewing evaluations of executives for this paper, all consultations were informally reviewed for those who were planning, already involved in, committing or had committed a crime against the organization. Out of 1500 executives seen in consultation, there were three; the incidence is rare: 0.2%. This means interpretation based on profiling may prove difficult despite the significant cost of the perpetrators. Ron Schouten (2003), an attorney and Harvard psychiatrist, makes a similar case against profiling for workplace violence.

Because it is difficult to assess, we recommend a retrospective study of criminals convicted of C-suite crime. Ideally it would be a joint process combining interviews of both psychiatrists and

[15] Personal communication from other classmates.

certified fraud examiners. It is worth considering that all senior officers have a psychiatric exam. This might seem outrageous, but physical exams are not uncommon. In fact, most executives do not use their body as much as they use their minds.

It is likely they have found ways of avoiding working with evaluators.
The work of Morrison Associates is with understanding the mind of the senior executive, and is limited by those who were willing to be evaluated. The authors have reason to believe that the overall incidence is much more as several individuals who eventually either did commit crimes or in other ways harmed the organization (abused the privileges of power for personal gain) were actively avoiding working with anyone who might discover their plans. Likely they did so because they rightfully feared they might be exposed.

Senior Officers when distracted perform more poorly.
Bennedsen et al. (2007), in a paper regarding the distractions of a CEO impacting the performance of the organization highlighted the fact that senior officers are people and are vulnerable to life events that can impair attention by dividing it. The resulting distractions literally cost the company – direct to the bottom line.

This was dismissed in the media and by other CEOs (see Maremont, 2007), but it is not data that ought to be ignored. The US Navy has recognized for decades the importance of life events impacting their officers and at one point grounded their pilots if their “Life Change Units”(Rahe, Mahan & Arthur, 1970) exceeded what was accepted as an upper limit. In addition, this data corresponds to mental and physical illness as well. The average person is familiar with the cold caused by “stress,” for example with the holidays. More recently, a commonly referenced public health paper (Redelmier & Tibshirani, 1997) that confirmed the danger of cell phone calls while driving. The factor leading to increased risk of collisions was the same: distracted attention.

Clearly the fraudster has an advantage if the senior staff is distracted. In addition, the senior officers (CEO, CFO, or COO or this combination) who are able to distract the rest of the organization, are more likely to be successful in their completion of a fraudulent act.

There is evidence for distraction in virtually 100% of consultations to senior leaders
On the surface the senior executive will easily note the increased volume of emails, voice-mails, and other correspondence as he or she rises in the organization. As they open up and share their pressures less superficially, executives also note the pressure from work and family mismatch or even more personally, the concerns they have for a child with Attention Deficit Disorder (ADD), a parent with Alzeimer’s or the distraction of the construction of a new home. For those who have loving sounding boards (other individuals who truly give them “tough love”), they are already aware of how their performance deteriorates because of these distractions. Executives who are aware, worry about being distracted, and are potentially less vulnerable to fraud.

If emotions are critical, then the CEO and team should be astute interpreters of emotion. In our experience they are not.
Senior officers cause more problems by being ignorant of emotions. Ignorance of emotions has several problems. First, it eliminates a rich pool of data. Simply by being ignored the critical data contained in emotion walks through the room like a man in a gorilla suit. Unlike a gorilla suit it is not silly, but rather a critical inner peek at motivations and unmet needs. When the senior suite is ignorant of emotions, the fox has the run of the hen house. So, even if they are not actively committing fraud or white collar crime, they are allowing a rich culture for the viruses and other germs of fraud to grow.

Why do they do it? Where were those who should have reined them in?

Executives are often unaware of their own emotions that drive them to achieve.

This then impairs their ability to be in charge of their internal motivations, and more susceptible to bad judgment or being influenced by others in a maladaptive way. In all of our consultations we find early life experiences do make a difference. We titled this paper Bringing Freud to Fraud because Freud's seminal ideas continue to remain influential. His dynamic approach to the mind and the development of the mind remains true to this day. Johanna Tabin, PhD was a student of Anna Freud's (Sigmund's daughter). Both are well known for their collective contribution to psychoanalysis. Dr. Tabin recently observed;

> *I continue to be impressed with how my work takes me back to critical times in childhood in which there were important events that still impact my patients to this day. There are watermarks, left on their personality, that remain "in charge" if the individual does not have the courage to explore them. Their ability to explore events helps determine their overall satisfaction with life.*[16]

These watermarks are evident in the executives who wish to be financially sound after growing up poor, in others who are still competing with siblings and others who are still making amends with hurts caused by ineffective parents or tragedies they were not prepared to handle as young children. They carry these wounds into adulthood, compartmentalized, but at the same time still beholden to them. Reflect on this list:

- Jeffrey Skilling at Enron; best schools, best grades, phenomenal wealth and free reign at an energy company, yet he actively deceived his employees and the market.
- Elliott Spitzer as New York Governor; he had a stellar political career built on prosecuting those who were committing some of the worst vices towards women, yet he was involved in prostitution in a manner that anyone would recognize would eventually be discovered.
- Mark Foley, a successful congressman who openly advocated for the protection of children, yet secretly pursued the young men of Congress for his own sexual pleasure.
- Martha Stewart, a phenomenally successful entrepreneur, yet she clearly cheated in a conscious way through insider trading.

Even more amazing is the capacity of the human mind to create blindness, paralysis and even a nearly full term uterus when there is no physical cause.[17] The listed individuals did these acts that ruined the public's perception of them (and hence their value) for reasons clearly other than greed. What might those motivating reasons be?

The many faces of "greed" in C-Suite Crime: hypercompetitiveness, perfectionism, excessive pride (narcissism), and more.

Martha Stewart, Bernie Ebbers, Andy Fastow, and even in psychiatry Charles Nemeroff (see Harris, 2008) can be described as greedy. But the origins of their greedy behavior are unique to their personalities. In our experience, greed is good for newspaper headlines, but only the tip of the iceberg. What does cause problems in executives? More specifically to our earlier model, what does impair judgment?

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[16] Jean-Paul Sartre, French philosopher and advocate of existentialism, famously observed, "Childhood decides."

[17] Although beyond the scope of this paper, false pregnancy or "pseudocyesis" occurred in Freud's partner's case and was one of many hysterical symptoms, which led to the concept of the talking cure and other core ideas of Freud. See Kaplan, Harold I., M.D.; Sadock, Benjamin J., M.D.; Grebb, Jack A. Synopsis of Psychiatry. Chapter 2: Human Development Throughout the Life Cycle, pg. 27. Williams & Wilkins, Baltimore, MD, 1994

There are many unconscious factors that lead to greedy behavior in the senior executive suite, One important factor is hypercompetitiveness. This is the engine in roughly 50% of the executives we see that causes them not to see win-wins but to frame more situations than necessary as win-lose. By doing so, the executive misses her chance to help others, to be helped, to find a solution different than her own. Hypercompetitiveness drives her to seek all the praise for her team's wins and to compare herself regularly to others' perks like salary and board positions. It can also feed into the gang mentality that "everyone else is doing it". The hypothesis of gang behavior is described in the next section.

Perfectionism is also common in senior executives according to research. This drive toward standards that can be too harsh can create a culture of intolerance that enables resentment and hurt feelings that can either lead to fraud or allow it to be tolerated. Clearly excessive nurturance needs and a general excessive self-reliance and distrust of others found in narcissism can also cause problems.

Executives who are not in charge of their biographies are at risk of their biographies taking charge.
Human motivation as it relates to fraud, is perhaps the most compelling area of research. Fraud is expensive, distracting, and wasteful. Repeating our core premise: fraud at its core is a human act (Ramamoorti, 2008; Ramamoorti & Olsen, 2007). The senior officer who lacks insight and is incapable of introspection is a ticking time bomb. Senior executives do a great deal of good by being curious about themselves in a critical way. This is another argument for not only a mental health exam, but an annual mental health exam. Current thinking about fraud deterrence may be a problem. Understanding from other fields not previously considered will be a critical part of our success.

REVERSAL THEORY

Articulating the state of mind and how it changes – potential applications to the C-suite

Consider the following list:

- Jeffrey Skilling at Enron; best schools, best grades, phenomenal wealth and free reign at an energy company, yet he actively deceived his employees and the market.
- Elliott Spitzer as New York Governor; he had a stellar political career built on prosecuting those who were committing some of the worst vices towards women, yet he was involved in prostitution in a manner that anyone would recognize would eventually be discovered.
- Mark Foley, a successful congressman who openly advocated for the protection of children, yet secretly pursued the young men of Congress for his own sexual pleasure.
- Bernard Madoff and Sir Allen Stanford, who used massive Ponzi schemes to give the appearance of generating steady returns on multi-billion dollar investments
- Raj Rajaratnam, Galleon Funds, accused in one of the largest "insider trading rings" on Wall Street in Fall 2009

All of these individuals betrayed their core principles. Their common basic story of dishonesty is as old as the Greek tragedies, yet our explanation "greed" stagnates through the ages. Greed is not the full answer. Becoming curious about what lies beyond greed needs to be understood.

ACFE data previously quoted on fraudsters, in particular that they are long-standing employees and are in middle to late adulthood, it is our hypothesis that something changes in their relationship to work, their employer and the "rules." What is curious about people is not only what doesn't change over time, but also what does. Why does the honest person change? Indeed, what causes "good people to go bad," and hitherto loyal and reliable executives to turn to the dark side?

Ideally to understand fraud a new model that incorporates the changing motivations of executives and the people they manage is essential. The "changeability" to not choose fraud will help discover new deterrents. There exists a model of human motivation that looks at where, why, and how individuals change.[18]

Early in the evolution of reversal theory was a recognition that correlates directly to the study of fraud, particularly the long sustained fraud that is the most expensive. Dr Apter recognized the deterrence measures on children who were truant were not working. In fact he discovered they encouraged disobedient behavior. As he became curious about those who were not responding to the typical threats and withdrawal of rewards, he discovered a group of children who were motivated by the thrill of being naughty. From this, he discovered the inherent nature of the mind to switch or "reverse" motivation depending on the context. A common example readily identified is how anyone can switch from play-to-task and back-to-play. Imagine how this evolves as each of us moves from being with family, then at work, and then with friends.

Some caveats about the application of Apter's Reversal Theory in understanding fraud are now noted. Please refer to "The Eight Ways of Being" graphic portrayal on the following page for the remarks pertaining to "dominant states."

- Understanding the state-of-mind of the fraudster is less about dominant states and more about the state at the time as the fraud unfolds.
- Actions taken at each of the three corners of the fraud triangle (opportunity, prtessure, and rationalization) could be influenced by any of the 8 states.
- Determining why a person does commit fraud would be better determined by an interview by a skilled interviewer than by an inventory.
- Data was presented at the New Orleans July 2009 Reversal Theory Conference on a financial institution which showed the overall dominant state was more rebellious prior to the financial crisis. This rebellious state means flaunting rules.

Ideally to understand fraud a new model that incorporates the changing motivations of executives and the people they manage is essential. In addition, a model that can help understand the "changeability" to not choose fraud will help discover new deterrents. Michael Apter outlines the potential of his theory readily: "Reversal Theory is an approach that moves beyond a limited perspective of goals and rewards to look at the complexity and changeability of human motivation and behavior."[19] This work has helped not only delinquent children but also athletes who tighten up in competition and lose despite having the skill to win.

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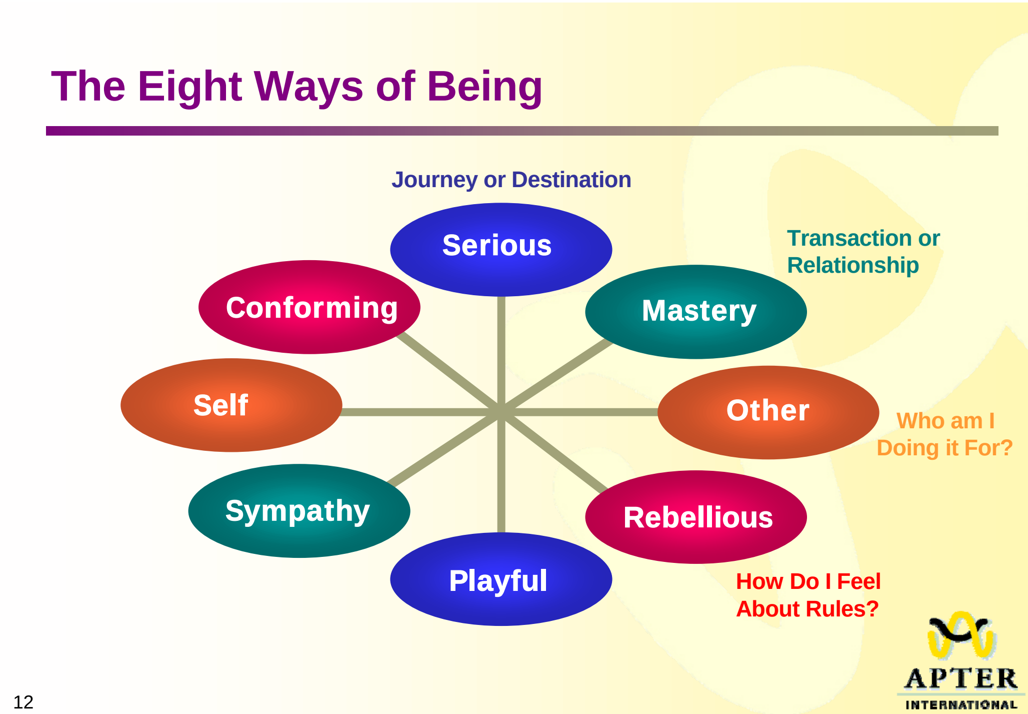
[18] "Reversal Theory moves beyond a limited perspective of goals and rewards to look at the complexity and changeability of human motivation and behavior" Michael Apter Training Session, Summer 2008.

[19] Training Session, Summer 2008



("The Eight Ways of Being" graphic is reproduced with permission from Dr. Michael Apter.)

The theory has direct correlation to the needs of understanding fraud. Using all 8 polarities, Dr. Apter argues there may be many reasons people may be motivated to use their position of power as senior officers to steal from the company. Here are Apter's ideas: [20]

It might arise from the serious state (a desperate need for money to avoid bankruptcy for example), the playful state (the fun of the risk), the conforming state (everyone is doing it in a given company), the rebellious states (the pleasure of doing wrong), the mastery state (beating the system), the sympathy state (e.g. as a form of self-indulgence), the self-oriented states (personal gain) or the other-oriented state (using the money e.g. for one's family).

Is there evidence for motivations beyond "greed?" Interviewing senior executives about motivation, personal gain is not uncommon, but so is joining in with others as well as to please family members (e.g., a spouse). Willie Sutton, the famous bank robber, provides an excellent example of the person who commits crimes for the fun of it. Mr. Sutton *never* said he robbed banks "because that's where the money is" he did it as explained in is his own words: "Because I enjoyed it. I loved it. I was more alive when I was inside a bank, robbing it, than any other time in my life. I enjoyed everything about it so much that one or two weeks later I'd be out looking for the next job. But to me the money was the chips, that's all." (Sutton & Linn, 1977).

Is Freud always behind fraud: Is there a limit to the human mind as the cause of fraud? Gang Theory.

Fraud may be due to large group phenomena, like gangs, and if so, profiling, or describing individual's behavior as narcissistic or psychopathic might be missing the forest for the trees.

[20] Personal correspondence, Fall 2008

There is consensus that those who are recruited for suicide bombings are mentally healthy, in contrast to being mentally ill (Post, 2005). Jerry Post MD, who is a primary investigator of this phenomenon, notes[21]: “Not only that individual psychology pathology is of no help in understanding terrorist psychology, but also indeed that terrorist groups screen out emotionally unstable individuals because they would pose a security risk.”

In this way they are likely similar to other stable and resilient psychopathic groups, like the mafia. Joe Koletar has seen this in his work on “criminogenic” cultures (Koletar, 2003). This does not mean they are not influenced by the C-suite. In fact it can be argued, the relative attention of the senior leadership will determine whether or not this is uncovered early, late or too late in the efforts to commit fraud. The ability of the CEO and his or her team to focus attention on the organization is critical.

Conclusion: Future Directions

This paper has sought to demonstrate that there exist many new insights into the mind, behavior, culture and the factors disrupting people at work. It is likely that many have potential in helping to understand white collar crime and in particular crime in the C-Suite. The new insights imply a new multidisciplinary paradigm for research. Multi-disciplinary tactics have within them a challenge; agreeing to common terms. This has a corollary in a classic Indian fable of 6 blind men attempting to describe an elephant (John Saxe’s poem, 1899). This paper strongly recommends pursuing the following areas for exploratory and confirmatory research while maintaining an approach free of technical jargon.

To this point, it has been argued the study of fraud needs new thinking based on the fact that fraud is a human act. We recommend research focuses there as either active perpetrators of fraud or by allowing passive permission of fraud, because the damage done by the C-Suite can be the most expensive. Building on the themes of this paper there are four broad categories for research. The first category simply underscores the unique challenges of such study. The subsequent three categories follow the **ABC**s of white collar crime:

- The Bad **A**pple: Individual Personality Characteristics of those that Commit Fraud
- The Bad **B**ushel: Group Dynamics of Collusive Behavior
- The Bad **C**rop: The Larger Cultural/Societal Factors that Enhance or Permit Fraud

Data, Methodology and Funding Issues: The Challenge of Studying White Collar Crime

1) Possibly the most pressing issue in fraud research is funding. As yet, a broad-based, credible ROI (Return on Investment) argument has not been made to persuade corporations, organizations, and academic institutions to “invest” in this sort of research. Can such an ROI model be developed?

Academic fields: economics, business, organizational behavior, occupational psychiatry.

2) There is a paucity of data. The statistics from the ACFE are useful, but even the ACFE’s sampling approach has methodological weaknesses. The best government data is from the FBI Uniform Crime Reports, but the approach includes so many categories of “white collar crime” as to limit their usefulness. How is better data obtained?

Academic fields: criminologists, sociologists, statisticians.

[21] Personal correspondence, 11/26//08

3) What is the relative efficacy of each of the many tools available in the detection and prevention of fraud? The "arsenal" of fraud detection tools include: external/internal audit, CFEs, hotlines, "tone at the top," ethics training, outside consultants, etc.

Academic fields: statisticians, business, economists.

4) The 2004 Carnegie Mellon CERT study by the US Secret Service and the Computer Evidence Response Team reviewed a number of financial institution frauds over several years. In over 70 percent of the cases other employees were aware of, but did not participate in, the illegal acts. Why didn't they report what they knew?

Academic fields: psychologists, sociologists, organizational psychiatrists.

5) Do sentencing practices, in those cases where matters go to prosecution, have any discernible impact on fraud rates?

Academic fields: see above.

6) The internal audit function in most organizations is understaffed, underpaid, has high turnover, is often viewed as a "developmental" assignment for young employees, has a poor structure for career advancement, and is perceived as an unpopular job. Might corporate support (perhaps via a better ROI) change this problematic perception?

Academic fields: human resources, accounting, internal auditing, business.

The Bad Apple: Are there identifiable individual personality characteristics that help identify the C-Suite members vulnerable to fraud, and if so what are they?

7) The ACFE data argues that the average Occupational Crime Offender is between 45-55 years of age, has a college degree, no arrest record, and has been with the company/organization for 10-15 years. Why do responsible people commit bad acts?

Academic fields: psychologists, sociologists, criminologists, forensic psychiatrists, anthropologists.

8) The gender breakdown of occupational fraud offenders is roughly fifty-fifty male and female, and has been so for many years. Why are women more active in fraud than in the past?

Academic fields: see above.

9) Profiling seems to work in crimes from homicide to rape to arson and terrorism. Is there a role for profiling in dealing with occupational fraud?

Academic fields: psychologists, sociologists, criminologists, law faculty.

10. In their general theory of crime, Gottfredson and Hirschi (1990) claim that all crime can be traced to a poor history of impulse control. Persons with experience in both street and corporate crime see weaknesses in this theory. It may explain the impulsive and often

violent actions of the young thug on the street, but it seems incapable of explaining the more methodical crimes commitment by corporate executives. (For a counter-argument to the general theory see, for example, Koletar, 2003).

Is there a theory that explains corporate crimes by executives?
Does Apter's Reversal theory apply?

Academic fields: Sociology, psychology, organizational psychiatry and organizational behavior, anthropology, history, Reversal theory.

11. In the experience of many fraud professionals, most frauds seem to be motivated by greed and not need. Why do people feel "entitled" to something that is not theirs, and risk their reputations and freedom in the process?

Academic fields: psychologists, sociologists, anthropologists, psychiatry, criminology.

12. Are there other motivating paradigms to understand fraud behavior in the C-suite?

Academic fields: psychologists, sociologists, occupational psychiatry, criminology.

13. What social/economic reference points does one use when they decide to take the risk of committing a fraud? Why do well-paid people want more?

Academic fields: psychologists, forensic psychiatry.

14. Is fraud, for some, a thrill-seeking experience? Revenge? What role does Michael Apter's model of motivation provide?

Academic fields: psychologists, psychiatry.

15. Why do many successful fraud offenders make the mistake of overtly displaying their new lifestyle, since it only attracts attention to them? (See # 19) Are they trying to prove something, or trying to get caught?

Academic fields: psychologists, criminologists, psychoanalysis, anthropology.

16. Related to the above question is the marked tendency for those sponsoring a fraud inquiry to respond to findings with a "bad apple," "Let's put this behind us" attitude. There is little incentive to "look sideways," nor to deal with the factors that precipitated the fraud. If the factors continue, one may expect similar crimes to occur in the future. How can organizations and their executives be sensitized to such issues?

Academic fields: organizational behavior, psychology, legal, organizational psychiatry.

17. When one reads the accounts of high-level executives who have committed fraud there seems to be an unusually consistent theme. They were active in their community, they supported or founded charities, their pictures were in newspapers for their good works. What is the linkage between these two sets of behaviors, assuming there even is one? Are they trying to achieve some sort of psychological "balance" between good and bad deeds to ease their psyches? Are they trying to store up good deeds to use as mitigating factors

if and when their bad deeds are discovered? Or, are they truly committed to their (paid for) charities?

Academic fields: psychology, psychiatry, psychoanalysis, anthropology, neurology (brain science)

18. Conversely, does organizational loyalty ensure ethical behavior?

Academic fields: psychologists, sociologists, criminology.

19. Who's minding the store? There is evidence that distraction causes significant problems in judgment and ability to react to the environment. How does this relate to those bad apples being able to leverage others' distractions to steal from the organization?

Academic: business, neurology, psychiatry, organizational development, criminology

Bad Bushel:
Are there group dynamics that permit, encourage or facilitate fraud, and if so, what are they?

20. While is it rare to find a researcher with experience in both gang and corporate behavior, some do exist. Those who have such experience have commented on the similarities between the two behavior sets. On the surface, they could not be further apart. Gang members are usually under-educated, ethnically based, poor, live in close geographic proximity, engage in impulsive types of crime, are easily identified by their "colors" (gang insignia, of whatever type), ritualistic behaviors, have lengthy criminal records, care nothing about normal societal expectations, and are young. However the gang leaders are often mature, self-controlled, organizational leaders who manage multi-million dollar organizations with a clear understanding of profit, loss, labor and threats from competition.

    Corporate offenders differ in almost every way: they are older, well-educated, have no criminal record, live throughout the US and the world, come from a variety of ethnic groups, rarely engage in truly impulsive acts, blend in easily with the well-dressed portions of society, and are perceived as doing "good" versus "bad" things.

    Yet the harm they can cause is massive. How do they resemble gang members? They do not confront society head-on; rather they push the edges until they break; they have badges of rank (their "colors") in the form of corporate jets, trophy wives, club memberships, cover stories in financial publications, vacation homes in the "right" places; they have a high, if subtle, disregard for the norms of society; use their lack of criminal records to gain power, influence and acceptance in society; they behave in remarkably similar, non-impulsive manners (slow, steady erosion of controls meant to reign in their behavior); and, with the assistance of expensive counsel they can easily afford, or often paid by the organization, avoid serious consequences.

Academic fields: Psychology, organizational behavior, accounting, legal, anthropology, organizational psychiatry.

21. The corporate security function of most organizations is often staffed by former law enforcement officers with great skills and experience in the conduct of investigations,

collection and preservation of evidence and, perhaps most importantly, interviewing. Yet, they are rarely involved in internal fraud investigations. Why?

Academic fields: accounting, criminal justice, organizational behavior, business.

22. Most organizations have an IT department, but they are rarely asked to do data mining to reveal useful trends that might indicate misconduct. Why do organizations refrain from using resources available to them?

Academic fields: computer science, business, accounting.

23. "C-suite" executives and Audit Committees often have a poor understanding of risk, or have a false sense of security in the risk monitoring mechanisms already in place. How do we increase their awareness of the dimensions of risk?

Academic fields: business, accounting.

24. Exit interviews have become *pro forma* exercises. Often, even for those organizations that choose to use them, the intricacies of pre-employment background investigations are little understood. How might this research educate organizations to use the tools at their disposal better?

Academic fields: business, human development, psychologists.

25. Who's minding the store? There is evidence that distraction causes significant problems in judgment and ability to react to the environment. How does this relate to senior leaders being able to oversee their organizations?

Academic: business, neurology, psychiatry, organizational development

Bad Crop:
Are there larger factors that permit bad apples and bad bushels to take fraudulent action, and if so, what are they?

26. Outside consultants calling on corporate executives often present a compelling case for why they should be engaged to perform some form of risk assessment, only to have the executive note that they are called on almost every day by some outside provider touting the need to be aware of another form of risk. They note that if they listened to everyone they wouldn't bother getting out of bed in the morning. How do we present "risk" in a reasonable manner to stand out from the clutter of the crowd?

Academic fields: business, psychologists, occupational psychiatry.

27. Who owns risk – the Board of Directors, the Audit Committee, the CEO? Few organizations have a Chief Risk Officer. Risk tends to be spread across many areas of the organization, and the responses are piecemeal and disjointed. How do we develop a comprehensive view of risk, and who is responsible for it?

Academic fields: business, law, accounting.

28. The great racecar driver Mario Andretti once said "If you're in control, you're not going fast enough." That may be fine for Formula One racing, but corporations seem to have adopted the same philosophy – pushing the boundaries to gain profit and market share. How does risk management fit into such a mindset?

Academic fields: business, law, philosophy, organizational behavior.

29. One of the great quandaries of fraud investigations is that the better the fraud investigators do their jobs, be they attorneys, accountants, or forensic professionals, the worse they make their "patrons" look. This is because most fraud investigations uncover losses or misdeeds much greater than initially anticipated. This also promotes a tendency for organizations not to "look sideways." (i.e. If it is happening in Unit "C," is it happening in other units as well?) How do we deal with this phenomenon?

Academic fields: Organizational behavior, psychologists, legal, anthropology.

30. The recent book "The Tipping Point," (Malcolm Gladwell, 2006) gained wide popularity as it tried to explain the sometimes extremely subtle means by which societal events move from "A" to "B." We face such a dilemma in understanding executive behavior. We want, indeed expect, executives to be aggressive and hard-charging, yet there are clear lines we do not want them to cross. We attempt to do this through regulatory bodies (SEC, etc.) and both internal and external monitors (internal and external audit). The recent track record has not been good. How do we improve our abilities to define and monitor behavior that may be approaching the "tipping point?"

Academic fields: Accounting, legal, psychology, anthropology, sociology, psychiatry

31. Who's minding all the stores? There is evidence that distraction causes significant problems in judgment and ability to react to the environment. How does this relate to a workplace increasingly parsed into micro-attention moments because of Blackberries, emails, texting, etc.?

    Academic: business, neurology, psychiatry, organizational development

Appendix 1: Evolutionary Psychology and the Tinbergen Four Whys

The purpose of the Institute for Fraud Prevention is to understand fraud in new ways. To begin this exploration our paper has set out to understand one of the most costly forms of fraud: C-Suite fraud. *How is C-Suite Fraud different?;* and *How is it similar?* are curious questions and they are virtually unknown. To do this work, our professional field of inquiry will need to be precise in the description of fraud. This conclusion leads to a requirement for precision in describing the behaviors in the perpetration of fraud. We recommend a sound theory or model for understanding behavior in general as a place to start.

Evolutionary Psychology Approach for Rigorous Scientific Foundation to Behavioral Study

It was Darwin's genius to couple penetrating theoretical insight with robust empirical confirmation based on observation and tests involving a wide range of species to craft the "theory of evolution." Indeed, the value of an evolutionary psychology approach is that it furnishes us with a sound theoretical framework that in turn enables us to generate a set of testable hypotheses concerning behavioral responses and psychological mechanisms and then confirm or challenge them using empirical data through observation and experiment (Dubar, Barrett & Lycett, 2007). Specifically, we use the classic "Tinbergen Four Whys" strategy to eliciting a satisfactory answer to the fundamental question: why does an animal display a particular trait, or, why do people in high places seem to violate trust and perpetrate fraud? (cf. Nobel Laureate Niko Tinbergen, 1973).

The *Tinbergen Four Whys* strategy involves generating the following four levels of explanation:
Questions about

(a) the history and development of a trait both over geological time (its ***phylogenetic*** cause) and
(b) within the lifetime of an individual (its ***ontogenetic*** cause),

Questions to

(c) determine how a behavior enhances the survival and reproduction (its ***functional or ultimate cause***) and
(d) identify the factors that trigger a particular behavioral response to occur (its ***motivational or proximate cause***).

Most students of elementary biology are familiar with the advantage of evolution. For example, a moth's adaptive coloring is **phylogeneti**c. By having camouflage it survives predators, reproduces and the DNA continues through multiple generations. The camouflage is not behavioral but structural. Behaviors are more complex. Further examples of predators and their prey enhance the application of the concepts.

Through evolutionary processes, the same moth also will be still when any shadow passes overhead. By doing so it avoids predators, too. The shadow is a proximate cause producing a **phylogenetic behavior**. When a flock of birds migrates farther one season and finds more food and less predators than others of its species, the collective behavior is **ontogenetic**. The **proximate** cause may be a storm which blows the flock of course, overcrowding in the usual nesting place, increased predators, or lack of food, but if the further migration is sustained in the flock it is within a lifetime and thus fits the definition of "ontogenetic". There is a species of goose, the Nene, which inhabits Hawaii and is considered to have originated from a flock of Canadian geese which had been blown off course during a storm. In their case their behavior was being flightless and thus very vulnerable to predation. The **motivational** cause for being flightless is more food and less predators. The **ultimate** cause is energy conservation (flying burns a lot of calories).

Over geological times, let's assume the birds where albatrosses. Tiger sharks are known to migrate to where albatrosses are nesting for a steady supply of easy food every year when the young birds first take flight.. The annual migration of the tiger sharks are another example of a **functional or ultimate** cause.

Animal:	**Behavior:**	**Phylogenetic or Ontogenetic**	**Proximate**	**Ultimate**
Moth	Freezing still with shadow	**Phylogenetic**	Bird flying over	survive predation to reproduce
Geese	Flying further to better breeding grounds	**Ontogenetic**	Storm	Larger broods, more mates, better health
Geese	Flightless	**Phylogenetic**	No predators	Calorie conservation
Tiger Shark	Migration to breeding grounds	**Phylogenetic**	Steady food	Longer life, survival to reproduce

Dubar et al. (2007) proceed to provide the following compelling argument for adopting the Tinbergen Four Whys strategy: "By formulating our questions carefully and making sure our answers are pitched at the appropriate level of explanation, we can identify whether behaviors are adaptations produced by the process of natural selection, whether they are by-products of selection for other traits, whether they were initially selected for other purposes but have been co-opted by evolution…or whether they serve no evolutionary function at all…to understand the advantages that traits confer on individual organisms, how these interact with other traits…and how a species' evolutionary history constrains the range of adaptations that are possible."

Does fraud exist in nature?

Related to fraud specifically there are some interesting examples in the animal world. There is the opossum which plays dead – the phylogenetic behavior is recognized quickly by all, as are the motivational and functional causes. There are predators, specifically fish which have "lures" to trick their prey. The alligator snapping turtle also does this. Shore birds that nest in the open on the ground, "fraudulently" portray themselves as having a broken wing to keep predators distracted and moving away from their nest. Lastly there is the Cuckoo bird. This bird pulls perhaps the biggest fraud of all by laying an egg in another's nest and completely avoiding the work of raising their own young.

<u>Animal</u>	<u>Fraud Behavior</u>	<u>Purpose</u>
Opossum	Plays dead	To not be eaten
Alligator snapping turtle	Suspends lure of "worm from mouth	To eat
Cuckoo bird	Lays eggs in another birds nest	Avoid parenting responsibilities

In this paper, we are exploring the behavioral side of fraud, and psychiatry, as we have noted, is only one of many disciplines. With conviction of fraud, the behaviors are proven to be intentional and not due to a mental illness. The fraudster via his or her actions is playing out a risk/benefit ratio as in nature, with the predators (the legal system) and the prey the victims. Why do they take action depends on the individual. The **phylogenetic** reason is for advantage.

Reducing genetics to basics, an organisms pursuit of life can be seen as constant struggle for advantage. The implications and associations to this “Darwinian” model are dark and alarming to those who search for higher meaning. Even DNA itself evolves as it reproduces. Over time the process is very efficient. This is from an idea called “selfish DNA:

The theory of natural selection, in its more general formulation, deals with the competition between replicating entities. It shows that, in such a competition, the more efficient replicators increase in number at the expense of their less efficient competitors. After a sufficient time, only the most efficient replicators survive.

– L.E. Orgel & F.H.C. Crick, Selfish DNA: the ultimate parasite

By understanding the mind as a resource that allows human beings as a whole and as individuals to survive, the Freud model of the mind is a blend of both the phylogenetic and the ontogenetic. As psychiatry has known for many years, the individual plays out risk/benefit scenarios with many choices in life related not only to the law, but also sex, drugs, and faith. In the emotion model, the affects are PHYLO as we are all hardwired for them, as are the domains of Reversal Theory. They provide a foundation for understanding the motivations behind all human beings as we all play out the risk/benefit options in our lives.

For this paper and for deterrence specifically, we are interested in the ONTOGENETIC cause for why people commit fraud. The actual reversals, for example why the person chooses to be so rebellious and not conform to the law are ontogenetic. The pressure, perceived opportunity, and rationalization are all PROXIMATE causes. Reversals in general, and affects in general are all FUNCTIONAL or ULTIMATE causes.

We believe these concepts are essential to understand fraud. We encourage further dialogue with experts in behavior, human behavior and adaptive behavior in particular. The concepts and models suggested are the best based on our collective experience with the current study of fraud those who have been convicted of fraud and experience with evaluating senior leaders in the C- suite.

Appendix 2: "Greed Takes the Blame"
(an editorial by David M. Freedman in *The Value Examiner*, September-October 2009)

I thumbed through four business bestsellers about the economic collapse of 2008-2009. All four of them blame that mother of all scapegoats, greed, among other things, for the severity of the recession. Here are mini-reviews of the four books, which were published this year:

And Then the Roof Caved In: How Wall Street's Greed and Stupidity Brought Capitalism to Its Knees by David Faber (Wiley & Sons)

Faber, a CNBC reporter, traces the roots of the economic collapse to failures of investment banks, mortgage lenders, ratings agencies, and the U.S. government. It all started, he says when the Federal Reserve pushed interest rates to historic lows after September 11, 2001.

A ***Colossal Failure of Common Sense: The Inside Story of the Collapse of Lehman Brothers*** by Lawrence G. McDonald and Patrick Robinson (Crown Business Books)

The demise of the nation's oldest investment bank was a devastating blow to the world's financial system. The authors of *A Colossal Failure*, one a former Lehman VP, blame the firm's executives who were greedy, arrogant, and recklessly addicted to growth.

House of Cards: A Tale of Hubris and Wretched Excess on Wall Street by William D. Cohan (Doubleday)

Cohan, a financial journalist, traces the beginning of Wall Street's collapse on the fall of Bear Stearns. He "vividly documents the mix of arrogance, greed, recklessness, and pettiness that took down the 86-year-old brokerage house, and then the entire economy," says *BusinessWeek.*

Fool's Gold: How the Bold Dream of a Small Tribe at J.P. Morgan was Corrupted by Wall Street Greed and Unleashed a Catastrophe by Gillian Tett (Free Press)

A Financial Times journalist details how the market in securitized credit derivatives was perverted by greed, arrogance, and delusion.

What's Wrong with Greed?

According to Adam Smith, capitalism succeeds because people in the marketplace are permitted to act, both individually and collectively, on the basis of enlightened self-interest. Well, who is enlightened? My view is that nobody is enlightened. So capitalism actually succeeds on the basis of the unenlightened self-interest. Which is not a lot different from greed. What do you think?

David M. Freedman
Senior Editor

[Note: This editorial by David Freedman has been reproduced in its entirety with his full permission].

Appendix 3: Finance Needs to Explore its Behavioral Foundations
(EDHEC-RISK Institute advertisement in the *Financial Times*, December 16, 2009)

Page 1 of FT advertisement

Page 2 of FT advertisement

Note: This advertisement highlights that the received wisdom in finance relying almost entirely on theoretical and quantitative economic foundations has come up woefully short in explaining the embarrassing missteps by blue chip Wall Street and global investment banks. Perceptions of risk, studied by psychologists, and client risk appetites and preferences, very much of concern to behavioral researchers because of individual differences, clearly need to explored further. Only through a richer understanding of the economic and behavioral foundations of finance (including ethics), can the field of finance adequately respond to the 2008 financial crisis by broadening its scope of inquiry.

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